

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

[LB1 LB2 LB7 LB16 LB30 LB31 LB35 LB48 LB49 LB70 LB72 LB87 LB88 LB91 LB100
LB102 LB111 LB112 LB113 LB125 LB146 LB155 LB156 LB180 LB211 LB225 LB295
LB311 LB363 LB434 LB510 LB613 LR46]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-third day of the One Hundred Third Legislature, First Session. Our chaplain for today is Pastor Brad Hoefs from the Community of Grace Church in Elkhorn, Nebraska; that is Senator McCoy's district. Please rise.

PASTOR HOEFS: (Prayer offered.)

SPEAKER ADAMS: Thank you. I call to order the twenty-third day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SPEAKER ADAMS: Are there any messages, reports, or announcements to be made?

CLERK: Yes, sir, I do. Your Committee on Enrollment and Review reports LB7, LB156, LB225, LB180, LB311, LB211, LB70, LB31, and LB295, all to Select File, some of which have Enrollment and Review amendments attached. I have hearing notice from the Education Committee signed by Senator Sullivan, as Chair, two different notices; and a conflict of interest statement by Senator Bloomfield that will be on file in the Clerk's Office. That's all that I have, Mr. President. (Legislative Journal pages 407-408.) [LB7 LB156 LB225 LB180 LB311 LB211 LB70 LB31 LB295]

SPEAKER ADAMS: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, Final Reading. Mr. Clerk, we'll move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, the first bill, LB1. [LB1]

CLERK: (Read LB1 on Final Reading.) [LB1]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB1 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

CLERK: (Record vote read, Legislative Journal page 409.) 49 ayes, 0 nays, Mr. President, on the final passage of LB1. [LB1]

SPEAKER ADAMS: LB1 passes. We'll now proceed to LB2. [LB1 LB2]

CLERK: (Read LB2 on Final Reading.) [LB2]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB2 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB2]

CLERK: (Record vote read, Legislative Journal pages 409-410.) 49 ayes, 0 nays, Mr. President, on the final passage of LB2. [LB2]

SPEAKER ADAMS: LB2 passes. We'll now proceed to LB16. [LB2 LB16]

CLERK: (Read LB16 on Final Reading.) [LB16]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB16 pass? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB16]

CLERK: (Record vote read, Legislative Journal page 410.) 49 ayes, 0 nays, Mr. President, on the final passage of LB16. [LB16]

SPEAKER ADAMS: LB16 passes. We'll now proceed to LB30. [LB16 LB30]

CLERK: (Read LB30 on Final Reading.) [LB30]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB30 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB30]

CLERK: (Record vote read, Legislative Journal page 411.) 49 ayes, 0 nays, Mr. President, on the final passage of LB30. [LB30]

SPEAKER ADAMS: LB30 passes with the emergency clause. We'll now proceed to LB35. And, Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB30 LB35]

CLERK: 42 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB35]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB35]

CLERK: (Read title of LB35.) [LB35]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB35 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. Record, Mr. Clerk. [LB35]

CLERK: (Record vote read, Legislative Journal page 412.) 49 ayes, 0 nays, Mr. President, on the final passage of LB35. [LB35]

SPEAKER ADAMS: LB35 passes with the emergency clause attached. We'll now proceed to LB49. [LB35 LB49]

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return LB49 to Select File for a specific amendment, that amendment being to strike the enacting clause. (FA5, Legislative Journal page 412.) [LB49]

SPEAKER ADAMS: Senator Chambers, you are recognized to open. [LB49]

SENATOR CHAMBERS: Mr. President, members of the Legislature, friends some, (laughter) this is a bill which allows me to invoke what I call the Loran Schmit formula. It doesn't help anybody, it doesn't hurt anybody, it doesn't cost anything, it doesn't do anything. For those who haven't looked at this bill or followed its progress, all it does is require the establishment of a joint committee. They're supposed to get together and come up with some plan to create one housing authority, then report their findings to the Urban Affairs Committee. The Urban Affairs Committee is not charged with doing anything. The committee could come back and say we could not reach a conclusion so we have no plan. I like Senator Ashford. And if there were anybody that I would do something for just because I like that person, Senator Ashford would be that person. But this serves notice that if I won't do it even for him, then I'm not going to do it for anybody else. I take our lawmaking very seriously and I think a law should be enacted only if a persuasive reason can be given for its enactment. And I think the law that is to become an operative law should do something. This bill, unfortunately, does nothing. I will not support it. I will not support any legislation of this kind. I understand what Senator Ashford is attempting to accomplish. If these entities don't want to come together, I would suggest that he offer a resolution for a study of this issue, after which, depending upon the outcomes of that study, legislation could be introduced. If the Legislature is going to act in this area, it should do so decisively. If it is not believed that the Legislature should require this one housing authority to come into existence, then it will not enact a law. If it's determined that the Legislature should act, that action should consist of passing a law mandating that this action be taken. The motion is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

straightforward. It will result in returning this bill to Select File. If you vote to return the bill, there can then be a discussion as to why the bill ought to not have its...this is so difficult for me, emergency...I meant its enacting clause stricken. If you vote to strike the enacting clause, that means the bill is dead. But if you bring the bill back and still you halt between two opinions, you can not vote to re-advance the bill to Final Reading and just let it languish on Select File. Those are the only alternatives I can think of. But the best thing would be to do this cleanly. So the motion is to bring the bill back. That would require 25 votes. Then I will try to persuade you to vote to strike the enacting clause, 24 other wise, forward-looking senators who respect the Legislature as an institution and want to restore it to a former status of dignity and parity with the other two branches of government. That's all I'll have to say by way of an opening. Thank you, Mr. Speaker. [LB49]

SPEAKER ADAMS: Thank you, Senator Chambers. Is there anyone wishing to speak? Senator Ashford, you're recognized. [LB49]

SENATOR ASHFORD: Thank you, Senator Chambers, for those kind words. I have no objection to this bill going back to Select File for a specific amendment. But I don't think striking the enacting clause would be the proper way to go. There are some things that Senator Chambers and I can talk about, so I would have no objection to do that if you want to substitute that amendment, Senator Chambers. Would you mind if I could ask Senator Chambers? [LB49]

SPEAKER ADAMS: Senator Chambers, would you yield? [LB49]

SENATOR CHAMBERS: The only thing you can do when you return a bill to Select File is for a specific amendment. [LB49]

SENATOR ASHFORD: Correct. [LB49]

SENATOR CHAMBERS: No other thing can be considered. [LB49]

SENATOR ASHFORD: Correct. [LB49]

SENATOR CHAMBERS: You said an alternative amendment. I don't know what it is that you have in mind. [LB49]

SENATOR ASHFORD: Well, you're talking about striking the enacting clause, which in effect kills the bill. [LB49]

SENATOR CHAMBERS: Yes, graveyard dead. [LB49]

