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Floor Debate
February 08, 2012

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fourth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Father Jason Emerson from the Church of the Resurrection in Omaha, Nebraska, Senator Cook's district. Would you all please rise.

FATHER EMERSON: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Emerson. I now call to order the twenty-fourth day of the One Hundred Second Legislature. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB540, LB886, LB890, LB854, LB911, and LB942 to Select File, some having Enrollment and Review amendments. Bills read on Final Reading yesterday were presented to the Governor at 11:53 a.m. yesterday morning. (Re LB705, LB706, LB707, LB708, LB709, LB710, LB946, LB415, and LB503.) Hearing notices from Health and Human Services. Conflict of interest statement by Senator Brasch. And your Committee on Government reports LB1035 to General File with committee amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 467-472.) [LB540 LB886 LB890 LB854 LB911 LB942 LB705 LB706 LB707 LB708 LB709 LB710 LB946 LB415 LB503 LB1035]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to agenda items under Select File, LB190. [LB190]

CLERK: Senator Larson, I have Enrollment and Review amendments, first of all, Senator. (ER144, Legislative Journal page 294.) [LB190]

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PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB190]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB190 be adopted. [LB190]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed nay. The amendments are adopted. [LB190]

CLERK: Mr. President, Senator Lautenbaugh had the next motion, it's FA31. Senator, I have a note you want to withdraw that...or substitute, I'm sorry. Senator Lautenbaugh would move to withdraw and substitute, Mr. President, AM1815. [LB190]

PRESIDENT SHEEHY: Without objection, so ordered. Mr. Clerk, we'll move to the amendment. [LB190]

CLERK: Senator Lautenbaugh would offer AM1815. (Legislative Journal page 450.) [LB190]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on AM1815. [LB190]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I think this amendment is very straightforward. I was pondering the proper number of members a board should have. And I see the underlying bill would take MUD to seven by district. I think it should be 12. So I threw in this amendment that says that instead of 7, we'll have 12. And I'll be interested to hear the discussion on this as it goes forward. If any one wants to stand up and point out the patent absurdity of a 12-member, even-numbered board, I'd be willing to listen. And I'll look forward to your debate over this. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening of AM1815 to LB190. Members requesting to speak are Senator Council, followed by Senator Price. Senator Council. [LB190]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Thank you, Senator Lautenbaugh. The only thing I wish to state with regard to AM1815 is that the intent of LB190 is very plain, very straightforward, and that is to change the method of electing the current membership of the Metropolitan Utilities District Board of Directors. The Metropolitan Utilities District Board of Directors has been a seven-member board almost since its inception, and my bill does not alter the size of that board. Unlike some other bills that have been introduced to the body to alter the size of boards, this bill doesn't do that. And with regard to the merits of a 12-member board, I think under certain circumstances a 12-member board is appropriate, and

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particularly if we're talking about comparisons, and I'm sure that Senator Lautenbaugh is referring to the Omaha Board of Education being a 12-member board. That body has been a 12-member board almost since its inception. And at the time that this body decided that those board members should be elected by district, we did not do anything different than what's being proposed in LB190. When the Board of Education, an Omaha board, was moved to district elections, the size of the board wasn't altered and the districts were created. That's the same thing that underlies LB190. The size of the MUD board isn't being altered. They're just being elected by district. Fundamentally, I don't have a problem, Senator Lautenbaugh, if the body decided that the size of the MUD board should be 12. I think it adds to representative democracy. But that's not the intent of my bill in terms of expanding the size of the board. That was not the intent, but I have no objection if the body wishes to expand the size of the MUD board. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Price. [LB190]

SENATOR PRICE: Thank you, Mr. President. Good morning, members, Nebraska. So here we are on LB190 and my question with this bill going forward is, what are we trying to fix? There has not been an outpouring of comments from the public that something is wrong with MUD, that there's some systemic problem. So why are we trying to go to districts? That's one question I have. Another question I have, members, and we need to understand this, MUD then, what their...the service they're offering, but if we break them into districts, how does that make MUD more effective? Are we going to...do they have like a gate at a different district and say, well, gas can't go here, water can't go here until I go through this gatekeeper? The system works. And if we put it into districts I'm concerned that these districts will become parochial in nature and that people will want to defend it. So I have concerns. I also have concerns...on General File a...there was a brokered piece that the parties want to get together and come to some understanding, hopefully an agreeable understanding, of what was going to happen next. I have a letter. I'm sure others of you have a letter from MUD. There is no brokered piece. And what they've said in general in this letter is, if it ain't broke, why are we trying to fix it? Now I will go back and I will tell you, ladies gentlemen, the MUD board is going to cover parts of, if not all of, four counties. And that's just the way it is. But the districts are going to be drawn up by the election commissioner in Douglas County. When this body was faced with a similar political apparatus structure, the Learning Community, there were significant issues for citizens in how these districts were drawn up and how they were going to be represented equally on this board. Right now the board functions fine. Again, if someone can point to where MUD is failing to serve its customer base, please let us know. But I don't understand why we're going through a change to districts now where Douglas County would draw the districts and those districts surrounding Douglas County, you can just see it now already. It's not necessarily an evil plot but it is a necessary outcome of the dynamics that the election commissioner of Douglas County will probably want to draw the districts that keep a lot of the voting population in Douglas County for each district. But you'll have just these

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little dendritic fingers reaching into different districts. We already saw the challenges we had in redistricting here before. So, again, my question is, is MUD broken? Does MUD not work? So if it doesn't...if it's not broken and it's working fine, and the evidence would seem to say so, why are we going to districts now? What benefit is going to be derived by the customer base of MUD? But more importantly, are we going to continue to go down a policy path where might...where those with the most votes get it their way? That's what we're talking about here in a way, you know. We're saying here because most of the citizens live in Douglas County and they have the biggest city, they get to draw the maps. [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR PRICE: Thank you, Mr. President. And that's a policy consideration that I think lays over a lot of other issues that we deal with here in the Chamber even recently. So, again, I urge the body to spend some time discussing this matter to find out how is MUD made better than they are today by going to this district plan that is proposed in LB190? Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Price. (Doctor of the day introduced.) Continuing with floor discussion on AM1815 to LB190. Members requesting to speak: Senator Hadley, followed by Senator Lautenbaugh, Senator Council, and Senator Price. Senator Hadley. [LB190]

SENATOR HADLEY: Mr. President, members of the body, good morning. I stand in opposition of this bill. When I first moved to Kearney and it was about 15 years ago, we had a group in Kearney that decided that they wanted to elect a city council by districts or wards. And the reasoning being is it would give us a representative form of government, more representative. And it was soundly defeated at the polls. It actually went to an election. And the arguments at that time I think are similar to the arguments that can be used now. When you go to electing by regions, districts, wards, or whatever it is, I think you have a tendency to increase parochialism. I think you increase the idea that if you get something for your district, I want something for my district. I had a mayor of another town come to me, similar in size to Kearney, and made the comment to me that he envied Kearney by our ability to elect at large. And I said why. He said because we constantly fight the battle that if one ward gets something, another ward wants it the next time. So I think it's important we stop and think about this. I could be wrong, but I guess I remember reading that this started in 1913. That's give or take 99 years they've been doing this and it seems to have worked pretty well for MUD. So I will be interested in hearing Senator Council talking more about what is not working under the current system rather than just making change for change. What is not working under the current system? And, second, the number--7, 12? What is an appropriate number for these? So I look forward to listening to further debate. I thank you, Mr. President. [LB190]

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PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Lautenbaugh. [LB190]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise to second some of the points that have been made. There's been no community outcry over this that I'm aware of. I've certainly not heard it. I did take the liberty to go back and look at the committee statement, and I believe the only proponent was the introducer of the bill. And the one who came in, in opposition was the MUD board. That's it. I don't see any letters from constituents. I've received nothing from my own constituents. I've literally heard of no one having a problem with the MUD board. Now not every board can say that. For some boards, there are stories in the paper about them detailing their dysfunction. And some boards are in need of change and sometimes we try to address that. But I've yet to hear anything that suggests that the MUD board has any problem. And to use the cliché that's already worn out by now in February of this short session, this is a solution in search of a problem. Why are we messing with this? Isn't this a local issue? MUD is, just as I understand it, in Douglas and Sarpy County. What right do we have as a body to step into this? And I'm making that argument with tongue in cheek. We have the right because we're the only ones that can address it. We set the size of this board. We control whether or not it's by district. We control whether or not it exists at all. So if anyone is going to address this or the size of the school board or anything else, it is us and no one else. We don't put it on the ballot. We don't hope it works out for the best and somebody else addresses it. It's on our ticket. This is what we're supposed to be doing. But it's helpful to have a reason to do the thing that we're doing. And in other circumstances, yes, I'm advocating a change to a board. And we had a member of that board show up and explain why there's a problem. We've had the press explain why there's problems. You've had constituents explain why there's problems. And apparently we need more evidence of why there's a problem. But in this case, we have one proponent, the introducer of the bill. And I've heard nothing from the public about why we need to change how MUD functions, nothing. And yet we're looking at doing it. And we're told that seven is a fine number for this board because that's the way it's been. MUD is bigger than the city of Omaha. In round numbers, you're probably talking about 500,000 people. I think it stretches into Sarpy, there's a band that surrounds Omaha, the outside directors area, maybe more than 500,000. If you divide that by seven, I probably should have done the math before I started down this sentence I realize now (laughter), if you divide that by seven, you'll end up with a number, by gosh. And it's a big number to be supplemented later with an actual number. And who are they representing at this point with districts that large? That would make them larger than the seven Omaha City Council districts, I believe larger than the seven county board districts, at least on a par. So why not 12? Why not 47? I've got an amendment coming that says 47. Why not? Unless you're willing to concede that the size of the board makes a difference and you're willing to surrender to common sense and say, gee, the Lincoln Public School Board has seven, MUD has seven now, OPD...or Omaha...let me try this again, the Omaha City Council has seven, the county

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board has seven. There seems to be something valuable about having a small sevenish-member board with an odd number of members. And I understand that. [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR LAUTENBAUGH: But I'm told that 12 is better in some circumstances because that makes smaller districts closer to the people. Well, then why not 47? Why not 21? Why not 13? Why not however many there are on the Learning Community, however many that is? Because we all know that my amendment is probably a bad amendment, leaving aside whether or not there's any reason to do the underlying bill. We all know an odd number board around seven seems to work, and we all know sometimes larger boards have serious problems. So I'm listening to the debate, and it'll veer back to the underlying bill. But I am trying to make a point with my amendment. And, by gosh, I hope everyone is listening to this because this is a serious point. Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Council. [LB190]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. And Senator Lautenbaugh would not have heard the reasons why LB190 is important, why we need to address this issue. Number one, my recollection is that Senator Lautenbaugh wasn't present the day that this bill was heard on first reading, so he would not have heard the rationale. But on top of that, Senator Lautenbaugh doesn't represent a district whose voices have never been heard, are never heard. Doesn't surprise me that he would not have received any calls or e-mails, and it doesn't surprise me that Senator Price didn't receive any because it is the eastern portion of the MUD service area that raised the concerns, the complaints. I will share those with you if you would like. And, no, I didn't rally people to come down and testify in support of the bill because, you know, I'm talking about people who live in the eastern part of the city. But I can provide you with the letters of support for the bill. And it's also interesting that Senator Price said he hasn't heard anything so there's no hue and cry in opposition to LB190 either. I have met on numerous occasions with representatives of MUD. And, Senator Price, had you looked at the amendments that are pending, you would see that the amendment that is pending that I offered was in response to just that point that you raised and was brought to my attention during my discussion with MUD representatives that it would not be appropriate just to have the Douglas County Election Commissioner draw the district lines because the district does lop into Sarpy County and a sliver of Washington County. There is an amendment pending to address that. And even that amendment is going to be altered in further discussions with the representatives of the MUD board that we could not exclude in any way any of the counties. But the intent was to draw the lines in a manner that is consistent with the way district boundaries have been drawn in other political subdivisions that have moved from at-large elections to district elections. And, in fact,

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during the course of the discussions in an effort to address concerns presented to me by MUD, I offered, after discussion, to allow the MUD board to draw their own lines subject to approval, which is a methodology used by several political subdivisions. The vote on that was three to three. So in terms of opposition, the last vote taken by the MUD board of directors on whether or not to oppose LB190 was 3:3. So there is at least some recognition on the part of the board, certain board members itself, that a move to district elections is appropriate. And, again, why are we looking at doing this? As I indicated when I opened on this bill on first reading, I get a significant number of calls in my office from MUD customers... [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR COUNCIL: ...with concerns, issues, and complaints. And one of the first questions I ask is, well, why don't you call your elected representatives on the MUD board. They don't have a clue who I'm talking about because they never see these people. During the course of an MUD election, rarely if ever, as I've testified...as I stated on my opening, once in my time in the district I live in have I seen an MUD candidate in my district, because they don't see the significance or the importance of being representative. And, yes, Senator Lautenbaugh, under certain circumstances I believe 12 is appropriate. And in a school board setting, in a school district, I think the more representation of the local residents, the better. And, yes, I support that. And, again... [LB190]

PRESIDENT SHEEHY: Time, Senator. [LB190]

SENATOR COUNCIL: Thank you. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on AM1815 to LB190, we have: Senator Price, followed by Senator Cook, Senator Pahls, Senator McCoy, Senator Ken Haar, Senator Smith. Senator Price. [LB190]

