

**APRIL 5, 2001**

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April 5, 2001            LB 516A, 516  
                             LR 52

**SPEAKER KRISTENSEN PRESIDING**

**SPEAKER KRISTENSEN:** Good morning. Welcome to the George W. Norris Legislative Chamber. This morning our chaplain of the day is Father Daniel Seiker. He is chaplain for the School Sisters of Christ for the King, Senator Byars' District.

**FATHER DANIEL SEIKER:** (Prayer offered.)

**SPEAKER KRISTENSEN:** I call the sixtieth day of the Nebraska Unicameral Legislature to order. Senators, please record your presence. Roll call.

**CLERK:** I have a quorum present, Mr. President.

**SPEAKER KRISTENSEN:** Thank you, Mr. Clerk. Any corrections?

**CLERK:** No corrections, Mr. President.

**SPEAKER KRISTENSEN:** Any items?

**CLERK:** Mr. President, I do. Senator Chambers has an amendment to be printed to LB 516 and, Mr. President, LR 52 is ready for your signature. An announcement that the Natural Resources Committee will conduct an Executive Session under the north balcony at nine-thirty. That's all that I have, Mr. President. (Legislative Journal page 1383.)

**SPEAKER KRISTENSEN:** Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 52. (Visitors introduced.) Mr. Clerk, we next move to General File, appropriations bills, LB 516A.

**CLERK:** LB 516A, Mr. President, by Senator Byars. (Read title.)

**SPEAKER KRISTENSEN:** Senator Byars, you are recognized to open.

**SENATOR BYARS:** Thank you, Mr. Speaker. Briefly, this moves the dollars for the Homeless Shelter Assistance Trust Fund from the Department of Economic Development to the Department of Health and Human Services. We discussed this when LB 516 was being

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discussed on the floor. It's a cash fund. It's very uncomplicated and I would move the advancement of LB 516A.

**SPEAKER KRISTENSEN:** Debate? Seeing none, Senator Byars waives closing. The question before the body is the advancement of LB 516A. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

**CLERK:** 26 ayes, 0 nays, Mr. President, on the advancement of LB 516A.

**SPEAKER KRISTENSEN:** The bill advances. We next move to LB 461A.

**CLERK:** LB 461A, Mr. President, by Senator Bromm. (Read title.)

**SENATOR BROMM:** Thank you very much, Mr. Clerk. Mr. President, I would like to encourage the body to support LB 461A. This bill simply provides for a transfer of \$20,000 from the...from the LUST fund. This is not General Fund money but it's a transfer from the LUST fund in 01-02 of \$20,000; \$20,000 in 02-03 from the LUST fund to the Department of Agriculture, and this is to fund the MTBE testing that was contained in the amendment, it was part of LB 103, which was adopted and made a part of LB 461. So this is just to provide for the Department of Agriculture testing at the terminals within the state of Nebraska for two years ending June 30th of 2003. It's not any new money. It's a transfer of the use of \$40,000 for this purpose. I'd ask for your support.

**SPEAKER KRISTENSEN:** You've heard the opening. Debate on the bill? Seeing none, Senator Bromm. He waives closing. The question is the advancement of LB 461A. All those in favor vote aye; all those opposed vote nay. Record.

**CLERK:** 28 ayes, 0 nays, Mr. President, on the advancement of LB 461A.

**SPEAKER KRISTENSEN:** The bill advances. (Visitors introduced.) Senator Foley has a birthday tomorrow; Senator Erdman has it Saturday. In honor of that, Senator Bruning has some birthday

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treats that you will be receiving. Since they are roommates, it's appropriate that we wish them all Happy Birthday. We next move to Select File, LB 657. Mr. Clerk.

CLERK: Mr. President, Senator Erdman, I have Enrollment and Review amendments pending, Senator. (AM7080, Legislative Journal page 1249.)

SPEAKER KRISTENSEN: Senator Erdman, you are recognized for a motion to adopt those.

SENATOR ERDMAN: Thank you, Mr. President. I move the adoption of the E & R amendments to LB 657.

SPEAKER KRISTENSEN: You've heard the motion. The question is the adoption of the E & R amendments. All in favor say aye. Those opposed say nay. They are adopted.

CLERK: Mr. President, the next amendment I have, Senator Wickersham, AM1166, but I have a note you'd like to withdraw that particular amendment, Senator.

SPEAKER KRISTENSEN: Withdrawn.

CLERK: Mr. President, Senator Wickersham, AM1199, I have a note, again, Senator, you'd like to withdraw. Mr. President, Senators Wickersham and Vrtiska would offer AM1300. (Legislative Journal page 1324.)

SPEAKER KRISTENSEN: Senator Wickersham, you're recognized to open on your amendment.

SENATOR WICKERSHAM: Thank you, Mr. President. We're back on a bill on which we have had significant discussion on General File. I hope you'll indulge me, and Senator Beutler has an amendment filed to it now, so I guess there must be something that this bill needs. We (laugh)...if you recall, this bill is about the use of state resources, cigarette tax dollars, to fund in part projects in two municipalities in the state. Now the municipalities, the municipalities in question could fund in total the projects that, or at least the portion of the projects

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that we are being asked to fund with cigarette tax dollars with very modest levies in their communities. For example, the city of Omaha could fund the 22.5 millions of dollars that we're going...that they're asking us for with a levy of less than 1 cent in their community. In fact, they could fund it with a levy that would cost them \$8.37 on a \$100,000 house. The city of Lincoln could likewise fund what they are asking us for, about \$15 million, with a very modest levy in their community. In their community, it would happen to cost a little bit more. It'd cost \$10.43 on a \$100,000 house. Now, if \$8.37 a year on a \$100,000 house, or \$10.43 on a \$100,000 house in those communities is too much to pay for something that the community might think is important, then for at least the sake of discussion, and I think some consistency with other practices and policies that we've adopted in the past, the amendment that we're offering, AM1300, suggests that the local communities would have to raise 25 percent in matching funds from local sources; that they could not use state sources for their matching funds, that they would have to find local sources. Now, I think that is entirely appropriate because it is, in my view, if we're going to participate in these kinds of projects, we at least want to make sure that the local community is making a commitment and that the commitment comes from the community's funds, not from our funds. Now if you recall, I don't know where all the funding is coming for the project in the city of Omaha, we did have information about the funding for the project in the city of Lincoln. If you go down through that list, I didn't see anything that I would characterize as a contribution by the city of Lincoln to that project. There was some highway funds, but highway funds come from the state or the federal government. There was some money from an NRD. That doesn't come from the municipality. I did not see anywhere in that list of funding that there was any contribution by the municipality. I don't, and again, I'll note that I don't know where all the money is coming for...coming from for the project in the city of Omaha. Maybe there are some local funds, or what we would characterize as local funds being devoted to that, but I certainly couldn't see that in the case of the Lincoln project. Now, again, I will suggest to you that the proposal in the amendment that we require, if they are going to take our money, that they put up 25 percent in their own funds seems to me to be

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entirely reasonable. We require matches in all other...in a wide variety of context. We do that to ensure that there is, in fact, a local interest in the project and that they are not just spending our money on something that they won't support themselves. That's the purpose of the amendment. I hope you can support it.

**SPEAKER KRISTENSEN:** Debate on the amendment, Senator Beutler.

**SENATOR BEUTLER:** Mr. Speaker, members of the Legislature, neither the city of Omaha nor the city of Lincoln has any objection to the amendment. They intend to put in quite a large amount of their own funds. Thank you.

**SPEAKER KRISTENSEN:** Senator Janssen.

**SENATOR JANSSEN:** Thank you, Mr. Speaker, members. I think this is a very good idea, Senator Wickersham. We expect this from all of the small towns and cities across...across the state to provide matching funds. I see nothing wrong with that and I would...I would expect that the city of Lincoln and the city of Omaha, as Senator Beutler expressed, would jump at the chance to get this money and provide matching funds for it. It's a good amendment and I will support it. Thank you.

**SPEAKER KRISTENSEN:** Senator Vrtiska.

**SENATOR VRTISKA:** Thank you, Mr. President, members of the body. This amendment may be okay. I am not crazy about it because in any event it takes money away from the projects that we are pledged to continue to do and to work on. But something is better than nothing, and one of the things that I have to make notice of this morning is that in some circles I've been accused, and I'm certain Senator Wickersham and some others have been accused of trying to not cooperate with the city of Lincoln and the city of Omaha in these kind of projects, and I just want the record clear that we don't oppose these projects in any way, shape, or form. In fact, they are good projects. If they are something that the communities want, they should have. The real issue is who is going to pay for them. And when you deplete funds out of the projects that are so evidently necessary for

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the people of this state to continue to repair and maintain and remodel and renovate and keep up to the quality that we think they deserve; the schools, the institutions, the various buildings across the state, we don't even have enough money if we get all of the money to ever catch up on the deferred maintenance on some of these buildings. When we talked about this the last time we had discussion on this, if we don't at least step up the amount, and I appreciate the fact the Governor and the committee has agreed to, Appropriations Committee has agreed to bring more money into the projects but, interestingly enough, this is something that should have been done some time ago because we've gotten so much further behind on some of these projects that it's almost embarrassing. We have some buildings that need, not only do they need some repair, but they need some accessibility for handicapped people, and they need fire and safety issues...issues to be taken care of that I am sure all of us want to make sure that people in those buildings have fire safety. We want access for people who are handicapped to get in and out of these buildings. And, folks, we can't do that if we can't find the necessary dollars to do it. I told you the last time we discussed this thing that I've been on this committee ever since I've been in the Legislature, and it's been a trying experience to try to do the things that need to be done. You can look anywhere across the state that you want to and see farmsteads that the buildings have been left go, and in a few years they deteriorate where they are not worth anything but tearing down. I am not saying that these buildings are going to get so bad they need to be torn down but, in essence, if we don't do something for them, a few more years and that's going to be the fact. So most of...all of us on the 309 Task Force have made a pledge that we are going to do every thing we can to step up the amount of maintenance that we're able to do on these buildings to bring them up to the level of value that we think the people of the state expect them to be. And, again, the only way you can do it is with dollars. We have these dollars, and we had anticipated when the Civic Center in Omaha was finished that it was more or less, in some circles at least, an agreed agreement that that money would, in fact, then go to the building maintenance fund. Now we are setting out on a new precedent taking money...

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SPEAKER KRISTENSEN: One minute.

SENATOR VRTISKA: ...to another area, and we are going to set another precedent because I would venture that some other project develops around the state, somebody is going to come up with the idea if you can do it for those two cities, we ought to be able to do it for them. Senator Janssen brought up the idea that Fremont could use some of this money. I suspect a lot of other communities could use some of this money, and I think it's a bad precedent for us to get started down a new road to take funds out of the maintenance and upkeep of the buildings of the state that we agreed to do when we accepted the responsibility of working with the 309 Task Force and the people over there who work hard trying to get the job done.

SPEAKER KRISTENSEN: Time.

SENATOR VRTISKA: Thank you.

SPEAKER KRISTENSEN: Senator Tyson.

SENATOR TYSON: Thank you, Mr. Speaker. I am not going to speak on the amendment. I'm just using the opportunity to correct some information that I gave this Chamber when we were discussing LB 657 previously on General File. At that time, I told you that one of the reasons, just one of the reasons that I'm opposing this is that we couldn't get a repair done to the State Regional Center. I have since been informed that the money has been made available and had been available when I spoke. This is not something that comes as a result of that. So I wanted to correct that because I don't want...any information ever to come to this body. So at least the 309 money is being used for that purpose now and I appreciate it. Thank you very much. Balance of my time to the Chair.

SPEAKER KRISTENSEN: Senator Don Pederson.

SENATOR D. PEDERSON: Mr. Speaker, and members of the Legislature, I would like to use this occasion to have us reflect on what it is we're being asked to do. We're being asked to take money that would otherwise be going to support our

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improvement and maintenance of state buildings and we want to use it in this bill to aid two local infrastructure operations, one in Lincoln and one in Omaha. And as Senator Vrtiska said, it is not that these are bad projects. It's where is our responsibility in connection with this. Our responsibility is to maintain state buildings and properties, and what we're being asked to do is to divert money that would go for that purpose, and had always gone for that purpose until it was diverted once before for an Omaha project, the auditorium, and I still don't know how that happened. But be that as it may, we're being asked to divert tobacco tax money that was supposed to go for state building maintenance and divert it to these two projects. Now we're talking about a million dollars to Lincoln for 15 years, a million and a half dollars to Omaha for 15 years to aid these specific projects. And I don't want to inject an urban-rural situation, but Senator Beutler the other day was talking about there is a diminishing population and so forth in these various other areas and we need to build up Lincoln and Omaha, so that there is a place for the people who are leaving the smaller communities, it gives them a place to go. Well, I kind of think that's a pretty lousy argument, to be honest with you, and I think what we need to do is to try to find efforts to help build up the other communities within our state. Now just think what a million dollars for 15 years would do for a place like Fremont or a place like Grand Island or a place like Kearney or North Platte or Scottsbluff, or say the million and a half, that would do even more. So I'm saying that what we're doing is we're selecting two projects and we're saying let's take state tobacco tax money that should be going for the maintenance of state buildings and put them into these other two projects. I just don't think that's...that's good logic. Now there were some statements that were made the other day that I think need some clarification. Senator Beutler mentioned approximately \$160 million has been spent on state buildings and maintenance improvement in the last five years. And that is accurate but the problem with that is that what has been included in that; \$85 million has been included for what the university has done on its own bond issue so that's included within that figure. And in addition to that included within that figure is the maintenance and repair of our State Capitol Building. So these are not projects that are 309 funds. These

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are separate projects, so I think it's not intellectually with candor that we...that we include those within the \$160 million. What have we actually been spending for 309 funds? In '94-'95, we spent 57...5.7 million. In '95-'96, we spent 5.6 million. So we're talking about much, much less figures that we are using to actually achieve the maintenance and improvement of deferred maintenance that at this point is approximately \$255 million behind. So I would ask you how we're going to get there if we continue to divert these monies. And the other thing about it is that there is a reference to the fact that the Governor has increased the amount of depreciation and that will...that will help with the 309 funds, but the depreciation we're talking about increasing is depreciation for new buildings and totally remodeled type buildings. We in our, I think, wisdom decided that we should not be continuing to build buildings without setting aside monies to repair them as they deteriorate. So now we have engaged in that kind of a program but that's any brand new thing that we have done that alleviates the problem of the 255 million. The is for new construction that we're talking about, and when you get down to it, we're talking about ultimately this is General Funds that's being used for this purpose because we're setting aside money for these particular new construction projects and I think it's a very wise thing to do but I don't think that we can take credit for it and say, therefore, we don't need to worry about that money because we've already spent a lot of money for maintenance and repairs. And the issue, if you will recall, it was said that during the appropriations discussion, it was reported in the newspaper that tobacco consumption would have to reduce by 55 percent in order for there to be General Funds involved in these two projects...

SPEAKER KRISTENSEN: Time.

SENATOR D. PEDERSON: ...because we are talking about giving money to these projects and we're attempting to use tobacco tax as a means of...

SPEAKER KRISTENSEN: Time.

SENATOR D. PEDERSON: ...supporting it. Thank you.

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**SPEAKER KRISTENSEN:** Senator Chambers.

**SENATOR CHAMBERS:** Mr. President and members of the Legislature, now that the youngsters have had a chance to kick this around, it's time for the oldest person on the floor to step in and put this whole issue into proper perspective. And I think my colleagues know this. Senator Pederson, Senator Tyson, he is not here, what we're talking about this morning is power, and Senator Vrtiska, we're talking about raw political power. You all happen to be on the short end of it on this particular bill. I have been on the short end of it on a number of bills. When the Union Pacific bill comes trundling down the track, you're going to see even more power manifested there than you do on this bill, and all of you all are going to support it. You are going to forget the fact that, as Union Pacific is excused from paying taxes, ordinary citizens are going to have to pay and watch that train go straight through, but I am going to try to put something on the track to derail it, if I can. And if I cannot, I'm going to not die literally trying. You won't hear me on this floor challenge somebody by saying "over my dead body." I don't give invitations like that when there is so many people eager to see that it take place, but I doubt that this bill, LB 657, is going to be derailed. There is money in it, or a proposal in it, that can bring money to a problem in Omaha that the city has neglected, that is this storm sewer situation. So as long as that provision stays in the bill, I'm not going to bother the bill. I will fight other bills. I've told my colleagues before that my model is that of the king so...king cobra. It does not waste venom on dead things or fleeing things. That's why, by the way, I was not here yesterday when they were arguing that motion to pull the fetal tissue bill from committee. That was a foregone conclusion. Why should I waste my time. It was a point and a period during which people could posture and pay their respects and their debts to those groups called pro-life. Well, what I look at this whole thing as being, when I say this I mean pulling that bill, the preliminaries to a heavyweight championship fight. I am the champion. When the preliminaries are going on, that's when you let the tyros, the inexperienced, those who need name recognition, stumble and fumble their way through some mediocre bouts. But when the main event comes on, that's when the champ

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emerges from the dressing room because the real fight is about to be undertaken. So this morning, I'm going to watch as my colleagues futilely try to do anything of substance on this bill. If you succeed, you're not going to hurt my feelings at all. But I want you to know that it is my expectation that nothing of consequence will happen to substantially weaken this bill. Senator Vrtiska, power is something that exists other than as a word in the dictionary. Often those who wield the power are not standing in the forum where the consequences of that power will be felt. They are behind the scene. They are pulling strings from a location that we may not even be aware of, but when the string is tugged on that end, it will lead to a result in this Chamber, just as when the puppeteer...