SENATOR ASHFORD: And I'd rather not do that. [LB49]

Floor Debate
February 11, 2013

SENATOR CHAMBERS: You don't want to do that? [LB49]

SENATOR CHAMBERS: No, I don't want to kill my own bill in the first couple of weeks. I mean, (laughter) now there's some other bills that I'm sure that, you know, maybe some of these tax bills that we could... [LB49]

SENATOR CHAMBERS: They won't get this far. (Laughter) [LB49]

SENATOR ASHFORD: Oh, I'd rather the bill advance and see what we can come up with. I don't want it to be dead, Senator Chambers. Let me just conclude. I think that Senator Chambers is absolutely correct that why pass...and we do this all the time and I think it's a lesson well worth receiving from Senator Chambers. And the other lesson that I remember is Senator Jerry Warner who used to say, don't start a program unless you fund the program. And we've been talking about that in Judiciary when we deal with prisons and some of these issues. But this is a longstanding problem in Omaha where we have two housing authorities essentially doing the same thing. They cross over into two jurisdictions. It is a waste of resources. And most importantly, it stymies our ability to provide affordable housing throughout the county. And that's why I'm giving to the housing authorities, by this bill, and we would be giving to the housing authorities one sort of last shot. We've been trying to get the parties together. They're beginning to talk about a solution that would result in a housing authority, one housing authority for the county. It is...when created, Douglas County Housing Authority was created in the early eighties. I think Senator Dan Lynch was the senator that initiated that effort. And at a time when the county had a lot...there was much more nonurban county than there is now, and the need for two housing authorities is, in my mind is...it's just beyond problematic to even think to have two. But, so this bill would give the parties, until January 1 of next year when we come back into session, the opportunity to come up with a plan. If they don't, the Urban Affairs Committee could then order the merger, which would I think be the option that we would consider at that time. So with that, I would ask that we enact this bill, LB49E, with the emergency clause, and let the parties move forward with their discussions. Thank you. [LB49]

SPEAKER ADAMS: Thank you, Senator Chambers (sic). Senator Krist, you're recognized. [LB49]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I have a question that I would like to ask Senator Chambers in a minute. But I'd like to make the point that we've gone through two rounds of debate and these issues have not been discussed so far. I am a member of the Urban Affairs Committee and I do think it's important for us, as we are doing in the OPS situation, to effect some changes at a local level where there is inefficiency. Maybe there are some tweaks that need to be done to LB49 and maybe it should be returned. So with that, I'd

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

like to engage Senator Chambers with a few questions. [LB49]

SPEAKER ADAMS: Senator Chambers, would you yield? [LB49]

SENATOR CHAMBERS: Yes, I will. [LB49]

SENATOR KRIST: Sir, if I understand your point and the rules correctly, you would be returning it to strike the enacting clause, which would kill the bill. [LB49]

SENATOR CHAMBERS: Yes. [LB49]

SENATOR KRIST: Is there a negotiation or a possible alternative to withdraw your amendment, put a floor amendment in that would return for a specific purpose that would send this action forward? [LB49]

SENATOR CHAMBERS: You mean am I willing to go along with that? [LB49]

SENATOR KRIST: Yes, sir. [LB49]

SENATOR CHAMBERS: No. [LB49]

SENATOR KRIST: So the only alternative for you at this point is to return, strike the enacting clause, and kill the action that we have tried to enact here today. [LB49]

SENATOR CHAMBERS: Aye aye, sir. [LB49]

SENATOR KRIST: Okay, Skipper. Thanks. I'm going to say at this point that I think there's been a lot of action, a lot of good efforts made, and that there's been a good deal of interest sparked and some concurrence at the local level. And I'm just not sure that I can support the amendment to return it for the only purpose of striking the enacting clause, which clearly defines that the bill will languish. Thank you, Mr. President. [LB49]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Chambers, you're recognized. [LB49]

SENATOR CHAMBERS: Mr. President, members of the Legislature, here's what we're looking at. There has been some discussion apparently that Senator Ashford has had with the ones who operate these two entities. They know what the Legislature may be looking at. This bill is not necessary. It's not going to require anything. What are you going to do if they don't form a committee? It doesn't say that the failure to form a joint committee shall be a Class III or V misdemeanor. It does not say that those who refuse to act will be found guilty of misfeasance or malfeasance in office. It doesn't say

Floor Debate
February 11, 2013

anything at all. Nothing is required. There's a song that Senator Ashford can sing for his bill. I'm going to punish you all this morning. (Singing) Johnny Cash is dead and his house burned down. Johnny Cash is dead and his house burned down. Who's going to play that black guitar, sing about things the way they are? Johnny Cash is dead and his house burned down. You can see I'm in mourning for Johnny Cash's house. Now Senator Ashford can sing a song like that in mourning for this bill. It has no business being enacted. I'm giving you the opportunity to rescue the Legislature from a pointless action. I don't know how to make it more plain, so I'm going to be somewhat repetitive. The constitution gives the Legislature plenary authority to enact any and all laws that it pleases which will not conflict with the Nebraska Constitution, federal law, the U.S. Constitution, or treaties which the United States has ratified. The constitution of a state restricts or limits the Legislature. It doesn't grant anything to the Legislature. Now if the Legislature is to take action that might fall within the province of one of the other two branches, the constitution has to say that specifically. But all those niceties aside, we should take very seriously the awesome responsibility that we have and the power that we can wield. I don't think it ought to be diminished. I don't think it ought to be misplaced. If you enact this bill into law and these entities don't obey it, then what? I'd like to ask Senator Krist a question if he would yield. [LB49]

SPEAKER ADAMS: Senator Krist, would you yield? [LB49]

SENATOR KRIST: Of course. [LB49]

SENATOR CHAMBERS: Senator Krist, do you think that anything I've said is incorrect? And, if so, call it to my attention and I will try to correct it prior to asking you a question. [LB49]

SENATOR KRIST: I don't think anything you've said this morning is incorrect. [LB49]

SENATOR CHAMBERS: If you would vote to pass this bill and 32 other lemmings would follow you over the cliff and the bill tells these two entities to form a joint committee and they choose not to do it, then what? [LB49]

SPEAKER ADAMS: One minute. [LB49]

SENATOR KRIST: First of all, I'm not a lemming, I'm a puffin. But to that end, I understand your analogy. I would say quite frankly that to return the bill and do what needs to be done to it, now that you've pointed out the error of our ways, would be productive. To kill it at this point will only mean that we will bring this back next year, potentially, with the teeth to formulate the concept that we already have concurrence with. So returning it, we could potentially fix the issues that you have brought up. [LB49]

SENATOR CHAMBERS: Thank you for your participation. Thank you, Mr. President.

