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Floor Debate  
March 24, 2010

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SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this the forty-seventh day of the One Hundred First Legislature, Second Session. Our chaplain for today is Evangelist Sharon Anderson-Towery from Sharon Adele Ministries in Lincoln, Nebraska, guest of Senator Council. Please rise.

EVANGELIST ANDERSON-TOWERY: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the forty-seventh 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.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, I have one item. Senator Gay would like to print an amendment to LB849. And that's all that I have. (Legislative Journal page 1015.) [LB849]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on today's agenda, Final Reading. Members, please take your seats for Final Reading on LB1106A. Mr. Clerk, LB1106A. [LB1106A]

CLERK: Mr. President, Senator Nordquist would move to return the bill for specific amendment, AM2300. (Legislative Journal page 1005.) [LB1106A]

SENATOR LANGEMEIER: Senator Nordquist, you're recognized to open on your motion to return for a specific amendment. [LB1106A]

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SENATOR NORDQUIST: Thank you, Mr. President and members. On Select File we adopted an amendment which added some clarifying language about if federally qualified health centers provided services at school-based health centers and they would get their normal reimbursement rate. Under the initial fiscal note, the department did not make any assumptions that FQHCs were going to provide these services and therefore get the higher rate. So this is an attempt to correct the fiscal note and provide the appropriate amount of appropriations to do that. Under the bill, FQHCs were a qualified provider of these services. So we just need to make sure that there is sufficient funds. After working with the Fiscal Office, we talked to the coalition that's working to establish these and we got some...we drilled down and got some hard numbers on what they actually anticipate their service provisions to be going forward. And the amendment, AM2300, will reduce the General Fund savings of the bill by about \$150,000 the first year, \$138,000 in the second year. With this the bill will still show a General Fund savings of \$1,037,000 in the first year and \$935,000 in the second year. I encourage you to support the motion to return to Select File and the adoption of AM2300. Thank you. [LB1106A]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. You have heard the opening on the motion to return to Select File for specific amendment. The floor is open for discussion. Senator Heidemann, you're recognized. [LB1106A]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I just want to stand up briefly in support of this motion to return and the amendment, AM2300. There was some work done on LB1106. Because of that, it will change the A bill just a little bit. I applaud actually Senator Nordquist and his efforts in this. This is the right way to do it, the right thing. It's going to make it clearer. And I urge your support in the return to Select File and to AM2300. Thank you. [LB1106A LB1106]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Seeing no other lights on, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is, shall LB1106A be returned to Select File for a specific amendment? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1106A]

CLERK: 37 ayes, 0 nays, Mr. President, to return the bill. [LB1106A]

SENATOR LANGEMEIER: It is returned. [LB1106A]

CLERK: Mr. President, Senator Nordquist offers AM2300. [LB1106A]

SENATOR LANGEMEIER: Senator Nordquist, you're recognized to open on AM2300. [LB1106A]

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SENATOR NORDQUIST: Thank you, Mr. President. Again, AM2300 just ensures that there is sufficient appropriations to carry out the LB1106. It will reduce our General Fund savings of what we thought on Select File about \$150,000 a year. But the bill will still maintain a General Fund savings on the bottom line of around \$1 million a year. I'd appreciate your adoption of the amendment. [LB1106A LB1106]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. You have heard the opening on AM2300 offered to LB1106A. The floor is now open for discussion. Seeing no lights on, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is, shall AM2300 be adopted to LB1106A? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1106A]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB1106A]

SENATOR LANGEMEIER: The amendment is adopted. Senator Nordquist for a motion. [LB1106A]

SENATOR NORDQUIST: Mr. President, I move LB1106A to E&R for engrossing. [LB1106A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. It does advance. (Doctor of the day introduced.) Continuing on, on today's agenda, General File, LB918A. [LB1106A LB918A]

CLERK: Mr. President, LB918A is a bill by Senator Hadley. (Read title.) [LB918A]

SENATOR LANGEMEIER: Senator Hadley, you're recognized to open on LB918A. [LB918A]

SENATOR HADLEY: Mr. President, members of the body, in 2005, the Nebraska Legislature passed the Nebraska Advantage Act and the Nebraska Rural Advantage Act. Their success has been extraordinary. Through January of 2010, there have been 206 applications filed, resulting in approximately \$5.35 billion in investment and over 16,000 jobs across the state, 30 projects in the Lincoln area, 101 in the Omaha area, and 70 projects in outstate Nebraska. In addition, the Nebraska Rural Advantage has received 93 applications resulting in approximately \$140 million investment and 278 jobs. The economic impact of these programs to the state has been invaluable. Just a reminder of what LB918 does. It makes Internet-based software applications eligible for the Nebraska Advantage. This is referred to...what is sometimes called cloud computing. It depends on...it builds on legislation approved in 2008 that added Web portals to the Nebraska Advantage Act by adding the definition of data centers to the list

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of qualified activities and allowing Tier II and Tier V data centers qualifying for some Tier IV incentives. It changes certain provisions of the Nebraska Advantage Act to define the term "wages" to include the employee's contribution to employer offered tax benefit packages, such as healthcare and retirement. Why is this important? I happened to find an article for the state of Washington that is in dire financial straits compared to the state of Nebraska. They recently passed a law that applies to server equipment, software and electronic infrastructure at eligible computer data centers in rural areas. It passed by a 91 to 2 vote. In essence, the state of Washington is going to exempt from sales tax all hardware purchases by data centers. It will cost them \$28 million a year in lost revenue. The reason this is important in Nebraska is this is our competition. These data centers can be anywhere in the world. So we're in competition with the state of Washington and all other states. This is very important that we get up to date. I told you that I was going to work on the fiscal note from last time. I met with Commissioner Ewald from the Revenue Department about the fiscal note. We did get the wages definition down. But Director Ewald told me that he had had more inquiries on this particular bill from an economic development standpoint than any other economic development project since he became the director. So he said it was necessary to hire another auditor to do that. So that is what the fiscal note is. The fiscal note is to hire another auditor to make sure we are getting the benefit, that the companies are meeting the requirements for that. So that is what the A bill is. There has been questions about the out-years. By 2019-20 fiscal year it says there will be a \$13 million revenue loss. There is only a revenue loss if these companies actually come in, make the expenditure, hire the people to do it. So this really will be a revenue gain. I went back and I looked at LB895, which was the Super Advantage Act. It had a \$6 million price tag when it was passed. LB312, which was the Advantage Act, had a \$24 million per year act...amount. I would encourage you to vote for this A bill. I realize that it's about \$50,000. I want to end up with a nursery rhyme. For want of a nail the shoe is lost; for want of a shoe the horse is lost; for want of the horse the rider was lost; for want of the rider the battle was lost; for want of the battle the kingdom was lost and all for the want of a horseshoe nail. I would hope that we don't let \$50,000 for an auditor stand in the way of making Nebraska competitive when it comes to the new age in computer, computer farms, computer hardware, and cloud computing. With that, I would encourage you to vote yes on LB918A. [LB918A LB918]

SENATOR LANGEMEIER: Thank you, Senator Hadley. You have heard the opening on LB918A. The floor is now open for discussion. Senator Krist, you're recognized. [LB918A]

SENATOR KRIST: Thank you, Mr. President, colleagues. A few days ago, I got up at the mike and the press call it a sermon from the freshman. I want to reiterate a couple of things that I said then and I say in support of LB918 and I thank Senator Hadley for bringing it forward. When I said that we need to look for new revenue sources for this state, let me be clear, everyone who is watching the broadcast, everyone who is in this

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room, I was not, not suggesting new taxes. I was not suggesting that we tax an already tax-burdened citizenry in Nebraska. I did not suggest that. What I'm suggesting and saying today is we need to look for these opportunities and carefully and judiciously spend the money that needs to be spent. This \$50,000 price tag for an auditor will eventually bring in millions of dollars to this state, there is no question about it. Let's work towards bringing revenue into the state by finding businesses like Senator Langemeier and Senator Harms in their wind energy that they worked two years to bring in and others. I support LB918 and I think that this is a judicial expenditure that will result in revenue, new revenue into the state. Thank you, Mr. President. [LB918A LB918]

SENATOR LANGEMEIER: Thank you, Senator Krist. Seeing no other lights on, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question before the body is, shall LB918A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB918A]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB918A. [LB918A]

SENATOR LANGEMEIER: LB918A does advance. Mr. Clerk. [LB918A]

CLERK: Mr. President, LB709, a bill by Senator White. (Read title.) Introduced in January, the bill was discussed yesterday, Mr. President. At that time the Business and Labor Committee amendments were adopted. I have no further amendments pending at this time to the legislation, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator White, would you give us a reopening on LB709. [LB709]

SENATOR WHITE: It would be my pleasure, Mr. President. Members of the body, this is a pretty straightforward bill. This bill simply requires the bureaucracy of the state government, when they're promulgating a new regulation and in the course of their regular activities, to consider any particular burden, a special burden being placed on small businesses, which is defined, and consider whether ways that the aims of the legislation can be carried out in a less expensive or less burdensome fashion. This is a bill in its essence that has been enacted in 44 states. This is a bill designed to ensure that Nebraska is clearly identified as open for business and friendly to small business. That's why the Federation of Independent Business strongly supports this bill, that's why the Farm Bureau supports it. This is the kind of bill that says in Nebraska we have a value that we are going to promote entrepreneurs and people that are trying to start a small business. I do not intend to talk long on this bill. I think this is such a simple, clean case that we will either support this effort or we will go on record, and we will have a record vote, as saying no to the Federation of Independent Business, to the Farm Bureau, to small businesses across the country that we can't be bothered to even

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require our bureaucrats to exercise a level of respect and reflection when they regulate. Now I know there have been issues with regard to the fiscal note. We have talked about the fiscal note that accompanied Senator Fischer's bill, which was the first step and this is the second step, and in that one it was deemed nominal. Now this one actually does require that bureaucrats think, and perhaps that's too expensive. But I'm going to give everyone here an opportunity to go on the record clearly, are we going to make a commitment now to ensure we are open and friendly to small businesses or are we going to say that we can't be bothered and we cannot force our bureaucrats and we're going to let them identify fiscal notes that stampede us away from really carrying out the goals that so many of us talk about on a daily basis. Every once in a while you get a chance, you get a chance to walk the walk. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator White. You've heard the reopening on LB709 as amended. The floor is now open for discussion. Senator Gay, you're recognized. [LB709]

SENATOR GAY: Thank you, Mr. President. I'm going to go on record as not voting on this bill and I'll tell you why. I've got a 100 percent voting record on business bills through the chamber. I see on who's supporting and who's not supporting this, if we're going to get into that. The state chamber or Nebraska Chamber of Commerce is neutral on it. So you know, whatever. We can say whatever. Is what we're really doing here with this bill, I think it has some merit, some of it. But as you read through the bill it's a great idea and I think we already do this idea of if there's a rule or reg we have public hearings on it, many. Look at the process. There's many public hearings through our rules and regs process where the public can come in. Whether they do or don't, usually small businesses are busy running their business so they can't come to these things. But there is a review process. What we're really doing here, I think, is we're asking these bureaucrats in the department to come back and make a recommendation in four and five years of what we should keep, what we should amend and what we should get rid of. I thought that was the job of a state senator to do that. But in Section 6, not later than four years, each agency shall review all rules and regs issued and whether these rules and regs should be continued in effect without amendment or should be amended or repealed to minimize adverse economic impact on small businesses in a manner consistent with this Small Business Regulatory Flexibility Act. I agree, that sounds very good, a Small Business Regulatory Flexibility Act. However, what we're saying is the Department of Revenue, the Department of Health, whoever could come back and make an amendment. They do that all the time. If you've ever talked to them, they come every year with here's what we could change, here's what we could add, get rid of, whatever. You have that responsibility and that right to do that as a senator, to review all the processes, all the procedures, and make changes. It's called a bill introduction and it's called changing the law or changing the rule and reg. So this can be done. I think what we're doing is this sounds very good. I saw it was introduced by the U.S. Small Business Advocacy Administration and what they say in this fact sheet, it's to help

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the burden placed on small businesses. While focusing on federal regulations, Advocacy welcomes the opportunity to work with state leaders on the regulatory issues. When the federal government is helping the state, helping us with our small business, I'd pass on that offer. It's the same as the Paperwork Reduction Act that was put in place many years ago that has not worked and other things that sound pretty good but they don't work. Look at the fiscal note, that fiscal note scares me, too, and if we pass this just to avoid what the fiscal note is going to say of how they're going to implement this, we keep cutting departments and then we're asking them to do more things. That doesn't make any sense to me. So I'm going to go on record as not voting on this. If...you do what you want. That's just, I think, the best way to handle this. If you want to be voting for it because you think you're standing up for small business, you have a right to do that. But I think, you know, when I see the chamber of commerce or the state chamber as neutral I don't think they're that much...I do respect the NFIB and the Farm Bureau, fine. They all have their views and that's fine. But I just think what we're doing here today is adding a lot more legislation, this is adding legislation. And I voted for the committee amendment, by the way. I thought the committee amendment was good because it got rid of a review board that was unnecessary. So I did vote for that. However, I will not vote to advance this bill. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Gay. Those wishing to speak, we have Senator Carlson, White, and Lathrop. Senator Carlson, you're recognized. [LB709]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address a question to Senator White, if he would yield. [LB709]

SENATOR LANGEMEIER: Senator White, would you yield? [LB709]

SENATOR WHITE: Certainly. [LB709]

SENATOR CARLSON: Senator White, you know the procedure and the way things work here and this bill was talked about yesterday. And you know how we get called in and out and so I may be asking you something that you already covered, but it's a new day and, if so, hopefully you'll bear with me on it. And even though I was on the committee and voted to bring this bill out to the floor, I do have a question because in the hearing, of course, you have DEQ and Department of Insurance as opponents. And then the state chamber is neutral. And Senator Gay has referred to this a little bit. Has their position changed since the hearing, either DEQ, the Department of Insurance or the state chamber? [LB709]

SENATOR WHITE: Well, the state chamber's position, and I'm glad you asked that, Senator Carlson. State chamber said, we represent many large businesses and we can't take sides on a bill that advances the interests of small businesses. Their view was it should apply to all business and that's why they are neutral. They are certainly not

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opposed in any sense, and they've exhibited no opposition at all. In fact, they applaud what we're doing for small businesses. They just wish the bill was broader. So that's one. [LB709]

SENATOR CARLSON: Let me stop you there then. If it were including all businesses you're saying the state chamber would be on board. [LB709]

SENATOR WHITE: I cannot, and it's not fair for me to characterize what the state chamber would do in the future, Senator, but I can tell you what they told me. They said their only problem with the bill is it wasn't broad enough; that it focused on small businesses and they represent many large businesses as well and they didn't want to weigh in. Now the National Federation of Independent Businesses really focuses on small business and that's why they jumped in. [LB709]

SENATOR CARLSON: Okay. And, again, going back to the hearing and I had my notes, I don't have the notes here, but as you recall, what was the objection of the Department of Insurance and DEQ and have they changed? [LB709]

SENATOR WHITE: Well, I cannot tell you what the official policy of DEQ is. I know what we met one of their major concerns. One of their major concerns, Senator, was they put out these bulletins, they have a special name for them which eludes me at the moment, but they put these bulletins out to explain to the citizens how they might comply with various regulations or laws. And they were afraid every time they reissued one of those they'd have to go through this. We made, through the committee amendments, changes that should have clearly addressed that. If we have not addressed that, I invite Senator Gay, who said he's going to go on record as not going on record, I would invite him to come, advance this to Select File. And I'd be happy to work with him on anything that would help his concerns, as I would with DEQ and the Department of Insurance, if we can accommodate those concerns. More than willing to do that, Senator. [LB709]

SENATOR CARLSON: Okay, thank you for your response, Senator White. And I'm going to be researching this a little bit, too, with DEQ and Department of Insurance. But thank you for your response. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator White, you're recognized. [LB709]

SENATOR WHITE: Just very briefly, Mr. President, again Senator Gay was engaged in conversation. But, Senator Gay, first of all, on the state chamber they did not want to take the side of a bill that only helped small business. They said they had too many big businesses in it, though they had no complaints. I invite you, clearly if you wish, to work on this bill since you think it has elements that are meritorious. I invite you to sit down with us. We will, if we move it to Select, we will make reasonable amendments to

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address any realistic concern that can be addressed in the spirit of the bill. I think it's critical as a body we advance this to Select File and we say it's too important to our economy, to our citizens, to our small business people to just let this die. If it has flaws, and I don't doubt that it does, we are willing to work with anyone and we invite you all to a summit. Because this is simply too important. It is too important to our small businesses, it's too important of a message to send to our small businesses that we're not even going to move this forward. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Lathrop, you're recognized. [LB709]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I pushed my light on when the subject of the chamber came up because, as Chair of the Business and Labor Committee, I wanted to respond to that. And I think Senator White has accurately represented the position that the chamber took in a neutral capacity before the Business and Labor Committee. My recollection of that was they said, we represent people across the spectrum, and this necessarily, if we're going to take care of small business, it defines and sets parameters on small businesses and they would receive an advantage in a sense because the regulations that affect them would be subject to review as set out in LB709. So there wasn't opposition. They weren't there damning the bill with faint praise. It was a situation where they have a broad spectrum of businesses that they represent and they simply had a difficult time committing to the bill since it was helping some of the folks and not others in their organization. I did want to visit with you a little bit about, you know, we've talked about this regulatory process in the abstract. And I had an example that maybe we can maybe help bring this into focus. When we did our work in the LR11 committee on developmental disabilities and tried to sort out BSDC and tried to sort out how is the state doing with respect to providing services to the developmentally disabled, one of the conclusions we reached as a committee was that we needed more regulation, better regulations, updated regulations in the area of community-based providers who provide services to the developmentally disabled. And I put a bill in to require or insist that that be done in a timely fashion and get it taken care of. And the response from the community-based providers was, I think, important to our discussion today. They are terrified of that process. They are regulated from fire codes, they're regulated...and these are small businesses, folks that are running small community-based programs across the state. This is a perfect example of where we need LB709. We need to be able to listen to these folks, to accommodate their concerns, to do things in a way that won't unnecessarily burden them as we make these regulations. And I can tell you in talking to the community-based providers, they are very, very concerned any time we crank up government and start making regulations. And I think organizations, small businesses like the community-based providers would welcome the filter that LB709 would be on the regulatory process. And, again, I would encourage your support of LB709. Thank you. [LB709 LR11]

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SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Giese, you're recognized. [LB709]

SENATOR GIESE: Thank you, Mr. President, members of the body. I rise again in support of LB709, which I designated as my priority bill for this session. As we discussed yesterday, regulatory flexibility is hardly a new idea. Forty-four states, including all of our neighboring states except Wyoming, have adopted some form of regulatory flexibility either by statute or by executive order. LB709 has the support of the National Federation of Independent Businesses as well as the Nebraska Farm Bureau. A similar bill offered in 2004 by Senator Paul Hartnett, LB1234, was supported by the U.S. Small Business Administration and the Nebraska Grocery Industry Association. Simply put, Nebraska's small businesses are struggling to deal with regulatory red tape. And LB709 is the least we can do to provide them with some measure of relief. Much of the discussion yesterday focused on the bill's fiscal note, which is entirely understandable given the state's financial picture. But I know that I am not the only member of this body who has introduced a bill and been at a complete loss to figure out how one state agency or another has determined the cost of implementing the bill. I have complete faith in the ability of the Fiscal Office to determine the fiscal impact of legislation. But when agencies simply throw out a number and offer little or no explanation, the fiscal staff is left unable to do their jobs. For example, if you turn to the back of the fiscal note on LB709, you will find the Department of Revenue estimated that the bill would require two additional FTEs as well as operating costs of \$575,000 with little or no explanation as to how they arrived at those figures. Members, I do not believe that we should reject LB709 out of hand based on costs just because a state agency said so. Our job as legislators is to make policy decisions based upon all the information available. And frankly, when I read the fiscal note, not all the information has yet been available. I would urge the body to advance LB709 to Select File so that Senator White and myself can work with the Fiscal Office to get a complete and accurate estimation of what the fiscal impact of this legislation really would be. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Giese. Senator Gay, you're recognized. [LB709]

SENATOR GAY: Thank you, Mr. President. I just handed out a handout on the adoption of agency rules and regs, how a state senator can go about following the rule or reg, if you have a complaint with it, to go and remedy the situation. So there is a remedy under LB373 that was put in place. I appreciate Senator White's offer. Usually I would do that. However, let me say why I don't think that's appropriate in this case. Day 47 of a 60-day Legislature right now, I think this deserves...it has some merit. This is more of what I would say is get a group of senators together, have a summit over the summer, find all of these bad rules and regs or these cost measures, invite small businesses to come in and write bills to remedy these situations and get rid of it. What we're doing, I truly

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believe this, under term limits we're allowing then the departments to decide what you can...what they can and cannot do, how they can remedy and get rid of a regulation or keep a regulation or make a change. They can do that anyway. I think it's a senator's job to get rid of those things. And you can do that. So what I don't like, in Section 6 they can go and do that and also in Section 6 (1) and (2) they can go and do these and change the rules and regs anytime under this bill. So I don't think you're giving any more power. You're giving them more power, not less. So in a way it's one of those things, I appreciate the offer and I told Senator White off record, and I would say on the record I do think this...it has some merit. The process we are in now I don't think on day 47 you can get together and make this bill better at this time. And I know Senator White and I are the only two, I think, who are voluntarily not going to be here next year. But it's up to you others to go take care of this and do this. If we want to make it...this state friendly for small business, watch our spending and watch our taxes, and we can do that every day on many different bills. And we can also do that by not adding more rules and regs along the way. I didn't see a whole lot of bills this year or prior years where we were getting rid of government. So I would say that's where you start. The fiscal note still does scare me because we are asking these departments earlier...we got a bill on Final Reading right now on the Treasurer's Department to have revenue and others do many of the duties, if that gets passed by the voters, that they will be picking up more duties. How much more things can we do? I think along the way that these departments need to be held accountable by you all, everyone that sits here in this body and future people who will be sitting in the Legislature and the public. I don't want to dismiss the public. The public has a right to come in and go to those rules regs, and they do. And I know sometimes they don't always get what they want, but the public has a right to go in there and be heard on any rule and reg that's being adopted. That's public policy. Now, like I say, do they do that every day? Probably not. Their next option is contact your senator who, by the way, we all, I think, do a very good job of constituent services, answering e-mails. And there's more opportunities than ever for a constituent to contact you, whether it's e-mail, a personal call, townhall meeting, calling your home, and you know you get those calls too. So I think there's ways to remedy these situations, but the best remedy is to not start these rules and regs to begin with... [LB709]

SENATOR LANGEMEIER: One minute. [LB709]

SENATOR GAY: ...or try to go about relieving those rules and regs along the way in the coming years. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Pahls, you're recognized. [LB709]

SENATOR PAHLS: Thank you, Mr. Chairman. I'm trying to bring myself to speed on this bill. I do have a couple of things I'd like to discuss. Having been a building level administrator, I was always fighting bureaucracy. It seems like they can always come

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with some...up with something that causes you to stumble. And I'm just going to give you an example what has happened to me as a state senator in this body. I have requested seven times, four by e-mail and three by phone call, to the Office of the Capitol Commission, and you all know who's in charge of that, this past year and a half for some information dealing with their policy. And this goes to show you how they responded, because I'm simply asking for policy because I have been driven by policy in my past life. So I think if you're going to have something you should have a book or something on policy. Seven times that I have requested, my staff has even attended these commission meetings this past summer. Four e-mails, we called them to let them know, have you gotten our e-mail? I'm going to tell you how many response I got: zero, zero, not one response of either telling me where to go or we have this information, not one. Now if I cannot get a simple book or information on policy, that should tell you how we have been captured by bureaucracy. I don't see this as an attack on anybody. I see this as trying to clear things up. This is when I said I'm rethinking some of these things. We need to be very open about the things that we do as a government. And this is an example how people are holding us back. And just one more, because I know it's not something we want to talk about, but last year, when I was working on tax exemptions we had two bills, one from Friend and one from Hadley, basically after the same concept. One bill had an unbelievable, unbelievable fiscal note; the other one did not. It's not that I do not trust the people, but I'm saying is we need to hold them accountable. They need to be able to step up to the plate and say, Pahls, the reason why this is happening, because of this, this, and this. I know this is a little bit off what Senator White, but it's the same concept. But I'm living proof. And I'm telling you, I don't think the Office of the Capitol Commission is too far from us. I think they know my phone number. I think they know my address. I or my office, we have made the attempt and it's like it doesn't matter. And if they're going to do that to one of us, think what they're going to do to somebody else. Again, I do not understand all the attributes of this particular bill, but it shows to me that there are individuals who have almost become what I call God-like. They know they can stop this. And we know this is a fact that there are some individuals in any organization, can really halt progress. And they may be right but they ought to make it clear to us. I do support this bill. Thank you. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Utter, you're recognized. [LB709]

SENATOR UTTER: Thank you very much, Mr. President. Good morning, colleagues. I'm rising this morning to not question the bill and not question what our colleague, Senator White, is trying to do here but to question the timing. Ladies and gentlemen, we are, as you know...and as you know, usually when I get up I have to talk about money, and I want to talk about money again this morning. But we are looking at a bill that has the estimated costs in the neighborhood of \$1 million a year. And when we look at the financial situation of the state and the fact that we're having to cut back on state budgets and the fact that we are looking at a situation next year where we may have to really cut

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back and really reduce budgets, I just question as to whether the time is now to introduce and to implement this bill. I'm pro-small business. And I certainly agree with the things that Senator Gay has mentioned that it seems like we do have a fair rule-making process. And everybody in the state is represented by a state legislator who should, if there are serious concerns about rules, be able to bring to the forefront at least those problems that exist with some of those rules. And I think that we do that. And so I would just have to say that, while the intentions are good of Senator White, I frankly think this is a bill that we can't afford. We already, as Senator Fischer has pointed out in previous days' testimony, have a similar type bill. And would have to say to you that I'm going to have a difficult time voting yes on this bill just because of the fiscal note and the expenditures that I think that probably this next year we can use that money more wisely somewhere else. And that's not that I'm not pro-small business, because, folks, I've been a small businessman my entire life and so I'm very pro-small business. And I think that the state needs to do the things to promote and develop small businesses. And so...but I would urge you to take a real close look at how we're spending our money. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Dubas, you're recognized. [LB709]

SENATOR DUBAS: Thank you very much, Mr. President. Good morning, colleagues. I appreciated the comments that Senator Pahls made. I, too, have had similar experiences with some state agencies. Some state agencies I call, I have a question, I need some help, they are Johnny-on-the-spot with what I ask them to do. And others are just very guarded, somewhat reluctant to share information. We're the decision-making part of government. We need to have every piece of information that we can have at our disposal to make an informed decision. And so if we struggle to gain that information, how can we make those types of decisions? And if we can't get the information, surely our constituents aren't going to be able to find that information very easily either. Also, we've all expressed frustration with fiscal notes. And this is in no means, any way, shape or form a criticism of our Fiscal Office. I appreciated working with our Fiscal Office. Anytime I call them, they are just willing to go above and beyond to get me the best information that they can get for me. So again, this is not a reflection on the work that they do. But when they have to go to these agencies to get the information in order to put together a fiscal note for us, I mean, I've yet to see an agency that has said, oh yeah, we can just absorb that or we can do that without any additional cost. They are quick to say, oh, we're going to need additional staff, we're going to need additional support tools to do what you're asking us to do. So, you know, sometimes it's hard to get that really objective financial question answered as to what is this really going to cost us. I recognize, you know, the fiscal note on this bill is a little bit daunting and we are having to watch every single penny that we spend these days. But I also had a bill that was on General File that was going to be amended which would create a different fiscal note with a different fiscal impact if we moved it to Select File. That

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happened. And I think if Senator White can address some of the additional fiscal questions that have been brought up on this bill, our small businesses struggle just to keep their doors open. And I've heard their frustrations about kind of this broad-brush approach for rules and regulations. And what works for the biggest businesses definitely does not work for our small businesses. So anything that we can do to facilitate them keeping their doors open and keeping our economies going, I think we should take a very, very serious look at and give very, very serious consideration to. So I will support this bill on General File because I think it has the ability to do exactly what we're needing to do for our small businesses. Thank you, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Campbell, you're recognized. [LB709]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, colleagues. I have a question for Senator White, if he would yield. [LB709]

SENATOR LANGEMEIER: Senator White, would you yield? [LB709]

SENATOR WHITE: Certainly. [LB709]

SENATOR CAMPBELL: Senator White, as I was taking a look at the bill, and you may have covered this and I may have missed it and I apologize, but could you talk a little bit about Section 5 where it talks about may seek judicial review of an agency compliance? [LB709]

SENATOR WHITE: Yes. What that is designed to do, Senator, is this. One of the great problems we've had Senator Pahls absolutely nailed it. A lot of time the bureaucracies just outlast senators. We have a lot of pressures. We have a lot of demands, we have a lot of bills and we also now are term limited. So our ability, especially under term limits, to control our bureaucrats has been vastly diminished. What this judicial review does is allow the business who's really suffering, and it has to be suffering because as a lawyer I can tell you it's expensive to go to court. But if they're really, really hurting them, they can, with other businesses, get together and go to court and establish before a judge that this agency didn't follow the law, they did not try to make it simpler for small business, less expensive for small business. And that's what the point is. Because, unlike Senator Gay, I, too, have been treated like Senator Pahls in many agencies, especially ones where I'm not on the committee that oversees them. When I want information, we get stonewalled. When I want changes, they just delay and obfuscate. And judicial review cuts through all of that and it says to the small businessperson, we're dead serious here, folks. If you're willing to spend the money to take it to court, now you have a tool you can win on. And we can make the agencies comply. Nothing beats a court order saying you will do it or go to jail. That's just really effective. [LB709]

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SENATOR CAMPBELL: Thank you, Senator White. I have to say, as a small business owner, in many cases where we've had problems the end result was that we really did have to work through a piece of legislation. And I look at the sales tax on the whole construction issue was one of those that ultimately came down to, while the agency, the Department of Revenue, was very forthcoming in all kinds of information, but in the end we had to seek a legislative remedy. Thank you very much, Mr. President. [LB709]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Seeing no other lights on, Senator White, you're recognized to close on LB709. [LB709]

SENATOR WHITE: Thank you, Mr. President. Members of the body, timing, Senator Utter, is very important. And while I respect Senator Utter a lot, and I really over the years, last two years have understood his deep commitment to fiscal discipline and to being friendly with businesses and his deep concern about the expenditures of the state government, we are never going to have better state finances if in a time of economic crisis we don't get off of small businesses' necks and give them a hand up. Our entire budget is based on the success of small businesses in this state. And if we are not going to help them in times of a recession, almost a depression in some facets of our economy, then we really aren't serious about taking care of small business and trying to help them. And we're not serious about attracting small businesses to our state and we are not going to succeed at repairing the financial house of the state because we can't do it without small business. And if small business isn't here and if it's not profitable, we're not going to have the money. And I don't care how much you cut, you won't be able to find enough money to do anything if small business is failing. So the time is now. And not to advance this to Select File means that we are flat-out telling small businesses across the state we're not going to try that hard, guys, we just really don't care. We're much more concerned about the things that happen inside of these four walls than we are about the community we're supposed to serve. We're more worried about the convenience of bureaucrats, we're more worried about balancing little budget numbers than really looking out for the people we were elected to look out for. I would tell each and every one of you that if a state senator can get frustrated, like Senator Pahls has and like I have been repeatedly and, I'll be honest with you, I think most of you have in some place or another, then what chance does a small businessman have? And the difference is the judicial remedy has the ability to cut through all of that. I invite you to advance this to Select File. I am open to rapid and decisive amendments to this bill to meet any legitimate concerns any of you have. I invite it. But what I would urge you to think about is that not voting for it, whether you no vote it or whether you vote red, is telling small business something very specific and it is a message we cannot afford to send. Therefore, I ask you to advance this to Select File. Again, I will stand with anyone who has suggestions to improve this bill at any time. But don't say no to small business; we can't live without them. [LB709]

SENATOR LANGEMEIER: Continue, Senator White. [LB709]

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SENATOR WHITE: Mr. President, I would ask for a call of the house and then a roll call vote in regular order. Thank you. [LB709]

SENATOR LANGEMEIER: Thank you, Senator White. There's been a request to put the house under call. All those in favor of putting the house under call please vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB709]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB709]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. (Visitors introduced.) Senator Ashford, Senator Nelson, Senator Howard, please check in. Senator Cornett, would you please check in. All members are present and accounted for. The question before the body is, shall LB709 advance to E&R Initial? There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB709]

CLERK: (Roll call vote taken, Legislative Journal page 1016.) 22 ayes, 17 nays, Mr. President, on the advancement. [LB709]

SENATOR LANGEMEIER: LB709 does not advance. With that, I raise the call. Mr. Clerk, items for the record? [LB709]

CLERK: Thank you, Mr. President. Two new study resolutions: Senator McCoy would offer LR423, and Senator Pahls offers LR424; both will be referred to the Board. Judiciary Committee, chaired by Senator Ashford, reports LB795 to General File; LB830, General File with amendments; and LB853 and LB1029 indefinitely postponed. That's all that I have, Mr. President. (Legislative Journal pages 1017-1018.) [LR423 LR424 LB795 LB830 LB853 LB1029]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now continue on General File, LB507. [LB507]

CLERK: LB507, a bill by Senator Pirsch. (Read title.) The bill was introduced on January 21 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM2107, Legislative Journal page 811.) [LB507]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pirsch, you are recognized to open on LB507. [LB507]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. LB507 would

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improve the state's domestic violence assault statute, which is 28-323. LB507 came out of committee on an 8 to 0 vote as amended. There were no opponents at committee hearing and no neutral testimony as well. There is no fiscal note on this matter. I'd like to thank Senator Howard for prioritizing LB507 and for her continuing commitment to protecting the most vulnerable in our society. I'd also like to thank a number of people who played a big role in helping to bring this bill along: Marty Conboy, Douglas County Domestic Violence Coordinating Commission; Stephanie Hansen, Sarpy County Attorney; Robert Sanford, Nebraska Domestic Violence Sexual Assault Coalition; Veronica Oxford-Jones; and Sakura Arrowood Yodogawa-Campbell of the YWCA in Omaha; Francis Hopman of Catholic Charities Shelter; and thanks to LaMont Rainey of the Judiciary Committee; and the committee members for their work. There is a large number of other people who played very helpful roles in bringing this along. Domestic violence is a very serious issue. We know that domestic violence often leads to serious injury and death. And watching the news last night it seems that another victim died yesterday due to domestic violence in my city. Let me talk about the green copy of LB507. The green copy of LB507 seeks to add the term "recklessly" to the current mens rea standards of proof specified in the statute. The green copy of LB507 also changes the current language of the statute which defines how a person commits the violation of the statute by striking the language, "places by physical menace his or her intimate partner in fear of imminent bodily injury," and inserts the language, "threatens an intimate partner in a menacing manner." The green copy of LB507 would also change current law to allow all prior domestic assault convictions to count for the purpose of sentencing enhancements. Currently, there is a 12-year look-back period. LB507 would also change current law in another respect with regard to sentencing enhancements due to prior convictions. Domestic violence offenders with prior instances of domestic violence convictions are treated as first-time offenders currently if their victims are not one in the same in both incidents. So if it was a girlfriend or boyfriend number one that was the victim in month number one, and then a month later the same offender assaults a different girlfriend or boyfriend, the law currently looks at that offender as if he's committed a first offense, that he has no priors. That makes about as much sense as if we change the DUI law which has enhancements, driving under the influence, first offense, second offense, third offense, if we were to say, well, this is the second time you've been picked up in a week drunk driving, but the first time you were driving a Chevy and this time it's a Ford you were driving, so it's really a first offense. So this would help eliminate that nonsensical position the current law takes. There is a committee amendment and it does substantively affect, in part, the nature of the green copy of the bill as I've explained. There is also going to be another technical amendment that clarifies the committee amendment. I would yield the balance of my time to Senator Howard. How much time, Mr. President, do we have left? Mr. President? [LB507]

SENATOR LANGEMEIER: Five minutes forty seconds. [LB507]

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SENATOR PIRSCH: I'd yield the balance of my time to Senator Howard, if she'd like to use it. [LB507]

SENATOR LANGEMEIER: Senator Howard, you have 5 minutes 39 seconds. [LB507]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And thank you, Senator Pirsch. I wanted to just take an opportunity initially to express my appreciation to Senator Pirsch for allowing me to prioritize this bill. I can give you many, many statistics as to why this bill is important: just total number of domestic violence hot line calls for 2008, 9,707; number of domestic violence victims served by the YWCA, Omaha and the Catholic Charities, 2008, 4,617. And this goes on and on. Number of children present at domestic violence incidents investigated by Omaha police, 2008, 848. But this bill goes beyond statistics for me. This bill addresses a personal debt that I've felt since I was elected to this body. And I'll take a few minutes to share that with you. In 2004, when I was running for office and I was an employee of the Department of Health and Human Services, I had a case aide by the name of Tina Williams. Tina Williams was a young mom with two preschool children, basically just toddlers, who really wanted nothing more than to have a family and to be secure in that. And in the fall of 2004, she was brutally knifed 21 times by her husband in front of her two toddler children. They were each in a crib on the opposite side of the bedroom. She was killed in between them. She called the police. She had a warrant against him, she had a protection order. And the police came and he didn't show up, they left. He called again. He said, I'm coming over to kill you. And this time he got there before the police did. It was a brutal, calculated murder. Her children were left without either parent actually and Tina lost her life. This bill addresses that. It gives stronger leverage to those that try to fight this crime. And I'm so grateful that Senator Pirsch has brought this forward. And I'm appreciative of Senator Ashford and the Judiciary Committee for advancing this. And I urge all of you to support this and stand with people that have faced this issue and people that continue to face this. Thank you. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Howard and Senator Pirsch. As the Clerk has stated, there are committee amendments offered by the Judiciary Committee. And, Senator Ashford, as Chair of the committee, you are recognized to open on the committee amendments, AM2107. [LB507]

SENATOR ASHFORD: Thank you, Mr. President. And I thank Senator Howard for continually coming over and asking me when this bill was going to get out of committee. So thank you, Senator Howard (laugh). And I meant that with all good intent. The amendments to...the committee amendments to AM2107 were advanced and the bill were advanced, as Senator Pirsch correctly states, by an 8 to 0 vote to the floor. The amendments are as follows: first of all in Section 1 it amends Section 28-323(1)(a) by striking the proposed inclusion of the word "recklessly." The committee felt that it was more appropriate in these kind of matters to retain the intentionally and knowingly

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standard for a conviction. And so we have done so. AM2107 also amends Section 28-323(1)(b) by striking the requirement that third-degree domestic assault occurs when a person places by physical menace his or her intimate partner in fear of imminent bodily injury and replaces it with threatens an intimate partner with imminent bodily injury. AM2107 would also create a new offense in section (1)(c) by providing...subsection (1)(c) by providing that a person commits the offense of domestic assault in the third degree, as defined above, when a person, "Threatens an intimate partner in a menacing manner." And a violation of that offense would, in all cases, be a misdemeanor, would be a misdemeanor I...Class I misdemeanor. A violation under (1)(a) or (1)(b) of this act is a Class I misdemeanor except that second and subsequent violations of these sections would be a Class IV felony punishable by five years or \$10,000...up to 5 years or \$10,000 fine or both. And finally, the 12-year look back on prior convictions for enhancements of domestic violence charges of 12 years would be removed, and that all prior convictions could be utilized for enhancement purposes. With that, Mr. President, that constitutes the committee amendments. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Mr. Clerk for a motion. [LB507]

CLERK: Mr. President, Senator Ashford would move to amend the committee amendments with AM2302. (Legislative Journal page 1018.) [LB507]

SENATOR LANGEMEIER: Senator Ashford, you're recognized to open on your amendment, AM2302. [LB507]