SPEAKER KRISTENSEN: One minute.

SENATOR CHAMBERS: ...manipulates those little devices that he has and there are strings that run from those little devices down to the little wooden creature, you move your thumb and the right hand of the little creature moves, but the little creature moves only when the puppeteer directs. And if the puppeteer is a ventriloquist on top of it, then what the ventriloquist speaks seems to come out of the dummy's mouth. So just observe this morning and learn. That's my contribution to this discussion.

SPEAKER KRISTENSEN: Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Speaker. I'd be the last one to stand here and say that these aren't good projects that the city of Lincoln and the city of Omaha have. When...when they are completed, I can imagine exactly what's going to happen. There's going to be something else. We need an extension on the ditch or we need an extension on the mud flats, we need something else that we're going...we really need this money. And mark my words, I probably won't be standing here, but whoever is going to be saying, but you said for a short period of time. It won't happen. Look back at legislative history. It just keeps repeating itself. We stood here five years ago and went through the same darn thing, and we're doing it again today, and we'll back in another five years. Most of us won't, we've got that taken care of in the last election, I

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guess. But, anyway, somebody will be standing here fighting this same battle and you can bet your bottom dollar that if this was Ainsworth, Nebraska, or Norfolk, or Harrison, or Table Rock, or Blair, it would be a different story. Let me tell you it would be a different story. Why, you people have the ability to do this, you have the ability to raise those dollars. We provided ways and means for you to raise this money. Come on, rural colleagues, can't you see what would happen to you? I don't see the support from rural senators on what we're trying to do. Don't be that naive to think that it won't keep coming back and back again. I congratulate the representatives from Lincoln and Omaha. You've got a good thing going here. But I just doubt very much if it was Table Rock, Nebraska that needed this, it wouldn't be there. We would have to keep our building and maintenance division up. We have buildings in this state are deteriorating. We cannot give that to you, Fremont, Blair, Hastings, Grand Island. That has to stay there. I don't like what's happening and I'll keep talking against it as long as we're on this floor. Senator Chambers was happy that the sewers finally got fixed. Well, that was something that the city of Omaha should have years ago. Why does it take something like this to put pressure on people to get things done they should have done? This is ridiculous what we're doing with this money, absolutely ridiculous. Ask your constituents. I've talked to mine, and they say, what do you mean, that money is going into Lincoln and Omaha for those projects? Can't we get a little in Hooper, Nebraska? I say no. No, no, no, no, no, no, that's not where the votes are at. That's not where the money is at, and that's where the money is going to stay. Rural colleagues, you'd better think twice before you do this. Thank you.

**SPEAKER KRISTENSEN:** Senator Vrtiska.

**SENATOR VRTISKA:** Thank you, Mr. Speaker. I hate to keep hammering at this issue, but it has become so much in this session, in my mind, that I just can't refrain from standing up and again repeating some of the things. One of the interesting things, I appreciate what Senator...what Senator Janssen said. One of the things that interests me a lot, and I've watched Senator Chambers on this floor for all the years that I've been here, and he's always been a straightforward individual, and I'm

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kind of surprised that he's...and I understand what he is doing, but I'm kind of surprised that he is taken up by issue, and even though he doesn't apparently what he says believes that the money ought to be spent, he has a specific project that's important to him and I understand that. What's interesting is that many of us have important issues before us that we'd like to be able to find money to fund, but we don't have this opportunity, as Senator Janssen said, we don't have the political clout, we don't have the number of people who will stand up and say this is a good idea and we should help you with it. Again I think it's very unfortunate that, in my mind at least, that we have to take this method of forcing the city of Omaha, the city of Omaha to do something that is in dire need. It's been demonstrated. I've not seen the ac..I've not seen the actual flooding of basements but I've been told by many people. It just seems almost a crime that we have to use this kind of an effort, this kind of an effort to take money out of the hands of projects that are so important to the people of the entire state to force the city of Omaha to carry out actions that they should do without any kind of threats or blackmail, and I said blackmail the other day, I don't know if that's a good word, but in a sense it's going to force their hand. They are going to have to do it before they get the money. And I...that to me is...it's just not good policy in my mind. I understand why they do it and I cer...I certainly don't disagree with what they are doing except to the extent that they are using state dollars to accomplish two things; one of them is to fix up a riverfront project with state dollars and, secondly, to force the city of Omaha to do something badly needed for those residents in that area, badly needed to take care of a problem that they've been enduring for...somebody said up to 50 years, I don't know, but it's apparently been a long time, when they have heavy rains. And it seems kind of, to me, unconscionable that we have to use this kind of pressure, this kind of force, to get the city to do the things they should be willing to do with their own dollars. They are going to use their own dollars to do this project, but we're going to force them to do it. We're going to force them to do it, because if they do it, they're going to get some...some state funds that should go to something else. That seems to me awfully strange and I can't believe that we're willing to, as Senator Janssen said, we're willing to sacrifice,

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rural people in this state are willing to take money out of buildings that are in their communities. Now many of you have communities...have state buildings in your communities, all across the state; from Chadron State clear to Peru, to maintenance yards, to all kinds of projects across this state that are owned by the state of Nebraska,...

SPEAKER KRISTENSEN: One minute.

SENATOR VRTISKA: ...operated by the state of Nebraska, and supposedly, supposedly supposed to be maintained and kept in good repair by the state of Nebraska through this particular fund that's been allocated over the years, and a few more dollars, a few more dollars would be coming in if this bill were not passed that many of you seem to think is the right thing to do. I'm sorry, I think you're wrong. I think you're wrong. I think you're wrong. Thank you.

SPEAKER KRISTENSEN: Senator Don Pederson.

SENATOR D. PEDERSON: Mr. Speaker and members of the Legislature, I stand here in humble humility saying that we haven't got a chance, but it's important for you to understand what you're voting on. And by the way, when I was mentioning cities, I forgot to mention Bellevue. It could use a million dollars or a million and a half, and Senator Hartnett is now waving, yes, that's right. But I stand here, as I said in humility, recognizing the problem, but I stand here as a state senator, and I recognize that this is a political issue and I recognize that the sewer is going to be fixed in Omaha, but that would not divert me from the idea that I think that we have a responsibility to maintain our state buildings. And I think it's...it's something that we were elected to do. We were not elected to represent Omaha. We were not elected to represent Bellevue or Trenton or wherever else. We are represented...we are here to represent the state of Nebraska. Many of these projects that we on the 309 committee are concerned with are in Omaha; they are in Lincoln. And I think that we are...we are talking about diverting money away from repairing those projects to put them into this effort that could easily, easily be done by the cities themselves. But we are devoting this because we

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say, well, this doesn't really involve any new tax dollars. Of course it doesn't. We're just diverting money that should have been used in the first place for the repair and maintenance of our buildings. I did not get to finish what I said the last...what I was starting to say the last time. In our Appropriations hearing, the reason that we advanced this bill, it said that...from the Fiscal Office it was determined that we would have to have a 55 percent reduction in tobacco usage for it to be General Funds. Upon later reflection, it was determined that it would take a 3 percent loss in tobacco usage for us to be in General Funds, and that was a year-old information, so we're already there. So what I'm saying is that when we're...when we're doing this, we're really talking about using General Funds as a portion of this project, not just tobacco money which sounds like easy money, nobody pays. It seems that projects seem to have a life of their own if we think we don't have to pay for it. And, believe me, we do pay for it, and we're paying for it in this respect, if we go forward with this project, we are paying for it by not doing our duty to maintain these \$255 million worth of projects that need to be taken care of in order for us to maintain our state buildings. So I ask you to consider your responsibility as a state senator, not a senator elected from a specific district, but I respect that you need to consider doing your duty, and I've always recognized that if Omaha and Lincoln, as a group, thought this was a good idea, that there were not enough votes to stop the idea. But I ask the Omaha and Lincoln senators to consider what they are taking away from in order to accomplish this. So with that, I would...I would urge the rejection of the proposal. Thank you.

**SPEAKER KRISTENSEN:** (Doctor of the day and visitors introduced.) Members, if I could urge you to keep your conversations to a minimum so we can hear the speakers, that would be appreciated. Senator Chambers. Sorry, before Senator Chambers, Mr. Clerk.

**CLERK:** Mr. President, just an announcement before Senator Chambers is recognized. Judiciary Committee will hold an Executive Session at ten o'clock in Room 2022; Judiciary, ten o'clock, Room 2022.

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**SPEAKER KRISTENSEN:** Thank you, Mr. Clerk. Senator Chambers.

**SENATOR CHAMBERS:** Mr. President and members of the Legislature, I don't know how much opposition there really is to this amendment in terms of people voting against it, but it does give an opportunity for people to say what they would like to say on this bill. I have to tell Senator Don Pederson that nothing he has said do I disagree with as far as what we have to do as state senators. Very little that Senator Vrtiska said do I disagree with. I didn't hear every thing he said and sometimes he will slip in a mickey or a ringer so I have to say most of what he said. But I am very frank and forthright on why I will not go against this bill. I haven't been arguing in favor of the bill. I said there is something in the bill that I want, and I am going to not do anything to dump that egg out of the basket. If others dump it out of the basket, then I'm with others who oppose the bill. That provision in the bill is an inhibitor upon me. Other bills already this session and others to come later in the session I have shown the responsibility that I feel is mine in terms of protecting the treasury from being plundered. So my acquiescence in this bill, based on its current form, is resting entirely on a political question, and the political question is whether or not a project that benefits the people that I'm concerned about in Omaha will be carried forward. If the new mayor, and there will be a new mayor in Omaha, decides not to carry through with trying to access tobacco funds in order to avoid having \$5 million obligated for that sewer project, it simply means that that amount of tobacco money will be available for the buildings. So as far as I'm concerned, there is no way that I can lose, no matter what happens. Now I want some of my colleagues to keep in mind their arguments. I want them to stand on the floor when Union Pacific is trundling down the track and say, as I have said, that their action is political. Don't talk about upgrading the economy of all of Nebraska. These are some powerful fat cats who put their thumb on the Adam's apple of the Legislature and said, if you don't do what I want you to do, I'm going to push my thumb so hard against your Adam's apple it will come out through one of those neck vertebrae near the back of your head. I had told you all that Union Pacific was lying when they said the only thing

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that would bring their headquarters to Omaha was these tax benefits. I told you that when these big shots decide on where they are going to place the headquarters, they do more than look at what one puny little state is going to give them in tax benefits. But if they can get something extra, they will get it. You don't hear them talking anymore about not bringing the headquarters here because they've already got the ground for it. They've already made a deal to give over a building they currently have to the city in exchange for some things the city is going to give them. They are going to bring their headquarters here, but because they have a man in the Legislature like me, which they don't encounter in any other state, they had to tell the truth, and I forced them to tell it. They know how I feel about them and what they do, and they know that the rest of you all are afraid of them, that you will fold, you'll crumble. And you know what Union Pacific said, that the money that those pinheads down there in the Legislature give us will determine how we construct our headquarters building, which means what kind of frills, what kind of extras, but they are going to come here and they are going to rule this Legislature. And I'm going to mock, I'm going to scoff, I'm going to taunt, and I'm going to rub it in everybody's face, especially those...

**SPEAKER KRISTENSEN:** One minute.

**SENATOR CHAMBERS:** ...that talk about being state senators. No, there are Union Pacific senators, and in the same way that during the olden days Union Pacific could run through a town and do whatever they wanted to, they could get Congress to roll over. You know what they can do with a weak Legislature like the one in Nebraska. All this talk about money we need for teachers' salaries, for state buildings, and everything else that we talk about in terms of needing money for, that's going to go out the window when Union Pacific comes. But you will see one man stand on this floor and stand on the track in front of that train but, Senator Vrtiska, if it looks like the train is going to run over me, then I'm going to jump off the track, but that pile of logs that I put on the track will still be there.

**SPEAKER KRISTENSEN:** Senator Vrtiska.

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SENATOR VRTISKA: Thank you, Mr. Speaker, members of the body. I was just going to announce to Senator Chambers that perhaps, and we don't know this, of course, but perhaps Omaha will have a new mayor, will have a new city council, and perhaps the message that's come from...from the body down here will tell them that this is a project that should have been done and was way past the time it should be done and will, in fact, do it. Interesting thing to me about it is they are going to use their own money to do this project. This is not going to come out of state funds to do this project. Well, there'll be some federal funds, et cetera, but it's...it almost seems ironic that we have to, in fact, force a city council, through the actions that we're taking here, to do something that they should be doing because they think it's necessary to those people that live there. I just...I just...to me it's unconscionable. I don't quite understand why it's necessary for us to give away dollars to a community to force them to do something that's their responsibility. It just seems to me ironic that that's the kind of direction that we've turned. One thing I forgot to mention, and I need to bring it, I think it's very important and I hope that you'll listen. Fire safety is one of the issues that's involved in this money that's we're using, fire safety. Many of you have kids, grandkids, friends and relatives in some of these buildings. And to me it's interesting because many years ago I was a member of the Pawnee County Board of Commissioners, and the State Fire Marshal came to our building and said one of the things you have to do, one of the things you have to do is make this building safe. We argued the building was safe; it was built like, it's about like this Capitol. It's all built out of concrete. But you know what? After a few years, the county board was forced to put in a fire...a sprinkler system. Now what makes you think that the State Fire Marshal may not come to some of these buildings that we're talking about, some of the very buildings that we're talking about that need fire safety additions, and say you either close this building or you put in a sprinkler system. The question then comes, where do you get the money? Where do you get the money to carry out what you're told you have to do? And you shouldn't have to be told to do it because it's for the safety of the people in that building. We have other buildings in this state, we have other buildings in the state that have fire safety issues that need to be

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addressed, and I fear the day that the Fire Marshal visits one of these buildings and says the amount of people that are here, the use of this building, does not have adequate fire safety and it has to be done. When we're told that, we have no other alternative but to do it. The same goes through with accessibility. Our court house had to put in elevators. It's never had an elevator in it since it was built in 1913. We got by all those years walking up and down those stairs but somebody, and I don't...I am not criticizing, I think it's perfectly correct, somebody in our community said, I am handicapped, I cannot get up those stairs. It's unfair for me to be denied access to those offices. This building needs an elevator. For over \$100,000 we put in an elevator. Now we've got some state buildings in Nebraska that are in that very, very same condition, and if the federal government comes in and makes an inspection and says...somebody makes a complaint, we can be forced to put those elevators in because that is federal law. We're sitting here talking about things that we don't have any controls over and yet we're going to have to spend this money and we may not have the money. Because in many cases where roofs are deteriorating, where roofs are leaking and things are being damaged on the interior, we've got to...

SPEAKER KRISTENSEN: One minute.

SENATOR VRTISKA: ...make a choice. We're going to let the buildings leak, we're going to let the foundation deteriorate, but I will tell you what, we will put in those things that are required because we're told they're going to be done or the building is not going to be useable. It's going to be abandoned. It's going to be shut down. Let me tell you, this is a serious situation. I know that there's money out there. We have money in this fund. We've got more money than we've ever had but, interestingly enough, you all know what things cost today. They cost a lot more than they did a few years ago. They cost a lot more than they did a few years ago, and what's happening is we're finding ourselves with a few more dollars, but I can tell you quite honestly it is not enough few more dollars to get all the jobs done that are out there that need to be done. And if we're willing to give up this money, if we're willing to give up this money to help two communities, and I

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laud them for their efforts...