Floor Debate
February 11, 2013

[LB49]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB49]

SENATOR ASHFORD: I am going to do this. There's another bill dealing with housing authorities that I believe is in the Urban Affairs Committee. And I'm going to agree with Senator Chambers that we not pass this bill along, we send it back to Select File to...for the purposes for which he has...which he is espousing. But I will tell you what we're going to do. We're going to have this other bill, which has been heard I believe, and we are going to include in that other bill that the housing authorities must merge on or before January 1, 2014. And we're going to in that bill hopefully if I can get...if I can persuade...let me ask Senator Krist a question if I could. [LB49]

SPEAKER ADAMS: Senator Krist, do you yield? [LB49]

SENATOR KRIST: Of course. [LB49]

SENATOR ASHFORD: Senator Krist, would you support...you're a member of the Urban Affairs Committee. Would you support an amendment that would require the Omaha Housing Authority and Douglas County Housing Authority to merge on or before January 1, 2014, pursuant to the other criteria that we've listed in the other bill about competence of board members and so forth and so on? Would that be something you could support? [LB49]

SENATOR KRIST: Not only would I support it but I would work towards those ends knowing what the two entities that we are talking about have said about the potential economic feasibility and efficiency of merging those two boards. And I fully concur with what Senator Chambers has said this morning. Without the teeth, the actual process would not go forward. So, yes, sir, I would. [LB49]

SENATOR ASHFORD: Thank you, Senator Krist. Yeah, I agree with Senator Chambers. I'm going to give him his point. His comments to the body are correct. And it should be a lesson for the rest of the session. And if we get these little bills up here that some special interest wants passed that does absolutely nothing except provide an opportunity to go back to the client to say, we passed this little bill, I think we should remember that lesson and it should be remind...it should be brought to our attention, Senator Chambers. Let me ask Senator Chambers a question. [LB49]

SPEAKER ADAMS: Senator Chambers, would you yield? [LB49]

SENATOR CHAMBERS: Yes. [LB49]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SENATOR ASHFORD: Senator Chambers, if you have the opportunity to...because you read every bill and every line in every bill, if this issue comes up again, not necessarily in this bill but in another bill, would you remind us of this lesson as we move forward? [LB49]

SENATOR CHAMBERS: You mean if another bill of this sort would come out. [LB49]

SENATOR ASHFORD: No, not even of this sort but a bill that leaves too much out there to the various bodies that we're trying to address. [LB49]

SENATOR CHAMBERS: If I understand your question, my answer is yes. If I don't understand it, my answer is no. [LB49]

SENATOR ASHFORD: The answer is yes. No. No, but, Senator Chambers, could I ask you one other question? [LB49]

SENATOR CHAMBERS: Yes. [LB49]

SENATOR ASHFORD: If we get a bill up here that...from the Urban Affairs Committee that would require the merger of the Omaha Housing Authority and Douglas County Housing Authority on January 1, 2014, subject to certain criteria that we've listed in this other bill on the competency of board members and so forth and so on, without reading it, obviously you have to read it, but would that be something you might be able to support? [LB49]

SENATOR CHAMBERS: Yes. [LB49]

SENATOR ASHFORD: Thank you. And with that, Mr. Speaker, I would request that the body return this bill for...to Select File to strike the enacting clause. Thank you. [LB49]

SPEAKER ADAMS: Thank you, Senator Ashford. Senator Chambers, there are no other lights on if you'd like to close. Senator Chambers waives closing. The question before the body is the striking of the enacting clause and...the motion to return to Select File. All those in favor vote aye; opposed, nay. Record, Mr. Clerk. [LB49]

CLERK: 43 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB49]

SPEAKER ADAMS: The next motion is to strike the enacting clause. And, Senator Chambers, you are recognized to open. [LB49]

SENATOR CHAMBERS: Thank you. Mr. President, so that the record is clear and complete, we now are going to vote on whether or not to strike the enacting clause. And Senator Ashford has agreed that we would do that. When we get 25 votes or more to do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

that, the bill is dead. And the other bill that Senator Ashford...will still be available. And since he has made my heart, if I had a heart, it would be glad this morning. And, Senator Ashford, when I'm glad, sometimes I will sing. And you'll probably regret that you did this, but it's a joyful moment for me. And when I feel joyful, a joyful song wells up within me. And I would like to dedicate this song the best I can sing it to my good friend Senator Janssen. (Singing) Ay, ay, ay, ay, canta y no llores, porque cantando se alegran, cielito lindo, los corazones. Thank you. [LB49]

SPEAKER ADAMS: Thank you, Senator Chambers. Is there anyone wishing to speak? Senator Carlson, you're recognized. [LB49]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to direct a question to Senator Chambers if he would yield. [LB49]

SPEAKER ADAMS: Senator Chambers, will you yield? [LB49]

SENATOR CHAMBERS: With great trepidation, yes. [LB49]

SENATOR CARLSON: Thank you, Senator Chambers. If we vote for this amendment, it takes care of this bill. And then there's an effort to address this concern in another bill in Urban Affairs, which I'm not familiar with. In your mind, is there any question of germaneness if that procedure is followed in the new bill? [LB49]

SENATOR CHAMBERS: If the bill is in the committee, any committee amendment will be considered germane. [LB49]

SENATOR CARLSON: Okay. [LB49]

SENATOR CHAMBERS: So the committee can amend it and it will be germane. That won't be an issue when the bill comes out here. [LB49]

SENATOR CARLSON: Okay. Thank you, Senator Chambers. I'd like to address a question to Senator Ashford if he would yield. [LB49]

SPEAKER ADAMS: Senator Ashford, do you yield? [LB49]

SENATOR ASHFORD: Yes. [LB49]

SENATOR CARLSON: Senator Ashford, you heard what I asked Senator Chambers. Do you concur with that? [LB49]

SENATOR ASHFORD: Yes, it is. It would be germane. [LB49]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SENATOR CARLSON: Okay. Thank you. Thank you, Mr. President. [LB49]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LB49]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question to Senator Ashford if he would yield. [LB49]

SPEAKER ADAMS: Senator Ashford, will you yield? [LB49]

SENATOR ASHFORD: Yes, Senator Nelson. [LB49]

SENATOR NELSON: Senator, thank you. Could you give us just a little background here? I'm not sure whether the two housing authorities in Omaha now are in accord as to whether they want to merge or not. [LB49]

SENATOR ASHFORD: They don't want...they don't necessarily want to merge. But that's why...but the Legislature created both housing authorities. We created the housing authorities. They exist under our...under statutes that we have passed over the years. So we can tell them to do whatever we'd like them to do. They're not independent in the sense like a...they're not independent entities that can resist some sort of merger if we tell them they have to merge. [LB49]

SENATOR NELSON: Well, was the intent of this bill to force a merger then at this time or... [LB49]

SENATOR ASHFORD: No. The intent of this bill was to get them started on discussing a plan to merge. There is no reason to have two housing authorities. So if the...this would I think send a signal, just this action today, sends a signal to the housing authorities to say the Legislature may in the next month or so order merger or may not, depending upon how you vote, so we better start thinking about this seriously and come back to us with some kind of a plan, which I believe they could do, Senator Nelson. [LB49]

