

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
March 01, 2010

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fourth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Matthew Mortenson, Christ Lutheran Church, Falls City, Nebraska, Senator Heidemann's district. Please rise.

PASTOR MORTENSON: (Prayer offered.)

SPEAKER FLOOD: Thank you. I call to order the thirty-fourth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and reviewed LB805, LB951, LB879, LB768, LB799, LB926, and LB1063. All reported to Select File, some of which have Enrollment and Review amendments attached. (Legislative Journal pages 691-694.) [LB805 LB951 LB879 LB768 LB799 LB926 LB1063]

SPEAKER FLOOD: (Gavel)

CLERK: Your Committee on Education chaired by Senator Adams reports LB965 to General File with committee amendments. Revenue Committee chaired by Senator Cornett reports LB975 to General File and LB1031 and LB1032 to General File with committee amendments. Communication from the Governor to the Clerk (Read re LB711.) That's all that I have, Mr. President. (Legislative Journal pages 694-697.) [LB965 LB975 LB1031 LB1032 LB711]

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: No corrections.

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SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR322, LR323, LR325, LR326, LR327, LR328, LR329, LR330, and LR331. (Doctor of the day introduced and visitors introduced.) Senator Kate Sullivan and Senator Deb Fischer invite their colleagues to join them in the Senators' Lounge to celebrate their birthdays and also Nebraska Statehood Day. Happy birthday to Senator Sullivan and Senator Fischer. Mr. Clerk, we now proceed to the first item on the agenda, General File appropriations bills. [LR322 LR323 LR325 LR326 LR327 LR328 LR329 LR330 LR331]

CLERK: Mr. President, LB951A by Senator Avery. (Read title.) [LB951A]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB951A. [LB951A]

SENATOR AVERY: Thank you, Mr. President. As all of you will remember from our discussions on General File, LB951 is designed to implement the provisions of the federal Military and Overseas Voter Empowerment Act, known as MOVE, which was passed by the U.S. Congress in October of last year. This bill, LB951A has a fiscal note...excuse me, LB951 has a fiscal note attached to it of \$80,000. I want to remind you that the \$80,000 will come from the Election Administration Fund. This is a cash fund in the Secretary of State's Office and the money consists of federal HAVA monies, that is the Help America Vote Act, and along with some matching funds. The Secretary of State is hoping to reduce the amount below the \$80,000 that you see here by joining with other states to create the Web site that will be required to implement this law. And if he is successful in doing that, then the \$80,000 will be reduced. If we have to create our own system by ourselves, then it will cost about \$80,000, but hopefully it will be less than that. But I want to emphasize that this is federal HAVA money. It is not General Fund money from the state. I would ask you to vote to approve LB951A. Thank you, Mr. President. [LB951A LB951]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on LB951A. There are no senators wishing to speak. Senator Avery you're recognized to close. Senator Avery waives his opportunity. The question before the body is, shall LB951A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB951A]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB951A. [LB951A]

SPEAKER FLOOD: LB951A advanced to E&R Initial. Mr. Clerk. [LB951A]

CLERK: LB910A by Senator Carlson. (Read title.) [LB910A]

SPEAKER FLOOD: Senator Carlson, you're recognized to open on LB910A. [LB910A]

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SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. LB910 deals with the commercial dog and cat inspection program. And there exists the commercial dog and cat operator inspection program cash fund which is what LB910A is about. In the cash fund, license fees from facilities, breeders, dealers, pet stores, shelters, rescuers, and others, provides the funds for the cash fund. LB910 increases certain license fees from facilities and inserts a \$1 fee on individually owned dogs and cats in Nebraska. LB910A increases the cash fund authorization from \$155,000 to \$335,000 to allow the department to spend the additional dollars that come in. The program has already taken a \$57,000 decrease in General Fund appropriations for 2010-11 fiscal year. The intent of LB910 is to increase the cash fund from financing about one-third of the dog and cat inspection program to two-thirds or more. We must observe the first two years to see how it works and what the results are. The increase in cash fund authorization is necessary to handle the expected increase in cash fund revenue. I ask for your support for LB910A. I'll be happy to answer any questions that you may have. Thank you, Mr. President. [LB910A LB910]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no members wishing to speak. Senator Carlson, you're recognized to close. Senator Carlson waives his opportunity. The question before the body is, shall LB910A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those wishing to vote done so? Mr. Clerk, please record. [LB910A]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB910A. [LB910A]

SPEAKER FLOOD: LB910A advances to E&R Initial. Mr. Clerk, we now move to 2010 Senator priority bills, White division. [LB910A]

CLERK: Mr. President, LB817, a bill originally introduced by Senator Rogert. (Read title.) Introduced on January 8 of this year, at that time referred to the Judiciary Committee for public hearing. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM1964, Legislative Journal page 574.) [LB817]

SPEAKER FLOOD: Senator Rogert, you are granted 2 minutes to advise the Legislature of your bill. [LB817]

SENATOR ROGERT: (Laughter) Thank you, Mr. President. Good morning, members. I don't think I'll need 2 minutes. LB817 has several amendments today filed along with the Judiciary Committee amendment. We are wrapping a series of different bills dealing with firearms into this bill. My bill originally stated that folks who have gone through the rigors of obtaining a concealed carry permit would not be required to go through the sheriff's office to purchase a handgun purchasing permit. It seemed like a welcome

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change to the statute as the requirements to obtain a concealed carry permit were much more rigorous than a regular handgun purchase permit. So that's what the bill originally does. We have added the provision to extend the same courtesy to all sworn law enforcement officials, if they are such, then they would no longer need to go purchase that permit as well. We have more amendments coming from the committee that wraps Senator Dubas' bill, LB905, and thanks to Senator Fulton for the priority on this bill. Thank you, Mr. President. [LB817 LB905]

SPEAKER FLOOD: Senator Ashford, we also grant you 2 minutes to update the Legislature on the committee amendment. [LB817]

SENATOR ASHFORD: Thank you, Mr. Speaker. And there are two parts to the committee amendment and then as Senator Rogert has suggested, there are some other amendments that have been filed, or at least one, maybe more than one, amendments that have been filed to the, I believe to the committee amendments and we can, obviously, deal with those in due course. The one amendment that we started discussing last week dealt with the standard to be applied to a drive-by shooting. The way the bill came out...or the committee amendment, as I described the other day, struck the word "recklessly" from the definition of the drive-by shooting crime. Essentially, what that meant was and means is that if someone is...commits the crime of a drive-by shooting in a first-class city and in this case, the bill as amended would apply to first-class cities as well a metropolitan class cities, Omaha, and primary classes as Lincoln. So if the amendment is passed, this language regarding drive-by shootings would...and this crime of drive-by shootings would apply to those three classes of cities. In addition, the word "recklessly"... [LB817]

SPEAKER FLOOD: One minute. [LB817]

SENATOR ASHFORD: ..."recklessly" was struck from the definition of the crime. So under the committee amendments as drafted in order to convict someone of a drive-by shooting offense, which is a IC felony under the act, we did that in LB63, there would have to be a showing of an intentional act of shooting into a house, into a car, or at a person in one of these classes of cities. It does not apply to areas outside of the primary first-class and metropolitan class cities. There's some discussion...there was some discussion, has been some discussion about whether the word "recklessly" should stay in the definition and I believe we'll have some discussion about that. "Recklessly" is somewhat of a lesser standard than the intentional act of drive-by shootings, so we'll have that discussion, Mr. Speaker, and then we'll be able to know where we are on that. [LB817 LB63]

SPEAKER FLOOD: Thank you, Senator Ashford. Mr. Clerk. [LB817]

CLERK: Mr. President, the first amendment to the committee amendments I have is

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Senator Council, AM2048. (Legislative Journal page 687.) [LB817]

SPEAKER FLOOD: Senator Council, you're recognized to open on AM2048. [LB817]

SENATOR COUNCIL: Yes, thank you, Mr. President. And Senator Ashford has alluded to the purpose of AM1964 and that is to reinsert "recklessly" as part of the standards for the offense of shooting from a vehicle or in the proximity of a vehicle. By way of background, as Senator Ashford mentioned last year, this body passed LB63 which essentially provided for the offense of drive-by shootings and it was limited to basically cities of the metropolitan class. And it provided that the offense was committed if it was done knowingly, intentionally, or in a reckless manner, and "recklessly" was included in and supported by Omaha Police Department because in many of the instances where the police have been able to apprehend someone in connection with a drive-by shooting, one of the initial defenses is that it was an accident. "Recklessly", the inclusion of "recklessly" prevents that type of defense and actually imposes a rather strict obligation and duty not to fire or allow a weapon to be fired from or in the proximity of a moving vehicle. When Senator Dubas introduced LB905 this year, if you read the statement of intent and how the bill was presented, it was presented with the understanding that the intent of LB905 was merely to expand the coverage of that drive-by shooting section to include cities of the first class. I think unbeknownst to most, if not all of the committee members, LB905, also struck the term "recklessly" from the bill that was enacted last year. That was never discussed in the committee as being a part of LB905 and I don't believe that it was the intention of the committee to advance LB905 as an amendment to LB817 with that term deleted. And in fact, when that was brought to the attention again of the Omaha Police Department, the County Attorneys' Office expressed grave concern with regard to the striking of that. Now, if the situation is such that there are concerns from cities of the first class and I think the body needs to look at some other means of addressing that. But this body felt strongly that the offense should involve knowing, intention, or reckless conduct and that the penalty for that should be a IC felony that has a mandatory minimum and the body believed that that was the appropriate punishment if that offense was committed within the boundaries of a county where there is a city of the metropolitan class located, it should apply equally to any other cities that are brought into the coverage of this section of the statute. I believe that "recklessly" needs to be a part of this provision so that we can avoid and eliminate these drive-by shootings. I don't need to remind this body of the headline that occurred in the Omaha World-Herald a week ago Sunday with regard to the homicide rates in the city of Omaha. And if you look carefully at each of those incidents, you will see the significant number of those shootings were the result of someone shooting from a moving vehicle. If we are serious about eliminating this kind of conduct across the state of Nebraska, then "recklessly" needs to remain in the bill that we passed last year, LB63. And with that, I urge this body's support of AM1964. [LB817 LB63 LB905]

SPEAKER FLOOD: Thank you, Senator Council. At this time, I would ask Senators

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Ashford, Council, Rogert, Christensen, and Lathrop, please proceed to the Chair for a short discussion. We will stand at ease. Senator Council, for what purpose do you rise? [LB817]

SENATOR COUNCIL: Thank you, Mr. President. And in light of the development with regard to the status of the committee amendment and that the AM2048, which was an amendment introduced by Senator Ashford, which basically struck everything in the committee amendment and added some, that it's appropriate at this time for me to withdraw AM1964. It is my intent to refile that as an amendment to the Judiciary Committee amendment, but at this point in time it is my understanding that Senator Ashford will be withdrawing his amendment, and since my amendment relates to that amendment, it will be withdrawn. [LB817]

SPEAKER FLOOD: Okay. Without objection, so ordered. AM2048 is withdrawn. Returning to the committee amendment. Senator Ashford, we return to AM1964, of which you've already given an opening. For the body's pleasure, would you please give us a short 2 minute summary of AM1964, remind the Legislature as to where we're at before we proceed to discussion. Thank you. [LB817]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I...this would be the same 2 minutes as I gave before. AM1964 has two amendments to it that are critical. One is...as I have suggested, is the word "reckless" is excluded or deleted from the definition of a drive-by shooting crime which is a IC felony. And Senator Council has suggested that she will draft and file an amendment on Select File to deal with the issue of "recklessly". Should we have the standard of "reckless" in the statute dealing with drive-by shootings or should we retain the language of an intentional shooting or drive-by shooting? And we'll take that up on Select File if this gets attached and moved ahead. The other amendment deals with...in the committee amendments, deals with police officers and making certain that police officers not be required to have a permit to purchase, to purchase a handgun. They are not required under current law to have a concealed weapon permit to purchase a handgun under current state law. And so those are the two components, Mr. Speaker, of AM1964, There are two other amendments, Senator Council's amendment, and then Senator Christensen has another amendment dealing with civil remedies in shootings. That will be taken up on Select File as well. So today what I would ask you to do is to adopt the committee amendments and advance LB817 and then on Select File we can deal with Senator Council's issues, Senator Christensen's issues, and there may be a couple others that, hopefully, we can deal with on Select. Thank you, Mr. Speaker. [LB817]

SPEAKER FLOOD: Thank you, Senator Ashford. Senator Rogert, you are recognized. [LB817]

SENATOR ROBERT: I'll waive. [LB817]

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SPEAKER FLOOD: Senator Rogert waives his opportunity to speak. Are there any other members of the Legislature that would like to discuss AM1964, the underlying bill, LB817? Seeing none, Senator Ashford, you are recognized to close on AM1964. Senator Ashford waives his opportunity. The question before the body is, shall AM1964 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk. [LB817]

CLERK: 41 ayes, 1 nay, Mr. President, on the adoption of committee amendments. [LB817]

SPEAKER FLOOD: Committee amendments are adopted. Mr. Clerk. [LB817]

CLERK: Mr. President, Senator Ashford, AM1976. I believe that's the one you've indicated you're going to withdraw at this time, Senator? [LB817]

SENATOR ASHFORD: I would withdraw that amendment. [LB817]

SPEAKER FLOOD: It is withdrawn without objection. [LB817]

CLERK: Senator Christensen, I assume your AM2031 goes away then as a result of that action? [LB817]

SENATOR CHRISTENSEN: Correct. [LB817]

CLERK: I have nothing further pending on the bill, Mr. President. [LB817]

SPEAKER FLOOD: Without objection so ordered. We now return to discussion on LB817. Are there any members wishing to speak? Seeing none. Senator Ashford, you're recognized to close on LB817...oh, Senator Rogert, you're recognized to close on LB817. (Laughter) [LB817]

SENATOR ROBERT: Thank you, Mr. President and members. Just a little light on the confusion we had. What we're doing with this bill and the committee amendment we are essentially three things. We're allowing folks with concealed carry permits to purchase a handgun without the extra fee from the sheriff's department. We're also extending the same courtesy to all law enforcement officials. If you are a sworn law enforcement officer, you will not have to go purchase that extra permit as well. The committee amendment also added Senator Dubas' bill, LB905, which increases the penalty of firing a firearm from a moving vehicle within the city limits of a first-class city in an effort to address basically drive-by shootings in Grand Island. We passed some bills last year. We passed a bill last year that talked about drive-by shootings in cities of a metropolitan primary class. We left the first-class cities out. We now think it's necessary to put those

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in. So I ask for your support to advance LB817 to Select File. Thanks. [LB817]

SPEAKER FLOOD: Thank you, Senator Rogert. Members, you've heard the closing on LB817. The question is, shall LB817 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB817]

CLERK: 44 ayes, 1 nay, Mr. President, on the advancement of LB817. [LB817]

SPEAKER FLOOD: LB817 advances. Mr. Clerk. [LB817]

CLERK: Mr. President, the next bill, LB1002, originally introduced by Senator Louden. (Read title.) The bill was introduced on January 20 of this year. At that time it was referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are Revenue Committee amendments, Mr. President. (AM1841, Legislative Journal page 559.) [LB1002]

SPEAKER FLOOD: Senator Louden, you're recognized to open on LB1002. [LB1002]

SENATOR LOUDEN: Good morning, Mr. Speaker and members of the Chamber. LB1002 was a bill I brought forward to address the problems in northwest Nebraska. As all of you know, Whiteclay has been a bull's-eye for protectors from all over the nation. Some of the allegations are true. A huge amount of beer and only beer is sold through the four establishments. Some of the other allegations may not be true but either way there is a problem in the radius area that is described in the bill. The estimate from the fiscal note points out that \$266,000 in sales tax on alcohol alone is received by the state in a 30-mile area. As I drew up the bill, that was the target for the amount of money asked for to address some of the problems in the area. LB1002, the green copy, states that \$250,000 be acquired to address healthcare, law enforcement, and economic development in the designated area which encompasses the major towns of Chadron, Hay Springs, Rushville, and Gordon. There are amendments to the green copy and they will become the bill. I will point out the reasons for LB1002 and then as the amendments were made will then give the reasoning for their introduction. LB1002 points to the need for healthcare especially detoxification for the Native Americans who are in Nebraska. Healthcare in Nebraska is an economic issue. All of the smaller towns in the area have nursing homes and it is its source of jobs as we have nursing homes in the major towns of Gordon, Rushville, Chadron, and Hay Springs, and also some of the towns outside of the area such as Crawford and Hemmingford. The nursing homes are some of the main source of economic driving for those areas. I believe that healthcare can be economic development for the area. There are somewhere between 35,000 and 50,000 people living just across the border in South Dakota. These people primarily trade in the towns in this designated area of Chadron, Gordon, Rushville, Hay Springs. This is part of the reason Dawes and Sheridan Counties collect around \$8 million in sales tax annually.

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That compares to some of the counties that are up and down Interstate 80 that don't collect near that amount of sales tax and it's mostly because of the revenue source and the trade territory that encompasses those towns in northwest Nebraska. There's a vast trade area to the north of the designated area. If healthcare facilities are built or improved in the four towns in this area it will stimulate the economy. As the committee amendment replaces the bill, I will speak further on the process of LB1002. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Louden. As the Clerk has stated, there are committee amendments offered by the Revenue Committee. Senator Cornett, as Chairman of the Revenue Committee, you're recognized to open on the committee amendments. [LB1002]

SENATOR CORNETT: Good morning, Mr. President and members of the body. The committee amendment limits the use of a designated sales tax fund to consensus designated places associated with an Indian reservation in a county with less than 6,400 inhabitants. Tribal governments which own lands within the 30-mile radius of such places were added to a list of eligible grant recipients. The Indian Commission was given power to administer the grant programs established by the bill. A funding limit of \$250,000 annually is established for the grant fund. The committee amendment allows the Indian Commission to determine the allocation of the grant amounts to more than one applicant. The committee amendment changes the reporting provisions for the tax commissioner and eliminate the need to report sales tax collected on liquor sales within the area described in the original bill and a sunset clause was added to the bill which limits the life of the funding program to seven years. It is my understanding that Senator Louden has an amendment that substantially rewrites the committee amendment and I will let him discuss that. Thank you. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Mr. Clerk for a motion. [LB1002]

CLERK: Mr. President, Senator Louden would move to amend the committee amendments with AM1991. (Legislative Journal page 625.) [LB1002]

SENATOR LANGEMEIER: Senator Louden, you're recognized to open on AM1991. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members. AM1991 actually becomes the bill. As LB1002 was drafted and introduced in the eleventh hour of bill introduction, there wasn't time to look in all of the closets and under the bed to arrive at commonsense legislation. LB1002 has been a continued work from its introduction on

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January 20 which was the day nine of the Second Session. AM1991 takes out any mention of state sales tax and thus cuts down on the accounting by the Department of Revenue and also cuts down on any mention of a sales tax on liquor. AM1991 asks the State Treasurer to transfer \$250,000 from the General Fund to the designated collection fund in Section 6, paragraph 2. The commission is directed to actively seek grants, donations, gifts, or contributions from public or private sources. AM1991, the sunset date stays on as June 30 of 2018 which is about seven years. And this also adds language that includes the Nebraska Commission on Indian Affairs to administer the designated collection fund. And as testified in the committee hearing, this bill is not going to solve all the problems associated with the Whiteclay area, but it is a chance to help those people and try to make a difference. Of the past eight sessions I've served in in the Legislature, I've attended many meetings in the Pine Ridge and surrounding areas dealing with Whiteclay issues. Of all the meetings involved, this is the first time the Legislature has been involved and I truly hope the Legislature takes a lead in addressing this issues. Part of the reason as we drafted some of this, we found out by using a sales tax and designated an area, that the Department of Revenue had to have about \$44,000 to develop a geographic information system. So by doing away with that part of the bill we saved that amount of money. Also by putting it into the Indian Commission instead of the Liquor Commission, the Liquor Commission decided they would have to have \$98,000 to administer this program and the Indian Commission has done it...claims they can do it with one full-time employee to add onto the staff that they already have. Those are some of the issues that came about as we drafted this bill. And as I say, it was drafted in the eleventh hour and as we come up with the final amendment, AM1991, is the final legislation and I would urge your vote for AM1991. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Louden. Body, you have heard the opening on AM1991 to the committee amendment. The floor is now open for discussion. Those wishing to speak, we have Senator Karpisek, Louden, Price, Hadley, Gloor, and others. Senator Karpisek, you're recognized. [LB1002]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I just rise in support of the underlying bill and Senator Louden's amendment. As most of you know, I had a bill very similar to Senator Louden's that I turned in and did not make it to the floor. But Senator Louden's bill has been changed and amended to look much like mine did. So I think between the two, we have a very good bill and I will support it. The General Affairs Committee had interim hearings this summer about the Whiteclay issue and we had very good talks, very good learning experience on what all the problems are. I don't feel that this bill or any one bill will solve the entire problem with Whiteclay. However, just because it is a big problem doesn't mean to start somewhere. There are many people who think shutting the liquor or the beer stores down in Whiteclay will solve the problem. I have a few problems with that. Number one, I think it is private business, and the state probably would be sued over such a move and we would end