SPEAKER KRISTENSEN: Time.

SENATOR VRTISKA: Thank you.

SPEAKER KRISTENSEN: Senator Quandahl.

SENATOR QUANDAHL: Question.

SPEAKER KRISTENSEN: That won't be necessary. Yours was the last light. Thank you. Senator Wickersham, you're recognized to close.

SENATOR WICKERSHAM: Mr. President, if I recall correctly, from the beginning of this discussion, and maybe I'll ask Senator Beutler to reaffirm here because I don't want to misstate this, but I believe that Senator Beutler said that he would support this amendment, that it was agreed to, and that it could be adopted without harming the interests of the communities that would benefit, as they intended to fully...before the amendment intended to make a significant contribution to completion of the projects. With that, I would hope, certainly hope that the amendment be adopted despite the fact that it is one that I am offering.

SPEAKER KRISTENSEN: Senator Wickersham, did you want to yield any time to Senator Beutler, or were you completed?

SENATOR WICKERSHAM: Whether he continues to support the amendment.

SPEAKER KRISTENSEN: Senator Beutler, do you care to respond?

SENATOR BEUTLER: Senator, if you wouldn't go on so long, you wouldn't forget. (laugh) Yes, I support the amendment.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the adoption of the Wickersham amendment. All in favor vote aye; all opposed vote nay. We're voting on the Wickersham amendment. Have you all voted who care to?

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Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Wickersham's amendment.

SPEAKER KRISTENSEN: The amendment is adopted.

CLERK: Mr. President, Senator Wickersham would offer AM1289, Senators Wickersham and Vrtiska. (Legislative Journal page 1330,)

SPEAKER KRISTENSEN: Senator Wickersham, you're recognized to open.

SENATOR WICKERSHAM: Mr. President, and members of the body, this is quite a substantive amendment and it raises an issue that I think it is important for us to consider. The amendment would take the 2 cents, if you...if you went back and reviewed in your file, you'll see there is a long list of items that are funded by earmarks out of the cigarette tax. When you get down to the end, there is 21 cents left for the General Fund. Believe it or not, we haven't completely earmarked all of the cigarette tax revenues that we receive by so many cents per project. We just...we haven't done that. There is still 21 cents left for the General Fund. What this amendment does is take 2 cents that we currently allow to go to the General Fund and use those 2 cents to fund the Omaha and Lincoln projects, or Lincoln and Omaha projects, whichever way you want to put it. I don't want to offend one of the communities by suggesting that one is more important than the other. Maybe we should say it both ways. Now, the impact of that, of this amendment is the use of 200...\$2.5 million from the General Fund. It will show a reduction in revenues to the General Fund of \$2.5 million. And that is the original fiscal note dated February 16th that you can see on your machines. If you look and you see the current fiscal note, it does not show any General Fund contribution. The effect of this amendment would I believe take us back to the original fiscal note in terms of having a \$2.5 million General Fund impact. Now one of the other effects of this amendment is to allow 309 to continue to receive its allocation. We're going to take it back up to 7 cents instead of the 5 cents that it

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will be held to if the bill is passed as is. That will mean that the \$2.5 million, or thereabouts, that were going to be used for the Lincoln and Omaha projects or the Omaha and Lincoln projects will be used, continue to be used for 309 and that we will use General Funds, what other people would characterize as General Funds for the support of those projects. Now what...why would we do that? Obviously, I think it's important to protect the 309 Fund. Secondly, I think if we're going to spend money, that we ought to candidly acknowledge that we're spending money and we ought to be able to support that out of the General Fund. One of the arguments is...one of the arguments in favor of this bill is that it's a proposal that has statewide impact and is to benefit all of us. Well, I guess you can make that argument about funding that comes out of the cigarette tax by earmarking if you want, but it seems to me that if it is going to have a general impact, that we shouldn't just confine the cost of funding this initiative that has statewide impact to continued deterioration or maybe an allowed deterioration of state buildings. If it is of statewide import, if it is of statewide impact, if it is of statewide benefit, then it looks to me like we should be candid about it, take the money out of the General Fund and make sure, in that fashion, that it does have a statewide contribution, that it isn't just a bunch of buildings that lose funding because of what we're doing. Now I also want to raise an issue that I think Senator Pederson has raised, even though you will see that we now have, and I think it's another rationale for this amendment, quite candidly, I think that if you adopt Senator Beutler's amendment that will come along later in today's discussion, that you should understand that what you're going to do is likely to have, maybe I shouldn't use the word "likely", I really don't know what the probabilities are, I will say, in my estimation, that this bill will eventually have a General Fund impact, because if you adopt Senator Beutler's amendment that is going to be offered later today, it will obligate the state not to just distribute the proceeds from 2 cents of cigarette tax, it will obligate the state to pay out one million and one and a half million dollars regardless of what the revenues are from cigarette taxes. And if the revenues from cigarette taxes decline, we will have a General Fund impact. I think that it would be far more candid for us to simply acknowledge that it should have and may have and will

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have a General Fund impact, get it over with, and protect the 309 Fund but spend the monies out of the General Fund. Now if persons are concerned about balancing the General Fund, I'm sure that can be done. Again, I would hope that that would not be done at the expense of the 309 Fund, but even adoption of this amendment I don't think would cause the General Fund to go out of balance. I'm sure that there are ways in which the Appropriations Committee could continue to keep that fund in balance and we would, at the same time, have protected the 309 Fund and acknowledged what others have suggested that this is an important initiative of statewide import and fund it in that fashion.

**SPEAKER KRISTENSEN:** Debate on the Wickersham amendment, Senator Beutler.

**SENATOR BEUTLER:** Senator Kristensen, members of the Legislature, we oppose this amendment and I'm not quite sure why Senator Wickersham wants to play around with which way this is done, because from our conversations on General File, I think everybody understands from the elaborate charts I passed out and from the long discussions we had of those charts, that the Governor, in fact, is putting in large amounts of additional General Funds into 309. Now some people seem to want to say, well, this 2 cents, this particular 2 cents is what we want in the 309 Fund. We don't care if you put more General Funds in it over here on the other side, we want this 2 cents. Well, the Governor simply hasn't chosen to do it that way but that doesn't mean that what he's done is inferior or worse or more detrimental to the 309 Fund. In fact, it is not. And by the way, I want to correct a misstatement that continues to be made that that 2 cents originally was in the 309 Fund. Let me repeat the fact that that 2 cents was never ever dedicated to 309. There may or may not have been some agreement that at some point in time in the future it would be, but it never ever in the past was, and we shouldn't continue to repeat that. So there is nothing wrong, in my opinion, or in the opinion of anybody I know that's been working on this matter, with following through with the Governor's recommended procedures. And to say that you're taking it out of General Funds is sort of another shell game because the money is still cigarette tax money. One way or

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another, it's cigarette tax money. So as between it still being cigarette tax money, and as...and adding to that the fact that 309 is not damaged in the overall Governor's program by any means, then there is no point to this amendment except to keep the discussion going. And I would oppose the amendment. Thank you.

**SPEAKER KRISTENSEN:** Senator Janssen, followed by Senator Vrtiska, Don Peterson, Senator Wickersham. Senator Janssen.

**SENATOR JANSSEN:** Thank you, Mr. Speaker. What...really what is the difference? We're being up-front here. With this amendment, we're saying 2 cents of the cigarette tax money will go to Lincoln and Omaha. Why do we go through all the smoke and mirrors in trying to adjust this this way and we're going to give a little here, we're going to take a little there, we're going to shift this, we're going to shift that, when it all comes out the same? Why not...why not be honest and up-front and say there is 2 cents in cigarette tax money we're going to take that's going into General Fund now, we're going to give that to Lincoln and Omaha for their projects? Why are we so intent on saying we're going to take it out of here, then we're going to come around the backside and we're going to funnel a little money in this way? And in the meantime the revenues from the...from the cigarettes are declining. Our programs are working. I cannot...I cannot, for the life of me, understand why we have to go through all this rhetoric when we can just say let's...I would be much more comfortable going...telling my constituents we're going to use 2 cents of this cigarette tax money that is now going into General Fund to fund Lincoln and Omaha projects. They're not going to like it but, at least, we would be up-front with them in saying we're not taking it from another...from another source. To me that's being honest with your constituents, honest with our colleagues, and I'm going to support this amendment. Thank you. Mr. Speaker, I will give the rest of my time to Senator Pederson.

**SPEAKER KRISTENSEN:** Senator Pederson. Senator Don Pederson, you have approximately three minutes left.

**SENATOR D. PEDERSON:** Thank you, Mr. Speaker and members of the

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Legislature. I'm concerned a bit about the impression that is being left in regard to what Senator Beutler is talking about with the Governor enhancing the depreciation for state buildings. Now we really did not have a reasonable approach to maintenance of state buildings until several years ago. And at that point, we decided that any new construction or heavily remodeled construction should have a depreciation schedule, and we talked about 2 percent as the...as what should be used in that respect. Well, the problem was that we didn't really have enough General Funds that we could allocate to these various projects in order to fully implement that, and so we have graduated the amount that we have been putting in for this but...but really what we're talking about now, with the tobacco tax, and what Senator Beutler is talking about with the depreciation for buildings is two different things, and I would suggest...suggest that what is being done in this respect is not to enhance the 309 Fund but it is to set aside monies primarily for the university and the state office buildings and things of that nature, things where we have had to make complete...complete changes so that we do have a reasonable program to replace things as they depreciate. And I'm certain that the reason that we ended up with 255 million worth of projects that are needed and we don't have the money for is that we did not have a businesslike approach to handling this matter. We now have a businesslike approach but I do not see that that is enhancing the program or starting to alleviate the problem of the 255 million worth of deferred maintenance that needs to...

SPEAKER KRISTENSEN: One minute.

SENATOR D. PEDERSON: ...be taken care of, and it just seems to me that we're talking about two different things, and I would like to focus you back to what we're doing with the cigarette tax money and the 309 Fund. So with that, I support the amendment of Senator Wickersham. Thank you.

SPEAKER KRISTENSEN: Senator Vrtiska.

SENATOR VRTISKA: Thank you, Mr. Speaker and members of the body. I...I guess I need to let Senator Beutler know that I understand that this was not money that was in the 309 Task

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Force, but I also would remind him that it was money that we on the floor, in the debate, on record, it shows that the discussion was at that particular time after the civic center was finished the money would then flow into the 309 Task Force, and that body at that time recognized that there were needs out there. There were needs that were not being met, and they are not being met yet. I would also remind the body that the committee, and I am sure the entire Legislature, is very appreciative of the Governor's willingness to put more money into the 309 Task Force for the purposes that we stated in this whole...whole...in this whole debate. The only problem is that's only for a couple of years, and we don't know what's going to happen after two years. We don't know whether it's going to continue on, or if that's the end of it. We know that as long as people smoke cigarettes there is going to be tax money out there, and the...the whole issue is that money will be available certainly as long as people smoke cigarettes. And I suspect no matter what we do, they probably will continue to smoke cigarettes, but there is no guarantee that after two years there will be more money put into the fund. And as I said before, we're gracious of the fact that the Governor saw fit, and the Appropriations Committee, and those in charge saw fit to, in fact, put more money into this renovation and upkeep funds for these buildings because I think they understand, the Governor understands this is an important issue. I go back to the issue of fire safety and handicapped accessibility and all those things. I think they understand that those are necessary things that we need to address, and I suspect that's why it was decided that we should put more money in there. But, again, it's only for two years. There is no guarantee after that. There will be a different body here, there will be different priorities develop, and we don't know if they'll continue on giving that money. It's too bad...it's too bad that we have to enter into this long a discussion and debate over...over money that smokers put into a...pay taxes on to put into funds to support state facilities. It's too bad that we have to do that, but it's been done for years and it's going to continue, and that money is going to flow and somebody is going to use it. It's our contention that what Senator Wickersham is attempting to do is let the...let the funds flow to the projects that Omaha and Lincoln and, as he said, Lincoln and Omaha, whichever way

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you want to state it, will be there for them to use and the 309 Task Force will have the money that they need. Debating over money is a tough issue for everybody. This body is a body, I think many of us think it is a body of compromise. We try to come to some measure of compromise in the things that we do. You know I think, and talking about compromise, I'm always...I'm always reminded of the story of the two old gentlemen down in the south that were sitting on the porch visiting one day and Joe turned to Ivey (phonetic), and he said, Ivey, if you had \$2 million, would you split with me? Would you give me half? If you had \$2 million, would you divide it with me? And Ivey said, sure I would. I like you.

**SPEAKER KRISTENSEN:** One minute.

**SENATOR VRTISKA:** You're my neighbor and my friend and I like you. And if I had \$2 million, I'd give you half. And they sat there for awhile and rocked and pretty soon Joe said, Ivey, if you had two hogs, would you divide with me? And, Ivey said, Joe, you know that ain't fair because you know I've got two hogs. Thank you.

**SPEAKER KRISTENSEN:** Senator Don Pederson. He waives off. Senator Wickersham.

**SENATOR WICKERSHAM:** Mr. President, I'm sorry that Senator Beutler is anxious to get to a final vote here because I'm still learning, and I think every time we discuss additional aspects of what's being proposed here, we're all going to learn. Right now I'm starting to learn about a depreciation fund, and what I've learned so far is that what is proposed in this year's budget is the implementation of a prior agreement. It's nothing new, it's the implementation of a prior agreement, that the driving force behind what is being suggested in this year's budget for depreciation charge...surcharges to go into the 309 Fund really was driven by legislative action. It was LB 530 in 1995. Now I suppose that when somebody proposes something or supports an old agreement, or when they agree to abide by the law, maybe they deserve credit for that, and maybe we should talk about that like it's something new, but I am not of the mind that a continuing to abide by an agreement or that

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implementing the law should be considered something new or even something that we should give particular credit for doing. I think that's simply what people expect of us. But then to suggest that that is something of a trade-off for reductions in a fund that meets an important need for the state just can't quite carry the day in my estimation. I'm glad that the Legislature in 1995 recognized that we had a problem with the maintenance of state buildings and passed LB 530, which caused the Appropriations Committee to focus, and others, to focus on funding for that program, but that doesn't mean that you can now take money away from that program, because if you put money in on one side and take it away on the other side, aught and aught can sometimes be naught, or two minus two plus two minus two is aught. What kind of a shell game do people think we're playing here? Put money in on one side, take money out on the other side, and you come up with the same thing. Does that make any sense? It makes sense if you're on the side that wants the 2 cents out of the cigarette tax and wants to have that as dedicated revenue and then you want to bond it because that means you've got a sure thing. Is there any sure thing about the depreciation surcharge that we're hearing is such a wonderful addition? No. In fact, that might not even survive the final round of budgeting this year, might not survive. There might not be the plus two to offset the minus two. There might just be minus two. Because if the numbers don't add up when the budget comes around, that extra funding that we're hearing about, as I understand it,...

SPEAKER KRISTENSEN: One minute.

SENATOR WICKERSHAM: ...could disappear because there are other things that we'll have to do with that money. Now if there was some guarantee for the next 15 years that that would be ongoing, maybe that's a different deal. But, obviously, that isn't the deal. The deal is that on one side we are going to make absolutely sure you get your money, and on the other side you're going to be subjected to the whims, not the whims, you are going to be subject to the fate of the biennial appropriations process. That's not much of a deal. If you want to make a deal, if you were sitting around negotiating trying to make a deal that you thought is fair, is that the position you would

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negotiate yourself into? Is that what you would do if you were looking out for the state's interest? If your responsibility...

**SPEAKER KRISTENSEN:** Time. Senator Quandahl.

**SENATOR QUANDAHL:** Thank you, Mr. Speaker. I am here to speak on a couple of different items, but the first one I guess I would ask that my colleagues vote against this particular amendment. One of the things that we are talking about are these funds for building renewal, and at the outset, to the first time or the first go around for this particular bill, Senator Beutler did send out a handout that showed fairly clearly the funds for building renewal, where we've been and where we're going. And one of the... I guess the basic premise of that or the basic thing that is shown by that chart, and I'd urge you to pull that out of your files, is that the Governor's proposal actually does call for in excess of \$3 million additional to go to these funds for building renewal. And so it's not as though it's a tit for tat or a quid pro quo or anything like that. The Governor's budget, and the Governor who is behind this particular funding mechanism or this bill actually does provide for more building renewal funds than were previously allocated. And for that reason I don't think that it's prudent or advisable at this time to mess with the funding mechanism that was proposed in the original bill, and I would ask that my colleagues vote against AM1289. Thank you.