SENATOR PRICE: Thank you, Mr. President, members. So we have heard that there's an amendment pending, but I was speaking to the bill presented to us. We have LB190 and now we have Senator Lautenbaugh's amendment. We will talk about amendments as they come up. And I'm glad to hear that there's an amendment to address the population of the two most populous counties out of the four counties will have a say in this. Of course, that does leave the other two counties kind of hanging in the wind. But I'm sure those things will eventually will be addressed. We've heard from Senator Council, and I have no reason to suspect that that is inaccurate, that the people have called her and have problems with things within the realm of the MUD, and that may well be. But we have a process here where people send letters and e-mails, people come and approach the Legislature, they show up in committee hearings, and that's how we find out. I daresay that there are 48 people in this body who wait for me to tell

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them what's going on in my district and that it's incumbent upon me to spread all that's going on in my district, that sometimes the people come to me who don't live in my district. I'm sure people come to others who don't live in your district to talk about issues and e-mails. We're not in the process of divining problems. We're in the process of...we are here, we are the most open legislative body in these United States. We have a public process all the way across the board. Divining is not a part of it. We have a public process. We have an electorate and we have an election system where our citizens can participate in the freest election system that I know of. It is...there are certain duties. There are certain responsibilities of a citizen to engage their elected officials. It is sad if an elected official will not go in their district to talk with the people they represent, and there's no question you cannot debate that. But there's a responsibility and a duty on the part of the voters to vote that person out then. But that's a side issue to what we're talking about here. I'm opposed to LB190 as it is because it isn't broken. I'm opposed because where is the sewer separation happening? Where is a great amount of effort being made right now? I believe part of that would cover the very same area that Senator Council is talking about. Again, I am not going to stand here and say there aren't problems. And those problems may need to be addressed. And that this conversation...we all know bills are brought forward, statements are made in this public forum to bring attention to problems, to bring to light, as we like to say, and bring sunlight into it, say there's a problem. And that political subdivisions are very sensitive to being spoken about here on the floor, and that a great number of problems are resolved just by the mere fact. I had a bill a couple of years ago that talked about getting life-cycle costs considered and total costs of ownership in considering buying large equipment. That bill did not proceed but the policy was changed. We change policy and we affect policy by having the conversation. We affect behavior by having the conversation. But that being said, I do not see we're going to the district formulation that we have before us and LB190 is fixing a problem. [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR PRICE: It's currently working. I'd like to see it continue to work this way. And I would like to see that the citizens serviced by the MUD would take an active role in communicating with their elected officials, to carry that part of their burden. We cannot see we're having a great big distance over these four counties, I cannot find the logic to where it services someone better for all members of the MUD, serviced by MUD, particularly any better than it is right now. Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Cook. [LB190]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. And happy African-American history month to each and every one of you. I say that because a large part of the discussion that I hear us having kind of reminds me of the reason why there are district elections for many of the offices across this state and within

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counties and cities and other subdivisions is that, using the example of the African-American experience in the United States, there are audiences, whether they be people of color, or women, or people with disabilities, or at one point Catholics, or people who were Irish, or people who were not property owners, who are not included, not only did they not have an opportunity to vote but once there was an opportunity to vote, the circumstances under which they were permitted to vote pretty much indirectly excluded them from having input. My good friend and colleague, Senator Price, mentioned the CSO project and he mentioned how absolutely the audiences that are going to be most disproportionately and disparately impacted by that enormous project in terms of their water and sewer bills are the ones that live in the eastern part of Omaha and Douglas County. And as we know from other conversations around child welfare and around poverty and education, those are the audiences that have two and three jobs or they have the kind of work schedule that doesn't necessarily permit them to get in their car, and the gas is \$3.35. I spent \$55 filling up a tank of gas the other day, \$55 U.S., filling up a tank of gas to come down here. Let alone if you can get off of work and still have your job to come down here and testify, or make time out of the day while you are caring for a family of young children, getting them participating in other than academic activities, getting them to complete their homework. All that basic stuff that we know works so that their issue doesn't end up here, perhaps that's the reason why people aren't able to show up. Maybe they're elderly. So I agree that we have a system. I mean, we each represent 49 unique districts. I'm very lucky and I probably have three or four different kinds of, if I had to categorize the groups of people that live in my district. But we are elected to represent the interests. So I'm very proud to stand here and remind folks that not everybody can jump on the computer, if they have one and Internet access. Not everybody puts it as a priority in their day to engage their elected officials. But as our...as we've talked about many times, that is our responsibility in leadership. That's why we get paid the big bucks to be mindful of what our constituents and constituencies are thinking and feeling. And I, too, have had a lot of input from people in my district and people around the city about who represents them. So with that, I will yield the balance of my time to the Chair. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Pahls. [LB190]

SENATOR PAHLS: Thank you, Mr. Chairman and members of the body. I think Senator Lautenbaugh has brought up a topic that we do need to discuss. I do want to point out this summer I was at Metro College in north Omaha. There was a meeting. MUD, the board, was there. Lots of people were there. Now I don't know where they hold all their meetings, but I was there so I do know that they were in north Omaha at that time. And I do not understand the...or I do not know the apparatus that MUD uses or utilizes if there is a complaint. I'm sure an organization like that has some form of a complaint system that if you have some needs that you can draw your attention to them. If not, they should. And like I say, I don't know if they do have that or not. Another thing I want to point out, I do like the idea of talking about the numbers of people who serve the public

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on certain areas. Number seven, that seems to be a logical number for lots of groups. I can tell you right now--I'm just going to throw something else in it--I've had more complaints about the size of the Learning Community. And I have surveyed the people in my district a year ago, it was...and I had over 1,000 replies because I do send out these surveys and then I send the information back to them, it was 70-30 because they didn't know what was going on. Now in the Learning Community, you can't get much larger on the number of representatives on that. And here's another thing, in the Government Committee, I've talked to the people in the Government Committee right now, we have a couple of bills in our committee and there's the feeling on one side, well, we shouldn't deal with the size. That's the responsibility of the people at that level. That's not ours. I disagree with that. I agree with Senator Lautenbaugh. That's why we're here. But that's the argument that I hear in the Government Committee about not doing some changes on certain boards is because that should be the prerogative of the local body. Something to think about. I live in a district where people are not afraid to let you know. They are not afraid to let you know. And I'm telling you, my MUD calls or OPPD calls have been very, very minimal. If there is a problem, these people are not afraid to, let me say the word, yank your chain. That's just part of life. So if there are an awful lot of problems out there, I would assume that it would be happening all over town. Now as I look at the agenda on MUD or even OPPD, they're looking on 72nd east. That's where a lot of the monies are going to be spent in the near future, which will affect the rates. And we all will benefit from that. But you're going to see a tremendous modification of the system on the other side, on the east side of 72nd. We're all in this ball game together. And I don't know, I haven't been following what these two...this organization is doing. I don't think they're saying, oh, let's let this section of town fly by, you know, just forget about them. I think they're looking at the whole ball game. And it takes seven people. And I've told several people like this, my first venture into board politics, size-of-board politics was when I graduated out of Kansas. At that time, they unified those schools in '68, they unified. So all these little towns got together and for some reason, all of the towns had ended up they are having even-numbered boards--six. And my first venture into it as a very novice person was to help...I was probably one of the grunts, you know, doing all the work around here, actually probably not knowing what he...what I was really doing, but was trying to help... [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR PAHLS: Thank you...help with that. But we found out we needed an odd number. And then guess what number they chose? Seven. Another thing I need to point out, I'm from a district, I represent a majority of one district which is a very large district, high-level district. There, that school board is not broken down into districts. So there's a possibility that size is a factor. There is a possibility that something can operate not just simply by districts. Thank you. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator McCoy. [LB190]

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SENATOR McCOY: Thank you, Mr. President and members. I rise this morning in opposition to the underlying bill and for a couple of reasons. And I know there may be some of you who are sitting here this morning who represent other areas of the state. And oftentimes whether it's agriculture issues, for those of us who represent more metropolitan districts or, in this case, an issue that doesn't necessarily involve all areas of the state, you may think, well, what does this mean for us. Well, ladies and gentlemen, that's exactly why I would say that particular point is what's so important about this discussion? Because guess what? This may not affect your legislative district, but we're asked to represent the best interests of the state as the 49 members of this body. And at some point, you'll weigh in on this--red, green or present not voting--because we have to. Well, that's what I see before us this morning with LB190. You know, as Senator Pahls just said, we're all in this ball game. I represent an area of Douglas County that is not part of the sewer CSO problem per se. It doesn't affect my district. But I'll tell you what. I just paid our MUD bill the other night. We're paying for the problem. Yes, it may be mandated by the feds that we take care of this problem, but we're all sharing in the burden. I fear the vulcanization of this board, splitting it up into districts. You have a service area that represents all or parts of four counties. You have a situation in which you could have vast...a vast number of folks in the service area that aren't affected by the sewer CSO problem. Directors who are elected out of those districts that would be set up that may very well say why should we take care of this sewer CSO problem. Why should we care? And the answer is the same reason we care about issues when we vote on them here in this body. Because it's in the best interest of the state, in this case the board of directors as it's currently constituted has to worry about what's in the best interest of the MUD service area as a whole, as a whole. Because we recognize...I hear grumbling all the time. Believe me, I do it too. I hear grumbling all the time from my constituents. Why do we have to pay for a problem that's 100-and-some years in the making that's in east Omaha when we live in a neighborhood that's 6 years old? And I live in one that's six years old. And the answer is because how else does it get taken care of? You know as urban senators just in my time down here, we've been asked to weigh in on issues that involve the Republican River Valley, which I grew up on. Now we could say those water issues didn't have anything to do with Omaha or Lincoln. But the reality is it was a state issue and we had to deal with it down here. We couldn't dodge the issue. The board of directors as it's currently constituted cannot dodge any issue because it affects the district, the MUD service area, as a whole. If we vulcanize this board, I fear we're going down a road that we will dodge the issue on the CSO problem and we create a situation that could be very harmful going forward. Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Ken Haar. [LB190]

SENATOR HAAR: Mr. President, members of the body, I want to weigh in on this because I've been in both situations. I was on the Lincoln City Council from '89 through

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'97. That was an at-large seat where the whole city of Lincoln was where I had to campaign versus a situation right now where I'm running again for reelection of District 21, northwest Lincoln and so on. And I guess I will always come down on the side of "districting." I think the contact, the contact that happens when you campaign is so important to me. It's how you get to know the people in your district. It's how you get...because I think most problems do boil down. Sure, they're at large and we take care of those, but it's also important to know exactly what's happening in your district. Becomes very difficult if you represent a very large area. And so from my standpoint there's great advantage to "districting." I just can't think of many other areas where we have at-large representation. The other, of course, important issue is when you run for office, if you have to run in a large area like the whole city of Lincoln, the expense is much greater. And so I think to a certain amount you filter out candidates when you have at-large elections instead of district elections. Representation is the heart of our system. We elect officials hopefully that can also see the bigger picture. If they can't, those are the ones that should be voted out of office. But...so I rise in support of the underlying LB190. I guess I have no opinion at the moment, I'm listening, to the size of that board. But I would give the rest of my time to Senator Council should she wish. [LB190]

PRESIDENT SHEEHY: Senator Council, you're yielded 2 minutes 40 seconds. [LB190]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. Thank you, Senator Haar. Initially I'd like to correct an error that has been repeated on a couple of occasions. Senator Price has referred on two occasions to the four-county service area of MUD. MUD has a three-county service area; it's Washington, Douglas, and Sarpy. And in looking at the issue of representative democracy, that's what we're talking about here is representative democracy. Admittedly anybody, any governing body, is supposed to have the best interests of the entity that they represent at heart. But just as this body receives input, hears different perspectives, different opinions on matters that may not affect the individual senator directly but adds a perspective to the discussion that may otherwise have gone unheard. And I think it adds to this body that we have such diversity of representation, that we have rural, we have urban, we have small town, we have large town, we have male, we have female, we have African-Americans, and we have Caucasians. The MUD board regrettably has not reflected that same representative democracy principle. And as a result... [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR COUNCIL: ...there are segments of the customers they serve who do not believe that they have representation on the MUD board. And I don't doubt that many of you don't hear from those individuals. And Senator Pahls asked about the internal complaint procedure. They do. And when they don't get their questions resolved, you would think that they would go to the board, the people they elect. We're not talking

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about a private entity. And I know Senator Lautenbaugh has a resolution about that, but we're talking about an elected body who people they serve don't feel that they can reach to address their concerns. Instead they reach out to the people who they know, who they see because they've been elected by them in a district fashion. [LB190]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Thank you, Senator Haar. Members requesting to speak on AM1815 to LB190, we have: Senator Smith, followed by Senator Schumacher, Senator Council, Senator McGill, Senator Nelson, Senator Lautenbaugh. Senator Smith. [LB190]

SENATOR SMITH: Thank you, Mr. President. Colleagues, I'm a little bit confused of some of the discussion and particularly how the governance that Senator Council is talking about, the changes there, impacts the CSO. But I'm going to continue to listen and see if some of my questions about the previous comments can be answered. But as far as AM1815, I don't really have a lot of comment on that particular amendment other than I don't think a larger governance is necessarily helpful. I prefer to speak this morning on LB190. And I want to be clear, my business as a customer of MUD. I had in the past been a customer of MUD. I know MUD well. I've worked with public power in the Omaha metro area before. I don't think there's a problem in the governance at MUD. I don't think anything is broken. However, in concept, I have to say that I think there's great value in having representative governance. And this is from my experience in working for public power. And although we did not have as small defined areas for districts, we did have districts and elected officials that represented those districts. And I believe that the people, the population within those districts were well served by the perspective that those individuals from those particular areas brought to the governance of their public utility. So I do see some great value in having a representative form of governance. Now if it were a private company, you might say that there could be less representation. Although then you look at, at the state level and you have...some of our agencies, you have the Public Service Commission is somewhat divided in such a way to if we, where it provides representative government...governance. So once again, I firsthand saw the benefits of having representatives elected on a district level. I saw the benefits that they brought to the table in decisions at the utility in terms of various policies involving whether it was credit policies or reconnect policies, locations of offices, service hours, things of that nature. They brought good perspective representative of the constituents that they served. So I can't say that it's altogether bad in concept. There was a comment made earlier about does this help promote pet projects by district. Well, if there's going to be pet projects, pet projects are going to occur regardless of whether you have district-level elections or not. It could just be all the pet projects are in a particular area and do not reflect the population. So I don't think whether we have district-level elections or not is not going to really impact the promotion of pet projects. So with that, I cannot say I'm in strong support of LB190, but it certainly seems to me that there's...it moves towards a representative form of governance for a public utility, and I certainly am inclined to support LB190 at this time. Thank you.

