

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**HUGHES:** Welcome to the George W. Norris Legislative Chamber for the twenty-first day of the One Hundred Sixth Legislature, Second Session. Our chaplain for today is Pastor Paul Warneke from the Zion Lutheran Church, Hastings, Nebraska. Please rise.

**PASTOR WARNEKE:** Greetings to you from Hastings, from Zion Lutheran Church and school in Hastings, and from the Lutheran Church, Missouri Synod. Let us bow our heads for prayer. In the name of the Father and of the Son and of the Holy Spirit, Amen. Lord God, Heavenly Father, in this day and age of political unrest across the country, it would seem that our nation is divided, Democrat, Republican, Liberal, Conservative. And maybe to a greater or lesser extent, it might seem that the great state of Nebraska is divided as well. But Lord, in this state, there is so much that unites us from the Good Life to Nebraska Nice, to frankly, It's Not for Everyone, and of course, to Go Big Red. So, Lord, continue to unite this great state and now unite these-- this Unicameral and these honorable senators today to have in mind what's best for the people of this state from the least to the greatest, from the weak to the strong, from the poor to the rich and everyone in between. Grant that as matters are presented and discussed on the senate floor, in private conversations and in committee, that these senators would be kindly disposed towards one another speaking to one another in brotherly and sisterly love in the true spirit of justice and peace, and grant them all the spirit of wisdom. All these things, Lord, we ask in the name of Jesus Christ, your son, our Lord, who lives and reigns with you and the Holy Spirit, one God, now and forever. Amen.

**HUGHES:** Thank you, Pastor Warneke, from Senator Halloran's district. I call to order the twenty-first day of the One Hundred Sixth Legislature, Second Session. Senators, please record your presence. Roll call. Record, Mr. Clerk.

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

**HUGHES:** Items?

**CLERK:** Mr. President, your Committee on Judiciary, chaired by Senator Lathrop, reports LB28 and LB247 to General File with amendments; Government Committee chaired by Senator Brewer reports LB790 and LB890 to General File with amendments. Senator Bolz would like to print an amendment to LB949, and I have an appointment letter with respect to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

an appointment to the Nebraska Stem Cell Research Advisory Committee. That's all that I have, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Howard, for what purpose do you rise?

**HOWARD:** A point of personal privilege.

**HUGHES:** Senator, please state your point.

**HOWARD:** Thank you, Mr. President. This weekend we had a very difficult and concerning time at the Youth Rehabilitation and Treatment Center in Kearney, and I want to make sure that we're all on the same page about what happened. And I know Senator Lowe will talk about this a little bit as well. Currently, the census at YRTC-Kearney is 98 boys and 22 girls. And on Friday morning at 1:30, four boys figured out how to take their metal cots apart and beat four staff members with the metal pipes. Three of the staff members were admitted to the hospital. The State Patrol was called and they were able to stabilize the situation. On Saturday, one boy on furlough left with his father, went to McDonald's and ran away. On Sunday, two boys left and ran away. What we're seeing is an escalating trend of both violence and escapes at YRTC-Kearney that we cannot ignore. In 2018, there were four escapes from YRTC-Kearney. In 2019, there were 39 escapes from YRTC-Kearney. And we're already on track to meet 39 in the first three months of the year. I am concerned about what's going on at Kearney. I am concerned about the safety of the kids there, the girls there, and I'm concerned about the staff. I'm getting calls and emails and texts and pictures of bloodstains that are still on the floor from the assault that happened on Friday. We cannot ignore what's happening there. It is scary and it is an emergency, and I cannot impress upon that-- that upon you more. We are willing to work with the department. We are willing to work with the administration, but as a branch, we move slowly and they are the ones who can fix this. And so I want to make sure that we as a Legislature know that there is something going on there, and they-- and we know that we have to do something about it this year. With that, I'll leave the rest to Senator Lowe to share anything that he would like to, but I appreciate the time this morning and I appreciate your attention. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Howard. Thank you, Mr. Clerk. We will now proceed to the first item on the agenda.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLERK:** Mr. President, LB242 was a bill by Senator Lindstrom relating to public utilities. It adopts the Infrastructure Improvement and Replacement Assistance Act. Senator Lindstrom presented his bill on-- last week. The committee amendments by the Revenue Committee were offered by Senator Linehan. Also pending, Senator Lindstrom had an amendment to those committee amendments, specifically AM2279, Mr. President.

**HUGHES:** Thank you, Mr. Clerk. Senator Lindstrom, if you'd take a couple of minutes to refresh us on your bill, LB242.

**LINDSTROM:** Thank you, Mr. President, and good morning, colleagues. Hopefully, everybody had a nice, long weekend. LB242 with the-- my amendment and the Revenue amendment makes a couple of different changes. Just to clarify, the turnback percentages in the first year, 2020 to 2021, the turnback is 36 percent. From 2022 to 2023, it's 56 percent, and then everything after 2023 is 73 percent. That does change the fiscal note. It's what we discussed on Thursday. So in the first year the fiscal impact of the General Fund is north of \$8 million and it gets up to about \$23 million and change. Senator Albrecht asked a question that I would like to address, and I did hand out a sheet that kind of clarifies a few things. When it comes to what the funds could be used for in a-- page 3, line 7 through 14, Funds received under the section shall, and we all know that shall is an important word, be used exclusively to assist in paying for infrastructure improvements relating to construction, upgrading, redevelopment, or replacing sewer and water infrastructure facilities; paying for the redevelopment or replacement of obsolete water or sewer facilities; or repaying bond issued and pledged for such work. So that first part of the line, shall be used, exclusively spells out what those funds can be used for. There is another provision down at the bottom just touching on why this is important when it, when it comes to the property tax issue, but I'm sure we'll have a few more questions this morning. I'd be happy to answer those as we move forward. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lindstrom. Senator Linehan, as Chairman of the Revenue Committee, would you like to take a couple of minutes to explain LB-- AM434, please.

**LINEHAN:** I am caught off guard here. Thank you, Mr. President. The committee amendment on AM434 to LB242 changes the date of the beginning of the distribution period from July 1, 2019 to July 1, 2020. The committee amendment also changes the percentage amount of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

distributions from 2 percent, 3 percent, and 4 percent respectively to 36.6 percent, 54.54 percent and 72.72 percent. This change corrects the Drafting area-- error in the green copy of the bill. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Linehan. Moving to the speaking queue, Senator Bolz, you're recognized.

**BOLZ:** Thank you, Mr. President. I appreciate LB242 and Senator Lindstrom's work on infrastructure issues. As a member of the Appropriations Committee, I do just want to rise and make sure that everyone has had an opportunity to review the fiscal note, which is significantly different than the fiscal note originally filed with the bill. As Senator Lindstrom referenced, the 2021 increase in General Fund expenditure is \$8 million, rising to \$23.8 million in 2024-2025. Colleagues, I will let you make your own determinations about the issue at hand and the bill put forward by Senator Lindstrom, but I do want to make sure that we are talking about an expenditure of this size and that we are putting that in the context of the budget as a whole. A few examples of the things that have been brought to us in this year, in terms of budget needs, we have a \$5 million increase in the homestead exemption. What we hear from the Department of Revenue is that we should keep an eye on that, both because valuations are increasing and because we have an aging population. We consistently get requests from the Department of Education about special education funding. The maximum that we can fund special education is 10 percent, the cost of flun-- funding at that 10 percent level would be \$20 million. We've got an unexpected repair of irrigation pipe at \$3.8 million and, of course, the request for emergency funds at \$53 million. And coupled with all of those specific requests, we have issues that we're all keeping our eyes on, including closing of nursing facilities and the related concerns related to their-- their rate, overcrowding in the Department of Correctional Services, emergencies like the-- the Youth Rehabilitation and Treatment Center that Senator Howard referenced. So, colleagues, this is not a commentary specifically on Senator Lindstrom's bill, rather it is a reflection that when we see fiscal notes of this size, and this is a substantial fiscal note, we need to be thoughtful and cautious about our priorities, and we need to understand the other budget pressures that are in front of us this year. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Bolz. Senator Kolterman, you're recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. I rise in support of this bill, but I also understand the fiscal restraints that we probably will be under. I think this is good legislation. I don't think there's a municipality in this state that doesn't have outdated infrastructure as it pertains to sewer and water. As you know, if you're in a growing community, you're always updating. And many of our communities have old, old, old sewer and water in the ground that need to be replaced on a regular basis. If they're up against their levee lids, this is-- it becomes a real problem. So I like the idea that we're being proactive. From a fiscal perspective, though, I know-- I know it's-- it might be a challenge, but I think Senator Lindstrom's open to the idea that if we advance this and it sits and waits, he's-- he's willing to let that happen. So with that, I do rise in support of the amendment, as well as the bill itself, and I would yield the rest of my time to Senator Lindstrom if he'd like it.

**HUGHES:** Senator Lindstrom, 3:50.

**LINDSTROM:** Thank you, Mr. President. Again, I-- I appreciate the conversation that we've had on this bill, and I know Senator Williams, we discussed, and what Senator Kolterman alluded to because we're in day 21 understanding the priorities that we have in this body, obviously property tax, LB720, Corrections, YRTC, a lot of things that are gonna cost money, and with the fiscal note, I'm well aware that it's substantial dollars. What-- it's my understanding procedurally that we won't get to A bills until after day 45 and since we're in day 21, what I'd ask is that you would be open to moving the bill forward with a green light with the understanding that I'm well aware of the priorities that we have in this session and what we need to take care of and if we do not have the dollars to move forward, I'm not going to push on that because I know that-- where we are and what we need to accomplish. So with that, I appreciate the time, Senator Kolterman, and would yield my time back to the Chair. Thank you.

**HUGHES:** Thank you, Senators Kolterman and Lindstrom. Senator Williams, you're recognized.

**WILLIAMS:** Thank you, Mr. President, and good morning, colleagues. And I stand certainly in-- in support of the underlying concept of LB242. And like all the choices we make in here, things come with a price tag, and in my judgment, there are a list of things that would take priority over this, but as Senator Lindstrom just explained, procedurally, we could move this down the line just to see how it

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

would fit in, if possible. But we certainly have a long list of things. And I know sitting in this row with Senator Stinner, he's gonna talk to us, I'm sure about a few of those things, which I would appreciate. But in my legislative district, we have a-- a large group of-- of older communities that continue to have to find ways to protect and build and replace infrastructure. In my main community that I live in, Gothenburg, right now they are-- are looking at a-- a significant expenditure because of old sewer and water, things that have to be addressed so that we can safely deliver-- deliver water to our people and safely remove waste from our people. So with that, I would encourage you again to move this forward. If it does not meet the priority standards later, it certainly won't cost us a thing because we won't pass the bill. So with that, I would encourage you to move it forward. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Williams. Senator Cavanaugh would like to recognize the doctor of the day, Dr. Carol LaCroix from Omaha, who is serving us as the physician of the day. She is seated under the north balcony. Please rise and be recognized. Senator Gragert, you're recognized.