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up spending a lot of money to get that done if that were the notion of this body. The other problem is that if there wasn't the need for those stores to stay open, they probably wouldn't stay there. They sell a considerable amount of beer but it's because the demand is there. I think that LB1002 starts to move us in the direction of lowering the demand. Again, it's not going to do it overnight. It's not a one-shot solution, but I think it's a great way to get the ball rolling. I have had meetings with our federal delegation. Senator Krist has had meetings with South Dakota. I think this is the way to start the ball rolling and I think on the way...after we can get this passed, that we can get a lot more money and get things nailed down there. I do support Senator Louden's bill and I appreciate him doing all the hard work that he's done on it. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Price, you're recognized. [LB1002]

SENATOR PRICE: Thank you, Mr. President and members of the body. I rise to talk about this bill, the underlying amendment which would replace this bill, some concerns I have with it. I was present at some of the interim hearings we had and the question that lies in my mind is the complexity of this is enormous and the issues have a lot of impact. But I'd like to remind people that we have some jurisdictional issues here with this bill. We're talking about what amounts to a sovereign nation in another state and we have the problem in our backyard and so now we have three jurisdictions that we're dealing with. I'm not sure that we're addressing the problem with this bill. I recognize the problem exists, and I would like to ask Senator Louden a question if he would yield. [LB1002]

SENATOR LANGEMEIER: Senator Louden, would you yield? [LB1002]

SENATOR LOUDEN: Yes, I would. [LB1002]

SENATOR PRICE: Thank you, Senator Louden. I'm interested in looking at page 3, line 8(2). And in that you discuss that the commission will use the funds for what it sees are legitimate uses and in the best interest of the state. Could you possibly on two counts here find any broader language to put in there? And what does it mean when you say, best interest of the state and legitimate use? What are you envisioning? [LB1002]

SENATOR LOUDEN: Okay. Now, you say page 3 and that's on the amendment or...? [LB1002]

SENATOR PRICE: That is correct, on the amendment. [LB1002]

SENATOR LOUDEN: AM1991. [LB1002]

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SENATOR PRICE: Yes. [LB1002]

SENATOR LOUDEN: And page 3 and which line are you talking about? [LB1002]

SENATOR PRICE: It looks to be line 8(2) and (3) there where you talk about how the commission will use the funds. [LB1002]

SENATOR LOUDEN: Best interest of the state? [LB1002]

SENATOR PRICE: That is correct. [LB1002]

SENATOR LOUDEN: Yeah. [LB1002]

SENATOR PRICE: Best interest of the state and legitimate uses. [LB1002]

SENATOR LOUDEN: Well, yes, in other words so that they wouldn't...first of all, you got to be a political subdivision, I think it's pointed out in here, in order to apply for these grant fundings. And, of course, it has to be used in something that would be of benefit to the state. Now, economic development is a benefit to the state because there would be a certain amount of revenue that comes in with that also. And this was mostly language I think we put in there so that we would try and narrow it down so that they weren't using this money to, whatever you would say, buy a horse race, racing horse or some other such thing, to use the term loosely. But that's mostly what that language is in there for is to narrow it down so it had to be done for something that the state would benefit from. [LB1002]

SENATOR PRICE: Okay. Thank you very much, Senator Louden. I would tell the body I find that somewhat interesting approach, legitimate use and best interest, and using that in the same sentence and syntax as narrowing it down. I'm not sure how narrow legitimate use makes it. The other thing is we are talking about \$250,000 of General Fund money every year to go into this. And I guess we could just actually rename this bill as an economic development bill and why it's not going under DEQ or somebody...the economic development folks here in the state, the DED folks, I'm a little wondering. I understand that there's a problem. I acknowledge there is a problem. That's a lot of beer to sell out of four liquor stores. But, again, we said the best interest of our state and legitimate use in our state for something I believe resides in another state and another nation. Again, the problems are complex. But I'm not sure that we're getting there with this and I'll be very interested to listen to how... [LB1002]

SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR PRICE: ...this paragraph of legitimate use actually narrows down the language. Thank you very much, Mr. President. [LB1002]

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SENATOR LANGEMEIER: Thank you, Senator Price. Senator Hadley, you're recognized. [LB1002]

SENATOR HADLEY: Mr. President, members of the body, I appreciate the opportunity to talk on this, these amendments and this bill. I did vote this out of committee but to be fair to Senator Louden I told him I would probably speak against it on the floor. But I think it's an important enough issue that we talk about it on the floor. By law, American Indian people in the U.S. were prohibited from buying alcohol until 1953. Alcohol has been banned on the Pine Ridge Reservation since the 1970's. Regardless, Pine Ridge has one of the nation's highest alcoholism related mortality rates. I found it interesting that Pine Ridge is the only Indian reservation in South Dakota that prohibits alcohol sales. My understanding is the other seven reservations in South Dakota allow, do not ban alcohol. Banning alcohol on an Indian reservation seem to have little effect. Crimes seem to be fairly constant. A Mitch Poirier of the BIA in Billings, Montana, said that in a study shows with the proximity of liquor establishments right off the reservation, it doesn't seem to make much difference except that the revenue generated remains off the reservation. The Great Falls Tribune did a study on crime on reservations looking at wet and dry reservations. Again, they found little difference between crime on wet and dry reservations. A study by a Philip May at the University of Montana found that reservations that legalized alcohol sales had 28 percent lower mortality rates from cirrhosis of the liver, 47 percent fewer suicides, 18 percent fewer homicides, 11 percent fewer motor vehicle accidents, 8.8 percent lower alcohol related death rate on wet reservations versus dry reservations. Just the opposite of what you would expect. Now, why? His hypothesis was legalization appears to be associated with fewer alcohol-related deaths and arrests. Reason is that prohibition, if not effectively enforced, changes drinking behavior. Whiteclay, how can a town just miles, a few miles from the reservation sell four million cans of beer? It's not changing the behavior on the reservation. On reservations that have legalized alcohol, new norms develop, norms of moderation and limitation. On dry reservations, however, you have norms of rapid, forced binge drinking that are encouraged by the law. You have to drink quick. You have to bootleg it in. You have to hide. What...and this is a direct quote from the Rapid City newspaper, an editorial they had: What needs to be done is tribal leaders as well as activists should shift the focus from Whiteclay and look within the reservation borders to develop their solution. Prohibition doesn't work, but education, treatment, and community involvement can. The problem is we have no money. Senator Karpisek said we've had plenty of talks but no action. I did some more research. I know that Senator Krist went up and talked to the people in South Dakota and the quote from the South Dakota head of the House or the Senate said, yes, it's a problem but we don't have any money to face it. In the hearing, we heard from the Pine Ridge Reservation elders saying, yes, we understand it's a problem but we don't have any money to attack the problem. So is it Nebraska's problem alone? It seems to me we have a three-legged stool here. We have the reservation, we have South Dakota and we have Nebraska. We

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only have one group coming to the table and that's Nebraska. I was going to ask Senator Carlson, one of the bills he has is trying to get the water people to the table. And you need all of the people to the table to do something about it. And I know it doesn't probably bode well... [LB1002]

SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR HADLEY: ...but if you'd look at...if they were to legalize alcohol on the Pine Ridge and charge a tax of 10 cents a can and a 10 percent profit from each can, they would have over \$1 million a year to try and attack the alcohol problem. Other tribes in South Dakota do it. The Lower Brule Reservation charges \$10,000 for every liquor license on the reservation dedicated to the use of trying to solve the problems. I commend Senator Loudon for bringing this. I think it's something we have to look at but until we can get the reservation, South Dakota, and Nebraska to the table, I don't think a one-legged stool is going to solve the problem. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Gloor, you're recognized. [LB1002]

SENATOR GLOOR: Thank you, Mr. President and good morning, members of the body. I want to thank Senator Loudon for the introduction of this bill. I am sure that he's put a lot of time and effort into it and know that this is, certainly within his district, an area of great concern and bringing some attention to the problem that Whiteclay certainly has to be a positive thing. But I'm yet...as of yet, still undecided on this bill and the underlying amendments. I don't argue that there is a problem. I don't argue that something should be done. I am still trying to convince myself that this is the best approach to what is an obvious problem out there. I wonder if Senator Loudon would yield to a few questions from me, please. [LB1002]

SENATOR LANGEMEIER: Senator Loudon, would you yield? [LB1002]

SENATOR LOUDON: Yes, I would. [LB1002]

SENATOR GLOOR: I may have gotten a partial answer from something that was just placed in front of me. As this was the case of any program, especially one that deals with social services, my question would be, how are we ever going to ever evaluate success? How are we going to be able to evaluate in the future as a legislative body whether the use of these funds has accomplished what was hoped to be done? Would you mind responding to that, please? [LB1002]

SENATOR LOUDON: Well, first of all, there's a seven-year sunset on it, so that has to get somebody in gear because it's going to take probably a year to get the thing up and going. The other thing is money is appropriated biennially so any time that anyone feels

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that it isn't doing the job it's supposed to, they don't have to reappropriate the money. It isn't like, here a bill we had the other day that appropriated money into the next seven or so years. This is appropriated biennially. So that part. As far as finding out whether we're doing any good or not, I guess the first thing would be to see whether or not Whiteclay is still the bull's-eye of all the protest groups that go around. And that's part of the reason. Whiteclay could be cleaned up. I think Senator Coash is doing some work on trying to get monies to actually clean up the town. Whiteclay wasn't always like it is. It used to have over 100 people there and it used to have stores and restaurants and everything. It's been in the last, probably, 20 years or so that everything has degraded and nobody has bothered to try to address some work or time involved in there. In the sixties, in the late sixties the state of Nebraska had a state sheriff situated there in Whiteclay. And over the years they took him out about in the seventies, when things started going to pieces after the state sheriff was taken out of that Whiteclay area. And that's the reason in this bill I do have that there can be some of it used for law enforcement. And I think that if there was some law enforcement up there on a daily basis, or perhaps more than just a matter of somebody making a turn and driving up through there. Now, the State Patrol tried to patrol that more so but as soon as you drove in there with a State Patrol car everything looked normal for a little bit and they turned around and left and that was the size of it. So there are ways that we probably can justify it. Now, whether it will clear this all up, I wouldn't hazard a guess on what we can do. But it is a start. As Senator Karpisek said, we're going to have to start someplace and this is probably one place to start and that's the reason this economic development put into this area. There's no reason why Whiteclay couldn't be cleaned up and have some type of some retail sales in there more than what there is now. There are some retail stores that go in there now. So that would be my answer to it that whether we can have a...this isn't the silver bullet but this is a start there that I think we need to research and work forwards with. [LB1002]

SENATOR GLOOR: And you had made reference in your introductory remarks about a detox unit. Is a detox unit a given in terms of the use of these dollars? And if so, who would operate that detox unit? [LB1002]

SENATOR LOUDEN: It's not a given as the use of it... [LB1002]

SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR LOUDEN: ...at the present time there's a detox, a small detox system working in Gordon through the Health and Human Services. But if something like that came about, this would have to be something where you would get the Bureau of Indian Affairs and especially the Indian Health Service involved to run a detox center because that's going to cost over a half million dollars a year to run a detox center. At the present time they're working on a nursing facility on land that the tribe owns in Nebraska. And if they can get that completed, there's probably chances that they could build a detox

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center on part of the facility. [LB1002]

SENATOR GLOOR: Thank you, Senator Louden. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Those still wishing to speak, we have Senator Utter, Coash, Howard, Lathrop, White, Stuthman, Krist, Campbell, and others. Senator Utter, you're recognized. [LB1002]

SENATOR UTTER: Thank you very much, Mr. President. Good morning, colleagues. I have great sympathy for the problems that exist on the Pine Ridge Reservation and in the Whiteclay area. There's no question about that. I do have some problems, I think, with this legislation from the standpoint that I'm not sure that this should be something that Nebraska is in all by itself. It seems to me that if you're going to have any kind of an effective treatment program that will solve part of the problems of the Whiteclay reservation, then you have to have the Bureau of Indian Affairs involved, you have to have the people from the Oglala Nation involved, and certainly have to have people from the state of South Dakota involved. It seems like all of those plus the state of Nebraska have a stake in the outcome for the success or failure of anything that happens with regard to the alcohol problem on the Pine Ridge Reservation and in the Whiteclay area. The next problem that I have with this bill is that I'm afraid that the \$250,000 a year that has been designated for the fund, is probably just a drop in the bucket as to what's really needed. The bill sets up many uses for this \$250,000 and it seems to me like scattering this out is probably not going to attack the real problem that everybody is concerned about. Certainly the fiscal notes has to be a concern to us in this year that taking another \$250,000 out of the budget that we already know is short, and is going to have to have something done by this body to bring our state's budget back in balance, is not palatable as far as I am concerned. And finally as this bill was originally brought to the Revenue Committee, it was brought to us as a type of turnback tax. It wasn't called a turnback tax but essentially what we were doing was turning back revenues, sales tax revenues from the sale of alcohol in this area and the surrounding area and putting it in the fund to help with the alcohol problem. And I just want to suggest to you that once again as we have heard many times in the Revenue Committee this year, we are poking another hole in the tax base of the state. And certainly the precedent that is being set allows many other things to happen clear across the state because I'm sure in a lot of communities throughout the state there are really good projects that need funding. And if we start using this turnback tax idea, why, pretty soon we've not...we don't have a state sales tax base anymore. So I'm really concerned about...I'm concerned about the funding, I'm concerned about the effectiveness, I'm concerned about the tax policy precedent that we may be setting with this bill. And because of that, why, I have to be opposed to the amendment and to the overall bill. Thank you very much, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Coash, you're

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recognized. [LB1002]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. Colleagues, I've been working on this issue since I got here and frequently people have asked me, why is this an issue important to you, Senator Coash, you represent west Lincoln? The reason I've been interested in this is because I do have family who live in Whiteclay. There are 14 legal residents of Whiteclay in the last census and I think four of them are my blood relation. I spent summers, parts of summers and falls, weekend trips in Whiteclay and right outside of town, turkey hunting with my grandfather. I can remember as a kid going into Whiteclay to grab a bite to eat at the local diner or going with my grandfather actually stop at one of the four beer stores to pick up some beer for him and I can tell you the Whiteclay I remember then as very similar to the Whiteclay that I saw just in the last year in the two trips I took there with Senator Karpisek and Senator Loudon and the Governor. I will tell you, colleagues, of my family who lives there and I have two sisters who live in Gordon, they're not real happy with my involvement in this particular issue. The people who live up there would just as soon that I keep my nose out of it, just as soon that all of us keep our nose out of it. However, it's not to say that they don't have solutions. They have ideas and what they are telling me is, we'll take care of it ourselves if you just give us some resources to do it. So there's a strong support from the people in Whiteclay to police and take care of the problems in Whiteclay. What they need or what they're tell me they need is what Senator Loudon has proposed in his bill. What they need is additional law enforcement support. As Senator Loudon, I think, mentioned or he will mention, Whiteclay isn't big enough to have a Whiteclay police department, so they rely on Sheridan County sheriff's department to take care of their law enforcement needs. There are four beer stores in Whiteclay. Like it or not, colleagues, these are legal businesses. They have liquor licenses. They sell a legal product. They're allowed to be there. Now, what is in question is whether or not their business practices are legal. And I will just share with you a few things that we heard through our interim study, that we've heard as we went up there, and that I've heard from my own family. Although they haven't been caught so they are innocent until proven guilty, there are allegations, and I stress there are allegations that they sell liquor to minors. They sell beer, not liquor, I'm sorry, beer. They sell beer to people who are visibly intoxicated. They sell beer on credit and they sell beer in trade. All those things are violations of our Liquor Control Act. So what they...what they're asking for and what the Native Americans that we've talked to are saying is, while we'd love to have these businesses go away, we at least want them to operate legally. If you go to Whiteclay, you're going to see something that you wouldn't imagine seeing in our state, colleagues. You will see people squatting in the streets, using the sidewalks as toilets. There are lots of abandoned buildings in the neighborhood and so they will find their way in there and they will start fires to keep warm. Once in a while...frequently, I will tell you that the Sheridan County Fire Department is called to put out a fire that somebody started. And then once in a while the sheriff is called to pull out a dead body, someone who has frozen to death. [LB1002]

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SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR COASH: So we've got to take care of the economic problems as well as the addiction problems. And so to that end I passed out a sheet of some opportunities that may be available should we pass this bill. We've got job creations, we've got groups who have already stepped up to the table and said, this is what we'll do, this is how we'll take care of our own if you just give us some opportunity. So I've been working with Senator Louden and Senator Karpisek, the Attorney General, to get some of these funds freed up. And I'll have more on that soon. There's a lot of economic development and opportunity in Whiteclay if we give them the opportunity. There's a large town, large city, right next to it that can do some cool things. So we're here, we're working together for the first time. Those of you have been around have told me... [LB1002]

SENATOR LANGEMEIER: Time. [LB1002]

SENATOR COASH: Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Coash. Senator Howard, you're recognized. [LB1002]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I rise in support of Senator Louden's bill and thank you Senator Coash for your words, your personal experiences up there. We're all appalled by the conditions and the Indian slums and Haiti following the earthquake and countless other third-world countries, we have our own embarrassment right here in Nebraska. Senator Louden is addressing a tough, tough problem that others have chosen not to see. This is a beginning, a long overdue first step. Do we not have a responsibility to help one another when we have the opportunity to do so? Alcohol abuse at Whiteclay is pervasive and generational. My particular passion is regarding fetal alcohol syndrome. Women who are pregnant and drink have a high risk of giving birth to a fetal alcohol syndrome infant. Let me tell you, this is a lifelong brain disability that is not correctable but it is preventable. Senator Louden is attempting to give hope to a people who have had none for so long. I stand in support of Senator Louden and I will cast my vote for LB1002. I'm going to give the remainder of my time to Senator Louden. [LB1002]

SENATOR LANGEMEIER: Senator Louden, 3:30. [LB1002]

SENATOR LOUDEN: Thank you, Senator Howard and members of the body. As we pointed out, Whiteclay is this town of 14. But you want to remember Whiteclay and it's closer than two miles to Pine Ridge, South Dakota, Whiteclay is actually an extension of the town of Pine Ridge, South Dakota. There's about 3,500 residents in the town of Pine Ridge and Whiteclay together. In this area of 3,500 residents, that's actually the towns

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are bigger than Gordon or Rushville and ranks only next to Chadron in size for the town. And as they always point out that how much beer is sold in Whiteclay, I would defy you to find out what, how much beer is sold in other towns across the state of Nebraska. As I was researching and working on this I found out that Whiteclay is the only place in Nebraska they keep track of how much beer is sold. The other towns, if you ask...I asked, you know, how much beer was sold in Chadron and they had no idea. So I asked, you know, how much is sold in Mitchell, Nebraska, a town of similar size? They have no idea. And Senator Karpisek's bill, LB1005, so I said, well, how much beer is sold in Wilber, Nebraska? And they had no idea. So Whiteclay...so when we talk about 4 million cans of beer, that's just a number that's out there and we don't have anything at all to compare that with in Nebraska. As Senator Hadley pointed out the amount of liquor there, well, with the reservation and everything there's between 35,000 and 50,000 people there on that reservation which would be about the same size as Buffalo County and Kearney area. And there's no way that you can find out how much liquor is sold in Kearney or Buffalo County. You have a college there, so no one seems to be concerned about it. Also you're...the amount of money that goes into those areas, you're Health and Human Services have the different regions for behavioral health. And the bigger, the larger part of that money is, of course, in your populated areas. So there hasn't been a huge influx of money going into those areas out there. But this is a start and we have...I've seen more cooperation among other governments, federal, and the South Dakota state governments than I've ever seen before. I'll agree, this thing won't get very far unless we have the Indian Health Service and the Bureau of Indian Affairs on board with us. The Bureau of Indian Affairs has cut the police force. They're the ones that... [LB1002 LB1005]

SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR LOUDEN: ...fund the police force on the Pine Ridge Reservation. They've cut that police force down from 100 officers down to 40 officers in the last few years. So right there is something that we need to get ahold of our federal people to point that out to them that with the size of the reservation they need more police protection themselves on the reservation, let alone what we can do in the Whiteclay area and in Nebraska. But this has always been an issue and I hated to see the state sheriff go out of that area at that time because it was a great benefit. And I want to thank Senator Howard and thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Louden and Senator Howard. Those still wishing to speak, we have Senators White, Stuthman, Krist, Campbell, Cornett, Lautenbaugh, Haar, and others. Senator White, you're recognized. [LB1002]

SENATOR WHITE: Thank you, Mr. President. Members of the body, I want to talk a little bit about alcoholism and about what we have to do to make a meaningful difference. First of all, as an Irish...as a person of Irish descent, my family, my friends,

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have all too bitter experiences with alcohol and alcoholism. And the first rule is if a person who is drunk wants to stay drunk, you can't make them get sober. Until they want to help themselves, you can't help them. And in trying to help them, you actually can make the problem worse. You can enable them to seem to cope even when their habits are destroying themselves and the people around them. So one of the things that we need to be careful about as we move forward in this area is that what we are doing is truly going to help and not just put a Band-Aid on a problem to make ourselves feel better when, in fact, were not going to affect the underlying pathology. That's one. Second, I have to tell you the tribe without anybody's help can solve this problem right now. I personally went to the tribe and told them that they should file suit against the beer distributors and the brewers. There is no way you can sell 4 million cans of beer in a town of 14 people and not regularly violate the law. It is not possible. To sell alcohol to someone who is going to use it to break the law is itself, in my view, a violation of the law, it's aiding and abetting. If you sell alcohol to a person who you know is selling it to a minor, you are aiding and abetting that person in providing alcohol to a minor. If you sell alcohol to an intoxicated person you are violating the law. Senator Coash is quite correct. If you sell alcohol to someone that you know is going to take it literally a few feet down the road into a place where it is completely forbidden to own or possess alcohol, you are aiding and abetting the violation of the laws of the Indian Nation. All the tribe need do is file suit against the distributors, against the brewers, and against the bar owners. For whatever reason the tribe chooses not to do this. That it is causing incredible, incalculable misery is beyond dispute. Families being run by 10- and 11-year-olds because they're the only sober, capable individual in the home are routine. Rates of diabetes, cirrhosis of the liver, untold deaths, abuse, sexual, physical, is all epidemic throughout the tribe. This is a Nebraska problem because like it or not we take money in the form of tax dollars, a substantial amount of money into the state coffers and we profit, too, from the violation of these laws in the cause of this human misery. We do have an interest as a state in upholding our own honor as a civilized people that we do not trade on such weakness. We have failed. But at the same time I am deeply reluctant to support this bill, not because I would ever deny money or support to anybody who wishes to get free of alcohol. I would support Senator Loudon for detox centers with a song in my heart if I only knew that the tribe itself wanted to cure it's own people. [LB1002]

SENATOR LANGEMEIER: One minute. [LB1002]

SENATOR WHITE: As long as the tribe tolerates the existing condition, and believe me the tribe has the power to seriously disrupt the existing situation, I have one question that I continue to puzzle. Are we simply picking the drunk off the floor, wiping him off, and putting him to bed? Are we simply putting a Band-Aid on a sucking chest wound so we can feel a little better rather than really coming to grips with the incredible ugliness of what's going on on our borders? Thank you. [LB1002]

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SENATOR LANGEMEIER: Thank you, Senator White. Senator Stuthman, you're recognized. [LB1002]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been doing a lot of thinking on this bill and initially I thought, you know, maybe we should be financially trying to help support the problem that we have there up at Whiteclay. But with an 80 percent unemployment rate, with a major employer up there being the healthcare system and I think the majority of the money coming to the healthcare system comes from the federal government or the state government, which does pay the wages of those individuals. As Senator Coash had stated, you know, what they really need is law enforcement. In my opinion, there is no need for additional law enforcement because what are you going to do with these when you do try to enforce them? Are you going to put them in detention facilities? Are you going to try to fine them? Where are you going to put them? In my opinion I think the tribe there, the people have got to look in the mirror and they've got to try to help themselves. They've got to come up with some type of a program that they can work with, that they can be comfortable with to try to create and invite, you know, economic development to the area so that when these individuals, you know, are recovered in the detox centers so that there is a place for them to work, have employment. If there is no place for them individuals to go, they're going to fall right off the wagon and get right back with the same old environment they've been with for many, many years. You know I do have sympathy for the problem that we have up there, but as I stated before, you know, those individuals have got to try to help themselves also. And as Senator Utter had stated, you know, that this is a major problem. But I don't know whether it's a major problem of the state. Is it the state's responsibility to try to help them when they're not willing to help themselves? So I'm very cautiously looking at, you know, should we pump more money into that? What is going to be the outcome? If we put \$250,000 in there and in a year the money is gone, we haven't created another job, and they haven't, you know, tried to create some work for themselves up there. I'm willing to help people that are willing to help themselves. But before that occurs and we need to see, you know, are they willing to help themselves. Is the tribe, is the organization, is the community behind something that they're willing to help themselves? Otherwise, I don't think we're going to be helping them, in my opinion. Thank you, Mr. President. [LB1002]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. (Visitors introduced.) Returning to discussion on AM1991, those that are wishing to speak, we have Senator Krist, Campbell, Cornett, Lautenbaugh, Haar, Dierks, Lathrop, and others. Senator Krist, you're recognized. [LB1002]

SENATOR KRIST: Thank you, Chair. During the committee hearing and teleconference that we heard from different points of view, I made a statement that I will stand by today. Until the reservation which is actually federal land and those of you who need to be reminded, that is a sovereign nation inside the United States. Until the municipality of

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Whiteclay, the state of Nebraska, the state of South Dakota, Pine Ridge Indian Reservation, the Bureau of Indian Affairs, the Department of Justice, the Nebraska Commission of Indian Affairs, tribal councils, the VA, FA, the FBI, the Indian health services, the Oglala Sioux Tribe, the Lakota Tribe, Sheridan County and other groups, decide to try to solve this problem, it will not be solved. Now, I look around this room and I have been exposed to a wonderful group of people that I think are leaders. So I'm going to remind you that leaders do some things occasionally that are high risk. You lead, you follow, or you get out of the way. We have a problem inside the state of Nebraska. It's called Whiteclay. Senator White is absolutely right. We gain great benefit by allowing that situation to exist. Something needs to be done. Everybody who stood at the mike today and those that will stand after me will say the same thing, something needs to be done. I don't think it makes any difference whether Senator Louden's bill says \$1 or \$250,000 because it's going to be put into a fund, it's going to be applied for, and it's going to be taken out, and I don't think we should spend one dime of that unless it's matched by one or two or ten of the people that I read off this list. I went to South Dakota. I talked to the House of Representatives. I talked to the Speaker of the House, Tim Rave. I talked to assistant majority leader, Kristi Noem. I talked to the majority leader Bob Faehn and Kent Juhnke and others and every one of them said the same thing. We need to solve the problem together. And their concurrence at the end of their recess was Senator Karpisek's coordination is for, to put a few of us and a few of them together and talk about the situation. This money is not going to be spent tomorrow. It's not, maybe, going to be spent at all if we can't get the right kind of services in there. I would remind this body along the lines of what Senator White just said, alcoholism is at the heart of this problem. Think about it for just a minute, those of you who can go back this far--there aren't very many of you, I'm sure--into the sixties when it was condoned, a lot of behavior was condoned, I'm not going to go into that, the precedent. The point being, it's taken us over 30 years to convince this culture that we live in that it's not okay to drink and drive, that smoking might be bad for you, and there's behavior that should not be condoned. It is...there's no argument being made that the Indian Nation needs to solve their own problem inside the reservation. There are many ways to solve that problem. One of the ways that we can help out with that is to be part of the solution instead of the problem. However you vote on this, I want you to understand it will be really convenient not to put any effort into this, not to amend it, not to modify it in any way so that it's only \$1 or \$10, but it's a statement that's being said. It will be very convenient for you to say, it's somebody's else's problem, somebody else will do something about it. It will be a tougher decision to look at the situation and say... [LB1002]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB1002]

SENATOR KRIST: ...are we leading, are we following, or are we ignoring a situation

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that is inside the state of Nebraska? Is this the ultimate solution, is it the silver bullet, as it's been said? Absolutely not. But it's a beginning, it's a beginning to get all the alphabet soups, the other state, and the federal government to come forward and say, we have an issue, we have a problem and we need to solve the problem. I applaud Senator Hadley for some of the quotes that he brought up. It speaks to the point exactly. There are other people out there that are concerned about the situation, let's unite, let's try to find a reasonable solution to the problem. Thank you, Mr. Chair. [LB1002]

SENATOR CARLSON: Thank you, Senator Krist. Senator Campbell, you are recognized. [LB1002]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I think I sense in almost a great number of us a true conflict as to how we feel about this bill. We certainly want to reach out, we want to help, we want to be a part of the solution. But I question whether this bill is that answer. I believe there is money that is going to this area. And Senator Louden and I have had discussions about money that's come through the behavioral health system. But the question there, is it enough? I believe we do need others at the table besides ourselves. There is not a question. Senator Hadley, I thought, did a great job of illustrating that point. For me there are really three questions coming to this bill. What is the greatest need in the Whiteclay area? We had three bills this year introduced trying to tackle that problem. And yet I'm not sure that we've heard as a body what is the greatest need, specific need, not in generalities as Senator Price talked about. What will be the total dollars required to address that need? It isn't enough to just say, well, we'll put in \$250,000 this year and then \$250,000 and then \$250,000 and then \$250,000. Is that enough? Is it too much? Is it targeted correctly? Therein lies my great difficulty. I always want to know, what's it totally going to cost us? What's the whole picture look like? The third question is, what is the accountability in that process? I could not find in the bill, and maybe I didn't read the amendments carefully enough, that there would be some annual report back to this body and to other bodies saying this is what we accomplished this year, this is what we intend to do this year, this is our plan. There is not a plan here, not a specific...it could be economic development, could be behavioral health, whatever they need. Folks, that's like sending money, when you have no plan, you really don't then have a vision, you have just send the money. I don't think in this situation that is enough. Thank you, Mr. President. [LB1002]

SENATOR CARLSON: Thank you, Senator Campbell. Those still wishing to speak: Senators Lautenbaugh, Haar, Dierks, Lathrop and others. Senator Lautenbaugh, you're recognized. [LB1002]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'll be uncharacteristically brief. I really feel for Senator Louden and the circumstance that he's found himself in as I feel like a part of his district is constantly under attack regarding this issue. And I don't know that it's deserved in all cases. And I know he's trying to do

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the right thing and trying to do something about what everyone admits is a problem. But I listened very closely to Senator Hadley's words and they made good sense to me. And while it is good to say we're leading on a problem or leading to try to find a solution, if...you know, that three-legged stool he referred to isn't going to stand with just one leg. In my own mind, I have not made up my mind how I'm going to vote on this but I thought Senator Hadley said it best and I'm just echoing his comments. Thank you, Mr. President. [LB1002]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Haar, you're recognized. [LB1002]

SENATOR HAAR: Mr. President, members of the body, I rise in support of Senator Louden's bill, LB1002. And I want to thank Senator Louden for coming to the table with at least part of a solution. I think it is up to us as Nebraskans to do something. And we may not have the whole solution in mind, we may not know exactly what's needed but we shouldn't let that mean that we should do nothing. Now I got a phone call from Frank LaMere, who some of you might know. And he said that actually all the parties did come together in 1998, facilitated by Governor Nelson, and nothing really came of that. So I would suggest part of that, what we need to do here as part of the solution is probably go back to that happening in 1998 and see what did happen and why nothing happened. But that being said, I still support this bill. I think we need to go ahead with it and we need to be at least part of the solution. Thank you very much. [LB1002]

SENATOR CARLSON: Thank you, Senator Haar. Senator Dierks, you're recognized. [LB1002]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I, too, rise in support of LB1002. I think that the Native Americans have had many, many difficulties. And we brought a lot of that on them. Surely, they can do some things for themselves but I think they really need some help. And I think this is the way to do it. I remember back in the late nineties going to the reservation, I think it was the Omaha, and the Health Committee went up there just to visit with them and find out some of their problems. It became very evident at that...it was conducted as a hearing. And I don't know that there had ever been a hearing there before on any of the Native American reservations in Nebraska. But they received us with great respect and dignity. They were looking for answers themselves. I remember asking one of them what some of the big health problems were and they said that mostly it was diabetes and that the diabetes problem involved over 80 percent of all of the adults on the reservation. And by the time those youngsters were 15 years old they already knew that they had diabetes or were going to have. They just weren't able to adjust to the kind of diet that the white man brought. We ate a lot of foods that we shouldn't eat, I guess, as far as that goes. But the Native American, you know, years ago when they started off on a journey with their horses they had a saddle bag filled with pemmican which is just dried deer meat,

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that was their diet. They didn't have any pop, they didn't have any hamburger, they didn't have french fries and they stayed in pretty lean shape. They were good at what they did. So we probably are somewhat to blame with some of the health problems they have. And so the other thing I asked that day was, what can we do now to help you? And they said, we really need to have the opportunity for people to come in and help us teach our children to do exercise, we need to have organized classes for our children to exercise and be fit. And I'm not sure that that really happened. But these are still our citizens and they need our help. And I think that if there is an opportunity for us to help them, maybe this is the time that they're going to be able to take it up by themselves and capitalize on it and take advantage of what we can do for them. I really think we need to do that. With that, Mr. President, I thank you and I hope you will support LB1002. [LB1002]

SENATOR CARLSON: Thank you, Senator Dierks. Senator Lathrop, you're recognized. [LB1002]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I stand in support of Senator Louden's bill. And a lot of us have heard a great deal about Whiteclay and about the reservation that it is adjacent to. And I've had occasion to tour the reservation and Whiteclay. And the thing that maybe we can start with in this discussion is an appreciation for the fact that Whiteclay isn't down the road from the reservation, it's across the street. The only...you can't even tell you're going from the reservation to Whiteclay, except that there's a sign there and a dirt road. Otherwise, these folks are walking from the reservation over to Whiteclay where there are four liquor stores and buying a considerable amount of alcohol. I think it's the main supplier of alcohol on this particular reservation is the alcohol that's bought in Whiteclay in Nebraska. And you've heard others chronicle how terrible it is in...on the reservation. The alcoholism, the percentage of teenagers that are already alcoholics on the reservation is staggering. The number of adults is mind-boggling. There is a big problem. And what's evident to me after looking at this issue, I've been involved in hearings, I've been there and taken tours, we've talked to some of the folks up there. What's evident to me is they have a problem on the reservation, they've decided to make it a dry reservation. And for all practical purposes no one is enforcing the law there. And so it would be easy today to say the problem really is on the reservation, the reservation should deal with it, it's really not a Nebraska problem because Whiteclay isn't dry, we never claimed it was. These people are bringing the alcohol onto the reservation and no one is stopping them. They have a dry reservation, they ought to enforce the law. And I would agree completely with that. It is clearly you're looking for a three-legged stool, you're right, we're talking about one leg of the stool. And I brought that up one time when we were having a hearing. We were having a hearing in Judiciary Committee about this, it comes up every year, and what's evident is a big piece, maybe the biggest piece is enforcement on the reservation and it isn't happening. And today's bill won't change that. But at the same time, one of the testifiers that came before the

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Judiciary Committee when we were talking about this maybe made the point that I want to make today and that is we're complicit in this. We have allowed...given licenses to four retailers to set up across the street from a dry reservation and the numbers of cans of beer sold is staggering. And the number of cans of beer cannot be sold by going out the front door. It's pretty clear, the people who have looked at this issue closely recognize that a lot of it is being loaded into the trunks of vehicles that are then going into the reservation to bootleg this stuff. Now why should we in Nebraska devote money that this bill would devote to economic development in law enforcement? Well, the reality is we're the suppliers and we have a hand in what's going on there. We're not forcing anybody to drink this stuff but it is a disastrous situation. And they're buying this stuff, for the most part, in Nebraska. So we're making tax...sales tax off of this alcohol. There is a benefit to the state of Nebraska. [LB1002]

SENATOR CARLSON: One minute. [LB1002]

SENATOR LATHROP: We have a place in the problem. And I think what Senator Loudon's bill does is it recognizes that we are part of the problem because we are the suppliers, we set up the situation where these folks can walk across the street, come into Whiteclay and buy the alcohol. We have set up a situation where they're bootlegging and putting this beer into the trunk of cars and driving it onto the reservation. I think it's important that we have a stepped-up effort and law enforcement in Whiteclay and that we try to do something that appreciates or that recognizes that we are complicit in what's happening on the reservation. And I'm not trying to make a moral judgment about the people of the state of Nebraska. The reality is Whiteclay essentially has one purpose, there's four liquor stores, not much else going on there and that's where the alcohol is coming from. And for us to devote what I consider to be a relatively modest amount of money... [LB1002]

SENATOR CARLSON: Time. [LB1002]

SENATOR LATHROP: ...seems sensible. Thank you. [LB1002]

SENATOR CARLSON: Thank you, Senator Lathrop. Those still wishing to speak: Senators Coash, Wallman, Council, Gloor and others. Senator Coash, you're recognizes. [LB1002]

SENATOR COASH: Thank you, Mr. President. Thank you, again, colleagues. I just wanted to finish up on some thoughts from the first time that I spoke. We were...people have been talking about is this the first time we've all come together. No, it's not. As I have learned through our research in the committee hearings, there's been many attempts to bring us all together. But what Senator Loudon is bringing us is the first time in a long time that we've had an approach that allows for the cause of the problem to be part of the solution to the problem. So what we're asking through this bill is an approach

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that says we see the problem, we're going to have the problem start to be part of the solution. Is this the only solution? Absolutely not, there are others. And I want to share with you some things that Senator Karpisek and Senator Louden and I learned on the last trip we went and spoke with members of the community and members of the tribe. We talked about reinstating a memorandum of understanding that allows for tribal law enforcement to enforce laws in Nebraska so that they can police their own. See, colleagues, Senator White, I think, mentioned...started to mention this. There's a cultural problem here as well, okay? When you get into trying to deal with a sovereign nation, which the tribe is, you have to deal with a different culture just as if we were dealing with a culture in eastern Europe, okay? There is a cultural barrier and we have to be sensitive to that. So allowing and providing resources for them to police their own is something we're working on. I, myself, have been working on a grant to assist the tribe in providing for some economic development. It's the old broken window theory. Whiteclay is kind of an embarrassment to folks who would look at it, they'd say, I can't believe something like this would happen in our country, let alone in our state. So what we're going to try to do is we're going to try to clean it up. Is that the solution? No. Is Senator Louden's the solution? No. But you put these together and you put some will behind it and we might be able to get something done here. The will of the tribe is there I will tell you that, the will is there, but the approach is difficult, okay? So what we have in front of us is...back to LB1002, is the ability for us to control what we can control. And as Senator Lathrop mentioned, we control part of the supply of this problem. Now, I want to correct a couple of things. Here's...first of all, most of the beer that is sold in Whiteclay is one at a time, a buck fifty for a 24-ounce can, it's sold one at a time. The people who would buy a bunch are smart enough to know not to do it there because they know where it's going. But the beer that is sold there is sold by folks who are addicted to it, they work to get six quarters, buy a beer, drink the beer, and then work to get six more quarters. The unsavory folks who would take beer into the reservation, they go elsewhere in our state and in South Dakota and they bring it in from there. And as Senator Krist has mentioned, we found out that's something that the federal delegation has to help us with, that's a bootlegging issue. But what we have to find...where we find ourselves today is that we have an opportunity in front of us to take a step and to move this issue forward and to be able to look ourselves in the eye and say, we did something because we recognized there was a problem and we decided that we had a solution... [LB1002]

SENATOR CARLSON: One minute. [LB1002]

SENATOR COASH: ...in LB1002 and we're going to run with it. And I appreciate Senator Louden putting a sunset on this. I think this is important. This puts pressure on the folks who are going to use these funds to show that they're doing something and we're getting some outcomes, because this isn't free but it is worthy. Thank you, colleagues. [LB1002]

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SENATOR CARLSON: Thank you, Senator Coash. Senator Wallman, you're recognized. [LB1002]

SENATOR WALLMAN: Thank you, Mr. President, members of the body and thank you, Senator Loudon, for bringing this forth. This is an embarrassing issue for Nebraska. The Trail of Tears went through my area. And as I gave a speech for the opening of a new building at Homestead, a Native American followed me right on the stage, says, I want you to know, Senator Wallman, your people chased me off my land, you didn't call me citizens, you called me savages, so I couldn't get a homestead, where they lived they couldn't get a homestead. So did we cause some of this problem as Europeans immigrated here? Sure, we did. It takes courage, like Senator Krist said and Tom White, Senator White, to do something about it, even though it may be a little bit, sometimes a little bit is a lot. It's the thought that counts. And I appreciate this bill and I would yield the rest of my time to Senator Loudon. [LB1002]