SENATOR NELSON: And that's what you presented to them. And as far as you know, then they would go ahead. It says they shall. [LB49]

SENATOR ASHFORD: I don't know whether they would or not. My sense in talking to both...here's the dispute. The only thing that's really causing them not to move forward is this...the idea of who is actually going to be...who gets merged into whom. What I've suggested to them is the Legislature could simply say, create a whole new regional housing authority, and it could create a new board with certain requirements and criteria as to board members. That's what that other bill does. So we can certainly require them

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

to create a new board, create a new regional housing authority, and we can do that effective January 1, 2014, if the body votes to do that. So I believe this action today will inspire them to come up with something quickly. They have been talking about it, Senator Nelson. [LB49]

SENATOR NELSON: Well, in the other bill you speak of, aren't we going to mandate that they merge? [LB49]

SENATOR ASHFORD: Yes. [LB49]

SENATOR NELSON: All right. Well, wouldn't it be better to let them get together and figure out how to do it at this time? [LB49]

SENATOR ASHFORD: Well, I don't know better. I think they have been thinking about it for some time and putting a date certain when the merger will occur is probably at this point the best solution, otherwise, it may never happen, as Senator Chambers suggests. But let me just say, Senator Nelson, I think you're making...you're asking a very important question. Entities don't necessarily want to merge. Obviously they have their own turf. They do what they do within their organizations. So as I said, if these were independent entities that had some sort of state funding or some sort of state authority it's one thing, but these are creatures of state statute. These two housing authorities are creatures of state statute. We can order them to merge. I believe they should be merged. This new bill I think will lay out some of those criteria as to how the merger would take effect and who would serve on these boards. So I accept your point, Senator Nelson, but I think the next bill that hopefully comes out of Urban Affairs will clarify some of these issues. [LB49]

SENATOR NELSON: All right. Thank you, Senator Ashford. I would just simply state that it seems to me... [LB49]

SPEAKER ADAMS: One minute. [LB49]

SENATOR NELSON: ...it's going to happen one way or another, at the beginning of next year possibly, unless we put an emergency clause on. So my position is I think it would be better just to retain this, let them make their plans, figure out how they're going to do it, and then be ready to go the next time around when the order comes down from the Legislature that they shall merge. Thank you, Senator Ashford. Thank you, Mr. President. [LB49]

SPEAKER ADAMS: Thank you, Senator Nelson. Senator Hansen is recognized. [LB49]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Excuse me, I have a coughing spell going on. I would like to ask Senator McGill a question if

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

she would yield. [LB49]

SPEAKER ADAMS: Senator McGill, would you yield? [LB49]

SENATOR MCGILL: Yes. [LB49]

SENATOR HANSEN: Thank you, Senator McGill. Since we're tethered to our chairs I thought I best not get up and walk up and ask you a simple question. What's the number of the bill that you would attach this to since there's already...you said that one has already had a hearing? [LB49]

SENATOR MCGILL: What is the bill number? [LB49]

SENATOR HANSEN: Yeah. What's the bill number? [LB49]

SENATOR MCGILL: I honestly don't remember off the top of my head. But there is one that relates to housing authorities that Senator Ashford also introduced. [LB49]

SENATOR HANSEN: Okay. We're talking about something rather important where two agencies are doing the same work and we need to get them together, but it would seem to me like if we don't have a bill number to even talk about it to look... [LB49]

SENATOR MCGILL: Well, if you give me a moment I can look on my gadget at what that number is. [LB49]

SENATOR HANSEN: Okay. I think that would be good because we need to know what we're talking about and in our mind we need to see, make sure that it's going to fit the purpose of what Senator Ashford and Senator Chambers are discussing this morning. [LB49]

SENATOR MCGILL: That bill is LB48 if folks would like to take a look at that. [LB49 LB48]

SENATOR HANSEN: LB48 instead of LB49. [LB49 LB48]

SENATOR MCGILL: Yes. [LB49]

SENATOR HANSEN: So that will be easy to remember. [LB49]

SENATOR MCGILL: Yes. [LB49]

SENATOR HANSEN: Okay. That's all I have. Thank you, Mr. President. [LB49]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SPEAKER ADAMS: Thank you, Senator Hansen. Senator Krist, you're recognized. [LB49]

SENATOR KRIST: Just to...thank you, Mr. President. Thank you, colleagues. And again good morning and good morning, Nebraska. Just to emphasize what we are...what our intentions are and where we are within the reorganization format, for at least the last seven or eight years, we've had some incredible redundancies in Douglas County. Senator Ashford, would you yield to a question, please? [LB49]

SPEAKER ADAMS: Senator Ashford, would you yield? [LB49]

SENATOR ASHFORD: Yes, Senator. [LB49]

SENATOR KRIST: That redundancy that I speak of is one that was on the ballot and we are now, after seven or eight years of waiting for the register of deeds offices and function to merge within the city and the county, we have basically taken it back because we had to force the issue because they wouldn't come to consensus to the vote of the people. And the people said what? [LB49]

SENATOR ASHFORD: I think it was 70 percent, I can't recall the...in favor of the consolidation of those. [LB49]

SENATOR KRIST: So here is a situation again within Douglas County, within the city, where we would hope that they would come to consensus. So that is why I go back to what Senator Chambers has said this morning in terms of putting some teeth in the issue. If we're serious enough about forcing a consolidation or getting them to appoint where they will talk, I will use that example. Almost eight years of some talk of merging functions within Douglas County that went nowhere until it went back to petition and the vote of the people to have that happen. So if we want to let that happen again, I guess we can do that, too, or we can look at LB48 through the Urban Affairs Committee to potentially solve this issue. Thank you, Mr. President. [LB49 LB48]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Schumacher. [LB49]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. I've read through the rules a few times, maybe more than a few times, and thought I kind of understood them. But I think I maybe learned something or might have learned something new this morning in Senator Chambers' response to Senator Carlson's question about germaneness, that anything coming out of a standing committee, any amendment is automatically germane. That one didn't jump out of the rules at me. And I think this may be an opportunity for a teaching moment. Would Senator Chambers yield to a question? [LB49]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SPEAKER ADAMS: Senator Chambers, will you yield? [LB49]

SENATOR CHAMBERS: Yes. [LB49]

SENATOR SCHUMACHER: Senator Chambers, how does that work, that anything out of a standing committee is automatically germane? [LB49]

SENATOR CHAMBERS: That's how it works. If the committee adds an amendment, then it's germane. But there is a constitutional standard that is different from the standard in our rules. The constitutional standard says that there cannot be two separate subject matters in a bill. So if the committee would try to put two subject matters into a bill, that would run afoul of the constitution. And the Legislature has done that on occasion. But what is envisioned is that the amendments that a committee is going to offer would have some connection to the subject matter of the bill. But if there were two subject matters, even if the committee added that amendment, if the Legislature adopted it and passed the bill and if the Governor signed it, it would be stricken down by the court, if challenged, for having more than one subject. [LB49]