**GRAGERT:** Thank you, Mr. President. I continue to listen to the debate. We definitely need to continue to find ways to help communities, especially those devastated by the flooding of 2019. When it comes to water, most definitely, it should be our top priority as a community and as a state. We need to continually think about our water quality and quantity in this state. What should rise to the very top of the priority list is our drinking water. In District 40, towns like Spencer and Lynch were without drinking water for approximately five months. They-- they drank bottled water. We were able to get them nonpotable water for them to be able to bathe in, but again, they had to drink bottled water for quite, quite a while. But this was due to the devastation caused by the flooding of 2019. The main water line, a 10-inch line was taken out that supplied drinking water to Spencer and Lynch. Of course, this being an emergency, FEMA was able to help with replacing the waterline. However, communities and surrounding areas, many-- in-- in the surrounding area, many donations from all directions came in to the aid of the people in Boyd County. This was an emergency. Again, we need to continue to find ways to help victims of the flooding event. However, using flood as an opportunity to maybe upgrade and replace current sewer lines of our communities and/or cities at this time is-- really wouldn't fall into the priority of when everyone is looking for tax relief. Don't get me wrong, I like

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

the fact that leaders are looking to be proactive in their infrastructure of any community, but that is a priority that should be placed outside emergency flooding events. Let's make sure the communities devastated by the flood and fully-- that are fully recovered before moving to sewer improvement and/or replacement. Thank you.

**HUGHES:** Thank you, Senator Gragert. Senator Stinner, you're recognized.

**STINNER:** Thank you, Mr. President. Members of the Legislature, I fully appreciate what Senator Lindstrom is trying to do is to provide dollars for infrastructure. I think back in 2010 is when aid to municipalities was eliminated, and I think I carried a bill, something like \$30 million to reinstitute that aid back in 2014. Obviously, we passed the gas tax, which gave some relief to counties and cities. But right now, we're on the edge of looking at passing major legislation as it relates to property tax and property tax relief, and I think that's what we hear the most. That's a top priority of mine. Certainly, LB720 needs to get passed with the incentive package. And we did also take a look at possibly exempting up to 50 percent of military pay, which grows to about \$15 million. So when we start to look at some of those items that we're going to be able to project on to, and I will give you a detailed description of what we have to react to from an expense side of things, I can also tell you that Medicaid expansion is going to cost an additional \$50 million. That aid to schools, K-12, is a constitutional issue, and if we start to look to cut down that, that kind of flies in the face of what we're trying to do on property taxes. So there's a lot of things to be discussed. If we want to advance this and discuss it, but this is a constant erosion, constant erosion, little pieces here, little pieces there, all of them good, but a constant erosion of the tax base really puts us in a position that we can't address some of the other things that we have-- have to address from a priority standpoint, like property tax, like incentive programs, like Medicaid expansion, like K-12 education, the have to's, the individual-- aid to individuals are have to's in your budget. There isn't a lot of room and I haven't even talked about prisons and what we need to do in terms of prisons and the prison overcrowding situation. I do not want to lead the nation or be in the top ten when I leave this Legislature in prison overcrowding. So we've got to address that and be aggressive. Those are all things on our agenda. Those are all priorities. Where it fits

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

with this bill, I guess I'll leave that up to your discretion. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Stinner. Seeing no one else in the queue, Senator Lindstrom, you're recognized to close on your amendment to the committee amendment.

**LINDSTROM:** Thank you, Mr. President. The committee amendment, again, just creates cash fund, which is the Infrastructure Improvement and Replacement Assistance Cash Fund, where the Tax Commissioner then would take the sales tax and then remit that back to the local utilities. And just to touch on what Senator Stinner mentioned, I agree with everything that was pointed out. Again, we're in day 21. Anything that does have a-- have an A bill, we won't get to until day 45. I agree that the priorities that lie out there, property tax, LB720, Corrections, YRTC, Medicaid expansion, all, I would say, rise to high priority, probably over-- over LB242. However, to continue this debate, I ask that you would push green and allow it to go through so we can have this discussion later on as we get closer to day 45. So I encourage your vote on AM2279. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lindstrom. The question is, shall the amendment to the committee amendment to LB242 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Lindstrom.

**LINDSTROM:** Call of the house, please.

**HUGHES:** There's been a replay-- request to place the house under call. All those in favor of placing the house under call, please vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 24 ayes, 4 nays to place the house under call.

**HUGHES:** 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 this floor. The house is under call. All unexcused senators are present. Do you want call-ins or roll call? Call-ins. Senators, please record your votes. Senator Lindstrom, our apologies. We lost the call-ins so we'll have to do a roll call. Is that OK?

**LINDSTROM:** Reverse order.

**HUGHES:** A roll call vote is requested in reverse order. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLERK:** Senator Wishart. Senator Williams.

**WILLIAMS:** Yes.

**CLERK:** Voting yes. Senator Wayne.

**WAYNE:** Yes.

**CLERK:** Voting yes. Senator Walz.

**WALZ:** Yes.

**CLERK:** Voting yes. Senator Vargas.

**VARGAS:** Yes.

**CLERK:** Voting yes. Senator Stinner.

**STINNER:** Not voting.

**CLERK:** Not voting. Senator Slama. Senator Scheer.

**SCHEER:** Yes.

**CLERK:** Voting yes. Senator Quick.

**QUICK:** Yes.

**CLERK:** Voting yes. Senator Pansing Brooks. Senator Murman.

**MURMAN:** No.

**CLERK:** Voting no. Senator Moser.

**MOSER:** Not voting.

**CLERK:** Not voting. Senator Morfeld.

**MORFELD:** Yes.

**CLERK:** Voting yes. Senator McDonnell.

**McDONNELL:** Yes.

**CLERK:** Voting yes. Senator McCollister.

**McCOLLISTER:** Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLERK:** Voting yes. Senator Lowe. Senator Linehan. Senator Lindstrom.

**LINDSTROM:** Yes.

**CLERK:** Voting yes. Senator Lathrop.

**LATHROP:** Yes.

**CLERK:** Voting yes. Senator La Grone.

**LA GRONE:** Yes.

**CLERK:** Voting yes. Senator Kolterman.

**KOLTERMAN:** Yes.

**CLERK:** Voting yes. Senator Kolowski.

**KOLOWSKI:** Yes.

**CLERK:** Voting yes. Senator Hunt. Senator Hughes.

**HUGHES:** Yes.

**CLERK:** Voting yes. Senator Howard.

**HOWARD:** Yes.

**CLERK:** Voting yes. Senator Hilkemann.

**HILKEMANN:** Yes.

**CLERK:** Voting yes. Senator Hilgers.

**HILGERS:** Yes.

**CLERK:** Voting yes. Senator Matt Hansen. Senator Ben Hansen.

**B. HANSEN:** Not voting.

**CLERK:** Not voting. Senator Halloran.

**HALLORAN:** Not voting.

**CLERK:** Not voting. Senator Groene. Senator Gragert.

**GRAGERT:** Not voting.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLERK:** Not voting. Senator Geist. Senator Friesen. Senator Erdman.

**ERDMAN:** Not voting.

**CLERK:** Not voting. Senator Dorn.

**DORN:** Not voting.

**CLERK:** Not voting. Senator DeBoer.

**DeBOER:** Yes.

**CLERK:** Voting yes. Senator Crawford.

**CRAWFORD:** Yes.

**CLERK:** Voting yes. Senator Clements.

**CLEMENTS:** Not voting.

**CLERK:** Not voting. Senator Chambers. Senator Cavanaugh.

**CAVANAUGH:** Yes.

**CLERK:** Voting yes. Senator Briese.

**BRIESE:** Not voting.

**CLERK:** Not voting. Senator Brewer.

**BREWER:** Not voting.

**CLERK:** Not voting. Senator Brandt.

**BRANDT:** Not voting.

**CLERK:** Not voting. Senator Bostelman.

**BOSTELMAN:** Not voting.

**CLERK:** Not voting. Senator Bolz.

**BOLZ:** Yes.

**CLERK:** Voting yes. Senator Blood.

**BLOOD:** Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLERK:** Voting yes. Senator Arch.

**ARCH:** Yes.

**CLERK:** Voting yes. Senator Albrecht.

**ALBRECHT:** No.

**CLERK:** Voting no. Senator Lindstrom. Senator Lindstrom, changing from-- Senator Lindstrom, you don't want to do anything now, right? All right. Senator Stinner. Senator Stinner voting yes. 25 ayes, 2 nays on the adoption of the amendment to the committee amendments.

**HUGHES:** The amendment passes. Back to the speaking queue. Senator Clements. Hold on. I raise the call. Mr. Clerk.

**CLERK:** Mr. President, Senator Wayne would move to amend the committee amendments with AM2358.

**HUGHES:** Senator Wayne, you're recognized to open on AM2358.

**WAYNE:** Thank you, Mr President. Colleagues, last week we talked quite a bit about my issue with this bill, and although I voted for the last amendment, it's primarily to have this discussion. But I know, I don't want to waste a lot of time on this, it's pretty simple to me. We don't tax bottled water, and in this bill we are taxing the delivery of tap water. What my-- what my amendment does is basically remove its sales and use tax on tap water and remit-- and keeps the remainder of the bill the same. So what it would be is, you would still have the turnback on the sewer tax, but we would eliminate the tap water tax across the state. It's pretty simple to me. I don't think we'd have to have a lot of conversation. But at the end of the day, if we don't tax bottled water, but we do tax water that comes out of the faucet, I think we have a problem. Currently under our tax code, believe it or not, the delivery of water service to farmers is not taxed. Irrigation specifically and other farm-- farming or agriculture use. I do think it's unfair that small businesses in north and south Omaha have to be taxed if they are utilizing that business and they are utilizing water. More importantly, that tax is passed on to working people. For example, if you are in poverty and you have to use a laundrymat, you are paying tax on the water you're using. Yet again, if you are in rural Nebraska and you are using it for irrigation or agricultural purposes, you do not pay a tax on the equipment that is used to-- or the pipes that are used to put it in and on the delivery service. So I

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

think in order for Nebraska to be consistent with the policy of not taxing water, whether it's bottled water or other, I think we should not tax tap water. So this would remove the sales and use tax from-- from tap water or the delivery of water, and it would keep the remainder of the bill the same. I would ask you to vote green. Obviously, this bill is still gonna be held until later on after budget and those concerns, but I think as a policy statement, we should not be taxing water across the state. As a policy statement, we should not be taxing water across this state. So with that, I would ask you to vote green on removing the sales tax and uses tax from delivery service of water across the state. And again, it would keep the rest of the bill that if you have a sewer tax, that would be turned back to your local city officials and local municipalities. But I do think it is-- it is necessary as water is a basic necessity of life, that we do not tax the greatest input for not only life, but for many businesses across the state. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Wayne. Speaker Scheer would like to introduce two groups to the Legislature this morning. In the north balcony, we have 35 individuals from the Nebraska Career and Technical Student Organization. They are officers. And under the south balcony, we have additional guests: Lauren Unverzagt, Kiley Johnson, Drake Vondeerstase, Sydney Erickson, Carolyn Forcheck [PHONETIC], Max Yarnell, Cat Warner [PHONETIC], and Cooper Joneck [PHONETIC]. If you would all please rise to be recognized by your Nebraska Legislature. Thank you for attending today. Returning to the speaking queue. Senator Bolz, you're recognized.