SENATOR CARLSON: Senator Loudon, 3 minutes and 50 seconds. [LB1002]

SENATOR LOUDON: Thank you, Senator Wallman and members of the Chamber. I'd like to point out on some of the things by having this legislation, the grant funding go to the Indian Commission, as far as the accountability part. The Indian Commission is set up to coordinate some of the existing programs. They're supposed to work on housing, education, welfare, and all. That's all part of the function of the Indian Commission and also now we put in there, if you notice, in the last of the amendment, to administer those Sections 1 through 7. So I think there is some accountability in there because they don't have that much money. And as we talk about some of the programs, whether anybody else is going to come on board or not, and that's where we've had discussions with the Indian tribe already. They've probably come forwards in the last few years a great distance because of what they are trying to do up there. They're in the process, we've been working and I've done some...introduced some legislation to help them build a nursing home in Nebraska. The Lakota Tribe owned 1,000 acres in Nebraska, there just next to Whiteclay on the west side of Whiteclay there. And they're trying...they're in the process, they got the grant money and everything to build a nursing home inside of Nebraska for Native Americans, which I think is a very good idea. These elderly people otherwise had to go clear up into Pierre and different places in South Dakota in order to go to nursing homes. And they need to have nursing homes that are closer to where they live. At the same time, I pointed out to them that if we could get some legislation through to help them, that can you go ahead and get some more grant money and build some type of a detoxification center along with that nursing home while you went ahead and build the infrastructure to that area. So there is cooperation among other entities, especially the tribe. The state of South Dakota, we've already received a letter where they intend to help out on whatever ways they can, I think. As the letter has stated, we've gotten to the Revenue...yeah, it's come to the Revenue Committee that they are supportive of the Oglala Tribe, their ATR grant proposal and they stand ready to provide

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technical assistance to the tribe upon request. So we are getting some movement from the state of South Dakota. When you talk about liquor or whatever from Whiteclay, you want to remember all they sell is beer. And you want to remember... [LB1002]

SENATOR CARLSON: One minute. [LB1002]

SENATOR LOUDEN: ...it's off-sale beer. So they can't buy it a can at a time or something like that, unless it's sold that way. It's either got to be in six packs or something like that. And it's not to be drank on the premises. And as they point out what goes on there, I'm sure those people that sell that beer in Whiteclay are very careful about that because they know if there's any infraction whatsoever they'll lose their license in an instant because they are setting under a real fish bowl effect there to see what people...make sure that they do everything correctly. So part of that trouble and as far as alcoholism on the reservation, I know people that live up there. And they've told me that anymore the bootlegging isn't that big of a deal, it's mostly people who drive to Chadron or Gordon or some of those other towns or perhaps sometimes Rapid City, but with the amount of sales tax that comes into Nebraska most of that trade comes into Nebraska. [LB1002]

SENATOR CARLSON: Time. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President. [LB1002]

SENATOR CARLSON: Thank you, Senator Louden and Senator Wallman. Mr. Clerk, items for the record. [LB1002]

CLERK: Mr. President, new resolutions: Senator Flood, LR336 and LR337; Senator Harms, LR338, LR339, LR340, LR341. All of those will be laid over at this time. Amendment to be printed, Senator Christensen to LB817; Senator Lathrop to LB1090; Senator Adams, LB1006. Notice of hearing from Business and Labor. (Legislative Journal pages 698-702.) [LR336 LR337 LR338 LR339 LR340 LR341 LB817 LB1090 LB1006]

And a priority motion, Mr. President. Senator Flood would move to recess the body until 1:30 p.m.

SENATOR CARLSON: You've heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are in recess.

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SPEAKER FLOOD PRESIDING

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SPEAKER FLOOD: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Do you have any items for the record?

CLERK: I do. I have a Reference report and Enrollment and Review reports LB951A and LB910A to Select File. That's all that I have, Mr. President. (Legislative Journal pages 702-703.) [LB951A LB910A]

SPEAKER FLOOD: Thank you, Mr. Clerk. We will continue with the discussion on LB1002. Right now we have AM1991 to AM1841. Senator Louden, would you like 2 minutes to advise the Legislature as to what your amendment does? (Legislative Journal page 625.) [LB1002]

SENATOR LOUDEN: Okay. Thank you, Mr. President and members of the Chamber. The AM1991 amendment is actually the form of the bill. It's amend...amends the committee amendment that came out of the committee. And with the committee amendment we put in a sunset clause for seven years, put in that it would be handled by the Indian Commission. And then as we progressed further in fact we took the alcohol sales tax out of the committee amendment. And the AM1991 now takes the sales tax out of liquor and all of it together, so that it's actually an appropriations bill, similar to an appropriations bill. Takes \$250,000 out of the General Fund. By doing that, we got away from a lot of administration work that the different agencies would have needed in order to arrive at those numbers. And so whenever we was asking for \$250,000 and they was looking like there was \$140,000 of administrative work, I decided that that couldn't be...couldn't happen that way. So that's the reason I said it's been a work in process to get to a common-sense legislation. This is something that will go on for...working for northwest Nebraska up there. Whiteclay has been a regular bull's-eye even from the national side. So I would ask that we advance this amendment because this is probably something that...it is a start. As it's being put in the Indian Commission, we would as that they do find other grants and donations from private sources to help with this money. This \$250,000 could probably be parlayed into a larger sum without any problem at all. But we... [LB1002]

SPEAKER FLOOD: Time, Senator. [LB1002]

SENATOR CARLSON: ...need some seed money to get started with. Thank you, Mr. President. [LB1002]

SPEAKER FLOOD: Thank you, Senator Louden. Continuing with discussion, Senator

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Council, you are recognized. [LB1002]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise first to commend Senator Loudon for seeking a solution to a problem that has plagued the area of Whiteclay and, quite frankly, the state of Nebraska for more years than we should have allowed to have occurred. I am familiar with a number of different legislative attempts to address this serious issue over the years. And to my knowledge none of them have advanced. It's been the attempt of this body to try to balance the real serious problems with the alcohol consumption issue of the residents of the Pine Ridge Reservation with the interests of those retailers, recognizing that those retailers are engaged in a lawful enterprise. Now what Senator Loudon has presented to us is yet another opportunity and another approach to try to begin to address this serious problem, and I do say begin, because I think that maybe one point of agreement on this bill is that it alone cannot solve the problem at Whiteclay. But the fact that it alone cannot solve the problem should not be a barrier from us proceeding and making this initial step. I heard a lot of comments this morning that quite frankly I took exception to. One of the comments suggest that the Native American community of the Pine Ridge Reservation has not done enough to help itself, that they haven't taken enough steps to help itself. I think that statement is belied by the fact that, as one of my colleagues mentioned earlier, that of the several reservations, Pine Ridge is the only one that took the step of banning alcohol consumption and sale within its boundaries. I mean I don't know what greater effort one could employ other than an outright ban of the consumption and sale of alcohol within their boundaries. And there is no question that the source of the alcohol that is being consumed by residents both on and off the Pine Ridge Reservation are the retail establishments located in the state of Nebraska. And for that reason, I think that we as representatives of this state do have an obligation to do whatever we can to assist the officials of the Pine Ridge Reservation to address this situation. I think we often forget our history when we begin to look at the conditions affecting particular residents of this state. And when we look at the conditions affecting those of us who are confined to reside on reservations, you know, we forget the role that state and federal governments have played in creating the situations that many times lead to alcohol consumption. And that revolves around lack of hope, lack of opportunity. And if, through this piece of legislation, it's a first step in addressing those issues, then I think that we could ultimately have an impact on the amount of alcohol consumed... [LB1002]

SPEAKER FLOOD: One minute. [LB1002]

SENATOR COUNCIL: ...by residents of the Pine Ridge Reservation. I think that we pass legislation oftentimes when we know that that one bill is not the end-all to the problem we are addressing. We eat elephants one bite at a time. And this is a bite that I think that this body needs to take at this point in time to show particularly the reservation and the tribe that we, as a state, are prepared to join hands with them and work with them to address this problem. And I really support the amendment because it removes

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all of the issues around sales tax and the use of sales tax. It addresses those issues. It provides a means to leverage these General Fund dollars. And if you look at what Senator Coash distributed also... [LB1002]

SPEAKER FLOOD: Time, Senator. [LB1002]

SENATOR COUNCIL: ...has the benefit of assisting Whiteclay residents. Thank you. [LB1002]

SPEAKER FLOOD: Thank you, Senator Council. Senator Gloor, you are recognized. [LB1002]

SENATOR GLOOR: Thank you, Mr. Speaker. Good afternoon, members of the body. As Senator Council has pointed out, as have other senators most notably Senator Dierks in some of his comments this morning, this is not a new issue. There have been discussions and efforts at addressing a serious problem, not just specifically with Whiteclay, but with substance abuse problems amongst First Americans. I thought it was especially interesting to listen to Senator Dierks talk about, in a previous legislative term, the amount of effort that would have gone into a study back in that day and age. And I go back to my early days in healthcare, when I lived in the Panhandle and had some responsibility over federal and state monies that were being spent in the Panhandle. And not a small amount of money was being spent to address this same substance abuse problem back in those days, and that would have been in the late seventies. So here we are 30 years later and we're debating it once again. I say, again, this is not a new issue. The question is, is this a solution? Any casual observer to this debate today and any casual listener to this debate today, I hope would take away from them that everyone here is concerned, everyone here wants to help, everyone here feels that we need a solution. The question is, is this a solution? After all these years of study, after all these years of allocating dollars towards challenges related to substance abuse, with all the stories that have been written and efforts that have been made around Whiteclay, is this the solution? I am yet not convinced that it is. But I certainly have my heart behind trying to come up with some way that we think we can make a difference. Thank you, Mr. President. [LB1002]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator Gloor. Senator Louden, you are recognized. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As we've had the discussion around, it's always been on what we're doing about the alcohol problems and detox and that sort of thing and rightly so because this is a humanitarian effort there to try and do something for those people in that area. But also it's a matter of

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good business. What you haven't been told is the fact that the trade territory that's right north of Nebraska that goes into Nebraska from that part of South Dakota. The sales tax in Dawes County last year, for 2008, was \$4.6 million. Now that compares to some such as Hamilton County or Aurora, sitting right here with their billion dollar valuation, and Hamilton County sitting on the Interstate had \$2.7 million. And I think if you go with Keith County, Ogallala, sitting on the Interstate was about \$4.9 million. Now, those are towns that are sitting on the Interstate with all kinds of transportation and trade territories. And here Dawes County up there with just Chadron in it comes up with \$4.6 million without a four-lane expressway or Interstate alongside of that. That has to be money that comes out of that trade territory to the north. Why else do we have a Super Walmart in a town the size of Chadron, some 6,000 population with a Super Walmart? They didn't move there. And these are people that do business and know where to go to get business. So there's reasons for that. So there's huge amounts of money in sales tax revenue that comes into Nebraska that isn't spent by people that are living in Nebraska. I would have no idea of how to track that money that comes into Nebraska from out of state up there but it has to be a significant amount. Sheridan County also has over \$2 million. In fact, the two counties together have about \$8 million, a little over \$8 million of just money in sales tax alone up there. And as you look at that fiscal note, because the Fiscal Office had to draw us up a fiscal note for LB1002, but the sales tax, that \$266,000 money you see there, that was just the sales tax on the alcohol alone sold in those areas up there, in Chadron, Rushville, Gordon, and Hay Springs. That was just the sales tax on the alcohol because they had to find an estimate for us. Otherwise they haven't tracked that anyplace. So there is a huge amount of sales tax money to fund this. And do we say, as some of them said, well, where are you going to find the money to do it? Well, we've been getting that money for years up there. And we've probably been doing whatever we wanted to with it, but it hasn't necessarily all been spent on anything that would solve any problems up there. So I would point out that just as a financial situation to help those people and to develop that area more thoroughly, to do something with Whiteclay, to get it on a position that it isn't such a bull's-eye for being a slum area in Nebraska to being something that probably could be developed into someplace where there is some tourism, could come through that country. And also with the fact that we have such a population that gets paid probably twice a month up there, many of those people are on some type of government payments. They have lease money that comes in through the government, the tribe has huge amounts of monies that comes in with different grants and stuff. In fact, some of the banks around that area do quite well by being bankers to those people of the tribe up there. So there are issues that...for financial issues that would be very important also. That's notwithstanding the humanitarian part that we're trying to do here is to straighten up the people and get them some kind of system where they do have some healthcare. We're working at the present time to build a nursing home up there... [LB1002]

SENATOR ROBERT: One minute. [LB1002]

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SENATOR LOUDEN: ...in Whiteclay. And the tribe has done the funding for that. They've gotten the grant money to go ahead and they have the grant money at the present time. The problem is there isn't any problem, they're just waiting on the paperwork to be finished so they can start construction in Nebraska of a nursing home for elderly people from their Native Americans, which I firmly believe in that because I believe elderly people should be closer to their families. So there is huge benefits to all of this. And I would urge that you look at this very closely, not only humanitarian part but also from a good business standpoint. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Louden. Senators Harms, you're recognized. [LB1002]

SENATOR HARMS: Thank you, Mr. President and colleagues. This has been a tough issue as I've just listened today for the discussion. The Whiteclay issue has been there ever since I've been a small boy, and that's a long time ago. I remember going to college with some kids who came from Whiteclay. That was when they had a little more of a population base. And it was in 1958, it was bad then. And the only thing that's happened is it's gotten worse. And so I really rise in support of this. What has happened in the past has not worked. And if we continue to walk the same pathway it's not going to function appropriately. We need to address the issue of the Native American. We can argue and debate that it's not our issue, but it is. They're in Nebraska, that's where the problem is, that's where Whiteclay is, it is in Nebraska. And we need to address that issue. And by addressing the issue and stepping forward saying that we are at least going to make an attempt to start to resolve this issue, which by the way is a long-term solution, it's not going to happen overnight. Maybe we can then bring other people from South Dakota and the feds in as a partner in this relationship. But I don't think we can continue to tolerate this. This has to be one of the worst conditions of anyplace in this great state. And I don't know if we can ignore that. The fact that it's that bad that it's identified, in my thoughts, that it's probably the worst living environment of anywhere. We would not tolerate that if it was not close to the reservation. And while we are addressing this issue we need to understand that unless we step up as a state, unless we say that enough is enough, unless we say that we are willing to walk this mile with the Native American and start dealing with the issue, it will get nothing but worse. And I can tell you now and when you look at the number of teenagers who are alcoholics that come across that line and buy that booze and what takes place, there's no excuse for this, there's no excuse for this in this great state to allow this to continue to happen. So then the question is, what's the best solution? What is the best solution? What's the best way for us to take this issue on? Well, I think this is a start. It may not be the best but it's a start, it's the opportunity then to begin to address this issue and to penetrate this issue to stop it. Just the fact that you put more law enforcement in there is enough. It's not enough. Law enforcement will help us, it will slow down that process. But, colleagues, I don't know how we can turn it back on this issue? I don't know how we can walk away and say, you know what, it's too much money, it doesn't make any

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difference, it's not Nebraska's issue. It is Nebraska's issue, it is our issue. And we need to step to the plate and make an attempt to address this issue. This at least starts to deal with the issue. Whether we like it or not at least it's moving us in line...down the line to start to address the issue of the Native American. It's a horrible environment. If you haven't been there you don't understand what we're saying. If you haven't been there you should go there and see it for your own eyes, see the horrible conditions these people are living in and that we're allowing this to happen and we just say, oh, it's okay, it's Whiteclay, it's been that way forever. It's not okay. And it's time that we step to the plate and address the issue with these folks. It's time that we address the issue, saying enough is enough. To me, it's a tragedy, it's a sad day in this great state that we have to stand up on this floor and talk about conditions... [LB1002]

SENATOR ROBERT: One minute. [LB1002]

SENATOR HARMS: ...that these people...thank you, Mr. President, that these people are involved in and living in. And yet we turn our back from that. I don't understand it. I think it's wrong and I think we got to start to address the issue. And I realize these are difficult times financially, but how can we walk away from the conditions that are so horrible, the worst in the great state of Nebraska and say it's okay, it's Whiteclay? Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Harms. Those wishing to speak: Senators Utter, Campbell, Carlson, Karpisek, Heidemann and others. Senator Utter, you're recognized. [LB1002]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I've listened to the debate and the...I would have to tell all of you that I think everyone in this body understands what the problem is. It seems to me like there is not a plan for the solution to the problem. In order to start working at solving this problem, it seems to me like we have to engage some other parties, some other parties that at least up until now, from what I can tell, have shown disinterest, that being the state of South Dakota. They've kind of indicated interest but, no, they're not a part of the solution to the plan. And as far as I know the authorities in the tribe have not indicated an interest in the solutions to the problem nor have the Bureau of Indian Affairs. And I think, ladies and gentlemen, if we're going to be successful at all in solving this problem, all of these people have to be engaged. Right at the moment I frankly think we are throwing money at a problem and it's kind of feel-good money, in my opinion, with no plan for a successful outcome. Yes, we think we are doing the right thing. We are doing this at a time when, frankly, we don't have the money. And we're looking at additional expenditures here to solve a problem when we have a state that has fiscal problems of its own that we are trying to solve and we're trying to solve a problem that is decades old. So, I guess, my question has to be, why now and why do this when we don't have a definite plan with what we're going to do with this money? Nobody has said that we're going to specifically spend \$250,000 in

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this way and it's going to solve the problem up there. It sounds to me like we're going to have money to pass out to folks who apply for it but no specific plan on spending the money and, frankly, no accountability for how it's spent nor any report on exactly how successful it's going to be after it's spent. And it just seems to me like it's the wrong time, it's the wrong thing. And certainly acknowledgment of the problem that exists but I think we have to be more responsible with the taxpayers money than we're being right now. Thank you. [LB1002]

SENATOR ROBERT: Thank you, Senator Utter. Senator Campbell, you're recognized. [LB1002]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I want to share a conversation that Senator Louden and I had off the mike to clarify some of the questions that I had this morning. And one of them is I certainly believe that the Commission on Indian Affairs is the correct agency and it is a state agency. And I agree that as that agency, they certainly are accountable for what they do. My concern about accountability really had to do with an annualized report, where would we be going. Much of the problem in Whiteclay, it seems to me, is that we get a meeting or we get a task force or we get people together or we get a bill and everyone says, yes, yes, we need to do something. And then the next year we don't talk about it again. Then another year goes by and it's...then somebody else raises the question. My point this morning is that I want the accountability to be from year to year to year to year in the sense that a specialized report comes to the Legislature and says, this is what we did, this is how we used the money, this is where we think we might be going. If we had this on our radar screen every single year, perhaps this issue wouldn't then just languish until the next time when some three bills are introduced or a large commission is brought forward. And I know in talking to Senator Louden that he would be willing to look at an amendment that would call for that kind of action. And, Mr. President, I have a question for Senator Louden. [LB1002]

SENATOR ROBERT: Senator Louden, would you yield to a question from Senator Campbell? [LB1002]

SENATOR CAMPBELL: Senator Louden, my question is, and are you okay with an amendment of that sort? And number two is, in the first year's money, my understanding is that we would hire a grant writer in the Commission on Indian Affairs. Is that correct? [LB1002]

SENATOR LOUDEN: Yes, that's when I...when we change this over to the Indian Affairs, why, I visited with Commissioner Gaiashkibos at length about that. And they would have a grant administrator or whatever as part of their people they have on board over there. They are short staffed but it would be one of their staff members that could do this also. And, yes, and you talk about some type of an amendment for reconciliation

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or something like that, I have no problem with that. It was my understanding that if it was in the Indian Affairs Commission then that would more or less be taken care of. So that's the reason it wasn't put in statute. [LB1002]

SENATOR CAMPBELL: Thank you, Senator Louden. I think it's important for all of us to understand that until the Commission on Indian Affairs can get the grant writer in place we probably are several years away from specific projects that may be there. And perhaps we look at a situation where the grant writer is in place. And as grant matching funds are brought to bear on this, then dollars can be matched then by what we set aside. That's one idea. But I do think it's important for us to keep this on the radar. If we all feel that this is important you can't just let it languish and say, well, we passed this bill, therefore we've taken care of Whiteclay. One more thing. I just don't think it's going to work that way. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Carlson, you are next. [LB1002]

SENATOR CARLSON: Mr. President and members of the Legislature, it's interesting to listen to the debate on this bill. I would have a question for Senator Louden, if he would yield. [LB1002]