SENATOR SCHUMACHER: So then you're saying that even though...as long as it falls within the constitutional definition of germaneness, that any amendment coming out of a committee could not be challenged on the floor for not being germane? [LB49]

SENATOR CHAMBERS: That's my understanding. [LB49]

SENATOR SCHUMACHER: Is that in a rule or has that just been practiced? [LB49]

SENATOR CHAMBERS: I'll look it up, but it seemed like I saw it in a rule. But, remember, I've been away from here for four years. I don't know what may have been done with the rules. So it's good, as you said, it can be a teaching moment. I will ransack the rules and come back with an answer for you. [LB49]

SENATOR SCHUMACHER: Thank you, Senator Chambers. [LB49]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Ken Haar is recognized. [LB49]

SENATOR HAAR: Mr. President, members of the body, I'd like to ask Senator Ashford a question if I could. [LB49]

SPEAKER ADAMS: Senator Ashford, will you yield? [LB49]

SENATOR ASHFORD: Yes. [LB49]

Floor Debate
February 11, 2013

SENATOR HAAR: Serious question. Trying to force groups to merge, we tried to force the community colleges to get along for a long time since 1991 and finally they can't get along, so we're dissolving that requirement. Do you think this is a real possibility of making this happen, otherwise, we're just caught in that? [LB49]

SENATOR ASHFORD: Yes, Senator Haar. It is critical to the future of affordable housing in Omaha and Douglas County that these two agencies merge. We don't have a countywide affordable housing plan that works for our citizens because we...one of the major reasons for that is we have two housing authorities. The Lincoln Housing Authority, you're very fortunate here to have a housing authority that has had some significant success in developing new, modern, affordable housing. We would like in Omaha to get to where you are in Lincoln. And I think one of the key steps in getting there is to merge these two housing authorities. They do exactly the same thing. They're both 100 percent federally funded and they're both managed by independent, local boards. But...and to have them in effect overlapping and...here's one of the points, Senator Haar, and then I don't want to get so deep into policy. But for example let's say you live in north Omaha and you find a job in west Omaha within the jurisdiction of the Douglas County Housing Authority. And in order to get...and you don't have transportation to get there to take that job at the manufacturing business or whatever it is in the western part of the county or even into Sarpy County where there are many new industries along the interstate, get closer to those jobs. The best way to accomplish that is provide affordable housing near those jobs, and it's very difficult to do that when you have two housing authorities. It would be...so there are many, many policy considerations that drive this initiative I think, Senator Haar. They should be merged. In fact, they must be merged in order to have an effective affordable housing plan like you have in Lincoln. [LB49]

SENATOR HAAR: Do they each have an elected board or how does that work? [LB49]

SENATOR ASHFORD: They're not elected, they're appointed. But what we are doing in LB48--this is LB49--in LB48 we're delineating some requirements for this board that would require certain competencies that a board member should have. [LB49 LB48]

SENATOR HAAR: Okay. And, finally, do they have to abide by the open meeting law? [LB49]

SENATOR ASHFORD: Yes. They do have to do that. [LB49]

SENATOR HAAR: Okay. I'll talk to you about that one later. Thank you. [LB49]

SENATOR ASHFORD: Yeah. [LB49]

SPEAKER ADAMS: Thank you, Senator Haar. Senator Chambers, you're recognized.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

[LB49]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, sometimes the Legislature is too tolerant, too kindly, and these entities which are, as Senator Ashford pointed out, 100 percent subject to even the whim of the Legislature, but they give the back of the hand to the Legislature because the Legislature accepts it. I don't see why we have to talk about merger. We can just create this regional housing authority board and look at the criteria Senator Ashford has talked about. Don't even involve OHA or the county people at all. Just take that bill and create a regional housing authority board. Our discussion will be cleaner. We won't have to deal with any of the political ramifications of how some politicians at the city level feel, others at the county level feel, and the disputes they may have had between themselves on other issues. But all of that can be considered when that bill comes out here. But so that those who are looking at it will understand the way I'm leaning, I believe the Legislature, since it's being compelled to get into this area, should just take the whole thing and create the kind of authority that would achieve what it is the Legislature thinks ought to be done in the realm of affordable housing. Are there any other lights on, Mr. President? [LB49]

SPEAKER ADAMS: No. [LB49]

SENATOR CHAMBERS: That will serve as my closing then. [LB49]

SPEAKER ADAMS: Thank you, Senator Chambers. The question before the body is the striking of the enacting clause. All those in favor vote aye; opposed, nay. Record, Mr. Clerk. [LB49]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB49]

SPEAKER ADAMS: Motion passes. The enacting clause is enacted (sic) and the bill will stand as indefinitely postponed. We'll now move on to Final Reading with LB72. Mr. Clerk. [LB49 LB72]

CLERK: (Read LB72 on Final Reading.) [LB72]

SPEAKER ADAMS: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB72 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB72]

CLERK: (Record vote read, Legislative Journal page 413.) 49 ayes, 0 nays, Mr. President, on the final passage of LB72. [LB72]

SPEAKER ADAMS: LB72 passes. We'll now proceed to LB87. [LB72 LB87]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

CLERK: (Read LB87 on Final Reading.) [LB87]

SPEAKER ADAMS: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB87 pass? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB87]

CLERK: (Record vote read, Legislative Journal pages 413-414.) 49 ayes, 0 nays on the final passage of LB87, Mr. President. [LB87]

SPEAKER ADAMS: LB87 passes. We'll now proceed on to LB91. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB87 LB91]

CLERK: 43 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB91]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB91]

CLERK: (Read title of LB91.) [LB91]

SPEAKER ADAMS: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB91 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB91]

CLERK: (Record vote read, Legislative Journal pages 414-415.) 49 ayes, 0 nays, Mr. President, on the final passage of LB91. [LB91]

SPEAKER ADAMS: LB91 passes. We'll now proceed to LB100. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB91 LB100]

CLERK: 42 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB100]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB100]

CLERK: (Read title of LB100.) [LB100]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB100 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. (Doctor of the day introduced.) Record, Mr. Clerk. [LB100]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

CLERK: (Record vote read, Legislative Journal pages 415-416.) 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB100]

SPEAKER ADAMS: LB100 passes with the emergency clause attached. We will now proceed to LB102. [LB100 LB102]

CLERK: (Read LB102 on Final Reading.) [LB102]

SPEAKER ADAMS: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB102 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB102]

CLERK: (Record vote read, Legislative Journal page 416.) 49 ayes, 0 nays, Mr. President, on the final passage of LB102. [LB102]