**BOLZ:** Thank you, Mr. President. And to maintain consistency from a fiscal perspective, I-- I would like to ask Senator Wayne a couple of questions about the potential fiscal impact of his amendment.

**HUGHES:** Senator Wayne, will you yield?

**WAYNE:** Yes.

**BOLZ:** Senator Wayne, could you just help me understand, do you have an estimate of what the fiscal-- the impact to the General Fund to your amendment might be?

**WAYNE:** No. So in doing research, I looked at MUD sales and use tax and they paid around \$6 million. So that's what I'm figuring that they-- they use for-- for water use is \$6 million. Looking at Senator Lindstrom's LB242, the set-- sales tax in 2021 is \$23 million, but it

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

is not divided up between what is city-- of what is sewer and what is water. So my guess, if you did it in half, cut it in half, you're looking at \$10 million.

**BOLZ:** Sorry, at a \$10 million additional impact, or a total \$10 million fiscal impact for the first fiscal year?

**WAYNE:** Well, it would be, I think it'll be a net. I mean, you still have additional impact. It won't be additional impact because you would remove the sales tax that is coming into the state, so that'll be one, I guess, minus for the state, but then according to Senator Lindstrom's bill, you would also remove that proportionate of that water sales tax from his turnback tax.

**BOLZ:** So we would have an overall net loss to the General Fund because we would no longer be collecting this tax, correct?

**WAYNE:** That would be correct.

**BOLZ:** And the estimate is approximately \$10 million, is that--

**WAYNE:** Approximately \$10 million. I met with Fiscal Office, but we were just trying to get through the numbers on Friday, but we would know that if this amendment passed, they would have to redo a-- a fiscal note.

**BOLZ:** Very good. Thank you, Senator Wayne. I-- I just want us to make sure that as we discuss policy implications, we're also discussing the fiscal implications. It sounds to me like we're-- we've got some big numbers here. And again, the-- the policy discussion, I'll let Senator Wayne lead. I just want to make sure that we're being thoughtful about the potential fiscal impact of the decisions we're making on the floor. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Bolz and Senator Wayne. Senator Lindstrom, your recognized.

**LINDSTROM:** Thank you, Mr. President. I rise in opposition to AM2358. I appreciate what Senator Wayne's attempting to do, but the amendment, if passed, undermines what we're getting at. It would eliminate any of the money that would be returned back to your local community for infrastructure purposes. So-- and as Senator Bolz alluded to, the fiscal note continues to grow if we do this. There is a bill, I believe Senator Chambers has a bill that hasn't been heard yet in Revenue Committee, if Senator Wayne would like to, you know, sign on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

to that and work to get that bill out of committee, obviously he can do that. But this is not a friendly amendment to the bill and would appreciate a red vote on AM2358. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Lindstrom. Senator Dorn, you're recognized.

**DORN:** Thank you, Mr. President. Welcome, colleagues. Just wanted to correct a few things, not correct, I guess Senator Wayne talked about that for our irrigation out here in rural Nebraska, we do not pay sales tax on that. However, your irrigation, your pivot, your lines going to the pivot, all of those are put on the personal property statement. So then that personal property statement, they use a factor in there and then whatever levy for that school district you're in, and that county you're in, you take that levy times a certain percentage of that personal property, and for seven years, we are paying personal property on that. So we are not paying a sales tax, per se, into the state budget, but we are taxed on that. We are paying personal property on that and it is going into the county. Thank you.

**HUGHES:** Thank you, Senator Dorn. Senator Moser, you're recognized.

**MOSER:** Good morning. Thank you, Mr. President. I was wondering if I could ask Senator Wayne a question.

**HUGHES:** Senator Wayne, will you yield?

**WAYNE:** Yes.

**MOSER:** So I got a copy of your amendment. It's gonna take me longer to read it than to just ask you the question. So basically, you're wanting to exempt the price of water in everybody's water bill.

**WAYNE:** Yes. Actually, we're double-taxed on our water bill than-- than just a regular sales tax. And I can explain that on my time.

**MOSER:** OK. But you're gonna exempt water to whoever buys it, individuals, businesses, whatever.

**WAYNE:** Yes, I-- yes, I think that we should exempt water and treat our tax policy across the state the same for sales tax purposes.

**MOSER:** OK. Thank you. Well, the-- in the case of Columbus, where I'm the most familiar, the price of water is around a \$1.35 a thousand. So you divide that out, I mean, it's pennies, not even be a hundred and thirty-five cents roughly, it's less than a penny a gallon. And the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

sewer fee though is higher because they're paying off some water treatment bonds. So I think the sewer fees on the same amount of water usage, which is what they're based on, are more like \$4.75 or thereabouts per thousand gallons. So the effect of not taxing these waters is not gonna be a real big effect to the end user. Now, on the other hand, a lot of businesses use many thousands of gallons of water, and so there would be benefit to businesses where they could save money on this-- the sales tax that they would pay on their water. You know, in principle, trying to help local entities pay for their water and sewer systems, I could see with the budget, with the looming things that we have to spend money on, I question whether that's a good idea at this point. In our case in Columbus, the water and sewer fees are-- are set in order to pay off the bonds that we have that we-- the money we borrow to increase the size of our water treatment plant. And-- and that's why the water treatment side is more expensive than the actual water. But to quibble over the sales tax on a \$1.35 for a thousand gallons of water, I think we're getting a little too fine there in the way that we look at this. I'll read the amendment a little bit more and see if I can learn more. Thank you.

**HUGHES:** Thank you, Senator Wayne and Senator Moser. Senator Wayne, you're recognized.

**WAYNE:** Thank you, Mr. President. If we're quibbling over something that's a little bit little, then our tax policy shouldn't make that big of a difference whether we're gonna tax poor people or not, because that's who disproportionately is being affected by the use of tap water and the use of a sales tax for tap water. Again, we have an inconsistent policy. This is not difficult. We don't tax bottled water. I mean, we don't tax bottled water, but we tax tap water. That makes absolutely no sense. And you are right, Senator Dorn, you do put that on a personal property. But let's just use simple-- simple math. If an item cost \$10, or let's say we have \$10 in revenue, and an item costs \$4. You use a dollar for taxes. Let's just keep it simple so it's whole numbers. I pay \$5 at the store or at MUD. You pay \$4. You then have a 25 percent tax rate. Again, I'm using this for simplicity purposes. I have \$5 left. You have \$6 left and we're both being taxed at 25 percent. I believe based off of math, you come out ahead by not paying your sales tax by 75 cents. So there is a break by not paying that cost up front, there is a clear break. And what I'm saying that if you have a small and struggle-- a small start-up business in north and south Omaha, small startup business any urban city, small start-up business in Seward, Nebraska, they have the same struggles that many

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

of our people in rural, in agriculture Nebraska. Cash flow, cost. So as a policy perspective, we should make sure we have a taxing policy that is the same. And while Senator Chambers may have a bill that is in Revenue that hasn't been heard yet, I can deal with the bills that are before me on the floor. And this section clearly deals with water tax. There is nothing inappropriate about amending a bill on the floor. In fact, we do it all the time. That's what we're doing here, is amending a bill to say our policy around taxing water should be the same. And if anybody is living within a city limit or a municipality, you're being treated differently than the rest of the state. There's still infrastructure issues. And if somebody wants to dig a-- a line in rural Nebraska for agricultural use, they don't pay a sales tax. That's a problem. But more important to me is the fact that we are using tap water, water that is used for drinking water and feeding children are being taxed, but businesses can write that off but the personal family can't. This is a basic policy issue. Now, I do have other amendments, the one that we can just gut the whole bill and just not tax water. I think MUD and those people would be happy that we're not taxing water. But here's the other thing that I think my conservative colleagues need to hear. Nowhere in this bill do we limit any political subdivision by the amount of money they get turned back. Omaha's fees are still gonna rise. In fact, they pretty much told us that. Fees are still gonna go up. We're just gonna hopefully not raise them as much because of the turnback. And again, who is being affected? Those who are poor or low income. And so if it's not that big of a deal, we're talking about pennies on thousands of gallons, according to Senator Moser, then why not have a consistent tax policy that works for everybody across the state of Nebraska, not just a selected few.