SENATOR ROBERT: Senator Louden, will you yield to a question? [LB1002]

SENATOR LOUDEN: Yes, I would. [LB1002]

SENATOR CARLSON: Senator Louden, you and I both know that there's a big difference between wording of "shall" and "may." But in your bill and your amendment each year the State Treasurer "shall transfer \$250,000." So that was the way you wanted it and that's what that means, it will be done if this bill passes, is that correct? [LB1002]

SENATOR LOUDEN: That's correct. But my understanding is it's each biennium. And if there isn't that money appropriated, then it won't happen. So there's another check and balance there that if something isn't happening and the next Legislature sees not to appropriate that money, then it won't happen. [LB1002]

SENATOR CARLSON: Okay, thank you, Senator Louden. Senator Wightman, if he would yield, I'd like to ask him a question. [LB1002]

SENATOR ROBERT: Senator Wightman, will you yield to a question from Senator Carlson? [LB1002]

SENATOR WIGHTMAN: I will. [LB1002]

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SENATOR CARLSON: Senator Wightman, we all know where we are in terms of finances in this state. And as we consider different bills here and they have an A bill it changes the picture. So you're on Appropriations. If this bill passes, what's the responsibility for Appropriations in regard to this bill? [LB1002]

SENATOR WIGHTMAN: Well, of course, the committee would have to decide. We would still decide whether we were going to appropriate funds for it. Even if it passes, we still have to place it in the budget, so. [LB1002]

SENATOR CARLSON: Would it be true with this bill as well as about anything that we are considering, as a member of the Appropriations, if this is to be funded something else has to give? [LB1002]

SENATOR WIGHTMAN: We have to find another place for \$250,000 if that's your question. [LB1002]

SENATOR CARLSON: Well, that would be the truth. [LB1002]

SENATOR WIGHTMAN: So something probably is going to have to give or we're going to have to find a fund that we could transfer to the General Fund if we're going to stay in balance. [LB1002]

SENATOR CARLSON: Because that's one of the difficult things and yet one of the good things about the state of Nebraska and the fact that we've got to have a balanced budget. So whether it's this item or anything else that comes before Appropriations, there's got to be a decision made by that committee on where this money will come from. [LB1002]

SENATOR WIGHTMAN: That's correct. [LB1002]

SENATOR CARLSON: Okay. Thank you, Senator Wightman. Senator Coash, if he would yield, I'd like to talk to him. [LB1002]

SENATOR ROBERT: Senator Coash, will you yield to a question? [LB1002]

SENATOR COASH: Yes, I will. [LB1002]

SENATOR CARLSON: Senator Coash, you...I was interested in your testimony this morning. And you talked to me a little bit more specifically about what you observed up there in Whiteclay with the sale of beer. Would you share that? [LB1002]

SENATOR COASH: I will, Senator Carlson. First of all, the four locations that have

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licenses, these are beer-only licenses and they're off-sale only licenses. So these aren't bars and where you can go in and order a beer, sit there and drink it. You...it's an off-sale only license, so they have to go and they have to buy it and they have to leave. You can't get wine, you can't get vodka, it's beer only. And the majority of their sales are 24-ounce cans of what they call high gravity beer, used to be called malt liquor. And they sell them mainly one at a time. [LB1002]

SENATOR CARLSON: And I think you told me that was \$1.50. [LB1002]

SENATOR COASH: About a buck fifty for their most popular, it's called Hurricane and it cost them about a buck fifty per can. [LB1002]

SENATOR CARLSON: And what can you buy that for in Lincoln? [LB1002]

SENATOR COASH: Well, I went to a grocery store in my district, found the exact same product for \$1. [LB1002]

SENATOR CARLSON: Now, you and I are both guessing here, but when you buy it for \$1 what do you think the profit on that can is? [LB1002]

SENATOR COASH: Twenty-five, 30 cents. [LB1002]

SENATOR CARLSON: And at \$1.50 what do you think the profit is? [LB1002]

SENATOR COASH: 75. [LB1002]

SENATOR CARLSON: Okay. Seventy-five cents a can... [LB1002]

SENATOR ROBERT: One minute. [LB1002]

SENATOR CARLSON: ...4 million cans sold per year. If we average it at 25 cents a can instead of 80 or Senator Hadley talked about 10 cents a can, that's \$1 million profit on beer alone in those four establishment in one year. Now, we can't do this but realistically those four establishments ought to fund this bill out of profits. We talk about sales tax being collected and I'm not arguing with Senator Loudon. Sales taxes are collected in Chadron and partially to benefit the entire state of Nebraska, things that need to be done. They're not collected in Chadron to be a direct benefit to Chadron. That's my struggle with using sales tax. So if I were king, those four establishments would be funding this bill every year out of a portion of their profits. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Karpisek, you're recognized. [LB1002]

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SENATOR KARPISEK: Thank you, Mr. President, members of the body. I want to try to clear a few things up because we're really getting out here on some of these things. First of all, 4 million cans of beer is the equivalent of 4 million cans of beer. The Hurricanes come in 24-ounce cans. So there would be 2 million of those sold if that were the case. So there's not 4 million of those cans sold. There is nothing like vodka, hard alcohol, those sort of things. But you know what? You walk the streets there and you see whiskey bottles broken all over the streets. I wonder how those get there? They can't sell them through the beer stores. And we had a check, Mr. Batt, Bob Batt on the Liquor Commission, went through those stores, looked at records and looked at what...we all looked at what they had in there. They didn't have any of those things. So trying to close down those beer stores to me is really doing nothing. I would like to remind the body that my bill, LB867, was the shipping license fees bill that brought into the state, on the fiscal note, a proposed \$490,400. If we would use half of that money for this we would still be ahead. To argue over \$250,000, that I know is a lot of money, to try to help some people out when we're looking at a \$30 million shortfall, folks, I think is...I can't even look at myself in the mirror to think about that. Have they done anything to help themselves? They've done a lot of things to help themselves. But when they can't, they can't. They don't have the money. What are they supposed to do? How are they supposed to go about it? If they'd stay out of those beer stores that would be the best way, can't always happen. It's a tough situation. I've also heard that there isn't a plan. Well, I'm sorry that maybe not everyone has been involved in the plan but there's been a plan going on here since at least the interim. We've done two interim studies, we've talked with Judi Gaiashkibos with the Indian Commission, we've talked to NEPSAC, we've talked to many people on a plan that we think can work. What they're waiting for is money. They can't start a program or anything and just get by with what they have until they have some money rolling that way. I've also heard \$250,000 isn't enough to start it so why even try. That is about one of the craziest ideas I've heard yet. That's not enough to do anything so we shouldn't do anything. And look at all the other money we don't have. You're right, we're in a tough spot, folks. But sometimes you have to put priorities forward. And I knew, we all knew going into this session that we were going to have to not spend money. If my bill would have gotten out of committee, I would have prioritized it. Senator Louden said he'd prioritize his if it came out and he did. We both knew that this wouldn't be an easy thing to get done, but we feel it's the right thing to do. There is a plan in place. Is it all ironed out? No, it's not all ironed out. There's a lot of things that go into it. My original bill would have taken the money through HHS and put out grants that would have been matched. After quite a bit of thinking, I decided that it was the right thing to do to run it through the Indian Commission. And I feel much better that that is in Senator Louden's bill also. Why now? Why now do we have to do this? Because it should have been done long time ago when the state had money and we gave out \$400 million in this body in tax relief, maybe we should have done that. [LB1002 LB867]

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SENATOR ROBERT: One minute. [LB1002]

SENATOR KARPISEK: Thank you. Not maybe, we should have but we didn't. Why else? Because we had an interim study, we had people like Attorney General Bruning, myself, Senator Coash fly out there, Senator Louden. Senator Krist took it upon himself to go see what he could do. He wasn't authorized to get anything from the South Dakota legislature to say, yes, we'll do it. They can't do that, just like we couldn't do it. That's why it's here now because a few of us have taken it upon ourselves to try to get something done. That answers a lot of the questions that I've heard. It is a tough year moneywise. I'm saying my bill got in half a million dollars a year, let's take half of that and use it for Whiteclay. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Karpisek. Senator Heidemann, you're next and recognized. [LB1002]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Not the most easiest thing that I'm probably going to stand up here and do. I understand, I've listened to Senator Harms, I've listened to Senator Karpisek. There is a need without a doubt. I want to start this by saying though Friday we had an Economic Forecasting Board that met and we lost another \$30.5 million, if you look at the financial status. And we are going to have to deal with that yet this year. It is my intent that we do that. That isn't as much of a concern, believe it or not, to me as the out-years. We are looking at the financial status right now showing a \$632 million shortfall in the out-years. We are going to have to handle that. I think the question was asked by Senator Carlson if the word "shall" is put in there, are we going to do this? You cannot bind future legislators. And as we get into next year and we are addressing a \$630-some million shortfall are we going to have the \$250,000 per year, a half a million dollars? I will say right now when you look at the challenges that we have before us in the out-year we're not going to be starting new programs we're going to be cutting then unfortunately. And it's just pure and simple reality. We're looking at such a structural imbalance in those out-years that we will not be able to cut agencies without saying what programs don't you want to do anymore. It is to that point. Because we already have cut agencies to the point that you start to wonder what they're doing effectively. And when you talk about that, Senator Karpisek had a good point. This is a start, but I look at the language and it says "political subdivisions means cities, village, or county within a 30-mile radius." I can't tell you exactly how many of them are in that 30-mile radius. But "for the purpose of economic development, healthcare, and law enforcement needs in such political subdivisions." I mention that we got agencies that can barely do what they can do because we've cut them so much. I don't know how we can ask those villages, cities, and counties, take \$250,000 and be able to make any kind of difference when it comes to economic development, healthcare, and enforcements needs. When you're looking at that kind of commitment, excuse me, but you better start throwing out \$1 million or \$2 million to have any kind of dent. And if you do it less than that, we need to ask ourselves

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as a body then are we really going to accomplish something or are we spending \$250,000 just to feel good. I, at one time, thought about doing an amendment. I don't know what I will do. We'll see if this bill makes Select File. I understand there is a problem, without a doubt there is a problem and we need to do something. I wondered if Senator Loudon, and this is something for you to think about, we don't have to do that right now. But if we would go to page 3 on Section 6 and strike sentence 14 through 17, the word "created," which would take away the obligation of state money, thus allowing the funds still to be there. But you could go to various groups, you could go to the Bureau of Indian Affairs and ask for money to start this process. And if we see at this time that, yes, we are making a difference, there are other people that are concerned and want to be involved in this besides the state of Nebraska. [LB1002]

SENATOR ROBERT: One minute. [LB1002]

SENATOR HEIDEMANN: Come back to us, have a proven track record, come back to us, have a proven track record. And if we have the funds and this is a priority in the state of Nebraska come before the Appropriations Committee and we'll talk to you. Just something for you to think about. I wonder if you want this bill to go through this year with people having reservations because of the cost of it, if this is something we not ought to accomplish but right now without the obligation to the General Funds of the state of Nebraska. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Heidemann. Senator Sullivan, you're next and recognized. [LB1002]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. A few weeks ago, or maybe it was not even a few weeks ago, maybe it was last week when we were debating LB258 I said something about, well, maybe we shouldn't be sending a message with some of the legislation that we pass. But that's been one thing that's been running through my mind as we, quite frankly realistically perhaps, are going to have to pare down this bill to where perhaps we don't even have any money attached to it. At the end of the day, though, if we go forward on it perhaps that is the thing that we are doing, we're sending a message that this state of Nebraska is not going to overlook or ignore Whiteclay any longer, that we do feel it's an important issue address. I appreciated Senator Heidemann's comments just now because maybe that is the route to go. We have to get creative in these financial struggles that we're having. And another senator just earlier reminded me, well, what about your AHEC bill. I already know that probably that bill that I left on Final Reading last year or last session doesn't have a snowball's chance of going forward. But getting back to the Whiteclay situation and all this discussion that we've had about the fact that we need to help that situation. Another thing that's been running through my mind is that we are perhaps in this effort ultimately, unfortunately treating a symptom and not the underlying problem that no matter how many efforts, whether it's through law enforcement, removing the

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opportunities to buy the product, whatever, the underlying problem still remains. And in my mind the reason...the way you address that underlying problem is through education. It may not be making changes overnight, but that's how you bring about substantive change and make a difference with these very big problems that we face up there. And I would also tell you that there is quite a lot being done with respect to education. I can't give you any particular programs but I know the Cooperative Extension Service, through the University of Nebraska, has done a lot of programming with families and children up on the reservation with significant results. In this era, again, of creative financing and limited resources we have to look for every opportunity to leverage some programs that are already in place, be they private or public, because I think that's the way that we're ultimately going to address really big issues and problems such as this. So here I am. I had told Senator Loudon that I was in support of this bill. I think I'm also recognizing though the financial challenges that we have. I like Senator Heidemann's idea about perhaps sticking with it and maybe making some changes to it as we go onto Select File. At the end of the day, I think it's important that we send a message that the state of Nebraska is concerned about doing something at Whiteclay. Thank you. [LB1002 LB258]

SENATOR ROBERT: Thank you, Senator Sullivan. Senator Ashford, you're recognized. [LB1002]

SENATOR ASHFORD: Thank you, Mr. President. I'll be very brief. I stand in support of Senator Loudon's bill. The 12 years I've been here, we've discussed Whiteclay all of those 12 years. This is the first time in my 12 years in the Legislature where we actually have a concrete proposal. And I was struck by what Senator Sullivan said. I think she's right on in her comments. The challenge in this Legislature and in legislature's across the country and in cities and small towns, whatever it is, is finding creative ways to leverage public money into good ideas to help our citizens in need. There is no question, Senator Loudon has done an excellent job, I think, in meeting his burden of telling us the story of his legislative district and what they are confronting in the Whiteclay area. It is...as I also, I recalled the comments of Senator Lathrop and Senator Council, both on the Judiciary Committee. And we heard testimony in that committee as well about this whole concept of being complicit. We may or may not be able to solve the Whiteclay issue with this bill, I'm sure we will not. But the state, I think, in my experience in my 12 years here, that when the state sets its mind to do something, whether it's economic development, whether it's education, no matter what it is, usually it makes it happen. There is something very unique about our state government and its ability to lead on issues. I think that to some degree if we do nothing we are, I think one could say, somewhat complicit in allowing what goes on there to continue to go on. And I think the comments that Senator Heidemann gave about this is General File and that we need to keep this alive and see where we are on Final Reading is obviously a procedural truism. There's no reason not to advance this bill off General File after all of these years and all of this discussion, all of the citizen participation. We are challenged

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as a state. We've done an excellent job in this Legislature, I think, of dealing with a budget. And as a result, we're one of the very few states, and thanks to the Appropriations Committee for their hard work, we are in one of the few states in this country that are able to manage its budget in the worst downturn in our economy since the Great Depression. That's pretty amazing work by this Legislature and by the leadership in the Appropriations Committee. So I think, Senator Louden, I applaud Senator Louden, Senator Karpisek, Senator Coash, Senator Krist, and the others who have really led us here. And though I wish we could spend more money, Senator Louden, I think the point is absolutely right, Senator Karpisek, I wish we could spend more money. This will make a difference because we can leverage these dollars with private dollars. There are people in my city, in Omaha, who care deeply about Whiteclay and are willing to step up and do the...to bring the money to the table and do some of the things we need to do. Sure, it would be great if South Dakota would play a larger role but they aren't. So let's get on board, make this go, get this bill across, and I think do something good for humanity no matter what state they may live in. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Ashford. Senator Krist, you're recognized. [LB1002]

SENATOR KRIST: Thank you, Chair. Over the lunch hour I was asked what a city kid in Omaha cares about Whiteclay. My full-time job, flying with the Army Corps of Engineers, I've spent a lot of time on reservations around this country and it's not a city problem, it's not an urban problem. I thank Senator Louden for bringing it forward because it is his district but it's a humanity issue. And it's the right thing to do. It's a tough thing to do in the economic environment that we're in but it's the right thing to do. With that, I'd like to call the question. [LB1002]

SENATOR ROBERT: Senator Krist, your call is out of order. Senator Hadley, you're next and recognized. [LB1002]

SENATOR HADLEY: Mr. President, members of the body, I spoke earlier and I'm not going to take a great deal of time to speak again. You know, there's been some comments about the illegality of the sale of alcohol, who they're selling it to in Whiteclay and such as that. I would also argue the other side of it. Do you think the bootleggers that take the beer up from Whiteclay up to the reservation, do they check ID's? Do they say to the kids, I want to see your ID, you got to be 21 years old to buy? No, they don't. We have...there are a few of us, not me, but a few of you can remember the great experiment back in what, the late twenties, early thirties, prohibition. Did that work? No, it didn't work. I want to read you a couple of quotes again from what I found from people in South Dakota. And it does bother me that we have three players in this: South Dakota, the sovereign nation, and Nebraska. And there's only one stepping up to the plate that I can see. We sit in the Revenue Committee day in, day out getting hit over

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the head that why aren't we low taxed like South Dakota. Why are we higher taxed than South Dakota? Why do we have an income tax when South Dakota doesn't have it? Well, they're not stepping up to the plate today, are they? A couple quotes. This is from, again, the Rapid City paper. This is a paper...this is people that are living in South Dakota. But if Nebraska laws aren't being violated, what can be done? Stepping up enforcement or pursuing blockades on the short stretch of road from Whiteclay to Pine Ridge might have been...have a short-term impact but neither can be sustained for a long term. What needs to be done is tribal leaders, as well as activists, should shift the focus from Whiteclay and look within the reservation borders to develop their solution. Prohibition doesn't work but education, treatment, and community involvement can. The problem isn't Whiteclay. If the city were to end sales of alcohol today, sales would simply shift to another location, another liquor store on a community bordering Pine Ridge. Another person says, so what do...this is a Native American speaking. So what do Indians think? Well, that's a problem, too, because, well, it's complicated. For every tribal member, myself included, who think tribes should legalize the sale and consumption of alcohol on the Pine Ridge Reservation and use the proceeds to combat alcoholism, there are ten tribal members who point to the sacred cultural traditions that require continuance of the status quo. And so you have Whiteclay. Having spent two years of my life as a raging alcoholic, staring blurry-eyed over the counter of beer coolers into Whiteclay's (inaudible) street, I say the jury is no longer out on the status quo. It should be a source of shame for every self-respecting tribal member to be standing by expecting some, however well-intended, half-baked solution for Whiteclay from the federal government or state legislators. One last thing, I looked at the map of South Dakota. There are five Indian reservations that border neighboring states, five reservations. Only one of them has the Whiteclay problem, the other four do not. The four that do not are Rosebud, Yankton, Standing Rock, and Lake Traverse. They do not have the problem. Why? It's because they sell alcohol, they regulate alcohol on their reservations, Pine Ridge does not, that's why we have Whiteclay. Thank you. [LB1002]

SENATOR ROBERT: Thank you, Senator Hadley. Senator White, you're recognized. [LB1002]

SENATOR WHITE: Thank you, Mr. President. I am strongly (laugh) torn by Senator Loudon's bill. I am inclined at the moment to advance, in my own case, to vote to advance to special session under the promise that we will look at ways to forge help from others. But I want it really crystal clear to every member in this body right now the tribe has the ability to recover from InBev, which is now the Brazilian owner of Budweizer, and the other breweries, the millions of dollars it spends on healthcare, on social care for children whose families have been destroyed by alcohol, on...in law enforcement, on property damage. All of that exists today in our laws and it is within the tribe's power to demand redress from those companies and take that money and make a comprehensive alcoholic treatment plan possible. It exists today. If we do nothing, the companies that have profited, shamefully profited over the decades can be held

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responsible if the will is there for the tribe to do so. Now, if Senator Louden can make this bill in some measure a statement from the people of Nebraska to the tribe that if you step up and do what is necessary to pursue your legal rights as a tribe, because I will tell you right now what's going on in Whiteclay is no different than someone selling bullets to a person with a rifle in Nebraska who's just blindly shooting them into Iowa. It is no different. They are willfully selling something for an illegal use and purpose and they're profiting by it. At minimum, they should disgorge the profit they have made over the years. In fact, they should be responsible for their contribution to the devastation of the health of this tribe. If Senator Louden is willing to work in some measure to provide that this bill is contingent on the tribe stepping up and demonstrating a will, not a perfection but a will to help solve this problem, I will reach out too. But the problem is, folks, communities can be alcoholic just like individuals. They can develop neuroses, they can fail to function as communities. That is occurring right now in the reservation. We need to communicate to those members of the tribe that we stand ready if they stand ready and force their government to do its part. I, for my part, will reach out in an effort. And to Senator Louden, I still have deep reservations, Senator, but I will vote to advance this to the next level, to special file in the hope that we can figure out some way to get the message to the tribe that we will help if they will stand up. Thank you. [LB1002]