**SPEAKER KRISTENSEN:** Senator Beutler.

**SENATOR BEUTLER:** Senator Kristensen, members of the Legislature, I just want to assert to you again that nothing is being done on the backside. These words, backside, hidden, et cetera, et cetera, they simply don't apply. The reference was made to increasing from the 1 percent to 2 percent depreciation as something done on the backside. It wasn't done on the backside, it was done right up-front in the Governor's budget. It has been discussed before the Appropriations Committee. It's a perfectly up-front process. It was done the same way the initial 1 cent of the depreciation tax was done. There is an impression given that somehow the fact that this money is going to Lincoln and Omaha in development funds is

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hidden. How is it hidden? I mean the bill says that it is hereby created a City of the Primary Class Development Fund, City of the Metropolitan Class Development Fund. There is nothing hidden. Everything is perfectly up-front. There are a number of sources of building renewal funds and they apply to different kinds of buildings in different ways, but the fact of the matter is that all of these funds taken together, cigarette tax money, General Fund money, all of it goes to that concept, building renewal, fixing up buildings, making them work again, keeping them properly in order. It's all used for that purpose. There is no way, in my mind, that you can legitimately make distinctions and say, oh, we really aren't...we really aren't doing building renewal with some part of the funds. There is the assertion somehow on the floor that the Governor was not abiding by the law in the sense of not following some preordained agreement. Why, I don't know who is party to this agreement. The Legislature certainly, as a whole, had no agreement. There was never a vote in any Appropriations Committee on such an agreement that I know of. It may well be that two or three or four people had some idea of what they wanted to happen in the future but the Governor was not, in any way, legally bound to recommend to us that the depreciation be increased from 1 percent to 2 percent. That was his initiative. So I just want to let people know that the Governor and the people involved in this bill have been as straightforward as we can possibly be, in my opinion, and I'm not sure why this insinuation keeps coming up. Thank you.

**SPEAKER KRISTENSEN:** Senator Tyson.

**SENATOR TYSON:** Thank you, Mr. Speaker, members of the body. It always kind of bothers me to stand up here and speak in favor of one of "Senator Revenue's" amendments but, in this case, I think "Senator Revenue" of the "Wickersham Committee" has got a...is bang-on on this because what he is seeking to do is make sure that money still flows where it was originally intended to flow and where it's needed to flow. Those of you who are so fortunate as to read the Omaha World-Herald could pay attention to their lead editorial today which is \$23 million, albeit federal money, of a foot bridge, which has got to be a high priority on everybody's list. I've always wanted to walk across

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the Missouri River to go to Playland Park. I didn't even know Playland Park was still there. So what we should do maybe is suggest that they use their \$23 million for something beneficial. Burn it and throw the ashes in the river. In the meantime, the \$3 million that Senator Quandahl...if it's 3 million a month, it may have some benefit on the buildings. I just finished a letter to DAS commenting on the stone building again on the regional grounds about 100 years old. Their idea of maintenance in that building is to take a 75 watt burned-out bulb and substitute a 40 watt burned-out bulb. The need for building maintenance in this state far exceeds the money flow. All Senator Wickersham is trying to do, I am sorry, "Senator Revenue" is trying to do is make sure that that money does flow, and these are not outstate buildings, these are state buildings. They are the property of the people of Nebraska. We should be using this money and "Senator Revenue's" amendment seeks that purpose and I urge you to vote for the Wickersham bill, and I would yield the balance of my time, there I said it, I am sorry, I would yield the balance of my time to Senator Wickersham.

**SPEAKER KRISTENSEN:** Senator Wickersham.

**SENATOR WICKERSHAM:** Mr. President, thank you, Senator Tyson, "Baron". I'm (laugh)...I'm trying to make sense out of what Senator Beutler has to say, so let's try just a little simple math. These aren't the real numbers, folks, so let's not even pretend they're real numbers. They're going to be real numbers in part, but I think the effect, the effect is the same. Let's say you have current legislation that provides for a flow of \$10 million to a fund. Just \$10 million, just hold that number in your head. You have current legislation that provides for that flow of dollars. Now it doesn't make any difference where those dollars come from, but based on the discussion so far you should know that those dollars would come from cigarette tax and those would come from a depreciation surcharge. Doesn't make any difference what the balance is between them, but \$10 million is flowing into a fund. Somebody comes along and says, let's add \$3 million. We have budget discretion; let's add \$3 million; let's make that a \$13 million fund. Okay. Great. The fund needs the money. But then you kind of draw yourself up and say, well, \$13 million in that fund. Why don't we take

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\$2.5 million? Recognise that number? Why don't we take \$2.5 million out of the fund while we're putting in \$3 million over here? The net will be half a million; everybody will be happy. Why would you do that? Why do that? Senator Beutler has not offered any rationale for doing that. I think the rationale is the one that I articulated. The folks that are going to get the \$2.5 million don't ever want to take any risk that we would ever forget to appropriate their money. They don't want any chance that any other needs of the state would ever compete with what they're going to get because they're going to issue bonds, which, incidentally, are going to mean that the money we give them gets eroded substantially. Lincoln loses maybe three to five million dollars out of the proceeds. The net to them may be between ten and twelve million dollars. Omaha may realize fifteen million dollars out of twenty-two and a half that they want. That's my concern. Why? Why be proud of yourself for adding three million when you're taking out two and a half? What is to be proud of when you have really put the continuation of the \$3 million at risk in the budget process while absolutely locking in the \$2.5 million? That's the problem. But if we do the amendment that I'm suggesting, we'll be up-front about it. We'll say that we're going to take the money out of the General Fund, we're going to leave 309 alone. I'm even willing at that point to lock in the money. They'll get their 2 cents, but it will come out of the General Fund. They can have their 2 cents, for what 2 cents is worth.

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Senator Wickersham, you're recognized to close.

SENATOR WICKERSHAM: Mr. President, in part, this is a 2-cent argument, but 2 cents, 2 cents that are important for a state need, just 2 cents, a 2-cent argument, we will have spent a considerable amount of time on a 2-cent argument, but 2 cents that are important because those 2 cents can be used, under the current law, to meet an important state need--the maintenance of state buildings where we have an accumulated deferred maintenance needs, either in a variety of categories, some of them ADA accessibility, some of them energy conservation, some

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of them fire/life and safety issues, some of them less serious, but those accumulate to the tune of 200...about \$256 million. Now, when you start talking about \$256 million, you're well beyond a 2-cent argument. But the \$256 million are the state needs. The 2-cent needs are those expressed in the bill. Now, if we're going to fund the 2-cent needs, why don't we be honest about it? Why don't we just take the 2 cents out of the General Fund so that we can meet the \$256 million of needs that we have for the state in another program? Why bother the \$256 million program for a 2-cent project? And I do think that the way the bill is structured is not entirely candid, because if the proponents suggest that over in another process we're going to add \$3 million that makes the program that meets those \$256 million worth of needs whole, they must be doing that with at least a little bit of doubt because they know that, for example, if revenues are reduced when we get the April 20th forecast that any bets about adding \$3 million to the 309 Fund are off. And so the net in the 309 Fund won't be zero; won't be at half million dollar plus. The result in the 309 Fund will be \$2.5 million less than what we expected when the prior earmark expires. So why not just admit it? Why not just admit it and take 2 cents of cigarette tax out of the General Fund allocation, leave 309 alone, and be honest with people about what we're doing?

**PRESIDENT MAURSTAD:** Thank you, Senator Wickersham. Question is the adoption of AM1289 to LB 657. Those in favor vote aye; those opposed vote nay. You're voting on the Wickersham amendment. Do you wish to be recognized, Senator Wickersham?

**SENATOR WICKERSHAM:** Mr. President, I would ask for a call of the house.

**PRESIDENT MAURSTAD:** The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

**CLERK:** 14 ayes, 0 nays, Mr. President, to place the house under call.

**PRESIDENT MAURSTAD:** The house is under call. Would

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unauthorized personnel please leave the floor. Would members please return to the Chamber and record your presence. The house is under call. Senator Wickersham.

SENATOR WICKERSHAM: Could we have a roll call in reverse order, please?

PRESIDENT MAURSTAD: Roll call vote has been requested. In reverse order did you say, Senator? Reverse order? Reverse order.

SENATOR WICKERSHAM: See if the Clerk can do it. (Laughter)

PRESIDENT MAURSTAD: I know where my money is. Members, would you please record your presence. Senator Kristensen, the house is under call. Senators Cudaback, Connealy, Cudaback, Connealy, Cunningham, Brashear, the house is under call. Senator Hilgert, the house is under call. Senator Bruning, the house is under call. The house is under call. The question is the adoption of AM1289 to LB 657. A roll call vote has been requested in reverse order. Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 1385.) 15 ayes, 27 nays, Mr. President, on the amendment.

PRESIDENT MAURSTAD: The amendment is not agreed to. The call is raised. Mr. Clerk, do you have any items for the record?

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review reports LB 827 as correctly engrossed, and I have a report of registered lobbyists for this week. (Legislative Journal pages 1385-1386.)

Mr. President, the next amendment I have, Senator Wickersham, AM1288, but, Senator, a note to substitute AM1381. (Legislative Journal page 1386.)

PRESIDENT MAURSTAD: Without objection, the amendment is substituted. Senator Wickersham, you're recognized to open.

SENATOR WICKERSHAM: Thank you, Mr. President. I think we're

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starting to make progress on this bill. I think we're starting to understand it. Think we're starting to understand the various implications of this bill, the policy considerations that are important before we vote to advance it off Select File, if we do that today. So I hope that you will continue to bear with us in the discussion of this bill. The amendment that I'm offering, AM1381, is another attempt at candor in this process. If we're going to spend money, we ought to raise money. We don't have to rob Peter to pay Paul, or Paul to pay Peter, and we don't have to set the needs of the state off against projects that are being promoted for two municipalities, regardless of the merits of those proposals. How can we achieve such a miraculous resolution of something that is otherwise quite difficult for us? How can we keep from robbing Peter to pay Paul? How can we meet the needs of the state while meeting the wishes of the municipalities? What can we do that will miraculously resolve that conundrum? Now don't be shy. We can raise taxes, and in this instance we could increase the cigarette tax by 2 cents. We've had a variety of proposals before this Legislature last session and this, to increase the cigarette tax for a variety of purposes. Some people claim that we should increase the cigarette tax because it would reduce smoking. Some people said that we should reduce the cigarette tax to fund a whole host of projects and, in fact, the two projects that we're considering today were included, as I recall, in one of those bills. The bills that were going to raise the cigarette taxes for all of those other purposes are not before us today. What is before us today is the opportunity to keep from robbing Peter to pay Paul, continue to find a stable revenue source for the maintenance of state buildings, and to have what I would characterize as a modest increase in a tax. Now, I expect, although I could be surprised, that we will hear from Senator Beutler that you should oppose this amendment because adoption of the amendment would cause someone else to get out their veto pen. Well, you know, vetoes are one thing; legislation is another; and I think it's ultimately the Legislature that decides. And if we think it is fair to keep from robbing a fund that is important to meet a state need to meet other needs, we can decide that, and we can make sure that our decision sticks. Because, no matter how you do it, at least if we run the schedule right, and I think the Speaker will run

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the schedule right, we have the last word; that it is ultimately the responsibility and the decision of the Legislature to decide whether we will take money away from an important state program without offsetting revenues, or whether we can make sure that we do not have to take monies away from an important state program by increasing revenues in the amount that we're...we're proposing to reduce funding for that important program. So I think it's entirely appropriate for us to consider the amendment and to avoid, by its adoption, and an override if that's necessary, meeting the objectives of the municipalities and meeting the needs of the state.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Debate on the Wickersham amendment? Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, this would kill the bill. The Governor has structured this in such a way that it's not necessary to raise taxes. I guess the question I would ask Senator Wickersham is why should we raise taxes when we've figured out a way to do this without raising taxes? What the Governor...the Governor has taken responsibility, but what he said is, I want to take responsibility on General Funds; my overall package is increased by virtue of increasing the depreciation, for example, from 1 percent to 2 percent. So he's putting in a larger General Fund package than he would have had to, and he has to be responsible to the people of the state for that increased spending. But there's no reason why we have to go increasing the cigarette tax. Now everybody that's interested in raising the cigarette tax, I guess you can go ahead and do so, but it's simply not necessary. And I haven't noticed that Senator Wickersham has been particularly enthusiastic about the cigarette tax killing, I think, every bill relating to the cigarette tax in his committee. So the mechanism for financing is straightforward. The Governor has to answer for the General Fund increase. All us proponents have to answer for the General Fund increase. There's nothing wrong with the way the bill is laid out. We don't need to raise taxes. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Beutler. Senator Vrtiska, on the Wickersham amendment.

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SENATOR VRTISKA: Thank you, Mr. President. Members of the body, I rise in support of the Wickersham amendment. I'm a person who doesn't believe in raising taxes. I think everybody here knows that. But I'm also a person who believes that there are certain priorities that are laid out before us that we have to address and we don't have any choice. I continually hear over and over and over and over and over again that the process is in place, we'll have all the money we need, we'll have more money than we need, I think almost...it almost comes to that point, and I don't disagree that the money has been...there's been certain allocations put out there that are going to be beneficial. But I continue, I continue to try to impress on this body that that promise is only for a couple of years out. That only says for a couple of years there's going to be those extra funds. What happens after those couple of years and that money, that fund, goes down and there's no more General Fund money to come in to replace the funds that we were...are going to be able to use? Let me tell you, we can't fix all these buildings in two years, folks. We can't put enough money in these. We don't even have the expertise, we don't even have the people that could put all this stuff together if we had all the money, so that what we're talking about is 15 years out. We're talking about taking this money for 15 years out. One of the things that's, to me, is very disparaging, that we can...there seems to be an attitude, somewhat of an attitude, that this is an urban/rural issue. This is not, I repeat, is not an urban/rural issue. These buildings that we're talking about are not in outstate rural Nebraska. These states (sic) are in Lincoln, Nebraska. They're in Omaha, Nebraska. They're in many towns in Nebraska. They're not just here. So we're not talking about taking money out and I hope that some of the senators don't feel that we're trying to do something to help a rural area, which sometimes becomes an issue, an issue that I abhor because I don't think that any of our legislation should be decided on whether it's rural or urban. I think it should be decided on what's best for the state and, to me, to me, my service on the 309 Committee says what is important to the state, not for two years out but for years and years out, is maintaining the buildings that are out there. I said before when I spoke earlier, the cost of maintenance, renovation,

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upkeep continues to climb and, yet, we're not willing to guarantee, we're not willing to guarantee that there will be funds available when the time comes to maintain, renovate and upkeep these buildings. I think that should be important of all Nebraska. You know, it's interesting. I got letters and e-mails from people in my district wondering why we were taking this money away, but I got some from the city of Omaha and from the city of Lincoln, those same people, asking me why are we taking money away to maintain some of these buildings that are important to the...to the...at the colleges, at the universities, at the other state buildings? Why are we taking this money away and giving it to two communities? I'm in favor of keeping...letting them have the money and this...what Senator Wickersham is proposing to you will in fact to that. It will take care of the sewer problem in Omaha because the money is going to be allocated. It's going to be there. But it will also keep the same amount of money in this building and maintenance fund that we've been looking forward to, that we have had an agreement in...in sense that on the floor of this Legislature, five years ago,...

PRESIDENT MAURSTAD: One minute.

SENATOR VRTISKA: ...that this money would, in fact, flow to the 309 Committee to continue and upgrade the amount of money that it takes to take care of the buildings. I think we're only keeping faith with what we agreed to do. I think that the projects that the city of Lincoln and Omaha want will be taken care of. It will be a modest increase in the price of cigarettes. But if we have to do that then I guess I'm going to speak in favor of doing it and I will certainly support Senator Wickersham's amendment, and I hope all of you, understanding what's happening here, could do the same. I, in fact, I implore you take a close look at what you're doing when you cast this vote. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Vrtiska. Senator Coordsen, on the Wickersham amendment to LB 657.