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[LB190]

PRESIDENT SHEEHY: Thank you, Senator Smith. Senator Schumacher. [LB190]

SENATOR SCHUMACHER: Mr. President, members of the body, all of us have seen a lot of bills, good little bills, go down in flames because they cause a relatively modest cost to either the local subdivisions or in a fiscal note. We've been told, for example, that we no longer can have secret ballots and mail-in elections because a secret ballot costs too much. As I understand it, a lot of the boards in the state have perks that go along with being on a board. I'm told some of the public power boards have got a perk that after you've served on the board a number of years, you get free or reduced health insurance for the rest of your life. I'm curious--and we're talking about, have a 70 percent increase in the number of people on this particular board, and I understand there may be a floor amendment calling for 47 members on this particular board, as to what the perks are on this board--whether or not we have health insurance, retirement plans, how much this is all going to cost us. I was going to ask Senator Lautenbaugh if he knew. I see he's not on the floor. Senator Council, will you yield to a question? [LB190]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Schumacher? [LB190]

SENATOR COUNCIL: Yes. [LB190]

SENATOR SCHUMACHER: Senator Council, do you have any idea what perks are involved in this board? [LB190]

SENATOR COUNCIL: All I know is that they get a per meeting stipend. That's what's published. I'm not aware of any other benefits that are received by board members. [LB190]

SENATOR SCHUMACHER: Thank you, Senator Council. I'd yield the rest of my time to Senator Council if she wants it. [LB190]

PRESIDENT SHEEHY: Senator Council, you're yielded 3 minutes 10 seconds. [LB190]

SENATOR COUNCIL: Yes, thank you, Senator Schumacher. And, again, it's not something that I focused my attention on dissecting the benefit structure of this board. My objective was representation and representative democracy. And I'm glad that Senator Smith got on the mike and reminded me that on the electric side of the house, those governing bodies are elected by district. And if you'll recall when LB190 was originally introduced, it provided OPPD, but OPPD is already elected by district but on a broader service area. So when we're looking at the propriety of district elections for a

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public utility, we have that model because it exists on the public power side of the ledger. And here, MUD should be held to that same standard. And speaking of standards, it escaped me to address earlier, there was a comment made by my colleague Senator Lautenbaugh that the only person who testified in support of this bill was the introducer, myself. And the implication was, well, if no one else supported it and came in and testified, that that somehow should be indicative of the merit of the bill itself. Well, I trust that Senator Lautenbaugh and others are mindful of that as we go forward because I've sat and listened to a number of bills where the only person who spoke in support of it was the senator introducing it. And if that's the standard, then let it be the standard to be applied to all. But, again, I will share with any members in the Chamber letters of support that came in on... [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR COUNCIL: Thank you...on LB190. And those letters of support I think are reflective of the need for the passage of LB190. Letters of opposition, again, I met with representatives of MUD. That was the only opposition that I received, and I stated in the opening on this bill that, yeah, that would be expected. But since that time, there have been numerous discussions. The board itself has had discussions. And like I stated, the board's last vote on this issue was a 3:3 split with 1 member absent. So in terms of the propriety of the bill, the support for the bill, at least in terms of the board itself, I think there's a recognition and appreciation... [LB190]

PRESIDENT SHEEHY: Time, Senator. [LB190]

SENATOR COUNCIL: Thank you. [LB190]

PRESIDENT SHEEHY: Oh, Senator Council, you can continue on your time, and this is your third time. [LB190]

SENATOR COUNCIL: Again, I think there's an understanding and appreciation of the need to make this move. Since we're talking about AM1815, again, who knows at this point in time whether district elections of a seven-member body will provide what the objective of this bill is. Well, those are the same questions and I guess the same doubts existed when this body approved district elections of the Omaha City Council, when this body approved district elections of the Douglas County Board. And the same, again, principles are applicable in the case of MUD. I can think of no stronger, crucial life support area than water and heat during this time of year. And in terms of having your voice heard, to provide a new and different perspective to addressing some of these issues, no, I mean, the CSO project is going to have to be done. It's going to have to be done. And I would be suggesting to the residents in Senator McCoy's district to remember that the waters in Omaha--Douglas County, Sarpy County--flow west to east. And while they're sewers in that district may be six years old, to get to the river they got

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to come through my district. And if you can't get through my district, it'll be backed up in yours. So, yes, you know, we all have an interest. And that's not going to change as Senator Smith noted. The need to address CSO is not going to change. It is an MUD-district issue. But because the impact is the greatest on the eastern part of the city, that part of the city should have some input, could provide some insight into the best way to address those issues. Right now that voice is silent. In fact, I think there's only one of the MUD current board that lives east of 72nd Street, and not to suggest that that individual is not a good representative. Not suggesting that at all. But what is being suggested is that to have the opportunity to elect someone that you can point to and say, this is my representative, someone who I have a point of contact with for this body. And, yeah, I get calls from districts, from constituents in other districts and I respond to them. I'd hope that people from my district feel comfortable writing to senators other than myself, because we do represent the whole. And that's all that is being sought to accomplish by LB190, is to take the sum of the parts and to have a stronger hold. So with that, and this was my third time, I would urge...on AM1815, like I said, it wasn't my intent to change the size of the board. If it's the body's desire to change the size of the board, I'm not going to object. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator McGill. [LB190]

SENATOR MCGILL: Thank you, Mr. President, members of the body. Like Senator Council, this amendment I am neither here nor there on. But LB190 did come out of Urban Affairs unanimously and largely for the fact that I don't honestly know that much about the politics and the issues of MUD and with a bill like this I don't care, it's just good policy to elect members of an elected board by district. I had a bill a couple of years ago that made sure that we did that in Lancaster County because we were the only county that didn't elect our commissioners in truly district elections. That passed through here with I think one no vote. So this Legislature has a history of moving in this direction to make sure that elected boards are represented by district so that we have representation of entire areas of a population. I just see this as common sense. And so I hope that we can move on, move to some of the amendments that are being drafted to make the bill better and make the process of this transition stronger. Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator McGill. Members requesting to speak on AM1815 to LB190, we have: Senator Nelson, followed by Senator Lautenbaugh, Senator McCoy, Senator Pahls, and Senator Ken Haar. Senator Nelson. [LB190]

SENATOR NELSON: Thank you, Mr. President, members of the body. I stand in opposition this morning to LB190. I have no comment about AM1815, although I do not see any difficulty with going to a larger number than the seven that we have. But I think our concern here should be the issue of...that's presented by Senator Council's bill, LB190. I'd like to ask a few questions of Senator Council if she would yield. [LB190]

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PRESIDENT SHEEHY: Senator Council, would you yield to Senator Nelson? [LB190]

SENATOR COUNCIL: Yes. [LB190]

SENATOR NELSON: Thank you, Senator Council. For one reason or another I didn't happen to be on the floor when you introduced the bill this morning, but...and so I don't know what was said at that time. But I do know this morning if I understood you say that you had received calls from your constituents in your district with regard to the operation of MUD. Could you tell me what those are? What the complaints were? [LB190]

SENATOR COUNCIL: Oh, we...I can bring you up a log, Senator Nelson, but generally speaking they are concerns about the handling of shut off, billing situation, I mean, matters that you would think could be addressed by contacting the utility themselves. You have situations where people move from one house to...one residence to another and believe that their bill has been...their service has been terminated and it hasn't been. Those are the types of calls that we get. [LB190]

SENATOR NELSON: I have those problems once in a while. Thank you, Senator Council. But...and now I will ask you another question, but isn't the proper place to go to the administration of MUD itself? Wherever you pay your bills, you have an opportunity to talk with the people there and voice your concerns. I don't know that that's an issue that you want to call a representative about unless you're not getting any cooperation and then I can understand a complaint. [LB190]

SENATOR COUNCIL: And if I may respond to that, and that's exactly the situation, that the individuals who call my office don't believe that they're getting their matters addressed administratively and don't know about reaching the elected board. And that's...and in fact that I think is illustrative of the disconnect between this elected body and the people they're elected to represent. [LB190]

SENATOR NELSON: So I ask the question, Senator, how is that any different from the rest of us in Omaha or west of 72nd Street? I happen to live east of 72nd Street. If I'm not getting any assistance from the people at MUD on a problem of this sort, I certainly take it upon myself to find out who is a member of the board and to contact them and register my complaint. Is that happening? [LB190]

SENATOR COUNCIL: Well, and that's, again, a lot of the members, residents east of 72nd Street don't know who the representative are, the elected members of the MUD board are. And you can say, well, that's their failure, but they're elected at large, they serve six-year terms, and during the period of time between elections, there's no real contact between these elected representatives and the people they're elected to serve. So the people who have those issues and concerns turn to our office because clearly

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they know that I represent that district and they contact me. [LB190]

SENATOR NELSON: All right. Thank you very much, Senator Council. Since I didn't have the opportunity to hear the introduction on the floor, I did go to the hearing and I took a look at the transcripts at that time... [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR NELSON: ...the opening and the closing by Senator Council. And I just have to say in reading those transcripts, there was no mention whatsoever by Senator Council of any complaints from people in the district that she represents. And I would think even though that was some time back that would have been one of the things that would have been brought up at that time. In the short time I have left I just...I want to kind of address some points that we've already talked about. MUD is different from a pure, political entity such as a city council or the county board where we have district elections. It operates as a business to distribute natural gas and water. The distribution isn't confined to one part of Omaha. The distribution is the same all over the city of Omaha. If there were a concern about rates, they're uniform rates all over Omaha. And any... [LB190]

PRESIDENT SHEEHY: Time, Senator. [LB190]

SENATOR NELSON: Thank you. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Nelson. (Visitors introduced.) Continuing with floor discussion on AM1815 to LB190. Members requesting to speak: Senator McCoy, followed by Senator Pahls, Senator Ken Haar, and Senator Lautenbaugh. Senator McCoy. [LB190]

SENATOR McCOY: Thank you, Mr. President. I stand, again, in opposition to LB190. But I want to bring up a few other points if I may. You know, we dealt with a bill of Senator Nelson's in the first couple weeks of this session in which a number of senators stood up and said, well, we should be deeply suspicious of bills that are brought to us that the introducing senator is the only proponent. Now I don't know that I necessarily agree with that philosophy. And that particular senator who had a grave concern in that area isn't with us this morning or else I'd probably ask him to speak to this. But that, however, folks, is the situation with this piece of legislation. There were no other proponents of this legislation that came to the hearing. I understand Senator Council's concern. If there are MUD customer complaints in her area of town, I don't answer and am no apologist for MUD for the board of directors, but I'm certain that as much as they care about customer satisfaction, they would be happy to address those concerns. None of those individuals showed up at the hearing to talk about how they believe that this legislation before us would solve their customer satisfaction issues. You know, I

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would direct your attention...and it's available on the Internet or a number of different places, there was a study done in 2010 of 50 utility areas, mostly some of the 50 largest cities in the United States, and ranked them in as far as the most cost-efficient utilities. MUD ranked ninth overall in residential gas bills; seventh in residential water bills; fourth in residential waste water bills as far as being the cheapest in the country; in number one overall in fall monthly residential utility bills. So I would say to you, again, I'm not an apologist for MUD but I would tell you when it comes to what I think taxpayers in the MUD service area in this time...in this tough economic times that we're in. I know I pay our family's bills. I know all of you pay your family's bills. And what are we looking at? Where do we trim? Where do we cut to make things work? Well, clearly MUD is making that happen for their ratepayers. And how does that work? It works through the system that they currently have. Why would we rock the boat and change when there doesn't appear to be any need to change? Where is the problem here? Where were the proponents to line up for this legislation and say, LB190 takes care of this problem for east Omaha or west Omaha, doesn't matter, south Omaha, anywhere in this service area? And I'll go back to what I said earlier. The MUD board has to care about the interests of the board as a whole not a certain district area. I think that's healthy. I think the statistics I just gave you on how well MUD does compared to other utility companies across the country is proof that what they're doing is working. But we're wanting to change that through this legislation. And to what end? [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR McCOY: To what end? I think it's harmful. I think it's a road we shouldn't go down. Thank you, Mr. President. [LB190]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Pahls. [LB190]