SENATOR ASHFORD: Yes, thank you again, Mr. President. The AM2302 clarifies that a second or subsequent conviction of subdivision (1)(a) or (1)(b), as we described just in the committee amendments, under this bill will be a felony. There was a concern that as originally defined it is not clear that a subsequent conviction for a violation of either subdivision (1)(a) or subdivision (1)(b) of this act would allow for a sentence to be enhanced to a felony. And that enhancement would only be allowed for multiple violations of either of the two offenses. So with this amendment we are putting the two together, in effect, so if there's a violation of (1)(a) and then a violation of (1)(b), the (1)(b) violation could be used for enhancement purposes. And that is a clarification of the original committee amendments. Thank you, Mr. President. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Ashford. (Visitors introduced.) You have heard the opening on LB507, the committee amendments, and AM2302 offered to the committee amendments. The floor is now open for discussion. Seeing no...Senator Nelson, you're recognized. [LB507]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question of Senator Ashford, if he will yield. [LB507]

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SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB507]

SENATOR ASHFORD: Yes. [LB507]

SENATOR NELSON: Thank you, Senator Ashford. I certainly have no objection to the bill, but I would like a little clarification. In the committee amendment you're doing away with reference to "physical menace" and just saying, "threatens an intimate partner with imminent bodily injury." Would that mean that if the perpetrator of the violence just raised his voice and yelled and said something to the effect, I'm really going to beat you up, is that placing...is that typical of what this means, threatening, just with an assertion of some sort rather than any display of physical violence or fear of physical violence? [LB507]

SENATOR ASHFORD: Well, good question, Senator Nelson. I believe a yelling situation would be covered by, "threatens an intimate partner in a menacing manner," which would be a misdemeanor I. [LB507]

SENATOR NELSON: All right. So that somewhat lowers the threshold then. [LB507]

SENATOR ASHFORD: Well, it keeps it about the same. It just puts a different definition...it uses different language to define it. [LB507]

SENATOR NELSON: All right. I'm just... [LB507]

SENATOR ASHFORD: And it wouldn't be...so, for example, if you did that two or three times... [LB507]

SENATOR NELSON: Um-hum. [LB507]

SENATOR ASHFORD: ...it would still be a misdemeanor I. It has to rise to the level of imminent bodily (inaudible). [LB507]

SENATOR NELSON: Well, thank you. I'm just a little concerned though, where are we if someone comes...that they call the police and the intimate partner says, he yelled at me at the top of the voice? Is this what we want to consider an assault under this? [LB507]

SENATOR ASHFORD: Yeah, that would be...if proven beyond a reasonable doubt, it would be a misdemeanor I. [LB507]

SENATOR NELSON: All right. [LB507]

SENATOR ASHFORD: If it could be shown that there was...the circumstances rose to that level, yes. [LB507]

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SENATOR NELSON: All right. Thank you, Senator. [LB507]

SENATOR ASHFORD: Not every yelling, not every... [LB507]

SENATOR NELSON: All right. (Laugh) [LB507]

SENATOR ASHFORD: But it would have to rise to the level of some degree of fear and the physical facts would have to support that. [LB507]

SENATOR NELSON: All right. Thank you, Senator. Thank you, Mr. President. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Carlson, you're recognized. [LB507]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I, too, have a question for Senator Ashford, if he would yield. [LB507]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB507]

SENATOR ASHFORD: Yes. [LB507]

SENATOR CARLSON: Just to follow up on what Senator Nelson asked you, on this wording, "threatened an intimate partner in a menacing manner," and you even used the term "proof," but how do you prove that? [LB507]

SENATOR ASHFORD: It's...all the facts and circumstances of the case would have to be there. You would have...sometimes there could be a child witness, for example, that would witness that. There could be other facts and circumstances. You'd have to have some...probably some corroborative...you would have to have either physical facts or some other corroborative testimony to substantiate it. I mean if there was a denial and there are no physical facts to support it, it would be unlikely probably or it would be less likely that there would be an action taken in those cases. [LB507]

SENATOR CARLSON: Okay. So if there isn't a witness or... [LB507]

SENATOR ASHFORD: Physical facts like some broken... [LB507]

SENATOR CARLSON: ...reporting of some nature. [LB507]

SENATOR ASHFORD: Like broken, if there were broken glass in the area or something that would indicate that there was anger that rose to that level, that it may not be actionable. [LB507]

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SENATOR CARLSON: So it is probably pretty difficult to prove. [LB507]

SENATOR ASHFORD: The yelling situation could be difficult to prove. There...also we're removing the requirement though that the parties be in the same place. So you could have...potentially there would be a misdemeanor offense if there was yelling or threats over the phone. Again though, you would have to prove it beyond a reasonable doubt that those threats were...had occurred. [LB507]

SENATOR CARLSON: Okay. Thank you, Senator Ashford. Thank you. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no other lights on, Senator Ashford, you're recognized to close on AM2302. [LB507]

SENATOR ASHFORD: No further comment, Mr. President. Those are good questions. And it obviously by putting this...not obviously, but by changing the law here we are addressing the concerns that Senator Pirsch and Senator Howard have raised. And...but there are going to be cases certainly in the criminal law where a conviction may not occur. And so again each case has different facts. But I believe we've created reasonable and responsible standards to address these exigencies. And with that, I would urge the advancement of or adoption of AM2302. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the closing on AM2302 offered to the committee amendments. Question before the body is, shall AM2302 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB507]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB507]

SENATOR LANGEMEIER: The amendment is adopted. We return now to discussion on the bill...the committee amendment. Seeing no lights on, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question before the body is, shall AM2107 be adopted to LB507? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB507]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB507]

SENATOR LANGEMEIER: The committee amendments are adopted. Mr. Clerk. [LB507]

CLERK: I have nothing further on the bill, Mr. President. [LB507]

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SENATOR LANGEMEIER: We return now to discussion on LB507, the bill itself. Seeing no lights on, Senator Pirsch, you're recognized to close. [LB507]

SENATOR PIRSCH: Thank you, Mr. President. I'll just once again point out quickly this bill came out as amended with no opponents, no neutral testimony, 8 to 0 vote. There is no fiscal note. I think this will make a significant improvement to the way the statute covers and helps prevent domestic violence in our state, which is a very big problem. So thank you very much. I'd ask for your green vote. [LB507]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. You have heard the closing on LB507. The question before the body is, shall LB507 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB507]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB507. [LB507]

SENATOR LANGEMEIER: LB507 does advance. (Visitors introduced.) Continuing with today's agenda, Mr. Clerk, LB925. [LB507 LB925]

CLERK: LB925 by Senator Conrad. (Read title.) Bill was introduced on January 13 of this year, Mr. President, at that time referred to Business and Labor Committee for public hearing. The bill was advanced to General File. There are committee amendments pending. (AM2106, Legislative Journal page 807.) [LB925]

SENATOR LANGEMEIER: Thank you. Senator Conrad, you are recognized to open on LB925. [LB925]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. LB925 is the Nebraska Jobs Act. And what this legislation does is it is a narrowly targeted solution intended to address the unique economic conditions that our state and our country are now facing. Quite simply, this legislation seeks to put Nebraska workers and Nebraska businesses first in line when it comes to making hiring decisions regarding projects funded by taxpayer dollars only in periods of excessive unemployment. This bill is about creating and retaining quality jobs in Nebraska, but more importantly this bill is an innovative approach to reducing and restraining state expenditures that happen during periods of economic downturn. I can tell you that I brought this bill after talking to many constituents in my district, during the interim and up to and including the start of session, who are very concerned about jobs and the economy. It's probably the number one issue on people's mind as I travel around my community and my area here in Lincoln, talking to folks about what issues we should be looking at and thinking about on the state legislative level. And as you know, colleagues, unemployment has always been historically low in Nebraska in comparison to the national average or even our

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sister states. And let's just start with a brief historical overview of what our typical unemployment rates look like in Nebraska and where we are today and what has really precipitated the need for this kind of legislation at this time in history. The average unemployment rate in Nebraska for years 1990 through 1999 was about 2.63 percent. Over the period of the decade of the 2000s, from 2000 to 2009, the average unemployment rate in Nebraska was 3.55 percent. The 20-year average for Nebraska unemployment, spanning from 1990 to 2009, is approximately 3.09 percent. And this information and this data, these Nebraska labor force and unemployment rates were provided to me by the Nebraska Legislative Fiscal Office. Well, colleagues, as you well know by reading the headlines and talking to people in your communities as well, we saw a significant and dramatic increase in unemployment here in Nebraska over the last year. In 2009, the average unemployment rate rose dramatically to 4.73 percent, almost double our 20-year average, with two months in 2009, July and August, at 5 percent unemployment. The most recent information from the Nebraska Department of Labor in a news release dated March 10, 2009, demonstrates Nebraska rate steady from the December rate of 4.6 percent. By looking carefully at the historical averages and where we are and what is typical in terms of Nebraska, we did present an amendment to the committee which I believe Senator Lathrop will open on shortly, that changes the unemployment threshold in the green copy with the committee amendment from 5 percent to 4 percent. So I wanted to draw your attention to that. So with that historical perspective about where we are in terms of unemployment, I wanted to talk about what the impacts that have...the impacts are on our state in that regard. Increased unemployment levels have a significant impact on many areas of our state budget and on our various levels of public expenditures related to issues such as the benefits we play out in the unemployment system: increased utilization of critical human service programs such as food stamps and other forms of public assistance; an additional strain on our job training programs, vocational rehab and job placement services; and most notably, of course, the sharp decreases in state and local revenues from reduced payroll, income and sales tax collections that naturally occur when less...when fewer Nebraskans are working. As you may well remember, in the most recent special session, which we came together to make reductions in the state's budget to deal with this downturn in the economy, we learned that one of the things driving the concern and related to the budget in the special session at that time was a precipitous decline in personal income tax collections. Knowing that information, knowing where we are with the historical averages and, from an appropriations perspective, seeing the increased strain on our public expenditures because of this dramatic downturn in economic conditions is what prompted me to bring this bill. And it is based on the experience that other states have tried to address these same significant public policy dilemmas in a creative and innovative way. This bill is loosely modeled off of similar legislation in Missouri which has been in place for some time and has had the intended benefit of not only helping to employ more of their residents but reducing state expenditures as well. With that, Mr. President, I think that is a good overview and a good starting point for dialogue this morning. There are a few technical corrections and substantive pieces that

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are critical to this legislation contained in the committee amendment that I think I will yield the balance of my time and hopefully we can begin a good dialogue on the committee amendment which will then become the bill. And I look forward to an important dialogue this morning, day 47 in our short 60-day session, when we start to talk about jobs in a real significant way. Thank you. [LB925]

SENATOR LANGEMEIER: Thank you, Senator Conrad. As the Clerk has stated, there are committee amendments offered by the Business and Labor Committee. Senator Lathrop, as Chairman, you're recognized to open on the committee amendments. [LB925]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning once again. AM2106 replaces the green copy. The definition of Nebraska labor is expanded to include someone who resides within 50 miles of the Nebraska border. The period of excessive unemployment is lowered from 5 percent to 4. General maintenance and projects performed during times of emergency are excluded. Sections 3 and 4 of the green copy are stricken and replaced with language explaining that the bill applies to contractors, subcontractors, and individuals required to register pursuant to the Contractor Registration Act. And power districts, as defined under 70-601, are exempted from the bill. I ask for your support for AM2106 as well as LB925. Thank you. [LB925]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on LB925 and AM2106, the committee amendment. The floor is now open for discussion. Senator Price, you're recognized. [LB925]

SENATOR PRICE: Thank you, Mr. Speaker, members of the body. To quote an old friend, I don't know where to begin to go on this one. Within 50 miles, they're not even going to be a Nebraskan to be a Nebraskan? I have problems, great problems. And how about this concept of they intend to become a citizen? Intend? That hasn't gotten us very far. Ladies and gentlemen, I'm tempted...and I have prepared here a bracket motion, and I'll listen to some things that people have to say and then I'll probably be submitting the bracket motion because I just don't see where this works. Taking it down from 5 percent to 4 percent unemployment, do you know 3.5 percent unemployment is almost mandatory to take care of the turnover in businesses? And now we're going to mandate something like this? I think this is deeply flawed and there are significant problems with this and, in talking with members on the floor, we're probably not going to go very far with this bill, so I think we'll end up bracketing it and getting it out of its misery soon. Thank you, Mr. President. [LB925]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator McGill, you're recognized. [LB925]

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SENATOR MCGILL: Thank you, Mr. President and members of the body. I would beg to differ with the importance of this bill, based on what Senator Price just said. I chose LB925 as my priority bill this year because it does address a problem that is at its worst right now, and that's unemployment. And I believe Senator Nantkes has a chart she can share with everyone showing the history of unemployment in Nebraska and how we are, going above 4 percent is an anomaly. This is a unique situation. Nebraska normally never goes above 4 percent so we are in a very unique critical situation where 4 percent really is the proper threshold for this bill. In 2009 our unemployment rate did go up and so I chose this bill because this is probably the number one concern of my constituents out there right now, is how their loved ones who have been laid off can find good work. I'd like to thank Senator Conrad for bringing this creative piece of legislation forward. It offers a commonsense option for addressing a problem that is affecting so many Nebraskans right now. Nebraska families are struggling to make ends meet and we need to stop letting jobs go elsewhere when we have qualified people willing to work in our own state. We need to take care of our citizens first. LB925 is narrowly targeted towards only extremely tough economic times and public works projects so that we have the opportunity to take advantage of a more diverse pool of workers in most situations. And no one's hands are being completely tied by this piece of legislation because only preference will be given to bid applicants from Nebraska. However, with the grim economic circumstances of the last year, why wouldn't we want to consider Nebraska workers first? Being opposed to LB925 is being opposed to job opportunities for our own citizens. And job opportunities for our citizens means helping to keep that income in Nebraska. This bill would not only help individual families but the entire economic condition of the state. Right now we are spending a great deal on unemployment programs and benefits and losing that tax revenue. We have a chance here to reverse both of those trends while giving our fellow Nebraskans a leg up in a difficult economic time. I believe it would be foolish not to move forward and have a full debate on this bill and simply move right to a bracket motion because we have legitimate concerns here where businesses in Kansas City are being given a contract over people here in Nebraska. That's income that won't be spent here that they're making. And when we have our own people on unemployment and taking up other benefits of our state tax dollars, we need to make sure that they're the ones in jobs first whenever possible and whenever we have the qualified people to be doing it. Thank you, Mr. President. [LB925]

SENATOR LANGEMEIER: Thank you, Senator McGill. Those wishing to speak, we have Senator Louden, Conrad, Mello, Stuthman, and others. Senator Louden, you're recognized. [LB925]

SENATOR LOUDEN: Thank you, Mr. President and members. As I looked over the bill I haven't decided on some of the issues that Senator Price has raised. There no doubt is a good idea in here someplace. I guess my concern is, is on the public power districts and where they fit in on this. Would Senator Conrad yield for a question? [LB925]

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SENATOR LANGEMEIER: Senator Conrad, would you yield? [LB925]

SENATOR CONRAD: Yes, of course. [LB925]

SENATOR LOUDEN: Senator Conrad, I presume there's this little...few little words in here, Section 70-601 and I presume that has to do with public power districts and the labor force. Are public power districts and electric co-ops all exempt from this bill? [LB925]

SENATOR CONRAD: Thank you, Senator Louden. That's a great question and I don't want to take too much of your time but I do want to paint the full picture for the body in terms of the issues brought forward at the committee hearing and subsequent thereto that brought us to this point today. There were concerns brought forward at the committee level from our friends in the public power industry about how this would affect their work force and ability to carry out their important obligations. So we sat down with the folks from public power and worked with them very directly to figure out a workable solution and it became readily apparent, in learning more about their internal operations and otherwise, that they're really a shining example of this kind of concept existing already here in our state law and in practice. The public power folks already when letting contracts under state law have requirements in place that they utilize Nebraska folks whenever possible. And so this seemed redundant in LB925 to require them to have an additional level of that kind of requirement on top of them since they're already doing it. And so that's why they're specifically exempt in the committee amendment. [LB925]

SENATOR LOUDEN: Okay. And that's what my concern is, is because the public power districts many times have to bring people in from out of state with specialized work. And I'm wondering if there's other areas in this bill that we have some specialized workers that come in to work on stuff and how they're handled in there and if they are exempt, such as your nuclear workers or construction people. I see where it is if it's under an emergency or something they can be but I would...that was some of the questions I raised and I will give the rest of my time to Senator Conrad, if she so desires. [LB925]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Go ahead, Senator Conrad, 2 minutes. [LB925]

SENATOR CONRAD: Okay. Thank you, Senator Louden. Thank you, Mr. President. And, again, thank you for those good questions. And I think those are important issues that I do want to draw the body's attention to. Senator Louden, this legislation specifically provides an exception to utilize out-of-state firms or employees when and if specialized knowledge or expertise regarding the public works project may not be

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available locally for some reason. So how this legislation works is really quite simple and straightforward. If it's a period of excessive unemployment when letting a public contract there's an inquiry made about whether or not this legislation would apply. If it's above 4 percent, it would apply. It would be triggered. If there is an emergency situation or an exigency situation, this idea, this legislation, this requirement would not come into play. If there is a situation that necessitated expertise beyond what was available locally, this legislation does not apply. So those are very good questions that are contemplated in the legislation to ensure that we have a commonsense approach to implementing this kind of policy as we move forward without being overly burdensome on... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR CONRAD: ...our other levels of government or those in the public contract perspective. And in regards to Senator Price's earlier comments, I can tell you after just briefly calling up to the Chair's office, we only have a few lights on and I'm hopeful that we can have a real dialogue about these issues and believe a bracket motion is entirely premature. If you're afraid to take an up or down vote on the policies that are contained, I guess that would be a procedural option you could utilize, but I look forward to having a fair and full debate about these issues without utilizing more time than necessary. But I'm hopeful that we can continue to talk about the very important issues contained herein which I think are deserving of dialogue and debate. [LB925]

SENATOR ROBERT: Time. [LB925]

SENATOR CONRAD: Thank you. Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. Senator Loudon. Senator Conrad, you're light is on next. [LB925]

SENATOR CONRAD: Thank you, Mr. President. And just to continue, again, colleagues, I want to extend a personal thank you and debt of gratitude to those from the public power industry and other folks who came in with potential concerns and opposition at the committee level who we worked very diligently with to ensure that we can best address the needs of their work and their work force without being additionally burdensome, while still addressing the issues related to excessive unemployment and the additional public expenditures which our state then pays out in those times. Again, I want to hold up to you the fact that the public power and many others who are...who have been a part of this process have been operating under a similar system for some time, Senator Price, in particular. So this isn't a particularly new concept. This is a longstanding concept in Nebraska law where we say we're going to take to the greatest extent possible a preference to hire Nebraskans with public dollars rather than outsourcing them to out-of-state residents, out-of-state workers, out-of-state firms.

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We're going to keep those taxpayer dollars here at home and put Nebraskans to work whenever possible. If it's not possible, well, then there's clear exceptions for that, and that makes good sense and there's nothing wrong with that. But, again, I want to thank those folks who came forward and worked with us in a meaningful and significant way to share that experience because it helps us to have a better understanding about how these concepts are really very familiar to Nebraska law and very familiar to the operation of business. And rather, again, it's just an innovative approach to try and deal with the level of excessive unemployment that Nebraska is currently facing. I heard it said that unemployment must necessarily be at, at least, 3.5 percent in order to conduct business. Well, Senator Price, if that was true, why was unemployment in Nebraska, from 1990 to 2009, 3.09 percent? If that's true, the numbers don't bear it out. So I'd suggest you take a careful study of the numbers, you engage in a full and fair debate on the issue, and we take an up or down vote on the concepts, philosophies, and principles contained therein and we move forward with our day in support of Nebraska workers and Nebraska firms. Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. Senator Mello, you're recognized. [LB925]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in strong support of LB925, not just because this body, just no less than 15 minutes ago, chose not to advance a bill that actually would help small businesses out, but more importantly because our unemployment rate and job loss in this state in the last three years is on the rise. Senator Conrad just mentioned unemployment rates from almost...from earlier in this decade in the '90s. Just from January 2008, our unemployment rate has increased 1.7 percent, from 2.9 percent to 4.6 percent. That might not sound like an awful lot to us in this body but last year alone the increase equated over 16,000 lost jobs in Nebraska. I will repeat that. Sixteen thousand lost jobs in Nebraska in 2009 alone. LB925, much as I want to pleasantly disagree with my colleague, Senator Price has a point and is very relevant in the debate in regards to the future of our economy in this state, with the point being that we are trying to prioritize and give preference to Nebraska workers. We are trying to keep more Nebraska taxpayer dollars, which this bill specifically addresses public work projects. I was actually a little bit concerned and disappointed that we didn't include more entities. It's my understanding it doesn't include public power. But with some of the problems that public power has had to go through in regards to subcontracting workers at their Nebraska City plant that were not from Nebraska, and were questioning whether or not they were actually even legal workers, brings up this issue in a whole new light. So I'm actually disappointed we didn't include more public work projects because we owe it to the taxpayers to ensure that government is doing what's right. And what's right is making sure we're rewarding good Nebraska companies, good Nebraska subcontractors who are trying to pay an honest day's wage for an honest day's work to Nebraska workers, not trying to take the easy way out, misclassifying employees

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possibly, trying to get workers from other parts of the country, giving them lower wages, bringing the workers to Nebraska. We want to put Nebraska workers first under LB925. It's a very simple concept. I applaud Senator Conrad and the Business and Labor Committee at least trying to find a compromise. I know there are people who don't support this because they think it's too difficult to implement, it's too difficult to enforce. They don't know if Department of Labor can actually really do this. The point is this though, so this shows with LB925 that Nebraska wants to actually put our money where our mouth is and prioritize Nebraska companies. We do live in a very global economy. I'm not naive to that fact, that we have business transactions that cross state lines, cross multicountries because of multinational corporations. But for public work projects, whether it's the highway, it's the bridges, it's the roads, it's the new facilities that a public political subdivision is building, what kind of message are we sending to Nebraskans that we're actually not going to hire you or your neighbors; we're going to do everything we can to make sure that we might just make it as cheap as possible, regardless of the economic impact that might have on the taxpayers or on the state? Colleagues, I think LB925 does deserve some debate. Obviously, if there is a bracket motion thrown up, I will vote against that. I think this is worthwhile public policy that, in a time of uncertain economic activity, we should be debating. We should be debating because there are real economic problems occurring in our state and by turning a blind eye to it or subscribing to a simple philosophy of this is how we solve all of our problems just isn't working right now. With that, Mr. President, I stand in support of LB925 and I'll yield the remainder of my time to Senator Conrad. [LB925]

SENATOR ROBERT: Senator Conrad, 38 seconds. Senator Conrad waives. Thank you, Senator Mello. Senator Stuthman, you're recognized. [LB925]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I would like to echo a number of the comments made by Senator Price. But I would like to ask a question of Senator Mello, if he would be available. [LB925]

SENATOR ROBERT: Senator Mello, will you yield to a question? [LB925]

SENATOR MELLO: Absolutely. [LB925]

SENATOR STUTHMAN: Senator Mello, in the fact of...explain to me the process, you know, of...the bidding process of a public works project. What is the process there when you got three or four companies that are bidding on a public works project? Do they have to take low bid or do they have to take a bid from the local contractor that employs the Nebraska people? What is the current process on that projects? [LB925]

SENATOR MELLO: You know, Senator Stuthman, I think that...it would be my understanding that depends on the political subdivision in regards to how their process works. I know different political subdivisions have different contracting protocols and

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procedures so I imagine some in the state do have lowest bid in regards to taking the lowest bid for public works. Some others might not in regards to putting other priorities or other standards that they want to see contractors meet and that might change how they go about their bid selection. [LB925]

SENATOR STUTHMAN: So in other words, in your opinion, the majority of them are the lowest bid if they meet specifications for the project, correct? [LB925]

SENATOR MELLO: I would assume that most political subdivisions follow or try to meet a low-bid procedure, yes. [LB925]

SENATOR STUTHMAN: And in my opinion...thank you, Senator Mello. In my opinion, you know, I feel that's what the majority of the people that are having public work projects done, entities that do it, county, state or anything like that. The issue is, why do they go for the low bid and not the high bid? The reason for that is, I think they're responsible to the taxpayers, you know, to get the work done that they want done at the lowest cost. I think that's what is happening out there. I think there's a lot of problems, you know, with this bill as far as how are you going to mandate the individuals that get awarded the project for having the lowest bid, and then also saying that you have to employ the people that are unemployed. Sixteen thousand jobs was stated by Senator Mello. You know, yes, that's quite a few people. But they're unemployed and that's because they're unemployed because of the economic conditions. But are we going to show preference to those 16,000 people that are, you know, maybe want to work, maybe don't? How are we going to work that into the bidding process of these projects that specify that we have to hire these people? I think it's the responsibility of the individuals, you know, when they're unemployed, to go out and find the next job. I think that's their responsibility. I also have real concerns with the fact of that we include, you know, the people 50 miles outside of our borders, you know, in also the state. That's the way I understand it. It includes those individuals that live within 50 miles of the Nebraska border. So there could be a project done by a bidder that has all of the employees that live within the 50 miles of the borders of the state of Nebraska... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR STUTHMAN: ...and could be employed there. I also have some concerns, you know, any person who resides in Nebraska, so does that mean legal? Illegal? It's any person. Any person in this bill and in Section 1 it states that. Nebraska labor means any person who has resided in Nebraska for at least 30 days. That person is eligible for the job, immaterial of his status, in my opinion. I just think that we need to debate this for a while, but I'm really concerned that we're trying to put the burden where the burden is really not needed. I think people that are unemployed, you know, should be out there working, trying to find a job. Go to these people that were awarded the bids. Get employment. Thank you, Mr. President. [LB925]

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SENATOR ROBERT: Thank you, Senator Stuthman. (Visitors introduced.) Returning to discussion, those wishing to speak on AM2106: Senators Price, Gloor, Janssen, Wallman, Lautenbaugh, and others. Senator Price, you're recognized. [LB925]

SENATOR PRICE: Thank you, Mr. President and members of the body. So we're talking about the unemployment and I know I really do have a heartfelt concern for those people who are unemployed in Nebraska. Don't mistake that. But I think a lot of good comments have already been made. Senator Stuthman brought up the idea that it said anybody who lives in Nebraska, that we don't clarify about citizenship, the question about going outside our boundaries. Senator Mello did bring up, I guess, 16,000 unemployed individuals. My question is, are all 16,000 unemployed individuals trained in the construction trades? I'd wonder that. But here's a good question for it also. Listening to bills within the Government Committee, I was introduced to the concept where we don't have a lot of special business designators here in our state because of the concerns of reciprocity. You know, if we say, well, we're going to only hire Nebraskans or buy Nebraskan, the states that are around us that we do business with may also then enact that same concept. A matter of fact when they do it now, if there's a 10 percent preferential treatment given by the state of Missouri, and I'm just using a number, but if there's a 10 percent preferential treatment for, let's say, service to disabled veteran-owned small businesses in the state of Missouri, well, if we want to have them compete on a contract here, they get counteracted by 10 percent here because we want to keep the playing field level. So when you start throwing in qualifiers, you end up impacting that reciprocity we enjoy with other states where Nebraskans go out and have jobs. So now all of a sudden we could put more Nebraskans out of work by employing this strategy. Now, Senator Mello did talk about a global economy and that ties right in that very same concept there, reciprocity with our adjoining states. Is this the right way to do it? Now, talking to the 3.5 percent, and we go way back to 1990, and at 3 percent as they average it out, well, back in the early '90s, and a turn of the century there, that's kind of strange to say that, but back in that time frame there was a hiring bonus if you could get a person to work at McDonald's and if you got another person to work at McDonald's. We had so few people available in our market space to work, there was bonuses to get a job. People would try to hire people away from one McDonald's to Taco Bell. Well, that was a benefit of a tremendous employment, but yet employers would tell you, we couldn't find people. So we have to be careful how we banter around whether the 3.9 or 3.5 percent is the right number. And so I have grave concern that way. And then I sat down at the desk here, looked in the computer. You know, on Omaha.com right now there are 1,900 jobs in the construction trades in Lincoln on the Nebraska JobLink, which is done by Workforce Development. If you all haven't had chance, I have it up, feel free to come by and take a look at it. It would tell you that right now there are 4,945 jobs in Nebraska, 4,945 jobs. People are looking for people. Now, that's not all in construction but there were 80 construction jobs, 236 transport and material jobs, 128 building and grounds jobs. That's

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all within 100 miles of Lincoln. So I'm not saying that that's the panacea and that's going to answer everybody's needs. But the question really comes about when you talking about unemployment and a way to fix it: Are all those people falling into one bin, one basket, one capability? [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR PRICE: Thank you, Mr. President. The other question you have to say is, how is that unemployment number derived? Does that include teenagers, who I believe are becoming one of the largest demographics that are unemployed? Does that include people who have given up looking for jobs? Does that include people who don't want to go find a job? Does that include temporary individuals? There's a lot of factors that go into that number. Just to throw out a number doesn't necessarily, again, necessarily mean that that is a representation of reality. So with that, Mr. President, I yield my time and I look forward to the debate. [LB925]

SENATOR ROBERT: Thank you, Senator Price. Senator Gloor, you're next and recognized. [LB925]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I want to applaud Senator Conrad for her efforts to get Nebraskans back to work. I have...and I don't think any of us have any argument at all with the concept. I have some questions, based upon my real-life experiences, about the potential and the realism behind implementing something of this sort. We did a major hospital project at the middle of the last decade or I guess the current decade, and \$90 million brought an awful lot of contractors to the table to sit down and negotiate. And we had two requirements. The one is that they would not use undocumented workers and we set up fail-safes to make sure that was the case, felt it was exploitive and inappropriate. The second was that we would use as many local contractors as possible in this project to make sure that we used local workers and put people in central Nebraska to work on this project. Imagine my surprise when contracts that went to local contractors had to be filled by workers brought in from out of state because they could not find enough people in the trades to do the work in and around central Nebraska. We had whole painting crews come in from Kansas. We had a problem, and still do as far as I know, with enough "sheetrockers" or "wallboarders." And because of that, teams were brought in. People rented houses for months and months on end, a little economic stimulus for the community. And some of those workers actually stayed in the community because they found it a great place to work and because there was a demand for their jobs because there weren't enough Nebraskans available to hire. I have some concerns about the reasonableness of us being able to implement this and plug these positions in as nicely as we would like to do so. And I wonder if Senator Conrad would yield to a question or two. [LB925]

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SENATOR ROBERT: Senator Conrad, will you yield to a question? [LB925]

SENATOR CONRAD: Yes, of course. [LB925]

SENATOR GLOOR: Senator Conrad, I'm going to use a hypothetical example. I'm trying to decide what I as a contractor would be responsible for. I'm doing a hospital project and as I define the term in the...public works is defined as paid for wholly and in part out of public funds. Hospitals get Medicaid dollars. Medicaid dollars would be a part of the business plan presented to the finance organizations to do this. So a hospital project would be a public works project. I'm doing that project in Scottsbluff. We need welders. There are welders available in Torrington and Cheyenne but we need to come to Omaha and Lincoln to find those welders because we can't use the welders across the border a couple of miles in Wyoming. But I can't get the Omaha welders to relocate. How do I justify hiring in Wyoming when I can't get Nebraskans willing to relocate that distance to a project in Scottsbluff? What are the provisions within this bill that protect me if I'm stymied by this? [LB925]

SENATOR CONRAD: Thank you, Senator Gloor. And to be clear, I hope I'm answering this as accurately as possible. The first part of the question contained within the hypothetical is whether or not, say for example, a public that receives Medicaid payments would be required to adhere to the provisions of LB925 as amended or otherwise. I do not believe so. I believe it's specifically directed towards state government and other political subdivisions. So I think that that would take hospitals out of application in its entirety. Not anyone who receives any public dollar has to adhere to the requirements of the legislation. On the second part related to whether or not there was an availability for... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR CONRAD: ...qualified people to fill those positions, the legislation contemplates that. If at the point of inquiry there is an availability locally that has the expertise, that has the willingness that would otherwise be considered the lowest responsible bidder, then that's who you let it to. If there are not folks available to fit that mold, to meet those definitions, then the person, the political subdivision or the other person in charge of letting the contract is free to look elsewhere to meet their needs. [LB925]

SENATOR GLOOR: But the onus is on the contractor to provide that proof, is that correct? [LB925]

SENATOR CONRAD: That's right, Senator Gloor, but we don't contemplate that it would be an additional, burdensome sort of administrative process. It would be a good-faith effort to put out the bids, see what requirements you're going to have to comply with,

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whether or not this and other contracting provisions would apply, and then make a decision based on the best information that you have in front of you. [LB925]

SENATOR ROBERT: Time. [LB925]

SENATOR GLOOR: Thank you, Senator Conrad. Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Gloor and Senator Conrad. Senator Janssen, you're recognized. [LB925]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I rise in opposition to LB925. I agree with Senator Conrad's concept, the premise of putting Nebraskans back to work. I have no passion against the bill that harsh but I think, as a small business owner, I personally don't feel like this helps me in any way. It may not apply to my personal business in the healthcare staffing industry. I talked to Senator Gloor a little bit about that off the mike prior to speaking. But when I look at other businesses and business practices, I think, as Senator Gloor kind of alluded to, good business practices already ensures that this will happen. I'm not going to bring somebody from out of state to come up and weld if it's not financially going to benefit the job. So in many cases this is happening. People will stretch their boundaries to find somebody that's qualified to do the job or in some cases willing to do the job. That's what my business, although I don't think would be affected by this, actually does. I've sent people to St. Francis Hospital in Grand Island to fill positions at their hospital when they didn't have anybody locally or even knew within the state that was able to serve. Actually is was an x-ray technologist at the time, I recall, and a CT technologist. And we do this throughout the state of Nebraska and throughout the country. We move people around and our first goal, anytime we get a job in Grand Island or whatnot, is try to find somebody within the region to do that job because it lessens our expense to actually run that contract. And in another case it kind of came up to me, in some cases we'll put a CT machine or some type of equipment into a hospital. And that's contracted out and say General Electric or whoever, they have a specific person that's able to put this highly technical piece of equipment in place and how would that affect them? Maybe it wouldn't. It just raises a lot of questions that I don't think need to be answered with this bill and I do not support the bill and do not plan on voting for the bill and urge you not to. And with that, I'll yield the balance of my time to Senator Lautenbaugh. [LB925]

SENATOR ROBERT: Senator Lautenbaugh, 2:48. [LB925]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Janssen. To paraphrase our articulate Vice President, this is a big gosh darn deal. But we're going to have to proceed on the honor system and what I mean by that is, for this to work, we're all going to have to keep the passage of this bill to ourselves. Because if anybody in the surrounding states find out, they're going to do the same thing and it's

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going to be completely and totally ineffective, more so than it would be otherwise. So if we can just keep this on the down low, this will work swimmingly. So I think I can trust all of you to do that. This is a barrier to trade. This is a barrier to the free movement of assets and this would cause a spiral down that would increase, not decrease, increase unemployment. Labor must be free to flow across state lines, much like everything else that goes into a business. And we are trying to monkey with that system with this bill and that will not work. That hasn't worked. History is replete with examples of that not working. And here we are trying to do that very thing, ostensibly trying to make the same mistake. And this is just so fantastically wrongheaded that I'm not going to belabor this bill anymore. I'm tempted, it's so off the mark that I'm tempted to vote for this because sometimes it's tiring having to stand up here and point out things like this and have the majority save some of us from ourselves. This is a bad bill. If there were more people speaking the bracket motion would be in order. But I'm going to shut my light off and I think we all know where this is going. Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Wallman, you're recognized. [LB925]

SENATOR WALLMAN: Thank you, Mr. President. I find it ironic we're talking about incentives. Go to the University of Nebraska message board. Wyoming, Iowa, Alaska, they give incentives for Nebraska teachers. Is that wrong? No, I don't think it's wrong because they don't have enough employees. So here we're trying to just make a statement here to help Nebraska workers and should Nebraska workers be stepping up to the plate asking for more jobs? I don't know. But if we send a message out here, Nebraska workers have to work, I think eventually, you know, the unemployment benefits will be gone and then who will pick this up? We will. The healthcare, it goes right down the line. So I want to, you know, commend Senator Conrad for this bill and if she'd like any more time, I'd yield my time to Senator Conrad. [LB925]

SENATOR ROBERT: Senator Conrad, 4 minutes. [LB925]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Wallman, for your kind words of support and also for the time. I'm glad that I'll have a chance to address a few issues that have been brought forward, and of course my light is on so that we can continue the dialogue further on. Senator Lautenbaugh is a good friend and I appreciate his humor and his levity in a variety of different circumstances always, but I don't appreciate his sarcasm in terms of an issue of significant economic importance. But I do want to thank him for distilling the issue more clearly. There are going to be philosophical differences in how we approach this legislation. As Senator Stuthman noted earlier, and to be clear, Senator Stuthman, we don't let public contracts and pay public dollars out to the lowest bidder; we give them to the lowest responsible bidder. Somebody could come in unscrupulously utilizing child labor, having a history of environmental infractions, having other serious significant potential problems, and be

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the lowest bidder. We don't let them have the public contract when they have a history of environmental or work abuses. We require them to be a responsible bidder. That's how we utilize our taxpayer dollars. And if at the end of the day as Senator Lautenbaugh noted, you have a philosophical belief that every public dollar should go to the lowest responsible bidder, that's okay. That I don't have a problem with. That's a sincere philosophical disagreement about how we approach these issues. But to be clear, this is not an issue of economic protectionism. This is an issue of reducing and restraining public expenditures that occur in times of economic downturn, in times of excessive unemployment. Check the record. I have not brought legislation like this at any other time during my term in office here. It is only during this most recent, most significant downturn in our state and national economy that we need to be creative about getting more Nebraskans working, rewarding work, and lessening our public expenditures on things like unemployment, public benefits, etcetera, etcetera, the list goes on and on. Finally, another point that I wanted to briefly mention to clarify the record in terms of the residency requirements and issues that are contemplated in the legislation that were brought forward, nothing in this piece of legislation, nothing in any area of our other body of state law can vitiate or detract from residency requirements related to citizenship or otherwise that provide an eligibility to work. In fact, if you are concerned about immigration, this 30-day additional requirement for Nebraska residency provides another layer of protection... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR CONRAD: ...rather than going in the opposite way. So read the bill, understand the concepts and ask questions. But know that state law cannot vitiate other federal residency requirements. And, of course, the legislation that we passed last year requiring the state and public entities to utilize E-Verify still applies in this context. So nothing is vitiated from those types of residency and immigration and citizenship requirements related to employment. The final piece that was brought forward in terms of the 50-mile radius, I appreciate the opportunity to talk a little bit more about that. The green copy, the original legislation, does not contemplate that provision. But that was developed again in good faith with the parties who we worked with after the committee hearing who said to us, hey, we're a contractor based in... [LB925]

SENATOR ROBERT: Time. [LB925]

SENATOR CONRAD: Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. Senator McCoy, you're recognized. [LB925]

SENATOR MCCOY: Thank you, Mr. President and members of the body. I'd first like to take a moment to thank Senator Conrad for addressing this issue. I greatly admire her

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for her interest in this issue and for what I know is a deep concern and a care for our state and a cost to our state, and for that she deserves our admiration. However, I stand in opposition to not only AM2106 but the underlying bill, LB925, for a few simple reasons. I believe the unintended consequences for this legislation would be far reaching and very damaging to an industry. The construction industry, of which I deeply care about, has the highest unemployment of any industry in the country, currently hovering near 25 percent. And, colleagues, we need to be doing everything possible to make sure that we preserve and protect this industry that will help lead us out of this economic downturn. And I fear that this legislation, while it has the best intentions at heart, won't serve the purpose that is intended and would have very many unintended consequences. To expand on what Senator Lautenbaugh indicated, the reciprocal agreements, which have been lightly touched on but which Senator Lautenbaugh eloquently did touch on, would be very problematic for construction firms in our state. Take this winter, for example. Harsh weather that it was, was very, very hard on our construction industry in our state, notwithstanding the economic conditions that currently exist. Construction firms in our state, as many of you are aware of, bid on projects far outside the boundaries of Nebraska and in the wintertime often bid on projects where the weather is warmer and where they're able to send workers. As Senator Lautenbaugh indicated, reciprocal agreements, if we were to pass this legislation, if passed in states that construction firms in our state do work in during different times of the year, would be very damaging to workers that reside here but may work outside the boundaries of Nebraska. With that, I'd yield the remainder of my time to Senator Hadley. [LB925]