SENATOR COORDSEN: Thank you, Mr. President. Members of the body, I have not taken, nor do I take, any great exception to

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the intent of LB 657. I well recognize that there are communities in the state that do need encouragement to do what's right and I'm willing to do that. Senator Pedersen asked a question about the use of cigarette tax monies for the renovation of the Civic Auditorium in Omaha and I would share with Senator Pedersen, if he's present, that that is...was part of my priority bill some years back, a part that I agreed to, because of a feeling that there needed to be some assistance in renovating a public building. That public building at that time was the Omaha Civic Auditorium. And I do not know that I take any great exception to the use of the cigarette tax funds as provided for in LB 657 for the two projects--the one here in Lincoln and the one in Omaha. But I do take some exception to saying that General Fund monies will make everything right from the perspective of taking care of all of the rest of the building responsibilities that we do have in the state of Nebraska. I support the Wickersham amendment and I don't support very many tax increases and certainly I voted on the winning side of those votes in Revenue Committee that indefinitely postponed all of those proposals to do that for dedicated uses, whatever those uses might have been. But I think we're deluding ourself if we believe that General Fund revenues are going to take care of state buildings going into the future. I had the occasion to spend, I think, a couple of sessions on 309 for more years, and it was really before we started funding 309 with reasonable amounts of money that reflected somewhat the need that was out there and we toured here in Lincoln, we toured other areas in the state of Nebraska and looked at the abysmal condition of the buildings that had been in existence because this body did not see fit to provide in one way or the other for their maintenance. We created the program that required the set aside for depreciation. We created a number of programs and have done and recommended, under the leadership and guidance of Senator Lynch and now Senator Vrtiska, numerous programs to enhance and increase the usefulness of state buildings across the state of Nebraska. I believe it's our responsibility this morning, if we are going to use some of those monies for other good and useful purposes, that we adopt the Wickersham amendment so that we are guaranteed into the future, when General Fund revenues start to get a little tight, which could happen before this fiscal...this

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biennial session is up,...

PRESIDENT MAURSTAD: One minute.

SENATOR COORDSEN: ...that we continue to have the resources necessary to put in the windowpanes and replace the roofs and do all of those things that we do with the building and maintenance funds. So I would encourage your adoption of AM1381 to make sure that we don't do more harm with LB 657 than what we do good when viewing it over time. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Coordsen. Senator Beutler, on the Wickersham amendment.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, Senator Coordsen, I may have misspoke. I didn't mean to infer that General Funds this year are going to solve all of our problems ahead of us for building renewal. I simply meant that the Governor, in making a short-term progressive step forward, had in fact increased General Funds significantly, and it might be worthwhile pointing out that the budget bill is ahead of us. If somebody wishes to propose additional General Funds beyond what the Appropriations Committee does for the purpose of the 309 Committee, they're certainly free to do that. I'm assuming that some who have spoken so strongly today will be of a mind to do that, and I would welcome that discussion. But I must be honest and say that the cigarette tax increase being suggested as it is today by the Chairman of the Revenue Committee surprises me somewhat, because the Revenue Committee had before it Senator Jensen's thirty-cent cigarette tax, two cents of which was dedicated to building renewal, but they didn't amend the bill down to get the building renewal. They could have taken two cents cigarette tax there and put it into building renewal. It was a priority bill. It could have been out here on the floor and discussed already. But they didn't do that. They just killed the bill completely and didn't salvage the part on building renewal. And now they come around, after having savaged that bill, and they want to savage this bill by doing something that the Governor doesn't want to do, and there's no need to do, and there's no subterfuge in not doing it. I think the Revenue Committee needs to explain to us why it

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wasn't so important when Senator Jensen's bill was before them, why it wasn't so important then to add two cents to the Building Renewal Fund. Thank you.

**PRESIDENT MAURSTAD:** Thank you, Senator Beutler. Senator Janssen, on Wickersham amendment to LB 657.

**SENATOR JANSSEN:** Thank you, Mr. Lieutenant Governor. Many of you know I have always opposed raising taxes on cigarettes. I think it's a commodity that is...that is heavily taxed now and is declining. We see that decline every year. For a little history, in 1989 an important piece of legislation was introduced and passed. It was LB 8...683. That bill created the MIRF Fund for \$20 million in cigarette tax monies went out throughout the whole state, and it was all cigarette tax money. We had a state senator here, from a little legislative history, that is now one of the mayors of one of our cities, who argued strongly against that. That's why I say, how times change. Different strokes for different folks. I'm not sure if I'm going to support this amendment of Senator Wickersham's or not. I believe there are other proposals out there, that with some of them we passed up. I think the arguments are still there that we need the monies to come in for the 309. Nobody can stand and say that is wrong. If you've ever been on the 309 Committee, I think every...you know, that's something I think everyone in this body should at one time or another be on that committee to have some type of an idea what we're up against. We've got a staff over there in the building renewal that has a skeleton staff. They work hard. They probably work harder than any group of state employees that we have, except probably some of our staff members here in the Legislature. I don't want to leave them out. But it's a good group of people. They have got...they have got a handle on all the problems with state buildings that you could ever think of. Now we...we have agencies that...that mess up from time to time, will put the wrong type of roof on and...and cost considerable amount of money that has been wasted. These people in the 309 Building Maintenance come in and look at those projects, decide what types of roofs should be used. It's always easy to use roofs because that's the first things to deteriorate. They have now went to denying a lot of build up roofs and using steel roofs.

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They know that this, over the long haul, is one of the best ways to cover buildings. They're using more steels roofs now than they ever have, but it's from experience that these people have had in...in building and maintenance that I hope we don't lose. They get frustrated. The people in this division get very frustrated, I might say...

PRESIDENT MAURSTAD: One minute.

SENATOR JANSSEN: ...mostly over...over politics, political maneuvering, so on and so forth, taking monies out of this account and not providing an architect here or a supervisor there, trying to run on...on a...on a small staff, trying to save dollars, getting kicked around. Anyway, the next time there's an opening in...on the Committee for Building and Maintenance, I hope a few of you would like to jump in there. It's a good learning experience. Think everyone should have the opportunity to serve on this. Maybe we can work on this next year with the rules. With that, thank you.

PRESIDENT MAURSTAD: Senator Wickersham, on your amendment to LB 657.

SENATOR WICKERSHAM: Mr. President, I'm always interested in what Senator Beutler has to say and, frankly, Senator, I do try to listen. Sometimes I'm a little confused by what you have to say, but perhaps you're confused by what I have to say. Senator Beutler, I think, in his remarks gave me far more credit than I might deserve for any role that I might play on the Revenue Committee. If you all thought that I had the individual authority to kill bills in the Revenue Committee, you ought to look at some recent bills that have come out of the committee. (Laugh) I have been in the minority, Senator Beutler. The Revenue Committee works by majority, whether I'm in the majority or not, so I didn't kill the cigarette tax bills that were in Revenue Committee. That was a decision by at least five members of the committee, and those bills were indefinitely postponed for a variety of reasons. But now that it's become apparent to myself, as a member of the Revenue Committee, that this body really wants to spend cigarette tax dollars then I think it's important to bring the issue of matching expenditures with

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revenues. We didn't have any notion that 25 or 31, or whatever the vote was on General File, if you wanted to spend cigarette tax dollars on anything other than what they were currently being spent on. We all assumed that you didn't want to do something like that. We all assumed that you didn't want to have a cigarette tax increase so you could actually spend money as being proposed in Senator Beutler's bill. We didn't think you wanted to do that, so that's the reason the bill...part of the reasons the bills were indefinitely postponed, but now we find out you do want to spend money. This is a place where you ought to be listening, and if people say they want to spend money, fine. But you ought to have, at least, the ability to say that we're going to match revenues with expenditures and that's what this bill does. What will be, I think, a little bit ironic when we get to a final vote on this amendment is that perhaps persons who sponsored or cosponsored other cigarette tax increases won't vote for this one. They were willing to sponsor or promote in the past cigarette tax increases, but I bet you they won't vote for this one. They were willing to vote for and promote cigarette tax increases despite the fact that they knew that there might be a veto, but they won't vote for this one because now they're told this one will be vetoed. That will be far more ironic, in my estimation, than any perceived change of heart that I might have had as a member of the Revenue Committee or as a member of the Legislature toward an increase in cigarette taxes. I'm going to be perfectly candid again about the reason that I'm submitting this amendment. I think you need to match expenditures with revenues. We have to have a balanced budget. This is a fund that will go kind of off the General Fund budget so I think it's...

PRESIDENT MAURSTAD: One minute.

SENATOR WICKERSHAM: ...appropriate that we maintain that central principle and that we keep it balanced. That's the reason I'm offering the amendment. Senator Beutler also said something that I think he has finally come around to my point of view on, and that is that the proposal in the Appropriations Committee to add extra monies to the 309 Fund is short term. The proposal in front of us is long term. Matching short-term wishes against long-term commitments is a problem. The

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amendment that I'm offering would solve that. We'd have a long-term commitment on both sides, for the revenue and for the expenditure.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Senator Engel, on the Wickersham amendment to LB 657.

SENATOR ENGEL: Mr. Lieutenant Governor, members of the body, I believe Senator Beutler's bill is commendable for what he wants to do with it. Omaha is the gateway to Nebraska and I do believe we need to do something on that river over there; they need to do something with that river to make it better, a more appealing gateway. Lincoln, Nebraska is our capital city and as a city we should be proud of it, most of us are, and anything you can enhance to make that more beautiful that's wonderful, but I think it should be a city problem, not a state problem. I think what we should be thinking about here is the...we're going to have...the Forecasting Board is going to meet April 20th and if you've been paying any attention to the papers and so forth, I think you're going to see a downward trend in our projected revenues and I think we should wait until then to decide whether we're committing more funds for a project like this. Because if the revenue projections are down, as we think they might be and probably will be, we might have to scramble for funds to fund necessary, essential projects that we have in the mill this year where we need...definitely need state funds for. So, therefore, I think you really should consider waiting until after that particular date before you make any decision on this bill. I did not agree with the bill, as you know, from the start. I do not...I don't happen to agree with Senator Wickersham in raising cigarette taxes two cents because that's where this all started about seven...about seven years ago using the two cents for the Civic Auditorium. You've heard all about that so I'm not going to expound on that any further, and those monies are supposed to go back into the 309 Fund and now they want to be used for something else. We also know that these two cents taxes aren't really going to be there and we will be spending General Funds for these projects. Again, if we're going to suspend General Funds for these projects, let's vote them in that way. Let's don't play games with the cigarette tax. So, therefore, I do believe that we should really be looking at where our funds are

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coming from, whether the funds will be there and, like I say, the Forecasting Board is meeting. One reason we're still in fairly good shape, I guess they did receive a huge sum of funds...sum of money through estate taxes here just recently, so we've fairly well stayed on an even keel. But I think we have to really look at that, because if...if the revenues do go down then we have so many projects where we have to have funds and, to me, this is not a have to have fund situation. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Engel. Senator Wickersham, you're recognized to close on your amendment to LB 657.

SENATOR WICKERSHAM: Mr. President, I'm going to withdraw this amendment.

PRESIDENT MAURSTAD: The amendment is withdrawn. Mr. Clerk.

CLERK: Mr. President, the next amendment, Senator Beutler, AM1144. (Legislative Journal page 1380.)

PRESIDENT MAURSTAD: Senator Beutler, you're recognized to open on AM1144 to LB 657.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this amendment is sponsored by Senator Wehrbein and myself, and I'd certainly be glad to give him any of my time, should he so choose. He's got his light on. Okay. The cigarette tax right now is structured in a particular manner and it's important to understand the way it's structured in order to understand the way it works, and what this amendment does is to ensure that if there is not sufficient money at the last stage of distribution to supply the \$1 million and \$1.5 million that goes into this fund, that whatever is necessary will be made up from another, what I call backup, portion of the cigarette tax statute, and that is the portion of the statute that, after certain backup functions, sends money to the General fund. Let me give you an example of the way this backup portion of the cigarette tax works. For example, in the distribution priorities, the Outdoor Recreation Fund gets one cent of the cigarette tax, but if the...if...if that one cent does not generate a certain amount

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of money, then whatever is needed to make up that amount of money, to make up the difference, is taken from the backup portion of the cigarette tax. That's been done with the Outdoor Recreation Fund. That's been done with the Health and Human Services Fund. That is also done with the deferred maintenance fund and all we're asking with this amendment is that that backup portion of the cigarette tax also apply to the two funds that we're creating. You might say it's technical in nature, but it does have an effect, but it's no different from what we have done for several of the other allocations. Thank you.

**PRESIDENT MAURSTAD:** Thank you, Senator Beutler. Senator Wickersham, on the Beutler amendment.

**SENATOR WICKERSHAM:** Mr. President, I'm inclined to support Senator Beutler's amendment, and I'm inclined to support his amendment for a couple of reasons: one, makes clear what we've been saying all along is that there might be some General Funds come out of this to support this appropriation; and I think if we're going to be consistent within the fund that this is an appropriate amendment. But it does make the point, doesn't it, that somebody wants their money for certain but the state needs can kind of go begging?

**PRESIDENT MAURSTAD:** Thank you, Senator Wickersham. Members, as you approach the floor, please watch that first step. Senator Wehrbein.

**SENATOR WEHRBEIN:** Mr. President, members of the body, thank you. I, too, support this amendment. I was on it with Senator Beutler, and I call it...guess you could call it a truth in appropriating bill or truth...maybe it isn't truth in lending, truth in appropriating bill, if we're going to do this and as a policy decision, and I concur with that...is...as you've heard up until this point that I believe that we do have an obligation in Lincoln, especially with the university, State Fair Park and so forth, that Nebraska...the state of Nebraska does have an obligation. It may be somewhat lesser in Omaha, but I too believe that the cause is worthwhile. The infrastructure is important in that area and I think it's reasonable that we do that. From that standpoint I think then it's reasonable that we

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make our full commitment to that. There is some risk. Cigarette tax income revenue does fall, we could perhaps impact the General Fund. That's unknown at this point. If we're successful in reducing cigarette tax or cigarette smoking in Nebraska, revenue will fall. On the other hand, there's...I think it's questionable at this point if we're going to be successful. Either way, if it does, this will...will make good on our commitment to this project, which I think is the correct thing to do if we're going to do it. That puts the policy aside of whether we're going to do it. This simply says that if we're going to do it, it ought...we ought to give it our full commitment and do it the correct way, and I support the amendment from that standpoint.

**PRESIDENT MAURSTAD:** Thank you, Senator Wehrbein. (Visitors introduced.) Senator Chambers, you're recognized on the Beutler amendment to LB 657.

**SENATOR CHAMBERS:** Mr. President, members of the Legislature, I'm going to listen to the debate, but I'd like to ask Senator Janssen a question on something he had said earlier.

**PRESIDENT MAURSTAD:** Senator Janssen, would you respond?

**SENATOR JANSSEN:** Yes.

**SENATOR CHAMBERS:** Senator Janssen, you were mentioning a group who works very well in this area and they have a skeleton staff. Which group was that and what is the work that they're doing with reference to building?

**SENATOR JANSSEN:** 309 Committee, the staff, Building and Maintenance staff, yes.

**SENATOR CHAMBERS:** Well, when you described them as skeleton, it made me want to ask you a question. Is that because they're on a Jenny Craig diet regimen?

**SENATOR JANSSEN:** Well, they are a lean, mean machine because of the fact that the funding they get isn't enough. They operate on a lean budget.

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SENATOR CHAMBERS: Your answer was better than my question. Thank you, Senator Janssen.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Vrtiska, on the Beutler amendment.

SENATOR VRTISKA: Thank you, Mr. President. I've been listening and looking at this. I was hoping there would be a little debate so I could get a clear understanding. I don't think I can support this amendment and the main reason I can't is because I think that we have toyed with this so long, and we've tried so many different things and I guess the only...the only consolation I can get out of this is that Senator Beutler has finally agreed that this fund that he's so concerned about will be protected and I guess that's...that's the name of the game. And you can't blame him for that, I certainly don't, but I'm a little disappointed that we were not able to ensure that we would, in fact, have the funds because I don't see any assurance that we'll continue to get the kind of money that's needed. But I'm not going to spend a lot of time on this. I have some concerns and I guess I will express those through my vote. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Vrtiska. Senator Beutler. Senator Beutler, you're recognized to close on AM1144 to LB 657. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, I would...I would not add additional words since there seems to be no opposition. Thank you.

PRESIDENT MAURSTAD: Senator Beutler. The question is the adoption of the Beutler amendment to LB 657. Those in favor vote aye; those opposed vote nay. Voting on AM1144. Voting on the Beutler amendment. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, I'd ask for a call of the house, and I'll take call-in votes.