SPEAKER ADAMS: LB102 passes. We'll now proceed to LB111. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. President (sic). [LB102 LB111]

CLERK: 44 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB111]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB111]

CLERK: (Read title of LB111.) [LB111]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB111 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB111]

CLERK: (Record vote read, Legislative Journal page 417.) 49 ayes, 0 nays, Mr. President, on the passage of LB111. [LB111]

SPEAKER ADAMS: LB111 passes with the emergency clause attached. We'll now proceed to LB112. [LB111 LB112]

CLERK: (Read LB112 on Final Reading.) [LB112]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB112 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB112]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

CLERK: (Record vote read, Legislative Journal page 418.) 49 ayes, 0 nays, Mr. President, on the final passage of LB112. [LB112]

SPEAKER ADAMS: LB112 passes. We will now proceed to LB113. [LB112 LB113]

CLERK: (Read LB113 on Final Reading.) [LB113]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB113 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB113]

CLERK: (Record vote read, Legislative Journal pages 418-419.) 49 ayes, 0 nays, Mr. President, on the final passage of LB113. [LB113]

SPEAKER ADAMS: LB113 passes. We will now proceed to LB125. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB113 LB125]

CLERK: 40 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB125]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB125]

CLERK: (Read title of LB125.) [LB125]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB125 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB125]

CLERK: (Record vote read, Legislative Journal page 419.) 44 ayes, 4 nays, 1 present and not voting, Mr. President. [LB125]

SPEAKER ADAMS: LB125 passes with the emergency clause attached. We will now proceed to LB146. [LB125 LB146]

CLERK: (Read LB146 on Final Reading.) [LB146]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB146 pass with the emergency clause attached? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB146]

CLERK: (Record vote read, Legislative Journal page 420.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB146]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SPEAKER ADAMS: Thank you, Mr. Clerk. LB146 passes with the emergency clause attached. We'll now proceed to LB155. [LB146 LB155]

CLERK: (Read LB155 on Final Reading.) [LB155]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB155 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB155]

CLERK: (Record vote read, Legislative Journal pages 420-421.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB155]

SPEAKER ADAMS: LB155 passed. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB1, LB2, LB16, LB30, LB35, LB72, LB87, LB91, LB100, LB102, LB111, LB112, LB113, LB125, LB146, LB155, and LR46. Mr. Clerk, we'll proceed to General File and the first bill on General File, LB88. [LB1 LB2 LB16 LB30 LB35 LB72 LB87 LB91 LB100 LB102 LB111 LB112 LB113 LB125 LB146 LB155 LR46 LB88]

CLERK: Mr. President, LB88 is offered by McGill. (Read title.) Bill was introduced on January 10 of this year, referred to the Urban Affairs Committee, advanced to General File. I do have committee amendments, Mr. President. (AM137, Legislative Journal page 370.) [LB88]

SPEAKER ADAMS: Senator McGill, as Chair of the Urban Affairs Committee, you are recognized to open on LB88. [LB88]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'm here to introduce LB88. This bill was brought to me by the city of Lincoln and would allow cities of the primary class to issue permits and do inspections on new construction on farmsteads within the extraterritorial, good Lord, I'm tongue tied this morning, within the ETJ zones around the city. A farmstead is property of 20 acres or more which produces at least \$1,000 of farm products each year. A city of the primary class currently can issue permits and inspection work of all types on properties less than 20 acres in the three-mile ETJ just as they do within properties in the city limits. Right now the county has the authority to do these inspections on property the same size, which is 20 acres or greater, that are within the county jurisdiction outside of the ETJ zone. So we have this three-mile gap where no one is currently enforcing any codes or doing inspections just within that ETJ. The city's concern is that eventually these residences will be annexed into the city limits and they want to ensure that new residences and remodels will be up to the city building codes. There is an amendment that will follow to clarify some concerns. The original bill struck the language describing a farmstead. We went

Floor Debate
February 11, 2013

ahead and put that back in and I'll describe it when we get to that. Thank you, Mr. President. [LB88]

SPEAKER ADAMS: Thank you, Senator McGill. As the Clerk stated, there are amendments from the Urban Affairs Committee. Senator McGill, as Chair of the committee, you're recognized to open on those amendments. [LB88]

SENATOR MCGILL: Thank you, Mr. President. Once again, this amendment replaces the original bill and retains the farmstead language in statute. It adds new language to allow the city council in a city of the primary class to decide whether the buildings, dwellings, and other structures located on the farmstead, and that are used as residences, will be subject to the city's permit and inspection requirements on new construction. This language would limit the permit and inspection process to only residences on these properties. The issue has come up when a person owning a farmstead has converted a barn or other agricultural buildings on the property into an apartment and the city is not able to require a permit or do an inspection of the renovation to ensure that the residence is built to code and is safe. This is already permitted by state statute for cities of the metropolitan class and this bill and amendment would harmonize these policies for these two classifications of cities. Again, this is something that is being done in the counties, it's just that three-mile ETJ where we need to make sure that those residences are up to code. Thank you, Mr. President. [LB88]

SPEAKER ADAMS: Thank you, Senator McGill. The floor is now open for debate on the committee amendment. Senator Larson, you're recognized. [LB88]

SENATOR LARSON: Thank you, Mr. Speaker. Would Senator McGill yield to a question? [LB88]

SPEAKER ADAMS: Senator McGill, do you yield? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LARSON: You said that the metropolitan class has this authority already? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LARSON: Are you sure? [LB88]

SENATOR MCGILL: Yeah, I've read the statute myself, in terms of checking some residential buildings. And in fact, the language is different between metropolitan- and primary-class cities in terms of this carve out. There was originally a carve out for

Floor Debate
February 11, 2013

farmsteads, but then they...let's see, oh, their exception is, "except as to construction on farms for farm purposes," which means that the residences would still be included in what can be inspected. [LB88]

SENATOR LARSON: Okay, one of the things that concerned me about that amendment, essentially, is it's an awful broad stroke when it comes to the amendment. It says: For farmsteads located within the three-mile corporate limits of the city and outside any organized city or village, the city council may decide whether buildings, dwellings, or other structures located on such farmsteads and used as residences. I mean, that's an awful broad stroke, especially when we're considering farmers or ranchers in this case, possibly, that are putting up buildings. It's leaving a lot up to the city council to decide what exactly is a building or a residence. I guess on the initial draft of the amendment that's something that is very concerning to me because we're leaving up to the Lincoln City Council to determine what exactly this building and dwelling will be as a residence. So I have a few questions on the language that we can probably look at going forward. Do you know why farmsteads have been exempted from these regulations in the past? [LB88]

SENATOR MCGILL: Yes, the exemption was put into law in, I think, 1963 for the same reason that in Omaha there is that carve out for farms. You know, farmers wanted to make sure that the city wasn't imposing their will or shutting down any business over a building code issue. I will clarify that again in the counties, the counties do inspect the sorts of things that we're looking to inspect with this. [LB88]