SENATOR ROBERT: Senator Hadley, 2 minutes 20 seconds. [LB925]

SENATOR HADLEY: Thank you, Mr. President. Thank you, Senator McCoy. I, again, I thank Senator Conrad for bringing this. She mentioned philosophical viewpoints, philosophical theories, and this really is a philosophical issue. It's basically the Keynesian economics versus the non-Keynesian. Basically, just real quickly, unemployment has three factors. There's structural unemployment, that the employment because technology changes--you're manufacturing VCRs and DVDs come in. There's frictional unemployment. That's people moving from job to job. And then finally you have cyclical. That's what we're in right now where the business cycles up and down for unemployment. Studies have shown that full employment is generally around 5 to 5.5 percent. Nationwide that is considered full employment. If you go below 5 to 5.5 percent, you get into an inflationary spiral. Right now, Nebraska is at 4.6 percent. That doesn't mean, the people that don't have a job, that it doesn't hurt, but I'm just saying I think Nebraska is still very close to full employment with 4.6 percent if you look at historical data. I looked at some data that I got from the National Bureau of Labor Statistics... [LB925]

SENATOR ROBERT: One minute. [LB925]

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SENATOR HADLEY: ...and the only state that has a lower unemployment rate than Nebraska is North Dakota. Nebraska is at 4.6 percent. North Dakota is 4.2 percent. Lastly, I would like to follow up on the idea I have a large construction firm that does a lot of governmental work on sewers, roads, those kinds of things in Kearney. They do a lot of work in Kansas with Nebraska workers. I am concerned, we pass something like this, they're going to call me up and say, is Kansas going to do the same thing so I can't take my workers from Nebraska down to Kansas to work? So I think there could be some unintended consequences. I think the idea of trying to help workers is good. I don't think this is the way to do it. Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Hadley and Senator McCoy. (Visitors introduced.) Returning to discussion, those wishing to speak on AM2106: Senators Lathrop, Giese, Campbell, Conrad, Haar, and others. Senator Lathrop, you're recognized. [LB925]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I've been listening to the discussion so far and we're talking about protectionism and we're talking about a good idea but we're going in the wrong direction and so far we're talking about labor. We don't want to stifle the ability of labor to cross the boundaries; they'll do the same thing to us. It's been about labor. Well, let me talk to you about business. Over in the Business and Labor Committee, we follow the unemployment, not just where's it at in relationship to the rest of the country, but we follow the Unemployment Compensation Fund. And you want to talk about unintended consequences or intended consequences of a bill like this, let me talk to you about the Unemployment Compensation Fund. You don't think 5 percent unemployment is bad, we're hemorrhaging unemployment compensation benefits from that fund. It was nice and healthy, appeared nice and healthy a couple of years ago when our unemployment was low. Now that it's where it's at, which is certainly above the criteria that this bill would provide for, we are hemorrhaging unemployment compensation benefits to people across the state and that affects business. It affects business this way. Maybe you've never had this explained to you and you don't know how unemployment works in this state, but we have a separate trust fund. The amount of money that's put into that fund by employers across the state is set by formula. There's no politics to it. It's not up to the Governor. It's not up to the Legislature. We have a formula. And when unemployment got bad in this state and the money started to be depleted from that account, the businesses across the state received notices that their unemployment compensation withholding rates were going up, and they went up dramatically. They went up dramatically. And they went up dramatically at a time when they could least afford it. This is not just about labor. It's not a labor bill. In fact it probably has more to do with businesses in this state and taking care of their unemployment withholding rates and not dinging them at the worst time in the cycle, in the business cycle and in a recession, which is what happens with the Unemployment Compensation Fund. My recollection from the testimony on LB925 was

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that Missouri already had a bill like this or a law. So our guys try to go down to Missouri and they can't get in. I think it's important that when you consider this, you don't just look at it as a labor bill and then have the typical reaction that sometimes moves through this body. But think about those employers who are getting the notices that their unemployment compensation rates are going up and their reaction when they talk to me about it is, my unemployment compensation rate just went up, I'm going to have to lay off two more guys just so that I can pay the additional unemployment benefits. There are unintended consequences sometimes when we pass legislation. Sometimes there are intended consequences and there's certainly one in this case. It's not just about fully employing labor and construction guys. It's about giving a break to the businesses in a recession who are getting notices from the Department of Labor that they have to pay sometimes 30 percent, 40 percent or 50 percent more on unemployment compensation at a time when their businesses can least afford it. [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR LATHROP: LB925 does something about that. I think we ought to give some consideration to the businesses, not simply look at this as a labor bill, and move AM2106 and LB925. Thank you. [LB925]

SENATOR ROBERT: Thank you, Senator Lathrop. Senator Giese, you're recognized. [LB925]

SENATOR GIESE: Thank you, Mr. President, members of the body. As we look at...I rise in support of Senator Conrad's LB925 and the underlying amendment. I think when we look at the big picture, we are all concerned with the budget, the looming crisis. We hear that time and time and time again. And I think Senator Conrad's bill addresses that issue as we've had other bills...as a matter of fact, that we talked about this morning that tried to help small businesses in their efforts to succeed in these very, very difficult times. I was wondering if Senator Conrad would yield to a question. [LB925]

SENATOR ROBERT: Senator Conrad, would you yield to a question? [LB925]

SENATOR CONRAD: Yes, of course. [LB925]

SENATOR GIESE: Senator Conrad, can you give us any specific examples with the...considering the state and the situation we're in and during this economic downturn, how any other things have been affected, how state expenditures have been affected? [LB925]

SENATOR CONRAD: Yes, thank you, Senator Giese, for your kind words of support and for the great question. Colleagues, I noted these concepts earlier in the course of the debate that this was really about reducing and restraining public expenditures in the

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areas of unemployment, public assistance, etcetera, and instead finding ways to make work pay and improving our revenue and receipts that we bring in. I'll give you two specific examples, colleagues. One is from...recently reported in the Lincoln Journal Star, March 16, 2010, and it's under Nancy Hicks's byline and it's...the subtitle is "Recession numbers." To quote: The number of people using federal food stamp program in Nebraska continues to rise, another recession indicator. Two years ago, 52,317 Nebraska households were using food stamps, in January of 2008. This January that number rose to 69,966 households using food stamps or otherwise known as SNAP. That is a 33.7 percent increase in these benefits paid out in 25 months. That's a significant dramatic increase in these public benefits expenditures. Another example, this dovetails nicely from Senator Lathrop's comments, if you look at what has happened to the trust fund related to unemployment benefits, and this is information I believe here from the Nebraska Workforce Development, Department of Labor, beginning in December our trust fund balance was over \$157 million. Now on March 15, 2010, it's down to \$124 million. We are hemorrhaging unemployment benefits, as Senator Lathrop and others and common sense will tell us happens in a time of economic downturn. Senator Giese, I hope that answers your question. I'd also just like to clarify for the record there was some concern as to what these unemployment numbers meant that I passed around, does this include unemployed teenagers, etcetera, etcetera. No. (Laugh) Unemployment numbers have a well-established, widely accepted definition for utilization according to the Bureau of Labor statistics. These are hard and fast numbers. They don't take into account frivolous claims or issues or individuals beyond the purview of these well-established definitions utilized by the Bureau of Labor Statistics. So I appreciate, Senator Giese, the opportunity to put some numbers on the record in a specific way to talk about... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR CONRAD: ...what's at the heart of this legislation. [LB925]

SENATOR GIESE: Thank you, Senator Conrad. I would just, again, reiterate my support for LB925 and the underlying amendment. Thank you. [LB925]

SENATOR ROBERT: Thank you, Senator Giese. Senator Campbell, you're recognized. [LB925]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Conrad yield to a question, please? [LB925]

SENATOR ROBERT: Senator Conrad, would you yield to a question? [LB925]

SENATOR CONRAD: Yes, of course. [LB925]

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SENATOR CAMPBELL: Senator Conrad, I've been taking a look at the bill and I'm trying to make sure that I understand all the sections and components of it. In Section 5 it talks about what the federal statutes, that you can't obviously go against what those rules and regs are. Could you give us just a short synopsis of what those might be? [LB925]

SENATOR CONRAD: Sure, Senator Campbell. Thank you for your question. And to be clear, I think that language is...really has two important components to it, the first being a general catchall provision saying of course this state legislation cannot violate otherwise existing federal law, which would harmonize with our federal...our system of federalism and basically anything else that we do here. The second component I think is a bit more specific in saying, for example, a good concrete example would be in the recent utilization of stimulus funds. For example, you cannot have any sort of local preference related to the expenditure thereof according to federal law. So that would basically say, you know, if there's something else out there in federal law that conflicts with this proposal, it simply wouldn't apply. But when it comes to state expenditures on state projects, we have the ability to be a little bit more flexible to address our needs. [LB925]

SENATOR CAMPBELL: Thank you, Senator Conrad. And part of the reason for the question, and I would certainly give you an opportunity to respond, but in the construction industry as we're looking on public works projects, a number of those projects are just beginning to ramp up across the state with regard to road construction. Particularly the Transportation Committee has followed that. So in those cases where the funds are coming down through the state, this legislation would not apply then to those ARRA projects. Would that be correct? [LB925]

SENATOR CONRAD: That's correct, Senator Campbell. [LB925]

SENATOR CAMPBELL: Okay. I'd just like to close my remarks by saying I'm listening very carefully to this legislation and I appreciate Senator Conrad's putting a light on the importance of using Nebraska workers. I tend to think that businesses will try to gravitate to the expense that best fits with their project, and so if they're building something in Grand Island or they're building something in Norfolk or they're building something in Lincoln, obviously their costs are going to be lower if they're going to use that Nebraska worker, and we want to keep saying that. I do...I will continue to listen but there is a part of me that remembers a number of years ago when we looked at this situation on a local level and said let's give some preference to Lincoln or Lancaster County businesses on a bidding situation, and my phone lit up in the office and the phones were from a lot of the businesses; said, no, you know, I do a lot of work in other states, in other places of Nebraska and I'm concerned about what you're doing then to my business because I have to reach out to other people. I'll continue to listen here, but I do think that we all are very cognizant of the importance of hiring Nebraska people.

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Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Conrad, you're next and recognized. [LB925]

SENATOR CONRAD: Thank you, Mr. President. And thank you to Senator Campbell, Senator Hadley, Janssen, and McCoy and others for rising and sharing the common ground that does exist in the broader concepts contained in this legislation. And in terms of specific, technical or logistical questions or philosophical opposition, as clearly debated by Senator Lautenbaugh and others, that's good. That's what we're supposed to be doing here. We're supposed to draw out those kinds of questions and concerns and how would this really work on the front lines if we adopt this public policy or I have a philosophical opposition to these kinds of bills. That's okay. That's our job. We should all get a gold star for standing up and engaging in that kind of dialogue and debate because that's what we came down here to do. And I always enjoy those kinds of conversations and have had a chance to learn a lot in the course of the dialogue and debate and the people that have spoken this morning and since I introduced this bill. The point that I did want to make in regards...I started talking about earlier and actually dovetails very nicely on Senator Campbell's comments and I know that she has such a great passion, expertise, that I am in awe of in regards to infrastructure and infrastructure financing issues, in particular how to improve and invest resources into our roads system. And I'll tell you working with people, contractors from that industry, is actually why some of the committee amendments were introduced today. They...in visiting with some of the contractors in that industry, they said, okay, we're located in Omaha and we have a variety of workers with a longstanding history with our company, some live in Omaha, some live across the river over in Council Bluffs, so we'd hate to be penalized or have to fire some of our longtime employees who are loyal and good workers just because they live across the river. Also at the committee hearing we heard concerns from counties and municipalities that line the borders of Nebraska about how they frequently utilize workers who live across state lines in the next adjoining county or adjacent county or otherwise. That's why the 50-mile radius was put on there, in good faith, in good faith negotiations with people who have legitimate concerns, to make it work for their level of government or for the industry contractors who are scrupulous and who are doing a good job and who are proud Nebraska businesses, to make it work for the parameters that exist in their...in the dynamics of their work force. I share Senator Campbell and Senator Fischer's passion for these infrastructure financing issues and that's why we've been working very hard to make significant concessions on this idea and concept to meet the needs of those in those industries that do provide so many good jobs for Nebraskans. Also the limitation as to new construction rather than all construction is another significant concession, with those with legitimate concern, that were brought forward at the committee level to make this work in practice with how things happen on the front lines in terms of these kinds of issues and with this work force. So I'm glad to have the chance to visit a little bit more directly about the history

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and the evolution of how this concept has changed from introduction to committee level to what you see here today and the important, important components... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR CONRAD: ...contained in the committee amendment to make this policy responsive to the needs of our good employers in not only the construction and roads industry but otherwise who have brought forward legitimate concerns. And again I want to be clear, I hope people understand that Senator Lautenbaugh and others with disagreement on this issue, we enjoy a strong relationship and it's okay to have philosophical differences. But at the end of the day when you distill the concepts, I believe if we're going to utilize taxpayer dollars we should try to limit our public expenditures on unemployment benefits, food stamps, by making work pay for Nebraskans, by investing those dollars in Nebraska companies rather than outsourcing them to foreign workers and foreign corporations. And that's a legitimate philosophical difference, but that's one that I believe strongly in and will continue to talk about. Regardless of the... [LB925]

SENATOR ROBERT: Time, Senator. [LB925]

SENATOR CONRAD: Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. Senator Haar, you're recognized. [LB925]

SENATOR HAAR: Mr. President, members of the body, I want to thank Senator Conrad for LB925. Again, there are probably philosophical stances here in this body but, first of all, I'd just like to tell you that unemployment really has an impact on one's life. Right now my wife, at least temporarily, is unemployed and some people argue that I am unemployed when it comes to the paychecks that we get. And luckily we're in that category of people who have some savings that's going to get us through. But a lot of people who are unemployed these days can't get through and they're looking at how to make their house payments and how to just get day to day. So anything we can do to help people with jobs in Nebraska, I applaud that. Second point I'd like to make is I'm somebody who likes to buy local and, although some of you think I just wear the same clothes day after day, I have new socks on today. (Laughter) I went to Shopko and tried to buy socks local. You can't do it. One package of socks was made in the Dominican Republic and the next one to it on the shelves was made in Vietnam. So buying local is very difficult but we do buy local, especially in terms of food, when we can. And the reason we buy local is not only that we think we get better products that way but also because money that's earned by Nebraskans is usually spent in Nebraska and that's really so important. The point was brought up that other states will do the same thing. Missouri already does have a 5 percent unemployment law that's very similar to this and

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it's only in terms, again, of public projects. When I was campaigning a couple years ago, it was about the time that we found out that Health and Human Services was outsourcing some of its work to India, some of the phone answering service, and constituents were absolutely outraged at this outsourcing. And I agree. As much as possible we ought to leave money that's spent by Nebraska taxpayers in Nebraska, especially in the United States. I think in the coming years we're going to be looking, for example, we've just...on our way to passing some historic legislation to bring wind into this state, and people have been coming forward with incentives. Most states give incentives to wind developers and some of those incentives revolve around using local labor, and so I think we'll be looking at those kind of issues in the coming years. And, yeah, I think there's some dangers that other states will do the same thing, but I like LB925. It's an attempt to keep taxpayers' money for taxpayers' projects, for public projects in Nebraska. I wholeheartedly endorse it. Thank you very much, Senator Conrad. I'd give the rest of my time to Senator Conrad. [LB925]

SENATOR ROBERT: Senator Conrad, 1 minute 25 seconds. [LB925]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Haar. And thank you for the reminder of really the simple principle that is contemplated in this legislation--buy local. Sometimes it may cost a little bit more to go to your mom-and-pop shop that has a strong history in the community and that provides good jobs and contributes to the local community than it might be to shop on the Internet or other places, but you do it because you want to support your local business and you want to promote their good work in the community. And it's really an extension of that very simple concept. Hire local. Use local firms. Use local workers whenever possible, not just because it's the right thing to do and to support local businesses but because it pays dividends. It pays significant dividends in terms of reducing and restraining our state expenditures. It's well documented that in times of economic difficulty we have a countercyclical outlay in terms of public benefits assistance. We are in that time now, a significant time of economic challenge facing our state, our local communities and our country. [LB925]

SENATOR ROBERT: Time, Senator. [LB925]

SENATOR CONRAD: Thank you, Mr. President. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. Senator Council, you're recognized. [LB925]

SENATOR COUNCIL: Yes, thank you, Mr. President. As a member of the Business and Labor Committee, I cast one of the votes to advance LB925 to this body for debate because I believe firmly that this issue is deserving of our consideration. I recognize and appreciate some of the concerns with regard to the consequences, but I think that we

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needed to debate this issue and to place in perspective the impact of the economy and unemployment rates on the state. Senator Conrad has discussed the increase in applications for SNAP benefits. Senator Lathrop has talked about the drain on unemployment. During the committee I shared with the committee members and others who were present that one of the concerns and complaints that I hear most often in the district I represent is that when employment opportunities are created in this state, the people who need those opportunities most are the last to be considered for them. Senator Conrad will confirm the fact that when looking at the bill and seeing the definition of excessive unemployment, and excessive unemployment statewide in Nebraska would be some rate of employment less than 5 percent and in fact less than 4 percent, when the unemployment rate of my district consistently exceeds the state average by five, six, seven times. For decades there have been double-digit unemployment in the district I represent. So I have a keen interest in legislation that's designed to address that. I also have the perspective of watching major public works projects come into my district and have those contracts awarded to individuals from outside the district and watch individuals from outside the state come and access jobs that residents of my district are desperately in need of. Now I understand the concern about a mandate, but having this discussion allows us to think about other opportunities to provide as many employment opportunities for residents of our state. There's a major, for lack of a better descriptor, public works project occurring in my district. It brings in \$15 million of work every year. Not one of those contractors who are performing that work are Nebraska contractors. Now recognizing that that was going to be a possibility, the community worked as best it could to ensure that there would be employment opportunities for the residents in the district where this work was going to be performed. So while we may not be able to provide for a mandate, this discussion certainly opens the opportunity to consider incentives. I know there's been some discussion of preference, but at least in the one example that I'm sharing with you the community was able to impress upon that government agency the need to employ people from within that district on work being performed in that district. And those contractors receive... [LB925]

SENATOR ROBERT: One minute. [LB925]

SENATOR COUNCIL: ...an incentive for hiring locally. Maybe that's the direction we go in. But I assure you that there is a grave and legitimate concern in my district that in upcoming months there's going to be hundreds of millions of dollars expended on a major public works project when there's double-digit unemployment in my district, and they're looking for a policy that protects them and provides them with employment opportunities. LB925 may not be the ideal policy but it certainly begins to get us thinking in the right direction. Thank you. [LB925]

SENATOR ROBERT: Thank you, Senator Council. Senator Wallman, you're recognized. [LB925]

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SENATOR WALLMAN: Question. [LB925]

SENATOR ROBERT: Senator Wallman, you're the last light on. Senator Lathrop. Senator Council, as Vice Chair of Business and Labor, would you like to close on AM2106? [LB925]

SENATOR COUNCIL: Yes, Mr. President. AM2106, as Senator Conrad outlined in the last time she was at the mike, was the Business and Labor Committee's effort to address many of the issues that were presented by those who came and expressed concerns about LB925. I think the amendment makes a very genuine effort to address those concerns, particularly the issue with regard to the 50 miles outside the state boundary. Talking to some of my colleagues, you know, in the Beatrice area and the Omaha area where employers regularly and routinely draw employment and their labor force from within a geographic area, we did not...the committee did not believe that it would be appropriate or in the state's best interest to deprive those individuals of a continuing opportunity. The bill itself limits its effect and its application to new construction. So in the event the unemployment rate dips precipitously and there are contracts already in existence, the bill would have no application. And with that, I would urge the body's favorable consideration of AM2106. [LB925]

SENATOR ROBERT: Thank you, Senator Council. Members, you've heard the closing to AM2106, Business and Labor Committee amendment to LB925. The question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Senator Lathrop, for what purpose do you rise? [LB925]

SENATOR LATHROP: Mr. President, I believe we need a call of the house and I'd request same. [LB925]

SENATOR ROBERT: Members, you've heard the motion. There's been a motion to call the house. All those in favor vote yea; opposed vote nay. Please record, Mr. Clerk. [LB925]

CLERK: 36 ayes, 0 nays to place the house under call. [LB925]

SENATOR ROBERT: Members, the house is under call. All those unauthorized personnel step from the floor. All of the members please return to the Chamber and record your presence. The house is under call. Senator Lathrop, how would you like to proceed when members do come in? [LB925]

SENATOR LATHROP: Roll call in regular order, please. [LB925]

SENATOR ROBERT: Senator Cornett, please check in. Senator Gay, Senator Sullivan,

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Senator Pankonin, Senator Christensen, Senator Fulton. Senator Gay, please return to the Chamber. The house is under call. Mr. Clerk, all members are present. There has been a request for a roll call vote. Please call the roll. [LB925]

CLERK: (Roll call vote taken, Legislative Journal page 1019.) 19 ayes, 24 nays, Mr. President, on the committee amendments. [LB925]

SENATOR ROBERT: AM2106 is not adopted. [LB925]

CLERK: I have nothing further on the bill, Mr. President. [LB925]

SENATOR ROBERT: I raise the call. Returning to discussion on LB925, Senator Conrad, you're recognized. [LB925]

SENATOR CONRAD: Thank you, Mr. President and colleagues. I know that we're coming up upon the noontime hour here and so my plan it wrap up very, very quickly. I think some key concessions that were negotiated at the committee level with affected industries were just rejected by the body, and that is the decision of the body. However, I would like to move forward directly to a vote on the underlying legislation as introduced, so I'd ask that you indulge me for just a minute or two more before we break and we leave the floor for your lunch plans. I want to thank Senator Price for his professionalism in allowing the debate to continue in an orderly way rather than interrupting it with a bracket motion or other procedural machinations. I also want to thank the many senators who lent their support either in terms of general concepts or specifics to the bill. Thank you to Senator McGill for prioritizing this legislation and putting Nebraska workers and Nebraska jobs first. And thank you to Senator Lathrop and particularly committee counsel, Molly Burton, Mona or Molly Burton as we all know and love her, for her diligent hardworking analysis in relation to this issue and bringing the parties together and to the table. With that, Mr. President, I would request a call of the house, roll call vote on the bill, and look forward to the result and moving forward. Thank you. [LB925]

SENATOR ROBERT: Thank you, Senator Conrad. (Visitors introduced.) Seeing no other lights on, Senator Conrad, you're recognized to close on LB925. [LB925]

SENATOR CONRAD: Mr. President, I just asked for a call of the house and a roll call vote in regular order, please. [LB925]

SENATOR ROBERT: Members, there's been a request for a call of the house. All those in favor vote yea; opposed vote nay. Please record, Mr. Clerk. [LB925]

CLERK: 43 ayes, 0 nays, Mr. President, to place the house under call. [LB925]

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SENATOR ROBERT: Members, the house is under call. All authorized personnel please step from the floor. Members, please return to the Chamber and record your presence. Senator Avery, Senator Heidemann. All members are present. There's been a request for a roll call vote. Mr. Clerk. [LB925]

CLERK: (Roll call vote taken, Legislative Journal page 1019-1020.) 13 ayes, 26 nays, Mr. President, on the advancement. [LB925]

SENATOR ROBERT: LB925 does not advance, and I do raise the call. Mr. Clerk, items? [LB925]

CLERK: I do, Mr. President. Senator Flood offers LR425 calling for an interim study, it will be referred to the Executive Board; Senator Dubas, LR426, interim study. Enrollment and Review reports LB1106A as correctly engrossed. Enrollment and Review reports LB801, LB1094, LB1094A, LB842, LB862 are reported to Select File, some of which have Enrollment and Review amendments. Senator Mello would like to add his name to LB507; Senator Coash to LB817; Senator Harms to LR292; Senator Schilz, LR292; Senator Coash, LR292. (Legislative Journal pages 1020-1022.) [LR425 LR426 LB1106A LB801 LB1094 LB1094A LB842 LB862 LB507 LB817 LR292]

Priority motion: Senator Flood would move to recess the body until 1:30 p.m.

SENATOR ROBERT: Members, you have heard the motion to recess until 1:30. All those in favor say aye. Opposed, same sign. We are at recess.

RECESS

SENATOR CARLSON PRESIDING

SENATOR CARLSON: 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.

SENATOR CARLSON: Thank you, Mr. Clerk. Any items for the record?

CLERK: I have nothing at this time, Mr. President. Thank you.

SENATOR CARLSON: Members, we will turn to the 1:30 agenda and, Mr. Clerk, next item.

CLERK: Mr. President, the first bill this afternoon, LB817. Senator Nordquist, I have

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E&R amendments first of all. (ER8176, Legislative Journal page 704.) [LB817]

SENATOR CARLSON: Senator Rogert...Senator Nordquist, excuse me, you're recognized. [LB817]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB817. [LB817]

SENATOR CARLSON: You've heard the motion. All in favor say aye. I couldn't hear that. All in favor say aye. Opposed, nay. The bill advances...the amendments are adopted, excuse me. [LB817]

CLERK: Mr. President, Senator Christensen, AM2035. I have a note you want to withdraw. [LB817]

SENATOR CHRISTENSEN: That would be correct. I'll just take it to an interim study. [LB817]

CLERK: Senator Ashford, AM2096. I hear...I understand you want to withdraw that as well, Senator. [LB817]

SENATOR ASHFORD: Sure. [LB817]

CLERK: Okay. (Laughter) Senator Ashford, AM2203. (Legislative Journal page 913.) [LB817]

SENATOR CARLSON: Senator Ashford, you're recognized to open on your amendment. [LB817]

SENATOR ASHFORD: Thank you, Mr. President. This amendment incorporates two separate issues. One of the issues deals with natural resource districts. It would...the amendment would allow natural resource districts to enter into interlocal agreements for the services of certified law enforcement officers or to contract with a private company for security services to patrol and protect district-owned or managed recreation areas. The committee was convinced that...and supported this provision after hearing from NRD representatives that basically suggested that really this vandalism cost is becoming almost unmanageable. And to allow the contracting with local law enforcement officers will significantly help them in their efforts to reduce vandalism, illegal dumping, and other activities. The second part of the amendment is very important, in my view, and what it would do is strike the removal of the word "recklessly" as a standard burden of proof from LB817. And this deals with the drive-by shooting issue that we discussed earlier in the session. Currently in statute, an individual may be prosecuted for shooting a firearm from inside a vehicle or if they just exited a vehicle

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with the bullet travelling toward a house, building, or other structure. If we allow the removal of the word "recklessly," we will make it harder for police officers and prosecutors in Omaha--and certainly not just Omaha--and other areas that use this statute to make their communities safer. The original language that was on the drive-by shooting offense was in LB63 that was passed last year that created the Office of Violence Prevention and had a number of enhanced penalties for gun-related crime, drive-by shootings being one of them. And by passing this amendment, we are including in the burden of proof the word "recklessly" in addition to an intentional act. And this change has been requested by most every law enforcement agency, city of Grand Island, city of Omaha, police chief, just about everybody we've talked to on the issue. So with that, I would urge the adoption. Again, and these drive-by shooting statutes apply to cities of the metropolitan class, primary class, and first class, so we're not talking about a provision or law that deals with drive-by shootings in rural areas. It does not apply. This would be in a city or a small city, medium-sized city in the state. We have the support of most advocacy groups on these issues, if not all, and I would urge the adoption of both parts of AM2203. Thank you, Mr. President. [LB817 LB63]

SENATOR CARLSON: Thank you, Senator Ashford. Members, you've heard the opening of AM2203. The floor will be open for debate shortly. (Visitors introduced.) Senator Rogert, you're recognized. [LB817]

SENATOR ROGERT: Thank you, Mr. President. Good afternoon, members. I rise in support of AM2203 to LB817. LB817 has become happily for me a pretty broad, ominous firearms bill with provisions from LB905 from Senator Dubas. This bill was Senator Ashford's, I believe, coming from the NRDs. Senator Council had some concerns that we're fixing here. Senator Lautenbaugh had some suggestions, and then Senator Fulton prioritized. So I rise in support and ask for your adoption of AM2203, and we'll have another amendment following. Thank you, Mr. President. [LB817 LB905]

SENATOR CARLSON: Thank you, Senator Rogert. Senators wishing to speak, Senators Council and Lautenbaugh. Senator Council, you're recognized. [LB817]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of AM2203 and the underlying bill, LB817. What is included in the amendment of AM2203 addresses an issue that arose in connection with the amendment of last year's LB63 at Senator Dubas' request, when she introduced the bill, to add cities of the first class, which it does, and AM2203 reinserts "recklessly" as one of the basis for the Commission of the Crime. And as Senator Ashford has set forth, law enforcement across the state has recognized the need to maintain that as one of the conditions for enforcing the laws against these drive-by shootings. I also want to speak specifically to the portion of AM2203 that deals with natural resource districts. That amendment represents a bill that I introduced on behalf of the natural resource districts. I was approached by the natural resource districts last year regarding the vandalism issue and the need to provide them

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with the tools to address vandalism. The way the law read, it was some question as to whether or not the NRDs would have the authority to contract with law enforcement as opposed to maintaining their own security forces. And I want to make it clear that it is not the intent nor does AM2203 allow a natural resource district to maintain its own police or security force. We requested, before introducing the bill, an opinion from the Attorney General as to whether or not the current language in the statute prohibited the NRDs from entering into interlocal agreements to obtain police and law enforcement services from local law enforcement. And the...although we didn't get a formal opinion, we were notified that when the opinion issues, it would say that the current statute prohibits that. So that's the primary reason for AM2203, is to provide the natural resource districts across the state with the tools that they need to prevent vandalism at many of the facilities that they operate, most of which are located in remote areas where you can't get regular law enforcement patrolling and you would need to enter into an agreement so that they could have increased patrolling of those areas. The cost to be incurred by natural resource districts in providing this service is far less than the cost to the natural resources district of repairing and replacing the recreational equipment that is the subject of vandalism. So I would urge your favorable consideration of AM2203 and LB817. [LB817 LB63]

SENATOR CARLSON: Thank you, Senator Council. Senator Lautenbaugh, you're recognized. [LB817]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This has become a good bill to handle a variety of topics. I have an amendment coming myself that I won't speak on at this point. I did just want to thank Senator Council as the issue regarding the NRD security force, if you will, did come up in committee and some of us, myself included, had concerns about whether or not this would lead to the NRD hiring its own security force and expanding its employment roles in that way. And I believe, from her comments and from how I read this amendment, that that does not allow that, that it merely allows the NRD to enter into interlocal agreements or contract with another security entity, maybe a private entity. And with that understanding, I do support this amendment. [LB817]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Pirsch, you're recognized. [LB817]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Council might yield to a question or two about the amendment, AM2203. [LB817]

SENATOR CARLSON: Senator Council, would you yield? [LB817]

SENATOR COUNCIL: Yes. [LB817]

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SENATOR PIRSCH: And I apologize, I don't have the amendment printed off, but with respect to a contract...tell me, first of all, if I'm incorrect. This allows NRDs for the first time to reach interlocal agreements to...essentially for the NRDs to pay for security to...at certain NRD-owned properties. Is that correct? [LB817]

SENATOR COUNCIL: Correct. [LB817]

SENATOR PIRSCH: Okay. What type of properties are we talking about that the NRD then has not had security on but now would like the opportunity to have security on? [LB817]

SENATOR COUNCIL: Well, many of them are related to their outdoor recreational facilities. There are some camping facilities where there are a number of...I guess we could just describe them as picnic tables, recreational equipment for children. There are some of the recreational locations that have some cabins that are associated with those but it's basically the recreational facilities that exist on a number of the NRD properties across the state. [LB817]

SENATOR PIRSCH: So it's mostly for recreational purposes, the NRDs' properties. And, well, I do appreciate your comments on that. I just want to get kind of an insight into what those type of properties would be, so thank you. [LB817]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Council. Senator Fulton, you're recognized. [LB817]

SENATOR FULTON: Thank you, Mr. President, members of the body. I put my light on so I could get...I may come back and ask some more questions. I want to mention this or say it anyway. Senator Christensen has decided to withdraw his amendment and that had to do with the portion of liability with something that's called the castle doctrine. And I support what Senator Christensen is doing. He indicated that he wanted to have a study done. And while I would have liked to have seen the amendment run because I think it's something worthy of debate, I think it's something that the public ought to be aware of in our laws, I accept what he's done. I'm going to be supportive of the amendment and the underlying bill with thanks to Senator Rogert for bringing it, but I want to create a record and hopefully it can be seen that we at least contemplated what's known as castle doctrine to look at where the weight of liability ought to fall when someone invades my private property or the private property of another person and one chooses to defend himself. I'm not going to try to open up a debate here, but that is something I believe that we need to look at in Nebraska. And so at a minimum, we should at least study it if not contemplate it in the form of an amendment. So I want to create some record, a place here in the public record where we can come back and recognize that Senator Christensen, when he withdrew this, the understanding was that

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we are going to at least take this up as a policy...or a policy discussion by way of a study. Thank you, Mr. President. [LB817]

SENATOR CARLSON: Thank you, Senator Fulton. There are no other senators wishing to speak. Senator Ashford, you're recognized to close on your amendment. [LB817]

SENATOR ASHFORD: Yes, thank you. And I appreciate Senator Christensen's comments and certainly we will have an interim study on the issue of the castle doctrine and we'll do some thoughtful research on the issue for next year. And I do appreciate Senator Council's work on this amendment and her, you know, work on the reckless standard. It's an important part of this. I appreciate the NRA's working with us on this and all of these issues over the last couple of years. And with that, I would urge the adoption of the amendment. Thank you. [LB817]

SENATOR CARLSON: Thank you, Senator Ashford. Members, you have heard the closing on the amendment. The question is, shall AM2203 be adopted? All those in favor vote aye; opposed, vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB817]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB817]

SENATOR CARLSON: The amendment is adopted. Next amendment, Mr. Clerk. [LB817]

CLERK: Senator Rogert would move to amend with AM2308. (Legislative Journal page 1023.) [LB817]

SENATOR CARLSON: Senator Rogert, you're recognized to open on your amendment. [LB817]

SENATOR ROGERT: Thank you, Mr. President. Good afternoon, members. Again, AM2308 is language that was just brought to me this morning from the State Patrol via the Bureau of Alcohol, Tobacco and Firearms. We currently use a system called the National Instant Criminal Background Check System, the NICS system, that's an instant check done when you buy most firearms at a dealer. With the bill originally under LB817, we're eliminating the extra permitting process to go through the sheriff's department. But what we're also going to do now with this language is saying if you've done your NICS check every five years and obtained your concealed carry permit, that it will also waive that need to go through a NICS check system check every time you come to purchase a handgun. So this language, very simple. The State Patrol brought it to me this morning; they're on board with it. They are the organization that helps bring our statutes in line with the Bureau of ATF. So that's what this is, and I ask your support and I'll try to answer any questions if you have any. Thank you, Mr. President. [LB817]

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SENATOR CARLSON: Thank you, Senator Rogert. Are there senators wishing to speak? Seeing none, Senator Rogert, you're recognized to close. Senator Rogert waives closing. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB817]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Rogert's amendment. [LB817]

SENATOR CARLSON: Thank you. The amendment is adopted. Next amendment, Mr. Clerk. [LB817]

CLERK: Senator Lautenbaugh would move to amend, AM2045. (Legislative Journal pages 1023-1024.) [LB817]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on your amendment. [LB817]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. This amendment is a bill that I brought that we heard in Judiciary Committee and, if memory serves, without opposition; it was LB860. Simply put, it deals with concealed carry, and this was something that was brought to me by a law enforcement officer in my district who is a reserve law enforcement officer, I guess is the best way to put it. Under our concealed carry law, if you have ever been convicted of a violent misdemeanor, you are disqualified from concealed carry. Since we're speaking of misdemeanors here, and that could include anything from being in a bar fight in college, for your entire life you would be ineligible for a concealed carry permit. That struck me as a little extreme, so I put a ten-year limit on this. If you have no conviction of a misdemeanor within ten years, a violent misdemeanor within ten years, you are not disqualified for concealed carry. And that, in a nutshell, is what the amendment does, and I'd appreciate your support. [LB817 LB860]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening on the amendment. Senator Rogert, you're recognized. [LB817]

SENATOR ROBERT: Thank you, Mr. President. Just briefly, I just want to let you all know that I do support AM2045. Thank you, Mr. President. [LB817]

SENATOR CARLSON: Thank you, Senator Rogert. Senator Hadley, you're recognized. [LB817]

SENATOR HADLEY: Thank you, Mr. President. Would Senator Lautenbaugh yield to a question? [LB817]

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SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB817]

SENATOR LAUTENBAUGH: Yes. [LB817]

SENATOR HADLEY: A misdemeanor crime of violence, could you give us what kind...what would fall under that category? [LB817]

SENATOR LAUTENBAUGH: Well, a variety of, you know, minor, physical offenses. The bar fight example is the best one I can think of. Any kind of a tussle like that, you could be charged with a misdemeanor assault. [LB817]

SENATOR HADLEY: Okay. Thank you. Thank you, Mr. President. [LB817]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Lautenbaugh. Senator Pirsch, you're recognized. [LB817]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just was wondering if Senator Lautenbaugh might answer a quick question. [LB817]

SENATOR CARLSON: Senator Lautenbaugh, will you yield? [LB817]

SENATOR LAUTENBAUGH: Yes, I will. [LB817]

SENATOR PIRSCH: Does this, then, exclusion apply to misdemeanors then or felonies as well that involve violence? [LB817]

SENATOR LAUTENBAUGH: Just misdemeanors. [LB817]

SENATOR PIRSCH: I see. Okay. Well, thank you for the answer to my question. [LB817]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Lautenbaugh. Seeing no other lights, Senator Lautenbaugh, you're recognized to close. He waives closing. The question is, shall the amendment, AM2045, be adopted? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB817]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB817]

SENATOR CARLSON: The amendment is adopted. [LB817]

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

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SENATOR CARLSON: Senator Nordquist for a motion. [LB817]

SENATOR NORDQUIST: Mr. President, I move LB817 to E&R for engrossing. [LB817]

SENATOR CARLSON: You've heard the motion. All in favor indicate by saying aye. Opposed, nay. LB817 does advance. Next item, Mr. Clerk. [LB817]

CLERK: LB1002. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8177, Legislative Journal page 713.) [LB1002]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1002]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1002. [LB1002]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carried. [LB1002]

CLERK: Senator Louden would move to amend with AM2276. (Legislative Journal page 990.) [LB1002]

SENATOR CARLSON: Senator Louden, you're recognized to open on your amendment. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President and members. This amendment, AM2276, comes onto the amendment of AM1991 which became the bill. What AM2276 does is it strikes the \$250,000 appropriation money in there and adds instead to \$100,000. Now, the reason for that is, as we was working through this bill, we found out that if we can have some money in there for the grant fund writers to work with, they can get matching funds and probably get this operation started a little bit sooner than if we waited until July 2011. This \$100,000 would go into effect in July of this year when this bill would come effect. So this was the reason for this amendment. It cut it down from \$250,000 to \$100,000 a year. Part of the reason, as I might point out since we've introduced LB1002 on the Whiteclay issue up there, we have gotten quite a little input from various other agencies and from the Oglala Sioux Tribe. In fact, yesterday they had a press conference in Pine Ridge yesterday outlining that they have their funding and they're getting started with building this nursing home in Whiteclay. It's supposed to be a 70-bed nursing home unit, and they plan on starting this spring with it, be finished up in July next year of 2011. It's a 70-bed unit on land that the Sioux Tribe owns in Whiteclay on the Nebraska side of the border. So as we've come forwards with even just the introduction of this bill, we have got some interest in it. There has been agencies that have indicated that they can help out with some federal funding. We'll be