**HUGHES:** One minute.

**WAYNE:** I looked at the vote board. There's 25 with me. I don't know how this bill moves forward without me. Maybe they'll pick up a couple votes, but then that number goes to 33 because we're not gonna tax the poor people in this state differently than we tax other people underneath my watch while I'm on this body. It's that simple. Tap water, taxed. Bottled water, not. That's inappropriate for this body and we can do better. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Wayne. Senator Briese, you're recognized. Senator Briese.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**BRIESE:** Thank you, Mr. President. I voted this bill out of committee, but I think Senator Lindstrom is gonna understand why I oppose it. But why I voted it out, one of the reasons was we heard in committee, Omaha water rates, I believe, are about 12 bucks a month-- or excuse me, sewer rates about 12 bucks a month in 2007. They're gonna rise to 77 bucks a month by 2026. We heard testimony about how water rates in Omaha were increasing and about their substantial increases. And the testimony that was that these rates were increasing faster than other municipalities because of infrastructure costs. So you can make the argument that, you know, what Senator Lindstrom is trying to do here is to help out the ratepayers to reduce rates and ultimately to reduce property taxes. But with that said, Nebraskans have spoken loud and clear what they want, what they need is property tax relief and a bill like this, with this kind of a fiscal note can have a negative impact on our ability to deliver property tax relief. Again, this bill has a potential to deliver property tax relief, but the key word right there is potential. It's too indirect of a route to suit me. There is no guarantee that this is gonna yield lower rates or property tax relief for these ratepayers. So because of this fiscal note, I'm gonna oppose the bill. I think it impedes our ability to deliver property tax relief. And then regarding AM2358, I'm gonna oppose it for the same reason. It has a less than certain fiscal note that also can impede our ability to fund property tax relief. Now, Senator Wayne, he-- he points out the-- some inconsistencies in our tax code relative to how we tax water, and that is unfortunate in a way, but-- but our tax code is riddled with inconsistencies. We're not gonna be able to fix every one of them. But-- but also in Senator Wayne's comments, he implicates irrigation water, and I don't know if he's ever gonna suggest that irrigation water ought to be taxed, but irrigation water is a direct business input. Plain and simple. Taxation of irrigation water is a nonstarter because it is a direct business input. Now, admittedly, we do tax some business inputs and it's unfortunate that we do. But we-- we can never-- we should not even consider bringing in another business input into our sales tax base. So I'm gonna oppose AM2358 and ultimately oppose LB242. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Briese. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. I'm gonna talk a little bit more just in general of the bill, because I haven't had a chance to read Senator Wayne's amendment totally, but if I have a little extra time at the end, I will ask him a few questions. One of the things that the argument can be made that we shouldn't be taxing water and sewer to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

start with, and I could argue both sides of that. When Bruce Johnson did a-- they call it a pull factor study at the University of Nebraska, and it talks about implementing a local option sales tax. And when you do that and a lot of communities that are small enough and don't have this large regional shopping base and the pull factor is actually a negative number. So whether you finance something in a small town and I'll use even the size of Aurora had a negative pull factor, basically you're just taxing your own citizens more to pay for this infrastructure. So whether you do it with property taxes or fees or anything else, you're taxing the same people because you're not pulling enough citizens into the community to shop. So when you get to a city like Grand Island or Lincoln, they have a positive pull factor. So there when you have a local option sales tax, you actually bring in outside money to help fund your revenue source. So this isn't really a-- I won't call it a property tax reduction bill either, because it's not gonna help with any of that. But it could lower sewer and water fees if-- if a community so chose to do that. One thing Senator Wayne mentioned was that when a farmer puts in a water line, for instance, we don't pay sales tax, but we do pay personal property tax. So we are taxed on that installation, so it's not just totally free. One of the problems I have in some communities and this does not apply to Omaha and Lincoln, is that municipalities can transfer funds out of their proprietary funds, which is sewer, water, electricity. So let's say that they overcharge a little bit and there's always extra revenue in there, now they can transfer it out into their General Fund and spend it for other reasons. And then down the road when their sewer plant needs work, they obviously don't have the funds, and then they ask that a bond be passed to upgrade their sewer or water system. And so one thing we have to do is stop those transfers from going out of those proprietary funds to be used for other purposes. When you do projects in most communities, you use what you call revenue bonds. And basically they are based on the revenue that you charge for that service, whether it's electricity or sewer or water. It's based on those fees. It's not a general obligation bond like you'd use for some other purposes. So there is a distinction between what types of bonds you'd use also. And one thing I really would probably like to clarify is this is-- not what you'd really call a tax on water. Water is free, but the service that's provided, the pipes, the pumping, the plumbing, the chemicals used to treat the water, that is not free. Nobody has to buy water. Water is free. But the service to provide it and that's what we're taxing. We're taxing the service. And so I just want to clarify things for the record that we're not suddenly charging-- the city is not having to pay so much a gallon to get the water and then

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

they're reselling it. We are charging for that service and we're charging a sales tax for that service. And so, again, I think there's a lot of communities that have old infrastructure in place that have not kept up with replacing aging pipes and sewer lines. That-- that's unique. That's not unique to any one city or size or anything, there's a need across all communities. So, again, we-- we legitimately could have the argument, should we be putting a sales tax on these utilities? I don't know quite where I'd stand on that, but--

**HUGHES:** One minute.

**FRIESEN:** --I did support this bill coming out of committee. I need to read your amendment yet, Senator Wayne, and I'll get back on the mike when I do that. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Friesen. Senator Wayne, you're recognized and this is your third opportunity.

**WAYNE:** Thank you, Mr. President. Again, this is-- one thing I didn't mention is, is manufacturing. So our tax code also exempts waters being used from sales tax and manufacturing. So those are places within typically municipalities who also get a break. And this goes to our overall tax code. We continue to give breaks to businesses and corporations, but not to the people who need it the most. Manufacturers get a tax exemption status on their water usage. But the people who need to drink it, don't. I-- I-- let's-- let's talk about business input, Senator Friesen. In my concrete company, I pay taxes on wood, forms, the concrete itself. I pay taxes on all the material that go into that concrete. The only time I don't is when I get a sales tax exemption certificate from a political subdivision that isn't taxed. And what are we talking about? Political subdivisions. Why are they taxing? Why is MUD even having a tax? Schools don't tax. Other political subdivisions, some of them do, which we should have a bigger contact about about public utilities. But then we talk about services. Senator Friesen, you say we are talking about the delivery service. As an attorney, I don't get taxed on my service. Barbershops, accountants, there are tons of services that we as a body said we should not tax. But the delivery of tap water, drinking water, we are gonna tax. How does that make good policy sense? This bill has got to be held anyway until after budget and after we get the A bills, I think the 45th day. So let's see the impact. Let's see the impact of removing a sales tax on drinking water, because that's what we're talking about. We're talking about drinking water and I'm out of time and I get that. I won't have another chance except for my closing, but

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

we tax business inputs all the time. My company on the Trailblazers Constructors is taxed every aspect of their business from all materials, all inputs from trailers. Yes, I know a bill this year, we're trying to exempt agricultural trailers. My trailers are not exempt. I pay a sales tax and a personal property tax. Don't get me wrong, they all get writ off in part of the business expense. But it's all up-front cash that I have to spend. We tax business inputs all the time. Laundrymats taxed, including their water. But manufacturers who use water to make a product, not taxed. To the mother who wants to use drinking water to put formula into a baby's-- to be sur-- to survive, taxed. That's absurd. So the company making millions off of the usage of water is not taxed, but the mother who was trying to just feed her kid with formula is taxed. That's what we're gonna say if you vote down this amendment. And if that's the policy we stick by, LB720, property taxes, we're gonna have a long conversation if we can't just not say, let's not tax water for drinking water. That's just absurd to me. And if a senator says, well, it's not that big of a deal, then let's exempt ag and manufacturers, let's take that exemption away. Somebody introduce an amendment right now on that section and let's say, let's get-- let's take it away, if it's not that big of a deal. Well, clearly it is for those industries, and I'm saying clearly it is for the mothers and fathers who are working who use tap water to feed their children, to use tap water to go wash their clothes. It is that important to that industry in that community of people.

**HUGHES:** One minute.

**WAYNE:** So let's be consistent. Water is life. Everybody knows that. We have to have it to sustain ourselves. Why are we taxing the delivery of that? That makes no sense and all my bill does is say, don't tax water service. You can continue to tax sewer, and if Senator Lindstrom's bill wants to move forward with the turnback tax for sewer, it will continue to move forward in that regard, but drinking water won't be taxed, nor the service of drinking water won't be taxed. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Wayne. Senator McCollister, you're recognized.

**McCOLLISTER:** Thank you, Mr. President. Happy Monday morning, colleagues. Senator Wayne is absolutely correct. We are so inconsistent in this state in the way we deal with water. You may remember Senator/Professor Schumacher said that if we really wanted to even things out, the state of Nebraska should start charging

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

agriculture for groundwater and surface water. And in that way, all water would be taxed. And wouldn't that be more uniform. When I served on the MUD board it always galled me that we had to charge sales tax for the water that we sold to the-- through the tap. But yet you go to the grocery store and buy a bottle of water, it wasn't taxed. And we know how bad those bottles are for the environment. That made no sense to me at all. There's a terrific irony in the fact that we-- we don't do that. Well, I think we're starting to see here the urban-rural split. The rural senators are saying, boy, it's great to have the-- the money from Omaha to finance state government, but yet when it comes to water in rural Nebraska, don't mess with us. And I'm-- I'm-- that makes me sad and I think we need to come up with a-- a more uniform policy that treats the entire state the same way. If Senator Wayne would like the balance of my time, I'd like to offer it.

**HUGHES:** Senator Wayne, 3:30.

**WAYNE:** Thank you. And I know Senator Erdman probably-- thank you, Senator McCollister. I know Senator Erdman probably pushed his button. Some surface water-- well, actually surface water does have a fee. And I think it's important to get around the difference between the sales tax and a fee. I think it's around \$31. But what I'm saying is there shouldn't be a sales tax and nor is there in agriculture, a sales tax on top of that \$31. But there is in the city of Omaha. There is a sales tax on top of that service delivery. And to Senator Friesen, I went real quick and looked up the average personal property tax in Nebraska and it's around 2 percent. Your sales tax is 5.5 plus your local sales tax, which could be another 2 percent, which puts you about 7.5 percent. So if we want to make a deal on the floor, let's just tax all water and keep it at 2 percent. We'll tax all water. You don't have to put it on your personal property tax anymore. We'll do all our personal property tax, we'll do all sales tax across at 2 percent. That's what average personal property taxes in Nebraska is around 2 percent. My point is it's less and it's not cash up front. We all know if you pay a tax up front in the sales and use tax, you have less cla-- cash flow on the back end, and when it comes to tax time, you still come out ahead. There's a reason why companies want and businesses want sales tax exemptions, because it flows better. So I think it's important to point that out. But the last thing I'm gonna say about this, until my closing, is real simple. Agriculture, manufacturers are exempt. The mother drinking the water, the mother providing formula using tap water is not. And is that the policy

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

Nebraska wants? Ultimately, your green or red vote is gonna decide that today. Thank you, Mr. President.

**HUGHES:** Thank you, Senator McCollister and Senator Wayne. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. Whiskey is for fighting, water is for drinking. They've never been to a General Affairs Committee meeting. But that's what we're doing right now. We're fighting over water and that's good. That quote was attributed to Mark Twain. Senator Wayne, if you would like a little bit more time before your closing, I'd love to yield you this time.