SENATOR PAHLS: Thank you, Mr. President, members of the body. You know, Senator McCoy, I think I sort of disagree with you. And the reason why, I think this is a shot over the bow. If I happen to work for this particular organization--I'm looking right now at the leadership--I would be concerned. Board members, I'd be concerned because we want to change what's been going on for a number of years because you're not doing your job. That's the reason why we're doing it, because you're not doing your job or else we wouldn't...there would be no need to change this. So I think there's a fallacy in what you do in that organization, because that's the reason why we need to change you because we have lots of complaints. I am disappointed that you do not have in your organization some kind of apparatus, some PR that people can feel they can go to. I'm truly disappointed you don't have that in place. What are you doing, leadership? What are you doing, board members? There are complaints out there and you're not answering to them. That's what I'm hearing. If that were not happening, we wouldn't be talking about this bill. So I'm blaming you because you're not doing your job, because you don't have an apparatus in place that allows me as a person who needs

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your services a way to get it done. I'm truly disappointed. I'm disappointed in you. I'm disappointed in the leadership in those board members because you're not doing your job. Because if you were doing your job...I'm repeating this again, if you were doing your job, this bill would not be in front of us. Because what I'm hearing is that there are a number of complaints out there. So for you to prove to me that you're doing your job, you're going to have to show me, because I do not know it, what your particular apparatus is. How do you meet the needs of the people in all parts of the city, not just in the part where I happen to live? Because basically the...I would be honest with you, the only complaint I get is the adding on the additional fees for the new sewer...for the new system which I know is a mandate. So I'll give you that much. But I'm not going to give you any slack until you can prove to me that you're making every effort that that person has a problem because they're being shut off, they don't know what to do, or you're doing unkind things. Now you need to show me before...if this bill moves on, you need to show this to me before Final Reading. I need to know that you're doing something, that you are not being slack because I am disappointed. It has been pointed out that there are a number of people who are being...I'm using the word mistreated, because if you turn off some of those, what I call vital needs, I'm in trouble. If you're not looking for some way to help me out or for some avenue for me to go to, I'm disappointed in you. For you to change my mind, you're going to have to prove to me that you're doing this. And you're going to have a few days for this to happen. Please take away my disappointment. Prove to me that I am being critical of you for no reason at all because I don't have all the information. Now I will admit, I don't have all the information. But right now I think the shot has been fired. It is up to you--and I'm sad in some ways that this information wasn't brought to us earlier, what I'm requesting--prove me wrong. [LB190]

PRESIDENT SHEEHY: One minute. [LB190]

SENATOR PAHLS: Again, I'll say prove me wrong. That's a challenge. That's a dare. Thank you. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Ken Haar. [LB190]

SENATOR HAAR: Mr. President, members of the body, again, I would like to rise in support of LB190. In a representative body, diversity is good, it makes us stronger. Government closest to the people is the best kind of government. So I support LB190 for district elections and I think it's something we should look at. When you look at the MUD board, it's all white. And so the question has to be, is there the diversity that's needed and wouldn't diversity by going to a district election make that board stronger? Thank you very much. [LB190]

PRESIDENT SHEEHY: Thank you, Senator Haar. Members requesting to speak on AM1815 to LB190, we have Senator Lautenbaugh, followed by Senator Cook and Senator Nelson. Senator Lautenbaugh, this is your...Senator Lautenbaugh waives.

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Senator Cook. Senator Cook. [LB190]

SENATOR COOK: Thank you, Mr. President. Good morning again, colleagues. Senator Haar just mentioned some of the points that I was going to reiterate. It's...kind of inspired by some things that Senator McCoy said and so I would like to kind of remind or offer some perspective on what leadership in terms of a policymaking board means. It goes beyond having an 800-number or having a Web site or having someone to whom you can complain, complain about your bill, complain about your service, complain about whatever. It is about, just as it is with this job, advocating policy and creating policy that is inclusive of everybody that is under the purview of the policy. Whether she or he, as I said earlier, can afford to get off work, can afford Internet, has all the time in the world to be phoning and chasing people down, whether it's at the meeting at Metro College Fort Campus, or if they see Senator Council at the grocery store, we have to advocate on behalf of all of the residents, citizens, constituencies in our area. There are people who contact me about issues related to farming, feeding, and ranching, and those things are in evidence in Legislative District 13. But they don't...they're not the primary way that people live their lives in Legislative District 13. But it kind of...I guess it disturbs me to hear the conversation going toward, well, if we have a number for people to complain to, then that's what the board is for. That's not what any policymaking board or trustee board is for. It's to put forward policies that are inclusive of all of the perspectives ideally. It's not as popular an idea as I would like it to be, but in my mind, that is what it's for. The other thing, this idea that if you're the only supporter of your bill, all of a sudden it doesn't get to count as a bill that comes out to the floor. I was very proud of my LB502. I, the introducer, spoke, introduced it, it was advanced. Many of the people in this room advanced it. The Governor signed it. And unless somebody in here is proposing a rules change, I don't even know why you're bringing that up. That is the way the cookie crumbles. We've had people in Health and Human Services, 25, 26, 27 people speaking in support or opposition to bills. That's not how the process works. So, anyway, I appreciate your listening. I reiterate that a policymaking board represents, I think most especially, the people who don't have lobbyists, the people who can't take off work, or maybe even people who don't even realize the degree to which and the extent to which that board is impacting their day-to-day lives. Thank you. I'll yield the rest of my time to the Chair. [LB190 LB502]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Cook. Senator Nelson, you are recognized. [LB190]

SENATOR NELSON: Thank you, Mr. President and members of the body. Five minutes goes by so quickly. I'd like to continue with what I was speaking to earlier, and that is the matter of the representation. And I'd like to just read verbatim for the record the testimony by Senator Council at the time of hearing: But what representatives of my

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district feel is being neglected is that, yes, sound business decisions need to be made. But as Mr. Crouchley so aptly stated, this is a customer-owned utility and the rates that these customers pay is of critical concern and when you have no one reflected on that body who is in a position to ever be concerned about what rates are being charged, you know, it's hard to give the sense to the total community that there is a true representation. Well, we're talking about rates there and I question, why in the world aren't the seven current members of the board, wherever they live, concerned about rates? They are rates. That's one of...they are, because that's one of their major concerns is to keep the rates down. And we've heard from Senator McCoy that MUD is operating very efficiently and that the rates are probably the lowest in the nation, not only for water, but for gas. And to say that none of those people is concerned about the rates, or the amount of rates those members of the board are concerned, I just don't think is accurate. And let me go on and read at another place from Senator Council. And when we have citywide elections for governing bodies such as MUD, I mean, you're chances of running a campaign that would position you for one of these at-large seats is minimal and a couple of the concerns. And here I think are what the real concerns are from Senator Council. And a couple of the concerns that were brought to me were from people who would have loved to have pursued a seat on the MUD board, but felt...felt that they had a contribution to make, but financially didn't see themselves being in a position to accomplish that. So though...so through district elections it does provide opportunity. Well, we've heard from Senator Cook that we ought to have diversity, we should have inclusiveness. But I'm not so sure that that's going to help very much when you have an operation such as MUD which is really operated as a business, and it's operated throughout the entire city, an area. MUD services and infrastructure operate as a total integrated distribution system. There are not separate issues for different parts of the district. An example, as what we've already heard, is the infrastructure program. It's currently replacing infrastructure in the eastern part of the city, but even that work is for the benefit of the whole distribution system and the whole district. MUD is spending millions of dollars to replace both gas and water mains in the eastern part of the city of Omaha, the area that Senator Council argues is not getting representation on the board of directors. Colleagues, there may be a place for district representation and district lines in other areas, but I continue to argue in opposition to LB190 that this is not the place. MUD has operated for over 100 years very effectively on an areawide. It's in the nature of a business. You need qualified people... [LB190]

SENATOR GLOOR: One minute. [LB190]

SENATOR NELSON: ...to sit on that board and make sure it's operated as a business and effectively, that the rates are kept as low as we can, that the distribution system is always available in any part of the city. And there are going to be complaints from any area of the city to the members of the MUD board that are elected at large and I'm sure that they handle them, and there is a system. My impression is that there really aren't that many complaints that can't be handled by MUD itself. And it may not be to the

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satisfaction of some individuals, but we run into that all the time. I can call my city councilman, for instance, and not be satisfied with the way he votes or from his point of view. But I have to feel that he's going to do the very best that he can on the city council. It's not because he's in my district. [LB190]

SENATOR GLOOR: Time, Senator. Thank you, Senator Nelson. Senator Pahls, you are recognized and this is your third time, Senator. [LB190]

SENATOR PAHLS: Thank you, Mr. President and members of the body. You know, after listening to Senator Nelson, he had me reflect a little bit on what Senator McCoy said. I guess there are some parts of MUD that's pretty...excuse me, that I would say, pretty decent. They rate pretty highly on several areas, if I'm not mistaken. I'm going to ask Senator McCoy a question, please. [LB190]

SENATOR GLOOR: Senator McCoy, would you yield? [LB190]

SENATOR McCOY: Yes. [LB190]

SENATOR PAHLS: Senator, just very shortly because you're on my time, repeat the rates, the rating, if you can. [LB190]

SENATOR McCOY: Would you like me to go through the statistics I gave? [LB190]

SENATOR PAHLS: Just a little bit. Just a little bit, so I have a feel. [LB190]

SENATOR McCOY: Again, this is from some of the 50 largest utility areas in the United States. MUD ranks ninth overall in most cost-efficient residential gas, water, wastewater bills, and number one in the United States in the cheapest fall monthly residential utility bills. And again, this is a 2010 study of the 50 largest utility companies in the United States. [LB190]

SENATOR PAHLS: Okay. And, apparently, I need to take back a little bit of my animosity towards the leadership and also to the board because I believe they probably are doing...or they're trying to do a good job. I'm a little bit confused now, though, because I'm hearing two sides of the story. And to answer Senator Cook a little bit, I don't see the board right as a mechanism to go to for complaints. That's why I was talking to the leadership and if the leadership and the people below them aren't doing their job, then that's when the board really should step in and see if they cannot make changes. Another thing, if we are really concerned about everybody being represented...represented on the board, then perhaps we do need larger...a larger number. I think it's a balancing act. That's why...one of the reasons why I have questioning on the Government Committee...in the Government Committee why we're not looking at various boards. We have that possibility. We do have that authority to

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take a look at those boards. And that's the point I'm trying to get across is, do we need to make changes? It's that simple. On this or any board, this is our opportunity. Thank you. [LB190]

SENATOR GLOOR: Thank you, Senator Pahls. The Chair recognizes Senator Lautenbaugh and, Senator Lautenbaugh, this is your third time. [LB190]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I did finally do the math. If you assume 500,000 people in MUD, which I think is a good round assumption, this would create...if we had seven districts, it would create districts of 71,428 people. And that's being described as a level of closeness to the people that would help people feel like they have access to their board, MUD board members. I am concerned, and I apologize. Those of you who know me, know that sometimes I'm not actually talking about what we're all talking about and what's up on the board. So if you're watching at home, you'll need to get out your decoder rings and figure out what bill I really am talking about, because it isn't this one. But there's a problem here. We're talking about what the size of this board should be. And the same arguments that are being advanced by proponents of this have been leveled against bills of mine as, well, there's a problem with your bill and here's why. I could go down this rabbit hole all the way to absurdity on my other bill because the board I'm seeking to shrink has eleven women and one man, I was told I was sexist. Well, this board has six men and one woman, so maybe this bill is sexist too. That's, of course, ridiculous, but we need someone to show us the way. Where's Ben Gray when you need him? Nobody has ever said that, but. So we're talking about another bill, at least I am on this. I'm told my other bill is a local issue. Why are we getting involved? I'm hoping all of you will remember this, this is our job. If we're going to make a change to MUD, they can't do it at a board meeting, the voters can't vote for it, it's up to us. If we're going to make a change for OPS, OPS can't do it. There's no provision to put it on the ballot, it's up to us. This is our job. And I'm tired of hearing about this is a local issue. It is, but lots of things are local issues. The localities are local issues and we govern the localities in a very basic way, creating them, getting rid of them, so it's our issue. This is our issue. The other bill is our issue. Only we can be heard on this. And if you're looking at this and thinking, well, gee, why does he want to go from seven to twelve? I don't. My amendment is foolish and I hope you vote no when the time comes, if we ever do that, because I don't want to go to twelve. It makes no sense whatsoever. I don't think a larger board would better serve MUD. I don't think a larger board would better serve city councils in Omaha and Lincoln. I don't think a larger board would better serve Lincoln Public Schools, but I think manifestly a smaller board would better serve OPS, something would. So here we are. We're talking about it on this bill, at least, again, I am. And I'm coming back to again the criticism that was leveled at Senator Nelson's bill. The introducer was the only proponent. Why are we getting involved in this? Nobody else cares. Well, that's not the standard to apply. That's not even really a good criticism of this bill and I'm not going to level it for that reason. I brought it up facetiously before. I joke when I bring bills to