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looking into that as we progress with these bills. And as I've said before, this bill here alone won't cure the problems up there, but I'm sure it is a tipping point and it is a start. As we've started with this thing, we haven't got...we've gotten interest from other agencies, as I've mentioned. One of the things that has shown up on that that...with the South Dakota legislature has even passed a bill in their legislature to allow the building of nursing homes in South Dakota, and that was something that hadn't been done until Nebraska made this move. But since they're farther ahead in Nebraska, well, they're going to go ahead and proceed with this 70-bed unit, which would be about 100 jobs in this Whiteclay area. It'd make quite a difference with 100 people being employed in that area. So there are things that can happen with that, and most of that on that part was federally funded. But as we start forwards with some of this deal, we can probably get some...use some for some law enforcement and some other projects that need to be done on the short term up there. And in the meantime, we'd be looking to have grants written and leverage some of this money into larger sums in order to proceed with perhaps some economic development or something like that for the area. With that, I would ask that you would vote to amend AM2276 onto the bill. Thank you, Mr. President. [LB1002]

SENATOR CARLSON: Thank you, Senator Louden. Members, you've heard the opening on the amendment. The floor is now open for debate. Senators wishing to speak: Senator Karpisek, Senator Heidemann. Senator Karpisek, you're recognized. [LB1002]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I rise in support of Senator Louden's amendment to add \$100,000 for the bill. My thought all along was to put some money into this bill for seed money. And I realize that we are in a short economic time. I understand that. However, I do want to remind you that we overrode the Governor on LB867, brought in roughly another half a million dollars. I know Senator Heidemann already has that worked in and he's probably going to tell us that. I will also say that I have LB869 that is on Select File that raises some alcohol retail fees for a first-time license from \$45 to \$400. If you look at the fiscal note on that, it is about \$221,000. However, we have amended that down to \$400 instead of \$500, and I have another amendment during Select File. What I'm trying to say is, we're going to have at least \$100,000 savings there by the Liquor Commission that could be used for this amendment. I just think that we have to have some money in that account for them to start matching grants. I know the Indian Commission has already been working on looking at grants. Again, I know that money is short, but I think if this is going to work, putting in place the way for them to raise the money and to hire a grant writer is great. And I appreciate that the body move the bill. However, I do think that we need at least \$100,000 to get something going. I think it'll help. I'm sure it'll help. I know it's a tough call but I do support it, and I just wanted to remind the body that we did have some money coming in from some alcohol bills. We will have, hopefully, a little more if you see fit on LB869. Thank you, Mr. President. [LB1002 LB867 LB869]

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SENATOR CARLSON: Thank you, Senator Karpisek. Senator Heidemann, you're recognized. [LB1002]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I felt that I needed to stand up and say a few words. When LB1002 was on General File, there was quite a bit of discussion on it. And at that time, it appeared to be struggling just a little bit, and I got a little bit involved and said if you would take the General Fund costs out as far as...I think it was \$250,000 at that time, the bill might have a little bit more of a chance. And I think there was somewhat of an agreement on that, still leaving enough money for a grants person in there with the thought that they could go out and look for different grants from different sources and to start this program. And it seemed to be at that time that LB1002 got a little bit of traction and was able to be passed then to Select File, which at that time I think I might have even supported it. I'd have to go back and look at the records, but my opposition at least went away at that time. I will say if AM2276 gets adopted, it will cost an additional \$100,000 on top of what the cost already was. And at that time, I think I would have to raise some objections to that. I understand what Senator Louden is doing and I understand what Senator Karpisek has said. It would be nice to put some money in here. Looking, though, at the economy in this state and the economy across this country and the challenges that we're going to have in the out-biennium and even where we had to go to balance the budget this time around with 2 percent across-the-board cuts, which will affect even us in the Legislative Council and many other agencies. And I find it hard to believe that even though this is a priority, and I'm not denying that at all, I find it hard to believe that we're going to create another program in this state when we are going to have to cut so many others before we make this all work, not only in this biennium budget but in the out-biennium budget. So I do stand in opposition to AM2276. [LB1002]

SENATOR CARLSON: Thank you, Senator Heidemann. There are no other senators wishing to speak. Senator Louden, you're recognized to close on AM2276. [LB1002]

SENATOR LOUDEN: Thank you, Mr. President. And I agree there are tight times, but we have found money, there is money available, and this is something that probably if we get something started up there, there would probably be a cost factor ratio with less law enforcement and issues like that, that is costing the state of Nebraska that comes out of that area. Besides, there is a lot of sales tax money that goes into that area. We need to take care of it. As Senator Harms has talked about having a strategic plan from Nebraska and this is all part of it, is we have to do our planning, do take care of business where we do have customers that come into the area, and that is what we have from northwest Nebraska from the Pine Ridge Indian Reservation. There's between 35,000 and 50,000 population across our border, and most of those are trade areas of northwest Nebraska. With that, I would ask that you advance AM2276. Thank you, Mr. President. [LB1002]

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SENATOR CARLSON: Thank you, Senator Louden. Members, you have heard the closing on the amendment. The question is, shall AM2276 be adopted? All those in favor vote aye; opposed vote nay. Senator Louden. [LB1002]

SENATOR LOUDEN: (Microphone malfunction)...for a call of the house. [LB1002]

SENATOR CARLSON: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; oppose vote nay. Record, Mr. Clerk. [LB1002]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB1002]

SENATOR CARLSON: Thank you. The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Mello, Nordquist, Ashford, Pankonin, the house is under call. Senator Pankonin, the house is under call. Senator Louden, all members are accounted for. How would you like to proceed? [LB1002]

SENATOR LOUDEN: Roll call vote, please. [LB1002]

SENATOR CARLSON: Roll call vote has been requested. Mr. Clerk. [LB1002]

CLERK: (Roll call vote taken, Legislative Journal page 1025.) 25 ayes, 15 nays, Mr. President, on the amendment. [LB1002]

SENATOR CARLSON: The amendment is adopted. [LB1002]

CLERK: I have nothing further on the bill. [LB1002]

SENATOR CARLSON: Senator Nordquist for a motion. [LB1002]

SENATOR NORDQUIST: Mr. President, I move LB1002 to E&R for engrossing. [LB1002]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carried. The call is lifted. Mr. Clerk. Items for the record, Mr. Clerk? [LB1002]

CLERK: Mr. President, Senator Price has an amendment to LB563 to be printed. Senator Gloor, new resolution, LR427; that will be referred to the board. LR428 is a new resolution by Senator Price; that will be laid over. LR429, Senator Price, be laid over.

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And I have a series of confirmation hearing reports from Health and Human Services. That's all that I have, Mr. President. (Legislative Journal pages 1025-1028.) [LB563 LR427 LR428 LR429]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item.

CLERK: LB952. Senator Nordquist, I have E&R amendments first of all. (ER8185, Legislative Journal page 766.) [LB952]

SENATOR CARLSON: Senator Nordquist for a motion. [LB952]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB952. [LB952]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carried. [LB952]

CLERK: The first amendment to the bill, Senator Utter, AM2176. (Legislative Journal page 1004.) [LB952]

SENATOR CARLSON: Senator Utter, you're recognized to open on your amendment. [LB952]

SENATOR UTTER: Thank you very much, Mr. President. [LB952]

SENATOR WHITE: Point of order. May I have the right to remind the house why we're here? [LB952]

SENATOR CARLSON: Senator White. (gavel) Senator White, please come to the front. Back to Senator Utter. You're recognized to open on your amendment. [LB952]

SENATOR UTTER: Thank you very much, Mr. President. Good afternoon, colleagues. My amendment with regard...AM2176 simply changes the implementation date of this bill from 2010 into 2016. That coincides with dates that are federally related and actually would move the implementation date to a more proper date with regard to this bill. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Utter. You've heard the opening on AM2176. The floor is now open for debate. Senators wishing to speak include Mello, White, Conrad, and Pirsch. Senator Mello, you're recognized. [LB952]

SENATOR MELLO: Mr. President, I yield my time to Senator White. [LB952]

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SENATOR CARLSON: Senator White, 4 minutes and 45 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President. Ladies and gentlemen of the body, in four years I've never had this experience quite like this. But some rather significant developments have occurred with regard to the sewer issue. As you know, for the people in my district, actually the people in the MUD service area which comprise at least one-third of all Nebraskans, something quite distressing has occurred. We have spent a lot of time fighting this. We have had a lot of concern and everybody has been talking about the fact, well, this is a special Omaha bill. And actually I talked to you bluntly about that. But what I have discovered in the interim is, though Senator Nordquist, Senator Mello, myself, Senator Cornett asked the Department of Revenue, do we have to pay sales tax on the cost of this huge undertaking as we pay it off, do we have to pay sales tax on the interest and on the bonds as we pay them off, not just as we do the work, and we were told unequivocally--and there will be documents being circulated--yes. The Department of Revenue told us that is a sewer fee. It's always been taxable. You must pay taxes on it. And we got that ruling I think last summer, and we talked and we decided we better bring a bill and have a public debate. It's a big deal. It's a third of a billion dollars at least. And then we discovered in between, after our last vote and before here, well, really over the weekend it was confirmed that Plattsmouth doesn't need this--the only other city in the state doing the combined sewer separation project exactly like Omaha. Plattsmouth doesn't need this because Plattsmouth is not paying taxes on their payments. The city administrator of Plattsmouth talked to a number of people, including representatives of MUD, including representatives of the press, and they said, no, we've been in contact with the Department of Revenue, division of sales tax, as we moved through this expensive project, as we moved through this bond so we could structure it properly and they said, just call it debt service and you don't have to pay taxes. And they have not been paying taxes for quite some time. And Senator Pankonin was quite forthright about this, very honorable. He said, you know, I talked to my people in Plattsmouth. They said they don't need it. And that made me curious so we looked into it further. And the reason they don't need it is because the Department of Revenue told the folks at Plattsmouth, you don't have to pay this tax. But to everyone in Sarpy County and Douglas County that are attached to the MUD system, you do have to pay the tax. This was not about Omaha, it turns out, getting favorable treatment. This is about whether or not Omaha alone of the communities, and not just Omaha, Sarpy County, Bellevue, Gretna, everybody that...Papillion, La Vista, everybody that attaches to the MUD and the Omaha sewer system project, you get to pay extra special tax. And what is even more distressing is that then I talked to a representative of the administration and they said, oh, well, nobody from Plattsmouth actually...we're trying to find out, nobody from Plattsmouth actually talked to the Department of Revenue. Well, that is completely inconsistent with what my staff was told, what MUD was told, and what the press was told. And it's completely inconsistent, completely inconsistent with what any reasonable city would do as they move forward on a major project like this and a bond. Now you're going to get some real interesting documents that are going to be

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circulated. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: And those documents include, to begin with, a Plattsmouth sewer bill. And as you go through this bill, you will find they are not currently paying sales tax. The next document is going to be a part of their city ordinance so you can understand that what is being charged for in that bill is actually the work for sewer separation. And then you're going to see an e-mail from the Department of Revenue, through Senator Cornett's office, in response to Senator Mello and Senator Nordquist's request, confirming what they'd already told me and I think Senator Cornett that this was taxable. This is so unacceptable. It is unacceptable that one segment of the community...of our state be completely treated differently knowingly by an administration. It is completely unacceptable that when only two cities in the state are undergoing this project the Department of Revenue keeps us here arguing about this issue under the impression that we are standing up... [LB952]

SENATOR CARLSON: Time, Senator White. You are now on your time. [LB952]

SENATOR WHITE: Thank you. We are standing up and asking for special treatment when, in fact, it turns out all we are doing is saying we want the same treatment, it turns out, that Plattsmouth is getting. Now the pages are handing this out right now. Now it is disconcerting in the extreme that we have had to bring this bill, we have had to eat this body's valuable time, we've had to debate this on a completely false premise. But even worse is, it's a cancer in the system we are facing. We cannot possibly operate a straightforward, honest, aboveboard government if we continue to get misinformation from our agencies. We talked today...Senator Pahls talked today about how he couldn't get straight answers. I have told you that I have had that problem. There are 49 senators in here, our staff, the staff of the Legislature, hours and hours, hundreds, thousands of hours have been devoted to this issue because we were misled. I know there are people here who want to filibuster this. I know there are people here that think this was a special Omaha deal, and I want each and every senator to know it isn't. This is exactly about fairness. It is exactly about treating all those in the metropolitan area on the same basis that the people of Plattsmouth are being treated. And I don't begrudge Plattsmouth one bit, not one bit. I think the treatment they are getting is the right treatment, the treatment that should be given to any city facing these kind of problems. But I deeply resent and I am very upset that this body can repeatedly be played this way. And as you go through these documents, there is no doubt that any kind of alert Department of Revenue would know Plattsmouth was not paying sales tax. Plattsmouth says they got the okay from the department and it makes no sense that they didn't, and yet the administration is denying Plattsmouth talked to actual Revenue people, they may have talked to Human Resources, as if the city administrator of Plattsmouth wouldn't know the difference. And if you read the story that was printed by the

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World-Herald, that administrator is quoted as saying we talked to the sales tax division of the Revenue Department--same thing we did. If this is acceptable, if this kind of gamesmanship is what the Unicameral has descended to and what this state has descended to, then we need to let the voters know, because we have wasted so much time on such a painful subject that it is shameful. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White. (Visitors introduced.) Those still wishing to speak: Conrad, Pirsch, Mello, and Cornett. Senator Conrad, you're recognized. [LB952]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. Again, just a quick, again, note of gratitude for the great debate we had on my bill this morning. I really did appreciate that and look forward to talking about those issues more as we move forward, not this year, of course, but hopefully in years to come. I have not spoken or risen in regards to LB952 on General File or yet here on Select, and I do support Senator White in his efforts in what he's trying to bring forward in regards to this issue, and particularly with this shocking development that he has clearly illustrated for us with the disparate treatment afforded to existing projects and political subdivisions and otherwise. I guess I'm really at a loss in terms of where we are and what that means as we move forward. It seems to me that if the Department of Revenue would not offer some sort of similar review or treatment of these issues that are affecting other communities like they have to Plattsmouth, where we now have a precedent for these kinds of situations, that you're setting up some sort of significant liabilities and litigation, I would imagine, and pitting Nebraskan against Nebraskan in terms of seeking fair tax policy from their government, and that's such a dangerous, destructive precedent to set. But if it's okay in Plattsmouth, I guess I am curious as to why we even have had to move forward in this direction. And now that this has come to light, what is the Department of Revenue's response? What is the Governor's response for a plan of action to address this issue? Otherwise, it seems just, at first blush, without admittedly being an expert on these kinds of issues of taxation, to set up basic problems in terms of equal protection and disparate treatment and arbitrary and capricious action, all which is violative of a variety of different strictures within the Nebraska statutory framework. And I'm eager to hear more about this issue as we move forward and I'll yield the balance of my time to Senator White, if he wants to continue this dialogue. Or if he is preparing research for his next comments, I'll just yield back to the Chair. But this is disturbing, shocking, and problematic on so many levels, and so I think that we need to have some consensus on a plan of action from the administration as soon as possible. And with that, Senator White, if he so desires. [LB952]

SENATOR CARLSON: Thank you, Senator Conrad. Senator White, if you wish, you have 1 minute and 50 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President. I would ask Senator Pankonin if he'd

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yield. [LB952]

SENATOR CARLSON: Senator Pankonin, would you yield? [LB952]

SENATOR PANKONIN: Yes. [LB952]

SENATOR WHITE: Senator, you wanted to ask a question. I'd be happy to try to answer. [LB952]

SENATOR PANKONIN: Well, I was just...I had my light on, Senator White, in light of your earlier conversation, earlier speech, just to reiterate what our recollection is of our conversation when your bill first came up. I think you mentioned to me that this may affect Plattsburgh; I should check that out. And I did call the city administrator and he indicated that the way they thought it was structured, it wasn't...this bill wasn't going to affect them. And I said, are you sure about that? And he goes, well, we checked it out; we worked with HDR and the Department of Revenue to check on this. Now I don't have any idea who they talked to, but he indicated the way it was structured and that they were paying back debt, that this fee wouldn't...or this tax wouldn't be applicable to them. So he said, I don't think this bill is affecting us. And I did report that back to Senator White. And actually my vote on the first round was present, not voting because I was a little queasy about really where Plattsburgh stood and how this was all going to play out, so. But I do want to take this opportunity to also say that the folks in the city of Plattsburgh work in good faith, as well. This was nothing that I had... [LB952]

SENATOR CARLSON: Time. Thank you, Senator White, Senator Pankonin. Senator Mello, you're recognized. [LB952]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Obviously, I rise in opposition in AM2176, in support of the underlying bill, but I was just explaining to Senator Haar, I'm kind of dumbfounded even what to say regarding this issue. I was reading the World-Herald at the end of my lunch hour where I came across this article that stated that a city who was facing the same problems that we had a long debate on General File regarding combined sewer overflow was not paying sales taxes on the same issue that multiple members of this body said that everyone was paying. Everyone in this state pays this sales tax. It's a state requirement. The reason I know that is because during our special session in November I brought it up in an Appropriations Committee hearing with the Department of Revenue where Tax Commissioner Ewald specifically stated that this was not a double taxation. And I believe Senator White, I notice, included the e-mail Commissioner Ewald sent Senator Nordquist and myself from our Appropriations Committee follow-up where he specifically says this is not a double tax; everyone pays this sewer rate sales tax; and I'm sorry we have a general disagreement in regards to the definition of what double taxation and fees are. Now I'm more interested to find out if there's anyone in this body

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who can provide more information on regards to this situation in the sense that Plattsmouth, the city of Plattsmouth, somehow talked with the Department of Revenue officials and somehow found a way to not have to pay this sales tax. Now I read through the e-mail that Commissioner Ewald sent, and said that his deputy tax commissioner, Kim Conroy, was involved in this issue while working at Union Pacific, and this is the comment she provided: Before the increase in sewer rates was decided upon, many other options were looked at, such as an increase in property taxes or a tax based on the amount of impervious surface area businesses or a house has. Big lot stores, big parking lots, etcetera, would have paid for this. These options were eventually not used. I had gotten involved in some of these discussions while at UP because of the concern of increased property taxes. You know, the increase is occurring in the sewer rate. In essence, each sewer user is having their sewer rates increased to pay for this infrastructure. A sewer rate is not a tax or fee; it is a charge for services received, therefore, not a double taxation. Mr. President, members of the Legislature, I don't know how to accurately describe what I'm thinking, whether or not we have been deceived by the Department of Revenue saying that everyone pays these taxes but unless you go to talk to the Department of Revenue they might find a way for you not to pay those taxes, or is there something else here at work that we just don't know about? I know we'll probably have a long, lengthy debate on LB952 because there's a good number of senators who don't support providing this tax relief to people who have to pay this federally mandated sewer charge. But I open it up to the body in the sense that if we move forward in this debate, that if there's anyone who can provide more information in regards to how the Department of Revenue worked with one municipality, found a way for them not to pay sales taxes, but the largest municipality in the state of Nebraska, somehow they weren't able to find the same situation, I'm open to hear some ideas. I'm open to hear some dialogue and any more research that any member of the body can provide, as well as the Governor's Office, as well as the Department of Revenue, because right now things aren't adding up. People should be concerned because one way or another we have misinformation coming from a Department of Revenue that at this point in time is saying the city of Plattsmouth, the city administrator of Plattsmouth, the Cass County board, other members of a local political subdivision in Cass County have been lying about this issue, which I just don't buy. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR MELLO: I just don't buy that. This seems to me that we have a situation where someone is saying one thing, someone is saying another, and it's going to be left up to the Legislature to figure out who's telling the truth. With that, thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Mello. Those still wishing to speak: Senators Council, Gay, Pankonin, Nordquist, and White. Senator Council, you're recognized. [LB952]

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SENATOR COUNCIL: Thank you, Mr. President. When I first pressed my light to be recognized, it was to stand in opposition to AM2176 principally because I didn't see any need to change the effective date of this legislation. The legislation, by its express terms, relates to a sewer separation project and is specifically with regard to the combined sewer overflow, speaks to public works being performed in connection with a mandate from the Environmental Protection Agency. Senator Utter says that he has some information that apparently I don't have, and I've been working with the city of Omaha and the EPA as to when work will actually commence on the combined sewer separation project. If the bill takes effect in 2010 and they don't start performing work until 2016, then the language of the bill takes care of itself. And that's why I originally pressed my light. But I must now comment on the information that Senator White has made available because I, like many other Omaha area senators, have been meeting on this subject since early in the interim period last year, meeting with city representatives in discussions, correspondence. I have not had a personal meeting with Director Ewald but I received copies of e-mail correspondence. The...his opinion was referred to me and it was unequivocally stated that any increase in sewer fees, regardless of what it was related to, is a taxable event in the state of Nebraska and would be subject to sales tax, no exemption. And I don't care what the reason that this exemption has been granted. I no more than anyone else in here wants to subject Plattsmouth to any kind of action in terms of recovery. But what I see in this document is what I believe the opinion of the director of Revenue should be, what the law should be, is under these circumstances this additional expense is not subject to sales tax. And that's what I see this bill from Plattsmouth representing, that that is, in fact, what the state of the interpretation of our revenue rules are, is that under these circumstances a major combined sewer overflow project, that the expenses incurred by the municipality in connection with those expenses, that with that kind of work, should not be subject to sales tax. And I don't care what the size of the project. Obviously, judging by this bill, the cost of the combined sewer overflow project in Plattsmouth pales in comparison to the one projected in the Omaha MUD service area. But the fact that on a project of this size, as reflected in Plattsmouth, there's no sales tax, lends fuel to the argument that there absolutely shouldn't be a sales tax associated with a project of the magnitude of the Omaha combined sewer overflow project. On this bill, you see the costs associated... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR COUNCIL: ...with the overflow project being \$8 a month. It's been projected that residents in the Omaha area would be looking at an increase of \$50 a month. And so if it's fair to not charge a sales tax on a smaller project like the one represented by Plattsmouth, absolutely this body should not allow for sales tax to be assessed on a project of the magnitude of the Omaha combined sewer overflow project, particularly in light of the fact that these costs are being incurred at this time as a result of a federal

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mandate to perform these. The city of Omaha really has no control at this point in time as to when this work is to be performed. And it's for those reasons that, again, I oppose AM2176. I support LB952... [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR COUNCIL: ...and urge this body to do the equitable thing. [LB952]

SENATOR CARLSON: Thank you, Senator Council. Senator Gay, you're recognized. [LB952]

SENATOR GAY: Thank you, Mr. President. As I saw this new information that was handed out, an idea popped into my head. It looks like we're getting right into a filibuster here or those are just very good amendments, I don't know. But there's a certain point here where I would assume the opposition from Omaha on this might change a little with new facts. But if Senator White would yield to a question, I'd like to ask him a question while I'm waiting for...if Senator White yield to a question. [LB952]

SENATOR CARLSON: Senator White, would you yield? [LB952]

SENATOR GAY: But while he's getting to the mike, it's a different subject matter now. And I think, in the interest of the Legislature, we could move on to other things, but maybe to put a...slow this down a little bit, get our facts together, have a meeting. Senator White, with this new information, do you think the support of the city of Omaha would be helpful to your cause here? Should you not talk to the mayor of Omaha? [LB952]

SENATOR WHITE: I actually think what we ought to do is do what the department did for Plattsmouth. You know, we ought to just exempt this. It's still a triple tax. This is wrong. It ought not to be up to bureaucrats. Okay, because you talk to the right bureaucrat, and so Plattsmouth doesn't have the tax; you talk to the wrong bureaucrat, Omaha does. Let's just make a law. [LB952]

SENATOR GAY: Well, what I wonder, is there a point here...it looks to me like you've got some pretty strong opposition, and maybe I'm just looking into this a little more than I should, but if this were to come back maybe a day or two down the road and you get the facts of what's going on here. And then also if you had the support, I think, of more of the metro area, I think this would help your cause. But should that be something that we should look at if the ultimate goal is to do the right thing? [LB952]

SENATOR WHITE: Well, yeah, the ultimate goal always should be to do the right thing, Senator, and I appreciate that. But what's really frustrating in this situation is there's already conversation that I'm hearing drifting in from the administration, well, we'll just

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take it away from Plattsmouth. And that's not right. [LB952]

SENATOR GAY: Senator White, in fairness to Plattsmouth and the taxpayers of Omaha and Sarpy County, should we not find out what's happening here, come back? Or do we make a decision without all the information? Because what I'm afraid of here is your bill would go through, I think better, and this is your strategy, but some of us who have been supportive, maybe that should be...but do you think the mayor of Omaha would change his mind if the facts were...? [LB952]

SENATOR WHITE: I can't speak for the mayor, Senator. I really can't. [LB952]

SENATOR GAY: I know. I... [LB952]

SENATOR WHITE: And it's not fair for me to even pretend. I guess what I would tell you is, Senator, this, that, first of all, it's clear Plattsmouth has been working under an exemption. That's clear. You see their bill. There's no question, okay. It's clear Omaha has been told by the department you won't get an exemption, right? Nothing under the underlying facts are going to change. We either believe it's appropriate to tax an unfunded federal mandate, which I don't, or we don't. Now all I'm saying is there was a lot of noise made that we were looking for something special in Sarpy County and in Omaha, and that turns out not to be the case. We would like the treatment Plattsmouth has got and I think we decide right now. We're all the way here. Let's just decide it. [LB952]

SENATOR GAY: Well, and that may be. We'll have plenty of time to do that, it looks like. My goal would be if we found out and we knew where we're at, whether that was an oversight or whatever the case may be. In the interest of Plattsmouth, as well, and Senator Pankonin I think is the speaker behind me, but if we have to...Senator Council talked about now would we have to go back and recollect those taxes. Should we get some of this figured out so we could make a better decision as state senators? Full information, we could make a better decision. I think actually that would be maybe a better course. We could move on to other things and then come back to revisit this after you've had a chance to visit with the Department of Revenue and those affected people. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: Let me point the following out, Senator. As you pointed out this morning on a bill, it's late in the session, we don't have time. You know, I wanted to work on the Small Business Regulatory Flexibility Act and we don't have a lot of time. That's one. Two, it's real clear to me what happened. Now it may have been an innocent mistake, which is what the administration may claim, or not, but there is no way (laugh) in the world they shouldn't know what was going on in Plattsmouth. We

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have clear testimony from people in Plattsmouth. They've told the press. They've told my people, look, the Department of Revenue said we don't have to pay taxes; we call it debt service. And they told us we had to. I don't know what is going to occur. Maybe they'll change their mind in the Department of Revenue so Plattsmouth will get taxed. I don't think that's a good solution. [LB952]

SENATOR GAY: Yeah. And I don't want to shut you off but we're on my time. But as we get to this I'm just kind of at some point though, and I'm sure we'll have a lengthy debate, maybe we can get that information of what happened here and why there was, whether it's an oversight... [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR GAY: Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White and Senator Gay. Senator Nordquist, you're recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President and members. I first rise in strong opposition to the amendment AM2176; 2016 makes no sense, folks. The bottom line is, right now, those of us in the MUD service area, we're paying this tax now. I mean, it's on...it's starting right now. It's going to be going up to \$50 a month for the fee, and then the tax on top of it. It's on my bill, right now, this month. Why would we push it off to 2016 when the construction starts? We're paying on funding for this right now. A lot of concern over the Department of Revenue. I know there's people trying to get to the bottom of it, but it's very concerning. I mean, just hearing the...you know, just what...looking at the article here and talking to Senator Nantkes with some information she gave me off the Department of Nebraska Revenue Web site, you know, if the city of Plattsmouth is intentionally, you know, not paying taxes, which, you know, that constitutes tax fraud according (laugh) to the laws of our state, and that's what the Commissioner is suggesting, that they're intentionally not doing that. I mean, the information he provided us said pretty clearly, back when we debated this the first time, that sewer services should be taxed. I hope that applies...if that's the case, it should apply to everywhere in this state, not just the chosen few. This is about fundamental fairness and how our tax code is implemented. But back to the main point of the bill, as I said on General File, whether...you know, if Plattsmouth is getting a break on this and they shouldn't be, that's great. But I think regardless, we need to pass LB952. This is about economic advancement. This is about removing a tax. This is about keeping more money in the pockets of working people, of working families. This is about helping businesses who...some of the largest businesses in Omaha are going to see their sewer use fee go from \$1 million, \$1.4 million, to over \$2 million during this time, and there's going to be a tax on top of that. We are piling on. And regardless of...we need to get to the bottom of what's going on with the Department of Revenue, but the bottom line is we

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need to pass this bill to help and create jobs in our state and not scare them away by piling additional tax burden on businesses. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Nordquist. Those still wishing to speak: Senators White, Krist, Cornett, and McCoy. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I would suggest that we just give Omaha the treatment Plattsmouth is getting. I don't think we should bow to bureaucrats and say, oh, we got to find out what they said. Plattsmouth has clearly been given this exemption. Plattsmouth has worked on it. I'm deeply concerned that now the administration is arguing, oh, well, they didn't really talk to the right people or it was inadvertent or they never talked to the Department of Revenue, which is completely inconsistent, well before there was any controversy with what they told Senator Pankonin, completely inconsistent with the normal operation of any city. They would not do this without checking with Department of Revenue. It's completely inconsistent with their sewer bill and how they moved forward, completely inconsistent with what they told the reporters. And then the threat is, oh, well, we made a mistake; we'll just take that exemption away from Plattsmouth. That is no solution, ladies and gentlemen. That is no solution at all. The people in the metropolitan area ought to have the exact same treatment as Plattsmouth, and Plattsmouth should not lose one whit of any advantage it's gained. This should just simply be the law. And we will take what Plattsmouth got right now. If that needs to be modified, I'll work with anybody right now. But we should advance this to Final with whatever amendment to put us on the same footing as Plattsmouth. I'll take it. What I won't take is this concept that after months of open debate and discussions about this bill and huge press, that nobody got it, nobody knew in the administration that Plattsmouth was getting this deal. That is completely inconsistent with the person that Senator Pankonin says is a man of honor and other people say, as well, his testimony or his statements. It's inconsistent with city behavior and it's inconsistent with the obvious documentary evidence. They weren't hiding those sewer bills from anybody. So I don't think we ought to bracket anything for any amount of time. I think we ought to just tell the people in the administration, no, all taxpayers wherever they reside in this state will get the same treatment and the people in the metropolitan area, Sarpy County and Douglas County, will get the same treatment as the citizens of Plattsmouth. And Plattsmouth shouldn't lose anything that they've already been given. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White. Senator Krist, you're recognized. [LB952]

SENATOR KRIST: Thank you, Mr. President, colleagues. I represent District 10 in Omaha and I have heard from my constituents and I have to stay on the side of LB952. In my limited experience with this body, I recognize that the series of amendments that are coming up were designed to filibuster so that this body would be tied up to a point

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that we would never reach resolution on LB952. At least that's the way I read it. If we were a classroom, we'd all be in time-out right now and we'd be taking our afternoon nap and the teacher would go to the principal's office and say, are the facts that we have been given correct? Is the Department of Revenue applying many standards in many places? And after we got up from our afternoon nap, she would say, here are the facts, and we could make logical decisions and go ahead with our day. Well, that's not the case. And it's charged and it's emotional and there's some people standing up saying things that are correct but maybe aren't getting us far enough down the road to the truth. Let me remind this body that there was a great deal of humor injected into this conversation in the past debate about all of your places that had done what you did and pay taxes. So that's how the Department of Revenue treated each one of you that had your own projects. You all pay tax. And you said, why Omaha? Well, now the other side comes back and says, why Plattsmouth? Because Plattsmouth obviously had the right person ask the right question to the right person and go the right answer. And, folks, that's where we're at. It should be as clear as the nose on our face, and I think it really is. If we could take a time-out, if we could get the answers that we need, we could go forward as professionals. Now, there's a problem with that. Procedurally, I think there's a lot of folks that would like to talk about this and we'll probably hear a lot more debate. But I believe, honestly, that it is wrong to put this on the backs of the people in my district, Senator Council's district, Senator Cook's district, and some more affluent parts of Omaha, I grant you, Senator Howard's district. It's wrong. And I said earlier in this conversation when we started it in this debate before, we would not be here if it wouldn't be for the leadership in Omaha deciding to do what they're doing and the way that they're doing it. Now I might be partially wrong there and I will admit that the EPA has put some unusual incredible demands on time. But I think some of that can be worked out. But the point is this: We have multiple standards being put on at least, at least two different parts of this state, and it's not fair. So somebody who knows the process a lot better than I or knows this body better than I, come forward and help us take a time-out and take that proverbial nap and get the answers we need to go forward and make the right decisions. Because the people in Omaha are counting on us and the people in Plattsmouth now have started watching the broadcast. They started watching because somebody is talking about just reversing a decision which is wrong, wrong, wrong. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR KRIST: Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Krist. Senator Cornett, you're recognized. [LB952]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Before I begin on the issue that we're discussing in regards to the information from Plattsmouth, I want

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to let everyone know and let Senator White know I still support the bill. I have four cities that are not even part of the city of Omaha or even in the same county that are going to be paying this fee and being called co-owners. And if this information that we are receiving is correct, then I think a great injustice has been done, that all municipalities should be treated similarly in taxation. But I advise everyone, until we get to the bottom of exactly what transpired, that we all take a step back and ratchet our emotions down a little bit. When I first heard this, I was really angry. It brought me back to three years ago when I was Chair of Business and Labor and I received the wrong information in regards to the overtime hours at Beatrice. I felt that I had received the wrong information or that another agency or municipality was being treated differently than my municipalities were going to be treated. I have calls in to Doug Ewald. I have spoken to the city administrator from Plattsmouth who said that he did not directly speak to someone from the Department of Revenue. It was someone from HDR at a meeting they had that spoke to the Department of Revenue. And I have a call in to the person at HDR to get clarification on this issue. Understand, I support the underlying principle and the tax policy here. But before we jump up and down and scream that the Department of Revenue has done wrong or that the city of Plattsmouth is getting some special exemption or that we have been misled, we need to find...get to the bottom of this and have documented facts in regards to the issue. It does not change what we do in regards to policy and how we determine what is the correct tax policy for the state. I voted this bill out of committee and I've supported it on the floor because I feel that it is a good tax policy. If this bill passes, it should include the city of Plattsmouth. If it does not pass, then the city of Plattsmouth should be taxed in the same manner that the other municipalities are going to be taxed. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Lautenbaugh, you're recognized. [LB952]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And to make the record clear on this, I'm a cosponsor of this bill and I voted for it last time around. And I really, really appreciate Senator Cornett's comments just now, because, folks, this is not open mike night. We're supposed to be in the Legislature and we're supposed to have some sort of a command of something approaching facts before we stand up here and make accusations. Now there have been occasions where I may have been abrupt with some of you and I may have said things that annoyed you. But all of you are big people and you have the right to turn on your light and say, Scott, you don't know what you're talking about; sit down. But this is not something new that we go off half-cocked and attack people outside this body. We did it last year with the State Treasurer. We're doing it now with these dreaded bureaucrats down in Revenue. Are we going to apologize to them when we find out that no one spoke to something called HR? It's HDR and that makes a lot more sense. Are there going to be apologies forthcoming? And are we going to realize that we can fight and maybe yell and scream at each other from time to time, but it isn't right to go after the people outside of this

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body when we don't have all the facts, and impugn them, impugn the job they do, say they're giving us false information? And there's...you know, the corrections always make the back page. We know how it works in print. But we do need to ratchet this down and we need to be more careful about what we say about the people out there when we, quite apparently, don't know what we're talking about. And since I don't know any more than anyone else in here does at this time, I thought I might as well weigh in, too, because apparently that's what we're doing this afternoon, and I hope we stop it until we know what the facts are. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator White, you're recognized. This is your third time. [LB952]

SENATOR WHITE: Thank you, Mr. President. Well, I do know what I'm talking about, Senator Lautenbaugh. I spent months working on this bill. I know that we asked the Department of Revenue, do we have to pay taxes on this? And they said yes. I know that the city of Plattsmouth believed they didn't have to pay taxes. I know that the reporter for the World-Herald talked to the city administrator of Plattsmouth and he said to him, yeah, I talked to the Department of Revenue myself and HDR. I know that a representative of MUD talked to him and he told that representative the same thing. I know that. I also know that Plattsmouth hasn't been paying taxes. They were supposed to start reporting this in October, and since October they've not been paying sales tax. I know that there are only two cities in the state that have this problem, Plattsmouth being one of them. I know that Senator Pankonin said on open mike a long time ago, Plattsmouth got a ruling from the Department of Revenue, this doesn't affect them. These things we know. We know those to be true. Now, who or how Plattsmouth talked with the Department of Revenue, I don't know. But I know that they acted on that and that they apparently acted on it in good faith. I also know this is a triple tax. I know this is an unfunded federal mandate; that it is taxing the people of the metropolitan area as they repay bonds. I know we've been told we have to do that. I know we spent weeks and months of debate in working on this and I know that the Department of Revenue has a job to make sure all cities are following it, and you couldn't put a bigger red flag on the issue than we did in debate about Plattsmouth. And not a word came from the Department of Revenue or anyone else other than Senator Pankonin, who was completely up-front at all times, completely honorable. That's what I know. I know that for a fact and I know that the issue hasn't changed: Are we going to tax unfunded federal mandates, yes or no? And whatever it is, it ought to be the same for across the state. It ought to be the same for Plattsmouth as Omaha. And it shouldn't matter which bureaucrat you go to. It should be a simple statement: Are we going to tax this, yes or no? The issues haven't changed. We know all of that. And am I upset? Yeah. Do I have a reason to be? Oh, yeah. Has there clearly been a screw-up on the administrative level? Oh, yeah. The question is how. Is that necessary to the determination of this bill? Absolutely not. Absolutely not. But the idea that we went through all of this grief and all of this debate, all the lobbying, that we're going to have a filibuster, that we had these

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opinions from the Department of Revenue, they see us going forward, they know it's only Omaha and Plattsmouth, it's clearly raised, and nobody from the Department of Revenue comes forward and says, hey, Plattsmouth isn't paying this sales tax, that's wrong. They had a duty to know. And they had a duty to keep us informed and we asked, and they didn't. Now maybe it's innocent. It's possible. That's inconsistent with what we've been told, but, okay, it's possible. That's not the point. I'm not looking for any individual. We've named no names. We've talked about a department agency not giving this body accurate, timely information on a matter of massive fiscal importance. Now let's just put that aside and deal with this. It's not a special deal for the metropolitan area. It's not a special deal for La Vista. It's not a special deal for Bellevue or Papillion or Omaha. It is what Plattsmouth understood the law to be and has acted under that level. Let's make it a simple law... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: ...for everybody in the state. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White. Those still wishing to speak: Lautenbaugh, McCoy, Wightman, and Utter. Senator Lautenbaugh, you're recognized. [LB952]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I'm not going to do this all day but to quote someone I admire, there you go again. No, we don't know that the state gave us inaccurate information because we don't know what information the state was given. We don't know if these projects are the same, we don't know if they're funded the same. As I stand here, I don't know if that makes a difference, I don't know what transpired with the city of Plattsmouth. But the tenor of our comments regarding the Department of Revenue and the administrative branch has been way out of line, based upon the fact that we don't know what we don't know yet, to quote someone else I admire. And here we are besmirching...and we don't back down. We just say, well, no, we still don't know this, this and this, and we're upset, so let's move on because the real issue is something else. Well, sometimes we make the real ourselves and we probably shouldn't do that here. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator McCoy, you're recognized. [LB952]

SENATOR McCOY: Thank you, Mr. President and members. I would tend to agree with Senator Lautenbaugh. I think we do need some more time to try to determine what exactly the situation is and what information that we have. There are a number of folks that are working on this situation now. This issue does have profound consequence for a large number of Nebraskans in our state populationwise and several communities, as has been said. And I believe that some more time is needed to find out exactly what is