SENATOR ROBERT: Thank you, Senator White. Senator Krist, you're recognized. [LB1002]

SENATOR KRIST: Well, last time I tried to speak and then call the question, so this time I'm just going to speak (laughter) because that's what I was told to do. The point that we're at is the point that I think all civilized nations get to at some point or another, and that's to do the right thing for its constituents. It's going to cost something. And I will make the point that as we've been discussing this there has been a discussion that's gone back to the chicken and the egg, the horse and the cart, whatever analogy you want to use. Do we first solicit all 16 agencies and independent states that I talked to...about in my first dialogue this morning and get commitments from all of them to proceed or do we show leadership, as I said earlier, and move forward in that way? And I would say that Senator White in his comments and others in theirs have said make the statement and let's move forward. I know there's discussion going on about amendments that will make it more reasonable. But I said earlier to Senator Utter, off mike, it doesn't make any difference to me if this is \$250,000 or it's \$1, it's a commitment that the state of Nebraska, that this body is showing to solve its problem internally. And with that, I think I'm done, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Krist. That was your third time. Senator Council, you're recognized. [LB1002]

SENATOR COUNCIL: Thank you, Mr. President. And I have listened intently to debate

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on this measure today. And some of my colleagues have made very relevant points. And perhaps I'm just not understanding because I have heard repeatedly that other players haven't stepped up to the plate. And maybe I need a little more enlightenment on this subject. And I'm going to ask Senator Hadley if he'd yield to a question. [LB1002]

SENATOR ROBERT: Senator Hadley, would you yield to a question? [LB1002]

SENATOR HADLEY: Yes, I would. [LB1002]

SENATOR COUNCIL: Thank you, Senator Hadley. You have on a number of occasions referenced the fact that the state of South Dakota hasn't stepped up. What is expected of the state of South Dakota with regard to the residents of the Pine Ridge Reservation in Nebraska? [LB1002]

SENATOR HADLEY: Senator Council, I guess, what I was referring to is that Senator Krist went up and met with the leaders of the House and the Senate up there, I believe. And I read an account of the meeting. And the South Dakota leader of the House said it's a problem, South Dakota recognizes that it's a problem, they would love to help but they have no money to do it. [LB1002]

SENATOR COUNCIL: Okay. So, I guess, it's not...I mean when they say the problem was...when they say we don't have any money, were they indicating that they didn't have any money to do the types of things that are intended to be done under Senator Louden's bill? [LB1002]

SENATOR HADLEY: I would guess that's right. I don't know for sure but they just...they just basically the quote was they had no money to put forward to trying to solve the problem this year. [LB1002]

SENATOR COUNCIL: If...Mr. President, if Senator Krist would yield to a question. [LB1002]

SENATOR ROBERT: Senator Krist? [LB1002]

SENATOR COUNCIL: Has he stepped out? [LB1002]

SENATOR ROBERT: Will you yield to a question from Senator Council? [LB1002]

SENATOR KRIST: I will. [LB1002]

SENATOR COUNCIL: Yes, thank you, Senator Krist. What was your objective when you met with the representatives in South Dakota? [LB1002]

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SENATOR KRIST: In conjunction or in concert with my Chair for the General Affairs Committee, Senator Karpisek, we thought that energizing a conversation with their representatives could lay a groundwork for us to get together and start efforts in terms of trying to solve a joint problem as we defined it. And during that conversation their exact words at the end, we recess in March; when do you recess? In April. Let's get together and talk about the issue, let's see where we can go. They didn't see any money in that legislative...in this legislative session for them. It had not been introduced, therefore it would not be introduced. But they were willing to talk about future action, joint action on the effort. [LB1002]

SENATOR COUNCIL: Okay. The final question to you, Senator Krist, do you think that actions by this body on a measure like Senator Louden's bill would provide leverage and/or impetus to that collaborative with the state of South Dakota? [LB1002]

SENATOR KRIST: Yes, ma'am, even more so with other agencies. I think we set a message and I think we walk in at that point with the credibility to say, Bureau of Indian Affairs, all the rest of them, Alcohol, Firearms, let's make a concerted effort to go forward, as the old saying goes, and put our money where our mouth is and go forward. [LB1002]

SENATOR COUNCIL: Okay. Thank you very much both, Senators Krist and Senators Hadley, because I just think it's important for us to understand what is being asked of this body. I, quite frankly, think it would be great if other entities would participate. But the issue is what is the responsibility of the state of Nebraska? What responsibility should we undertake to provide leadership in addressing a problem that everyone in this body... [LB1002]

SENATOR ROBERT: One minute. [LB1002]

SENATOR COUNCIL: ...acknowledges has been a decades long problem without a solution? I stated earlier that to my knowledge no other piece of legislation had been advanced as far as Senator Louden's bill on this subject. And based on my colleague, Senator Ashford's, recollection I'm correct in that regard. I think when someone asked the question earlier, why are we doing this now, because the problem just keeps getting worse. And we can no longer afford to keep putting this problem off, putting this problem off when there are opportunities for us to take the initial steps to address this problem. And as I stated earlier, I don't believe that Senator Louden's bill will solve the problem in Whiteclay but I think it's a step in the right direction, particularly with regard to the programs that Senator Coash has identified that the residents in the area, including the tribe, are prepared to implement. [LB1002]

SENATOR ROBERT: Time, Senator. [LB1002]

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SENATOR COUNCIL: Thank you. [LB1002]

SENATOR ROBERT: Thank you, Senator Council. Senator Nelson, you're recognized. [LB1002]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have not spoken on this issue because I have to confess that I've not been involved at all with any work force or ever been to Whiteclay. All I know about it, of course, is what I've heard and what I've heard here on the floor today. It was my intention to ask some questions of Senator Louden with reference to the original bill where state assistance would be used for economic development, healthcare, and law enforcement needs in the political subdivision. First of all, as to if that would apply only to that particular county, Sheridan County, is that the only one that would fit there? And if the idea is that these would be the basic substance of requests for grants. However, there has been a lot of conversation and I understand that there is some agreement now on the part of Senator Louden and others to a possible amendment. And I'm not going to prolong things further by asking questions. I am still undecided on the bill but I think perhaps I can support it with the amendment that might be forthcoming. I think that Senator Heidemann, the next one up to speak, is going to address this. And so with that, I will end my comments. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Nelson. Senator Heidemann, you're recognized. [LB1002]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I think we're kind of winding down. There's not a whole lot of people to talk yet. Senator Louden is going to be closing on the amendment. And I'm going to put the thought out there that I had mentioned on the floor, and I've talked to off mike, I've talked to Senator Louden, that maybe we ought to, for the present time, take the \$250,000 out for each of the next two years. That actually, first transfer wouldn't have been until July 1, 2011, anyway. It will give Senator Louden a little bit more time maybe to come into Appropriations Committee next year, he could introduce a bill requesting that money. If we take that out, maybe that will ease some people's concerns. And what would...the rest of the bill would be...would still be intact. I do want to let everybody know that there is still a cost at that time. There will be an A bill associated with this bill even if we take out the \$250,000. It's my understanding there's a position for a grants administrator that would be in the Indian Commission. I think it's right at \$50,000 a year. So it would be my intent maybe to introduce a bill on Select File that would take the \$250,000 out, General Fund appropriations into this fund, but everything else would stay intact. And there's nothing saying that as we see this progress forward, and this is making a difference, Senator Louden and others can put an A bill into the...which would come, if it says to appropriate money it will probably come to Appropriations, and we can take a look at this issue. And we can put money in at that time. He could do that as early as next year

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and nothing would be lost because, as I said, the first transfer wasn't going to take place until July 1, 2011, anyway. It's an amendment that would be filed on Select File. If you support the bill but were a little bit uneasy about the \$250,000, this might ease it a little bit. If you don't like the bill, you don't know where it's headed, you do whatever you so desire there. But I just wanted to stand up and let the floor know that there has been work done on this bill. I think Senator Louden is going to look favorably on Select File, and he can let you know about that later on, for this amendment that will be...is going to be drafted and would be offered on Select File to take the \$250,000 out in the next biennium. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Heidemann. Seeing no other lights on, Senator Louden, you're recognized to close on AM1991. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I worked with Senator Heidemann on this, beings paragraph 1 in Section 6 as he's mentioned, and we would redo that or probably take it out because of the \$250,000 at the present time, which was going to be triggered in July 1, 2011. We would still go ahead and set up the designated fund, as it's called. We would go ahead and set up a grant administrator in the Indian Commission in order to start applying for grants, they could get some of their work started on and in the process of being ready to go then when there was money available July 1, 2011, or thereabouts, what we do on the next session. Then they could go ahead and they would be ready to probably be ready to receive grants and approve those grants. As we've worked with this, with Senator Heidemann and the members of the Appropriations Committee and some of the...and Senator Karpisek that has...had similar legislation, we feel that this is probably a way to go ahead with it as it would take care of some of the difficult problems with the money involved. And this would all be done on Select File. The reason we don't do it now is because you can only put two amendments to an amendment. So that was some of the procedure. Besides, I always think that when you have floor amendments into legislation it usually messes everything up. And I would rather have the Bill Drafters draft the thing up and make it cleaner so that it would come out in better shape, because there's always questions that need to...come up on the procedure and on some of the language in the bill. When you start changing one part of the bill, it can affect some of the other parts. So with that, I would ask that you advance this bill to Select File. And as we've worked on it with Senator Heidemann and others, we will continue as a work in process. But I see this as a way that we can do something to improve the situation in northwest Nebraska, improve the situation in the Whiteclay area and try to set it up so that at least Whiteclay isn't a bull's-eye as it has been over the past few years for the state of Nebraska. With that, I would urge a yes vote for AM1991. Thank you, Mr. President. [LB1002]

SENATOR ROBERT: Thank you, Senator Louden. Members, you've heard the closing to AM1991. The question before the body is, shall the amendment be adopted? All

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those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1002]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of the amendment to the amendment, Mr. President. [LB1002]

SENATOR ROBERT: AM1991 is adopted. Returning to discussion on the committee amendments, AM1841, seeing no members wishing to speak, Senator Cornett, you're recognized to close on AM1841. [LB1002]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I would urge the body to support the amendment and the underlying bill. Thank you. [LB1002]

SENATOR ROBERT: Thank you, Senator Cornett. Members, you've heard the closing to the Revenue Committee amendment, AM1841. Question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB1002]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the committee amendment, Mr. President. [LB1002]

SENATOR ROBERT: Committee amendment, AM1841, is adopted. Returning to discussion of LB1002, Senator Louden, there are no lights on. You're recognized to close. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President. And I would just urge...as the work we've done on it, I want to thank the debate that we've had today, it's been very encouraging to find all the ideas and interest that we have in this area. And with that, I would urge that you would vote for LB1002. [LB1002]

SENATOR ROBERT: Thank you, Senator Louden. Members, you heard the closing to LB1002. The question before the body is, shall LB1002 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1002]

ASSISTANT CLERK: 27 ayes, 13 nays on the motion to advance the bill. [LB1002]

SENATOR ROBERT: LB1002 does advance. Next item on the agenda. [LB1002]

ASSISTANT CLERK: Mr. President, LB952 was introduced by Senator White and others. (Read title.) Bill was read for the first time on January 14 of this year, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments. (AM1945, Legislative Journal page 567.) [LB952]

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SENATOR ROBERT: Senator White, you are recognized to open on LB952. [LB952]

SENATOR WHITE: Thank you, Mr. President. LB952 is very simple. It proposes to this body that we say no new taxes, that simple. Let me explain how we came here. For a long time the federal government would operate by passing a law and then providing funds for cities and states to comply with the dictates of its new law. That was the Clean Water Act, for example. Towns, villages, cities across the state, across the country were given money to build sewer lagoons and treatment facilities. However, as the economic picture has dimmed and as the federal government has found itself with greater obligations and fewer resources, it's turned to something called an unfunded federal mandate. And an unfunded federal mandate is simply this: It is a directive to other political subdivisions or to private parties that they must do something and there is no money provided for it. It is particularly true when directives are given to the state or to the cities. Unfunded federal mandates are increasing with great rapidity. I know, and I want to take this up straight up, that many people see LB952 as a bill for Omaha. That is completely not true. I ask you to look at the fiscal note on LB952. If you do, you will find that in the first year the fiscal impact would be a loss of revenue of \$3,271,000. I can tell you with mathematical certainty that of that only \$1.3 million will go to Omaha. On the next year, it rises to \$5,424,000 and, again, I can tell you with mathematical certainty only \$1.3 million of that will go to Omaha. This is at or less than our per capita of the state, given the percentage of population that's being affected. It's not just Omaha, mind you; it is the entire metro area, including large portions of Sarpy County. In the third year, again, the amount of money that will be relieved would be \$1.3 million in the gas and water infrastructure. That is what will go to Omaha, but \$5.4 million will go to the rest of the state. And in fiscal year 2013 and 2014, again, it's \$5.4 million and, once again, only \$1.3 million of that will go to Omaha. Where will the other money go? The other money will go to meet the large number of unfunded federal mandates that are hitting our cities, our villages, and our towns. These include things like in Stromsburg there is a water upgrade treatment. Stromsburg, Nebraska, the cost will be between \$1.2 million and \$1.5 million. To the extent that is the purchase of pipe which currently, when you are dealing with water, is taxable, the city, if it runs the water system, must pay sales tax on that pipe. That will go to benefit the citizens of Stromsburg and reduce the burden of that project. Blair, Nebraska, has a \$2 million water project. Gering has a water upgrade of \$9.4 million. To the extent that represents the purchase of taxable items, Gering will receive a substantial benefit. And I have been told by knowledgeable people that Gering has a problem, that in drilling a new municipal well they pierced the aquifer and ran into some uranium. The uranium has gotten into the aquifer and must be cleaned up under the Safe Drinking Water Act. That is an unfunded federal mandate. It will be very expensive, and this bill will specifically help them cope with that unpleasant reality. Auburn, Nebraska, it has a \$10 million water project. Nelson, south-central Nebraska, wastewater expansion of \$1.4 million; Bridgeport has a huge project. Over and over in our communities we are facing

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declining, aging infrastructure and we are having our communities hard hit by not only coping with the declining infrastructure and the aging infrastructure but then being mandated by the federal government to make expensive new improvements. What this bill does is very simple. It says that when you must spend money as a city, or in our case, Metropolitan Utilities District and the city of Omaha, and you must do it to comply with an unfunded federal mandate or it's part of a planned infrastructure replacement project--in our case, when the streets are torn up to replace the sewer system to divide the sewers, which we are required to by the EPA, we must also replace 110-, 120-year-old cast-iron gas and water pipes--that when you're in that situation the state will not pile on. We will not put a tax on a tax. And let me explain to you how incredibly unfair the system will be for not just Omahans but for citizens in almost every district in the state and, if not now, soon. Let's walk through the mathematics of how it works. Omaha must divide its sewer system and it must replace those aging pipes when the streets are torn up. The lowest estimate currently that I have heard from a reliable source is \$2.7 billion, \$2.7 billion. I have never seen a federal project or a project of this size run by a government that has come in at budget, but I would love to be surprised on this one. The actual cost has been estimated by other serious people to be double that. Buy let's assume, for ease of mathematics, it's \$3 billion. At \$3 billion, the people in the Metropolitan Utilities District area must borrow that money. When they borrow that money today and Metropolitan Utilities District goes out to buy the pipe to replace the water lines, it will pay sales tax on that pipe. It will pay sales tax on that pipe. Now, the city on sewers is exempt. It's an oddity. I mean we have a very odd structure in that bottled water is not taxed but your tap water is. Doesn't make sense but that's how it is. But what will happen that is most distressing is not only to the extent that it must...will MUD pay tax on those pipes, but when the bill is presented to the people who use the sewers and use the water, they must pay sales tax on that portion of the bill attributed to the spending that the federal government ordered them to undertake. Why does this become so important? Because interest. The interest on the bond at \$3 billion at current prevailing rates, which are around 4.6 to 4.9 percent on a AA rated sewer bond which is tax-free for income tax purposes, will push the actual payback close to \$5 billion, \$5 billion because of the interest. And on that \$5 billion that the residents of the metropolitan area must pay back, it is proposed that every penny of it be taxed at 7 percent. So here's where you get the \$325 million or more income of sales tax generated on a project that no one wanted to undertake. No one wants to have to spend this money on this unfunded federal mandate. [LB952]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: Now that is going to be a huge burden on the people of the metropolitan district. The Omaha area is estimated that it will cost them, in a matter of a few years, \$50 per household or apartment per month, per year for 20 years. Now if you

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live in the Panhandle, you might say, well, that's Omaha's problem. But that same math will apply to Gering, it will apply to the other small towns that are facing this and in many cases, my fellow legislators, in many cases the per-person burden on those kind of communities will be even higher than it is on the citizens of the Metropolitan Utilities District service area. So I'm going to ask you, as we move through this debate, to recognize that this is a new tax, because we've never had an unfunded federal mandate of this size and scope before, and this is new territory. [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR WHITE: Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. As was stated, there is a Revenue Committee amendment, AM1945. Senator Cornett, you're recognized to open. [LB952]

SENATOR CORNETT: Thank you. And members of the body, the Revenue Committee amendment simply limits the cost which will be reflected in the infrastructure replacement rate and the exemption from sales tax provided for that specific rate. On page 7, line 24, after "means" insert the word "the actual cost of." Thank you very much and I urge the body to support the underlying bill. I think this is a very important bill for not only the metropolitan area but the state as a whole. I know that United Cities of Sarpy County have expressed their support for this bill and when I'm up next on the mike I will further explain why. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening of the Revenue Committee amendment, AM1945, to LB952. Members requesting to speak are Senator Gloor, followed by Senator Cornett, Senator White, Senator Krist. Senator Gloor, you're recognized. [LB952]

SENATOR GLOOR: Thank you, Mr. President. Members of the body, good afternoon. I wonder if Senator White would yield for a question. [LB952]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Gloor? [LB952]

SENATOR WHITE: Certainly. [LB952]

SENATOR GLOOR: I, first of all, would congratulate you on an interesting description of this as a tax and will file that away in my own memory as a way to perhaps argue future bills I have perhaps related to home sprinkler systems, as an example, but that aside, on page 3, line 18 says, "The charges for such infrastructure replacement shall be stated separately on the billings or statements rendered to consumers." [LB952]

SENATOR WHITE: Right. [LB952]

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SENATOR GLOOR: Is this a mandate? In other words, if a municipality currently isn't individually listing charges, will they now be required to, in fact, figure out ways to pull out what may be necessary to list separately on billings? [LB952]

SENATOR WHITE: Senator, the way I read the bill, they will if they are engaged in a project that is an unfunded federal mandate that qualifies to be exempt from sales tax. Understand what this bill does not do. This bill does not remove the sales tax on the existing services. Now, whatever the state is receiving now will continue to receive. All this bill will do is state that if you have one of these unfunded federal mandates and you have a planned replacement of pipes as part of one of those events and then that does qualify for an exemption from sales tax, then of course they will have to recalculate their bill to show because they have to figure out what's taxable services and what is not. I would tell you that my understanding of the bill, and should that not be, after we have more time to talk about it, agreed on, I will clarify it in an amendment, but my understanding is until and if and until they have such a project, they can continue to bill as they wish. [LB952]

SENATOR GLOOR: And I thought, and I apologize, I've been thumbing through this and haven't found it yet, was there someone here...a definition of what was covered and what wasn't? In other words, I know pipe and labor, but if we're dealing with sewer systems there are things like lift stations and whatnot. [LB952]

SENATOR WHITE: Yes. [LB952]

SENATOR GLOOR: Is all this part and parcel of the dollars that are calculated? [LB952]

SENATOR WHITE: Well, they're two different issues, okay? The cities run the sewer systems and nothing that they buy for those sewer systems right now is subject to sales tax initially. But if it is part of a project that is an unfunded federal mandate, for example in Omaha...the scope of this project, by the way, is historic. It will require a tunnel being drilled 17 feet in diameter, running from Eppley Air Field to Bellevue. It will remove millions of cubic yards of dirt and stone. That kind of thing, the lift, the pumping and those kind of services, part of the sewer already, the purchase of those things would be exempt under existing law, Senator, from sales tax, but this bill would go further and say that when they are recouping those costs to pay the bond off, the payment stream from the individual citizen to pay for that unfunded federal mandate would not be subject to a sales tax, and that would be new. Right now, the interpretation from the Department of Revenue is that if we don't pass this the citizens will not only have to pay for that unfunded federal mandate but then, as they make their credit card payments, if you would, they have to pay a sales tax on each credit card payment. [LB952]