**HUGHES:** Senator Wayne, 4:25.

**WAYNE:** That's a lot of time. So part of I'm lost for-- thank you, Senator Lowe. Part of why I'm lost for a word, because it's just so simple in my-- in my book. I mean, I keep repeating myself and repeating myself, hoping that, you know, threes, they always tell you in marketing that if you say it three times, it sometimes stick. So I guess this is my third actual summarizing everything again, even though I used two other times to break it-- break down my point separately. If we're gonna tax the mother and the working poor for drinking water, then every tax bill that comes out here we're gonna have to do something about. And it's gonna take three hours because this is that important. It's the principle behind our tax policy. Now, I'm the first one to stand up and say not everything should go three hours, that we should just vote on it, let's move on. But we're talking about what is essential to life. We are talking about one of the basic business, human inputs we can have across the state-- water. And the reason I say we're double-taxed is because not only does MUD and these companies, the way that the statute or the way the regs and statute are written, but when they go out and they actually buy the material, they're taxed on the front end, but then they tax the residents again on the back end. They tax them twice the way our statute is written. I'm saying none of that. So the local municipality will actually save money because they won't be paying that tax up front. And the consumer will save money because we're not paying additional tax. I am just simply saying in-- in this amendment, don't tax water, don't tax the delivery service of water. And then if you say as a body, we want that to happen, then I'm gonna have an amendment on the floor that's gonna say all water is taxed and then we're gonna see a different conversation around, well, agricultural spends so much, manufacturers who make things using a lot of water

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

spend so much. So again, we'll give tax breaks to corporations, but not to working class people who literally need water to survive-- literally. Can't substitute that. But if you have a little money and you want to go to your local grocery store or your local gas station, you can buy water. You can even buy Smartwater, Senator Erdman, and you're not taxed on it. But if I drink it out my faucet, I am. Who does that disproportionately affect? So we're gonna find out today what our tax policy really is when it comes to urban and rural, when it comes to working poor. And we're gonna find out today moving into LB720 in property taxes and those kind of things, what kind of consistent tax policy do we want to have? Because the fact of the matter is, property taxes, when 50 percent of my district are renters, won't really matter.

**HUGHES:** One minute.

**WAYNE:** They're not gonna give a free-month rent. Hey, we got a property tax relief, you don't have to pay rent for a month. That's not gonna happen in my district. This is a way for us to provide a tax savings by eliminating this tax to many of the people in my district. And while it won't seem like a whole bunch on a bill, it does matter in principle and it does matter to those who are living paycheck to paycheck. With that, thank you, Mr. President.

**HUGHES:** Thank you, Senators Lowe and Wayne. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So, Senator Wayne, you've given me about eight topics here to choose to talk on so I'm gonna start with what I would call my priority. So when you-- when you want to talk about water, gosh, and I was hoping you'd be listening to me instead of the Speaker. But when you talk about drinking water, so in-- in my case, I live in a rural area. I-- I pay for my own drinking water. I pay for my well service and I pay sales tax on it. If I get a new well drilled and new piping put in, that's all sales tax. I'm not gonna get any of that back. That goes to the state. So we do already pay sales tax on those items. Now, if we use it for production of livestock, meat, corn, soybeans, no, we don't pay sales tax because it's used in the manufacturer of food. And that's why a lot of companies are exempt from sales tax also on their water, because it's just be pyramiding because the items that they manufacture, the end user, likely pay sales tax unless it's food. Now, yes, we have discrepancy in our tax code. There's lots of services that have appeared over the last 50 years that we have not modernized our tax code that we probably should

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

be charging sales tax on. I-- I get that. I've-- I've been a part of those discussions for several years and we can't ever get anywheres. But one thing you have to remember, too, is that the drinking water that we're talking about, you know, I don't know what percent of it is actually consumed for drinking. I would be willing to wager that 90 percent of it is probably used to flush the toilet, water the lawns, wash the cars, wash off your driveways, do the dishes. As far as the consumption of water, it might even be closer to 2 percent. We'd have to do some research there. So we deliver this water and this is one of the arguments when you get into smaller communities. So you have a water treatment issue, whether it's nitrates or some other uranium or lead in your water. Federal drinking water standards do not let small municipalities just go in and put in a reverse osmosis system in a house which would very cheaply solve a drinking water problem. Instead, we have to treat the water and it costs millions of dollars to do and yet we're treating most of the water that just goes to flush the toilet, wash the car, water the lawns. And so I've always argued that when we talk about drinking water in the larger perspective in rural areas and small towns especially that can't afford these expensive drinking water issues that come up because of our clean water standards, there is a cheaper solution, but we're not allowed to do that. So I-- again, I'll-- I talk about the sales tax issue when it's exempted from manufacturing and for farmers, it is just in the production of something. And so we don't want to-- we always talked about not pyramiding our taxes. And so if we would, for instance, charge a manufacturing facility sales tax on that water, that end product that they sell, there's a good chance that there's sales tax put on that, now you have added tax upon tax. Some of the exemptions that we-- you mentioned, I guess, that are coming for some ag equipment. Those, I will say, are just Revenue Department changes. It's not-- they're starting to interpret different things, different land and suddenly they come in and make these interpretations. We're clarifying language and they are very special use trailers, a little different than what you have. One of the issues you brought up is you pay sales tax on everything. But I think as a-- as a business, you can choose whether you want to pay the sales tax--

**HUGHES:** One minute.

**FRIESEN:** --up front or whether you want to choose to collect it as a separate item. And so if you are a service industry who chooses to incorporate it into your bill, somebody is still paying that sales tax, I believe. You'll just pass it on to the customer, but you're not

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

required to itemize it. So with that, I mean, I think this is a good discussion. We do need to modernize our sales tax code. But when you start talking about taxing water, again, water is, you know, it's a common use for the common good. It is not owned by anyone, and I don't know that anyone has to buy water. We are still going back to taxing the service, and you can argue whether or not we should be doing that. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Friesen. Senator Briese, you're recognized.

**BRIESE:** Thank you, Mr. President. Good morning again, colleagues. I wasn't gonna say anything on this bill, but Senator Wayne's amendment kind of perked my interest here a little bit, and I could support AM2358 if we could afford it. It would be good for our everyday Nebraskans and I could support LB242 if we could afford it. It could be good for our ratepayers. It could help their bottom lines and their pocketbooks, but again, it's our priority needs to be property tax relief in my view and that's-- that's why I'm not going to at this point. But a couple of things Senator Wayne said, and I appreciate his bringing this up and he's right, there's a lot of inconsistencies in our tax code. And yeah, we should be looking at some of these at some point. But Senator Wayne did mention that a lot of business inputs are already taxed. Yes, they are. Business inputs and business expenses are oftentimes taxed in Nebraska. But we should be very re-- we should be very reluctant to ever even consider bringing in additional business inputs for taxation. And it got me to thinking, why do we tax water, in particular residential water? Why is that good tax policy? The ideal sales tax base is broad. It's-- it's expansive. It affects as many people as possible. And the ideal sales tax base is a one-time retail tax on a consumer-oriented transaction. And a tax on residential water really meets both of those standards quite well and so there-- it is sound tax policy to place sales tax on residential water. Again, we need to consider, you know, our low-income folks and take care of them appropriately, but it is sound tax policy to do what's being done currently, in my view. Again, I could support that if we could afford it. It would be good for Nebraskans, help them out, but there is a-- is a sound-- there is tax policy, sound tax policy, policy considerations that do support that. But I heard somewhere back there somebody was talking about an urban-rural divide and I keep hearing that. And there was an editorial written the other day and it kind of made it sound like I was in the middle of causing an urban-rural divide. Well, folks, I talk about urban and rural coming together that need to come together. And we're gonna have a chance to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

come together here very soon when we start talking about property tax reform and education funding reform and business incentives and a UNMC deal that we talked about last Thursday in a Revenue Committee meeting. We're gonna have a chance to come together, urban and rural, and we better not miss that opportunity. You know, Nebras-- Nebraskans are watching us. They expect us to put our-- any differences, any perceived differences aside and come together for the good of the state and that should be our focus from here on to come together, urban and rural, and do what's best for the state. But anyway, with that said, at this point I'm gonna oppose the amendment and the bill. Thank you, Mr. President.

**HUGHES:** Thank you, Senator Briese. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Mr. President. Good morning. As Senator Briese alluded to, I've heard that same comment about the urban and rural divide. Not sure exactly what that means, so I need to ask Senator McCollister a question if he would yield.

**HUGHES:** Senator McCollister, will you yield?

**McCOLLISTER:** I will.

**ERDMAN:** Senator McCollister, if you would explain or elaborate on your comment about this is a rural and urban divide. What did you mean by that?

**McCOLLISTER:** Oh, I'm just basing that on the speakers and where they hail from on this side of the issue. That's all.

**ERDMAN:** OK. So do you believe there is a rural and urban split in this body?

**McCOLLISTER:** On occasion.

**ERDMAN:** Give me an example.

**McCOLLISTER:** Perhaps this is a good example. I think as we look at the tax policy, you can probably see a urban-rural divide. That's not to say that I don't think that rural folks deserve a lot of help when it comes to our policies this year with regard to property tax. There's absolutely no question that property taxes in rural Nebraska have gone-- gone up to an unreasonable level. So I think it's-- it's up to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

the urban folks to maybe come across and help out our rural cousins to a greater extent than we have.

**ERDMAN:** OK, I can appreciate that. One of the things that I would like to bring your attention to make sure we don't forget is this property tax issue is not just a rural issue. This property tax situation affects every Nebraskan who owns property. And we're talking about tax policy this morning and how we should implement tax policy and what we should do. We are currently-- we function under a tax policy that's 55 years old. It has not been adjusted since 1967. And so what we have done is we have shifted an enormous amount of responsibility to property tax over the last 15 years. So having said that, and I came here three years ago with an idea or a-- or a conception that I was gonna offer solutions to problems. So I have introduced LR300CA, which is a consumption tax to remove all property tax, income tax, corporate and individual, as well as inheritance tax. I don't believe that will ever be a rural-urban split because everybody is going to pay fairly and equally. And so this is an opportunity, it will be for us, to make a decision on how we tax people. And so going forward, I don't believe that rural and urban divide is as significant as some would want us to believe. Senator Wayne alerted to-- alluded to the fact that we do pay a delivery fee for our water when we get surface water. That is correct. And he stated in some cases it's \$31 an acre. We don't pay for the water. We pay for the service, deliver-- the service to deliver it as well as the pipe or the canal that delivers it. That's the way it is set up. We're not paid-- we're not charged a tax on how much we get. We're charged on what it costs to operate the system. And so we do a lot of strange things in Nebraska, the way we exempt things from sales tax. We don't charge sales tax to the zoos. In fact, about 55 percent of all the things that we could collect sales tax on have already been exempted. That is the problem. So LR300CA solves all those problems. It makes it fair for everyone. And what it does, it holds the low-income people completely harmless and makes them in a better position than they are now. So you want to talk about changing the tax system? That's the one. So if you haven't looked at it and some of you I've showed it to, if you haven't looked at it, please do so because it is the answer to the problem.

**HUGHES:** One minute.

**ERDMAN:** And what we continue to do here, we continue to function inside the box and figure out what is it that we can do that we can afford to do. That's not thinking outside the box. And there's an old

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

saying, that goes like this. If everybody is thinking alike, is anybody thinking? And so this is an opportunity for us to change the way we think and to put, for once and for all, the taxpayer in first place to have the most consideration instead of the tax collector and spender. So that's the situation we find ourselves in and I'm looking forward to the discussion. Thank you.