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going on. And I'm sure there's an answer, and an answer we'll be able to determine, I assume, within short order, one way or the other. And more details are what this body needs before we move on legislation as significant as this. Thank you, Mr. President. [LB952]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator McCoy. Senator Utter, you're next and recognized. [LB952]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. In committee we discussed this bill at length. And one of the things that was important to me as we discussed this bill is not necessarily cutting a new law for the city of Omaha but looking at our state and looking at all of the cities and the towns and the villages in this state that have done sewer projects, have done water projects, have laid new gas lines and have done all these improvements and how they've been taxed and how they paid that tax, not whether or not it was a big project or a little project. Depending upon the size of the city, even a small project in one of the small villages can be just as financially tough as a big project in the state's largest city. So I was concerned about fairness. The fairness of how we were doing this was important to me. Senator White, my colleague, as he introduced this talked about the federally mandated project and the unfairness of the triple taxation, as he called it, on the sewer portion. But he also included in that some nonfederally mandated projects simply because they were...it was the most economical time to do them, while the streets were torn up and they were putting in the sewer separation project. And I still think in the final measure when we go back and look at what we are going to do in this instance, regardless of what happened in Plattsmouth or anywhere else, we have to look at what the policy, the tax policy has been statewide and how the citizens of this state who are residents of villages, of cities, of metropolitan cities and the whole ball wax, how have they been taxed and how have they paid their taxes. And if down through the years they have paid those taxes, it's going to be difficult for me to say, well, now Omaha has a big project, they're a big city, but they have a big project and we should exempt them. And I think that we've got to look at the fairness of this for all of the cities in the state of Nebraska in the final analysis. And to me it's always been a matter of fairness, not only fairness for Omaha but fairness for all of the rest of the towns, villages and cities throughout this state. I think that's the important issue that we've got to answer. One final thought is that as we are in this state of confusion right now, I think it's fair to call it, not knowing what's been said to who and what's been done to who, it seems to me like it would be very hard for this body to move forward on any type of legislation, number one, until we know the facts, until we know what's happened, and know why it's happened and whether or not it meets the fairness test or not. Thank you, Mr. President. [LB952]

SENATOR ROBERT: Thank you, Senator Utter. Senator Conrad, you're next and

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recognized. [LB952]

SENATOR CONRAD: I'd yield my time to Senator White, if he so desires. [LB952]

SENATOR ROBERT: Senator White, 4 minutes 55 seconds. [LB952]

SENATOR WHITE: Thank you much, Mr. President. Senator Utter, it is about fairness. That's what it's about. And it starts with the concept of the people in the metropolitan area did not ask to have to separate their sewers. They did not ask to have to tear up their streets. They did not ask to have to, while they're there, look at the prospect of tearing them up again to replace aging gas lines and pipe. They didn't ask for any of that. And unlike the people of Plattsmouth, Senator, who got a really good earmark, thanks to the good work of Senator Nelson, that paid a substantial percentage of their expense, it was like \$1.5 million on this project I believe, the people of Omaha got almost nothing and they have to shoulder this burden. We have no choice. All right, we'll shoulder it. And then, unlike the folks in Plattsmouth, we were told, both by our mayor and the Governor and the administration, that we had to pay sales tax as we struggled to pay off those bonds, taxes not on just the stuff we bought but also the interest. And that seemed unfair. And the bill, as I originally brought it, said for any project like this, combined sewer, federally unfunded mandate, we shouldn't have to pay sales tax as we try to pay off our credit card debt, and it should be the same across the state. And I was accused of, well, no, it's really just for Omaha. And that's not true. I still stand by that. And what I am saddened by, I'll be honest with you, and mystified by is senators standing up here today far more concerned about the administration, far more concerned about what the bureaucrat said or didn't say or who said what or how did Plattsmouth get here than a fundamental fact--\$330 million at least in sales tax on an unfunded federal mandate. I wish folks would show one-tenth of the passion for taxpayers that they have shown to protect this administration and its agencies. I am not interested in at all in taking any agency's head. We've mentioned no names; that's on purpose. But I can tell you the facts are there. The facts are Plattsmouth clearly moved forward in a responsible manner. The administrator...city administrator apparently told Senator Cornett he'd just talked to HDR, but he told a representative of MUD and he told the reporter from the World-Herald that he talked to the representatives of the Department of Revenue when the HDR person was there, and he had notes. He was clear and unequivocal. And certainly Plattsmouth acted in accordance with what he said. Because there's no question they aren't charging sales tax on this. And they're right, they shouldn't, they shouldn't. We shouldn't pile on. We should simply go forward with this proposition. We're not going to tax our citizens as they struggle to comply with an unfunded federal mandate. And that should apply to Plattsmouth, it should apply to Sidney, and Scottsbluff, and Hyannis, Bridgeport, Sioux City, and the people in the metropolitan area of Douglas and Sarpy Counties. [LB952]

SENATOR ROBERT: One minute. [LB952]

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SENATOR WHITE: That's it, not complicated, not hard. Nothing has changed other than the fact that we clearly, I clearly in good faith and so did everyone else think that we were willing to be doomed to taxation on this issue. And yet another metropolitan area clearly received advice that said they didn't have to and behaved accordingly. And however else you want to say it, at least since October of '09, and that is, what, seven months, they haven't been paying this tax and they're supposed to. There is no way that happens if people are alert and they're trying to keep us well informed. So I understand Senator Lautenbaugh and Senator McCoy's deep concern for the administration. I just urge them to be concerned about the taxpayer. I think that's really who we work for, are the citizens. We don't work for the administration, don't work for the agencies,... [LB952]

SENATOR ROBERT: Time. [LB952]

SENATOR WHITE: ...citizens. [LB952]

SENATOR ROBERT: Thank you, Senator White. Senator Mello, you're recognized. [LB952]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. With all due respect to some of my colleagues who have asked essentially...who have made assumptions or have made a statement that there are some of us who are upset or we don't have all the information and all the facts, I can explain to you this from being a member of the Appropriations Committee, that it's our job as the legislative branch to hold state agencies accountable. Whether it's this bill, whether it's any other bill, whether it's their state agency budget, whether it's the Governor's Office, whether it's the State Treasurer, whether it's the Department of Revenue, it is the Legislature's responsibility to demand accountability on behalf of the people who sent us here. So to be perfectly candid, I find it somewhat offensive that a member of this body would say that, because my perspective of holding state government accountable, that I'm out of bounds in some reason, that I have no idea what I'm talking about, that I am throwing wild accusations about nameless bureaucrats in the administration. Folks, that's trying to deflect from the bigger issue here and I think we all know that. The fact is this. I just spoke with the administration. I give them credit. They talked with me. They said, we don't know anything right now, give us some more time and we will get back to you. That was their answer; gave me some possible explanations. Senator Pankonin, Senator Heidemann was there, they gave some possible solutions. They don't have an answer right now. They don't have the clear information but they will get back to us. I was thankful for that. I think what Senator White, myself, other members have made mention on the floor today is this: LB952 is still good public policy. What we have found out in today's revelation in regard to the city of Plattsburgh and some misunderstandings, miscommunications, declarations that might be inaccurate from the Department of Revenue, those will get sorted out one way or another, we know that.

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We're going to be on this bill for a while because it appears from the amendments that are being filed there's a filibuster being mounted. Let's not forget that in our sight, colleagues, because it's there. You can read on the Chamber View the amendments that are filed. The point though is this: AM2176 is a bad amendment. This makes people who have to deal with the combined sewer overflow pay an additional \$75 or \$80 million in sales tax to the state. So whether or not you want to get engaged in seeking out more answers and seeking to find out what actually happened with this issue regarding the city of Plattsmouth, the Department of Revenue, we can continue to work on that. I find it offensive though for people to say that we're stepping over our bounds to ask government to provide us accurate information when we are working on a piece of legislation that has a dramatic economic impact on the city of Omaha, the city of Papillion, the city of Elkhorn, the city of Gretna, the city of La Vista, the city of Bellevue. Colleagues, LB952 is a tax policy change that numerous cosponsors, numerous people on General File supported, and the reason being is this--it changes a double taxation on a federally mandated project. That's what it does. We understand that. AM2176 extends the enactment date of LB952. It says that this does not take place until 2016, thus requiring the people affected by the federally mandated combined sewer overflow to pay an additional sales tax for six more years, \$75-plus million more with this amendment. Obviously, I stand in strong opposition to the amendment. [LB952]

SENATOR ROBERT: One minute. [LB952]

SENATOR MELLO: I stand in support of LB952 because it's good public policy for our state. I understand the continual fiscal concerns that my colleagues on the Appropriations Committee have expressed to me in regards to how do you pay for this. How do you pay for LB952? Well, we pay for LB952 by taking money out of the Cash Reserve because we shouldn't have been getting the money in the first place. Today's example with the city of Plattsmouth is proof of whether or not we should have been doing this in the first place. With that, Mr. President, I yield any time...actually, I yield the time back to the Chair. [LB952]

SENATOR ROBERT: Thank you, Senator Mello. That was your third opportunity. Senator Heidemann, you're recognized. [LB952]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. It's been an interesting afternoon, there's no doubt about that. Some situations have arised or a situation has arised that some might believe that might change some people's mind. And I will tell you that right now that I am...was in opposition to LB952 and I am still in opposition of LB952. What has transpired this afternoon has not changed my mind at all. And I have asked the question time and time again and we have heard just...Senator Mello just got off the mike about federal mandate, we shouldn't double tax...have double taxation on federal mandates. And on General File, I read off a list of towns across the state of Nebraska that were going to be paying this

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tax. And nothing has changed. Nothing has changed for me because these towns across the state of Nebraska will still pay this tax on these federally mandated projects. And after General File debate, I went back home and I ended up going into this little town that has this federally mandated sewer project that probably per capita they'll be paying more than the city of Omaha will be on their project. And I know what their sewer bill is going to be and it's going to be tremendous for them, and on a little village that has a declining population, and they're going to have to pay, and they will, the way I understand it, will have to pay sales tax on it. So what has changed for me? Absolutely, positively nothing. I didn't agree with the policy in LB952 on General File and I still do not agree with the policy on LB952. I believe if it is good policy that this body would decide to do this for combined sewer overflow, why shouldn't it be for every federally mandated project? And then I could start to understand and maybe I could start to agree a little bit, if this is going to be the policy, it should be then across the state. But just to do it for the combined sewer overflow when there's all kinds of other federal mandates, I don't understand that. So my opposition to LB952 has not softened. It has probably got a little bit stronger. Thank you. [LB952]

SENATOR ROBERT: Thank you, Senator Heidemann. Senator Cornett, you are next and recognized. [LB952]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I am currently waiting on three e-mails from HDR, the contact person that the administrator for Plattsmouth spoke to. I do not know what the administrator told the World-Herald, other than what was printed. I do not know what they stated to Doug Clark from MUD, and I do not know what they said to Senator White's office directly. But the city administrator for Plattsmouth said to me directly that they were in a meeting when he asked one of the people that works for HDR to contact the Department of Revenue for an opinion on whether...what was tax exempt for them. The person that I spoke to at HDR will be sending me three e-mails that he believes led to the confusion. When I get those e-mails I will show them to Senator White, out of courtesy, first. I don't have a clue what they say, at this point I'm still waiting, and then I will circulate those to the body. Regardless of whether a mistake has been made here in regards to whether Plattsmouth has been collecting sales tax for this or not, I want to reiterate to Senator White and to members of this body that I support LB952. I support the concept that we should not be taxing this fee. With that, I will yield the remainder of my time to Senator White, if he wants it. [LB952]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Senator White, 3 minutes and 15 seconds. [LB952]

SENATOR WHITE: Thank you for that courtesy, Senator Cornett. I would like to address a couple of points. First of all, it is absolutely clear Plattsmouth has not been

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collecting taxes on these sewer fees. Folks, we can talk about why or why they haven't. I know what they've told people, we did our homework, we were real careful. But they haven't been collecting them. They believed, and I believe in absolute good faith and I believe without question, they believed what they were doing was authorized by the Department of Revenue. Now they did tell people they talked to Department of Revenue personally, they were involved in that. I don't know what they're going to say now. I know what they said and I know what they've told two independent people. And that's fine. But I think what should be real clear here is Plattsmouth is not paying this tax. There's no question about that. Look at the sewer bill in front of you. They are not paying the tax. Should they be paying the tax? I would tell you, no, I don't think we should be paying tax. And I don't know where they'd come up with the concept of debt repayment, service on debt, if it didn't come from the Department of Revenue. And if what this is going to turn into is an investigation of the Department of Revenue rather than a discussion of the bill on the merits, well, we'll go down the road and see if there is an exemption on sales tax for service on debt. But I do know one thing, that now HDR, which I think is the mayor of Omaha's former firm, is now tied into this. That makes no sense. Up until now I thought it was solely a matter between the Department of Revenue and the city of Plattsmouth and this legislative body. So let's be real clear about what's going on. Plattsmouth is not paying the tax that the Department of Revenue has demanded Omaha pays, period. Should Plattsmouth pay this tax, yes or no? That's what this bill is about. I say no. And soon everyone will have a chance to make a statement on whether or not... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: ...it should pay this tax. And whatever happens to Plattsmouth should also happen to the metro area and vice versa and any other city or county in this position. I thank Senator Cornett for her courtesy and I appreciate her comments. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White and Senator Cornett. Those still wishing to speak: Nordquist, Lautenbaugh, and Pankonin. Senator Nordquist, you are recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President, members. I want to talk a little bit about the amendment. I have some concerns about it. I oppose it. But I'd like to get Senator Utter's rationalization for it, if Senator Utter would yield to a question. [LB952]

SENATOR CARLSON: Senator Utter, would you yield? [LB952]

SENATOR UTTER: Yes, I will. [LB952]

SENATOR NORDQUIST: Thank you, Senator. What...going to 2016, kind of what...give

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me your reason, logic for making that change. [LB952]

SENATOR UTTER: You're talking about AM2176, Senator Nordquist, right? [LB952]

SENATOR NORDQUIST: Yeah, yep. [LB952]

SENATOR UTTER: Okay. Well, it's my understanding that the EPA has not...has no rules right at the moment on the subject of the combined sewer overflow. But there are no proposed rules for this sewer overflow. And that it just seems to me that it's logical that prior to the time when we implement a tax policy change we should wait and see what those rules are. [LB952]

SENATOR NORDQUIST: Okay. [LB952]

SENATOR UTTER: Delaying until 2016 should give the EPA time enough to come up with the rules, time enough to adopt those rules and for the state to evaluate and understand them. [LB952]

SENATOR NORDQUIST: Okay, thank you, Senator. Well, it's my understanding that the project is going forward right now. There are components of the project being implemented right now. We've seen a rate increase that came in January. We're going to see a double-digit rate increase next year. And this rate increase will continue to grow. We're paying sales tax on that. That rate increase is going to grow for sure from 2009 to 2014. The project construction dates is 2009 to 2024. We have agreed with the state and I believe with the EPA that we will have this implemented, this project implemented by October 2024, is when the project will be complete. So 2016, you know, just cuts in the middle there and most of the project, the large-scale tunnel project and a lot of the expensive components are going to be...are going to be done outside the scope of this bill then. And essentially this amendment guts the bill. I mean, me, my constituents, Senator Lautenbaugh, his constituents, Senator McCoy and his constituents are all paying a sales tax right now as this project revs up. So I think it's important that we keep this date right now and we get it implemented as soon as possible so that our constituents and businesses in our districts aren't affected by this sales tax. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Nordquist and Senator Utter. Senator Lautenbaugh, you're recognized. This is your third time. [LB952]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I won't take all of it. I do want to clarify some things. As I was listening to the debate as it went on, and contrary to what was suggested, I don't think anyone has stood up at the mike and said we should defend the administration and not care about the taxpayers. And I heard two of my colleagues say that was the point of my comments earlier. Let me be perfectly clear. My

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comments earlier meant that we should probably know what we're talking about before we start accusing one branch of government of some sort of misfeasance, malfeasance, nonfeasance. And now we've moved on and now we're saying we're sure that Plattsmouth behaved in good faith. I believe they probably did but I don't have any basis to say I'm sure of it. But I'm sure they did, I'll go ahead and say it too. But, again, can we please be a little measured, especially when we have a bill that has, I'll say, a wide variety of cosponsors of all possible persuasions. Maybe we shouldn't all be fighting with each other and attacking outside entities for sport, might be the best way to put it, and focus on the bill at hand. I understand the Plattsmouth situation will be handled. I know information is being made available. And I don't believe things are as they were initially presented as far as who did what, who knew what, who said what in reality. But I'm content to go back and focus on this bill, but if there are continued misrepresentations as to what I just said, then I guess that the sponsors of this bill will be self-filibustering at this point as we'll continue to fight about that. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Pankonin, you're recognized. [LB952]

SENATOR PANKONIN: Thank you, Mr. President. What an interesting discussion. Come back from lunch and there is a firestorm. Anyway, just to clarify a couple of things and then if I have some time left, we'll see if Senator Cornett has that information she's waiting on. I just want to reiterate that the city of Plattsmouth and the folks involved worked on this issue in good faith and trying to determine the information working with their consultants, HDR, and also to verify that I had nothing to do with any of these discussions early on, except to ask when this bill came up how this may affect Plattsmouth. And that's when I was told that they didn't have the sales tax on this portion. And as I mentioned earlier in previous discussion, that made me kind of wonder why that wasn't that way and why I voted the way I did on the first round. So my hunch is that when we get the clarification that Plattsmouth will be handled the same way, they're either going to be paying the sales tax or, if this bill passes, obviously fall under that. Just to add and also share with you, like Omaha, Plattsmouth being one of our oldest established communities on the Missouri River and at the mouth between the Missouri, and Plattsmouth is an order community. And they did have this problem. And the eastern part of their city is much like Omaha did, where at that time when these designs were made in the late 1880s the sewer systems were combined. And so that is true that they had the same problem that eastern Omaha had as well. Was probably state of the art at the time but obviously, as time has gone on, it wasn't appropriate. So I just wanted to verify that folks in Plattsmouth are fine people, they're trying to do things the right way. And kind of got caught up in this discussion this afternoon and wanted to make sure that everyone knows that they didn't try to do anything underhanded. They didn't ask me to do anything for them that was special. And we'll get this figured out as this policy discussion goes forward. I'll yield the rest of my time to Senator Cornett, if

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she's wanting to have it. Nope, she's going to waive. So she doesn't have that information yet. So I'll close for now. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Pankonin. (Visitors introduced.) Senator Council, you are recognized. [LB952]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I have listened, like I hope everyone has, to the debate that has occurred thus far. And the question that has been posed, at least as I see it, is in terms of whether LB952 should go forward. There have been comments regarding fairness, there have been comments regarding benefitting of one particular community over another. There have been comments about public policy. Now there was a statement, a kind of disclaimer by one of my colleagues that, you know, the issue here is not whether we're benefitting Omaha; the issue here is one of fairness, one of fairness to other communities who may have undertaken in the past unfunded federal mandates and had to pay sales tax. Well, the last time I checked, this is a legislative body that implements policy, sometimes it's new policy, sometimes it's amendments of existing policy. But this is a public policy issue, it is a tax policy issue. And this body in the past, and I will assure you in the future, will change tax policy. And when tax policy is changed, it affects people differently. Some people who may have received the benefit of a particular tax policy don't receive it anymore when we make changes. Some get new benefits that they never received before. Now the purpose of the amendments, I understand or at least I've heard, that again it's all about fairness. It's all about the issue that other communities have undertaken unfunded mandates and didn't get the benefit that is being sought by LB952. What I find interesting, as I look at each of these five amendments, and not one of them, not one of them tries to expand the scope of this legislation beyond sewer separation. If that's your real issue, if that's your real concern that there are other unfunded mandates in the state that other communities have to deal with, address it. But it is clear from reading these amendments that these amendments have absolutely nothing to do with arriving at fairness or addressing the alleged assertion that this is a fairness issue. Let's call it what it is. The issue is whether or not this body wants to assist one of the largest populated areas in the state address an unfunded mandate. Either you do or you don't. It's as simple or as complicated as that. To Senator Utter, I don't know what information you're relying on, but the SCO project has been the subject of public input, public forums for the last two years, that I was involved in, the last two years, and the plans have been developed. The plans have been submitted to EPA. The city of Omaha knows that they have until 2024 to get this done, that the rate increases have already begun, the sales taxes are already going to be imposed, yet for some reason the citizens of the city of Omaha have to wait until the biggest part of the assessment hits them, which is projected to be about \$50 a month by 2017. [LB952]

SENATOR CARLSON: One minute. [LB952]

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SENATOR COUNCIL: And on the issue of tax policy, you know, I somewhat agree with Senator Lautenbaugh. I mean, quite frankly, I don't care whether Plattsmouth was acting in good faith, bad faith, whether they got misinformation or no information. All I'm going to tell you is what I operated on and it's set forth in this memo. Every single time the senators who, as cosponsors of LB952, went to the Department of Revenue, they told us in no uncertain terms the sales or use tax applies to all retail sales of sewer and water services, period. Sales tax applies to all amounts paid for sewer and water, irrespective of whether there's an actual consumption or not. That's what they consistently responded when we asked. So I think it's legitimate... [LB952]

SENATOR CARLSON: Time. Thank you, Senator Council. Senator Conrad, you're recognized, and this is your third time. [LB952]

SENATOR CONRAD: I'd yield my time to Senator Council, if she'd like to continue in her commentary. [LB952]

SENATOR CARLSON: Senator Council, 4 minutes and 50 seconds. [LB952]

SENATOR COUNCIL: Thank you, Senator Conrad. I think it is a legitimate question to ask at this point in time: How is it that one area of the state can be told one thing and another area of the state can be told another thing? Is that not an issue of fairness? And if all of this is about fairness, why are we so reluctant or reticent to address that now? The only reason LB952 was introduced is because the Department of Revenue said these fees will be subject to sales tax unless the law is changed, because our rules and regulations consider any charge associated with sewer and water service to be a fee, a service fee subject to taxation. So the issue to me is plain and simple. Are we willing to alter our tax policy to assist residents in the state of Nebraska who are going to be faced with already tremendous costs? I mean, you think about an additional \$600 a year on your gas and water bill, on the gas and water bill, as Senator Krist alluded to, some areas in Omaha where the people can barely afford to pay for their existing water and gas services. This...that's the kind of fairness we should be concerned about, ladies and gentlemen--the interests of those who are least able to pay these fees. That's the fairness that should be guiding this discussion. And if we're really concerned about fairness, then we won't consider any of these amendments because none of them are substantive. And we'll go and vote on LB952, up or down, whether we are going to have a tax policy in this state that recognizes that there are circumstances beyond the control of the government, the local governments and their residents and that in those instances sales tax should not apply. I will yield the balance of Senator Conrad's time back to her, if she so desires. [LB952]

SENATOR CARLSON: Thank you, Senator Council and Senator Conrad, and she waives the balance of her time. Senator Cook, you're recognized. [LB952]

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SENATOR COOK: Thank you, Mr. President. Members of the body, good afternoon. Yes, it is an exciting afternoon, Senator Pankonin, I agree with you. But I do not agree with a statement that Senator White made a little bit earlier about being shocked and alarmed at this kind of revelation. As you're well aware, colleagues, I don't really take the mike that often. I like to sit in my corner office and observe and take it all in. But shocked and alarmed that a policy that will be most impactful to our poorest residents, to working families, to the elderly who are already struggling to pay for prescriptions and keep the roof from leaking, that's not shocking and alarming to me after sitting in here for however many days, 102, whatever 90-plus 43 is; it really isn't. What would be shocking and alarming is if a policy that impacted perhaps a corporate interest would get this kind of attention. But that's kind of my first point. As somebody who's been involved in community meetings related to the sewer overflow project for about three years, I'd like to make a couple of points. The first, as Senator Nordquist mentioned and as Senator Council mentioned, this bill is already going to people, it's already increasing. If you've got a sewer rate that's \$15 a month now, it will go up by four times by the end of this project. And having met with people who step into raw sewage in their basements, who already can't afford niceties or to move or really love their communities and want to stay in their communities, the idea or the proposal that you would actually move it back to 2016, recognizing it's probably just a nuisance amendment, is a little bit ridiculous. At this point I'd also like to mention that the idea that the EPA hasn't put forth rules or a policy on this issue, I don't know where that's coming from. We have an agency, it's called the Nebraska Department of Environmental Quality. The Omaha Public Works Department, along with HDR, along with all the other engineering firms from all over the place who are already digging big holes in east Omaha, cutting off traffic on 75, which is 30th Street, right through Legislative District 13, they've already submitted a long-term control plan in a binder, in electronic form; it's been approved. So the idea that we're waiting around for EPA to approve something, that's not true either. I think I'm going to stop right now and yield the rest of my time to Senator White, should he choose to use it. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Cook. Senator White, a minute and 50 seconds. [LB952]

SENATOR WHITE: I thank Senator Cook. Please understand one of the things that's so much of a deep concern to the people affected by this. We have been told that should it go to property tax, which nobody likes, then it would not be taxable, even if they bonded it with a general obligation bond. And if it did go to property tax--I want to talk to Senator Heidemann, if he's available for a moment--if it does go to property tax many of the folks that I most worry about, people on Social Security in small homes, limited incomes, apply for homestead exemptions. If it did go to property tax, Senator Heidemann, if he'd yield to this question. [LB952]

SENATOR CARLSON: Senator Heidemann, will you yield? [LB952]

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SENATOR WHITE: Senator Heidemann, if we ran this in the city through property tax and then we had homestead exemptions--and we will have in droves because then as a property tax those people struggling with up to \$100 a month sewer bill, \$50 at a minimum, up to \$100, they will apply for homestead exemptions--will that raise the state's expenditures? [LB952]

SENATOR HEIDEMANN: If they would qualify, I would...I mean they're right at that border anyway. I mean, any little thing then would push them over. I would hope that this additional burden just from the property tax...the sales tax on the federally mandated part of the debt service wouldn't push them over that. [LB952]

SENATOR WHITE: Well, I guess, what I would say to you is it's not just the tax. See, the city has a choice. The city could have these bonds be secured by property taxes as well as sewer fees. In which case then they are apparently exempt. [LB952]

SENATOR CARLSON: Time. Thank you, Senator White and Senator Heidemann. Senator McGill, you're recognized. [LB952]

SENATOR MCGILL: I simply yield my time to Senator White, if he would like it. [LB952]

SENATOR CARLSON: Senator White, 4 minutes and 55 seconds. [LB952]

SENATOR WHITE: Thank you, Senator. Thank you, Mr. President. Senator Heidemann, if, for example, the city does decide that what they're going to do is secure these with property taxes, and instead, as the mayor has said repeatedly, it will just become a property tax increase, which I disagree should happen because I don't think we ought to spend money we don't have and that's not budgeted. But if that's what they chose to do, and so the city of Omaha raise their property tax levy instead of these sewer fees, in fact all the people in Omaha who are burdened by those higher property taxes and it pushes them over the edge could apply, could they not, for homestead exemptions, which would be paid by the state. Isn't that accurate, Senator Heidemann, if he'd yield? [LB952]

SENATOR CARLSON: Senator Heidemann, we're on new time. Would you yield to Senator White? [LB952]

SENATOR HEIDEMANN: Yes. I was having a conversation over here. [LB952]

SENATOR WHITE: Did you...I'm sorry about that, Senator Heidemann. Let me restate it for you. See, this has been couched in the metropolitan area as a choice between a sewer fee and/or a homestead exemption or, I'm sorry, a property tax. And the part that doesn't make sense to me is since you can't have a house in the metro area without a

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toilet and a sewer, it's a property tax either way. But classifications matter in the law. And one of the ironies are that bond payments by a municipality on a property tax general obligation bond are not taxable. Okay? So if property taxes are paid by the citizens of the state (sic) of Omaha, that's not taxable. So if they fund the sewer through that method, they could avoid this tax in the first point, and that's up to them. I'm not part of that government, neither are you. But there's a real unintended consequence, we like that term this session, unintended consequence and that is every folk, because we're looking at, I am told confidentially, \$100 a home per month for 20 years when this project really goes, \$100 a home. If that's instead put on in property tax and they start applying for homestead exemptions because of that additional burden, that's going to cost the state a lot of money, isn't it? [LB952]

SENATOR HEIDEMANN: No, from what I can gather is homestead is determined off of income less spending, but only on medical expenses and not on other things...on anything else. The sewer costs would not be recognized as an expense for homestead exemption, so it should actually make no difference whatsoever,... [LB952]

SENATOR WHITE: Well, let's say... [LB952]

SENATOR HEIDEMANN: ...from the way I understand it. [LB952]

SENATOR WHITE: Well, let's say the property taxes have gone up substantially and now all of a sudden a lot of people who have not applied for homestead, and there are many who don't do that just out of pride or lack of knowledge, now all of a sudden they decide this is a backbreaker, we're going to put it in property tax, and we're going to start en masse applying for homestead exemptions. Isn't it true the state pays the counties, the schools, and other taxing entities the money lost because of homestead exemptions? [LB952]

SENATOR HEIDEMANN: And I'm being honest here, I can't see that happening, I just can't. That little bit... [LB952]

SENATOR WHITE: Well, let me rephrase the question and we'll take it in little pieces. Does the state have to appropriate money to pay counties and schools for property taxes they lose when a person is granted a homestead exemptions, yes or no? [LB952]

SENATOR HEIDEMANN: Counties, schools, NRDs, ESUs, the gamut, yes. [LB952]

SENATOR WHITE: And that is state General Funds that replace those property taxes, correct? [LB952]

SENATOR HEIDEMANN: That's the way homestead exemption works. [LB952]

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SENATOR WHITE: Okay. Well, I mean, since people are cutting things different ways, let me give you a possibility. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: What if the people of Omaha insist that this be secured by a property tax bond and at that point those interest payments are not taxable, are they? [LB952]

SENATOR HEIDEMANN: I'm not 100 percent for sure, but if that's what you're saying, I'll take your word for that right now. But that's the way I understand it probably, too, yes. [LB952]

SENATOR WHITE: All right. So the city could manipulate their finances in a way to avoid paying the sales taxes that you want to collect. Is that correct? [LB952]

SENATOR HEIDEMANN: If they so choose to do it off of general obligation bonds. [LB952]

SENATOR WHITE: And if they do it in a way that then urges or, for example, they aggressively recruit people to apply for homestead exemptions, not only will the state not get that sales tax, they'll start losing a lot of General Funds going to replace the property taxes lost through homestead exemptions, won't they? [LB952]

SENATOR HEIDEMANN: Do you really think there's that many people out there that aren't collecting homestead right now that could? I don't see that. [LB952]

SENATOR WHITE: Oh, Senator, come to my district, oh absolutely. [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR WHITE: Come to my district. [LB952]

SENATOR CARLSON: Thank you, Senator White and Senator Heidemann. Those still wishing to speak: Senators Cornett and Wightman. Senator Cornett, you're recognized. [LB952]

SENATOR CORNETT: Thank you very much, Mr. President, members of the body. I had the pages distribute an e-mail chain from Randy Stahmer, from HDR, who I'd like to thank for his very prompt response to this issue. As soon as I called him, he got the e-mails to me. The city of Plattsmouth asked him questions in regards to what was taxable and what wasn't taxable. And if you read through the e-mails it is believed when they were discussing what Senator White's bill would do that that was somehow

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misunderstood that they were exempt when they were comparing what is current law and what could be law and what I hope is law. Either way, I've provided the body with the e-mail chain. And again, I spoke with Mr. Stahmer with HDR, and he said that he had done the communications with the Department of Revenue and received answers, which you can read for yourself, that the department stated that it would be taxable. The city of Plattsmouth, the city administrator has stated that they believe they misunderstood the e-mail chain. And they will be...do believe they do owe the taxes. This misunderstanding does not diminish the issue. Senator Council was very correct when she was speaking on the mike that we are here to debate policy, as is Senator Mello very correct that it is our responsibility to make the departments accountable and to investigate if they are not being accountable. I do not see that the Department of Revenue has done anything inappropriate at this time. I'm not saying that something else might not occur in the future, but at this time on this issue I do not see that they have done anything inappropriate. I believe it was a misunderstanding between the representative from HDR and the city administrator of Plattsmouth. But, again, that does not diminish the issue. The issue is policy. Are we going to tax a fee? Are we going to charge people, who can least afford it, more? People are on shutoff lists all over currently with MUD because of the rough winter. They're applying to the fund constantly. The tax policy we are debating is whether we are going to give the taxpayers some relief. Sure, I'd like it for my cities. My cities are not happy about this. They're not happy about being called co-owners when they only use a percentage of the system. They're not happy about the lack of reciprocal maintenance from the city of Omaha to them if they are co-owners. If they have a problem, the city of Omaha hasn't said they'll step in and help pay. But the real issue that we are here to debate is the underlying policy and what is best for the taxpayer. Let's not lose sight of that golden ring, ladies and gentlemen. Whether you believe in the policy or not, that is what we are here to debate, what is right, what we believe is right. With that, I'd appreciate it if everyone could take a look at the e-mail that I sent around. And if you have any further questions, I would be happy to answer them. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Cornett. That was your third time. Senator Wightman, you're recognized. [LB952]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I'm not going to use my full time but I do have some knowledge since our office does assist people in homestead exemptions. What Senator Heidemann said generally is correct. It's based upon a person's income, his taxable income less his medical expenses or hers. So the fact that you're paying out more expenses for sales tax on a sewer or even \$50 a month sewer would have absolutely no impact upon who qualifies for the homestead exemption. Now it is true that if you decided to pay this bond through a property tax, and I think that's seldom done, but if it were to be done there would be a shifting, without question, of the liability for this because there are a lot of people who are renters, tenants that are helping pay this tax that would not pay it if it were paid through a

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property tax. Now it's true, some of that might be passed on. But generally speaking, you would have a great shift of who's paying off that bond issue. So that probably should be noted. It's also been pointed out to me, of course, that the property tax, real estate taxes are deduction on your income tax return. However, I suspect that most of the people who we're talking about here would not be able to afford that additional sewer charge, probably would not be able to deduct their income tax because they wouldn't have enough deductions to itemize their deductions. So they'd probably be taking a standard deduction. So it gets to be a little complicated to how all that fits into the tax picture. I suspect that...I think my people out in Dawson County and Buffalo County are just as proud as the people in Omaha that Senator White talks about. But as a practical matter, I don't know of very many who are not availing themselves of the homestead exemption because they're too proud to take it. I think there are a lot of them that don't know whether they qualify or not. And if they're doing their own income tax or aren't filing an income tax, I suspect there are many people who do not take the homestead exemption. But I don't think if there are very many out there that it would be a matter of pride. And that might not be true in Senator White's district, but I don't think that occurs very often in Dawson and Buffalo County. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Wightman. Senator Nordquist, you're recognized. This is your third time. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President. I want to thank those members that have worked to clarify the issue with Plattsmouth. I know that, talking to administration officials, that they're going to begin collections. And that's unfortunate for that community. I think we need to go forward with the underlying bill because of that impact it has on communities like that, on homeowners, on people who are creating jobs. With that, I'll yield the rest of my time to Senator White. [LB952]

SENATOR CARLSON: Senator White, 4 minutes and 30 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President. Senator Wightman, I really appreciate the courtesy of that. And I wish Senator Heidemann was here. And anybody, any of the fiscal...ah, Senator Utter, I know this is a concern. Senator Heidemann, I'm glad you're here. Let me explain what a high-dollar lawyer could do to the state if we're going to go down this course, as I understand the tax law right now. What the city of Omaha, what the metropolitan community could do is the following: they could issue these bonds and secure it ultimately with the property tax, but not raise property taxes to pay them. They could raise the sewer fees and also dedicate those to pay the property taxes. But as long as the bonds are ultimately secured by property tax, they are exempt, the finance charges are exempt from sales tax. Okay. Well, sewer fees will go up. And I know, I'll ask Senator Cook and I'll ask Senator Council to talk as we go on, in my district there are a lot of people, Senator, who have a right to but don't apply to homestead

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exemptions. We get inquiries, we talk to them, we help them, and they've gone years without it. So not only could the metropolitan community, if they chose to, work this in a way that the finance stream and costs would be exempt from the sales tax that many people in this body seem to be counting on and spending, which we shouldn't, but many people are, they could deny that. And then because they put it on property taxes, at least theoretically, we could encourage people to apply to the maximum possibility for homestead exemptions, which will be a huge drain on the state treasury. The problem is that if we're not straightforward, if we don't talk to people straight up in saying, this is the policy, this isn't, we're going to give exemptions here, we're not going to give exemptions here, then we invite everybody to game in. Now what the communities in the metropolitan basin will do I don't know. I don't know what they'll choose to do. But I can tell you, and I'd ask Senator Council, if she'd yield, if Senator Council is of the opinion as well there are people who would be entitled to homestead exemptions who have not yet applied for them. And would Senator Council yield for a question? [LB952]

SENATOR CARLSON: Senator Council, would you yield? [LB952]

SENATOR COUNCIL: Yes, Mr. President. [LB952]

SENATOR WHITE: Senator Council, do you think there are substantial numbers of people in your district or in the metro area who could qualify for homesteads but have not applied? [LB952]

SENATOR COUNCIL: Absolutely. [LB952]

SENATOR WHITE: And, Senator, do you think something like \$100 or \$50 or \$100 a month sewer fee, if it turned into a property tax, would urge them to do that? [LB952]

SENATOR COUNCIL: Most assuredly. [LB952]

SENATOR WHITE: Thank you, Senator. Would Senator Cook yield? [LB952]

SENATOR CARLSON: Senator Cook, would you yield? [LB952]

SENATOR COOK: Yes, thank you. [LB952]

SENATOR WHITE: Senator Cook, in your district to your knowledge are there people who would qualify for homestead exemptions who either from lack of knowledge or pride don't do it? [LB952]

SENATOR COOK: Absolutely. I would say that I've got an even distribution among people who are too prideful to apply or do not have knowledge or do not think that they would qualify for the homestead exemption. [LB952]

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SENATOR WHITE: Thank you, Senator Cook. So then, members, I ask you this question. What is the real expense of not proceeding straight forward? The real expense is this. There are mechanisms existing in law now that the clever attorney from the metropolitan area could shift a... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: ...substantial portion of this burden onto the state through the homestead exemption system, also completely avoid sales tax on all finance charges and perhaps, since the way we're being received, maybe that's what they need to do. I don't know. I don't like the idea of property taxes. I think we need to struggle to control expenses. But be careful. When you think you got somebody, you don't necessarily got them. And I think we, as a body, need to understand that when you push this lever and you don't advance, if you choose not to advance LB952, that it may come back and bite you fiscally in a way a lot worse than what we're talking about right now and without a law being changed. Mr. President, I think this law should advance. I think Senator Utter's bill guts the law and this...or his amendment and it should not be advanced. [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR WHITE: Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator White, Senator Nordquist. Senator Howard, you're recognized. [LB952]

SENATOR HOWARD: Thank you, Mr. President and members of the body. As my father would have said, this is a fine mare's nest. I, a few weeks ago, after we had the discussion on General File, I asked Mayor Suttle if he would give me some of his time so we could sit down together and just have a discussion about this, because I wanted to know from the source if a property tax increase was potential or likely or just a threat. And he did take the time for me, which I very much appreciate, and said to me straightforward, this would result...this bill passing would result in a 3 percent property tax increase for the people in Omaha. Now I've often said on the floor that I'm just pretty much the average person. And I look at my property tax assessment and I'm paying \$4,454.22 a year for property tax. And I think that's a considerable amount of money, that's a lot of money. And I don't want to see a property tax increase of 3 percent. That amount for me and for many, many people, not only in my district but throughout Omaha, really becomes prohibitive. People don't want their homes taxed. And I'm very concerned about this. I don't like the feeling that there's one amount being offered and it will be offset with another amount, possibly. No, it's going to be offset with a property tax. And I have no reason to doubt what Mayor Suttle told me, 3 percent property tax if

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LB952 does pass. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Howard. Senator Giese, you're recognized. [LB952]

SENATOR GIESE: Thank you, Mr. President. I yield my time to Senator White. [LB952]

SENATOR CARLSON: Senator White, 4 minutes and 55 seconds. [LB952]

SENATOR WHITE: Thank you so much, Senator Giese. Senator Howard, if you would consider yielding some questions. I share your concerns on property tax, Senator Howard, deeply. [LB952]

SENATOR CARLSON: Senator Howard, would you yield? [LB952]

SENATOR HOWARD: I will. [LB952]

SENATOR WHITE: Senator Howard, for...and we share similar districts in a sense. They are near each other, working class, a lot of retired and elderly. [LB952]

SENATOR HOWARD: There are similarities between District 9 and District 8. [LB952]

SENATOR WHITE: Yes. Now, Senator, if somebody has to pay \$100 to have a sewer or they have to pay \$100 on property taxes, does it really matter to them what you call that \$100? [LB952]