PRESIDENT MAURSTAD: The question is, shall the house go under

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call? Those in favor vote aye, those opposed nay. Please record.

CLERK: 17 ayes, 0 nays to place the house under call.

PRESIDENT MAURSTAD: The house is under call. Would unauthorized personnel please leave the floor. Would members please return to the Chamber and record your presence. The house is under call. Voting on the Beutler amendment. Senator Beutler has authorized call-in votes. The house is under call. Senators Baker, Bromm and Bruning, Senator Maxwell. Voting on the Beutler amendment. Call-in votes are authorized.

CLERK: Senator Robak voting yes. Senator Raikes voting yes. Senator Landis voting yes. Senator Maxwell, you had voted yes, Senator. Senator Bromm voting yes.

PRESIDENT MAURSTAD: Mr. Clerk, please record.

CLERK: 26 ayes, 2 nays, Mr. President, on the amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. The call is raised. Mr. Clerk.

CLERK: Mr. President, the next amendment I have, Senator Janssen, AM1383. (Legislative Journal pages 1387-1389.)

PRESIDENT MAURSTAD: Senator Janssen, you are recognized to open on your amendment to LB 657.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor and members. Maybe we are...maybe we're starting to get away from...from what the money was originally meant for. Maybe we need to concentrate on using the money to cut down on smoking in general. My amendment would use part of that money to provide a training program to educate retailers about keeping this and alcohol...or tobacco and alcohol out of the hands of minors. The fewer cigarettes that teenagers get a hold of the fewer smokers we'll have down the road, which will be less tax dollars. I understand that Senator Chambers wants to fix the sewers and that's why he's voting in favor of this...of this

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bill. I decided that maybe I should probably compromise a little bit, so in my amendment Lincoln gets half of the money they want to tear down people's homes and build a park, and Omaha gets to keep half of their money to build a summer cabin on the river for Gallup. I understand the stress of being in Lincoln, but I don't think anyone will offer to build me a summer home to get out of town. The closest I'm going to get to going back home is going back to my store and cut up a carcass for my customers. I really don't understand Senator Beutler offering to give the money to a company that says we don't like Lincoln anymore; we're pulling up stakes and taking our jobs with us, but we need a great new building in order to leave so will you give us the money do to that? Let's use this money for something worthwhile. Cigarette use amongst teenagers is very high, despite the fact that it is illegal for them to smoke. This money would be used to reduce the likelihood that kids will be able to obtain cigarettes and alcohol. Let Omaha and Lincoln use half of the money if they insist, but let's use the other half to get at the problem that was the source of this money in the first place. Well, with...the way the amendment is, Omaha would get \$750,000 a year and Lincoln would get \$500,000 a year. That's my compromise. Take it or leave it. You'll probably leave it. I plan to take it. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Janssen. Senator Beutler, on the Janssen amendment.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I understand full well that Senator Janssen is not in favor of the bill and his reasons, although I do not agree with his reasons, but this amendment I think is an expression of that frustration. It creates the Retailer Education and Training Fund and starts to go into a lot of other things that are not at all related to the bill itself, and so I would ask you not to adopt the amendment. Senator Janssen, it was hard for us to deal with the Gallup project, I must say that, but I think that I can honestly say that most folks in Lincoln now do realize and now do believe that if Gallup hadn't gone to Omaha they would have gone much further away. We simply didn't have the airport facilities, for one, to do for them what they needed to have done with the type of world class training facility,

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bringing people in through the airports from all over the world. We didn't have the airport facilities to do that. And so, as much as we hate losing out to Omaha in anything, I think the honest feeling at this point is that's what had to be. And, that being the case, there's no point in crying over spilt milk and we're back together with Omaha working on projects that are going to be of enormous benefit to both communities. Thank you.

PRESIDENT MAURSTAD:    Thank you, Senator Beutler.    Senator Wehrbein, on the Janssen amendment.

SENATOR WEHRBEIN:    Mr. President, members of the body, I'm going to just use this opportunity to talk about something that Senator Janssen broke up at...brought up. It's not to do with his amendment directly, except he mentioned the word alcohol and liquor. And I'm toying, since yesterday, when we did the budget, and the last two years actually in Health and Human Services and other areas that we're talking about in our budget, and I'm going to bring it to your attention when we do the budget, but I'm not sure in May what the situation will be, but I will tell you I intend on putting up an amendment to pull the alcohol tax bill out of the Revenue Committee, even though they've killed it. And I will withdraw that amendment when we get to it, but I'm going to be more prepared at that time than I am at this point. But I want to use this opportunity to tell you what's going to be in our budget and what's in our budget now and what's going to be in our rapidly expanded areas of budget, and Health and Human Services is the enormous cost, the enormous cost, the enormous cost of alcohol and drug abuse in this...in our society, in this case specifically Nebraska, and the amount of money that we're having to put in every year, and every year, and every year to face those issues. It's mixed with mental health and I don't have those dollars isolated at this point, but I just wanted to bring it up because it's enormous, and we had some frustration in our committee yesterday because the alcohol tax was killed. We haven't raised the alcohol tax since 1991, if my memory is correct, something like that, but there is a cause and effect. And we're putting a lot of money in Gambler's Anonymous, we're putting a lot of money now into cigarette cessation, \$7 million a year alone for those kinds of things. So when we start complaining about the cost of

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the budget, the costs that are going up for us, not only in education and everything else but drug and alcohol, substance abuse, alcohol abuse is an enormous cost to this state and it's driving our budget far beyond what I think it should. And I just want to give you kind of a warning because I'm going to bring it up again in May, perhaps in a more appropriate time, and perhaps I won't if we get...get bogged down on the budget. I feel it will drag it down. But I just want the people to be aware and think about that day to day as to what those costs are and the reason we can't avoid many of those costs if we're going to try to make progress in this area. So thank you.

PRESIDENT MAURSTAD: Senator Chambers, on the Janssen amendment to LB 657.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I just want to ask Senator Wehrbein a question.

PRESIDENT MAURSTAD: Senator Wehrbein, would you yield?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Senator Wehrbein, did you say when you bring that motion to pull the bill you're going to withdraw the motion?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: You wouldn't want the bill out here if you could get it? I'm just trying to figure, are you opposed to the bill or you feel you couldn't get it out but you want the opportunity to make a point?

SENATOR WEHRBEIN: I want the opportunity to make a point is what I will use it for.

SENATOR CHAMBERS: If we could get the bill out here, would you want that done?

SENATOR WEHRBEIN: Well, my...myself personally, I would consider it, yes.

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SENATOR CHAMBERS: I will work with you on that if you...if you want to do it, because I'm in 100 percent agreement with you.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Janssen, your light is the last light on. You can use it to close or you can use it to speak.

SENATOR JANSSEN: Well, I'll use it to...I'll use it to close if no one else is...

PRESIDENT MAURSTAD: Recognized to close on AM1363 (sic--AM1383).

SENATOR JANSSEN: But, Senator, Senator Wehrbein, I understand what you're talking about, the increased costs in drug abuse and alcohol abuse and probably related somewhat to tobacco use also. This would give us...my amendment would put dollars ahead to save dollars later, because I believe that if we can...if we can spend some dollars early on in stopping the use of tobacco and alcohol amongst young people, the State Patrol is working very hard on it now, but, there again, they have a limited staff. As to what...to what...really what they're accomplishing with the type of enforcement they're using, I'm not sure that that is...is nipping the problem in the bud. We need to have more emphasis put on earlier...earlier detection of kids who are going to be susceptible to drug and alcohol and tobacco use. This would funnel some money into the right area. I know this is...this probably isn't the time or the place to do this, but whenever the opportunity arises I'm going to take advantage of that and try to get...get young people educated on the problems that they can...the things that can ruin their life. You know, I...you can ruin your life at an early age with some of the tobacco, alcohol and drugs. I think drugs are probably the worst, although I understand that alcohol in its own is a drug. It works a lot better in internal combustion engines than it does the human body. I think we should look at the use of alcohol throughout this state in our internal combustion engines, not our bodies. That's where it belongs. With that, I would...I...I realize that this amendment has very little support, but I want you to think about it. I think we would

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put...be putting dollars in our young people, trying to save them from the horrors of alcohol and tobacco, rather than helping a city with their infrastructure that they should be doing on their own without the use of sin tax dollars, let's call it that. With that, thank you, Mr. Lieutenant Governor.

PRESIDENT MAURSTAD: Thank you, Senator Janssen. The question is the adoption of the Janssen amendment to LB 657. Those in favor vote aye; those opposed vote nay. Voting on the Janssen amendment. Mr. Clerk, please record.

CLERK: 5 ayes, 16 nays on the amendment, Mr. President.

PRESIDENT MAURSTAD: The amendment is not adopted. Mr. Clerk.

CLERK: Mr. President, Senator Hilgert would move to amend. (FA168, Legislative Journal pages 1389-1390.)

PRESIDENT MAURSTAD: Senator Hilgert, you're recognized to open on your amendment to LB 657.

SENATOR HILGERT: Thank you, Mr. President. May I inquire, am I the next speaker as well? Thank you. I've been supportive of this in committee. When we had the hearing on this bill, one of my concerns was the location of the scrap metal yard. It's a good business. They're good people that run it; well-paid jobs; no animosity toward them at all; great people. That being said, one of the locations that they were considering moving the scrap metal yard was down in a place where we call "Little Italy", around Sixth and Pierce. I couldn't accept that. That was one of the locations that some city officials had talked about. That was a concern of mine. I could not participate in the degradation of one of my neighborhoods in my district. I just couldn't be a part of it. In fact, I would be an active opponent of that no matter how nice it makes that property look elsewhere. There's thousands of people down there. I have a very densely populated district. In fact, my district is...in eastern Omaha has grown over the last census. I was given assurances at that time that Aaron Ferer would not locate there and that a scrap metal yard would not be put at that location, and I accepted that. In fact, they were generous enough, and I

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have to congratulate Matt Ferer for sending a letter to me to that extent. Last night, on WOWT, there was a news story and it...we have on Cox Cable where they have a news on one that replays the news over and over again so people like me who get home late can see what the ten o'clock news said, and, lo and behold, they had our scrap metal yard that is going to be displaced by Gallup to be moved, not at that location at Sixth and Pierce, but at a location near Twelfth and Missouri Avenue, essentially Twelfth and L, right south of our Rosenblatt Stadium and our wonderful world class Henry Doorly Zoo. It wouldn't have been Aaron Ferer that would be operating this, but another company. Needless to say, that neighborhood is densely populated as well, and I became very, very concerned. At twelve o'clock last night I couldn't really do anything about it, so this morning I went to the sponsors of the bill and inquired...well, actually, I said, do you need this bill this year? And they said, well, you know, they didn't know I was serious, but what we needed to do was to get assurances that they're not going to be moving the equipment at it's present location, which is very sparsely populated. I think there's 22 people in the entire census tract and it's a rather large one. But they're not going to move it into a neighborhood that's fighting for...to be re...to be renovated and fighting to increase the standard of living in eastern Omaha. I mean these organizations, the neighborhood organizations, fight very hard, they work very hard in trying to make the neighborhoods better. It's an uphill fight sometimes. And, frankly, putting a scrap metal yard at that location would not help that effort. It would not enhance the quality of life for the thousands of people that would be living next-door to this. I considered...I...you have the amendment on your computer. My intention was to offer this amendment and if this isn't adopted to go on a bracket motion till after the Easter holiday so we could resolve this problem. I have to thank Natalie Peetz, who worked very hard, and others, and I have just received a response that the successor company, alter to Aaron Ferer, will not locate this scrap metal yard in south Omaha, contrary to the news report of last night. So all is well. I appreciate the efforts of those in the city that worked with me this morning, although I think it would have been nicer to have this resolved earlier. I really appreciate Natalie and the Omaha Chambers of

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Commerce attentiveness...attentiveness to this issue and their expediting this communication. So, with that, thanks and with this assurance I will withdraw the motion.

PRESIDENT MAURSTAD: The amendment is withdrawn. Debate on the advancement of LB 657? Senator Hilgert, your light is still one. Did you wish to speak? Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 657 to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 657 to E & R. Those in favor say aye. Those oppo...Senator Janssen, what did you say?

SENATOR JANSSEN: (Microphone malfunction) Roll call vote.

PRESIDENT MAURSTAD: Request has been made for a roll call vote, reverse order. Voting on the advancement of LB 657. Roll call vote in reverse order, Mr. Clerk.

CLERK: (Roll call vote taken, Legislative Journal page 1390.) 23 ayes, 10 nays on the advancement.

PRESIDENT MAURSTAD: The motion to...I'll recognize you in a moment. Bill does not advance. Senator Beutler, for what purpose do you rise?

SENATOR BEUTLER: Were not the votes signaled from the floor before the vote was called?

PRESIDENT MAURSTAD: The house was not under call, so not recognized.

SENATOR BEUTLER: All right, then I would change from "yes" to "not voting" for purposes of reconsideration.

PRESIDENT MAURSTAD: The vote has been announced. It's too late for you to change your vote. Mr. Clerk. Senator Byars, for which...

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SENATOR BYARS:    Would move to reconsider the last vote.

PRESIDENT MAURSTAD:    Sorry, the mo...your request is out of order. You cannot make a motion to reconsider a motion to advance. Mr. Clerk, the next item.

CLERK:    LB 444.    Senator Erdman, I have Enrollment and Review amendments pending, Senator.    (AM7085, Legislative Journal page 1307.)

PRESIDENT MAURSTAD:    Senator Erdman.

SENATOR ERDMAN:    Thank you, Mr. President, members. I move the adoption of the E & R amendments to LB 444.

PRESIDENT MAURSTAD:    The question is the adoption of the E & R amendments to LB 444. Those in favor say aye. Opposed nay. The amendments are adopted.

CLERK:    I have nothing further on the bill, Senator.

PRESIDENT MAURSTAD:    Senator Erdman.

SENATOR ERDMAN:    Thank you, Mr. President. I move the advancement of LB 444 to E & R for engrossing.

PRESIDENT MAURSTAD:    The question is the advancement of LB 444 to E & R. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK:    Mr. President, LB 808.    Senator Erdman, I have Enrollment and Review amendments, first of all.    (AM7088, Legislative Journal page 1307.)

PRESIDENT MAURSTAD:    Senator Erdman.

SENATOR ERDMAN:    Mr. President, I move the adoption of the E & R amendments to LB 808.

PRESIDENT MAURSTAD:    The question is the adoption of the E & R amendments to LB 808. Those in favor say aye. Opposed nay.

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The amendments are agreed to.

CLERK: Senator Price to would move to amend with AM1202, Mr. President. (Legislative Journal page 1259.)

PRESIDENT MAURSTAD: Senator Price, you're recognized to open. Members, if we can please have your attention, can the house please come under order? Senator Price, please wait. Members, the house can come under order. Senator Price, you're recognized to open on your amendment.

SENATOR PRICE: Thank you, Mr. Lieutenant Governor, members of the body. This amendment would incorporate the contents of LB 737 into LB 808. LB 737 is now on General File, and was sent to the floor by the Health and Human Services Committee, without a dissenting vote. LB 737 clarifies that the existing authority of cities, counties, and villages to provide emergency medical service includes both emergency and nonemergency ambulance service. The question of whether nonemergency service can be provided was raised by the city of Lincoln's legal department, after the city decided to provide ambulance service through its fire department. And that's basically what this bill is, this amendment to the bill. If there are any questions, I'd be happy to attempt to answer them. Thank you. Then I will return the rest of my time back to the Chair, if there are no questions to this amendment.

PRESIDENT MAURSTAD: Thank you, Senator Price, for your opening on the amendment. Debate on the Senator Price amendment? Senator Price, you're recognized to close.

SENATOR PRICE: Thank you. I would encourage your support of this amendment to LB 808. Thank you.

PRESIDENT MAURSTAD: The question is the adoption of AM1202 to LB 808. Those in favor vote aye, those opposed vote nay. Mr. Clerk, please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Price's amendment.

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PRESIDENT MAURSTAD: The amendment is agreed to. (Visitors introduced.) Mr. Clerk.

CLERK: Senator Chambers would move to amend, Mr. President. (AM1223, Legislative Journal page 1288.)