**HUGHES:** Thank you, Senator Erdman. Senator Groene, you're recognized.

**GROENE:** Thank you, President. If you look at the committee statement, I did not vote-- present, not voting. I fully understand where Senator Lindstrom is coming from. He's a state senator, but he's also a local senator and Omaha has a problem with their sewer system brought on by themselves, lack of keeping ahead of the repairs, and the federal government stepped in. But I don't believe in turnback taxes. We pay state taxes. We pay local taxes. We are talking about a state tax being turned back for a local purpose. That-- that is also why I don't believe in the property tax credit fund, same situation. I can't support it. It's bad policy. As far as-- address, Senator Wayne, the renter don't pay a water bill if they rent an apartment, I don't believe they pay a sewer bill. It's all paid by the-- I think it's-- well, back when I rented a place, it was all included in their rent. It was their rent. Unless that's changed.

\_\_\_\_\_ : It's changed.

**GROENE:** All right, if it's changed, then they do pay. But back when-- been a lot of years ago, you just paid your monthly rent. I still believe that's-- my daughter went to college that's the way it was. So it had to change recently on a-- on a high-rise apartment building. But that said, it is a users tax. It's how much you use. If you lower your taxes-- if you lower your consumption, you pay less. If you own property, it is not. It is the most regressive tax there is, has nothing to do with your-- you can't control it. You can't-- it has nothing to do with your income. And agriculture does pay for their water. If you own irrigated land, you pay a lot higher property tax. You do, for the use of that water. It's basically for the use of that water. In my area, they pay up to \$10 an acre in occupation tax for the use of it. That's a user tax. Not based on consumption, they just pay it. So, yes, agriculture does pay tax on their water. But we need a broad tax base as Senator Briese said, this is on water, everybody shares in it then and they pay the state. Because who owns the water? State of Nebraska does, the groundwater. Hope everybody understands that one and the citizens of it. But I will tell you this. If you rent

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

now and the landowners' property taxes go down 13 percent in an urban area, that will help your rent pass through better than anything else we can do in this body to lower rents, 13 percent reduction in the school side of it, so it's a 7 or 8 percent overall reduction, but it is a reduction instead of an increase. I understand and I really admire Senator Lindstrom, he's very honest. He came to the committee with the revised fiscal note because there's an error in how the Fiscal Office interpreted the bill, but we don't have the money. We don't have the \$8 million for next year. We don't have the \$23 million to help Omaha pass-- to help them with their sewer problem. And this isn't an urban-rural bill. Every single town has water fees, no matter how small they are or where they're at. In North Platte we have a utilities department--

**HUGHES:** One minute.

**GROENE:** --and it is very profitable, very profitable for the city. The money is fungidable-- fungible. It floats back and forth between the budgets. MUD might be the exception. I've seen our water department, our city take water-- a million, millions of dollars, or at least a million out of utility's fund and transfer it over to the city's operating fund. There's no-- this isn't an urban-rural. Every town across the state has a utility and water cost and a sewer cost, so this is a tax policy issue. Does the state of Nebraska fund a local problem?

**HUGHES:** Time, Senator. Thank you, Senator Groene. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good morning, colleagues. I rise still listening to debate both on LB242, the committee amendment, and Senator Wayne's amendment, which I think is a very interesting concept because I didn't realize until my community was dependent upon bottled water that bottled water, not tap water, was exempt from tax. My biggest concern with LB242 right now is the price tag. It's been much discussed, especially over the last few speakers. And I agree with Senators Briese, Erdman, and Groene that this is not a bill that should fall along the urban-rural divide. Overall, I think as a larger comment on the urban-rural divide, neither side has enough votes to get bills across the finish line. So we do have to work together on bills, on bills as big as LB242. I look at that price tag and I see \$23 million out of the General Fund. And even if there is money available after 45 days, we go back through, we get property tax relief done, we get business incentives done. We've checked all of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

boxes in the next, oh, 25 days. That \$23 million has to come from somewhere. And I'd encourage all senators if they have bills that cost any amount of money out of the General Fund to truly take a minute and consider where that money for their bills are gonna be coming from if this \$23 million bill passes. But again, I wanted to add to the record a couple of comments about how drinking water was compromised in our areas during last year's spring flooding, especially considering a lot of the same areas that were so severely impacted in the spring of 2019 are looking to be under the gun for flooding again in 2020. An article I wanted to reference was printed in the Des Moines Register on April 5, 2019 written by Josh Funk and the title is, In southwest Iowa and elsewhere, drinking water problems linger long after flooding. Several communities along the Missouri River continue to struggle to restore drinking water service weeks after massive flooding swept through the area. People who live in the affected Nebraska and Iowa towns have had to adjust to boiling water before drinking it or relying on bottled water while officials worked to repair the damage. The challenges each town faces after last month's flooding differs, but they share the goal of restoring safe drinking water service quickly. Last month's flooding caused more than \$3 billion in damage in Nebraska, Iowa, Kansas, and Missouri when spring rain and melting snow combined to overwhelm area rivers and inundate towns and lands, but the damage is still being tallied. In Glenwood, Iowa officials used a boat this week to reach one of their three wells inside the water treatment plant and make repairs while the other two wells remain under water. But getting a well up and running is only part of the process. Glenwood City Administrator, Angie Winquist, said the city's water pipes and towers need to be flushed and refilled before the water can be tested. It will be at least a couple more weeks, but that's better than a couple months, Winquist said. Restoring drinking water is so time consuming, in part because of all the steps required to ensure the water is safe. For instance, once the damage has been repaired and the system refilled, the water must test clean several times on different days. So Glenwood will continue trucking in more than 6,000 gallon tanks of water to provide the roughly--

**HILGERS:** One minute.

**SLAMA:** --270-- thank you, Mr. President-- to provide the roughly 275,000 gallons its residents are using each day. Across the Missouri River in Plattsmouth, Nebraska, officials said it could be six months before they get their water treatment plant operating again. Fortunately, that Omaha area city was able to connect to a nearby

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

rural water system, but it doesn't have the same capacity, meaning residents must continue conserving water. About 50 miles further south, the flooding forced Peru State College to close for two days. Students were able to return because the campus itself wasn't flooded, but the city's water still isn't drinkable. I'll come back to this article later because I think I'm about out of time. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Slama. Senator Lowe.

**LOWE:** Thank you, Mr. President. I promised Senator Howard that I would speak on YRTC. I'm not gonna take this time right now. I'll hit my light again and I will speak on YRTC, maybe one more time on this bill, and maybe a couple of times on the next bill. We've got a powder keg going on, but for right now I'm going to turn LB242 and amendment AM2358 over to Senator Wayne if Senator Wayne would like to have the rest of my time.

**HILGERS:** Senator Wayne, 4:20.

**WAYNE:** Thank you. Thank you, Mr. President. Thank you, Senator Lowe. Colleagues, I-- I don't want to take this to 11:10, so I will-- I'm gonna respectfully ask those who are in the queue to turn off their light just for this vote. Now, if you want to go back to the AM434 and you want to have conversations to 11:10, so be it. But I think it's critical that we get a vote on whether we're gonna tax water or not. Senator Briese talked about whether we can afford it or not. The easiest way we can afford property taxes and those kind of things is let's just get rid of the exemptions for agriculture and manufacturers. Senator Friesen, I agree with you, and I hope this will convince you to vote for my amendment. And I'm gonna put it very simple in consistency here. We don't tax food because it's vital to how we live. We don't tax food because we say, that just doesn't feel right, taxing food. We know it's gonna-- especially a sales tax, which is very discriminatory towards poor individuals. We don't tax food because it's just bad policy. Then why is it OK to tax water when water and food are essential? Now, we'll go a step further into that analysis. We don't tax food of which every person along that line, when I'm talking about that chain of custody, if you want to call it or that industrial spectrum, everybody on that line from farmer to end product are not nonprofits, are not public utilities, but 95 percent, if not 99, are for-profit companies yet there is not a sales tax all the way through that. But for water-- but for water, it is a public utility. It is a municipality and we're charging a tax. We have food,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

no tax because it's essential. Water tax because maybe it's not, I guess. But throughout the entire food chain, not taxed, because we have taken the position that that is a very important policy statement for for-profit companies. But for a public utility, it is taxed. Public utility that is owned by the people in their communities is taxed. I think that is a fundamental problem with our policy statement. So I'm asking you to vote for this amendment. The cost is the cost. We'll have to deal with the cost on round two. But let's turn off our lights. Let's get a-- a vote and see where we are when it comes to taxing water as a policy. And if you want to have extended debate or you want to go to 11:10 and make it a 33 count, do that on AM434. But I think it's important that Nebraska sees where we are on taxing water. And if you agree with that, turn off your light and let's have this vote and see where we are taxing water, taxing the delivery service of tap water. And if we don't want to do that, then let's-- let's get rid of all the exemptions on the delivery service of water, because water is not food, clearly, and we tax food-- we don't tax food, but we tax water.

**HILGERS:** One minute.

**WAYNE:** Let's be consistent. Let's vote on this today. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Wayne and Senator Lowe. Senator Moser, you are recognized.

**MOSER:** Thank you, Mr. President. Well, in general, taxes are a bad thing. I think we can all agree on that. But when you start picking out things that should be eliminated, pretty soon they start to add up. It's kind of a case of death by a thousand cuts. We tax lumber when you build a home and then after you build the home, then we charge you property tax on the home, so you're paying tax again on that. You buy a new car and you pay a sales tax and then to license it, you pay personal property tax. So you add that tax together, it could be 10 percent of the value of the car. We tax the electric bill. You can't live without electricity. How-- you know, how would you read? How would you cook your food? How would you charge your laptop? We-- we charge tax on the natural gas bill, and people would freeze without natural gas. We charge tax on telephone. So to pick and choose one thing over another and make a case of an emotional plea that, you know, that it-- it's expensive for people with not a lot of means. All taxes are-- are bad for everybody to pay. But if you take them-- all taxes away, who's gonna pay the bills? You know, only in Lake Wobegon

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

can all the women be good looking and the children all above average. You've got to have-- somebody has to pay the tax to pay the bills. And that's my concern with the underlying bill, and that's my concern with Senator Wayne's amendment. Thank you.

**HILGERS:** Thank you, Senator Moser. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President.

**HILGERS:** It's your third opportunity.

**FRIESEN:** Would Senator Wayne yield to some questions?

**HILGERS:** Senator Wayne, would you yield?

**WAYNE:** Yes, I would love to.

**FRIESEN:** So I've had a short amount of time now to scan through the amendment. I just want to ask you a couple of questions. It's my last time on the mike. It talks about on page 1, line 15, it says there's-- claims there's restrictions on the ability to a-- of a city to finance these issues?