SENATOR HOWARD: I don't know why you're asking me if \$100 and \$100. For me, 3 percent of \$4,454 doesn't equate to \$100. [LB952]

SENATOR WHITE: Well, Senator, I guess what I'm saying is pick the dollar amount you want. Is \$1 sewer tax any less painful than \$1 of property tax? [LB952]

SENATOR HOWARD: You know, I don't find that a fair question because I don't know that this property tax and the sewer tax are going to be equivalent. [LB952]

SENATOR WHITE: And they're not and that's what I'm trying to get to, Senator Howard. And I know you've been very much a voice for progressive concerns and the poor. We have a mechanism to protect particularly the elderly and disabled from property taxes that threaten to turn them out of their homes, and that is the homestead exemption. I am unaware, Senator Howard, of any mechanism that will protect residents from attacks that even the city at this point says will be \$50 a month, and yet a lot of people, insiders, will quietly tell me, but they won't be quoted, it could rise to \$100. That's one of my major concerns with this type of a tax. We have no mechanism to protect the

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vulnerable. Are you aware of one? [LB952]

SENATOR HOWARD: Well, I'm glad you brought that up because, not to take your time and I assure you I won't do this, but I meant to thank Senator Wightman for discussing the property tax home exemption. And I think there is...there needs to be a lot of clarification about that and who is eligible. It's not simply based on your age or if you have a disability. Those are pieces to this. Again, I don't want to take up your time on the mike. [LB952]

SENATOR WHITE: Thank you, Senator. Now actually, you know, I'm in the Revenue Committee; we work on that. It's within our jurisdiction, Senator. And what it is, is it is disability or age, it is income versus the expenses that you reasonably have. And the point is we want to keep people in their homes and there's a mechanism, and they can apply for homestead exemptions to stay in their homes. And the state has to pay the difference to the county and to the schools. The General Fund pays that missing property tax once a home is exempted in whole or in part. But I don't know anything that will help a person on Social Security, who is struggling to pay for their medication and stay in their home, to pay their sewer bill. I know of no mechanism that exists. I know that there is in property tax. I also know, ironically, that there are ways that this could be structured so the city could avoid the sales tax for their citizens and also, in fact, push off a portion of the expense to the state by encouraging their poorest citizens to apply for homestead exemptions. And they...I think they still could pay the bond with sewer fee uses. I mean, it sounds odd but I think that's the state of the law. And that's why I address this, is so that we know and that as we move forward... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: ...senators here can make a determination, would it in fact be more responsible just to exempt this from sales tax now rather than face the possibility of not getting any sales tax and in fact pushing some of the property tax burden onto the state that isn't...the state is not carrying now. And I appreciate Senator Howard's courtesy. Thank you, Senator Howard, I appreciate that. And I think that really is where we're at, folks. We need to think and talk about the taxpayer. You know, we have acted throughout this debate as though this is our money, that we must have it and we must spend it. And yet our Governor and a number of people have said we've got to avoid raising taxes, we must avoid raising taxes, we have to control spending over and over again, and yet we are talking as though this was, as a right, money that already belongs to the state. And what I've tried to do here today is show you it isn't so, folks. [LB952]

SENATOR CARLSON: Time. Thank you, Senator White. There are no other lights. Senator Utter, you're recognized to close on AM2176. [LB952]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. When I came

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to Nebraska in the early 1960s, was about the time that they first established a sales tax for Nebraska. Since that time, I've lived in McCook, actually spent time on the city council in McCook and a short time as the mayor of McCook. I've lived in Kenesaw and I've spent the last ten years in Hastings. And since those almost 50 years ago, if not a few more or a few less, we have been collecting sales tax on utilities in the same manner. We have not been paying sales tax on the purchase of sewer pipes, but we've been paying sales tax on the purchase of gas pipes and water pipes. And we have been collecting sales tax on sewer fees and on water service and on gas service. And the folks of Nebraska, including the folks of Omaha, down through the years have paid those taxes, been no question about it. And frankly, we've come to now that in my mind it's a fairness issue; that now we do have a big project and I understand the project and I have sympathy for the project, but it seems to me like it's unfair now that the city of Omaha has to undertake one of the biggest projects in the state, if not the biggest. And they would like to be relieved of that sales tax burden. And again it comes down to a fairness issue with me. And it comes down to an issue that the people from Scottsbluff to Nebraska City, from north to south, from Valentine to McCook have paid these taxes down through the years, and now it seems as though we don't want to pay those taxes. And, I guess, you know, I guess, I think it might have been Yogi Berra once said, when you come to the fork in the road take it. And I think we're at that fork in the road, and there's a great question as to which one of these forks that we ought to take. And in my mind, we need to take the course that is fair, that is going to be fair to the people of Nebraska, all of the people of Nebraska, and to do the things that are fair for them. Now I understand fairness is kind of like beauty. It's kind of fairness is in the eye of the beholder. And I understand how there can be different opinions on that. With that, Mr. President, I'd like to withdraw my amendment. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Utter. The amendment is withdrawn. Mr. Clerk, items for the record? [LB952]

CLERK: Thank you, Mr. President. Your Committee on Judiciary reports LB712 to General File with amendments attached. Senator Karpisek, an amendment to be printed to LB861. And a communication from the University of Nebraska and the Coordinating Commission regarding a bond issue. That will be referred to Reference. (Legislative Journal pages 1028-1030.) [LB712 LB861]

Mr. President, back to LB952. Senator Adams would move to amend the bill with AM2171. (Legislative Journal page 1005.) [LB952]

SENATOR CARLSON: Senator Adams, you're recognized to open on your amendment. [LB952]

SENATOR ADAMS: Thank you, Mr. President, members of the body. It's a very simple amendment. What it, in essence, does, it takes the natural gas line portion of this bill

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and would no longer...would not exempt it from the sales tax. You know, I have just completed my second year in the Revenue Committee. And I've had a lot to learn. And when Senator White brought this bill, it was complicated. It is complicated for a host of reasons: its implementation, its structure, its intention, and on a broader sense in terms of tax policy. And as a member of the committee, I sat there and I listened to testimony and sat in the Exec Session and listened to how this thing was going. And maybe a bit of a confession, but I'll be straight up, to me it didn't matter whether this was York or Omaha or Tecumseh. And I tried to approach that, every tax bill that we have or revenue bill, in that way. Or in other words, what's good tax policy? And I approached this one the same way. And as I looked at it one of the things that concerned me was, if we go back to the tax code, we exempt sewer pipe from sales tax. But we don't exempt water, we don't exempt natural gas lines. Well, my intention was to try to think back as to why those things were not exempted in the first place and sewer line was. And I don't have an answer, but I'm going to speculate. I could speculate, well, first of all, sewer is a service, whereas the natural gas or the water that comes through the lines are products. I could look at it that way. I think it might be something else. That sewer line that's attached to your home, a municipality, whether it be through the municipality or through a structure like MUD, you got to provide it. And it will be provided by the government entity, whereas water, we have some communities in the state, water is privately provided, not many anymore, but the whole water infrastructure was a private company. Natural gas, I'd wager to say most of the communities in the state still are provided by for-profit natural gas companies; hence, there is sales tax. Now in light of that, I fully understand why Senator White included natural gas and water in this project, because obviously if you start tearing up for sewer lines you're going to have those issues to deal with. But currently those things are not exempt and there's a reason they're not exempt and, frankly, I'm not sure that they ought to be. Hence, this amendment tries to direct the attention at tax policy. Why do we exempt what we do in terms of these services? Now on General File you also heard me talk about school funding. And I don't know how much time I have right now, but I'm...before it's all over with I'm going to come back to that because that's an issue here. And admittedly, it is an issue aside from tax policy and good tax policy. Unfortunately, particularly in this revenue time that we live in, we're forced to have to look at a lot of things, not in terms of whether it's good policy but whether it's...financially whether we can do it right now. So what this amendment does very simply is to say, hey, we're not going to exempt that natural gas line from the sales tax; it's going to be paid on it. Because most of those natural gas lines in most cities are privately owned anyway. And there was a reason why our tax is structured that way in the first place. You know, that's been an enlightening experience on Revenue. And Senator Pahls drew it to our attention. And all the bills we hear in Revenue draws it to our attention every year. Why do we have the sales tax exemptions that we do? Is there a consistent policy anywhere in it? And every time a bill comes up, whether it's Senator White's on this or anybody else's, I'm wrestling in my policy mind to say, why are we doing what we're doing? What's the rationale behind it? And if we can justify one, then can we justify the next one and the next one? With that, Mr. President, I'll end. [LB952]

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SENATOR CARLSON: Thank you, Senator Adams. Members, you've heard the opening on AM2171. Those wishing to speak: Senators White, Howard, McCoy, and Adams. Senator White, you're recognized. [LB952]

SENATOR WHITE: I want to thank Senator Adams. We have been bench mates now (laugh) for four years and so seldom agree on anything other than he's been most pleasant and amiable. And I understand Senator Adams' concern. But I would tell Senator Adams that you cannot always be fair and just have one rule because things change for people. And I bleed for Senator Heidemann. There are small towns in Senator Heidemann's district that he told me are paying \$80 a month per resident to rebuild a sewer lagoon on an EPA unfunded mandate. I don't like it. Don't like it, don't like it at all, and don't think it ought to be taxed. I hope I have that number right, Senator Heidemann. Will you yield? [LB952]

SENATOR CARLSON: Senator Heidemann, would you yield? [LB952]

SENATOR HEIDEMANN: Yes. [LB952]

SENATOR WHITE: Senator, do you remember that conversation? I thought it was \$80, was it something other than that? [LB952]

SENATOR HEIDEMANN: I think it's closer to \$60. I'm going to try to pull that up real quick. It was a substantial amount for the people in that little town because it's a poor town. [LB952]

SENATOR WHITE: Right. And thank you, Senator Heidemann. And I like it. And I don't like a tax policy that says that, when a town gets whacked with an unfunded federal mandate, we get to coast in the wake of the federal government's destruction; that we will throw a tax on top of it. And I so appreciate Senator Adams' abilities on these issues. And he was a mayor of a small town and he knows that if you look at the kind of expense that will add at minimum \$50 and as much as, I am told, \$100 or \$117 is actually the amount I was told, on a home per month across a community, you know that's a devastating impact to your budget, it just is, and not to take that into account. Because in the ordinary course our cities don't have to take those huge painful hits all at once. They can work toward them. That wasn't given to Senator Heidemann's village, wasn't given to Omaha. And I would like Senator Adams, if he'd yield, to address the following concern. [LB952]

SENATOR CARLSON: Senator Adams, would you yield? [LB952]

SENATOR ADAMS: Yes, I will. [LB952]

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SENATOR WHITE: Senator Adams, you've sat on the Revenue Committee for a couple years now. We have to pay for homestead exemptions, don't we? [LB952]

SENATOR ADAMS: Yeah, we do. [LB952]

SENATOR WHITE: And property taxes in bond payments, finance payments on loans secured by property ultimately are not taxable, are they, for sales tax? [LB952]

SENATOR ADAMS: Correct. [LB952]

SENATOR WHITE: Is that correct? [LB952]

SENATOR ADAMS: I believe that's right. [LB952]

SENATOR WHITE: All right. So, Senator, let's say the metro area hired a high-dollar lawyer, as Senator Louden is so fond of calling people, and says, high-dollar lawyer, we don't like this, let's game the state because they look like they're gaming us. Could the city, as you understand the law, could the metropolitan area issue property...issue bonds, secure them primarily by fees from the sewer that would actually pay it, but ultimately secure them by property and thereby exempt this whole finance stream from tax? [LB952]

SENATOR ADAMS: You know, I don't have an immediate answer to that, I really don't. But in listening to the dialogue that you and Senator Heidemann had, it seems that they could. But I don't know that. [LB952]

SENATOR WHITE: At least plausible. [LB952]

SENATOR ADAMS: Right. [LB952]

SENATOR WHITE: Okay. And then, Senator, if we...if the metropolitan area did that and then it launched a campaign to all of its homeowners saying, look, here's published guidelines on how you can exempt yourself from this property tax to the extent we can, let's really push, because we know we're going to have to raise the sewer rates, so let's really push everybody who's on the bubble to get homestead exemptions, could that have a dramatic impact, as you understand it, on the state budget? [LB952]

SENATOR ADAMS: You're going to have more appropriation for homestead exemption. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: So, Senator, if that's the case, if that's what we're really looking at

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here, where we're going to look to pick off one part of the community or then that community is going to try to game us and pick off another part, would it be better for the state just to say, let's not tax federal exemptions or federally mandated, I'm sorry, federally mandated expenditures and just accept that so we don't force different communities into gaming our tax system? [LB952]

SENATOR ADAMS: Following your line of logic, it might be. (A) I'd have to follow your line of logic, and it's sound; but secondly, you know, I have a concern about even defining federal mandate and what's required and what isn't. [LB952]

SENATOR WHITE: These are real questions and they are things we should continue to work on. But I can tell you this, it's kind of like...a federal mandate is like an insult. I can tell you one when it lands on me, you know, believe me... [LB952]

SENATOR CARLSON: Time. Thank you, Senator Adams and Senator White. Senator Howard, you're recognized. [LB952]

SENATOR HOWARD: Thank you, Mr. President, members of the body. Today, in addition to my mortgage bill, I brought down my MUD bill because it's much easier for me to understand what we refer to when I can see it right in front of me and see it on my bill and what I'm paying. If Senator Adams would yield for a question or two. [LB952]

SENATOR CARLSON: Senator Adams, would you yield? [LB952]

SENATOR ADAMS: Yes, I will. [LB952]

SENATOR HOWARD: Thank you, Senator Adams. Your amendment refers to natural gas, strike natural gas. And I'm looking at the bill that I received early March and it refers to gas infrastructure replacement. And it's got an amount over on the side of \$3. Is that what your amendment addresses? [LB952]

SENATOR ADAMS: Not being able to see the bill, I don't know. But what the amendment, in effect, does, my vision is bad in any direction, so believe me I can't see it, what the amendment very simply does, it narrows the scope of Senator White's bill and says we're not going to exempt the natural gas lines that are built as this project happens. [LB952]

SENATOR HOWARD: Is that a part, do you know if that's a part of the water infrastructure replacement cost? That's a separate \$3 charge on here. [LB952]

SENATOR ADAMS: Again, without looking at it, I'm not sure what you've got there. [LB952]

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SENATOR HOWARD: Okay. [LB952]

SENATOR ADAMS: And I've not looked at it. [LB952]

SENATOR HOWARD: And the...I apologize because you're not from Omaha (laugh) so you wouldn't be receiving an MUD bill. But the layout on this bill is different from the bill that was handed out on the floor from Plattsmouth. This one I find easier to read. It does give us a read out of the gas and the water use that we use on a monthly basis and it compares it to the previous year, which is, I think, very handy. But I can continue to look at this and see if this does pertain to the gas infrastructure replacement. While I'm doing that, I'd like to offer the remainder of my time to Senator Adams, so he can finish what he was discussing regarding the school costs, if he would like to have that time. Otherwise, I will return it to the Chair. Thank you. [LB952]

SENATOR CARLSON: Thank you, Senator Howard and Senator Adams. Senator McCoy, you're recognized. [LB952]

SENATOR McCOY: Thank you, Mr. President and members. I think this amendment brings up a great point of the discussion. We talked about this on General File, in fact I had an amendment that was along these lines on General File, as did Senator Fischer. Senator Fischer withdrew her amendment and mine did not advance. And that is that this is more than just a sewer CSO issue. We're also talking about water and gas infrastructure replacement as well. One of the things that I think is important to point out as it's been told to me and shown to me and I believe to be true, the difference between the street miles that will be affected from the sewer CSO issue, that also would touch part of the MUD territory that would need to have infrastructure replaced, is a number, while substantial, roughly 100 street miles is my understanding, is relatively small considering that there are 4,400 street miles in the MUD territory that has gas and water infrastructure under it. So I think that's also a key point to talk about, one that I think this amendment addresses, and I thank Senator Adams for bringing the amendment today, is that this is more than a discussion just about the sewer CSO issue. And that's a very important piece of this argument because the gas and water infrastructure pieces and components to this discussion do affect other areas of the state, other municipalities, as Senator Heidemann went through his list, his spreadsheet, on General File and also made mention of that earlier today. So I thank Senator Adams for bringing this amendment. I think it's a very worthwhile part of this discussion that we fully understand the ramifications of this issue as that it's more than just the sewer CSO part of this, it also involves gas and water infrastructure. I know I have a number of constituents that have called and e-mailed and stopped by our office to get better understanding and a more full clarification of what exactly is part of this bill. As Senator Adams talked about and Senator White, both, this is a very complex issue, one that the Revenue Committee wrestled with for quite some time before bringing it to us here on the floor, and an issue that, in my mind, deserves full and complete debate and discussion as we talk about

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this because it is a major policy decision for not only us here in the Legislature but obviously for the state as a whole. And striking this gas infrastructure component to this is a discussion that needs to be had. And I hope other members or colleagues would chime in on this because it's a discussion that has to happen, to understand this more fully that it's more than just a sewer CSO part of it, it's the gas and water infrastructure part as well. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator McCoy. (Visitors introduced.) Senators still wishing to speak include Adams, Wightman, and Fischer. Senator Adams, you're recognized. [LB952]

SENATOR ADAMS: Thank you, Mr. President. And what I'd like to talk about next, I don't know that it sheds any great light on anything. Senator Heidemann has brought it up over and over and over again and it's one of fairness. And I'm trying real hard, and we all are, to be sensitive and fair to Omaha and Plattsmouth and everybody else. We've had, in York, Nebraska, water issues, big-time water issues, and we've had recently to go out and buy substantial amounts of high-end ag ground on the perimeter of York in order to start drilling wells, and we're doing that in order to eliminate in time 13 different wells that we have in town because when the day comes that the EPA says to us, you're going to have to treat that water, we cannot treat it at 13 different source points. We've got to get it rolled into one. So we're going to have to cap off 13 wells a little bit at a time. We've had to go out and buy this land. We've had to go out and start drilling wells. More will be drilled and in time my guess is some kind of a water filtration plant will have to be built. And in my time as mayor, it was agonizing when we'd get the reports from the fed saying, well, your parts per billion just changed, just changed, and some of those changes were dramatic, dramatic, was arsenic or nitrates, whatever the composition was, and we'd shut the well down and use a different one. But we know they're old wells. We know our day is coming when we're going to have to do something. Now I realize that our project, our water project in York, doesn't compare in magnitude to the sewer separation project in Omaha and in the surrounding areas. It just doesn't. However, for the ratepayer in York, Nebraska, maybe proportionately it does. You got 8,000 people. They're going to have to pick up the tab for that ground, for the wells. But you know what we did? We have ongoing engineering, ongoing engineering that evaluates our sewer system, our sewer treatment plant, our water, our wells, ongoing engineering. And we knew that the day was coming, we know the day is coming when we'll have to filter the water, so we start making plans. And what we also did was to build in a rate structure, a rate structure that gradually increased water and sewer rates. And there was a lot of folks came to the city council meeting and they weren't very happy with that. And every three or four years we sit back down again and say, all right, what's the next phase of this project? What do we need to do to water and sewer rates? Now my point here is at least threefold: (a) we have federal mandates too; (b) we dealt with them; and proportionately? I don't know. We're not talking billions, that's for sure, but we got a population of 8,000 ratepayers. We made preparation for it.

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The other side of this is this. We do, in York, collect state and city sales tax on our water and sewer bills. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR ADAMS: We do. And every dime that we take in, with the exception of the sales tax, goes right back into our water and sewer fund. They are proprietary funds. They pay employees. They buy fuel. They pay down debt. But the sales tax, the city 1.5 cents, comes to us from the state in a check monthly. It goes into the general fund. And the trade-off for the citizens of York? We have one of the lowest property tax rates, I think the lowest this year, of any first-class city in the state because we made a pledge to buy down those property taxes with the sales tax we collect, and whether it's on McDonald's on the interstate or the phone bill or the sewer and water bill, that's what we've chosen to do. And granted, we're talking about kind of a shell game here. [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR ADAMS: Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Adams. Senator Wightman, you're recognized. [LB952]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I rise in support of Senator Adams' amendment, AM2171, although I understand he may pull it at a later time. But I support it anyway because it seems to me, if we're going to have a consistent tax policy, we need to look at what the underlying charges are for, even if we are funding something or actually building something or constructing something under a federal mandate, because the mandate has to do with the sewer separation. That having been said, I have some questions with regard to what Senator White has suggested with regard to whether or not you could avoid the sales tax on sewer charges by having it secured by real estate, which I assume would make it a general obligation bond. My understanding, and I'll ask Senator White some questions here in a minute, but my understanding as to what he was suggesting was that it was, whether it was going to be taxable or not, even though it was assessed as a sewer charge, would depend upon what it was secured by, and if it was secured by real estate then it would not be taxable. I have some real questions that that would be the law. It seems to me that if it's to be a charge on the sewer and it's included in the sewer fee, that it's going to be charged and what secures that debt is not going to make any difference. But if Senator White would yield, I would like to ask him a question or two. [LB952]

SENATOR CARLSON: Senator White, would you yield? [LB952]

SENATOR WHITE: I would. [LB952]

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SENATOR WIGHTMAN: Senator White, did you suggest that if the financing for a construction of sewer or meeting the federal mandate in this case, which we've discussed, was done by securing that debt by real estate, which I assume would make it a general obligation bond, that it would not be taxable? [LB952]

SENATOR WHITE: My understanding is, yes, that if it is secured by property tax that finances on a property tax secured bond, as the city pays them off, those are not taxed. The city doesn't pay taxable taxes on them. That is my understanding, Senator. [LB952]

SENATOR WIGHTMAN: But let me ask you this then. If there was the additional charge on the sewer that you were using to retire that debt, then it would still be a sewer charge and it would be taxable as part of the sewer fee, would it not? [LB952]

SENATOR WHITE: Well, certainly one of the parts of problems that we've had though, however, Senator, is this; that the financing costs on this doubles the cost to the community. You know, I mean this is a \$330 million pie here and you can't eat it all at once. And half that pie is the financing costs that we're going to impose a sales tax on, at least that's what we're told by the Department of Revenue at this point in time. And the irony is that if it was a property tax bond and it was paid off through property taxes, right, and they were the primary method but they go into the general fund and then the city pays the bond off, well, if it's that, we don't pay sales tax on property tax. [LB952]

SENATOR WIGHTMAN: I would agree with you, Senator, if you do levy additional property taxes. But if you pay them and you pay them through the sewer use fee, then I think it's going to be taxable even though you secured it by property taxes. [LB952]

SENATOR WHITE: Well, I don't know. Do you have an opinion on that, Senator? [LB952]

SENATOR WIGHTMAN: Well, I just gave it. [LB952]

SENATOR WHITE: (Laughter) Okay. Well, I guess I would say to you this. We have a number of different property tax bonds, and I'd like to see them, for example they have a number of projects, that sales tax is dedicated to paying off the bond but they're ultimately secured by property tax. And my understanding is that that is not a taxable event. And I understand the city, for example, could for example devote a bunch of property tax... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: ...to this, right, to pay it off, take the money out of the sewer tax, but then shift the property tax to the state through their...through the homestead exemption.

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[LB952]

SENATOR WIGHTMAN: Well, my opinion, Senator White, is that if you're going to secure the payment, if you're going to get the payment for the payment on these bonds through an additional sewer charge, that it is going to be subject to taxes and how you secure it probably makes little or no difference. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Wightman and Senator White. Senators still wishing to speak include Fischer, Utter, White, Campbell, and Adams. Senator Fischer, you're recognized. [LB952]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I'd like to draw everybody's attention to the fiscal note. I don't think we've spent a lot of time on that today. You know, we passed a bill earlier, Senator Louden's bill on Select File, and that bill not only put in a grant writer position for the commission, it also added another \$100,000. In visiting with some of you on that, I don't think a lot of people in the body realized that's what happened, because on General File we thought...we thought we were just going to put in a grant writing position in. But instead, we added more. We added another \$100,000. We can't continue down that path. We have a lot of...we have a lot of worthy, good ideas. All of us have different priorities. All of us have items that we would like to see receive state funds. We can't continue down that path, and we certainly can't do it if you look at this fiscal note. We're talking about, with the sewer overflow, for fiscal year '10-11 over \$3 million loss in revenue. And then we add in that gas and water infrastructure and that's another \$16 million. So we have over \$19 million loss in revenue for FY '10-11. I guess I would challenge my colleagues, what are you willing to give up to pass this bill? Because you're giving up \$20 million in revenue. I'm not even debating the fairness/unfairness of a tax that's been in place for 40 years. What I'm debating is what are you going to give up? Twenty million dollars, fiscal year '10-11: I don't know what I'm willing to give up because I have projects that I would like to fund. And most of you know that those projects are in your districts, they're in your legislative districts. They're the bridge that you want. They're the highway that you've been talking to me about that needs to be built because of congestion in Omaha, in the metro area. Well, guess what. It's not going to happen if you're giving up \$20 million in revenue next year. That's a decision you need to make. We can't keep saying this is a worthy project so let's stick another \$100,000 into it. We can't keep saying, you know, the tax policy we've had for the last 40 years on taxing this service, we need to change it. This tax policy, we need to change it. Oh, and by the way, we're only going to change it for the metro area. We aren't going to change it statewide. We're just going to change it for the metro area because of an unfunded mandate. Read the bill. The bill doesn't just deal... [LB952]

SENATOR CARLSON: One minute. [LB952]

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SENATOR FISCHER: ...with the unfunded mandate. The bill deals with what MUD wants to do to replace a 100-year-old system. To me, that isn't fair. To me that's, when we're looking at giving up \$20 million in revenue for your bridges and your roads that you come to me and want, that's...you're working with blinders on. We have to...we have to be responsible on this. The state cannot do everything. And if we're going to do everything, why are we only doing it for Omaha and the metro area on this deal? I'll tell you why. [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR FISCHER: We can't afford it for the rest of the state. Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Utter, you're recognized. [LB952]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I just wanted to rise and give support to Senator Adams' amendment. I think this is a good amendment and I think it helps clarify, if you will, this bill. It helps clarify the fact that we're not talking about, in LB952, we're not talking about just the federally...so-called federally mandated sewer separation, but we are also talking about water lines and gas lines that are also going to have to be replaced and forgiving the taxes on them also. And, again, it comes back to me as to what have we done across the rest of the state of Nebraska. Well, frankly, in Hastings, Nebraska, where I come from, we have made improvements to water lines, sewer lines, gas lines and have paid the tax. And now, because we have bunched this all up together into a package that maybe we should have been working on over the last 20-25 years, it's become a big burden. And frankly, I think that we've got to take another look at that. And Senator Fischer is actually right. When we look at the fiscal note and we are being asked to give up \$20 million, somebody is going to have to pick that up or somebody is going to have to be willing to cut state agencies, to cut state programs by that amount of money. So we're either going to cut a program or we're going to ask all of the rest of the citizens of the state of Nebraska to make up that \$20 million that we don't want to pay in Omaha. And I don't blame the people of Nebraska if they become upset at that. We're not talking about just the citizens of Hastings, but we're talking about all of the citizens that live outside this district and will be asked in some way or another, through higher taxes, to pick up their share of that bill. We're talking about farmers, we're talking about rural residents, we're talking about village residents, and we're talking about city residents clear across the state are going to have to pick up these revenues. And, folks, I will say to you I don't think that sounds like that's fair. And I think that AM2171 is a good amendment because at least it separates out from this bill at this stage of the game the federally mandated part from the part that is not federally mandated. Thank you, Mr. President. [LB952]

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SENATOR CARLSON: Thank you, Senator Utter. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. A couple of points: I was apparently unclear to Senator Wightman. Senator Wightman, what I mean to indicate is the city of Omaha, should they decide to game the system, could simply raise property taxes, bond it, which I don't like but they could, and then would not pay any of the sales tax, so this lovely revenue that will...Senator Fischer and others are counting on will never come here if they choose to do this a different way. And there's nothing anybody can do about that. And in fact, if they did it through the property tax and then we aggressively decided to push people to get homestead exemptions, we could actually really, really exacerbate the budget crisis of this state. Now that's what I meant to say and I don't think there's anybody that disputes that. Now I do have a couple of points though. Senator Utter has just raised the issue that we've got these things and Senator Fischer. On Senator Fischer's point, I thought roads and bridges are paid from a fund completely separate from our General Fund obligation. Is Senator Fischer available for a question? And if so, if she would yield, this is the question. Senator Fischer, don't we pay for bridges and roads from a completely separate fund and this money isn't going to hit the road fund? [LB952]

SENATOR CARLSON: Senator Fischer, would you yield? [LB952]

SENATOR FISCHER: Yes, I will, Senator Carlson. Thank you. Senator White, as you know, we receive our money for roads from the fuel tax, from the motor vehicle registration, and from sales tax on motor vehicles. However, as I have said numerous times in this body this year and last year, the current program is at \$300 million. We cannot even do maintenance in the next couple years with that amount of money. Therefore, yes, we are going to have to be looking at other sources of funding for roads, which may include sales tax. [LB952]

SENATOR WHITE: That would require major changes in the law, correct, Senator, transfers of funds from General Funds into the road fund? [LB952]

SENATOR FISCHER: It would, yes. [LB952]

SENATOR WHITE: Okay. So this money is...you're calculating on using money... [LB952]

SENATOR FISCHER: Oh, now don't use the word "calculating." [LB952]

SENATOR WHITE: Oh, heaven forbid. [LB952]

SENATOR FISCHER: (Laugh) [LB952]

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SENATOR WHITE: No, you (laugh)...no one would think that of you, Senator. [LB952]

SENATOR FISCHER: Thank you. [LB952]

SENATOR WHITE: It is your impression that this money will be available and some of it will be diverted into the road fund, even though that would require a change of law, and that drives this point and I think this is important for all taxpayers to recognize. This is money the state may not get if the city decides to finance this a different way. And yet we've already not only counted on it, we spent it. And that is exactly I think what Senator Utter always opposed. Just because there may be the possibility of getting this money, we shouldn't count on it and we shouldn't accept we're going to spend it. Governor Heineman has repeatedly said the only way we can control taxes, and we have to control taxes because they're job killers, is if we control spending, and yet everybody assumes we're going to get this money. And I have already shown you one clear way that nobody can dispute. The city could easily not allow this money to come into our treasury and, in fact, could raid our treasury. And yet we're spending it? I don't know that that is really prudent, that that really is conservative, fiscally responsible planning. We don't know we're going to get this money at all. Now with regard to Senator Adams' amendment, I would point out right now we do tax water pipe when we build them but we don't tax sewer pipe when we built it. [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR WHITE: So what if the city decided to take over some function and do property tax on the water pipes when they bought them? What would that do to our hoped for windfall profit from the metropolitan area? We don't increase sewer fees but with water pipes we decide to increase a different tax fund or we use general sales tax or we do something else. Again, we think that we have this pile of money and it acts like that we say we have great sympathy for the people in the metropolitan area. I think many senators think we just have the metro area over a barrel. We got these taxpayers where we want them and tough times and sayonara, not my district, no problem. And that's just not right. They may be over a barrel, folks, but believe me, there are ways they can still pick and roll and you can be frustrated. And I do have a question... [LB952]

SENATOR CARLSON: Time. Thank you, Senator White and Senator Fischer. Senators still wishing to speak: Adams, Howard, Fischer, Hadley, McCoy, and White. Senator Adams, you're recognized. [LB952]

SENATOR ADAMS: Thank you, Mr. President. Members, there's one other thing that I wanted to talk to and you heard me talk about it over and over and over again, and unfortunately it gets separated from good tax policy. And that's school funding. A few weeks ago I told you worst thing that could happen to us is if we face the perfect storm

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in TEEOSA, and let me remind you again what that perfect storm is: if ARRA money goes away, if valuations drop and revenues don't pick up. Well, revenue picture, as gloom as it is, doesn't look like it's going to get where we want it. And valuations? Well, guess what, they're down, and they're down in a part of the state, not just Omaha, but in the eastern edge of the state where most of the students are at. And where is the valuation up? Oh, from about Grand Island west. Well, its valuation is up just outside the door also. But the further you go west the higher the values go, so theoretically we ought to be saving state aid, but we don't. We don't because that's also...where the valuations are the highest this time around are also the places where we have the fewest schools that get equalization TEEOSA aid. So we didn't get much of a get. And where did the valuations go down? They go down to the east where the students are at. So where does the TEEOSA aid go? And I'm not saying that that's wrong. I'm just trying to explain the reality of equalization to you. That's it. And I hear this all the time, partly because of my involvement with Education and also on Revenue. Schools are driving property taxes, schools are driving property taxes. Well, just look at your tax statement. I can't think of anything more important. But, yeah, they are. How are you going to stop that? Well, in my simplistic mind, you tell schools to cut back on their spending and lower their levy, or you subsidize more of it with sales and income tax and force the property tax side of it down. Take your pick, neither one of which is a happy option. Stated very simply, this next biennium, and you guys know it, we've heard it over and over again and properly so, it's not going to be much fun building state aid. It's just not. And I'm not asking for sympathy but rather some empathy. It's my job and we'll get it done. And I said this the other day and I'll say it again. All of you sitting there right now can say, yeah, we get it, Adams, we know the state aid will have to be cut, we'll be there, and you will be until those spreadsheets come out... [LB952]

SENATOR CARLSON: One minute. [LB952]

SENATOR ADAMS: ...showing what happened to your school. Then all of a sudden the gloves come off and why, why, why. There's a whole lot of stuff in the Revenue Committee that I wish we could have done but we just can't because we're going to have to have the dollars to fund aid. I mean we're going to be cutting. I mean it's in the paper what Omaha is having to do, looking in terms of their employees, and it's not just Omaha. It's virtually every school in the state looking down the road: what do we do; who's retiring this year; who's leaving; do we replace them? Paras, there's paras probably getting laid off everywhere in anticipation of what we're going to have to face. Unfortunately, I feel like I have to push tax policy aside... [LB952]

SENATOR CARLSON: Time. [LB952]

SENATOR ADAMS: Thank you, Mr. President. [LB952]

SENATOR CARLSON: Thank you, Senator Adams. Senator Howard, you're

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recognized. [LB952]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Before I begin what I had intended to say, I want to commend Senator Adams because he's so right. Again, looking at my property tax statement, and I would encourage everyone to do this, when you receive this in the mail look at what you're paying for, and when I look at mine the \$4,454.22 that I'm being billed on an annual basis, how much of that is going to schools: \$2,306.72. Now that's over half of my property tax bill going to schools, so Senator Adams is absolutely correct and we're going to have some tough work to do next year as we look at school appropriations. And I'm not looking forward to that, I can tell you. But what really stirred my interest here were some things that Senator White had said and also Senator Council. It's very, very concerning to me that there are, as they referred to, many individuals in their districts that apparently are not aware of the homestead exemption or are not comfortable in applying for this or for whatever reason are not making use of a possible tax break for themselves. And I'm going to supply some information because I think this is very important. For 2009, there were 52,206 Nebraska homestead exemption applications, Form, and this is important to remember, Form 458, received by the department. Per household income reported: 38,561 qualified for 100 percent on the homestead property tax exemption; 2,143 qualified for 85 percent; 1,847 qualified for 70 percent; 1,764 qualified for 55 percent; 1,518 qualified for 40 percent; 1,407 qualified for 25 percent; and 4,966 did not qualify. So when I look at that "did not qualify," so what are the requirements? And, again, referring to Form 458 which I believe you can pull up on the computer if you have one, and if you don't, call your Department of Revenue and I believe they can send this out to you, and it says this is mailed to homestead exemption recipients, which I would assume are people that have received this break in the past. If you haven't and you're interested, get in touch with your Department of Revenue and request this form. This is mailed in January, and in this case it was 2009, for filing after February 1, 2009, and on or before June 30, 2009. Now keep in mind also if there is a special circumstance. I was successful in being able to pass a bill with this body last year that if there is extenuating circumstance, say the individual is in the hospital, couldn't meet that June 30 deadline, that your county assessor can grant exceptions. And I was very pleased to carry that bill and had been requested by my county assessor in Douglas County to do that because he is very interested in helping people to take and use this homestead exemption and not be subjected to the cutoff if there are circumstances that are a special consideration. Now an overview of the Nebraska homestead exemption program is a property tax relief program... [LB952]

SENATOR CAMPBELL PRESIDING

SENATOR CAMPBELL: One minute. [LB952]

SENATOR HOWARD: ...thank you--for three categories of homeowners. These would

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be people over age 65, certain disabled individuals, and certain totally, 100 percent disabled veterans and their widow or widower. There are income requirements and home value requirements for all categories except for a disabled veteran whose home has been substantially contributed to by the Department of Veterans' Affairs, DVA, and the income levels are on a sliding scale. The state of Nebraska reimburses counties and other governmental subdivisions for the reduction in tax due to homestead exemptions, so that's an interesting point too. We offset that reduction in tax that comes due to the acceptance of a homestead exemption for an individual. And this...there's important information regarding income that if I'm... [LB952]

SENATOR CAMPBELL: Time. [LB952]

SENATOR HOWARD: ...not able to finish this... [LB952]

SENATOR CAMPBELL: Time. [LB952]

SENATOR HOWARD: ...I'll turn my light on again and go into it. [LB952]

SENATOR CAMPBELL: Your time has expired. [LB952]

SENATOR HOWARD: Thank you. [LB952]

SENATOR CAMPBELL: Senator Fischer, you are recognized. [LB952]

SENATOR FISCHER: Thank you, Madam President and members. Senator White spoke about that we're spending money we don't have. I don't...I don't think that those of us in here are crazy spenders. I don't view myself as a person that goes absolutely crazy on spending because right off hand I can't think of a lot of bills that I've ever even introduced that started a new program that had money with them or started or gave my area a project, a building, anything. So I don't believe that I'm a crazy spender in here. As for looking for money, I would have to say that, yes, I'm probably 1 of those senators, along with 48 others, that are looking for money because we have services that we provide to the citizens of this state. And even though we would like to do it out of the goodness of our heart, those services cost money. Those services include education, almost a billion dollars in state aid to K-12 education that does provide property relief...property tax relief to many districts in the state, not all, as Senator Adams just told us but to many. That's a billion dollars. We provide for education, for postsecondary. We support the University of Nebraska, we support three state colleges, and we support six community colleges. That's a function of government. Let's look at social services. We're always looking for money there. That's a big part of the state budget. I believe the state has a responsibility to take care of those who truly cannot take care of themselves. Last year we went through a big discussion on the Beatrice situation, lots of proposals there. I didn't have one, but there were a lot of proposals and

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they cost a lot of money. So I would say, yes, Senator White, there's 49 of us in here looking for money. Public safety, I believe that's a responsibility of government. We have prisons, we have State Patrol, we have a court system, all of that is needed. All of that is a responsibility of government. All of that is for the benefits for the citizens in this state. And, oh yes, we have highways. We have infrastructure. That's a responsibility of government. Right now that program is only \$300 million a year. As I was saying last time when I was on the mike, that program is a maintenance program. We need construction around the state of Nebraska. [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR FISCHER: Thank you, Madam President. We need construction of new highways around the state of Nebraska but especially in the metro area. I fight, I fight to get those roads in the metro area. I don't live there but I know that's where the need is. That's where we have congestion. That's where we have the population. So please don't try and say because I live in the 43rd District and I live in Valentine that I don't care for the citizens in Omaha and the metro area. Of course I do. I support education there, I support road construction there, I support State Patrol there, and I support social services there. But I don't support changing a tax policy that's 40 years old this year because, as I said, there are 49 of us in here that look for money and we look for it every year and that's our job. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senators waiting to speak are Senator Hadley, McCoy, and Howard. Senator Hadley, you are recognized. [LB952]