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Government Committee, I work alone. I don't usually seek people to come testify. That doesn't mean there's not merit to it. That doesn't mean that I haven't carried some evidentiary burden if you just sit and listen to the information. That's not what we do here. It is not a valid criticism of this bill to say the only person who showed up in favor of it was the introducer. [LB190]

SENATOR GLOOR: One minute. [LB190]

SENATOR LAUTENBAUGH: Thank you, Mr. President. But yet, some say that. I'm just asking for a little consistency. Remember next time you find yourself not liking a bill, the things you say will come back to haunt you on your own bills. For those of us who are paying attention, we'll bring them around again. Are there any other speakers in the queue? Thank you, Mr. President. [LB190]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Bloomfield, you're recognized. [LB190]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, members. I don't have a huge puppy in the middle of this puddle, but I am inclined to support LB190 based on what I have seen with county officials. If I can talk to one that is elected close to me, he will listen to me. If I have to talk to one that's elected at-large, he doesn't listen quite so good. And with that being said, I'd like to yield the rest of my time to Senator Council. [LB190]

SENATOR GLOOR: Senator Council, 4 minutes 25 seconds. [LB190]

SENATOR COUNCIL: Yes, thank you, Senator Bloomfield. And I also want to thank Senator Lautenbaugh. I'm glad he clarified his facetious statement because I don't want anyone in this body, or anyone who was viewing it, to walk away with the impression that I made that argument, and ergo, it would be appropriate to argue that my bill lacks merit because I was the only proponent. And again, I wasn't the only proponent. I may have been the only one who testified at the hearing, but there were other proponents of the bill. Senator Nelson made reference to the testimony, or my opening at the hearing on this bill, and most assuredly, Senator Nelson, I spoke about the ability of people from particular portions of the MUD district's ability to be a representative on that board because at-large elections diminish opportunities for people who don't have the resources to campaign on a districtwide, and I mean, MUD districtwide basis. You stated definitively that I didn't mention complaints. Well, you did read a portion of the transcript where I talked about concerns about rates. Maybe I should have been more specific, but concerns about rates could be viewed as complaints. But...and I'm not suggesting that the rates aren't good rates at MUD. I said that when I opened on this bill. And when we look at the 50 largest utilities in the nation, I would ask Senator McCoy to provide how many of those are public utilities versus private utilities. One of

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the reasons MUD is able to keep its rates the way it is, is because it's a customer-owned public utility. The other comment that Senator Nelson made repeatedly that I want to refer to is the suggestion that you have to have a at-large board for MUD because it's a business. Well, I don't understand that correlation because I've heard colleagues say, cities should operate as a business, that cities are business. We elect our city council members in Omaha by district. That counties should operate like businesses. They are businesses and we elect those representatives by district. Senator Cook aptly stated that one of the primary functions of those boards is policy, is to develop policy. The MUD board doesn't operate MUD on a... [LB190]

SENATOR GLOOR: One minute. [LB190]

SENATOR COUNCIL: ...day-to-day basis. They don't manage the business on a day-to-day basis. They set the policy that they expect their president and their senior management staff and their employees to carry out. And what's lacking on that MUD board is input, representative input into those policy decisions. And not to suggest that they wouldn't continue to try to keep their rates low if the board continued to be elected at-large, and no one has even suggested that. The issue comes down to representative democracy. And I've maintained that consistently throughout this discussion. And that because MUD deals in an area that no one can dispute is a crucial life area, that there ought to be representative democracy at play there. [LB190]

SENATOR GLOOR: Time, Senator. [LB190]

SENATOR COUNCIL: Thank you. [LB190]

SENATOR GLOOR: Thank you, Senators Council and Bloomfield. There are no senators remaining in the queue. Senator Lautenbaugh, you're recognized to close on your amendment to LB190. [LB190]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I hope I've made amply clear that this is a bad amendment and I would all...trust you all to vote no. Sometimes I don't even have to beg you, you just do that on your own accord when I bring something up. But just...not that I don't trust your judgment, I will not leave anything to chance, and simply withdraw this amendment. [LB190]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. So ordered. Mr. Clerk. Items for the record, Mr. Clerk. [LB190]

CLERK: Thank you, Mr. President. Before we proceed, thank you. Hearing notices from Health and Human Services Committee signed by Senator Campbell. Senator Campbell an amendment to LB541; Senator Langemeier to LB849; and a conflict of interest statement by Senator Sullivan. (Legislative Journal pages 472-475.) [LB541 LB849]

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Mr. President, the next amendment I have, Senator Council would move to amend with AM1847. (Legislative Journal page 421.) [LB190]

SENATOR GLOOR: Senator Council, you're recognized to open on your amendment to LB190. [LB190]

SENATOR COUNCIL: Yes, thank you, Mr. President. AM1847 reflects the staggering of the elections and thus the staggering of the conversion over from an at-large election mechanism to a district system. And this amendment was an amendment that was discussed at length since the bill was on General File with MUD, and discussed in an effort to address the concerns that were raised. One of the concerns that was raised that was in the original draft of the bill was a concern that all of the current board would have to stand for election, in fact, this year. And that was an error that I, quite frankly, thought would have been caught in the E&R amendments because the bill was originally introduced in 2011 with the expectation that it would get to the floor last year, and it would be appropriate for the district elections to go into effect with this general election. But since the bill did not come to the floor until this year, that's totally inappropriate, and this bill does provide that the staggering of elections begins with the first primary and general elections in 2014. And it's my understanding from information I've received from MUD that there were no...well, there was a 3-3 vote with this amendment. So, I guess, you can take that for what it represents, but three of the board members supported the bill with the amendment and three of the board members didn't. The amendment also provides for the method of drawing the boundaries. And as I stated earlier, Senator Cornett is working on an amendment. It was brought to both of our attentions. We tried to deal with the issue of who draws the lines. And during the course of the discussions I had with MUD officials, I had even offered to allow the MUD board...the current board itself, to draw the district boundaries. And initially I was advised that that was something that they wanted, and then I was subsequently advised that as a result of the 3-3 vote, that you could go back to whatever system that was originally proposed. Well, the system that was originally proposed just had the Douglas County Election Commissioner drawing the district boundaries, and that would not be appropriate since the district does go into Sarpy and a little portion of Washington. So AM1847 shows the district lines being drawn by the election commissioners of the two most populous counties, which would be Douglas and Sarpy. It has since come to my attention that even though there is just a small portion of the MUD service area that is in Washington County, that a Washington County official would need to be involved in the drawing of the district lines and that's the amendment that Senator Cornett is prepared to bring. It was hoped that it would be ready and I would have withdrawn AM1847 and substituted that amendment. But, essentially, AM1847 provides for a staggering of the elections. One of the major concerns expressed by current board members was that they didn't all want to stand for election in 2014. And initially, there was some who had been elected in '08 would have had to be elected...stand for election this year, and

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didn't view that as fair. So now, those board members, the most recent of whom would have been elected in '08, will be able to complete a full term before they have to stand for election by district. So with that explanation, I would urge the advancement of AM1847 with the understanding that there is an amendment that would provide that the district lines would be drawn by county officials of all of the counties within the MUD service area, so that would be Washington, Sarpy and Douglas. Thank you. [LB190]

SENATOR GLOOR: Thank you, Senator Council. Members, you've heard the opening on AM1847. Are there senators who wish to be heard? Seeing none, Senator Council, you're recognized to close on your amendment. Senator Council waives. Members, the question is, shall the amendment to LB190 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB190]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Council's amendment. [LB190]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB190]

CLERK: Mr. President, Senator Lautenbaugh would move to amend with AM...or excuse me, FA32. [LB190]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your floor amendment. [LB190]

SENATOR LAUTENBAUGH: Mr. President, I'd like to withdraw that amendment. [LB190]

SENATOR GLOOR: So ordered. [LB190]

CLERK: Mr. President, I have nothing further on the bill. [LB190]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Larson for a motion. [LB190]

SENATOR LARSON: Mr. President, I move that LB190 be advanced to E&R for engrossing. [LB190]

SENATOR GLOOR: You have heard the motion. Those in favor say aye. Hold. There has been a request for a machine vote. Members you have heard the motion. Those in favor vote aye; those opposed vote nay. Senator Council, for what purpose do you rise? [LB190]

SENATOR COUNCIL: I request a call of the house. [LB190]

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SENATOR GLOOR: Members, there has been a request for a call of the house. The question is, shall the house be placed under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB190]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB190]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused 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. Senator Louden, please return to the Chamber. All members are present. Senator Council, how do you wish to proceed? Call-in votes. Mr. Clerk. [LB190]

CLERK: Senator Hadley voting yes. I'm sorry, Senator Avery, excuse me...Senator Avery voting yes. (Laughter) Senator Nelson voting no. [LB190]

SENATOR COUNCIL: I'd like a roll call. [LB190]

SENATOR GLOOR: Senator Council requests roll call. Mr. Clerk, please call the roll. [LB190]

CLERK: (Roll call vote taken, Legislative Journal pages 475-476.) 23 ayes, 15 nays, Mr. President, on the advancement. [LB190]

SENATOR GLOOR: LB190 does not advance. Raise the call. We continue with Select File. [LB190]

CLERK: Mr. President, Select File, LB60. Senator Krist would move to amend. I have no E&R. Senator Krist, AM1840. (Legislative Journal page 419.) [LB60]

SENATOR GLOOR: Senator Krist, you're welcome to open. [LB60]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. AM1840 was a consensus amendment that was added after discussion with Mr. Hobert Rupe, executive director of the Liquor Commission. It further clarifies that after a retailer would look at the identification, ask for the identification, and again that's one of the five pieces of I.D. we've talked about earlier in previous discussions, would be the state operators license, the state I.D., military I.D., passport, or a green card. Those pieces would signify...those are primary sources of declaring age. After that happens, then the individual would actually answer correctly with his or her own data. I think there's some discussion that probably still needs to happen on this and without further ado, I would ask that we have those discussions. The bill is relatively clear. I think it restores some teeth to the compliance checks across the board. It also puts in harmony those compliance checks that we talked about in terms of law enforcement and the execution

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of those checks as it applies to the use of minors. Let me say that again, as it applies to the use of minors in those checks. Section 1 of the bill says that essentially we are going to use those five primary pieces of identification and law enforcement officers are not permitted to drink during the execution of the compliance checks. The second part of the amendment...the second part is amended to the elements of truth that we wish all of our children would comply with using a compliance check at the point when the I.D. is proffered or is asked for. At that point there will be no discussion about telling the truth about the particular piece of I.D. And let me remind you again, the compliance check parameters as set up by the Nebraska State Patrol very clearly say that when using a minor they will...he or she will use his own identification. In terms of a little bit of background that I want you all to know before we proceed down this track and get into debate, the Liquor Commission impassed up until the eighties, in Governor Kerrey's reign, had enforcement officers on the Liquor Control Commission. That is, the commission had law enforcement officers on their staff and they went out and executed these compliance checks and made sure that everyone in retail lines was doing what they needed to do in relationship to serving alcohol or giving alcohol to only those that were of age. Governor Kerrey changed that structure and took law enforcement away from...or took enforcement away from the Liquor Commission and put those FTEs, put those bodies back on the Nebraska State Patrol, NSP. At that point it became a joint effort between the commission and NSP. NSP wrote the guidelines, those guidelines were established and they were evaluated by the commission and they were executed by law enforcement. Now, I would like you to take a minute and think about that. Law enforcement as in the Omaha Police Department, the Lincoln Police Department, any sheriff's department around the state, they didn't write the compliance checks. They didn't demand to be able to go drink and play Serpico. They executed the compliance check that was set in standard as a guideline by the Nebraska State Patrol and by the Liquor Commission. This bill and this amendment have brought many discussions to the floor, many discussions outside the glass, many discussions between law enforcement, and I will go into those my next time on the mike. I still would like to have a little bit of a fair and honest debate on this issue and make sure that we're all in agreement that we're doing the right thing. Thank you, Mr. President. [LB60]

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the opening on AM1840 to LB60. There are members wishing to be heard. Senator Coash, you're recognized. [LB60]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I want to continue the discussion that Senator Krist just started for us. On General File we had a good debate on this and let me just update my colleagues on what has occurred as a result of our discussion on General File. Senator Krist gave some examples of...and I don't dispute these. Law enforcement went out and did a compliance check and they did it outside of the guidelines that they were supposed to do. Senator Hadley gave an example of a compliance check that was done outside of the guidelines that they were

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supposed to follow. Lots of blame to go around here. LPD, OPD, they didn't look very closely at the guidelines that were placed in front of them. And what Senator Krist has done with this discussion is, he's brought that out into the open. He's brought it to the attention of not only the law enforcement that needs to comply with the current guidelines, but he's brought it to the attention of the Liquor Control Commission executive director. And soon, colleagues, you're going to see a letter that I've...that I would like you to see because it outlines how the commission plans to address this. And had Senator Krist not brought LB60 and had we not had the discussion, we would not have the outcomes starting that we're going to have. And I just want to bring something out. It says, the commission believes that for a compliance check to be lawful and fair, it has to be conducted in accordance with the guidelines that the State Patrol puts out. The Liquor Commission is not going to take any action on a licensee holder if the action was the result of a compliance check that was outside of the guidelines. Furthermore, the commission is going to bring law enforcement in this summer and they're going to get educated or reeducated on the current guidelines, and I support that effort. And I thank Senator Krist for bringing it to the commission's attention and to law enforcement's attention. And I am hopeful that regardless of the outcome of LB60, that that meeting of the minds between the Liquor Commission and law enforcement will yield us some different behavior. And I look forward to the outcome because what I've asked the commission and law enforcement community to do, is to come back and tell myself, Senator Krist, the members on the General Affairs Committee, this is how we think compliance checks can work better, can be more fair. And colleagues, I'm going to be a proponent that whatever those changes are, to the extent possible they fit best within guidelines, rules, and regulations. And I thank Senator Krist for bringing this, and I will yield the balance of my time to Senator Krist. [LB60]