SENATOR GLOOR: Thank you, Senator White. I appreciate the response. Thank you,

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Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Cornett, you're recognized. [LB952]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I just wanted to go over a letter and why the United Cities of Sarpy County so wholeheartedly support this bill. Since 2007, they have tried to enter into discussions with Omaha in regards to the sewer separation. The cities in Sarpy County have already separated their sewer systems and paid to separate their sewer systems, and I'm going to read you a quote from the letter that I received: In a unilateral move in 2007, the city of Omaha completed a study that identified all users as owners of the sewer system. They've classified Sarpy County, who pays to use the sewer system, as co-owners. Sarpy cities have never been and will never be owners of the Omaha sewer system. We have built our own and maintain our own sewer systems. The city of Omaha did not and, we assume, never will pay for the construction or maintenance of sewer systems in Sarpy County. It's not that Sarpy County doesn't want...or the cities don't want to pay their fair share. They have paid to separate their sewers. They pay a fee to use the sewer system for the city of Omaha. The city of Omaha, without reentering into negotiations, as they testified in committee, classified all of Sarpy County as co-owners of the system and, therefore, mandated this fee for people that have already paid to separate their sewers. I think that Senator White's bill has merit and I would urge the body to support it. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. Senator Heidemann just raised an interesting point on Auburn. They had just completed a sewer improvement, I think he said at \$3 million, Senator? And this bill, it was a federally mandated improvement to meet Clean Water Act or other acts. This bill would have helped them in the extent...to the extent that if they actually financed it with a bond, which is almost always, then as they paid back that bond, the principal and the interest, to comply with the federal law, they would not have to pay sales tax on that portion of the sewer service. So, yes, this bill would affect Auburn, would affect any small town across the state and, in fact, does affect small towns. Again, if you look at that fiscal note, the great majority of this money will be going to places other than the metropolitan Omaha area. So one of the things I'd like to point out to you is that this is exactly the kind of bill that we need as a matter of tax policy to exempt. I spent three years on the Revenue Committee and I can tell you that the general principle of taxes are we tax economic activity. If you are buying and selling, we'll tax that activity. If you're earning income, we will tax that activity. But what we're doing in this case is taxing governmental directives. The federal government tells us we have to spend money and, Senator Gloor, I would say that when the federal

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government tells the city of Grand Island, you must improve your drinking water, and then doesn't give you money, that in fact is a tax. That really is a tax. It's no different than if they took the income from the country as a whole and then said we're going to build you this plant. They take it out of your income tax in that situation usually and then build a plant for you, but here they're not doing that. They're saying raise your own taxes but build this, and it's not a project of your choosing, it is a project of our choosing. So when that happens, I would tell you for all meaningful purposes it's government with its hand in the wallet of the citizens. That's a tax. And then for the state to say, hey, look at all this economic activity that's going on because the federal government has ordered us, ordered our cities, our towns, our communities to spend money on their sewer and on their water, let's tax that because, boy, we can sure make some money and they can't ship it out of the city and there's no border bleed. Let's just tax that. Well, at that point you're not taxing economic activity. What you're doing is taxing a federal mandate which is a tax. You're taxing a tax. Now, I would liken what happens in this situation, for those who are maybe struggling with the concept, if you go down to a store and you buy a new TV and you put it on your credit card and at that time you would pay 7 percent in Omaha on sales tax, and you know that, and whether you like it or not you take the TV home and you accept it. And then, as many of our citizens do, you have to make payments on your credit card to pay off that TV every month, and you're paying a high rate of interest. And you find that every month we decided to tax your credit card payment at 7 percent and you would say, well, we already pay...wait a minute, I already paid a sales tax, why are you now taxing my credit card payment? And what we are saying is, well, that's a service, we're taxing the service you get to use that credit, so we should tax that too. It's really bad policy. It is not sound, fiscally prudent, or fair policy. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: Ladies and gentlemen of the body, I ask you to seriously consider the ramifications of this bill, not just for Omaha today but for your communities tomorrow. This is going to be a backbreaker for many of our poorer citizens and the idea that we should take a person on Social Security, who's struggling to keep their home and now looking at \$50 a month just to connect their home to sewer, which is a property tax, that we're going to add 7 percent is unfair. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Members requesting to speak on AM1945 to LB952: Senator Krist, followed by Senator Dubas, Senator Gay, Senator Heidemann, and Senator Stuthman. Senator Krist, you're recognized. [LB952]

SENATOR KRIST: Thank you, Lieutenant Governor. I stand in support of AM1945 and the underlying LB952. I'd like to begin my comments by complimenting Senator White and for others who have joined me in cosigning on to LB952. And let me note at this point this is not a partisan issue. It's not a partisan show. It is very contrary. It is a united

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effort on behalf of the taxpayers. In fact, if you look at it, I think there's a few of us and a few of them and they're about even. That's the point. This is for the taxpayers. Of note, though, of predominantly urban senators signing on, I'll make a point later that I think that the...that all of us should be very interested in the outcome. I called GSA and I called my government contacts on the federal side and I said, when you have a MILCON program or a federally funded program do you pay taxes, and the answer to that obviously is, no, the federal government does not pay taxes on MILCON or major construction projects. They do, however, pay taxes when there are service programs provided to maintain those properties. So Senator White is right on the money when he says some part of it is taxed, some not, if we follow that model. So why are we paying the tax? This is an unfunded federal mandate. If it were funded, again, the federal government would not pay tax on a portion of it, which brings up, I think, the reason why everyone needs to be attuned to this. If the EPA comes in and says, small town USA, you need to clean up your uranium or you need to clean up your spill, and if it's an unfunded federal mandate and you have to bond it, you have an issue. Let me give you a more real-life example. FEMA came in not too long ago and decertified some of the levees around the state. I'm very familiar with one of those levees. On Tuesday it was okay. On Wednesday, after the hundred-year flood numbers were released by the Corps of Engineers, it was far from okay and decertified, and that community had 18 months to rebuild their levee or it was decertified and it would fall into a floodplain. Well, let me tell you what that means. If it falls into a floodplain, it means a lot more than just buying insurance for flood insurance. It means that you can't build anything on your property, for the most part. Your septic systems are now illegal. You need to replace it with a sewer system--a little bit of a stretch for a community of 300 people. It means that your value of your home goes down and guess what that means for tax revenue? So that unfunded federal mandate that came down that that community has to then fund will be taxed as it stands. This may not apply, this bill may not have particular application, but those are the kinds of federal...unfunded federal mandates that are affecting us today on a daily basis. I think this is a sovereignty issue. I want to keep the drama out of this but if the federal government wants us to change something...and don't get me wrong. If the hundred-year flood level raises the level of the freeboard so we need to fix our levees, so be it. Give us an appropriate amount of time, allow us to do it within our normal tax structure. Don't force us to go out and comply with an 18-month restriction. Last time I checked we weren't on the Gulf Coast and Katrina wasn't approaching. The point is unfunded federal mandates should not reach into our pockets as taxpayers. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR KRIST: Thank you, Senator White, for bringing this bill forward. Thank you, Lieutenant Governor. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Dubas, you're recognized.

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[LB952]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. Would Senator White yield to some questions? [LB952]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Dubas? [LB952]

SENATOR WHITE: Yes. [LB952]

SENATOR DUBAS: Thank you very much, Senator White. Would this exemption, would it apply to rates charged to cover new or existing debt service on utility replacement projects? [LB952]

SENATOR WHITE: Well, we're just having that debate right now, Senator. Certainly on the water...on the water...you mean the water pipe replacement, that aspect of the bill? If it's part of a plan, overall plan, and it's a large plan where they engage to replace it, let's say they take downtown Ewing and they're going to replace all of the pipes underneath the downtown and resurface it and that's part of a plan overall, it would be exempt. The purchase price of those pipes would be exempt. If, on the other hand, like we are having right now in Omaha, water pipes are breaking because of frost heaving and they are new pipes, it would not cover those. [LB952]

SENATOR DUBAS: Okay. Let's see, my next question is...so from this reserve you could pay for the project and then create another reserve for future...for future projects? Is that what we could do with this? [LB952]

SENATOR WHITE: Well, I'm not sure where you're at on that, Senator, on that. Do you have a line and page? [LB952]

SENATOR DUBAS: I do not. This is a question that was sent to me by one of my city administrators. So they could... [LB952]

SENATOR WHITE: I'm not sure of a reserve. [LB952]

SENATOR DUBAS: They'd set up a special...they'd set up a fund. [LB952]

SENATOR WHITE: Right now, the cities...and that's one of the reasons why it's been particularly hard, a particular hardship for the city of Omaha in these projects. Metropolitan Utilities District is not part of the city. When the cities run water projects, their local option and their portion of the sales tax, they almost always put it in a fund to replace. But because Metropolitan Utilities District is not part of the city of Omaha, city of Omaha gets that sales tax and they don't give it back. So we are in a position where we're not getting funded. Senator, may I have an indulgence? And Senator Heidemann

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came to me with a concern that the definition on this may not be what I have told you. My understanding on the word "overflow" is that it would take any unfunded federal mandate that was required to cleanup water so it can be discharged properly into the waters of the United States, which is the Clean Water Act. There's a debate on whether or not that language does that and, if it doesn't, what the fiscal note is. So I want to make it clear to the body right now, my understanding is that it does cover all of that but the fiscal note may be needed to be changed. We're working through that at this moment with some folks, so we will keep you updated on that. [LB952]

SENATOR DUBAS: Okay. So under what...I think you've already talked...mentioned some examples of what federal mandates would be, so this would have to...for a community to be able to use this process, this would have to be something that was mandated from the federal level, correct? [LB952]

SENATOR WHITE: Well, right now, no. It would...if, for example, you had a community that said, look, we've got bad pipes and we have bad water pipes across the area, it has too much lead or whatever, and the feds have said, yeah, you're at a point where you have to replace it, you would certainly qualify because it would be a planned replacing all water pipes. On the other hand, you don't have to have the feds do that. [LB952]

SENATOR DUBAS: Okay. [LB952]

SENATOR WHITE: The city says, look, we've got bad quality pipes, we've got to replace them, we've got to resurface to get competitive, it's a whole area planned replacement, it would qualify for an exemption under a planned replacement. But if it's just business as usual, you're putting up a new subdivision, you're going to pay sales tax on those pipes. You're just running a new service to a house or a business, you're going to pay sales tax on those pipes. Has to be part of an overall plan, but it does not always have to be a federal mandate. What's...the federal mandated part in this was the EPA mandated Omaha and Plattsmouth, so far, to cleanup their water on an overflow basis and that would specifically apply. Now my understanding was that it would apply to any federal mandate relating to sewers, that they couldn't discharge... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: ...water in there, so that's what we're working out. [LB952]

SENATOR DUBAS: I appreciate the clarification. Thank you very much, Senator White. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Gay, you're recognized. [LB952]

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SENATOR GAY: Thank you, Mr. President. I'm paying particular interest to this bill because Senator Cornett mentioned about a letter. Part of that letter was asking for an amendment to this bill. And a little bit of history, what happens is Sarpy County flows is a bulk user of the Omaha sewer system, and Senator White knows this. He's been talking about this a little bit. But what they're doing is charging one fee for everybody to go into there. We are concerned that the charge is being levied on other users in the system that really haven't participated in the cost of that. So no one is in favor of an unfunded mandate, obviously, in this whole body. That question is done and no one is in that. But this combined sewer overflow control program, basically Omaha's current rate structure is going to use a uniform charge for everybody on the system. And what that does is obviously spread those out to communities in Sarpy County so they are then being taxed on this bill, charged for it first of all, then taxed on the bill. So we have an interest in saying could this be separate. There had been many times when they've been trying to meet with the city of Omaha, when Mayor Fahey was mayor and now with Mayor Suttle. And the way I understand it is they're not getting...the Omaha City Council then passed an ordinance. So we're very interested in this debate and how this is going to be structured in general. But I would have a question for Senator White, if he's available to answer a question. [LB952]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Gay? [LB952]

SENATOR WHITE: Yes. [LB952]

SENATOR GAY: Thank you, Senator White. Senator White, during the committee hearing, are you familiar with Sally McGuire? The mayor of Gretna came and talked on behalf of the United Cities of Sarpy County. [LB952]

SENATOR WHITE: Yes, I was present during his (sic) testimony. [LB952]

SENATOR GAY: And she handed out probably a 20-page document... [LB952]

SENATOR WHITE: Um-hum. [LB952]

SENATOR GAY: ...explaining those concerns. But there are two things that I'm interested in to see if you would be interested in this. One was a possible amendment that would require that a city of the metropolitan class cannot consider people outside the city limits or any adjoining county as an owner of a sewer system. The second one, Senator White, would be mandate that a city of the metropolitan class, when completing their infrastructure improvements to the sewer system, develop a rate structure that clearly identifies owners and nonowners of the system. [LB952]

SENATOR WHITE: Well, let me...let me address them separately. First of all, Senator, I don't know the ins and outs of those, and that is an area that's normally been handled

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by negotiation and contract between the various parties who contract for the sewer systems. My understanding, what limited understanding I have of that, is that that's largely governed by federal law. You now have people who have participated and have gotten discharge permits from the EPA and they got those as part of a contract to create a metropolitan-wide sewer system. So would I agree to an amendment in this bill? No, because it's in an area where it's out of the scope of this bill. It's certainly an issue...now I will tell you, Senator, if the charges are not being fairly apportioned, that is a serious concern that should be addressed. But my understanding is, and again this is just... [LB952]

SENATOR GAY: Yeah. [LB952]

SENATOR WHITE: ...verbally, that that also is dictated by the EPA and there are federal terms in that. And if there's an answer there, it should be litigated under the terms of the contract between the various communities and the city. It's not a matter where we can address that or correct that at this stage, this far down the road on this project. [LB952]

SENATOR GAY: That's fine. [LB952]

SENATOR WHITE: If, however, they've been unfair under the terms of it, certainly they have every right to insist that they pay no more than their fair share, however that is determined. [LB952]

SENATOR GAY: Well, and that's fine. The reason I asked you that, I wanted to get up to speed on this, and that was obviously done in the seventies, probably, or early eighties, when they decided to do this and they had the...a federal...it was a federal program and that's when they decided to go into one basin. So when you're doing this, they basically flow into one basin... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR GAY: ...and, out of cost savings, the Sarpy County at this time, back in those days, wasn't near the Sarpy County what you think Sarpy County would be today, 120,000-130,000 people. This was smaller communities. But now here we are with a...which we talked about this mandate that's being done, that it's going to be a tremendous cost to the citizens of Sarpy County. So I'm paying attention to the bill and trying to find out more information and Senator White discussed that. But that was brought up in committee. I wasn't in the committee, obviously, but it's good to know and something they could possibly pursue. I'm interested in hearing more about what you'd call a double tax, I guess, on our citizens, because it is raising our rates. So we need to pay attention to what's happening. But thanks, Senator White, for answering that question and I'll listen intently to the discussion. Thank you, Mr. President. [LB952]

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PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Heidemann, you're recognized. [LB952]

SENATOR HEIDEMANN: Senator me? [LB952]

PRESIDENT SHEEHY: Senator Heidemann. [LB952]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor and fellow members of the body. I'm going to stand up on a couple of different fronts here and talk just a little bit. Of course, I'm Appropriations Chair and the first thing I want to talk about is the amount of money that we're going to talk about here. It's not insignificant, by any means. And as we see this unfold year after year after year after year, the amount of money is going to increase without a doubt. I believe, and this is just by memory, that we're looking at a \$3 million fiscal note the first year and a \$6 million and at least that going in the out biennium. As I had talked about on the last bill that we just passed, and that was for a little bit smaller amount of money, that is a significant amount of money, without a doubt. When you're talking about \$3 million, when you talk about \$6 million, and you talk about \$6 million and \$6 million and then more and more and more, when you look at what we're up against, I have no idea where we're going to turn to look for that kind of money. And we had last year one of the bills that I remember an adamant debate on was LB545, I hope that was the number, is...yeah, I got the okay. We talked about that bill and we talked about that bill and we talked about that bill, and a lot of discussion, year after year that I've been here, for six years, is state aid to education. And we struggle to do TEEOSA, state aid to education. We struggle to do the things that we really want to do. We have to be careful about when we do bills like this, that it's a revenue source. We are going to lose this revenue and at that time everything else we do comes into jeopardy a little bit. We can't do everything, especially when you're talking about losing a revenue source, and this is not a little revenue source. This is a significant amount of money. One of the other things and where Senator White did touch base a little bit on this, we're actually trying to figure out who qualifies and who doesn't qualify. We've talked about certain projects that would, certain that wouldn't. We've mentioned Auburn a couple of times. They did a water project. I'm not 100 percent for sure, though, that they didn't get ARRA funding for that. If that's actually the case, they wouldn't qualify. I believe that Auburn actually just did a sewer project in my district. I have another town that just finished another one, a smaller town. Tecumseh finished a sewer project for well over \$3 million. Little town of Steinauer, Nebraska, users, they have 46 users. They just...they're going to have to spend, because of a federal mandate, \$460,000 to put in a new lagoon system. I don't know if they actually qualify for this. Senator White is trying to say that they should qualify. I talked to the people in the Fiscal Office. If that is the case, the fiscal note of this bill is going to increase substantially. That's something that we need to clarify and find out the bill, as it is written or if there is intent, if it is ever changed, what exactly this is going to cost. One

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of the questions that I have is we keep talking about unfunded federal mandates, I, as I've been told in this bill, I don't think that word actually ever pops up in this bill. I hear about Federal Environmental Protection Agency and other terms, but I don't come up in the bill where it says unfunded federal mandates. I understand this is a burden on the local citizens that have to pay this. There's no doubt about that. One of the communities that will be affected by this is Omaha, without a doubt. [LB952 LB545]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR HEIDEMANN: One of the thoughts that I have, though, is this is a revenue source for the city of Omaha. And I understand there are struggles in the city of Omaha and I have sympathy toward that, but we have to understand if we pass this bill, if LB952 is passed, there will be less revenue coming in to the coffers in the city of Omaha. If there is actually that need then for revenue in Omaha, where else do they have to go? Because this will actually cut down their sales tax base, what they get in. The only other place that I think that they would have to go then is property tax. So we have to be very careful right now that we're not taking sales tax away for them, giving them no place else to turn down the road then but a property tax. I think we have to think this bill through very much. I think there is good discussion but I will have to say at the present time I do stand in opposition to LB952. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Members requesting to speak on AM1945 to LB952, we have Senator Stuthman, followed by Senator Council, Senator White, Senator Cook, Senator Adams, and others. Senator Stuthman, you're recognized. [LB952]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask a question of Senator Utter. [LB952]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Stuthman? [LB952]

SENATOR UTTER: Yes. [LB952]

SENATOR STUTHMAN: Senator Utter, I noticed in the voting of advancing this bill out of committee, you opposed it. Can you give me one of the reasons or a couple of the reasons why you opposed moving this bill out? [LB952]

SENATOR UTTER: Well, I'll try. Number one is the fiscal note, of course. It just seems to me that we are talking about a fiscal note that is huge, frankly. The other thing that I'm concerned about is the cities that have undertaken projects, in the last ten years have undertaken similar type projects with sewers, with gas lines, with water lines and have paid their tax. And now I have to ask myself the question: How fair is it that all of a sudden we start exempting the cities from paying those taxes? And I guess I see it as a

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fairness issue in addition to the fact that I don't think the state can afford the fiscal note. [LB952]

SENATOR STUTHMAN: Thank you, Senator Utter. I would like to ask a question of Senator Adams. [LB952]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Stuthman? [LB952]

SENATOR ADAMS: Yes, I will. [LB952]

SENATOR STUTHMAN: Senator Adams, would you reply the same...would you reply to the same question? You were also one of them that did not vote or support this coming out of committee. [LB952]

SENATOR ADAMS: That's correct, and thank you for the opportunity, and if I get all out that I want to say maybe I could turn my light off. The bill, to me, raised an interesting tax policy question that we all had to resolve in our own minds, and I think that Senator White has hit on something that certainly is worthy of consideration. I would tell you my no vote came not necessarily in this order but, first of all, I was concerned about the language and it being too broad, and that all kinds of projects could be fit into this on the part of cities which would really erode a revenue base. And I realize that we could probably amend that down and narrow it down. But the bottom line for me is this, Senator: Last year I stood at this microphone for I don't know how many hours trying to explain cuts in state aid. A year from now I will stand at this microphone I don't know how many hours trying to explain cuts in state aid. I'm not going to give away any of that base. I voted no on Senator Louden's bill, \$250,000, for the same consistent reason. If I've got to do that fight, I'm not going to give away tax base. Thank you. [LB952]