SENATOR HADLEY: Madam President, members of the body, this is the first time I've had a chance to speak on this and I want to talk a little bit about unfunded mandate. We're acting like the federal government is some big bully in this situation with an unfunded mandate. In the United States law and politics, unfunded mandates are regulations or in some cases conditions for receiving grants that improve cost...impose costs on state or local governments or private entities for which they are not reimbursed by the federal government. I'm going to give you three examples. The first one is EMTALA, the Emergency Medical Treatment and Active Labor Act, that requires nearly all American emergency rooms to accept and stabilize any patient regardless of the patient's ability to pay but do not provide adequate reimbursement for indigent patients. If we follow the logic that we're working with here, that this is a terrible federal mandate, shouldn't we have a system that allows us or requires us to reimburse hospitals who have this unfunded federal mandate given to them? This mandate came about as a result of a case in Chicago where a private hospital was dumping emergency patients on the county-owned hospital. It's to help the citizens of the United States who go to an emergency room. If you go to an emergency room right now, they will treat you without asking for your ability to pay until after the treatment is over. This is an unfunded mandate. Is it bad? If it is, should we not be reimbursing the hospitals? Secondly, one of

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the many federal legislations is the Clean Water Act that requires programs to be sponsored by the governments of the states without providing any funds for these programs. I'm going to talk more about that in a minute because I believe that's what we're talking about here. A third one is the Americans with Disabilities Act that require nearly all American business owners to make their business premises available to disabled customers without providing any funds for the cost of reconstruction or additional interior space. So if I decide to open a restaurant and I have to remodel and I remodel it to comply with the Americans with Disabilities Act, should I have to pay sales tax on the materials that I purchase? I'm doing it to...because of an unfunded federal mandate. But the important one is the Clean Water Act. The Clean Water Act is the cornerstone of surface water quality protection in the United States. The act does not deal directly with ground water nor with water quantity issues. The statute employs a variety of regulatory and nonregulatory tools to reduce direct pollutant discharges into waterways, finance municipal wastewater treatment plants, and manage polluted runoff. These tools are employed to achieve the broader goal of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters so that they can support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water. This act is, I believe, what is causing the unfunded federal mandate to Omaha. We act like it's bad that Omaha is going to be required, required to separate storm water discharge from sewage and not dump it directly into the Missouri River. We're acting like that's a terrible imposition on the city of Omaha. [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR HADLEY: I don't think it is. I think this is something that Omaha should have been doing a long time ago. I'm going to put on my light again and talk a little more about the Clean Water Act because it goes back to 1972, 1972. If my math is right, that's about 38 years ago we started worrying about the Clean Water Act. That's a long time ago. With that, I will sit down and put my light on again. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Hadley. Senator McCoy, you are recognized. [LB952]

SENATOR MCCOY: Thank you, Madam President and members. We started this discussion a little over three hours ago, about 2:10 this afternoon, with a news story and I'd like to provide an update. You should have received a handout. If not, I'd like to read the most current update in the news on this issue. Lincoln: A Plattsmouth city administrator now says that he incorrectly interpreted information from state tax officials on whether that city could avoid paying sales tax on a city sewer fee. City Administrator Erv Portis said Wednesday afternoon that he had already ordered water officials in his city to begin charging sales tax on "debt service fees" being paid by local residents to pay off a \$6 million sewer project. The city had not been charging sales tax on its fees

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since October, which inspired Omaha Senator Tom White to accuse state tax officials of allowing different treatment to play in Plattsmouth than in Omaha. White said that over and over he and other senators had been told that sales tax must be charged on fees paid by Omaha area residents on a massive sewer project there. White said he was dismayed that Plattsmouth was allowed to do the opposite and not charge the tax on a similar project. The charges caused a firestorm on the floor of the Legislature Wednesday afternoon where senators were resuming debate on White's bill to permit the tax exemption on the \$2.6 billion sewer, water, and gas line replacement project. After initially saying that he had talked directly to a state Revenue official, Portis on Wednesday afternoon said that it was a city subcontractor who had called the Revenue Department during a meeting in September. The administrator said that he misinterpreted comments given to him by the contractor, leading Plattsmouth to not charge sales taxes on the "debt service fee" that went into effect on October 1. Portis said he talked with State Tax Commissioner Doug Ewald several times Wednesday afternoon and realized that Plattsmouth was incorrect in not charging sales taxes. He added that he urged his local senator to support White's bill because Plattsmouth does not believe sales taxes should be charged on such sewer fees. White has argued it is unfair to charge sales taxes on such fees that go to pay off unfunded mandates by the federal government. Members, this is a very current, was posted just a few minutes ago, article on this issue. It hopefully is helpful to discussion because clearly there was miscommunication and misunderstanding made, but it looks like that's now been cleared up and I think that's good that we now know this. As I have made in earlier comments earlier this afternoon that I believe some time was needed so that this information could be disseminated, well, apparently it has been disseminated and now appears that we can actually get back to the heart of this discussion, the merits of the amendments and the underlying legislation. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator McCoy. Senators wishing to speak are Howard, Fischer, Hadley, White, Utter, and Mello. Senator Howard, you are recognized. [LB952]

SENATOR HOWARD: Thank you, Madam Chairperson and members of the body. To continue looking at the issue of the homestead exemption, and I'd like to thank Senator White for his compliment to me earlier, I neglected to do that. I am concerned about the poor, the underprivileged and, after having spent 34 years working with and on many cases of people that would fall into that category, I will say, yes, it is an area of concern. But I think what I heard this afternoon, apparently it's acknowledged that there are individuals living in senators' districts, I remember Senator Council talking, Senator White talking, who would be eligible but haven't applied for this, and I think there's work to be done and information to be disseminated. Persons over age 65, an individual who meets all the following criteria may qualify for a homestead exemption: Be 65 or older before January 1 of the application year; own and occupy the homestead January 1 through August 15; and have a household income in accordance with this table. And it's

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broken down into whether you're married or you're single and the percentage of relief that you would receive, but just briefly a person who is married or a couple who is married, their upper income level or their income level to receive 100 percent relief is \$29,100.99. If you're single, that amount would be \$24,800.99. Now that's for 100 percent property tax relief under the homestead exemption. And then it's broken down and the lowest is 25 percent. The range for married individuals is \$35,301 to \$36,800.99, and if you're single the range is \$30,001 to \$31,300.99. Now the information that you can get from the homestead exemption information guide will give you the categories in between 100 percent and 25 percent, but there's also another piece to this that you need to be aware of. In addition, the percentage of relief applies to the assessed value of the homestead up to the maximum exemption. The maximum exemption is the taxable value of the homestead, up to \$40,000 or 100 percent of the county's average assessed value of a single-family residential property, whichever is greater. To be eligible, the maximum assessed value of the homestead is \$95,000 or 200 percent of the county's average assessed value of single-family residential properties or whichever is greater. The exempt value will be reduced by 10 percent for every \$2,500 that the assessed value exceeds the maximum value. If the assessed valuation exceeds the maximum value by \$20,000 or more, the homestead is not eligible for exemption. So in addition to you qualifying by age, by disability, by income, also considered in here is the value of your home. And when I go back and refer to my own property tax statement, I wouldn't qualify whether I was age 65, I wouldn't qualify. So that's an important piece to keep in mind. And I know in... [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR HOWARD: ...Douglas County, if you would call and inquire or if you'd go down to the county assessor's office, there are people there that would be more than happy to help you fill out the application and determine if you're eligible based on your criteria and your property's value. And I would encourage anyone, anyone that feels they may be eligible for this, to go and inquire. You have nothing to lose and you may find that you will get a percent off on your property tax. There's also a category on here regarding certain disabled individuals. Madam Chair, how much time do I have left? [LB952]

SENATOR CAMPBELL: Twenty-one seconds. [LB952]

SENATOR HOWARD: Well, in that case, (laugh) I won't go into these other categories, but again I encourage anyone that may...that may feel that they would qualify this or anyone that has a relative that they feel may be eligible to go down to the county assessor's office,... [LB952]

SENATOR CAMPBELL: Time. [LB952]

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SENATOR HOWARD: ...get the information. Thank you. [LB952]

SENATOR CAMPBELL: Senator Howard, that was your third time. [LB952]

SENATOR HOWARD: Thank you. [LB952]

SENATOR CAMPBELL: Recognize Senator Fischer. Senator Fischer, this is your third time. [LB952]

SENATOR FISCHER: Thank you, Madam President and members. I found some information in my bill file on this and, to tell you the truth, I don't know where it came from so I didn't keep track of this one very well. But it is telling me that the concept behind this bill originated when MUD wished not to tax its ratepayers for the additional charges of updating its 100-years-old system. You know, I don't know if that's true or not, but I would have to question because it seems to be true in how the bill is drafted. When this bill was on General File, I offered an amendment to pull off a part of it and the bill would only then address what everybody keeps referring to as the federal mandate. That's a small part of it, but yet the bill is written in order that MUD can have this tax go away on a number of things that don't...that aren't required under the federal mandate. It was decided, I think, to do it this way also, as an outsider--I'm an outsider looking in--but it seems it was decided to do it this way so that it could be a regional tax because there are parts of the metro area that are being taxed on this, on this service that's being provided, who wouldn't have to pay if it was a property tax, is my understanding from some comments that have been made on the floor also. You know, we talk about the loss of revenue to the state. Numbers that I've heard are over \$300 million. But there's also a loss to the city of Omaha. I don't live in Omaha. I do pay sales taxes when I'm in Omaha, but I don't pay this tax. I won't ever pay this tax, that I can see, because I don't think I'm going to be moving there soon. But when you're talking about \$46 million loss to the city of Omaha in revenue, you know, if I was a resident of Omaha, you know if I did live in Omaha, I'd be a little concerned with that. That's a lot of money. And I think even for the city of Omaha a loss of \$46 million over that time period is a lot of money. [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR FISCHER: Thank you, Madam President. How are they going to make it up? As a state, I suppose this body could have the option to grant another half-cent or a cent increase in that local option sales tax. You know, we could do something there. But my guess is, in the city of Omaha, if you live there and you're looking at a revenue loss because of action under this bill, hey, guess what, my guess is your property taxes are going up, because in my area that's what would happen. My constituents know that. It's called a tax shift. And we realize if you take revenue away from one place, unless you drastically cut services... [LB952]

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SENATOR CAMPBELL: Time, Senator Fischer. [LB952]

SENATOR FISCHER: ...you're going to raise it in another, and that's property tax. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senators waiting to speak: Hadley, Utter, and White. Senator Hadley, you are recognized. [LB952]

SENATOR HADLEY: Madam President, members of the body, for many years following the passage of the Clean Water Act in 1972, the EPA, states, and Indian tribes focused mainly on the chemicals aspects of the integrity goal. During the last decade, however, more attention has been given to physical and biological integrity. Also, in the early decades of the act's implementation, efforts focused on regulating discharges from traditional point source facilities, such as municipal sewage plants and industrial facilities, with little attention paid to runoff from streets, construction sites, farms, and other wet weather sources. Starting in the late 1980s, efforts to address polluted runoff have increased significantly. For nonpoint runoff, voluntary programs, including cost-sharing with landowners, are the key tool. For wet weather point sources, like urban storm sewer systems and construction sites, a regulatory approach is being employed. Evolution of the Clean Water Act programs over the last decade have also included something of a shift from a program-by-program, source-by-source, pollutant-by-pollutant approach to more holistic watershed-based strategies. Under the watershed approach, equal emphasis is placed on protecting healthy waters and restoring impaired ones. A full array of issues are addressed, not just those subject to the Clean Water Act regulatory authority. Involvement of stakeholders' groups and the development of information of strategies for achieving and maintaining state water quality and other environmental goals is another key hallmark of this approach. I went on-line and found out what some of the other cities and states are doing, and I ran across the combined sewer overflows by the Massachusetts Water Resources Authority, and I thought it was interesting. Not all sewer systems are created equal. While modern systems transport rainwater and sewage from homes and businesses through separate pipes, some older systems, like Boston's, have combined sewers that carry both flows together. During normal conditions, flows are delivered into treatment plants. During very heavy rains, when flows sometimes double and even triple, these systems become overloaded. Built-in overflows, called combined sewer overflows, or CSOs, must then act as relief points by releasing excess flows into the nearest body of water. This prevents sewage backups into the homes and into the area streets, but it does so at a considerable cost to the local water quality. That sounds exactly like Omaha. In Boston, where were the CSOs located? Boston, Cambridge, Chelsea, Somerville have combined sewer systems that connected to the Massachusetts regulated system. In 1987, a total of 84 active, uncontrolled CSOs discharged combined flows into Boston Harbor and into the Charles, Mystic, and Neponset Rivers. That's a

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key date--1987. CSOs occasionally discharge a combination of rainwater and sewage into Boston Harbors. Why...what is being done in Boston? They started in 1987 to work on the problem. If my math is right, that is 23 years ago they started working on the problem. Twenty...since 1987, 27 of the 84 original CSOs, the overflow, have been closed. Annual CSO volumes have been reduced by 82 percent overall since 1987. This is 2010 and Omaha now has the problem. [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR HADLEY: Since the plan was created in 1985, that's when the plan was created, solving of problems related to the CSOs have been a top priority. They developed a CSO control plan in 1994. The plan has undergone significant environmental review and received federal and state approvals, allowing the projects to move forward on the design and construction schedule mandated by the federal court as part of the Boston Harbor case. The CSO control plan has been revisited many times to reduce cost and to make the use of improved technology. I think the key point is that over a third have been closed since 1987 in Boston; 82 percent of the volume has been reduced since 1987. It is 2010 and we're looking at the problem now in Omaha. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Hadley. Senator Utter, you are recognized. [LB952]

SENATOR UTTER: Thank you very much, Madam Chairman, colleagues. I think we need to review just a minute the budget implications and the places where we're headed with regard to budget and what this...what impact this bill that we're discussing right now may have with regard to that budget. All of you got with your agenda today the green sheet and if you'll take a look at the green sheet you'll see at the bottom box, the bottom square box on the biennial budget that's under fiscal year 2010-11, we've got now a figure that is in deficit numbers by \$4,258,327, and I'm not sure what we've added to that today but I think we have added some today. We've added somewhere between \$100,000 and \$200,000 at least, I would say, by the actions of this body today, even though they are not finally read yet. They certainly could still be reversible. And so daily now, as we continue to consider legislation in this body, we are adding to the accumulated deficit for this biennium. Now some way or another Senator Heidemann and his crew will have to figure out a way to bring this thing back into balance by the time we go home from this session of the Legislature. In addition, if you take a look at the projections on the green sheet that take you on out into the next biennium, there's where we see the really scary figures as far as I'm concerned, because if you look at the bottom figure, in the...at the end of the next biennium, which will be the fiscal year 2012-2013, you will see that as of yesterday at least the projection is that we are in the hole a negative figure by \$704,499,955. Folks, we've gone looking for \$300 million and we've gone looking for \$40 million and we've gone looking for other figures as we have

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attempted to balance the budget during this time of fiscal crisis in this state, and I really hesitate to call it a crisis up till now because certainly we haven't experienced the pain and haven't experienced the things that they have had to do in the other states that surround us and across this nation to bring their budgets into balance and into compliance, we haven't felt that pain yet, but I'm afraid that it's coming. I'm afraid we're going to feel that pain. With LB952, why, we're talking about a fiscal note in 2010-11 fiscal year a cost of \$3,669,180; 2011-12, \$6,342,565; in 2012-13, \$7,133,700; and... [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR UTTER: ...2013-14 we're talking about \$8,135,750 impact to the revenues of this state. Folks, we're starting to talk about some real money now and it's going to be money that is going to be increasingly hard to make up as we try to provide the services of state government to the citizens of this state from border to border, and I think we've got to give that really serious consideration. Thank you, Mr. President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Utter. Senators waiting to speak are Senators White, Krist, Council, Hadley. Senator White, you are recognized. [LB952]

SENATOR WHITE: Thank you, Madam President. Senator Utter, I am touched and moved as a taxpayer of the state and, Senator Fischer, as a taxpayer in the city of Omaha I am also moved. I want to tell you, I appreciate your concern but I do want you to understand something. It is not really good for the city of Omaha to pay \$325 million in sales tax on sewer fees and only get to keep \$40 million for the city and give \$285 million to the state. It's just not good finance, although I appreciate your concern. Senator Utter, I understand the fiscal crisis. You do not overstate it. But I ask, and I ask this really rhetorically, if the city and if the other cities in the basin decided, you know, we're just not going to feed the state that one-third of a billion dollars, we're going to do this on our property tax basis on some level, where are you going to get the money then, Senator? Because it's not going to come to the state on sales tax. And having done that, Senator, I think, though we can't be certain, our TEEOSA aid might jump a whole lot, which will hit your fisc a lot. And I can assure you, Senator, if we put those property taxes up there, there won't be a soul eligible for homestead exemption that won't apply. Where are you going to find that money? And that's the issue, folks. That's the issue. And what's really ironic here is Senator Hadley had a bill, I think it was \$20 million, sailed through. When Norfolk had benzene pollution of its two wells, that Senator Adams had talked about the problems York has had with its wells, and I appreciate that, Norfolk my first year, I believe it was, had benzene pollution of its two wells and we wrote a law so that the LUST Fund, the Leaking Underground Storage Tank Fund, L-U-S-T, would pay multiple amounts to help the city of Norfolk out of a real bad fiscal jam. We have a history in this state of trying to help cities when we can and not pile it on. I don't get, as we go through all our needs, as we go through schools,

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which are all legitimate, how come everybody gets to think that people in the metropolitan area basin should fund these ones with its sales tax? First of all, don't count your chickens before they hatch. I have already told you at least one method, and nobody can dispute it, that the people of the metropolitan area, should they choose to, could actually avoid giving that \$320 million into the state completely and probably increase what they get back from the state in different kinds of aids. Now they may not choose to do that. That's up to them. It's not my area. I don't like property taxes. I'm not advocating it. But what I am saying is, it is the height of foolishness to assume that, if this law doesn't pass, automatically you're going to get this revenue. Lots of ways, lots of different roads to roam, we can find different ways to avoid this should they choose to. Now I don't know what the city administration is going to do in any of the cities affected by this in Sarpy or Douglas County. I mean that's a problem for them to solve. But I can tell you this. Don't believe for certain if we just nail these taxpayers they're going to take it quietly. I don't think they will and I don't think they should. We are counting on this as though this is certain revenue that will come in and that is exactly what we shouldn't do. This money belongs not to us but to the taxpayers. And while we talk conservatism in this house a lot, over and over... [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR WHITE: ...I find it's really conservatism when it's money spent in somebody else's district and it's really just reasonable fair tax policy when it's money taken out of taxpayers in someone else's district. Just saying if you really think this is going to help balance the budget, maybe, maybe not. [LB952]

SENATOR CAMPBELL: Thank you, Senator White, and that was your third time. Next, Senator Krist, you are recognized. [LB952]

SENATOR KRIST: Thank you, Madam President, colleagues. I stand opposed to AM2171 and still in complete support of LB952. I represent District 10 in Omaha, northwest Omaha. I don't understand why the leadership in Omaha wants to put this big a burden on this particular group of people at this particular time. I still think there are some options out there that could be exercised. I appreciate your commentary, Senator Hadley, on the history in Boston. I want to share just a little bit of history with you about Omaha. Starting in the late '70s, Mayor Al Veys started the sewer separation project and every mayor since then, with the exception of Mayor Fahey, has executed a part of that separation, although it could be said that Mayor Fahey put the vehicle in place to continue the construction program. It's not until present that we see a city administration try to aggressively go this fast to finish a project. I still believe that there are options available at the city level. I still believe that there's a way not to put this burden on the back of the citizens all at one time right now in history. I think there are options out there and I think leadership needs to find those options, but we're sitting here debating the only option that we have at our disposal, which is LB952. On behalf of the people in

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Omaha, on behalf of the people in District 10, I think it is unfair and I still believe this is a triple tax. No matter how you add it up, it's a tax on a tax on a tax, and we are going to allow MUD to collect that tax for the city of Omaha...I'm sorry, MUD is going to have to be the tax collector for the city of Omaha in the way this plays out. Again, on behalf of my district and the city of Omaha, I solicit your support for LB952 and I stand opposed to any other amendments that will come up to filibuster, including AM2171. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Krist. Senator Council, you are recognized. [LB952]

SENATOR COUNCIL: Thank you, Madam President, and thank you, Senator Krist, because I hit my light because I do live in Omaha. I have lived in Omaha nearly my entire life. I've lived in the northeast section of Omaha almost my entire life. I know about the combined sewer issues that face northeast Omaha. And I've listened to Senator Hadley speak about Boston and when the changes occurred. Well, I can assure you, Senator Hadley, while they may not have pursued it as aggressively as they should have, the city of Omaha has been separating sewers for more than two decades. And the reason they didn't progress at a faster rate is because of the concern of the burden on property taxpayers of accelerating that sewer separation and a burden on taxpayers that would spread across the entire city of Omaha, but the part of Omaha that suffered the most was the poorest area of Omaha with the least power to alter that situation. Yes, the home that I lived in for 25 years, on a heavy rain, because right outside my door was a storm sewer, when it rained heavily that sewage backed up into my basement. And as a member of the city council, urged the city government to allocate more of its annual budget towards the capital improvement program to address combined sewers, when the concern...the greater concern appeared to be by that leadership to provide property tax relief and not raise property taxes. And as Senator Fischer mentioned, if it's a tax and you don't collect it but you still have to pay the obligations, all you've done is switched the tax. Well, that's exactly what this sewer fee is. This sewer fee is a tax. Because if they did not increase the sewer fee to pay for this accelerated sewer separation project, they would have to rely on property taxes. Because this body was not going to give them any sales tax authority, they would have to turn to property taxes. And there have been numerous discussions with city leadership about this sewer fee because when we look at the impact that this sewer fee, just the fee alone, is going to have, to have someone's monthly gas and water bill increased by \$50 a month, that's \$600 per year plus \$45 in sales tax on that \$600. Now I've heard people talk about the increases in property tax. Someone talked about their annual property tax bill being \$4,000. A 3 percent increase on \$4,000 is \$120, compared to \$645 imposed on people, a majority of whom can barely pay their gas and water bill now. [LB952]

SENATOR CAMPBELL: One minute. [LB952]

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SENATOR COUNCIL: So, no, Senator Hadley, Omaha didn't sit on their hands and allow this problem to fester. They may not have moved as aggressively as they should have, but they've been separating sewers for more than two decades. And if you know what it takes to separate sewers at an aggressive pace, we complain about the amount of construction in Omaha now, you have to rip up every street to undertake these sewer separation projects and they're long projects. So the issue here is about a tax and this increased sewer fee is a tax, and to place the sales tax on that is a double tax, I agree with Senator Krist, maybe arguably a triple tax. And I say to those who support AM2171, if you can stand up here and say that if AM2171 is enacted... [LB952]

SENATOR CAMPBELL: Time. [LB952]

SENATOR COUNCIL: ...you will support LB952, then I'll vote with you. [LB952]

SENATOR CAMPBELL: Thank you, Senator Council. Senator Hadley, you are recognized, and this is your third time. [LB952]

SENATOR HADLEY: Madam President, members of the body, I think Senator White mentioned a bill I had, LB420, last year and we will be having it again. Just to let you know, the fiscal note was \$1,194,000 and it had to do with tax policy, because if we don't change the tax policy we're going to start taxing not-for-profit healthcare and that will be a decision the body has to make. Last year, they made the decision that they did not want to tax that. So that's what my bill was. Now Senator Council talked a lot about not, you know, not sitting on their hands and moving forward but maybe not quite as aggressively. All I can tell you is the Boston area has 87 percent of theirs done. I don't know what Omaha has done right now but Boston has 87 percent done. This is 23 years. I think it's time to get it done. I'm going to talk on another amendment about tax policy but it is important to know that this is not a point source under the Clean Water Act. It's a nonpoint source. In the Water Quality Act of 1987, Congress responded to the storm water problem by requiring that industrial storm water dischargers and municipal separate storm sewer systems, often called MS4, obtain NPDES permits by specific deadlines. The permit exemption for agricultural discharges continue, but Congress created a nonpoint source pollution demonstration grant program at the EPA to expand the research and development of nonpoint controls and management practices. Consequently, to combat nonpoint source pollution, EPA initiated numerous programs and grants to aid the public in improving their local water quality. These programs are described at the EPA Web site. This is 1987. I think that it's time that we do this and I realize it's a cost but it's a cost that's been exacerbated by waiting. It goes up every year. We talk a lot about the total cost. We talk about \$600 a year. That is the cost of doing the project. This has nothing to do with the sales tax. I feel for the people of Omaha but, unless they want us to pay the \$600 per year per household, they're going to have to pay that. We're talking about the sales tax, the \$45 total dollars of sales tax

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that we have collected on sewer since 1967. Thank you, Madam President. [LB952 LB420]

SENATOR CAMPBELL: Thank you, Senator Hadley. There are no other senators in the queue. Senator Adams, you are recognized to close on your amendment. [LB952]

SENATOR ADAMS: Thank you, Madam President. And let me just very briefly explain what the amendment does and the reality is this. You can look at this argument today in a lot of different ways. You can look at it from a tax policy perspective, and if you're doing that you're asking yourself why do we exempt sewer line and not water line and gas lines. Of course, for that matter, you can look at any of our sales tax exemptions and start asking the question why, why, why. Did it make good tax policy sense? Was it because constituents and/or a forceful lobby managed to get the tax exemption in? Who knows? Who knows? That's one of the issues you have to look at here. I think another issue that has been brought up over and over again is, is there a community in this state that hasn't had or anticipating a federal mandate, and how do they deal with it? Proactively, reactively, through tax policy, through rate structure, how do they deal with it? And then finally, and here I go again, the school dollars, the TEEOSA dollars, we're going to be scraping for every penny we can find next year. You know we will be. Everybody in here knows that, and it's unfortunate that we have to look at a tax policy question and so many of the things we do based on what's the revenue picture next year. With that, Madam President, I'm going to withdraw the amendment. [LB952]

SENATOR CAMPBELL: Thank you, Senator Adams. Mr. Clerk, items for the record? [LB952]

CLERK: Thank you, Madam President. A hearing notice from the Appropriations Committee; a corrected committee report with respect to LR292; Senator Karpisek, an amendment to LB800 to be printed. (Legislative Journal pages 1031-1036.) [LR292 LB800]

Madam President, the next amendment to LB952, is Senator Hadley, AM2172. (Legislative Journal page 1012.) [LB952]

SENATOR CAMPBELL: Senator Hadley, you are recognized to open on your amendment. [LB952]

SENATOR HADLEY: Madam President, members of the body, this is a simple amendment. It's a definitional amendment. It basically says: For purposes of this subdivision, sewer program designated to remedy combined sewer overflow means a wastewater collection system which conveys sanitary wastewater, domestic, commercial, and industrial wastewater, and storm water through a single pipe to a publicly owned treatment plant...works for treatment prior to discharge to surface

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waters. We want to make sure we have the definitions correct of what we're dealing with. I want to go back to what Senator Adams was talking, that the reason potentially for the difference in the taxation of sewer, gas, and water services. Sewer services: With the enactment of the Revenue Act of 1967--1967, that's 43 years ago--materials and supplies purchased by any city, county, township, or village, exempt governmental unit and used in providing sewer services have been exempt from tax or the tax paid on materials and supplies were refundable to an exempt governmental unit. The exempt governmental unit could either purchase the materials and supplies exempt, or issue a purchasing agent appointment Form 17-PAA to a contractor who could then use the PAA to purchase materials and supplies exempt from tax. Charges for sewer services, this is the policy we're talking about: With the enactment of the Revenue Act of 1967, charges for sewer services have been taxable. That is 43 years. Tax applies to all charges, regardless of whether there is an actual consumption or not. The tax is due on all payments, whether in the form of a minimum charge, a flat rate, or other billing method. The local sales tax is imposed where the connection is furnished to the customer, usually the address of the residential or commercial customer. The entity providing the sewer service collects the local option sales tax and remits it. Gas, water, electricity, and heat services: With the enactment of the Revenue Act of 1967, materials and supplies purchased by cities, counties, villages, or townships, exempt governmental units and used in providing gas, water, electrical, or heating services were taxable because such services were considered to be provided as proprietary functions. In 1987, the Legislature eliminated the governmental proprietary distinction but maintained the taxability of materials and supplies purchased by exempt government units for use in the business of furnishing gas, water, electricity, or heat. Today, purchases by a governmental unit are still taxable for use in a business furnishing gas, water, electricity, or heat. The concept there is it's a proprietary function. There are for-profit companies that do this so, consequently, they say they're going to charge governmental units to put them on a level playing field with the for-profit entities. Charges for water services: With the enactment of the Revenue Act of 1967, charges for water services have been taxable. Tax applies to all amounts, regardless of whether there is an actual consumption or not. The tax is due on all payments whether in the form of a minimum charge, a flat rate, or other billing mechanisms. So what we're talking about here is a change in tax policy. I would agree with Senator Council. Earlier today, seems like years ago, she talked about a change in tax policy. I entirely agree with her. That's what LB952 is. And whether or not there's a justification for a change in tax policy, is the justification that it's a significant amount that suddenly has to be charged or paid by a certain group of people in a geographical area, is that a reason to change the tax policy? Doug Ewald, the Tax Commissioner, wrote on November 10, 2009: The increase is occurring in the sewer rate. In essence, each sewer user is having their sewer rates increased to pay for this infrastructure. A sewer rate is not a tax or fee. It is a charge for services received. Therefore, it is not double taxation. That is the key. The sewer tax, it is a charge for services received. When you deal with water or gas, water, electricity, and heat services, you're receiving a tangible product. You're going to

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receive gas to heat your home, water to drink, electricity to light your lights and heat your home. The sewer services are services. The city, MUD, is providing a service to its customers to handle their sewer system. As such, since 1967, this has been considered taxable. Now the question for the body, and I think this is a legitimate question for debate, is there appropriate reason to change the tax policy because it happens to impact a certain municipality and has a significant impact because of the municipality in essence not meeting the Clean Water Act? That is the question the body has to answer. And if you support AM2172, then we get to LB952, and you have to ask yourself is this change in tax policy, is it an appropriate change in tax policy or is it just because of a municipality that has this problem and the size of the problem? Is that the appropriate reason to change a tax policy that's been in effect since 1967? Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Hadley. Senators waiting to speak: Senators Fischer, McCoy, and Utter. Senator Fischer, you are recognized. [LB952]

SENATOR FISCHER: Thank you, Madam President and members. I received some information from the city engineer of Omaha that I would like to read to you. After three years of engineering study, refinement to assure the viability of solutions, and community feedback regarding the unfunded federal mandate to reduce the number of combined sewer overflows in the Omaha metro area, the Long Term Control Plan, or the LTCP, was submitted to the state on September 25, 2009, to meet a major milestone in a consent order. On February 10, 2010, the city received a letter from the Nebraska Department of Environmental Quality stating that, "they agree with the city's approach," and, "NDEQ approves the city of Omaha's LTCP." More than 125 Omahans, business owners, neighborhood leaders, educators, and community volunteers have given their time and provided ideas and feedback to the experts to reduce the problem of raw sewage being released into the Missouri River or Papillion Creek during wet weather events. The approved LTCP was refined from a preliminary plan that was developed to meet an October 2007 deadline. New areas were added for proposed sewer separation. Among those areas are the removal of creeks from the sewer system at Westlawn Hillcrest and the Bohemian cemetery in the Saddle Creek Basin and Forest Lawn in the, I believe it's, Minne Lusa Basin. When construction is completed there will be an estimated 16 miles of new sanitary sewers, 61 miles of new storm sewers, and 85 miles of existing sewers which will have been rehabilitated. The proposed deep tunnel has also gone through some changes. The length of the tunnel has been reduced by nearly half a mile while the diameter of the tunnel increased from 12.5 feet to 17 feet. This reduces the number of drop shafts into the tunnel as well. Originally, the city thought that there would be a need for three high-rate treatment plants to be built as part of the control solutions. They have reduced the number to two, one located at the Saddle Creek outfall to the Papillion Creek and the other to be located adjacent to the Missouri River Wastewater Treatment Plant. Two underground storage tanks, one at the Minne Lusa outfall and the other near Benson Park, have been added to the plan to

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provide added capacity to hold water during storms until capacity becomes available to drain then back into the sewers. In addition to the gray solutions or engineering solutions, several green solutions are also part of the project. Three such solutions are either underway or scheduled early in the plan for Miller Park, Benson Park, and Spring Lake Park. An additional dozen projects located on public land are also being considered for potential green solutions. There are three criteria for development of green solutions. It must be developed on public land. It must have a quantifiable impact on reducing the flow into the sewer system--in other words, contribute to the solution, not just be attractive--and it must be cost-effective. This improvement to the city's water quality does not come cheap. City officials have estimated the average homeowners could pay over \$50 per month by the year 2017. In fact, a study conducted by Red Oak... [LB952]

SENATOR CAMPBELL: One minute. [LB952]

SENATOR FISCHER: Thank you, Madam President. In fact, a study conducted by Red Oak Consulting, who specializes in utilities' fees and who has consistently worked with the city, confirmed the rates city officials have projected. In June 2009, the city adopted a new sewer rate ordinance that contained these increases. While much of the work on these infrastructure projects won't be seen by the general population, they are community enhancements that will result from the work, such as trails, educational exhibits, green space, playgrounds, and sports courts and fields, funded not as part of the CSO program but through matching funds or grants. The work will provide significant improvements to water quality and further reduce basement backups. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator Fischer. (Doctor of the day introduced.) Senator McCoy. Senator McCoy, you are recognized. [LB952]

SENATOR McCOY: Thank you, Madam President and members. I think that...you know, there continues to be a number of very important items that we have yet to have the opportunity to discuss. I hope to have the ability in...at some point here in this discussion to get to an amendment that I have filed that talks about the definition of what a federally mandated CSO project is and a more clear understanding of that. You know this is an issue that continues to need a lot more discussion, in my mind. It's a major policy decision for our state that affects a good portion of our citizens, as has been described already, and one that involves not only the citizens in the Omaha area and the Plattsmouth area but also in other areas of our fine state. And I think the discussion has been very good this afternoon and into the evening now along with the discussion we had on General File. And I applaud Senator White for bringing this issue to the body. It is an issue that needs to be discussed. Constituents in my district and in other districts across the state do have grave reservations about sewer service fees and the sales taxes that may be accrued on them and property taxes, and the economic

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situation that we find ourselves in today. We pride ourselves in Nebraska on being frugal and thrifty and thinking to the future and managing our resources and being good stewards of our resources to the best of our abilities. And that's admirable and that's something that our state should be proud of, as I hope all of us are as representatives of Nebraskans across the state. And we should continue this discussion about the important issue at hand and I hope that we do. Thank you, Madam President. [LB952]

SENATOR CAMPBELL: Thank you, Senator McCoy. Senator Utter, you are recognized. [LB952]

SENATOR UTTER: Thank you very much, Madam President and colleagues. I rise one more time to just discuss with you the financial implications of not only this bill but of every move that we take in this Legislature and how it has the potential to interrupt a very delicate balance that we are maintaining at the present time, that most of our brother and sister states throughout this nation aren't maintaining. And how important it is that we keep together a safe and sane tax policy as we move through these issues that affects tax policy. And you know, this does affect tax policy, what we're talking about here. There is no question about it that it is an important tax policy issue. And just a few minutes ago I stopped to think, well, if we're really going to do this right and fair for all of the citizens of the state of Nebraska, we need to go back...we're talking about exempting some taxes here for LB952, what we really need to do is to go back and figure out what the citizens of Nebraska have paid in taxes down through the years in the same type of tax that we are now exempting here. And I'm here to tell you that, I think, would be a terribly big figure; that it would be a huge figure that this state could not afford. And so saying that, I think we have to move forward from that point in some type of a sane and sensible manner. Since arriving in this body, I've served on the Revenue Committee, and I'm thinking back over that experience and I'm thinking about the requests that we have heard in two sessions of Revenue Committee work, requests from different groups of citizens of this state that were requesting some type of tax exemption: an exemption to exempt retirement income from or a portion of that income from income taxes; a request to exempt a portion of Social Security benefits from state income tax. And it goes on and on and on. In addition to that, we've also heard requests from very well-meaning citizens to exempt sales tax from certain products. And they had very good reasons. Every one of these reasons related back to, well, if you'll exempt a certain portion of our retirement benefits from income tax, that's going to be an economic stimulus type activity; that that will give the people more money to spend in the state, or we will not leave this state and go to some other state that has cheaper taxes. We won't migrate to South Dakota, for example. And we talk quite a bit in the Revenue Committee about border bleed and about how it affects us from a...not only a tax expenditure standpoint but also from a tax receipt standpoint. And certainly the measure... [LB952]

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SPEAKER FLOOD: One minute. [LB952]

SENATOR UTTER: ...that we're considering here this evening has a profound affect on the tax receipts of this state and what we're going to have available that Senator Heidemann and his hardworking committee is going to be able to spread out among the various agencies of state government that are demanding income, the income that revenue generates to be able to spend on programs that the citizens of this state need. So I urge you to take that into very careful consideration when you are looking at the new tax policy that you're being asked to set here this evening. It is a broad... [LB952]

SPEAKER FLOOD: Time. [LB952]

SENATOR UTTER: ...brush that we are painting... [LB952]

SPEAKER FLOOD: Time, Senator. [LB952]

SENATOR UTTER: ...the new tax policy with. Thank you, Mr. President. [LB952]

SPEAKER FLOOD: Thank you, Senator Utter. Senator Heidemann, you are recognized. [LB952]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. I've been a little bit quiet this afternoon, but I thought I would say a little bit of my piece once again. On General File, I actually went through a list of projects that would be eligible and projects across the state of Nebraska that wouldn't be eligible, and when I looked at that list, I understand why the senators from Omaha would want to support this bill because it would exempt their area. What I don't understand is why anybody else would want to because we have the same type of federally mandated sewer projects all across the state of Nebraska and they will not qualify for this, except one. That would be in Plattsmouth. I think we just found that out. So you can go, and as I went through my list on General File and I'm going to touch base just a little bit on that again, Senator Carlson, I think he has a town in his district, Guide Rock, they're going to do a sewer rehab. It's a small project, \$150,000, but it will not qualify. Senator Dubas, Aurora is going to have a project, wastewater treatment upgrade, a little bit bigger ticket item, \$3 million. It will not qualify. Also in Senator Dubas' district, Doniphan, a lagoon expansion, 4-B LS replacement, whatever that might be, \$1,150,000. Senator Wallman, a little town of Barneston--we used to play Barneston when I was in high school in football--there's not much left there anymore but they need a lagoon lift station, \$300,000. Senator Janssen in Scribner, wastewater treatment, \$750,000; will not qualify. Senator Sullivan, both in St. Paul and Clearwater have some lagoon concerns and if you look at lagoon cover, right there, that almost tells you that it's some kind of federally mandated project because I have one in the town of Tecumseh that they're doing the same thing and it

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was. That's one a big one at \$1.2 million. Clearwater has \$1.9 million. Senator Christensen in Benkelman has a wastewater sewer rehab, \$2.3 million, pretty good-sized project, I would think, for Benkelman. It doesn't qualify. Senator Dierks, O'Neill, and even in his hometown of Ewing has a sewer rehab that's going to cost a little money and it won't qualify. Senator Hansen in North Platte, sewer rehab, a big one, \$7 million, and it will not qualify. I do not like to do anything for my...I don't want to say I don't like to do anything for my district but I don't like to do it specifically for my district. But I will say this will affect my district significantly and I'll pick out just two bigger towns: Pawnee City, I don't think there's even 1,000 people there left anymore, they have a sewer rehab project, \$3.5 million; Auburn sewer rehab, \$1,080,000. You've heard me talk about time and time again about a little town in my district that this is going to affect significantly. And that little town, I don't know if I've ever mentioned the name of it, but the little town's name is Steinauer, Nebraska, and they're going to do a sewer project that will cost \$494,000 because the federal government has told them that they have to. [LB952]

SPEAKER FLOOD: One minute. [LB952]

SENATOR HEIDEMANN: I have taken that \$494,000. There are 66 people in the town of Steinauer, Nebraska. You take 66 people into that cost, \$494,000, you've got \$7,484 per person what that's going to cost--a significant amount of money. And I have heard about the burden that will be in Omaha and I believe the number was \$3 billion that they threw out there. I asked Senator Nordquist how many people this would affect. I threw out the number 850,000 and he said in the metro area, he said yes. I took 850,000. I put it into that \$3 billion and the obligation per capita then would be \$3,529 in the Omaha area. I will repeat what will be in Steinauer once again,... [LB952]

SPEAKER FLOOD: Time, Senator. [LB952]

SENATOR HEIDEMANN: ...\$7,484. Thank you. [LB952]

SPEAKER FLOOD: Thank you, Senator Heidemann. Senator Mello, you are recognized. [LB952]

SENATOR MELLO: Thank you, Mr. President. I oppose AM2172 and I'd yield the remainder of my time to Senator White. [LB952]

SPEAKER FLOOD: Senator White, you're recognized with 4 minutes 50 seconds. [LB952]

SENATOR WHITE: Thank you so much. Senator Mello, I thank you for your courtesy. Senator McCoy, I heard your comments and I appreciate them. Please know that the EPA has defined what is a sewer separation project as used in this bill and hasn't

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changed that definition for over 20 years. So I understand your concern about the amendment, but I want to talk to every senator in the metropolitan area because at the end of this I'm going to move for cloture because we've had full and fair debate and our time on this bill is over. If you do not vote green for cloture, you are voting that the people in the metropolitan area, on top of the horrible burden placed on them by the federal government, must pay at least \$325 million into state coffers if they continue on this level of financing. Of that, they will get \$40 million back. What I have found so much difficulty in accepting and understanding is the sense that we are entitled to this money; that this is something that just happens and tough on Omaha but we need the dough here; we have better purposes for this money than the taxpayers of Omaha do even though they're heavily burdened with the requirement of, in a hurry, fixing their sewers. And now Senator Hadley doesn't understand why Omaha has taken so long. Senator Hadley, Boston was a beneficiary of something Tip O'Neill did. That was called the big dig. Had a big impact on Boston. Plattsmouth was the beneficiary of something Senator Ben Nelson did which was a really good thing. He fought to get a bunch of federal money, a substantial percentage of Plattsmouth to have that bill paid. Here's the bottom line, folks. I'm going to ask at the end of this that you vote for cloture; I ask for a green vote. Many of you here say, well, we just can't afford it; in another time we would, like we did for Norfolk. When benzene polluted its drinking water wells, we changed the LUST Fund so that it could get extra money. And we need 33 votes. We need 33 votes to shut down debate or we don't win. And I can tell you this has been a filibuster. It's been obstructionist. We are using parliamentary tactics, and, boy, I've used them, but we are using parliamentary tactics in order to push a tax increase on one-third of our population, that that burden will never really be shared by anyone else. And it's not just Omaha, folks. It's Gretna. It's La Vista. It's Papillion. It's Bellevue. We have a choice. We can either do the right thing, reach out to the taxpayers of Omaha who are being hard-pressed and say to them, yeah, we're fellow Nebraskans, we will share your pain with you like we have done many times for other communities. Or we can turn our backs on them and say, in effect, to over 500,000 Nebraskans, we don't care about your pain; we don't care; we're going to obstruct and we're just going to grab the money because we want it in our district. And I have told folks on this floor, and Senator Krist has reaffirmed it, you may never get this money. There are ways that this project can be financed that you will get no sales tax money at all and may, in fact, cost you many, many, many millions of dollars. That is quite possible. So I appreciate Senator McCoy's concern. I appreciate this and we're going to ask for a roll call vote. And we're going to ask that it be of the record and people will pay attention. Believe me, for this kind of a tax hit, they'll pay attention. And I ask every senator, but especially senators from the metropolitan area, to vote green, because anything but green is saying to your constituents, we just want your money, we don't care about your pain, we don't care about your burden, we don't care... [LB952]

SPEAKER FLOOD: One minute. [LB952]

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SENATOR WHITE: ...how unfair the federal government has been to you. Thank you, Mr. Speaker. I would ask for a call of the house and a roll call vote. [LB952]

SPEAKER FLOOD: Thank you, Senator White. Mr. Clerk, first and foremost there's a motion on the desk. [LB952]

CLERK: Mr. President, Senator White would move to invoke cloture pursuant to Rule 7, Section 10. [LB952]

SPEAKER FLOOD: Thank you, Mr. Clerk. It is the opinion of the Chair that there has been full and fair debate pursuant to Rule 7, Section 10, of the Rules of the Legislature. The first vote is concerning, shall the house go under call? All those in favor of the house going under call vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB952]

CLERK: 43 ayes, 0 nays, Mr. President, to place the house under call. [LB952]

SPEAKER FLOOD: The house is under call. Senators Howard, Price, Lautenbaugh, please return to the Chamber. The house is under call. All unauthorized personnel please leave the floor. Senators Lautenbaugh and Howard, please return to the floor. The house is under call. Senator Howard, please return to the floor. Senator White, all members are present or otherwise accounted for. It is my understanding you want a roll call vote in reverse order. Is that correct? [LB952]

SENATOR WHITE: Yes, sir. [LB952]

SPEAKER FLOOD: Members, the first vote is the motion to invoke cloture. Mr. Clerk, please read the roll in reverse order. [LB952]

CLERK: (Roll call vote taken, Legislative Journal page 1036.) 23 ayes, 22 nays, Mr. President, on the motion to invoke cloture. [LB952]

SPEAKER FLOOD: Cloture is not invoked. I do raise the call. Mr. Clerk, we now proceed to LB1057, Senator Carlson's bill. And while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR404 and LR405. Mr. Clerk. [LB952 LB1057 LR404 LR405]

CLERK: Mr. President, Senator Nordquist, LB1057, I have E&R amendments first of all. (ER8192, Legislative Journal page 893.) [LB1057]

SPEAKER FLOOD: Senator Nordquist, you are recognized for a motion. [LB1057]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1057.