SENATOR GLOOR: Senator Krist, 1 minute 27 seconds. Senator Krist waives. Thank you, Senator Coash. Senator Krist, you are recognized. [LB60]

SENATOR KRIST: I set out in this endeavor propelled about three years ago to make sure that kids weren't asked to tell lies and that law enforcement officers that were on duty didn't drink alcohol while they were transporting minors around in the execution of compliance checks. The stories that I have heard since I started this endeavor, in my estimation, have been a sad reflection on law enforcement in some parts of the state to execute compliance checks within the guidelines established by the Nebraska State Patrol. I will not waste your time with a debate over whether or not kids need to tell the truth. I will not waste your time with a debate over whether law enforcement needs to drink in order to blend in, in a bar or execute the compliance checks. I think sound judgment, realistically, realistically will prevail on those two efforts. However, we cannot and should not legislate and micromanage and tell people what to do, especially when it comes to the safety of our kids in keeping alcohol out of their hands. To that end, I have asked Mr. Rupe at the law enforcement training seminar in Grand Island to be established...or a date to be established very soon, but late this summer, to make this

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the number one priority during that training seminar. I have told the people behind that glass on the retail side, on the lobby side, I have told the lobby for the city of Lincoln, and for the city of Omaha, they need to get their stuff together and do things the right way today and participate in those discussions that are going to go on in Grand Island, and make sure that we are keeping alcohol out of the hands of minors, doing it in a tough way, and making sure that we have compliance checks across the state that are standardized and are executed well. I would tell folks who came and testified both in support and in opposition that I do think the best interest of the kids is at heart. Sometimes the execution of those are a little zealous and a bit overbearing, so we need to come back to center and do things correctly. There's been a movement with many things within this term limited environment where we tend to try to micromanage. It is not my intent. My intent is to shed a light on this issue and that the Liquor Commission in conjunction with the Nebraska State Patrol, FTE positions that are supposed to be there to help the commission do its job, reestablish those parameters and those policies. It's not often that we have an opportunity to look at things over a period of time and see how wrong they might be and how right they could be, but I've had that opportunity with this situation. But colleagues, I think the most important thing that we have to do is yet in the future. We have child welfare systems, foster care systems that are broken in this state. We need to get on to the business at hand. I want you to think about what you've heard here today with compliance checks and I want you to go back, hopefully...I ask you to go back to your districts, confer with your districts, talk to the retailers, talk to the law enforcement folks, and find out where you are on this vote, because I promise after the Grand Island seminar comes together, Mr. Rupe and I will get back together... [LB60]

SENATOR GLOOR: One minute. [LB60]

SENATOR KRIST: ...and there will be another LB60 by another number if he needs that reinforcement in statute in 2013, I will be back to do that. Thank you, Mr. President. [LB60]

SENATOR GLOOR: Thank you, Senator Krist. Mr. Clerk. [LB60]

CLERK: Mr. President, a priority motion. Senator Krist, I'm going to treat this as a unanimous consent request if that's...Mr. President, Senator Krist would move or ask unanimous consent to bracket LB60 until April 1 of 2012. [LB60]

SENATOR GLOOR: Are there any objections? Senator Krist. So ordered. Next bill, Mr. Clerk. [LB60]

CLERK: Mr. President, LB459. Senator Larson, I have Enrollment and Review amendments. (ER149, Legislative Journal page 351.) [LB459]

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SENATOR GLOOR: Senator Larson. [LB459]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB459 be adopted. [LB459]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB459. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB459]

CLERK: I have nothing further on the bill. [LB459]

SENATOR GLOOR: Senator Larson. [LB459]

SENATOR LARSON: Mr. President, I move that LB459 be advanced to E&R for engrossing. [LB459]

SENATOR GLOOR: You've heard the motion. All those in favor say aye. All those opposed say nay. LB459 is advanced. Mr. Clerk. [LB459]

CLERK: LB473, Senator Larson, I have Enrollment and Review amendments. (ER151, Legislative Journal page 359.) [LB473]

SENATOR GLOOR: Senator Larson. [LB473]

SENATOR LARSON: Mr. President, I move that the amendments to LB473 be adopted. [LB473]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB473. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB473]

CLERK: I have nothing further on that bill, Senator. [LB473]

SENATOR GLOOR: Senator Larson for a motion. [LB473]

SENATOR LARSON: Mr. President, I move that LB473 be advanced to E&R for engrossing. [LB473]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. LB473 is advanced. Continuing with Select File. [LB473]

CLERK: Mr. President, LB633. I do have Enrollment and Review amendments, Senator. (ER150, Legislative Journal page 359.) [LB633]

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SENATOR GLOOR: Senator Larson. [LB633]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB633 be adopted. [LB633]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB633. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB633]

CLERK: I have nothing further on the bill, Senator. [LB633]

SENATOR GLOOR: Senator Larson for a motion. [LB633]

SENATOR LARSON: Mr. President, I move that LB633 be advanced to E&R for engrossing. [LB633]

SENATOR GLOOR: Thank you, Senator Larson. Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB633 is advanced. [LB633]

CLERK: LR19CA. Senator, I do have Enrollment and Review amendments. (ER153, Legislative Journal page 359.) [LR19CA]

SENATOR GLOOR: (Gavel) Senator Larson. [LR19CA]

SENATOR LARSON: Mr. President, I move the E&R amendments to LR19CA be adopted. [LR19CA]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LR19CA. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LR19CA]

CLERK: I have nothing further on the bill, Senator. [LR19CA]

SENATOR GLOOR: Senator Larson for a motion. [LR19CA]

SENATOR LARSON: Mr. President, I move that LR19CA be advanced to E&R for engrossing. [LR19CA]

SENATOR GLOOR: Senator Avery, do you wish to be recognized? [LR19CA]

SENATOR AVERY: Yes. Thank you, Mr. President. I just want to update the body on some discussions that several senators and I had on this bill because I don't want any lingering doubts out there as to whether we have gotten this right. I remember on

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General File we did have a discussion as to what is the impeachable...the definition of an impeachable misdemeanor. We met in my office for about an hour, three or four of us, and we reviewed four Supreme Court cases involving impeachment and we all came to the conclusion that those cases established very clearly that the definition of misdemeanor in the context of impeachment does not mean the same thing as a misdemeanor in criminal code. Misdemeanor in criminal code can include things like traffic tickets and DUIs and campaign filing issues. This is not the same thing. The courts have been very clear that misdemeanor in the context of impeachment means acts that by their nature or consequence are subversive of some fundamental or essential principle of government or highly prejudicial to the public interest. And that is...we've all reached agreement on this and I just want you to know that our plan is, once this is adopted, to go to the Executive Board with a proposed language to go on the ballot that will make this very clear that what the voters will be voting on is not the criminal definition of misdemeanor, but the impeachable definition. Thank you, Mr. President. [LR19CA]

SENATOR GLOOR: Thank you, Senator Avery. Senator Flood, you're recognized. [LR19CA]

SPEAKER FLOOD: Thank you, Mr. President and members. I agree with where Senator Avery is going. I think the constitutional amendment legislative resolution is in a right form to conform to case law. And while it may be attractive if you give us a certain set of facts to tweak the language one way or the other, I think what Senator Avery's resolution does is, it respects the case law from the Nebraska Supreme Court on how they've regarded misdemeanors in office, and I plan to support it. The one point I want to make that I think is very important here, and Senator Avery and I have talked about it, that language that we put on the ballot does have to be approved by the Executive Board. And in my opinion, as a member of the Executive Board, the Revisor of Statutes needs to be comfortable with the ballot language. Our Revisor of Statutes, she does a good job of crafting language that accurately tells the story of what the ballot language is about without slanting it one way or the other. And I don't know that the current...any proposed ballot language that we have right now meets with that favor. So I guess, Senator Avery, if you'll yield to a question. [LR19CA]

SENATOR GLOOR: Senator Avery, will you yield? [LR19CA]

SENATOR AVERY: I will. [LR19CA]

SPEAKER FLOOD: Senator Avery, I just want to say I think this bill in its form as resolution is the right thing to do. The one piece of this that I think you and I need to talk about, and we need to work on as we go through this session and into the place where the Exec Board will consider this, you're under the understanding, you value the Revisor's role in drafting ballot language, right? [LR19CA]

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SENATOR AVERY: I do. [LR19CA]

SPEAKER FLOOD: Okay. And you're willing to work with the Exec Board and the Revisor to make sure any language we put on the ballot meets within the guidelines that is acceptable, right? [LR19CA]

SENATOR AVERY: Yes. [LR19CA]

SPEAKER FLOOD: Okay. [LR19CA]

SENATOR AVERY: And I just would hope that we can be a part of that process. [LR19CA]

SPEAKER FLOOD: Absolutely. [LR19CA]

SENATOR AVERY: And I'm sure that what we have recommended may not meet with the Revisor's preferences, but we can probably come up with some that would. [LR19CA]

SPEAKER FLOOD: Well, and knowing that and the form that this resolution is in now, you know, you couldn't write it any better, in my opinion, for what we're trying to do here and that is to bring in the case law, put it under the same roof, and move on. And you're not disrupting what the Supreme Court has done. You're making it more clear. As long as we work on the ballot language together, and that's a collaborative process, I think we're going in the right direction. Thank you. [LR19CA]

SENATOR GLOOR: Thank you, Senator Flood and Senator Avery. Senator Wightman, you are recognized. [LR19CA]

SENATOR WIGHTMAN: Thank you, Mr. President, members. As Chair of the Executive Board, I thought maybe it would be helpful if I read some of the statutory language with regard to the ballot question that will be placed on and the statement as to that ballot that will be placed on by the Executive Board. And certainly as Senator Flood, Speaker Flood indicated, the Revisor of Statutes will have a part in that. But it does say when any proposals submitted...this is the statute, 49-202.01, "any proposal submitted by the Legislature is placed on the ballot for a vote of the electorate of the entire state, a statement in clear, concise language explaining the effect of a vote for and a vote against the proposal shall be printed immediately." And then later in the same statute, it says "such statement shall be printed in italics and shall be so worded as to not be intentionally an argument or likely to create prejudice either for or against the proposal." Again, I think Senator Flood is right with regard to what he says and that we need to work together on this with the Revisor of Statutes, but you should know the limitations

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that we'll be working within. I do intend to support LR19CA but with that word of caution. Thank you, Mr. President. [LR19CA]

SENATOR GLOOR: Thank you, Senator Wightman. The Chair recognized Senator Carlson. [LR19CA]

SENATOR CARLSON: Mr. President and members of the Legislature, when we discussed LR19CA on General File, I had said that unless a change was made to clarify any misdemeanor by Select File I wouldn't support the bill. On Select File and I've been in on the group that discussed this. I'm very satisfied with what Senator Avery has come up with and hopefully, the Revisors will agree. And with that, I certainly support LR19CA. Thank you. [LR19CA]

SENATOR GLOOR: Thank you, Senator Carlson. Are there other senators wishing to be recognized? Senator Nelson, you are recognized. [LR19CA]

SENATOR NELSON: Thank you, Mr. President and members of the body. Very briefly, I had concerns about the definition and I, too, like those speaking before me, now support this with the good definition of misdemeanor buttressed by case law. So I stand in support of LR19CA with the definition that Senator Avery has proposed. Thank you. [LR19CA]

SENATOR GLOOR: Thank you, Senator Nelson. Seeing no further senators in the queue, Senator Larson for a motion. [LR19CA]

SENATOR LARSON: Mr. President, I move that LR19CA be advanced to E&R for engrossing. [LR19CA]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. LR19CA advances. We continue with Select File. Mr. Clerk. [LR19CA]

CLERK: LB426, I do have Enrollment and Review amendments, Senator. (ER152, Legislative Journal page 366.) [LB426]

SENATOR GLOOR: Senator Larson. [LB426]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB426 be adopted. [LB426]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB426. All in favor say aye. All opposed say nay. The amendments are adopted. [LB426]

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CLERK: Senator Cornett would move to amend with AM1783. (Legislative Journal page 373.) [LB426]

SENATOR GLOOR: Senator Cornett, you're recognized to open on your amendment to LB426. [LB426]

SENATOR CORNETT: Thank you, Mr. President and members of the body. During the E&R process for LB426, it was found that the language that was passed on General File for statute 13-3108 was in conflict with the language in statute 13-2706. AM1783 is a technical amendment that would resolve the conflict by mirroring the language of LB426 which dealt only with statute 13-3108. So to quickly restate, LB426 would provide clear language that would both prohibit cities...that would prohibit cities from utilizing both the Sports Arena Financing Assistance Act and the Local Civic, Cultural and Convention Financing Act for the same project, but would still allow the cities who have received financing under the Local Civic, Cultural and Convention Center Financing Act in the past to choose to utilize the Sports Arena Facility Financing Assistance Act. I would urge you to support AM1783. It is clarifying language recommended by the Revisors. Thank you. [LB426]