**WAYNE:** Yes, that's-- that's in the current AM that was just adopted-- in AM34 [SIC]. It's the current bill. All I did was exempt water.

**FRIESEN:** But you-- you mentioned in there, at least that there-- in your comments that there's restrictions on this and I just wanted to clarify that any capital investment like that, expenditures are outside of any lid or expenditures. I just--

**WAYNE:** Correct.

**FRIESEN:** --clarification.

**WAYNE:** Correct.

**FRIESEN:** Page 2, line 3, you mentioned the need-- the need for cities to get assistance. And-- and I'd like you to clarify why do you think the state needs to help cities with that issue?

**WAYNE:** This goes to the heart of the bill or the original bill by Senator Lindstrom. If we are paying sales tax, there are many unfunded mandates from the federal government all the way through. And it's just a way to make sure that we all pitch in and do our part. If we feel like the state should not pitch in and help some of the basic

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

infrastructures across our cities and municipalities, then maybe the state shouldn't collect those dollars either. I think it's a partnership.

**FRIESEN:** OK. So if-- if you're taking away the ability of a city to apply its one and a half or two percent of sales tax on that water, how are they gonna replace that revenue? Are they gonna raise property taxes?

**WAYNE:** Well, that's just it. Right now, though, they've already got a fee. So if you look at MUD's fee, they have a sewer separation fee of 60, 70 dollars. They have their regular delivery service charge. They will still charge that deserv-- so the service charge won't go away. We just can't tax the service charge underneath my bill. So it's like an example, going to get your haircut, you're still gonna pay 10, 20 dollars. You're just not gonna be taxed on it like we currently are right now when we get our haircut. So you'll still get the service charge. There just won't be a tax on top of that.

**FRIESEN:** OK. One thing you mentioned too, you said no tax on food. And I want to disagree a little bit with that because I think lately the data has been showing that about 50 percent of our food is consumed outside the home. So it's prepared food and we're already paying sales tax on that. So I just clarifying some issues. I think that's all the questions I have, Senator Wayne. And I want to kind of point out again that when we keep bringing up this rural-urban divide, I live in the country, I have no skin in this game whatsoever. I voted for this bill. I-- I voted to get it out of committee. You made a good case. Do we have the revenue when we get to the end? I don't know if I can support it because I think we have other issues that are priority. So I'm-- I'm gonna help them move it ahead for now because I helped move it out of committee. And I think it is a worthy discussion to have. But again, we have limited revenue and we're gonna have to start prioritizing what we do with it. And that's something we probably haven't done in the past very good. And so my focus has been right now on how do we fund K-12 education? So I will continue to focus on that. And I think as these issues get to the end, we're gonna have to make some serious decisions on where our priorities are. And so with that, I yield the rest of my time to Senator Wayne if he wants it. Thank you, Mr. President.

**HILGERS:** Senator Wayne waives the opportunity. Thank you, Senator Wayne and Senator Friesen. Senator Matt Hansen, you are recognized.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**M. HANSEN:** Thank you, Mr. President, and good morning, colleagues. I'm not planning to speaking long on this, but I just did want to kind of talk, because we have talked about renters and kind of some of the issues renters face. I think this is kind of an important discussion to have. It was kind of--there-- for those who you haven't rented in a while, it is not uncommon for renters to have the bills in their own name, to have, you know, different meters on say like a duplex or what not and have each individual renter or a member of that household put their own name on a water bill, electric bill, or whatnot. And so they are very much directly paying for the services. It's also not, I guess, uncommon for something to be all inclusive or partially inclusive, especially if it's a-- an older house that has been converted into a duplex or something they might not want to do two meters, so the landlord might just kind of include that in the rent and consider it inclusive. But kind of an either way, you know, these taxes, these fees, the service fees, whatever they are, various capacities, I'm assuming since it's a for-profit business model get handed down to the renters one way or the other. So whether or not their name is directly on the bill, whether or not they're directly writing the check or paying online to the city, to the municipality, is ultimately something that comes back to the renter. And I just kind of wanted to throw that piece in the debate. And with that, I would yield the balance of my time. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator Albrecht, you are recognized.

**ALBRECHT:** Thank you, President. And colleagues, again, I rise to deny the AM2358 and vote against it. You know, I guess I stand as a realist up here. I listen to people from the Appropriations Committee that tell us to-- and caution us about fiscal notes that carry these kind of numbers. And, you know, I was a no vote on the-- the first amendment that was up for those very reasons because, you know, I could sit here present, not voting, and-- and then people don't know where I'm at. But-- but the reason I'm a no is, I know that there are a lot of other funding sources that are out there. I know, again, the Governor is putting up some money for some of these counties that-- that can't reach the twelve and a half percent to take care of their flood damage. OK. There's also inheritance fees-- inheritance tax that they can delve into on the county side. Some of them are just using it for their slush fund, some of it are using it just for brick and mortar. Last year, I brought the-- the Nebraska State Revolving Fund, which is a clean water and drinking water use plan for the cities

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

and-- and counties to-- to delve into and to get lower interest rates on their loans. Again, I don't believe that-- that this bill in the way it's written, if they wanted to cap it, you know, if we wanted to talk about something like that, but to just say over a three- to four-year period, all that money turns back. You know, if I could be guaranteed by the cities and counties that we aren't going to continue to raise taxes to meet the-- the obligations of the people, you know, we-- we are the ones that are having to work with this property tax relief plan. And we can't-- we can't make everything work if we're not helping each other. And I don't believe that-- that this particular bill, in any which form it comes in at this point, is going to be fiscally responsible for our state. And I don't-- I don't know that-- I understand that there's aging infrastructure. But as you sit on a city council or a county board, you know that that infrastructure is aging. You know that you have to replace water treatment plants and water towers and-- and the infrastructure. But-- but there are many different opportunities that are out there for you to-- to sit together as a board or a committee or a council and-- and to find out what we need to do to make that happen. So I would-- I would just rise again to say I'm just being a realist, that if-- you know, don't just pass a bill and hope on a song and a prayer that there's gonna be enough money at the end to fund it, because, again, all of the things that Senator Bolz "rised" to tell us about, Senator Stinner, I believe that-- that there's not enough money this year to go around. And I know that next year it's not gonna get any better. So I think we need to be frugal and-- and fiscally responsible. And I just don't think that this bill meets those-- that criteria. So thank you.

**HILGERS:** Thank you, Senator Albrecht. Senator Hughes, you're recognized.

**HUGHES:** Thank you, Mr. President. Good morning, colleagues. This is the first opportunity I've had to speak on this bill. A couple of things that I want to point out about the rural-urban divide and who pays for water and whether you're actually paying-- paying for water, you're paying for delivery. As a farmer myself who irrigates, that water is pretty expensive. Although I'm not paying sales tax on that water, I'm paying a very hefty property tax because of that water that happens to be underneath of my land. Not all my land has water underneath of it. Unfortunately, you know, we're only about 20 percent irrigated, but where there is sufficient water to irrigate with, that's-- that's what we do. The value of that land is triple, quadruple of what land that does not have water in it and that is on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

our property tax bill. So it is not sales tax. It is tax. And whether or not you believe, you know, in local taxes and state taxes, they are still taxes. They are still paid. They come out of our bottom line. So those things we need to be mindful of. I guess I would like to see if Senator Lindstrom would yield to some questions.

**HILGERS:** Senator Lindstrom, would you yield?

**LINDSTROM:** Yes, I will.

**HUGHES:** Senator Lindstrom, it's been a while since we started on this bill, I believe it was last week. And there's a lot of discussion basically on Senator Wayne's amendment, but would you go back to the beginning, and where the bill is now, because we passed your amendment, so give us a-- give us the Cliffs Notes--

**LINDSTROM:** Sure.

**HUGHES:** --on what this bill does with your amendment that has passed, if you would, please.

**LINDSTROM:** Yep. So the amendment that passed just created the cash fund, as we've talked about. There's a fiscal note attached to this bill and so to provide the turnback, we needed to create a cash fund. That was the amendment that was passed. What the-- the Revenue Committee bill is, it's simply changed the date and the percentages underneath. When we first structured the bill, we put in 2 percent, 3 percent, 4 percent of that-- of that 5 1/2 percent, we collect as a state. But to clarify, we had to do basically a division problem. So 2 divided by 5 1/2 percent, which then kicked out 36 percent of the overall percentage, then goes back and then gets up to 72.72 percent when it's all said and done back to your local utility. That's what the amendment does and then it changes the operative date because this bill was introduced last year, instead of 2019, it would be in effect in 2020. So those two things. It changes the percentages just to clarify and that the date changes, so it operates this year.

**HUGHES:** OK. Would you go back to what LB242 actually does?

**LINDSTROM:** Sure. So the bill, as-- as the intent of the bill was written was it takes a portion of what we collect on both the potable water and the sewer water and turns it back. So we tax both those and they're separated. And we've talked about last week where we don't tax the inputs on sewer water, but we do on potable water when they do

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

these projects. That's nothing that we're changing. We're not changing the local option sales tax so it doesn't affect the 1 1/2 percent that might be collected at the-- at the local level, but it does just provide money that goes back into infrastructure all across the state, not just in Omaha, Lincoln, or anywhere else. It goes straight back to where it was collected from the people that are paying that particular tax.

**HUGHES:** So is this-- is this an automatic that every city will get that or do they have to opt in and pass a resolution that they want to begin collecting the portion of their sales tax? How does that--

**LINDSTROM:** It would be-- it would be automatic--

**HILGERS:** One minute.

**LINDSTROM:** --that it would turn back and again, we phase it in. And I think Senator Slama brought it up before. It's a percentage of who's collecting it. So obviously where the population resides, that-- that population that's paying that tax will get the vast majority. If you have a small town, anybody that's paying that particular tax in that district will then get it or in that municipality and utility will get that turned back to their local utility as well. But it does, you know, it goes from when we start in 2020 to 2023 is when it's fully implemented and it's 72 percent, 73 percent if you want to round it up of the overall tax that we collect. I don't-- you know, I don't necessarily disagree with Senator Wayne's comments, but it really isn't what the intent of the original LB242 was intended to do. You know, I appreciate the debate on that, but, you know, it kind of undermines what we're trying to do as far as providing that investment back in the infrastructure.