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[LB1057]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB1057]

CLERK: Senator Carlson would move to amend the bill, AM2235. (Legislative Journal page 956.) [LB1057]

SPEAKER FLOOD: Senator Carlson, you're recognized to open on AM2235. [LB1057]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This amendment is to make some corrections that were found. First of all, in a miscount on the task force, there are 22 members and not 21, so that's been corrected. And we have four members of the irrigation district represented on the task force and not three and that was corrected. And then in order to include another senator as an ex officio nonvoting member, which was discovered in general floor debate, that Senator Hansen's district includes about 465,000 acres in the Republican Basin and so he should be included as one of the senators on that task force and the wording indicates, "one who has a portion of his or her legislative district in the basin," and that would include his district. And so I would ask that you support that and appreciate your vote. Thank you. [LB1057]

SPEAKER FLOOD: Thank you, Senator Carlson. Turning to discussion on AM2235, Senator Hansen, you are recognized. [LB1057]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to stand and thank Senator Carlson for giving me another part-time job during the interim and I will attend those meetings as an ex officio member. Senator Carlson, I do want to explain one thing that I found out from a constituent this week, lives in southern Lincoln County, not very far south of Lake Maloney, but his...and were talking about sustainability of the Middle Republican River Basin, that's what I'm talking about right now. His water level has increased 80 feet. He has runoff from his farm. The runoff does not go into the Republican River. It goes into the Platte River at Gothenburg. So there are instances like this, and what I'm pointing out is how those lines were drawn were political lines probably along a road rather than a true watershed. So there are instances and some of those things we take into account when we do talk about sustainability of a river basin are from political lines and not necessarily from watershed lines. And I do appreciate the amendment. Thank you. Thank you, Mr. President. [LB1057]

SPEAKER FLOOD: Thank you, Senator Hansen. There are no other lights on. Senator Carlson, you're recognized to close of AM2235. Senator Carlson waives his opportunity. The question before the body is, shall AM2235 be adopted? All those in favor vote aye;

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all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1057]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Carlson's amendment. [LB1057]

SPEAKER FLOOD: The amendment is adopted. Mr. Clerk. [LB1057]

CLERK: Senator Heidemann, AM2211. I have a note you want to withdraw AM2211, Senator. [LB1057]

SENATOR HEIDEMANN: Yes. [LB1057]

SPEAKER FLOOD: It is so withdrawn. [LB1057]

CLERK: Mr. President, Senator Heidemann would move to amend with AM2262. (Legislative Journal page 975.) [LB1057]

SPEAKER FLOOD: Senator Heidemann, you're recognized to open on AM2262. [LB1057]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. AM2262 would just change the funding source. We studied where this money was coming from. We then realized that there was some money left in another fund, that we could use that money that no longer was going to be used to fund LB1057, and that's what this amendment would do. Currently, we have money in the Water Policy Task Force of approximately about \$160,000. So what we would do with that \$160,000 in this amendment and I will...maybe I need to back up a little bit and explain. There's money in the Water Policy Task Force and it's been sitting there for quite some time. This Water Policy Task Force was created in LB962 in 2002, I believe, and money out of this fund was last used in fiscal year '08 and '09. The task force has been sunsetted so there will no longer be any funds needed for that task force. As I said, there's about \$160,000 just left over, lying there right now. This amendment would take that \$160,000. Senator Carlson needs \$50,000 for the Republican River Basin Water Sustainability Task Force Cash Fund. We would take \$50,000 out of this fund, put it into there. The remaining, there's about \$107,000 left over that, it would go in the Water Resources Trust Fund. That fund is used by the Department of Natural Resources to fund studies regarding integrated water management, research, planning, and implementation. I think this is an appropriate use of this money that no longer is needed by the Water Policy Task Force and it will be well used in Senator Carlson's LB1057 and also DNR, I'm sure, will appreciate the extra little boost in the Water Resource Trust Fund. With that, I ask your support in AM2262. Thank you. [LB1057]

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SPEAKER FLOOD: Thank you, Senator Heidemann. Senator Carlson, you are recognized. [LB1057]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In the general floor debate I indicated that the money for this would come from the Water Resources Cash Fund and it was not new money. It was money already appropriated. And then Senator Heidemann suggested to make this change and I agree with the change and we're taking money from Water Policy Task Force and using that for Water Sustainability Task Force, a direct relationship, similar-type thing. I think it's a good idea and I support the amendment. Thank you. [LB1057]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Heidemann, you're recognized to close on AM2262. Senator Heidemann waives his opportunity. The question before the body is, shall AM2262 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1057]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB1057]

SPEAKER FLOOD: AM2262 is adopted. [LB1057]

CLERK: I have nothing further on the bill. [LB1057]

SPEAKER FLOOD: Senator Mello. Senator Nordquist for a motion. [LB1057]

SENATOR NORDQUIST: Mr. President, I move LB1057 to E&R for engrossing. [LB1057]

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Mello, you are recognized. [LB1057]

SENATOR MELLO: Thank you, Mr. President. I just...actually I missed probably trying to speak on the previous amendment, but if Senator Heidemann would yield to a question. [LB1057]

SPEAKER FLOOD: Senator Heidemann, will you yield to a question from Senator Mello? [LB1057]

SENATOR HEIDEMANN: Of course. [LB1057]

SENATOR MELLO: Senator Heidemann, the previous amendment we just passed took money from the Water Policy Task Force Cash Fund, is that correct? [LB1057]

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SENATOR HEIDEMANN: Yes. [LB1057]

SENATOR MELLO: How much money is available in that cash fund? [LB1057]

SENATOR HEIDEMANN: I think there was approximately \$160,000. I think it's right at \$157,000. [LB1057]

SENATOR MELLO: So there will be about \$100,000, \$107,000, give or take, left afterwards? [LB1057]

SENATOR HEIDEMANN: Correct. [LB1057]

SENATOR MELLO: What's that money available...what can be used with that existing cash fund authority that's left in that fund? [LB1057]

SENATOR HEIDEMANN: We actually decided to put the rest of it back in...piece of paper here...in the Water Resources Trust Fund. That money originally was reallocated inside the Department of Natural Resources originally, quite a few years ago. It was our intent, because that money had originally been reallocated inside that department, to put it back inside that department. I guess I would have to look into it but it's not impossible, you could have maybe lapsed that money back into the General Fund. [LB1057]

SENATOR MELLO: That was going to be my next question. Is that money available to lapse back into the General Fund knowing there's no real purpose left with the Water Policy Task Force? [LB1057]

SENATOR HEIDEMANN: Oh, I would argue with that. If you would talk to the Department of Natural Resources, there is a need for studies regarding integrated water management, research, planning, and implementation. If you know what we're up against in this state with water issues, there's not enough money in this fund, this Water Resources Trust Fund, to do everything that we need to do. I would argue that this money needs to go there. [LB1057]

SENATOR MELLO: Now, so you just said...just so I get this straight, you just said that we don't have enough money in that cash fund right now to deal with the problems we're dealing with, but instead we just passed an amendment that transfers money out of that fund to another cash fund. Am I missing this logic or (inaudible)? [LB1057]

SENATOR HEIDEMANN: Yeah, I think that just a little bit. There was money in the Water Policy Task Force Cash Fund. That money was put in there in LB962,... [LB1057]

SENATOR MELLO: Okay. [LB1057]

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SENATOR HEIDEMANN: ...I think in 2002, if I remember right. And that was money that was reallocated within the department to do that. So it wasn't actually even at that time a General Fund cost. So we're taking \$50,000 out of the Water Policy Task Force money, giving it for use in LB1057. The other money that's in the Water Policy Task Force we are lapsing to the Water Resources Trust Fund. A little complicated, a little hard to understand but follow the trail. [LB1057]

SENATOR MELLO: So we're essentially eliminating the Water Policy Task Force Cash Fund, essentially. [LB1057]

SENATOR HEIDEMANN: Yes. [LB1057]

SENATOR MELLO: We're transferring money to... [LB1057]

SENATOR HEIDEMANN: Yes, there will be no more money in that. [LB1057]

SENATOR MELLO: And what can be used with the money from the Water, what did you say, the Water Policy... [LB1057]

SENATOR HEIDEMANN: Water Resources Trust Fund the department uses to fund studies regarding integrated water management, research, planning, and implementation. [LB1057]

SENATOR MELLO: Are those studies at all...do those studies at all do anything remotely close to what we're looking to do under LB1057? [LB1057]

SENATOR HEIDEMANN: I would say yes. [LB1057]

SENATOR MELLO: All right. Thank you, Senator Heidemann. The reason I bring this up is because I think we went through this amendment very quick and I think Senator Heidemann just said the money that we are allocating to this bill, LB1057, this funding could be used for other resources, could be used for other intended water quality purposes such as combined sewer overflow or other issues that I know we've spent a good part of our day talking about. And so I was appreciative that Senator Heidemann was able to clear up this issue, knowing that we just allocated \$50,000 to this Water Sustainability Task Force but we've chosen not to do anything in regards to sewer separation that also involves water quality. Thank you, Mr. President. [LB1057]

SPEAKER FLOOD: Thank you, Senator Mello. Members, you've heard the motion. Shall LB1057 advance to E&R Engrossing? All those in favor say aye. Those opposed say nay. LB1057 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB728. [LB1057 LB728]

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CLERK: LB728, Senator Nordquist, I have E&R amendments. (ER8194, Legislative Journal page 896.) [LB728]

SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB728]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB728. [LB728]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. E&R amendments are adopted. Mr. Clerk. [LB728]

CLERK: Senator Lautenbaugh would move to amend with AM2223, Mr. President. (Legislative Journal page 958.) [LB728]

SPEAKER FLOOD: Members, please keep your conversations to a minimum. Senator Lautenbaugh, you are recognized to open on your amendment. [LB728]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This is what I would call the quintessential housekeeping amendment to the bill. Most significantly what it does is makes it clear that there is no civil cause of action against law enforcement officials who have possession of what would be deemed child pornography. That said, I would ask your approval. Thank you, Mr. President. [LB728]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Turning to discussion on AM2223, Senator Council, you are recognized. [LB728]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise to make it clear, I don't want any confusion in this body or from members of the public who are watching the proceedings today, I will be voting against AM2223 and I will be voting against the underlying bill. This bill adopts an act of the Exploited Child Remedy Act. The suggestion is that this act provides a remedy that doesn't exist for exploited children today and that is not true. This bill, quite frankly, is redundant in the sense that it provides the exact same remedy that an exploited child or his or her guardian or parent could pursue in the federal courts now. It's the same monetary remedy that's provided in the federal courts. Just as in the federal courts, under this bill the Attorney General could pursue a civil matter on behalf of the parent or guardian of an exploited child, yet I direct your attention to the fact that there is absolutely no fiscal note associated with this, with the expectation that if the Attorney General does pursue it, that the Attorney General would recover attorney's fees in cases where the likelihood that the accused would have any resources available. There's absolutely no need for this. There are a number of attorneys, private attorneys, who would be more than willing to pursue a cause of action on behalf of an exploited child under the federal statute. And when there

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is a federal statute providing a federal remedy that provides for attorney fees, it's not a problem for a person, even a person with limited funds, to secure legal counsel. Again, passage of this bill will make you feel good, will make you look good, but it does nothing more than what federal law already provides. [LB728]

SPEAKER FLOOD: Thank you, Senator Council. There are no other lights on. Senator Lautenbaugh, you're recognized to close on AM2223. [LB728]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Senator Council and I do continue to disagree over the necessity of this and whether or not the Attorney General could pursue an action if requested under the federal act. I don't think that's provided for. I think for that and other reasons, this bill remains necessary. I'd urge you to vote green on the amendment and continue to advance the bill. [LB728]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Members, you've heard the closing on AM2223. The question is, shall AM2223 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB728]

CLERK: 32 ayes, 1 nay, Mr. President, on the adoption of the amendment. [LB728]

SPEAKER FLOOD: AM2223 is adopted. [LB728]

CLERK: I have nothing further on the bill, Mr. President. [LB728]

SPEAKER FLOOD: Senator White, did you rise for a specific purpose? The record will reflect he didn't rise for a specific purpose. Senator Nordquist, you're recognized for a motion. [LB728]

SENATOR NORDQUIST: Mr. President, I move LB728 to E&R for engrossing. [LB728]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB728 is advanced to E&R for engrossing. Mr. Clerk, we now proceed to LB951. [LB728 LB951]

CLERK: Mr. President, LB951 has been discussed on Select File. The Enrollment and Review amendments have been adopted. When the Legislature left the issue on March 2, Senator Avery had AM2061 pending as an amendment to the bill. (Legislative Journal page 721.) [LB951]

SPEAKER FLOOD: Senator Avery, since it was March 2 when you last opened on this amendment, I'm going to give you a full ten minutes to open again on AM2061. [LB951]

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SENATOR AVERY: Thank you, Mr. President. I will not need the full ten minutes but I might take maybe five. AM2061 is an amendment to LB951. It has three components. The first component is the incorporation of LB850 that will have colleges and universities in the state of Nebraska provide college students with information on early voting, how to vote early and when to do it. This is only information that colleges would be required to provide. This is being done...this would be done in conjunction with colleges when they are meeting a federally required mandate to provide information to college students on how to get registered to vote. Colleges are already doing that. The only thing that this amendment, this first part of this amendment would do would be to have the colleges also provide college students with information on how to vote early. The second component of this amendment incorporates elements of LB716. This adds the community college area to the definition of high elective office. Current law prohibits the holding of two high elective offices at the same time. No one knows why community college board members were left out of the definition of high elective office. This came up in the course of an interim study we did this past year. This would add college...community college board members to that list so they could not hold more than one high office at the same time. The third element or component of this amendment is a technical amendment to LB325. You may remember that we debated LB325 early on in this session. It dealt with provisional ballots. This amendment is necessary in order to bring the oath that people have to sign into compliance with the bill that we passed. It's a simple part of the amendment. I would urge you to vote to advance this or to attach this to LB951 and then to advance LB951 to Final Reading. Thank you. [LB951 LB850 LB716 LB325]

SPEAKER FLOOD: Thank you, Senator Avery. Mr. Clerk. [LB951]

CLERK: Mr. President, Senator Lautenbaugh would move to amend Senator Avery's amendment with AM...excuse me, FA66. (Legislative Journal page 735.) [LB951]

SPEAKER FLOOD: Senator Lautenbaugh, you're recognized to open with FA66. [LB951]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This floor amendment grew out of a debate that we've had a few times at the mike on election-related bills. I know it doesn't come up often but I used to be an election commissioner and, in that capacity, I used to deal with how to increase voter turnout. People would ask me, as an election commissioner, how are you going to increase voter turnout, and my response was, that's not my job. Because if you try to do it in one place, people in the other place are going to be mad at you. If you try to do it for one group, people in the other group are going to be mad at you. So I never saw that as the job. The job was to print the ballots and make sure they're available and counted accurately, and that was the end of it. I objected to this provision because it does

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provide that the Secretary of State do certain things to hector college students into voting, as I would put it. And I don't know how we distinguish between college students and students who didn't go...or people who didn't go to college but went out in the work force, and maybe we should require them to put a little slip in their paycheck saying, hey, election is coming, it's time to vote. I don't like it when we go down this road because voting remains a privilege. And I believe that we should have an informed populace show up on election day and vote. But here's something else I also oppose and that would be same-day registration. I don't believe that we need to do that. I think we have very reasonable registration rules. I believe we have adequate access to the polls and I don't believe we need to do more and introduce the possibility of fraud into our system to accommodate people who ignore the deadlines. But sometimes you have competing goals and, as much as I dislike the concept of same-day registration for the burden it puts on our election commissioners and the burden it would put on our poll workers and the possible fraud it would introduce, I understand that measures such as the ones in this amendment, not my amendment but Senator Avery's amendment, may take the place of same-day registration. And it would thrill me if this were the end of the discussion, namely, we pass AM2061 and we no longer have the discussion about same-day registration. I've heard from others in the election field. I've heard from the Secretary of State's Office, the highest election officer in the state, who says, yes, we prefer to do this, do the things that are in AM2061 in lieu of same-day registration. And in my mind, that's a pretty good trade. So no matter how I might feel about the extra things we're doing and how unnecessary I might feel they may be in AM2061, if we can do this and go no further, then it's probably a good trade. So with that, and in deference to Senator Avery, I'll withdraw FA66. [LB951]

SPEAKER FLOOD: FA66 is withdrawn. Mr. Clerk, are there any other amendments to AM2061? [LB951]

CLERK: I have nothing further to AM2061, Mr. President. [LB951]

SPEAKER FLOOD: Continuing on with discussion on AM2061, there are no lights on. Senator Avery, you're recognized to close on AM2061. [LB951]

SENATOR AVERY: I will just take a moment to thank Senator Lautenbaugh for his act of kindness and goodwill, and urge you to attach this amendment and then advance the bill, LB951. Thank you. [LB951]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the closing on AM2061. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB951]

CLERK: 25 ayes, 5 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB951]

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SPEAKER FLOOD: AM2061 is adopted. [LB951]

CLERK: I have nothing further on the bill, Mr. President. [LB951]

SPEAKER FLOOD: Senator Nordquist for a motion. Senator McGill for a motion. [LB951]

SENATOR MCGILL: Mr. President, I move LB951 to E&R for engrossing. [LB951]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB951 advances to E&R for engrossing. Mr. Clerk, LB951A. [LB951 LB951A]

CLERK: Senator McGill, I have no amendments to LB951A. [LB951A]

SPEAKER FLOOD: Senator McGill for a motion. [LB951A]

SENATOR MCGILL: Mr. President, I move LB951A to E&R for engrossing. [LB951A]

SPEAKER FLOOD: Members, you've heard Senator McGill's motion. All those in favor say aye. Those opposed say nay. LB951A advances to E&R for engrossing. Mr. Clerk, we now proceed to LB1081. [LB951A LB1081]

CLERK: LB1081, Senator Nordquist, I have E&Rs pending. (ER8189, Legislative Journal page 859.) [LB1081]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1081]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1081. [LB1081]

SPEAKER FLOOD: Members, you've heard Senator Nordquist's motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB1081]

CLERK: Senator Cornett would move to amend, AM2224. (Legislative Journal page 929.) [LB1081]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM2224. [LB1081]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM2224 would incorporate the changes that were either recommended by the Bill Drafters Office

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or by the Department of Economic Development. Before the bill was debated on General File, I became aware of some concerns in regards to technical issues by the DED with the implementation of LB1081. Discussions occurred between DED and the proponents of the bill and it resulted in the changes present in AM2224. None of the changes presented in AM2224 are substantive changes to the original amendment adopted by this body on General File, except for one. The provisions contained in this amendment would address a concern of the DED and that was which fund shall the job training grants be funded for this program. The determination of which fund should be used would be based upon where employees are situated. Under this amendment, the funds would come from the subaccount created under 81-1201.21. It was the opinion of the DED that the original amendment would have cost a significant amount to administer. It was their recommendation that this subaccount be utilized. Thus, we have agreed to the changes. Additionally, I would note the cost of administrating this act will come from the subaccount. There is currently \$2.3 million in the subaccount which has received approximately \$1 million per year in interest off the larger Job Training Cash Fund over the past two years. This year the Fiscal Office believes, due to lower interest rates in grants out of the funds, the interest payment will be approximately \$650,000. We have reassurances from the DED that if this bill passes as amended by AM2224, along with Senator Council's LB961, the fund will not be depleted and that there will be funds available for her legislation. In addition, there...they presume, with the \$650,000 credit to the fund in addition to the \$2.3 million already in the fund, that approximately \$1.8 million will be left in the fund presuming all of the funds are authorized for the program are...are authorized, are used by LB1081. Thank you, Mr. President and members of the body. [LB1081 LB961]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on AM2224. There are no lights on. Senator Cornett, you're recognized to close. Senator Cornett waives her opportunity. The question before the body is, shall AM2224 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1081]

CKERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB1081]

SPEAKER FLOOD: AM2224 is adopted. Mr. Clerk. [LB1081]

CLERK: Nothing further, Mr. President. [LB1081]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB1081]

SENATOR NORDQUIST: Mr. President, I move LB1081 to E&R for engrossing. [LB1081]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1081 is advanced to E&R for engrossing. Members, I wanted to give you an opportunity to understand where I would like to go tonight in terms of the agenda. It is my hope that we can make every effort to resolve all the bills through LB901 on this evening's agenda and stop there and not go to LB931. Again, my hope tonight is that we can get through LB901 and not take up LB931 on today's agenda. My hope is that we'll stay...my plan is to stay in session as long as necessary to accomplish that, provided it's before 11:59 p.m. this evening. Mr. Clerk, we now proceed to the next item on the agenda, LB948. [LB1081 LB948]

CLERK: Mr. President, I have a unanimous consent request from Senator Avery. Senator Avery would ask unanimous consent to bracket LB948 until April 14, 2010. [LB948]

SPEAKER FLOOD: Without objection, so ordered. LB948 is bracketed until April 14, 2010. Mr. Clerk, we now proceed to LB965. [LB948 LB965]

CLERK: LB965, Senator Nordquist, no E&Rs. I do have an amendment from Senator Sullivan, AM2222. (Legislative Journal page 921.) [LB965]

SPEAKER FLOOD: Senator Sullivan, you're recognized to open on AM2222. [LB965]

SENATOR SULLIVAN: Thank you, Mr. President and members. AM2222 corrects technical issues in LB965 that were identified after the bill advanced to Select File. I want to emphasize that it does not change the intent of the bill, which is to clarify how a school board vacancy is filled based on when the vacancy occurs in the school district's election cycle. What we discovered is that filing deadlines vary for school districts so...and with this amendment we're trying to address the individual variations. In short, a single standard will not work for every school district. But the filing date remains the trigger. The amendment deals specifically with the unique election process for school districts, including Class II school districts, the Westside caucus system, and Classes III, IV and V school districts. The amendment corrects technical deadlines in the school district portion of the bill but it does not make any changes in the ESU section. In addition, we've added a notice provision similar to the notice requirement in Section 32-569 (1)(a) dealing with vacancies in city elected offices. I encourage adoption of AM2222. [LB965]

SPEAKER FLOOD: Thank you, Senator Sullivan. Members, you've heard the opening on Senator Sullivan's amendment. There are no lights on. Senator Sullivan, you're recognized to close. Senator Sullivan waives her opportunity. The question before the body is, shall AM2222 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB965]

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CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Sullivan's amendment. [LB965]

SPEAKER FLOOD: AM2222 is adopted. Mr. Clerk. [LB965]

CLERK: I have nothing further on the bill, Mr. President. [LB965]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB965]

SENATOR NORDQUIST: Mr. President, I move LB965 to E&R for engrossing. [LB965]

SPEAKER FLOOD: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB965 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB918. [LB965 LB918]

CLERK: Senator Nordquist, LB918. I do have E&R amendments, Senator. (ER8191, Legislative Journal page 893.) [LB918]

SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB918]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB918. [LB918]

SPEAKER FLOOD: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. E&R amendments are adopted. Mr. Clerk. [LB918]

CLERK: Senator Cornett would move to amend with AM2240. (Legislative Journal page 944.) [LB918]

SPEAKER FLOOD: Senator Cornett, you are recognized to open on AM2240. [LB918]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. This amendment was brought to me with Senator Hadley's agreement. LB918 is a very important bill that updates the Nebraska Advantage Act to reflect how software services and data centers are now operated. The amendment I'm now offering to LB918 is also an update to the Nebraska Advantage Act to reflect how companies, including software companies, qualify for the Nebraska Advantage Act. This amendment, AM2240, changes from 10 percent to 20 percent the maximum ownership interest that can be held by a nonprofit in a business that qualifies for the Nebraska Advantage Act. The 10 percent limitation was adopted by LB312 in 2005. We can find no particular reason why that number was selected. We are now aware of new companies being formed in Nebraska where that 10 percent limitation is problematic. When a company is being formed, investors come from a variety of sources of capital, including nonprofit entities.

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There appears to be no reason to limit their potential ownership to 10 percent. The additional capital they can provide can be very helpful to companies in Nebraska that wish to grow and create jobs. This amendment has been reviewed by the Legislative Fiscal Office and the Department of Revenue to see if it will have a fiscal impact. Their preliminary review has found that the amendment will not have a fiscal impact. Let me repeat. The Fiscal Office and the Revenue Department preliminarily have found this amendment will not have a fiscal impact. As I understand it, the reason there is no fiscal impact to this amendment is because it is not a significant enough change to allow or prevent a company from qualifying for Nebraska Advantage Act anyway. The companies will qualify for the Nebraska Advantage Act whether we increase the nonprofit limitation from 10 percent to 20 percent. They will simply limit the amount of ownership they will allow a nonprofit to hold. [LB918]

SPEAKER FLOOD: (Gavel) [LB918]

SENATOR CORNETT: The question this amendment addresses is whether to allow nonprofits the opportunity for a slightly larger ownership in qualifying companies. A 20 percent limit is reasonable and I ask your support for the amendment and the underlying bill. Thank you. [LB918]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on AM2240. There are no lights on. Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question before the body is, shall AM2240 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB918]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB918]

SPEAKER FLOOD: AM2240 is adopted. [LB918]

CLERK: Nothing further, Mr. President. [LB918]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB918]

SENATOR NORDQUIST: Mr. President, I move LB918 to E&R for engrossing. [LB918]

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Heidemann, you're recognized. [LB918]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. I was wondering if Senator Hadley would have a discussion with me. [LB918]

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SPEAKER FLOOD: Senator Hadley, will you yield to a question from Senator Heidemann? [LB918]

SENATOR HADLEY: I would be happy to. [LB918]

SENATOR HEIDEMANN: Senator Hadley, LB918 was on General File. How long do you think we had a discussion on it? [LB918]

SENATOR HADLEY: More than half an hour and less than an hour. [LB918]

SENATOR HEIDEMANN: Do you think that this body realizes the significance of this bill? [LB918]

SENATOR HADLEY: I hope they do because it's an excellent bill for economic development for the state. [LB918]

SENATOR HEIDEMANN: And I can't argue that. But do you think they realize what the lost revenue will be in this state because of the enactment of this bill? [LB918]

SENATOR HADLEY: I pointed that out when it was...the other day on the General File, I pointed out the \$13 million that is on the fiscal note. I pointed it out to the body. [LB918]

SENATOR HEIDEMANN: And could it not grow then? I mean... [LB918]

SENATOR HADLEY: That's in 2020. [LB918]

SENATOR HEIDEMANN: Okay. I was even under the assumption it was even a little bit more than that. [LB918]

SENATOR HADLEY: It was in the original fiscal note, Senator Heidemann. [LB918]

SENATOR HEIDEMANN: It was 20, wasn't it? [LB918]

SENATOR HADLEY: Yes, it was 20 and in the new one we got...we asked for a new one because of the change in the wages that we made for the auditor. And it still came back requiring one auditor but they did change the 2020 estimate to \$13 million. [LB918]

SENATOR HEIDEMANN: Is this not to you a significant amount of money? [LB918]

SENATOR HADLEY: Yes, it is. But I certainly don't have to talk about fiscal notes to you because you know them very well. This would be the revenue that's lost, but what it doesn't take into account is the fact that, in order for the companies to qualify and to get this refund, they must meet the targets as far as employees and investment and such

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as that. So it doesn't show the other side of it, the increase in revenue that we have from the employing more people and having these companies come into the state. [LB918]

SENATOR HEIDEMANN: And I realize we have to do this in Nebraska because this is happening across the country and I get a little bit frustrated maybe with that part. Doesn't it ever seem to you, though, that sometimes we have to give away the farm just to get the farmer? [LB918]

SENATOR HADLEY: Absolutely, Senator Heidemann. I talked earlier on a bill and I talked on the term "economic gardening," which is the idea of growing our own. And I hope that this, for example, I know that there's a company in Kearney that, hopefully, will make use of this that is a company that is now located in Kearney and, hopefully, they're going to double their employment from 29 to 58 people using this particular bill. [LB918]

SENATOR HEIDEMANN: Thank you, Senator Hadley. I thought it was important at least someone stood up and said a few words about the amount of money that will be lost. I don't want to say lost, but I mean less revenue will be coming into the state because of this bill. Was \$20 million; I understand now that it's \$13 million. But as you see the challenges that we have before us, and I'm not even talking about in the out-biennium. I'm sitting next to Senator Fischer here. And I look at the needs in roads. I look at the needs in education, not only in K-12 education but in higher education. I do support Nebraska Advantage but everything has a point that eventually you can't give it all away. Otherwise, what do you really gain? And I think we have to be very careful in this body and this state what we're doing here. [LB918]

SPEAKER FLOOD: One minute. [LB918]

SENATOR HEIDEMANN: And I don't want to pick on Senator Hadley's bill, by any means. I hope success with this because we will have definitely a large amount of lost revenue because of this. And because of that, we're going to have to make decisions down the road what we aren't going to have. Hopefully, in the long run, if you believe in dynamic forecasting, it might be revenue neutral. But we don't do that here. I have two years left in this body and then I will be gone. If I want to start on cautioning you two years prior to my leaving this body is, watch what we do here when it comes to tax incentive or business incentive, excuse me. We want to make sure that we don't have to give away everything just to get something because in the long run then... [LB918]

SPEAKER FLOOD: Time, Senator. [LB918]

SENATOR HEIDEMANN: Thank you. [LB918]

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SPEAKER FLOOD: Thank you, Senator Heidemann. There are no lights on. Senator Nordquist has made a motion. The question is, shall LB918 advance to E&R for engrossing? All those in favor say aye. Those opposed say nay. LB918 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB975. [LB918 LB975]

CLERK: Senator Nordquist, I have no amendments to LB975. [LB975]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB975]

SENATOR NORDQUIST: Mr. President, I move LB975 to E&R for engrossing. [LB975]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB975 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB820. [LB975 LB820]

CLERK: LB820, Senator, I do have Enrollment and Review amendments. (ER8196, Legislative Journal page 901.) [LB820]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB820]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB820. [LB820]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB820]

CLERK: Senator Fischer would move to amend the bill, AM2264. (Legislative Journal page 1011.) [LB820]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on AM2264. [LB820]

SENATOR FISCHER: Thank you, Mr. President and members. AM1932 grants an exception from the standard height restrictions for a vehicle carrying baled hay on a highway. The vehicle would be allowed an additional foot with the height of the vehicle, including load, being no higher than 15 feet 6 inches. Transportation and Telecommunications Committee heard testimony this year from concerned farmers and ranchers who are trying to carry three bale stacks on top of each other on a flatbed or drop deck trailer. Three high stacks are coming in just 6 to 12 inches over the 14 feet 6 inch current restriction. This amendment will allow these citizens to continue their practice within the legal confines of the law. My office worked with the Nebraska State Patrol and the Department of Roads on this issue. While neither department likes to see additional waivers from the standard vehicle dimension restrictions, they both understood the need for this exception and have no objection to the amendment. Thank

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you, Mr. President. [LB820]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on AM2264. There are no lights on. Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is, shall AM2264 be adopted? All in favor vote aye; all opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB820]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Fischer's amendment. [LB820]

SPEAKER FLOOD: AM2264 is adopted. Mr. Clerk. [LB820]

CLERK: Nothing further, Mr. President. [LB820]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB820]

SENATOR NORDQUIST: Mr. President, I move LB820 to E&R for engrossing. [LB820]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB820 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB924. [LB820 LB924]

CLERK: LB924, Senator, I have Enrollment and Review amendments. (ER8195, Legislative Journal page 901. [LB924]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB924]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB924. [LB924]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB924]

CLERK: I have nothing further on that bill, Senator. [LB924]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB924]

SENATOR NORDQUIST: Mr. President, I move LB924 to E&R for engrossing. [LB924]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB924 advances to E&R for engrossing. Mr. Clerk, LB701. [LB924 LB701]

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CLERK: LB701, Senator, I have no amendments to the bill. [LB701]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB701]

SENATOR NORDQUIST: Mr. President, I move LB701 to E&R for engrossing. [LB701]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB701 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB970. [LB701 LB970]

CLERK: LB970, Senator, I have no amendments to the bill. [LB970]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB970]

SENATOR NORDQUIST: Mr. President, I move LB970 to E&R for engrossing. [LB970]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB970 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB864. [LB970 LB864]

CLERK: LB864, Senator, I have E&R amendments first of all. (ER8197, Legislative Journal page 901.) [LB864]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB864]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB864. [LB864]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB864]

CLERK: Senator Pirsch would move to amend, AM2208. (Legislative Journal page 940.) [LB864]

SPEAKER FLOOD: Senator Pirsch, you're recognized to open on AM2208. [LB864]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. This is just a technical amendment that clarifies when we're talking judicial...clarifies Supreme Court judicial district as opposed to other district. Thank you. [LB864]

SPEAKER FLOOD: Thank you, Senator Pirsch. Members, you've heard the opening to AM2208. There are no lights on. Senator Pirsch, you're recognized to close. Senator

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Pirsch waives his opportunity. The question before the body is, shall AM2208 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB864]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment. [LB864]

SPEAKER FLOOD: AM2208 is adopted. Mr. Clerk. [LB864]

CLERK: I have nothing further, Mr. President. [LB864]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB864]

SENATOR NORDQUIST: Mr. President, I move LB864 to E&R for engrossing. [LB864]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB864 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB880. [LB864 LB880]

CLERK: LB880, Senator, I have E&R amendments. (ER8198, Legislative Journal page 914.) [LB880]

SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB880]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB880. [LB880]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB880]

CLERK: I have nothing further on that bill, Senator. [LB880]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB880]

SENATOR NORDQUIST: Mr. President, I move LB880 to E&R for engrossing. [LB880]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB880 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB880A. [LB880 LB880A]

CLERK: LB880A, Senator, I have no amendments to the bill. [LB880A]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB880A]

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SENATOR NORDQUIST: Mr. President, I move LB880A to E&R for engrossing. [LB880A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB880A advances to E&R for engrossing. Mr. Clerk, we now proceed to LB901. [LB880A LB901]

CLERK: LB901, Senator, does have E&R amendments. (ER8200, Legislative Journal page 914.) [LB901]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB901]

SENATOR NORDQUIST: Mr. President, I move E&R amendments to LB901. [LB901]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB901]

CLERK: I have nothing further on the bill. [LB901]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB901]

SENATOR NORDQUIST: Mr. President, I move LB901 to E&R for engrossing. [LB901]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB901 advances to E&R for engrossing. Mr. Clerk, items for the record? [LB901]

CLERK: An amendment by Senator Adams to be printed to LB1070; Senator Dierks to LB594. Senator Rogert would like to add his name to LR419 as cointroducer. (Legislative Journal pages 1039-1040.) [LB1070 LB594 LR419]

And a priority motion, Mr. President: Senator Price would move to adjourn the body until Thursday, March 25, at 9:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. Shall the Legislature adjourn until Thursday, March 25, 2010, at 9:00 a.m.? All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)