PRESIDENT MAURSTAD: Senator Chambers, you're recognized to open on AM1223.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I call this amendment the Chambers amendment. And some people from time to time have asked what that means. So in this particular case, on page 4, line 10 of LB 808, you would strike beginning with the word "modified" through "1996", show it as stricken, and insert, quote, defined in Section 49-801.01. Then you have a similar type of amendment on page 5, line 10. What it's designed to do is make sure that a reference to another rule or regulation or statute is properly addressed, so that it can be effective as those who have introduced the bill intend it to be effective. That's all that the amendment does. And I would just like to say that the way corn is being handled this morning is the proper way to handle corn, and it should not be put into a gas tank of a motor vehicle. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Debate on the Chambers amendment? Senator Chambers, you're recognized to close. Senator Chambers waives closing. The question is the adoption of AM1223 to LB 808. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

PRESIDENT MAURSTAD: The amendment is agreed to.

CLERK: I have nothing further on the bill, Mr. President.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 808 to E & R for engrossing.

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April 5, 2001            LB 772, 772A, 808

PRESIDENT MAURSTAD: The question is the advancement of LB 808. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK:            Mr. President, LB 772. Senator, I have E & R amendments first of all. (AM7087, Legislative Journal page 1308.)

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the adoption of the E & R amendments to LB 772.

PRESIDENT MAURSTAD: The question is the adoption of the E & R amendments to LB 772. Those in favor say aye. Opposed...those in favor say aye. Those opposed nay. The amendments are agreed to.

CLERK: Nothing further on the bill, Mr. President.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 772 to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 772. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK: LB 772A. Senator, I have no amendments to that bill.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: I move the advancement of LB 772A to E & R for engrossing.

PRESIDENT MAURSTAD: Thank you, Senator. The question is the advancement of LB 772A. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk, General File.

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April 5, 2001            LB 420

CLERK: Mr. President, the first bill this morning, by Senator Bromm, LB 420. (Read title.) Bill was introduced on January 9, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I do have committee amendments. (AM0236, Legislative Journal page 556.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Bromm, you are recognized to open on LB 420.

SENATOR BROMM: Thank you very much, Mr. President. LB 420 is an attempt to correct a couple of technical matters, or change a couple of technical matters with respect to bonding on public construction projects. And I'll just briefly describe, I think, what it does. It allows the public owner's representative to be named as an additional obligee on the payment bond provided by the contracts for public construction, along with the owner. For example, it could be that you've got an architect that is responsible for the project, or a general contractor. And if there's going to be a bond for a particular amount of work, a subcontract, if that bond runs only to the general contractor or the architect and not to the public owner, then that general contractor or architect must then procure a second bond overall in favor of the owner in order for the owner, public owner, to have protection. This would eliminate, in that respect, some expense under those circumstances, because it might eliminate some overlapping bond coverage. Full coverage by bonding of the total contract price is still required, and should be required. This does not change that. And there is full discretion with the public owner to decide if this bonding arrangement, where the bond runs to the additional obligee in addition to the owner, is to be used or not used. That's the public owner's discretion. It also clarifies, as there have apparently been some questions in some instances, whether or not the contractor may select its surety company or agent from which it wishes to purchase the bond. Now, there's a committee amendment that the Government, Military and Veterans Affairs Committee adopted which provides that the corporate surety company must have a rating that's acceptable to the owner, as the owner may require, whatever...whether they require an A rating, or a double A rating, that would still be up to the owner's discretion, and would have to be adhered to. And I...when that

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amendment is presented, I'll certainly support that amendment. That's a good amendment, in my view. It also, under the school provision, 73-106, allows the school board's representative to perform some of the tasks associated with bidding on school construction or remodeling or repair or site improvements. In other words, it allows the representative of the board, architect in most cases, to carry out some of those responsibilities that are required for proper public bidding. It's a fairly short bill. I think it's a bill which is practical. And in some instances it has the potential to save some expense from double bond coverage. So I'll cease my opening, Mr. President, and may comment on the committee amendments. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. Senator Smith, you're recognized to open on the committee amendments.

SENATOR SMITH: Thank you, Mr. President, members. The committee amendments simply state that the corporate surety company referred to in the subsection prior shall have a rating acceptable to the owner, as the owner may require. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Smith. Senator Bromm on the committee amendments.

SENATOR BROMM: Mr. President, I simply rise to support the committee amendments. As Senator Smith adequately described it, it allows the owner of the project to prescribe what rating they wish to have with respect to a particular bonding company that furnishes the bond. And I think that's a good policy. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. The question is the adoption of the committee amendments to LB 420. Those in favor vote aye; those opposed vote nay. Voting on the committee amendments to LB 420. Mr. Clerk, please record.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

PRESIDENT MAURSTAD: Committee amendments are adopted. Debate

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April 5, 2001            LB 240, 420, 489, 516, 620, 668, 804

on the advancement of LB 420? Senator Bromm, you're recognized to close.

SENATOR BROMM: I'll waive closing.

PRESIDENT MAURSTAD: Senator Bromm waives closing. The question is the advancement of LB 420. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to advance LB 420.

PRESIDENT MAURSTAD: The bill is advanced. Mr. Clerk, items for the record?

CLERK: Mr. President, Senator Hilgert, an amendment to LB 668 to be printed; Senator Quandahl, an amendment to LB 489; Senator Hartnett, to LB 620; Senator Beutler, to LB 516; Senator Bromm, to LB 489. Mr. President, a communication from the Governor to the clerk. (Read re LB 240.) That's all that I have, Mr. President. (Legislative Journal pages 1392-1396.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. LB 804.

CLERK: Mr. President, LB 804, a bill by Senator Dierks. (Read title.) The bill was introduced on January 17, referred to the Agriculture Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0142, Legislative Journal page 546.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. And Senator Dierks, you're recognized to open on LB 804.

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. LB 804 amends Section 2-5305, put in place by LB 957 last year. As you recall, LB 957 essentially assigned two duties to the director of Natural Resources. One of these duties was to perform an assessment of ag lands for carbon sequestration potential with the adoption of management systems and conservation practices that include carbon storage in soils. Under LB 957, that duty was mandatory. LB 804 essentially makes

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this a discretionary duty. To refresh the body's memory, last session, you may recall that Governor Johanns vetoed the General Fund appropriation from LB 957A, with the expectation that an Environmental Trust Fund grant would be applied for instead. Apart from the General Fund, the A bill for LB 957...

PRESIDENT MAURSTAD: Senator Dierks,...

SENATOR DIERKS: ...included Cash Fund authority to...

PRESIDENT MAURSTAD: Senator Dierks, excuse me.

SENATOR DIERKS: ...spend the nonstate sources...

PRESIDENT MAURSTAD: Can the house come in order, please? Can the house come into order? Senator Dierks.

SENATOR DIERKS: Apart from the General Fund, the A bill for LB 957 included Cash Fund authority to spend the nonstate sources of funding that had been assembled for the assessment project. These include \$50,000 of private money donated by the Nebraska Corn Growers, the Farm Policy Task Force, and NPPD, a \$20,000 grant from the U.S. Department of Energy, and in-kind staff contributions of staff time from the Nebraska office of the Natural Resources Conservation Service. The application to the Environmental Trust Fund has been made. And just this week, the trust announced that applications funded included the Department of Natural Resources' application for purposes of LB 957. However, the trust's approval of the application is contingent upon a condition which is part of the underlying purpose of LB 804. The trust board has construed that because the carbon assessment project is mandated by state statute, that there's a potential conflict with rules governing dispersion of the trust funds, both in state statute and in regulation. Section 81-15,176 reads in part: the fund shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation. Similar qualification is contained in the trust regulations. The trust has interpreted that this precludes funding activities mandated by statute. The trust has therefore approved the department's grant application, upon the condition that legislation is

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enacted to provide that the department's duties under LB 957 are discretionary rather than mandatory. In effect, the primary purpose of LB 804 is to clarify that the Legislature intends that funding for the assessment project is eligible for Environmental Trust grant funding. The other original purpose of LB 804 was to relieve the director of Natural Resources of the duty to perform the assessment in the event that the trust did not award the department's application and funding was not available for the project. It now appears that the funding will be indeed available, and contingent upon passage of LB 804. It should also be noted that the assessment process is underway. LB 957 authorized the department to contact...contract with NRCS to perform the carbon sequestration assessment project. The contract has been signed. NRCS is working with the staff of natural resources ecology lab at Colorado State on the first phase of the assessment. And I would urge the body to advance LB 804.

PRESIDENT MAURSTAD: Thank you, Senator Dierks. Senator Dierks, you're recognized to open on the committee amendments.

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. The committee amendment is very simple. It just adds the E clause to the bill.

PRESIDENT MAURSTAD: Thank you, Senator Dierks. Mr. Clerk.

CLERK: Mr. President, Senator Dierks would move to amend the committee amendments. (AM1372, Legislative Journal pages 1396-1397.)

PRESIDENT MAURSTAD: Senator Dierks, you're recognized to open on your amendment to the committee amendments.

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. The amendment parallels the original bill by also making the director's duty under LB...under Section 2-5304 also discretionary. This section, added by LB 957 last session, assigns the duty to the director of Natural Resources to prepare a report to the Legislature addressing various matters. The report is to be prepared with the advice and assistance of the

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Carbon Sequestration Advisory Committee. The department is referring to this part of LB 957 as the policy report. The report is to examine the potential that a system of carbon credit trading will develop, identify, and induce soil conser...carbon storage. It will identify areas of scientific uncertainty with respect to quantifying and understanding soil carbon sequestration, and any recommendation to the advisory committee on policies or programs to optimize agricultural producers' benefits under the carbon sequestration system that might occur. Carbon Sequestration Advisory Committee has met three times thus far, and will be meeting on a more intensive schedule to meet the December 2001 deadline for the report. An Environmental Protection Agency grant is providing partial funding for this portion of the director's duties. The remainder is included with the Environmental Trust grant. The same arguments that apply to the original bill also apply to this amendment. The amendment simply provides that the duty to prepare the report is discretionary and contingent upon the availability of funds. I would urge the body's support of this amendment.

PRESIDENT MAURSTAD: Thank you, Senator Dierks. Senator Chambers, on the Dierks amendment.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I know nobody is paying attention, but I think they need to. Because if you all like this carbon sequestration program, then you need to listen up. I'd like to ask Senator Dierks a question.

PRESIDENT MAURSTAD: Senator Dierks, would you yield?

SENATOR DIERKS: Yes, I would.

SENATOR CHAMBERS: Senator Dierks, what is the ultimate goal of the carbon sequestration program?

SENATOR DIERKS: The ultimate goal is to do a mapping of the soil conditions in Nebraska to determine how much carbon is sequestered, or held in the soils.

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SENATOR CHAMBERS: And the purpose of doing that is to achieve what goal?

SENATOR DIERKS: The purpose, I believe, is to predict the amount that is...of carbon that's in each part of the soil, each part of the state, so that there could be...they might be able to use this in a method of carbon trading that needs to take place in certain...with certain corporations, certain carbon emitting companies.

SENATOR CHAMBERS: And that means that corporations that pollute will be able to continue polluting if you can show certain areas where this carbon is sequestered in the soil. Isn't that, simply put, what we're talking about?

SENATOR DIERKS: That's pretty simply put, but that's pretty close.

SENATOR CHAMBERS: Now, we had been told, when we first were doing this in the Legislature, that we were going to require this assessment, that we could rest assured that we would have valid, reliable information. Isn't that what the argument was?

SENATOR DIERKS: That is.

SENATOR CHAMBERS: And this bill takes away the requirement that an assessment be made.

SENATOR DIERKS: No.

SENATOR CHAMBERS: Isn't that true?

SENATOR DIERKS: Well, it does not take that...what it does is it makes it discretionary.

SENATOR CHAMBERS: And that means that there no longer is a requirement. Well, let me say it a different way. Without this bill, there was a mandate that the assessment be made. With this bill, the mandate is taken away, and the director may conduct this assessment, or the director may not. And if the director chooses not to, there's nothing in the law with your

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bill that could compel that assessment to be made.    Isn't that true?

SENATOR DIERKS:    Well, the reason for it, Senator Chambers, is that...

SENATOR CHAMBERS:    I know what the reason is.    But I want to establish some things step by step.

SENATOR DIERKS:    That's...

SENATOR CHAMBERS:    Okay.    So if your bill...

SENATOR DIERKS:    ...partly true.

SENATOR CHAMBERS:    ...is passed, then the director cannot be required by the court or anybody else to conduct this assessment,...

SENATOR DIERKS:    I think that's true.

SENATOR CHAMBERS:    ...under the law.

SENATOR DIERKS:    Yeah.

SENATOR CHAMBERS:    Isn't that right?

SENATOR DIERKS:    That's probably right.

SENATOR CHAMBERS:    And the only reason we're changing this law is because somebody is seeking a grant, and under the requirements of that grant, it cannot be obtained to carry out any function that is mandated by statute.    Isn't...

SENATOR DIERKS:    Correct.

SENATOR CHAMBERS:    Why then did they not just try to amend the references in that grant require to exempt carbon sequestration, so that we would not be losing faith with the Legislature?    Couldn't that have been done?

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SENATOR DIERKS: I'm not sure, Senator Chambers. I think they took the...what they thought was the expeditious route to do this.

SENATOR CHAMBERS: And they...they're going to run right into me. The bill...I had spoken in the committee to express my reservations. And I happened not to have been there when the bill was advanced. And that's not the committee's fault at all. But I've made it clear that I don't like the direction this bill is going. And I'm not in favor of doing away with a policy decision that we made. And we made that policy decision based on representations made by the Chairperson of the Ag Committee, in whom we all have confidence. Now a different group has come to the Ag Committee and said, we cannot...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...get the grant that we want if you mandate that this assessment be made. So our getting the grant is more important than mandating the assessment. I do not like these things to be left to the good will of whoever happens to be the director, or anybody sitting in any position where they carry out policy. I want that policy to remain mandatory. And I'm going to fight against this bill. I just want that clear.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Dierks, you're recognized to close on your amendment to the committee amendments.

SENATOR DIERKS: It's my understanding, Senator Chambers, that the results will be the same. Because the funding is on the way, and it will be...we'll still have the report. With that, I'd just urge your support of the amendment to the committee amendments.

PRESIDENT MAURSTAD: Thank you, Senator Dierks. The question is the adoption of the Dierks amendment to the committee amendments to LB 804. Those in favor vote aye, those opposed vote nay. Mr. Clerk, please record.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of

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Senator Dierks' amendment to the committee amendments.

PRESIDENT MAURSTAD:     The amendment is adopted. Debate on the committee amendments? Senator Dierks, you're recognized to close on the committee amendments. Senator Dierks waives closing. The question is the adoption of the committee amendments to LB 804. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT MAURSTAD:     Committee amendments are adopted.  
Mr. Clerk.

CLERK:            Mr. President, Senator Chambers would move to indefinitely postpone the bill. Senator Dierks, you'd have the option to lay the bill over, Senator.

SENATOR DIERKS: I'll lay it over.

PRESIDENT MAURSTAD:     The bill is laid over. Members, if you could please return to your desks, we will move to Final Reading. Members, if you could please return to your seats, we'll begin Final Reading. Senator Coordsen. Mr. Clerk, LB 313.

CLERK:            Mr. President, LB 313 on Final Reading. Senator Kremer would move to return the bill for specific amendment, AM1117. (Legislative Journal page 1185.)

PRESIDENT MAURSTAD:     Senator Kremer, recognized to open on your motion.

SENATOR KREMER: Thank you, Mr. Lieutenant Governor and members. We filed this amendment to return LB 739...or LB 313 to the Select File so we could amend on LB 739. It's a bill that also talks about the incentive funds for schools that have consolidated, and I want to thank Senator Coordsen for allowing us to do that and he cosponsored the...or cosigned the amendment to return. I will tell you the story a little bit what's behind

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this so that you can better understand what the amendment intends to do, and it has to do with two schools in my district, Trumbull and Doniphan. Three years ago both of the...Doniphan and Trumbull schools were struggling with the new state mandate of \$1.10 minimum (sic--maximum) levy. In their effort to become more efficient they entered into a cooperative agreement where both districts could pool their resources. This is a temporary, two-year agreement, and it was formed to see if the two districts in the communities might want to investigate doing something more permanently after the two years were over. They entered into this agreement several months prior to the legislation that passed by the State Legislature allowing for unification of school districts. At that time, they entered into the cooperative agreement. The state calculated that the two districts, if they would consolidate, would receive about \$750,000 incentive aid. After the two years had gone past, they decided it would be a good idea and they...both communities were favorable in consolidating, so they did go ahead and vote to consolidate. At that time, to their surprise, they realized that they were only get...get about \$150,000 in incentive aid, which was...well, after they...they originally thought they would get around \$750,000, but after the two-year period their membership had dropped somewhat so that the state incentive fund should equal about \$450,000. So it ended up when they did calculate it they were getting about \$300,000 less than what they anticipated when they went ahead with their consolidation. To explain it a little more, the...the school consolidation incentive funds are based on the average daily membership, moving from one tier to another tier. The year that Trumbull and Doniphan consolidated then the Trumbull students were already counted in the average daily membership with Doniphan, even though they had never really consolidated, so they were not able to move from one tier to the other, therefore, losing their incentive money. Doniphan is not...in the Trumbull district now, since they've consolidated, is not a money...a district with a lot of money. They've already had to override their levy to make ends meet and I might add that the...that this bill...I would have liked to have put it on, on Select File or some time earlier, but in the Education Committee, in their deliberative manner, didn't get it out of committee until just recently and they did pass it on an 8 to vote...8 to 0 vote to forward it to

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General File. So it's very appropriate to put on LB 313 and I thank Senator Coordsen for his cooperation with this. With that, I'd ask for your advancement...or your allowing us to reconsider.