SENATOR LARSON: All right. And I think as we move forward I kind of want to look at the statute from the metropolitan class a little more, as well. I think...I have a handout that is being passed out from an editorial...or a letter to the editor from a Lincoln citizen that has issues with this. And I know we dealt with ETJs a few years ago when it came to the wheel tax and taxation without representation and things of that nature, and I think that's something that we all need to be very concerned with. And, like I said, language in the amendment, I think, is very broad and takes a heavy-handed approach on farmsteads, in terms of their definition. Are farmstead residents in the three-mile territory going to be eligible to vote for the Lincoln City Council since they're going to be, you know, have zoning regulations put on them by the Lincoln City Council? [LB88]

SENATOR MCGILL: No, and honestly, I know this is a Senator Coash's constituent that wrote that e-mail, and I know he has talked to her to clarify what exactly this bill does. Again, these are codes that are inspected by the county as well. So they're outside of the city, but anybody outside of that ETJ is being inspected in the same way that we want folks within that three miles to be inspected. [LB88]

SENATOR LARSON: And I can...I can understand that you want these buildings to be inspected, but like I said, I think the language in the amendment is what is really

Floor Debate
February 11, 2013

troubling me because it is giving the city council a lot of power to decide what buildings do get...they get to decide whether they are a residence or not. And I think that needs to be addressed before anything can really move forward. [LB88]

SPEAKER ADAMS: One minute. [LB88]

SENATOR LARSON: Why should...so essentially the thing that you're saying is the counties can't inspect the buildings right now. [LB88]

SENATOR MCGILL: Yeah, the counties do not have the authority in the ETJ to do those inspections. [LB88]

SENATOR LARSON: All right. Well, I appreciate it and I'm sure there will be a lot of discussion...some discussion possibly moving forward, but I think there is definitely a lot of questions in the amendment with how much power we're giving the...especially the Lincoln City Council, because this only deals with Lincoln. And I'll review what metropolitan-class cities have, and primary-class, and other things. Thank you, Senator McGill. [LB88]

SPEAKER ADAMS: Thank you, Senator Larson. Senator Christensen, you're recognized. [LB88]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator McGill yield to a question, please? [LB88]

SPEAKER ADAMS: Would Senator McGill yield? [LB88]

SENATOR MCGILL: I would. [LB88]

SENATOR CHRISTENSEN: So this bill is affecting, if I read it right, cities, villages, everybody, primary class down? [LB88]

SENATOR MCGILL: No, just primary class. [LB88]

SENATOR CHRISTENSEN: Just primary class. [LB88]

SENATOR MCGILL: So we're just talking about Lincoln and the three-mile ETJ around Lincoln. [LB88]

SENATOR CHRISTENSEN: I guess I got to look at that part again before I ask them questions. But you said the counties can't do this within the three miles? [LB88]

SENATOR MCGILL: No, they cannot. They do not have jurisdiction over that area.

Floor Debate
February 11, 2013

[LB88]

SENATOR CHRISTENSEN: Why not? [LB88]

SENATOR MCGILL: Because it's within the city's ETJ. [LB88]

SENATOR CHRISTENSEN: So, okay, but the counties control outside of that three? That's... [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR CHRISTENSEN: Okay. What is the concern you're going after here? [LB88]

SENATOR MCGILL: That Lincoln will eventually grow into that three-mile ETJ, which is why they have the power to do the inspection process, and they want to make sure that any new construction is safe for the people who may buy those homes in the future. And I might add that they already do the inspections on all other homes, residences in that three-mile ETJ but just aren't on 20 acres of land or more, so that aren't on a farmstead. They already have this power with all other homes being built in the ETJ. [LB88]

SENATOR CHRISTENSEN: So I'm trying to read here a little bit at the same time. Hopefully, somebody else has got their light on and I can look this over a little bit further, because I guess I didn't think it read that way, but... [LB88]

SENATOR MCGILL: Yeah, the primary-class part is right at the beginning of the amendment anyway. [LB88]

SENATOR CHRISTENSEN: Okay. [LB88]

SENATOR MCGILL: 15-905. [LB88]

SENATOR CHRISTENSEN: All right. Well, I'll go back and look that over and hopefully somebody else will have some questions for you before we have to vote. Thank you. [LB88]

SPEAKER ADAMS: Thank you, Senator Christensen. Senator Nelson, you're recognized. [LB88]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a couple of questions for Senator McGill, if she will yield. [LB88]

SPEAKER ADAMS: Senator McGill, do you recognize? [LB88]

Floor Debate
February 11, 2013

SENATOR MCGILL: Sure thing. [LB88]

SENATOR NELSON: Thank you, Senator. Throughout your introduction, you talk about new construction. I don't see that terminology here. It talks about construction, but I'm just wondering...and along with that, my other question is, what about remodeling? [LB88]

SENATOR MCGILL: This...it's subject to the permitting requirements and that is when you go in to get a new permit for new construction. And so it is just for new construction permits moving forward. [LB88]

SENATOR NELSON: Okay, then I take it, it does not cover remodeling of existing residences. [LB88]

SENATOR MCGILL: If it is a sort of thing where you would need a permit to do the remodeling that you want to do moving forward, it would have to be inspected. [LB88]

SENATOR NELSON: All right, and there is language here about the removal and tearing down of buildings and dwellings just,... [LB88]

SENATOR MCGILL: Those are all things that are... [LB88]

SENATOR NELSON: ...the supposition is anytime you have to get a permit to do something then... [LB88]

SENATOR MCGILL: Yeah, just as you would within the city, or if you were in a house on a smaller acreage. [LB88]

SENATOR NELSON: Okay. All right, so it seems like up to this point, 20 acres or more have been exempt. [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR NELSON: And now it's just an effort to make it uniform all throughout the three-mile district. Is that right? [LB88]

SENATOR MCGILL: Yeah, exactly. [LB88]

SENATOR NELSON: All right, thank you, Senator. [LB88]

SENATOR MCGILL: Thank you. [LB88]

Floor Debate
February 11, 2013

SENATOR NELSON: Thank you, Mr. President. [LB88]

SPEAKER ADAMS: Thank you, Senator Nelson. Senator Carlson, you're recognized. [LB88]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I also would like to address a question to Senator McGill if she will yield. [LB88]

SENATOR MCGILL: I'd be happy to. [LB88]

SENATOR CARLSON: Senator McGill, I'm looking at the new wording. [LB88]

SENATOR MCGILL: Um-hum. [LB88]

SENATOR CARLSON: "For farmsteads located within three miles of the corporate limits of the city and outside of any organized city or village, the city council may decide whether buildings, dwellings, and other structures located on such farmsteads and used as residences shall be subject to the city's permit requirements." Now I don't think it's very clear, "used as residences." Now it specifically there says "used as," so I would assume that is in the present tense. But if I have an acreage of 20 acres or more and I want to put up a horse barn, it could be decided that maybe someday that horse barn will become a residence. Does this allow the city council, at the time I build that horse barn, to step in and say, I think we've got to have some other requirements here because someday it could be used as a residence? [LB88]