SENATOR GLOOR: Thank you, Senator Cornett. Members, you have heard the opening on AM1783. Are there members wishing to be recognized? Seeing none, Senator Cornett, you are recognized to close on your amendment. Senator Cornett waives. Members, the question is the adoption of AM1783 to LB426. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB426]

CLERK: 32 ayes, 0 nays on adoption of Senator Cornett's amendment. [LB426]

SENATOR GLOOR: The amendment is adopted. [LB426]

CLERK: I have nothing further on the bill, Mr. President. [LB426]

SENATOR GLOOR: Senator Larson for a motion. [LB426]

SENATOR LARSON: Mr. President, I move that LB426 be advanced to E&R for engrossing. [LB426]

SENATOR GLOOR: You have heard the motion. All in favor say aye. All opposed say nay. LB426 is advanced. (Gavel) Mr. Clerk. [LB426]

CLERK: LB310. I have E&Rs, first of all, Senator. (ER154, Legislative Journal page 368.) [LB310]

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SENATOR GLOOR: Senator Larson. [LB310]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB310 be adopted. [LB310]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. The E&R amendments are adopted. [LB310]

CLERK: Senator McGill would move to amend with AM1917. (Legislative Journal page 477.) [LB310]

SENATOR GLOOR: Senator McGill, you're recognized to open on your amendment. [LB310]

SENATOR MCGILL: Thank you, Mr. President and members of the body. This amendment clarifies the meaning of credible threat. If you remember, in this bill we're taking the word "imminent" out of the terminology in order to get a protection order. So, the amendment is on your gadget but I'm going to go ahead and read it, a credible threat. "For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat shall not prevent the threat from being deemed a credible threat under this section." Other than the definition of credible threat, I think the will of the body was that the rest of the legislation was fine, and so I ask your advancement of this amendment. Thank you. [LB310]

SENATOR GLOOR: Thank you, Senator McGill. Members, you have heard the opening on AM1917. Are there senators wishing to be recognized? Seeing none, Senator McGill, you're recognized to close. Senator McGill waives. The question is, shall the amendment to LB310 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB310]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB310]

SENATOR GLOOR: The amendment is adopted. [LB310]

CLERK: I have nothing further on the bill, Mr. President. [LB310]

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SENATOR GLOOR: Senator Larson for a motion. [LB310]

SENATOR LARSON: Mr. President, I move that LB310 be advanced to E&R for engrossing. [LB310]

SENATOR GLOOR: You have heard the motion. All in favor say aye. All opposed say nay. The bill advances. Mr. Clerk. [LB310]

CLERK: LB612. I do have E&Rs, Senator. (ER155, Legislative Journal page 372.) [LB612]

SENATOR GLOOR: Senator Larson. [LB612]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB612 be adopted. [LB612]

SENATOR GLOOR: Thank you, Senator Larson. Members, the question is the adoption of the E&R amendments to LB612. All in favor say aye. All opposed say nay. The amendment is adopted. [LB612]

CLERK: Senator Pirsch would move to amend with AM1896. (Legislative Journal page 457.) [LB612]

SENATOR GLOOR: Senator Pirsch, you're recognized to open on your amendment. [LB612]

SENATOR PIRSCH: Thank you. Members of the body, this amendment, AM1896, does nothing other than clarify that a criminal prosecution would not be required for a child victim to file a civil action. So it just guards against unintended consequences. Thank you. [LB612]

SENATOR GLOOR: Thank you, Senator Pirsch. You have heard the opening on the amendment to LB612. Are there senators wishing to be recognized? Seeing none, Senator Pirsch, you're recognized to close on your amendment. Senator Pirsch waives. The question is, shall the amendment to LB612 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB612]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment. [LB612]

SENATOR GLOOR: The amendment is adopted. [LB612]

CLERK: I have nothing further on the bill. [LB612]

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SENATOR GLOOR: Senator Larson for a motion. [LB612]

SENATOR LARSON: Mr. President, I move that LB612 be advanced to E&R for engrossing. [LB612]

SENATOR GLOOR: You have heard the motion. Those in favor signify by saying aye. Those opposed say nay. LB612 advances. [LB612]

CLERK: Mr. President, with respect to LB216, I do have Enrollment and Review amendments, Senator. (ER157, Legislative Journal page 396.) [LB216]

SENATOR GLOOR: Senator Larson. [LB216]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB216 be adopted. [LB216]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB216. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB216]

CLERK: I have nothing further on that bill, Senator. [LB216]

SENATOR GLOOR: Senator Larson for a motion. [LB216]

SENATOR LARSON: Mr. President, I move that LB216 be advanced to E&R for engrossing. [LB216]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. Those opposed say nay. LB216 advances. Mr. Clerk. [LB216]

CLERK: LB216A, Senator, I do have Enrollment and Review amendments. (ER158, Legislative Journal page 401.) [LB216A]

SENATOR GLOOR: Senator Larson. [LB216A]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB216A be adopted. [LB216A]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB216A. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB216A]

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CLERK: I have nothing further on that bill, Senator. [LB216A]

SENATOR GLOOR: Senator Larson for a motion. [LB216A]

SENATOR LARSON: Mr. President, I move that LB216A be advanced to E&R for engrossing. [LB216A]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. Those opposed say nay. LB216A is advanced. Mr. Clerk. [LB216A]

CLERK: LB391, I do have Enrollment and Review amendments, Senator. (ER159, Legislative Journal page 401.) [LB391]

SENATOR GLOOR: Senator Larson. [LB391]

SENATOR LARSON: Mr. President, I move that LB391 be advanced to E&R for engrossing. [LB391]

SENATOR GLOOR: Members, you have heard the motion. The question is the adoption of the E&R amendments to LB391. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB391]

CLERK: Mr. President, Senator Schilz, I have AM1804 with a note you want to withdraw. [LB391]

SENATOR SCHILZ: That is correct. [LB391]

SENATOR GLOOR: So ordered. [LB391]

CLERK: Senator Schilz, I have a similar note...I'm sorry. Senator Schilz, and I now have AM1831. (Legislative Journal page 447.) [LB391]

SENATOR SCHILZ: AM1831, yes, sir. You should have AM1830 as well, correct? [LB391]

CLERK: I do. [LB391]

SENATOR SCHILZ: Okay. [LB391]

CLERK: Well, I'm sorry. Hang on. I have AM1831, AM1830, and AM1928 in that order. [LB391]

SENATOR SCHILZ: Correct. [LB391]

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CLERK: Okay. Yes, sir. [LB391]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment to LB391. [LB391]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Basically, AM1831 was some cleanup language that we needed to have to harmonize everything that goes in to correctly state who is actually involved like the University of Nebraska Institute of Agriculture and Natural Resources. And basically what it does is just clarifying the language to make sure that we are identifying the proper agencies, the proper entities that are involved within these committees. So with that, I would ask for your support on AM1831. [LB391]

SENATOR GLOOR: Members, you've heard the opening on AM1831. Are there members wishing to be recognized? Seeing none, Senator Schilz, you're recognized to close. Senator Schilz waives. Members, the question is, shall the amendment to LB391 be adopted? Those in favor vote aye. Those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB391]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Schilz's amendment. [LB391]

SENATOR GLOOR: The amendment is adopted. [LB391]

CLERK: Senator Schilz would move to amend with AM1830. (Legislative Journal page 448.) [LB391]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment. [LB391]

SENATOR SCHILZ: Thank you, Mr. President. Once again, this is not a huge change but it's one we talked to the power companies and so what we did was, we are...this amendment would reshuffle the task force to give a power utility a seat on the board, and at the same time it would move the Nebraska Field Office of the Nature Conservancy to an advisory role on this committee. So that is all this amendment does and with that, I would ask for your support on AM1830. [LB391]

SENATOR GLOOR: Members, you've heard the opening on AM1830 to LB391. Are there senators wishing to be recognized? Seeing none, Senator Schilz you're recognized to close on your amendment. Senator Schilz waives. Members, the question is, shall the amendment to LB391 be adopted? All those in favor vote aye. All those opposed vote nay. Record, Mr. Clerk. [LB391]

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CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Schilz's amendment. [LB391]

SENATOR GLOOR: The amendment is adopted. [LB391]

CLERK: Senator Schilz would move to amend with AM1928. (Legislative Journal pages 478-481.) [LB391]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment to LB391. [LB391]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I bring AM1899 (sic) to allow Game and Parks the ability to take proactive measures to prevent aquatic invasive species in our Nebraska waters. We worked with Game and Parks and invasive species program coordinator with the University of Nebraska to address the growing concerns about harmful aquatic invasive species. This language does come from a bill, LB392, which I introduced alongside LB391, and it's currently sitting in the committee. The language in AM1899 (sic) is not identical to LB392. I made sure to eliminate the program, and requires inspections which create a fiscal note. This will allow Game and Parks to utilize their current resources to take preventative measures against aquatic invasive species. There's a great deal of concern about harmful aquatic invasive species problems coming to Nebraska. Aquatic plants are already a problem at NPPD's Gerald Gentleman Station near Sutherland. Last week I provided a handout about zebra mussels and their detrimental affect upon the environment. AM1899 (sic) provides definitions for aquatic invasive species, authorizes inspector, and conveyance. It also prohibits someone from possessing, importing, exporting, purchasing, selling, or transporting aquatic invasive species except when being removed from a conveyance. Refusal to submit to conveyance of the inspection would be a Class III misdemeanor under this amendment. Thank you, Mr. President. And I would hope that I can get support on AM1928. [LB391 LB392]

SENATOR GLOOR: Senator Schilz, point of clarification. You just mentioned you closed on AM1928. [LB391]

SENATOR SCHILZ: AM1928. [LB391]

SENATOR GLOOR: AM1928. You had been referencing AM1899. Did you intend that to be AM1928? [LB391]

SENATOR SCHILZ: Yes, it is AM1928. It's gone through a maturation. [LB391]

SENATOR GLOOR: Thank you for that clarification, Senator Schilz. Members, you've

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heard the opening on AM1928 to LB391. Are there members wishing to be recognized? Seeing none, Senator Schilz, you're recognized to close. [LB391]

SENATOR SCHILZ: Thank you, Mr. President. I would like to say...I'd like to thank Senator Langemeier for all of his help on this amendment. It's come together quick. It's been kind of a whirlwind. But the reason that we were able to pull this part of LB392 out, what we did was we went and looked and identified all the places where the fiscal note was and we pulled all of that out. So the fiscal note would be minimal to none on this amendment. And with that, I will close. Thank you. [LB391 LB392]

SENATOR GLOOR: Thank you, Senator Schilz. The question is, shall the amendment to LB391 be adopted? All those in favor say aye. All those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB391]

CLERK: 32 ayes, 0 nays on adoption of the amendment. [LB391]

SENATOR GLOOR: The amendment is adopted. [LB391]

CLERK: I have nothing further on the bill, Senator Larson. [LB391]

SENATOR GLOOR: Senator Larson for a motion. [LB391]

SENATOR LARSON: Mr. President, I move that LB391 be advanced to E&R for engrossing. [LB391]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. Those opposed say nay. LB391 is advanced. Mr. Clerk. [LB391]

CLERK: Mr. President, LB507. I do have Enrollment and Review amendments, Senator. (ER161, Legislative Journal page 405.) [LB507]

SENATOR GLOOR: Senator Larson. [LB507]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB507 be adopted. [LB507]

SENATOR GLOOR: Thank you, Senator Larson. The question is the adoption of the E&R amendments to LB507. Those in favor say aye. Those opposed say nay. The amendment is adopted. [LB507]

CLERK: Senator Harms would move to amend with AM1837. (Legislative Journal page 450.) [LB507]

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SENATOR GLOOR: Senator Harms, you're recognized to open on your amendment. [LB507]

SENATOR HARMS: Thank you, Mr. President and colleagues. These are two minor changes. We strike Section 6 and insert the following new section, in Section 6, 2 to 5 of this act terminates on December 31, 2016. And then the second change is on page 2, line 15, strike "Act" and insert "program." We don't have an act in Nebraska, it's a program. Thank you, Mr. President. [LB507]

SENATOR GLOOR: Thank you, Senator Harms. You have heard the opening on the amendment to LB507. Are there senators wishing to be recognized? Seeing none, Senator Harms, you're recognized to close. Senator Harms waives closing. The question before the body is, shall the amendment to LB507 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB507]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Harms's amendment. [LB507]

SENATOR GLOOR: The amendment is adopted. [LB507]

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

SENATOR GLOOR: Senator Larson for a motion. [LB507]

SENATOR LARSON: Mr. President, I move that LB507 be adopted. [LB507]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. Those opposed say nay. LB507 advances. Mr. Clerk. [LB507]

CLERK: LB40, I do have Enrollment and Review amendments. (ER160, Legislative Journal page 407.) [LB40]

SENATOR GLOOR: Senator Larson. [LB40]

SENATOR LARSON: Mr. President, I move the amendments to LB40 be adopted. [LB40]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB40. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB40]

CLERK: I have nothing further on the bill. [LB40]

SENATOR GLOOR: Senator Larson for a motion. [LB40]

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SENATOR LARSON: Mr. President, I move that LB40 be advanced to E&R for engrossing. [LB40]

SENATOR GLOOR: You've heard the motion. Those in favor say aye. Those opposed say nay. LB40 advances. Mr. Clerk. [LB40]