PRESIDENT MAURSTAD: Thank you, Senator Kremer. Senator Coordsen, on the motion to return LB 313 to Select File for specific amendment.

SENATOR COORDSEN: Thank you, Mr. President. Members of the body, I only rise to say that I support Senator Kremer's motion and will vote to return.

PRESIDENT MAURSTAD: Thank you, Senator Coordsen. Senator Raikes, on the motion to return.

SENATOR RAIKES: Thank you, Mr. President. Members, I speak on behalf of the deliberative Education Committee. This bill was advanced by the committee, I believe unanimously. We'll allow some vote changes now after that remark, Senator. But, at any rate, we believe this is a legitimate proposal. The Trumbull-Doniphan merger was one in which they sort of went ahead with the merger by trying some contracting between the districts before the merger actually took place, and they inadvertently were penalized for that. And I would also mention to you that the...the fiscal note I think is proper. It would amount to \$276,474 over a three-year period and I think that is the appropriate amount. Senator Kremer mentioned that there were some bigger numbers mentioned earlier as estimates, but things changed, so I think this amount is correct. So I support Senator Chamb...or Senator Kremer's, excuse me, motion to return.

PRESIDENT MAURSTAD: Thank you, Senator Raikes. Senator Chambers, motion to return.

SENATOR CHAMBERS: Mr. President and members of the Legislature, I am going to support the motion to return. I think what Senator Kremer is attempting to do is appropriate, but at times like this there is a role that I feel I must fulfill. So, Senator Kremer, fasten your safety belt, put on your helmet and

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I would like to ask you a question or two.

PRESIDENT MAURSTAD: Senator Kremer, would you yield?

SENATOR KREMER: Yes.

SENATOR CHAMBERS: Senator Kremer, it is not going to be that bad.

SENATOR KREMER: Oh, okay.

SENATOR CHAMBERS: When there were attempts at contracting between these two districts, were there lawyers involved in trying to handle these contractual questions?

SENATOR KREMER: I don't know.

SENATOR CHAMBERS: So we don't know at all whether these contracts were the work of administrators and others who might know something about school matters but nothing about the laws of the state or how to examine what they are doing to determine what the consequences might be?

SENATOR KREMER: I don't think that...I really don't know if there were lawyers involved in it or not.

SENATOR CHAMBERS: Okay, thank you, Senator Kremer. Members of the Legislature, I've already said I'm going to support the motion. It is easy to say certain things should not have happened and all the rest of that, but once we are presented, as a Legislature, with a problem that needs to be address...addressed, we'll address it. Senator Kremer has not come in here to ask us to set up some kind of program that is inadequately funded, which I would disagree with 100 percent. But in a way, there is some overlap between what I've been critical of in the past and what is being presented to us here. Schools and school people, the education establishment, are the ones who are supposed to be developing the minds of our young children. They are the ones who are supposed to be teaching us how to pay attention to what's happening in the world and how to do things correctly, how to discipline ourselves to study, to be

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able to identify a problem, figure out how it is to be solved, then formulate a solution to that problem. Then we have bill after bill brought to us which demonstrates to me incompetency by these school people. They are not examples of what they are supposed to be teaching the children. Our children would not be so confused, so inclined to do all kind of things that we would call following the path of least resistance because it gives pleasure, well, let them see some examples from the adults who are doing all the preaching. We should begin to show our children what we're talking about instead of saying, you do it this way but I am not going to do it that way. So every place they look, they see incompetency. They hear people speaking in a way that would not be acceptable if they wrote a theme or composition in class and used the same sentence structure, the same order...ordering of words. Now we come to a very serious matter that relates to a core issue of a school system, and it was done wrong. Some of our colleagues this morning did something which the rules covered, but because they did it wrong, they couldn't come back and say, let me correct it now. The time to correct it was past. When we have young people taking an examination, they write the answers.

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: When they turn in their paper, as far as changing anything, it's over. But when it comes to adults, they can blunder, they can mess up, and then they get another chance. They can come to the Legislature and say, I did it wrong, you all make it right without punishment, without penalty, and the Legislature does it. I am going to put my light on again because I'm trying to make a point.

PRESIDENT MAURSTAD: Senator Chambers, you may continue.

SENATOR CHAMBERS: I emphasize I am supporting what is being done. I think it's necessary. I am sure, though, that there are a lot of students who might flunk an exam and the flunking of that exam might prevent that student from passing on to the next grade or even graduating under certain sets of circumstances, but nobody takes mercy on them and will say, well, it is important that you graduate, it is important that

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you take the next step. It is important in order for you to get a certain grant or scholarship that you have a certain grade point average, and flunking that exam hurts it, so we are going to create a set of circumstances where we will make the exam right. You don't even have to take it again. We're going to give the answer that should have been given and you get the credit for it. Now everybody is quiet. Everybody thinks what I'm saying probably should not be said, but I think too many times we wage a war against young people and we pontificate and we talk about how we've got to do this because they are going down the wrong path, and the only way we can stop them from going down that path is to punish them. If they consume any alcohol, put them at risk of going to jail and getting a fine and having a record. They need to be taught. But when grown people who have put themselves in a position and represented to the public that they know how to do these things mess up, we don't say to them an example needs to be made. We need to stop you and others from going down the wrong path, and to make sure this doesn't happen again, you're going to have to suffer the consequences of your inappropriate action. We don't do it. We bail them out. Everybody understands when adults do the wrong thing, if they are the right adults. And when these kind of matters come up, I have to talk about it, and I have to talk about it so that when attempts are made to heap negative things, as I view them, on our young people, and I stand up and speak against those things, I want us to be able to hark back to some of the things I'm talking about now. But if I don't talk about it at the time it happens, you wouldn't think back and remember all these incidents. In your mind you could say, maybe they happened like he said, maybe they didn't, but so what? It doesn't make any difference. It's past. So I am going to call our attention to these things. I am going to say it for the record so that it will be transcribed. Then when we start coming up with some of those punitive bills that I think unfairly target young people, that I think place a higher standard on they who don't have the experience that we have, the knowledge we ought to have accumulated, and we're going to hold them more culpable for things than we hold adults, then I want to be able to say, you remember that day when I made you all so angry. The reason I made you angry is because I knew this day was coming. Senator Kremer, I don't fault you for what you're

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doing, but I fault the people who created this situation. Are they from a little school district? Maybe so. Does that mean since they blundered on this that they don't know how to teach children? Maybe so. Does it mean somebody ought to look over their shoulder, and start administering tests to be sure that the children are getting what they ought to get out of those classrooms? Perhaps. But we don't want to push the principle that far. We want to say, well, yeah, maybe they messed up on this, but that doesn't mean they've messed up on everything. So you all keep that in mind when I will tell you that maybe a young person has stumbled,...

PRESIDENT MAURSTAD: One minute.

SENATOR CHAMBERS: ...maybe a young person has fallen, maybe a young person has even done something that is egregious, but the same forgiveness we are so quick to extend to adults who ought to know better, let us try to save a little bit of that...of that forgiveness and trickle it out to our children. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Coordsen, on the motion to return.

SENATOR COORDSEN: Only very briefly, Mr. President. I don't disagree with anything that Senator Chambers said. We are certainly given babies, we're given children to raise, but what we're really raising is adults. But in this particular case I believe it would be accurate to say that the body of the Legislature changed the rules after the fact in this one instance and the people who were involved, as I understood from Senator Kremer, were in fact following the rules as they existed at that particular point in time, and then we here changed the rules and created a situation for them. But I do believe that Senator Chambers makes a very valid point in that we all ought to be more careful in how we present ourselves and in how we make our decisions here on the floor and try our best to examine issues thoroughly enough that we make provisions to, hopefully in the future, keep from happening what happened to the Trumbull-Doniphan folks in their efforts to do the best they could and...and the rules were changed for them after the fact,

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but...so, with that, thank you.

**PRESIDENT MAURSTAD:** Thank you, Senator Coordsen. Senator Kremer, you're recognized to close on your motion to return.

**SENATOR KREMER:** Okay, thank you. Thank you, Senator Coordsen. And I, too, do not know who was at fault. But had the unification legislation been in effect at that time this would not have happened, but it...it took effect soon after they had decided to...to sign the cooperative agreement between the two schools. Had the unification legislation been in effect then the average daily membership would have been counted at each separate school rather than at the one school and would have allowed them to move up into a different tier. So the...I might add too that the State Department of Education did come in and testify and stated that this, in fact, did happen; was a problem. I don't know if it was an oversight or just what happened, but it's something that happens every now and then. We pass some legislation; we find out later that everything didn't work just exactly like we anticipated. And I think it's up to us to come in to try to correct it and make it right. With that, I'd just ask you to vote to return to Select File to add this amendment. Thank you.

**PRESIDENT MAURSTAD:** Thank you, Senator Kremer. The question is motion to return LB 313 to Select File for specific amendment. Those in favor vote aye; those opposed vote nay. Please record, Mr. Clerk.

**CLERK:** 33 ayes, 0 nays, Mr. President, on the motion to return.

**PRESIDENT MAURSTAD:** Bill is returned. Senator Kremer, you're recognized to open on AM1117.

**SENATOR KREMER:** Thank you, Mr. Lieutenant Governor and members. I think we've had an adequate ex...adequate explanation of the amendment, so at this time I'd just ask you to vote to advance the amendment, AM1117. Thank you.

**PRESIDENT MAURSTAD:** Debate on the adoption of AM1117 to LB 313? Senator Kremer, you're recognized to close. Senator Kremer

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waives closing. Question is the adoption of AM1117. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Senator Erdman.

SENATOR ERDMAN: Mr. President, I move the advancement of LB 313 to E & R for engrossing.

PRESIDENT MAURSTAD: Question is the advancement of LB 313. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK: Mr. President, Senator Kremer would move to return LB 313A to Select File for specific amendment, AM1170. (Legislative Journal page 1267.)

PRESIDENT MAURSTAD: Senator Kremer, you're recognized to open.

SENATOR KREMER: Thank you, Mr. President and members. I think Senator Raikes already stated what the amendment would do to add this. It simply adds \$92,158 to the estimated amount that is already in the A bill on LB 313 for a three-year period. I say estimated because nobody knows exactly how many people are going to take advantage of the consolidation incentive funds. But that's the anticipation of how much it would be. So this adds \$92,000 to that for a three-year period. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Kremer. Debate on the motion to return LB 313A? Senator Chambers.

SENATOR CHAMBERS: Mr. President, I supported the motion to return. And I just now have to give a tremendous amount of credit to Senator Kremer. I just started putting this together. Senator Kremer, let me ask you a question, to be sure that I'm on the right track.

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PRESIDENT MAURSTAD: Senator Kremer?

SENATOR KREMER: Yes.

SENATOR CHAMBERS: Your bill came out of the Education Committee, the one we attached. Is that right?

SENATOR KREMER: Yes.

SENATOR CHAMBERS: Thank you. That's all I want to ask you. Senator Kremer is our modern-day...who was that guy who could tell the future, and every...Nostradamus, Nostradamus. Because he got this bill out of the Education Committee, which Senator Raikes described as the deliberative committee. As long as it takes them to decide to do something, with enough votes to do it, it would have had to start before Senator Kremer's problem even arose. (Laughter) So Senator Kremer offered a bill to address a problem that had not come into existence, and timed it in such a way that by the time the Education Committee acted on it, we had a bill on Final Reading that we could attach it to and handle it. Senator Kremer, you are a genius.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Senator Kremer, you're recognized to close. Senator Kremer waives closing. The question is, shall LB 313A be returned to Select File for specific amendment? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to return the bill.

PRESIDENT MAURSTAD: LB 313A is returned to Select File. Senator Kremer, you're recognized to open on your amendment.

SENATOR KREMER: Thank you. I think that's been explained adequately, too. So I just urge you to vote for the amendment to return (sic).

PRESIDENT MAURSTAD: Thank you, Senator Kremer. Senator Kremer, you're recognized to close. Senator Kremer waives closing. The question is the adoption of AM1170 to LB 313A. Those in favor

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vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK:        32 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

PRESIDENT MAURSTAD: The amendment is adopted. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 313A to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 313A to E & R. Those in favor say aye. Opposed nay. The bill is advanced. Mr. Clerk.

CLERK:        Mr. President, Senator Engel would move to return LB 585A to Select File for specific amendment, AM0937. (Legislative Journal page 1204.)

PRESIDENT MAURSTAD: Senator Don Pederson, I understand you're authorized to carry this motion for Senator Engel, and you're recognized to open.

SENATOR D. PEDERSON: Thank you, Mr. Lieutenant Governor, members of the body. On behalf of Senator Engel, I move that LB 585A be returned to Select File for specific amendment. The A bill needs to be amended to reflect a change in the substantive bill. In the original version of LB 585, the division of communications of the Department of Administrative Services would have administered the fund. But under the committee amendments which we adopted, the Public Service Commission will administer the fund. The Public Service Commission also submitted a fiscal note that has a lower dollar amount than the fiscal note submitted by the division of communications. The PSC estimates that the surcharge will be...will generate less revenue because of the projection of increases in the number of wireless phones subject to the surcharge is lower than the division of communications' projection. The A bill was not amended on Select File to reflect these changes. So I urge the body to return LB 585A to Select File for specific amendment. Thank you.

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PRESIDENT MAURSTAD: Thank you, Senator Pederson. Debate on the motion to return LB 585A? Senator Pederson, you're recognized to close. Senator Pederson waives closing. The question is, shall LB 585A be returned to Select File for specific amendment? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 35 ayes, 0 nays, Mr. President, on the motion to return the bill.

PRESIDENT MAURSTAD: The bill is returned. Senator Pederson, you're recognized to open on AM0937.

SENATOR D. PEDERSON: Mr. Lieutenant Governor, I've already expressed the position in connection with this. And I would ask that it be advanced. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Pederson. Debate on AM0937? Senator Pederson, you're recognized to close. Senator Pederson waives closing. The question is the adoption of AM0937 to LB 585A. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment.

PRESIDENT MAURSTAD: The amendment is agreed to. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 585A to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 585A. Those in favor say aye. Those opposed nay. The bill is advanced. Mr. Clerk, items for the record?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they've carefully examined and reviewed LB 797, and recommend that same be placed on Select File; LB 516A and LB 461A on Select File as well. Your Committee on Judiciary reports LB 659 to General File with amendments; and

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LB 781 to General File with amendments. Mr. President, Senator Smith would like to add his name to LB 692; Senator Robak to LB 692. That's all that I had, Mr. President. (Legislative Journal pages 1398-1404.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Kristensen. Members, if I can have your attention, the Speaker would like to make an announcement.

SPEAKER KRISTENSEN: Thank you, Mr. President, members of the Legislature. On an even-numbered year, I'd be standing up making a motion to adjourn sine die, since this would be the sixtieth day. That's not true this year. I think today is an appropriate day to say thank you for your patience and your hard work and your diligence. And the easy part of the session is obviously over. We've done some very good work, we've done some very hard work thus far. We have some very long days that are going to require a lot of patience. I just appreciate what you've done so far, and would ask that you enjoy the weekend and come back, and we'll get the state's business done those last 30 days. With that, I would move that we adjourn until Monday at 9:00 a.m.

PRESIDENT MAURSTAD: The question is, shall the Legislature adjourn? Those in favor say aye. Opposed nay. The Legislature is adjourned.

Proofed by: B. Ward and S. Ryan