SENATOR STUTHMAN: Thank you. Thank you, Senator Adams and Senator Utter. I appreciate those comments. And the reason I brought this forward is because I wanted to know the real reason, you know, why they did not support this coming out of the Revenue Committee. The experience I've had in the Revenue Committee would...if I would have had a bill that would have cost the state, you know, \$5 million, \$6 million, I'm sure that would have never made it out of that committee either. Another issue that I want to discuss and that is the fact that I respect the Appropriation Chair, Senator Heidemann, the comments he made. Those are some of the comments that I also wanted to make, and the fact is he said it could have a real impact on the city of Omaha but not only on the city of Omaha. It would have an impact on any community that has a city sales tax because they would lose that portion also. And if they have projects that they seem to...you know, that are of value, it will go back on to the property tax, I'm sure of that. So in my opinion, you know, I read, I've received correspondence from my local community and they said it would have a real impact on that community. Also, it would be kind of a nightmare of separating out... [LB952]

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PRESIDENT SHEEHY: One minute. [LB952]

SENATOR STUTHMAN: ...the collections of the sales tax on the fee as compared to the other collection of the sales tax. So with that, at this time I do not support this bill and the underlying amendment. Thank you, Lieutenant Governor. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Council, you're recognized. Senator Council. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. And thank you, Senator Stuthman. I enjoyed that presentation. Let's talk for a second about this. First of all, when we were dealing with the Republican River, the state told the people and the irrigators in the Republican River, you have overused the water and you must pay for it, but we will lend you the money. Now that's messed up on a lot of levels, but that was an argument made by Mr. Christensen and others, very, very articulate argument was that, look, the state entered into that compact, we didn't enter into that compact, why are we having to pay for that water and not the state? Okay. Well, we told...we told the people of the Republican River Valley, you have to pay for it. The federal government has told the people of the Omaha area, and by the way, other cities, it's coming for you; you can pretend it's not, but it is, and they said, you must spend this money and we're not going to give you any of it--no different than us in the Republican River. Okay, we don't have the money in the state to help our largest city, the center of the tax income that we receive, the largest contributor to our fisc. People in Omaha understand that. Other states have helped their large cities when they've confronted this; we can't. We'll shoulder the burden, just like we demanded the people in the Republican River do it. But unlike the people in the Republican River, we do not propose to apply a sales tax on them as they pay off the debt they owe the state. Literally, to be on similar footing, as the Republican River folks struggle to pay back the money they owe the state for the money that they borrowed to pay for that water, if we were going to put it on the same footing there would be a sales tax on each and every monthly payment of that. And that's what we're proposing for the people of Omaha, the people of Plattsmouth and other communities. I had a very intriguing discussion with Senator Heidemann. Senator Heidemann said Auburn, they had a sewer program but he didn't think it was qualified under this, it didn't classify the same way, and that was the debate we talked about earlier. But then Senator Heidemann acknowledged something interesting: Auburn got federal money to do that. And guess what? Any time the federal government does a project like this, they don't pay sales tax at all. And if the federal government borrows money to pay for that project as it pays it back, the citizens in the states pay the federal government to pay that back, we don't get sales tax hit either. So if it was a federal project, like Auburn, where the federal government stepped up and paid for this work, there would be no sales tax generated on any level. And that's what is so fundamentally unfair about this. Senator Heidemann says we can't exempt this economic activity. This

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is not economic activity that creates wealth. This is predatory economic activity that drains wealth. The people of the state of...the people of Omaha in the metro area don't want to have to spend this money. They are ordered to spend this money. It's not something they chose to go buy. It's not a fee for a service they chose to engage in. They're being ordered by the federal government to make this expenditure, and the state is piling on with an additional tax, not just as they buy the pipes but as they make the interest payments to comply with the underlying project. That is not the kind of economic activity we have ever taxed. Now, what is fair or unfair, as Senator Utter is concerned that other states and cities have done this. Senator, I will tell you I know of nothing on an unfunded federal mandate ever approaching anything like this in size or scope that I'm aware of, ever in this state. I believe this to be the biggest federal...the biggest public works project since the interstate, that I'm aware of, in this state. Nothing like this has ever come up. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: Others will come up and that should apply to those communities, infrastructure to replace their aging water, their gas pipes, they, too, should not get a double hit like Omaha is being expected to take. And if, as we move forward, folks from other parts of the state think it's okay that they soak Omaha on this one because this is actually just Omaha right now, I would tell you beware, beware because this is coming for you too. And more than that, here's what's fundamentally unfair. The people of Omaha are going to pay \$320 million, at minimum, in a sales tax, when other people in the state aren't subjected to it at all. One of the things we've always said is taxes should be fairly apportioned across all communities, everybody bearing their fair share. Here the federal government is not only implying this mandate, but now forcing, under our state policy with the compliance of our state government, forcing... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR WHITE: ...the people of Omaha to pay a sales tax too. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Speaker Flood, you're recognized for an announcement. [LB952]

SPEAKER FLOOD: Thank you, Mr. President. And good afternoon, members. A couple of notes that I think you'll find important as we look at our agenda: Due to a planned absence, LB952, assuming it's not resolved by 4:00 this afternoon, the point at which I anticipate us adjourning, will not be on the agenda tomorrow; however, it will return. Tomorrow's agenda is going to show basically all the priority bills that are available for scheduling and outlines what we have to address during March. There will be some exceptions, but for the most part you're going to see a very long agenda and it will provide you a road map as to the next two weeks of our work which will be very

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important. Also on tomorrow's agenda you'll see at 1:30 I'm devoting one hour to Select File work. At 2:30 we'll return to General File bills. So our hope is that those bills that are on Select File can move if possible. It sounds like you've been doing a good job of working out differences. I know there are some amendments, but we'll do as much as we can for one hour, beginning at 1:30 tomorrow, so please read your agenda very carefully as it relates to the times on the...in the afternoon. Now, here's something important I want to talk about. We only have two weeks of priority bill debate before the budget is due on the floor, approximately March 15. We have a lot of work to do these first two weeks in March. In addition, 44 of our 101 priority bills remain in committee. That's almost one-half. I would encourage committees to work on those bills and advance them to General File if they're fit for discussion in the next couple weeks, if you desire to have them debated this session. As you can see, we have a lot to accomplish during the month of March. We have 44 bills still in committee and when you see tomorrow's agenda, I think you will understand the amount of work we have ahead of us as we get toward General File discussion of Senator Heidemann and his Appropriations Committee budget. Every year that I've been Speaker, I've prided myself on trying to get to all of the bills that are available to be scheduled. We're at a point in the session where we need to make some decisions, and if you've got a controversial bill, you need to start talking to your colleagues to determine if there's common ground, and if you can find common ground, work on that before it comes to the floor. We need to spend time on these bills, we need to discuss these bills, but at the same time, if there's an issue that you know about that you fail to take action on and it's resolvable--I understand some issues cannot be resolved--please let me know about that before we schedule your bill because I don't know that we'll be able to afford every bill the amount of time that we did in the first three weeks, in fact, I know we won't. So we've got a very important two weeks ahead of us. When you see the agenda tomorrow, you'll understand. And when you get to the budget and your bill is not out of committee, please understand that difficult decisions will be made at the end of this session. Thank you very much, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Resuming floor discussion on AM1945 to LB952, members requesting to speak: Senator Cook, followed by Senator Hadley, Senator Rogert, Senator Carlson, and others. Senator Cook, you're recognized. [LB952]

SENATOR COOK: Thank you, Mr. President and members of the body. I rise in support of LB952. As cosponsor of this legislation, I support the bill for the relief that this sales tax exemption provides to low-income owners of public utilities. Low-income citizens pay a higher percentage of their income on utility expenses. To this end, I've introduced LR324, an interim study to examine the need for public utility ratepayer assistance programs. Every member of the Urban Affairs Committee has cosigned this resolution. I look forward to working with my fellow committee members and any of you who may be concerned as well on this interim study. My hope is that meaningful legislation results

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from LR324. Advancement and even passage of LB952, which again I urge, will give ratepayers relief to each of those affected, especially the elderly on fixed incomes, the working poor, and others who are struggling to meet their basic living expenses. Thank you, and I would yield the rest of my time to Senator White. [LB952 LR324]

PRESIDENT SHEEHY: Senator White, you're yielded 3 minutes 45 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President. And I'd like to address a couple other points that we need to deal with. I appreciate Senator Heidemann's discussion that, you know, we'll have to look at property tax ultimately. Please understand, you cannot have a home in the metropolitan area if you don't have a sewer connection. This is as raw a property tax as you can have. You have to pay it. It becomes a lien on your property. This is a property tax we are talking about now. That's one. Two, we need to address the addiction to spending, folks. For us to start looking at a federally ordered expenditure of \$3 billion as economic activity that we should tax tells us more about how we are looking at the money we can spend than the impact taking that money from the community will have. I mean this is incredibly difficult for the people of the metropolitan area. Over this time period, the tax will add 7 percent of the burden on this project plus on the interest. And let's review how unfair this would be. Understand the following: If the city paid cash for this work and could just pay cash, there wouldn't be a sales tax. It is only because they have to float it through a bond and then pass those price increases on through the various people using the sewer, and that fee, that increased fee that causes that sales tax, that's one. If the federal government did what it did in Auburn and other places and said we need this done to cleanup the waters of the United States and they paid for this work, there would be no sales tax at all. The people of the metropolitan area wouldn't pay a sales tax. But because the federal government is cash strapped and because the state cannot give any aid to the city because if the state gave aid to the city of Omaha, like we aided the people in the Republican River Valley, the state doesn't pay sales tax on its work, there would be no sales tax. What has happened is because the city and the Metropolitan Utilities District have to put a bond and then put this through, we, the citizens in the metropolitan area, are going to have to pay another 7 percent, not only on the underlying amount but on the accumulated interest. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: This is not fair anymore than it would be fair for the state to insist, as the people of the Republican River Valley pay us back for that water, that on every payment they make, each individual we charge 7 percent sales tax fee, because that's what we're proposing to do to the people in Omaha. Not fair for the people in the Republican River Valley; not fair for the people in Omaha. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Cook. Senator

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Hadley, you're recognized. [LB952]

SENATOR HADLEY: Mr. President, members of the body, Senator Stuthman didn't ask me. I did vote this out of committee. I voted it out because I think it's something worthwhile to be discussed on the floor. I have considerable problems, though, with the fiscal note, the size of the fiscal note. And I did look up unfunded mandates and as we've talked about them, legislation in the Clean Air Act, Clean Water Act, require programs sponsored by governments of the states without providing any funds, EMTALA, the Emergency Medical Treatment and Active Labor Act, is an unfunded mandate. But there's also the Americans with Disabilities Act, which is an unfunded mandate and it provides the business premises available to disabled customers without providing any funds for the cost of reconstruction or additional interior space. This is an unfunded mandate upon the businesses of the United States. In essence, the Americans with Disabilities Act defines general standards of accessibility. Under this act, federal law requires that all public facilities, including retail businesses and professional offices, be fully compliant with the ADA specifications now. So in Nebraska, if you were to buy an older home and want to make it into a restaurant, you would have to make sure that it complies with the ADA requirements. The construction labor to make that happen would not be taxable from a sales tax but all of the materials would be. So I guess the question I have is would this not, same concept, apply to individual businesses that have to comply with a unfunded federal mandate or is it just governments that get the benefit? With that, I would yield my remaining time to Senator Lautenbaugh, if he's here. [LB952]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're being yielded time. Senator Lautenbaugh is not present. [LB952]

SENATOR HADLEY: Thank you, Mr. Speaker. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Rogert, you're recognized. [LB952]

SENATOR ROGERT: Thank you, Mr. President. I'm one of the rural guys that signed on to this proposal because this does seem like a double tax to me and, as a business person and a farm kid, per se, it just doesn't seem...it doesn't pass the smell test, in my opinion. The fiscal note from both the city and the state is based upon a projected income from a project that we wouldn't plan on doing until we were forced to do it. So to say that this is going to cost \$10 million in the next few years really isn't quite true. It's not going to take \$10 million out of our budget that we're planning on getting. This is going to take \$10 million away from a good deal that might have been coming our way that's coming...it's just another tax increase. And that, to me, always sits a little weird, the fact that...it's not the regular tax receipts for the budget. This is something that was put in to the thoughts of, ooh, look what's coming down the road, we're going to be

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spending this money on a major infrastructure project that was mandated to us by the federal government and it's going to fill the coffers with a bunch of money from the taxpayers because we have the ability to do so. And that doesn't sit well with me and that's why I signed on to support this bill and I will continue to support it until somebody can convince me that this is a tax that folks need to pay. And my small communities in my district, I think all my folks would say that's probably true. I know that some of my local communities have a sales tax and if we had a project coming along, they'd be able to raise that money too. However, I think the fact that...they would call it a double tax as well. I'll yield the rest of my time to Senator White, if he so desires. [LB952]

PRESIDENT SHEEHY: Senator White, you're yielded 3 minutes. [LB952]

SENATOR WHITE: Thank you so much. And thank you, Senator Rogert. Senator Hadley raised an interesting point and I think the logic is fair: Wouldn't this apply to individuals and businesses just like cities? And the answer is, in terms of an unfunded requirement that you spend money, for example, to the cattle feeder that must build a dike to make sure fecal matter doesn't pollute the streams, yes, it would, except that there's one difference. Cities or governmental subdivisions almost never pay sales tax, folks. That's the difference. In this case, it is the Metropolitan Utilities District. In the next case it may be a city that must spend this money, and we do not traditionally impose sales tax on those political subdivisions nor tell them that they, in turn, must charge their citizens sales tax on what are huge public infrastructure projects that they are being required to engage in by the federal government. Again, look at the anomaly here. Much of the tax on the underlying pipe if the city were buying it would, if they paid sales tax, would go into a fund that the city would maintain to improve the water system. Omaha doesn't have that opportunity. We alone, because of the Metropolitan Utilities District, to my knowledge, pay a sales tax on our drinking water that doesn't go to support the infrastructure for the drinking water. It goes to the cities of Omaha and Sarpy County and surrounding areas, Douglas and Sarpy County, for their general operations. When a city like York has a water improvement project and they charge sales tax on that water, the fund that the city gets, that portion of the sales tax that the city gets, that stays with the city and it can be used and is used to improve the infrastructure for the water. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: We don't have that opportunity. So you're sitting in a situation where, because the federal government ordered this but didn't pay for it, the people of Omaha have to pay sales tax. Auburn had a similar project that I think Senator Heidemann indicates was paid for by the federal government through stimulus money. Because the federal government paid for that, it didn't pay sales tax and neither do the citizens of Auburn. What we have is a fundamental breakdown in our tax system here that is resulting in really unfair burdens on some communities, and we make a loser a

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double loser. First, the feds say you got to build it and we're not paying for it, and then the state says, and we get to charge you taxes that we never would get to otherwise; I guess you won the lottery. It's not right, it's not fair, it's not good policy. It is also false impression of what our underlying economic health is. [LB952]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator White. Thank you, Senator Rogert. Senator Carlson, you're recognized. [LB952]

SENATOR CARLSON: Mr. President, members of the Legislature, Senator White lit a fire when he started talking about the Republican River and I hit my light real quick, and then he didn't go where I thought he might go, but I'm going to speak anyway (laughter). He talked about the loan to the farmers in the Republican River Basin, and they agreed in 2007, voluntarily, to contract for the loss of irrigation to help the state in the compact with Kansas. It was an agreed upon amount per acre to be paid in December of 2007, but because of the lawsuit they weren't paid in December of 2007, and this was not their fault. So in 2008, and Senator White voted for this, the Legislature did the right thing, and it's never wrong to do the right thing, and loaned the money so that these farmers were paid. Senator Christensen and I very much appreciated that decision. And we, the people of the Republican Basin, want to and intend to repay that loan. We're going to need your help and support on LB862, as it comes forth, to allow the occupation tax to be in a position so that it can be utilized to repay that loan. So that was my response here. Now, I do have a question for Senator White, if he would yield. [LB952 LB862]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Carlson? [LB952]

SENATOR WHITE: Certainly. [LB952]

SENATOR CARLSON: Senator White, I agree that we shouldn't pay sales tax on the repayment of that loan to the Republican Basin, and I don't expect you on the mike right here but if I can understand the example is the same for a public utility, it will be very meaningful to me. I do have a question on some of the earlier comments you made, and you gave this copy of a utility bill that we can look at. [LB952]

SENATOR WHITE: Correct. [LB952]

SENATOR CARLSON: Now in there you've underlined the city of Omaha sewer. On this particular example, it was \$15.92. Is that where the increased amount of money would go to repay? [LB952]

SENATOR WHITE: No, that would stay the same, Senator, and thank you for that question. We would still collect taxes on that. The only thing that would happen is that MUD would calculate and say your fee went up...and MUD does the billing for the city. That's why I say MUD. MUD would do the calculations, said your fee went up \$50 a

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month because of this project that the feds said we had to build but didn't give us money, that \$50 per month would be exempt from sales tax. The \$15 that we're paying would remain the same, the water the same. Nothing would change other than the increased amount we have to spend, nickel for nickel on the actual cost with the interest of complying with the federal law. And, Senator, I'm glad, I appreciate the Republican River. I agree with you, we did the right thing. They got in a jam and we needed to help everybody out for the state's own good. Omaha needs help but we can't give it to them. I think we all recognize that. But what we can do is say, Omaha, as you struggle to pay and comply with your water, we're not going to charge you a sales tax on those payments. Literally, to me, if we said, as you pay your payments, irrigators or landowners in the valley, we're going to slap a 7 percent sales tax on top of every payment, then you're looking at what we're looking at in Omaha. [LB952]

SENATOR CARLSON: Okay. Thank you. Mr. President, how much time? [LB952]

PRESIDENT SHEEHY: One minute 30 seconds. [LB952]

SENATOR CARLSON: Okay, Senator White, I may have another question here. Help me further understand the \$50. Senator White. [LB952]

SENATOR WHITE: Yes, sir. Yes. [LB952]

SENATOR CARLSON: On this \$50, that's probably an oversimplification because you've used the term \$50 per household. I don't imagine it's that simple. When you have new sewer lines put in, maybe it is, it's by distance so it might be the same for a \$50,000 house as it is for a \$500,000 house. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: Senator, this is going to be separated differently, and what I've been told by the mayor of Omaha and a number of people is that, in fact, in 2014 it will be \$35 per month per home, at 2017 it will be \$50 per month per home for 20 years, and that is what they say the homeowner will pay. Now, a big industrial user will pay more because it's based on volume of sewage, but the average home is going to pay 50 bucks a month. [LB952]

SENATOR CARLSON: Okay. And what we're talking about here, whether or not sales tax is applied, is the fact of whether the payment is \$50 or \$53.50. That's about the difference. [LB952]

SENATOR WHITE: Yes, and the principle of do we tax an unfunded federal mandate. [LB952]

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SENATOR CARLSON: All right. [LB952]

SENATOR WHITE: Do we tax the people of the Republican River? Do we rub salt in their wounds as they are struggling to pay off a water bill? Do we do that or do we look at it and say that's not really economic activity of the kind that should be taxed? [LB952]

SENATOR CARLSON: Okay. Thank you, Senator White. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Mr. Clerk, do you have items for the record? [LB952]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB579 as correctly reengrossed and LB817 to Select File with amendments. Your Committee on Government reports LB410, LB852, LB947 to General File, reports LR273 and LR292 back to the full Legislature for further consideration, reports LB767 and LB970 to General File with amendments, as well as LR301CA. Government reports LB777, LB1009, LB1015, LB1039, and LB1059, all as indefinitely postponed. The Executive Board reports LB1109 to General File with amendments. New resolution: LR342 by Senator Utter. Letter from the Governor appointing Dennis Lee to the State Racing Commission. Amendments to be printed: Senator Gay to LB1036, Senator Cornett to LB1081, Senator Lautenbaugh to LB888. (Legislative Journal pages 703-711.) [LB579 LB817 LB410 LB852 LB947 LR273 LR292 LB767 LB970 LR301CA LB777 LB1009 LB1015 LB1039 LB1059 LB1109 LR342 LB1036 LB1081 LB888]

PRESIDENT SHEEHY: (Visitors introduced.) Mr. Clerk, you have additional items for the record?

ASSISTANT CLERK: Mr. President, I have a priority motion. Speaker Flood would move to adjourn until Tuesday, March 2, 2010, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, March 2, 2010, at 9:00 a.m. All those in favor say aye. Opposed, nay. The Chair says we adjourn.