CLERK: LB427, Senator, I do have Enrollment and Review amendments. (ER165, Legislative Journal page 417.) [LB427]

SENATOR GLOOR: Senator Larson. [LB427]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB427 be adopted. [LB427]

SENATOR GLOOR: The question before the body is the adoption of the E&R amendments to LB427. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB427]

CLERK: I have nothing further on LB427, Senator. [LB427]

SENATOR GLOOR: Senator Larson. [LB427]

SENATOR LARSON: Mr. President, I move that LB427 be advanced to E&R for engrossing. [LB427]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB427 advances. Moving to General File. Mr. Clerk. [LB427]

CLERK: Mr. President, LB800, offered by Senator Louden. (Read title.) Introduced on January 5, referred to the Education Committee, and I have no amendments pending at this time, Mr. President. [LB800]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Louden, you're recognized to open on LB800. [LB800]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I bring before you today LB800 which would provide that the appraised value used for purposes of sales of educational lands and funds at public auction would be the value determined by the Board of Educational Lands and Funds. Prior to the passage of LB210 in 2011 Legislative Session, Nebraska Board of Educational Lands and Funds was required by statutes to offer land at public auction with a beginning bid price at least equal to appraised value. Section 72-258.03 defined appraised value as the adjusted

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value as determined by the property tax administrator. The pre-LB210 procedure was relatively simple and its simplicity encouraged the purchase of BELF land, Bureau of Educational Lands and Funds. As a potential buyer of BELF land had to do to discover the beginning bid price was to visit the BELF Web site. The Web site included all of the parcels that were for sale and included the beginning bid price. The land shown as for sale on the Web site is worth in excess of \$150. If a potential buyer considered purchasing property they would simply notify BELF in writing that they were willing to bid the beginning bid price listed on the Web site. Upon receiving the written request, BELF would confirm that the beginning bid price exceeded the adjusted tax value. In the vast majority of cases, the beginning bid price did exceed the adjusted tax value. If that was the case, BELF set a sale date, notice was given, and the public auction was held at which anyone could bid on the property. LB210 changed the appraised value for which BELF could be sold. It deleted adjusted tax value from the definition of appraised value. This resulted in the appraised value being determined and pursuant to Section 72-257 and 72-258. These statutes mention certified general appraisals. They do not use mandatory language. In fact 72-257 uses the phrase, may be appraised. However, a cautious interpretation of these sections could mean that appraised value for setting a beginning bid at auction is a value set by certified general appraisal. A clarification of the term appraised value by eliminating any possible reference to a certified general appraisal is needed. Requiring certified general appraisals greatly complicates and delays the sale process and results in unnecessary expense to BELF. First, it requires that BELF remove beginning bid prices from the land listed on the BELF's Web site. This is because a beginning bid price on each parcel cannot now be determined until a certified general appraisal has been performed. Therefore, when a prospective buyer contacts BELF to inquire about the beginning bid price, well, when they look at their Web site, they are unable to obtain a beginning bid price. BELF can only tell them that if they are interested they must wait until a certified general appraisal determines the beginning bid price. A prospective buyer must complete multiple steps before they can now get a land parcel set for public auction. Second, there is the issue of who pays for the certified general appraisal, which on average would cost about \$1,500. The BELF board has decided to require a refundable deposit be paid by the prospective buyer, which will be applied to the purchase price. This, of course, reduces the proceeds to BELF by about \$1,500. If someone other than the prospective buyer buys the property, BELF repays the deposit. Again this reduces the net to BELF by \$1,500. Even when the deposit is made, the prospective buyer is still not in a position to decide whether he wants to make a beginning bid until the certified general appraisal setting the beginning bid price is completed. This results in further delay in the sale process. Finally, only after the appraisal has been completed can the board decide if it wants to sell the property. Again, there is a delay until the next board meeting after the completion of the appraisal. Then only after the board decides whether to sell does the prospective buyer know that the land will be sold and at what beginning bid price. In summary, this process results in price uncertainty, unnecessary delays, and an unnecessary cost to BELF. The passage of LB210 has already proven that this complicated procedure is difficult to explain and

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discourage potential bid of land sales. It is the case where when we passed BELF here last year or...we passed LB210, that it was some unintended consequences. So LB800 tries to straighten that out, streamlines the process that the Bureau of Educational Lands and Funds can put a bid...could put a beginning bid price on their property. With that, I would ask you to advance LB800 to Select File. Thank you, Mr. President. [LB800 LB210]

SENATOR GLOOR: Thank you, Senator Louden. Other members wishing to be recognized? Seeing none, Senator Louden, you're recognized to close on LB800. Senator Louden waives. The question before the body is the advancement of LB800 to E&R Initial. Those in favor vote aye. Those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB800]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB800. [LB800]

SENATOR GLOOR: The bill advances. Continuing with General File, LB446. Mr. Clerk. [LB800 LB446]

CLERK: LB446, Mr. President, a bill by Senator Adams. (Read title.) Introduced on January 14 of last year, referred to the Education Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB446]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB446. [LB446]

SENATOR ADAMS: Thank you, Mr. President and members of the body. LB446 deals with educational service units and very specifically it deals with educational service units number 18 and 19, LPS and OPS. We have 19 educational service units in the state, two of those are single district ESUs, Lincoln and OPS. Why are they single district? Because if you look at the student enrollment, both of those cases you find a student enrollment that is in most cases greater than the student enrollment in other ESUs where you have multiple school districts. Several years ago the Legislature passed legislation that would terminate Lincoln and Omaha's opportunity to be a stand-alone ESU as of 2013. At the time, and I was on the Education Committee at the time, I think there was good philosophic reason for doing that. Since that time, I have looked at the practical implications of this, have had numerous conversations with the school districts involved in the ESU Coordinating Council, and I've arrived at the practical conclusion that they need to have the option to continue to stand alone as single district ESUs, which is in essence what this legislation would allow them to do. They are currently stand-alone. This legislation would allow them to continue to be stand-alone ESUs with a caveat. And the caveat is this: When they get their core service dollars from the state, what this legislation would ask both of those entities to do is to commit 5 percent of those core service dollars to statewide initiatives rather than just taking it, keeping it

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in-house, and pretending like they aren't a statewide player, this would say, 5 percent of your core service dollars have to be committed to statewide projects. And that will be very simple for both school districts because they are already currently involved in statewide initiatives, whether it be providing distance education courses to school districts across the state or a host of other things. But the intent language says, look, we'll let you stand alone, but you have to recognize that you need to be a part of a statewide initiative. We do have a statewide platform for all 19 ESUs, both Lincoln and Omaha currently participate in that. This would simply add a little energy to that from us, saying, all right, we'll let you continue to stand alone, but you need to continue to be an aggressive player on the statewide level and participate with the other school districts. The recalculation in aid will mean that both Lincoln and Omaha would see a reduction in core service dollars. And that reduction doesn't end up being a net savings to the state. It goes into the ESU core service funding pot to be distributed out to the other ESUs. That in essence is the bill, Mr. President. Thank you. [LB446]

SENATOR GLOOR: Thank you, Senator Adams. You've heard the opening on the amendment to LB446. There are senators wishing to be recognized. Senator Wallman, you are recognized. [LB446]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Adams yield to a question, please? [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR WALLMAN: Thank you. I appreciated your talk about statewide cooperation, but why do we need these ESUs to stand alone, in your opinion? [LB446]

SENATOR ADAMS: Thank you, Senator Wallman. Here's why. As I pointed out to you a moment ago at the outset, my number one reason is that if you look at the total student enrollment in LPS, look at the total student enrollment in OPS, their enrollments in and of themselves are greater than the combined school enrollments in other individual ESUs. So in terms of serving students with a host of things from Internet services to special ed, the list goes on, they're serving a lot of students there, so that part I definitely get. The other implication is this, that if we don't let them stand alone, certainly one of the things that they could currently do under the law as it is, is say, all right, in 2013 if we're terminated as a single district to ESU, we're going to go out and find another school to partner up with us and simply become an ESU all over again. And that to me, from a practical standpoint, becomes problematic. I'm not sure that that's good for Lincoln or Omaha, and I don't believe it would be good for the school district that they partnered up with. [LB446]

SENATOR WALLMAN: Thank you, Senator Adams. I read this with very much interest and I would hope that we have a little more discussion on this. And I appreciate Senator

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Adams work on this. I know it's tough to lump all school districts in Nebraska into one, and the funding issues on ESUs whether it be for school or for....for ESUs it seems to become greater and greater and greater for the property tax people. And so thank you, Senator Adams. [LB446]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Price, you're recognized. [LB446]

SENATOR PRICE: Thank you, Mr. President and members. Would Senator Adams yield to a question? [LB446]

SENATOR GLOOR: Senator Adams, would you yield? [LB446]

SENATOR ADAMS: Yes. [LB446]

SENATOR PRICE: Thank you, Senator Adams. My question starts on page 9, line 7, where we start talking about, if you're not part of a Learning Community there would be work done at a 95 percent and if you are part of a Learning Community it's 85 percent. So, and where I'm seeing where this is like a distribution of state funds into...somehow or another these funds are a state purpose for ESUs? [LB446]

SENATOR ADAMS: These core service dollars that come from the state and go to the ESU are to assist the ESU in completing what we call their core services to the involved school districts. [LB446]

SENATOR PRICE: And can you talk for a minute why we have a difference of 95 percent for non and 85 for? [LB446]

SENATOR ADAMS: Yes. Yes. I'm going to ask you to think back, but in the original Learning Community legislation, the ESUs, ESU 3 and ESU 19, which is OPS, had to contribute their share of core service dollars to the Learning Community. And what we did two years ago was to change that and start ratcheting that back to the individual...back to the ESU and away from the Learning Community. Now, if...so, if you look at it when it comes time...if this bill passes, when it comes time to split those core service dollars because Lincoln is not part of a Learning Community and Omaha is, we look at Omaha and it is a 90-10 split. That 90 percent of Omaha's core service dollars go back to Omaha, 10 percent of it is staying with the Learning Community. Whereas, Lincoln is not part of a Learning Community so their core service dollars, 100 percent go to them. So if we knock 5 percent off of Lincoln and we knock 5 percent off of the OPS educational service unit, we arrive at that disparity. [LB446]

SENATOR PRICE: So we're making them both pay. I'm just... [LB446]

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SENATOR ADAMS: They're both taking the same hit. [LB446]

SENATOR PRICE: Right. And can you clarify, you just said ESU 3 is a part of OPS? [LB446]

SENATOR ADAMS: No. ESU 3 is part of the Learning Community and so the calculation on core service dollars and their contribution was the same as it was for OPS. So you had...when the Learning Community was formed, you had two ESUs involved. You had the stand-alone in Omaha and then you had some of the school districts within ESU 3. All right. And we had that distribution of core service dollars, some going to the ESU, some going back into the Learning Community. We've shifted that now and because Omaha is part of that, they're part of that shift. [LB446]

SENATOR PRICE: Okay. Great. So just to make sure I'm clarified, this legislation will affect the core service dollars for ESU 3? [LB446]

SENATOR ADAMS: It won't take anything away from ESU 3. It will...it really adjusts the core service dollars for Lincoln and for Omaha only. As far as ESU 3 is concerned, we took care of that two years ago when we started saying, we're going to take...we're going to take 90 percent of the core service dollars and give it back to ESU 3 and ESU 19 and only leave the Learning Community with 10 percent. So that's their part in this. [LB446]

SENATOR PRICE: Great, I appreciate that. I have just one more question to round it out if you don't mind, Senator Adams. And that is... [LB446]

SENATOR GLOOR: One minute. [LB446]

SENATOR PRICE: Thank you, Mr. President. Are there any school districts outside of OPS that are affiliated with ESU 13? [LB446]

SENATOR ADAMS: Which ESU? I'm sorry, Senator. [LB446]

SENATOR PRICE: OPS. The ESU servicing OPS. So it's only OPS and no other school districts are involved in that ESU service? [LB446]

SENATOR ADAMS: No. ESU 19, which is OPS, it's them and that's it. And what this bill would do is simply allow them to exist as a single district to ESU. [LB446]

SENATOR PRICE: Thank you, Senator Adams. Thank you, Mr. President. [LB446]

SENATOR GLOOR: Thank you, Senator Price. Thank you, Senator Adams. Mr. Clerk. [LB446]

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CLERK: Mr. President, a confirmation report from the Education Committee. Education Committee reports LB996 to General File and LB809 indefinitely postponed, both signed by Senator Adams. Banking Committee reports LB810 to General File, signed by Senator Pahls. Transportation, LB896 to General File and LB898 to General File, those signed by Senator Fischer. An amendment by Senator Fulton to LB992 to be printed. Senator Flood offers a new resolution, LR396. That will be laid over. An announcement: The Executive Board will have an Executive Session tomorrow morning at 8:45; Exec Board tomorrow morning at 8:45. Name adds: Senator McCoy to LB887, LB963, LB965; and Senator Dubas to LB893. (Legislative Journal pages 481-483.) [LB996 LB809 LB810 LB896 LB898 LB992 LR396 LB887 LB963 LB965 LB893]

And a priority motion. Senator McCoy would move to adjourn the body until Thursday morning, February 9, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until tomorrow morning at 9:00 a.m. Those in favor say aye. Those opposed say nay. We stand adjourned.