SENATOR MCGILL: No. No. [LB88]

SENATOR CARLSON: No, no possibility of that at all. [LB88]

SENATOR MCGILL: I mean, it's not being used as a residence. That's not what the building...when you go to get the building code...or the permit, you're not getting it as a residence. That isn't...I mean, you wouldn't be responsible for that, no. It has to be used as a residence now or you're building it as a residence. [LB88]

SENATOR CARLSON: So in order to have any say about the building of a horse barn, that wording would have to be "and may someday be used as a residence"; but when it says, "and used as," it's present tense and present tense only. [LB88]

SENATOR MCGILL: Yes, that's correct. [LB88]

SENATOR CARLSON: Okay, thank you, Senator McGill. [LB88]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Lautenbaugh, you're

Floor Debate
February 11, 2013

recognized. [LB88]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I did vote for this in committee. And as I understand what we're doing here, there is an extended zoning authority around the city of Lincoln. And outside of that, Lancaster County has authority to approve new renovation, new construction, that kind of thing. Senator McGill, would you yield to a question? [LB88]

SPEAKER ADAMS: Senator McGill, do you yield? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: So do I have this correct that right now the city of Lincoln has a three-mile kind of belt around it where it has authority to approve and permit? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: And that current authority is limited in that it doesn't extend to... [LB88]

SENATOR MCGILL: Farmsteads. [LB88]

SENATOR LAUTENBAUGH: Farmsteads of a certain size, is that correct? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: What is that size? [LB88]

SENATOR MCGILL: Twenty acres or larger. [LB88]

SENATOR LAUTENBAUGH: Now once you get outside that three-mile limit, the county has authority to approve. Is that correct? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: And do they have any limit on what they can or can't approve regarding the farmstead? [LB88]

SENATOR MCGILL: No, they do not. [LB88]

SENATOR LAUTENBAUGH: So in other words, this is a peculiarity that exists just within that three-mile limit? [LB88]

Floor Debate
February 11, 2013

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: And if you're outside the three-mile limit, anyone who has a farmstead out there is currently living with the county having zoning authority, I'm sorry, permitting authority and whatnot. [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator McGill. I voted in favor of this in committee and I plan on continuing to do the same. I think this just addresses an anomaly that has arisen between whether or not you happen to be within three miles of Lincoln or not. And you have people that are within that three-mile limit that are subject to the Lincoln permitting and approval process now, unless their farmstead is of a certain size then they're not. But if you step right outside the three miles, then it doesn't matter what size your farmstead is, you're still subject to Lancaster County permitting and inspections and whatnot. And it was also my understanding as we developed this in committee that this was going to be prospective, if you will. This was not going to introduce or induce a cadre of inspectors from the city to come out on these larger farmsteads right away within the three miles and start looking for violations. That's not what this was about. This was meant to be on a go-forward basis. Senator McGill, would you yield to a question? [LB88]

SPEAKER ADAMS: Senator McGill, would you yield? [LB88]

SENATOR MCGILL: Yes. [LB88]

SENATOR LAUTENBAUGH: Senator, am I correct on that, because I think we discussed that in committee, that this is on a go-forward for renovations and new construction or modifications. Is that correct? [LB88]

SENATOR MCGILL: Yes, it is subject to new permits. [LB88]

SENATOR LAUTENBAUGH: Thank you, Senator McGill. I think it is important that we look at things like this, and more importantly, I think it's important that we talk about this until noon so we can assuage some concerns that have been raised and finish it tomorrow. But there is a certain arbitrariness to the things we do. I don't know why a city of the metropolitan class would have the authority in its three-mile limit, but a city of the size of Lincoln, whose class escapes me at the moment, would not have that authority within the three-mile limit for the larger farmsteads, but would have it for the smaller farmsteads. And I don't recall if when we were in committee if anyone explained... [LB88]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

SPEAKER ADAMS: One minute. [LB88]

SENATOR LAUTENBAUGH: ...how that exception arose previously and why we should continue to keep it. I don't remember there being opposition to this per se. I may be incorrect, but I don't remember it. So I'm hoping there are other lights on so we don't try to bring this to a vote today so we can assuage some concerns. I would like to thank you all for advancing LB125 and giving me my priority on the twenty-third day, hey, hey, hey, and I'll look forward to discussing this bill more tomorrow. Thank you. [LB88 LB125]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Wallman, you're recognized. [LB88]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. It sounds like an innocuous bill, but it could be very concerning for farmers in this area. And it perked my ears up. And it bothers me that you're living next to a city that if you got livestock or something you're going to have little problems here anyway. But why...I would like to ask Senator McGill a question. [LB88]

SPEAKER ADAMS: Senator McGill, do you yield? [LB88]

SENATOR MCGILL: I would. [LB88]

SENATOR WALLMAN: Thank you, Senator. What was the reason this bill was brought forth in your committee? [LB88]

SENATOR MCGILL: It was brought to us by the city of Lincoln, and also agreed to by the county itself, because we're concerned about when those homes on those big acreages become part of the city. And we want to know that...we want our residents to know that if they're choosing to buy that residence, that newer construction, that it is a safe place to live and that it is up to code. [LB88]

SENATOR WALLMAN: Thank you, Senator. Everybody does want a safe place to live. But when you're in this three-mile, so-called halo or round circle, you don't have any voting rights for the city. And I guess if they want to claim that I'm in the city limits or whatever, then maybe I should be voting on some of these things like SID projects, you know, and all these things. So I'm looking forward to more dialogue on this. And appreciate the committee working on this and hopefully I'll talk to some acreage owners and see what they have to say. Thank you, Mr. President. [LB88]

SPEAKER ADAMS: Thank you, Senator Wallman. Mr. Clerk for announcements. [LB88]

CLERK: Mr. President, items, thank you. Your Committee on Government, Military and Veteran Affairs reports LB434, LB510 to General File, and LB363 to General File with

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 11, 2013

amendments. I also have a confirmation hearing report from the Government Committee, all those signed by Senator Avery. Hearing notices from Judiciary, three separate notices, all signed by Senator Ashford. Senator Crawford would like to add her name to LB180; Senator Conrad to LB613; and Senator Dubas to LB613. (Legislative Journal pages 421-423.) [LB434 LB510 LB363 LB180 LB613]

And, Mr. President, I have a priority motion. Senator Wightman would move to adjourn the body until Tuesday morning, February 12, at 9:00 a.m.

SPEAKER ADAMS: Thank you, Mr. Clerk. Members, you've heard the motion to adjourn until 9:00 a.m. tomorrow. All those in favor indicate by saying aye. Opposed. We're adjourned.