**HUGHES:** OK. Thank you, Senator Lindstrom. I guess--

**HILGERS:** Time, Senators.

**HUGHES:** Thank you.

**HILGERS:** Thank you, Senator Lindstrom and Senator Hughes. Senator Murman, you are recognized.

**MURMAN:** Thank you, Mr. President. I haven't spoke on this issue yet and I did vote against the previous amendment, so I thought I should speak up. This is something that, you know, is another good thing, of course, but we just can't afford that-- this at this time in the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

state. We've got priorities that are ahead of it. Number one is lowering property taxes. You know, just as-- as has been mentioned before, just a little bit here, a little bit there, a little-- and it all adds up and, you know, add it-- add it all together and it'll just make it that more difficult to lower property taxes. That being said, I do realize there is aging infrastructure all over the state that needs to be addressed. But I do think that that is something that needs to be planned for and addressed, you know, addressed ahead of time where we don't really need an extra new method to do that-- that-- and then just hope that taxes would go down because we did it. And another thing I would like to talk about. We talked about how-- or it has been mentioned that farmers are getting a better deal because they don't pay sales tax on their water. As a farmer, I would love to be located on the edge of a city or a town and would be able to tap into their water system because, you know, if we're very far from town, we have to pay for our whole well pipe, the whole delivery system to deliver our water and that is very expensive. I'd much rather pay sales tax on the water and not have to pay for that whole system of well pipe, everything that it takes to deliver water to my house. And then, you know, same story as with the water that's used in the production of food. We have to pay for the well, the pivot, everything that's been talked about, or if we use gravity irrigation, we have to pay for the pipe-- gated pipe and then, of course, all the labor and everything that goes involved-- that is involved in-- in producing food. And then in the end, if we were taxed sales tax on that water, that would just add to the price of food. So the pyramid effect would make food more expensive. It still wouldn't be a benefit to those especially lower income in the city, which I can totally understand that they can't-- they shouldn't be taxed on necessities. So by adding the cost of food-- of their food, it still wouldn't help them receiving that necessity. And has been mentioned before, we do pay personal property tax on-- on-- farmers do pay personal property tax on the equipment that they use to produce water on their farms. So with that, I'll yield the rest of my time to the Chair.

**HILGERS:** Thank you, Senator Erman-- Murman, I'm sorry. Senator Bostelman, you are recognized.

**BOSTELMAN:** Thank you, Mr. President. Good morning, Nebraska. Good morning, everyone. And I, too, want to kind of carry on what Senator Murman was stating here just a little bit ago. My well is 365 feet deep for my house. That cost me tens of thousands of dollars to put that well in, plus the tax on top of it, plus the piping to my house,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

plus my pressure tanks. Then I have to come in and put in my own sewer system, my own septic system, my own drainage field. So the cost I have is another tens of-- I don't remember what that was, 10, \$15,000 at least to put that in. So I do pay a lot of upkeep and taxes on that. I pay it continually throughout the time, especially when we-- when we built the well, when we put our house in, we paid significant taxes. I think would probably be equivalent to, if not more, than what we may be talking here today as far as individual household and really what the individual household uses, how much is really consumed and how much is used in the city for washing cars, whatever it might be, I think there's a significant difference there. With that, I will yield the rest of my time to Senator Clements.

**WILLIAMS:** Senator Clements, you're yielded 3:46.

**CLEMENTS:** Thank you, Mr. President. Thank you, Mr.-- Senator Bostelman. I wanted to talk about the main-- well, the amendment, AM434, not so much AM2358. First of all, I was looking at the handout from Senator Lindstrom last week about the correction in the General Fund expenditures. And I do see that that is incorrect. The second line says it's gonna be 36 percent fiscal year 2122. It's really gonna be 54 percent if you look at the amendment and he just verified that the amendment is what we should go by. So that means the \$9.4 million in the second year is gonna be \$15.5 million. Then the one, two, three, the fourth line, fiscal 2324 says 56 percent. And if you look at the amendment, that's actually already going to be at the 73 percent level in 2324, it's still-- and so the \$16.9 million is really gonna be \$23.8 million, and so the cost of this is accelerating more than what that chart that was handed out was. The original bill had 2 percent sales tax for 2 years, 3 percent for 2 years, and then the 4 percent for one year, otherwise the 36 percent, 54, 36 would have been twice. Now it's-- the way the AM242-- AM434 is written, there is going to be only one year of the 36 percent figure and then it accelerates. And I would think it would be best to slowly grade this in if it's going to be done to go with 36, 36, 54, 54, and 73. The other thing I wanted to comment about was, I do appreciate Senator Wayne's comments. One thing I've had a concern about this is that the city or municipality is going to get this turnback tax, but the citizens will still pay 7 percent sales tax. I was tempted to, you know, think about it's hard to vote against reducing a tax, but I think it's probably more appropriate to debate that in another point--

**WILLIAMS:** One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**CLEMENTS:** --and more of a general discussion. And I'm-- I'm thinking the 73 percent or the-- the city getting 5 1/2 percent of the sales tax and the state getting 1 1/2 percent is too much too soon. And maybe we could split it, split the difference, the 7 percent that is in most cities, let half of it go to the city, half of it continue to the state, which would still-- would not be nearly so costly to the appropriations budget, but would still share some cost with the city. The other concern I had is that the state was going to be giving up 4 percent of their 5 1/2 percent tax, but the cities are getting 1 1/2 percent now and they're keeping that 1 1/2 percent. There was--

**WILLIAMS:** Time, Senator.

**CLEMENTS:** Thank you.

**WILLIAMS:** Thank you, Senator Clements and Senator Bostelman. Senator Slama, you're recognized.

**SLAMA:** Thank you, Mr. President. And good morning again, colleagues. I rise still listening to debate on Senator Wayne's AM2358, the Revenue Committee amendment, and Senator Lindstrom's LB242. As a whole, I wanted to emphasize again my concerns with the cost of this bill to the General Fund, and I think Senator Lindstrom raised a great point when he discussed the proportionality of the turnback. And it is interesting for me to break down the numbers and kind of better understand how this would impact communities, not just in my district, but also communities around the state who have been heavily impacted by flooding and have seen their infrastructure be impacted because of it. So I did crunch the numbers, and based on my rough estimate, when you take the proportion of a community like Peru's population, in contrast to the population of the rest of the state, breaking down the numbers for me, I get a rough estimate that Peru, when this bill maxes out at \$23 million, would receive about \$10,000. Another community that was pretty heavily impacted, Lynch would receive about \$2,000. Now, to put that in the grand scheme of things for everybody watching it on the floor, still listening to debate on this bill, the cost of Peru getting a water treatment plant or some means of water delivery set up in recovery of the flood is about \$10 million at below assessment. That number can go up to about \$20 million depending on which contractor you ask. But 10,000 of 10 million is 0.1 percent. This bill really isn't going to make a dent in the needs of those communities, so I would urge caution for those who may be under the impression that this bill may make some sort of big impact in our smaller communities because it really won't in the grand scheme of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

things. I'd like to double back now back to that Des Moines Register article that ran April 5, 2019, run by Josh Funk. The title again, In southwest Iowa and elsewhere, drinking water problems linger long after flooding. And going back to where we left off in the article, we had been talking about the communities impacted, including Glenwood, and then they were getting into the impact in Peru, which again is in District 1. Peru state spokesman, Jason Hogue, said more than 900 thousand gallons of water, bottled water had been donated to the school since the flooding began. The city has been trucking water in from two nearby cities because this water plant remains flooded, but the water has to be boiled before it can be consumed. Perhaps the biggest problem for some Peru state students and employees is that road closures have drastically increased their commute. Hogue said it used to take about 30 minutes to drive to Hamburg, Iowa, but now it's more like two hours. The school has offered discounted housing on campus to affected students and employees. Hamburg was also hard-hit by flooding, and much of the town remains flooded because the water flowed behind a damaged levee and can't return to the levee on its own. Just an aside, Peru ran into the same issue. That's why we were flooded for nine months. An emergency well was dug for Hamburg, but the boil order remains in effect. Hamburg school superintendent, Mike Wells, said the water system isn't operating at full capacity, so half the school has flush toilets, while the other half has to use portable toilets outside. The kids think they have it pretty tough, Wells said. He joked that some have been trying to tell their grandparents about how bad they have it by using outhouses at school. The school's--

**WILLIAMS:** One minute.

**SLAMA:** Thank you, Mr. President. The school's gym has been converted to a store of sorts where Hamburg residents can come to get supplies and help. And that will likely continue through the summer. Wells said the school is doing more outside activities and some dance in the classroom for exercise. After the flooding, 20 of Hamburg's 161 students transferred to schools in other towns. Another 32 are commuting to Hamburg to finish out the school year, and I'll leave the article on this point, because it really does illustrate just how much access to something as simple as drinking water can impact our small communities. We saw a massive outward migration from our smallest towns that were hit this spring. I know Peru has lost several residents. Hamburg has lost about half of their population in the last decade of flooding. And some of that comes down to when you put your

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

tap water on, you don't know if there's going to be water there, if you need to boil it before use--

**WILLIAMS:** Time, Senator.

**SLAMA:** Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Slama. Senator Hilgers.

**HILGERS:** Thank you, Mr. President. Following the Speaker's directive, this bill has hit its three-hour limit and so we will pass over this item for the next item on the agenda. Thank you, Mr. President.

**WILLIAMS:** Thank you, Senator Hilgers. Clerk, for items.

**CLERK:** Mr. President, Enrollment and Review reports LB310, LB310A, LB734, LB734A as correctly engrossed. Senator Gragert has selected LB770 as his priority bill, and I have a hearing notice from the Executive Board for Tuesday, February 18. Mr. President, next bill, LB1054, is a bill by Senator Kolterman relating to retirement. It defines required beginning date and change deferral of payment provisions of the County Employees Retirement Act, Judges Retirement Act, School Employees Retirement Act, State Patrol Retirement Act, the State Employees Retirement Act. It harmonizes provisions, it provides severability. Bill was introduced on January 21, referred to the Retirement Systems Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President.

**WILLIAMS:** Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB1054.

**KOLTERMAN:** Thank you, Mr. President. Good morning, colleagues. LB1054 updates state administered retirement statutes to comply with new provisions under the Secure Act, which was passed by Congress and signed into law December 20, 2019 as part of the federal government spending bill. Under these federal changes, the age trigger for the required minimum distributions known as RMDs increases from 70 1/2 to 72 for individuals who reach 70 1/2 on or after January 1 of 2020. The RMDs determines when the deferral ceases for the distribution of payment of pension benefits. Prior to the passage of the Secure Act, the initial RMD was for-- was for the year an individual turned 70 1/2. This requirement is still applicable to distributions made after December 31, 2019 for individuals who reach 70 1/2 on or before December 31 of 2019. The state-- as the stated congressional rationale

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

for delaying the RMD requirement is a recognition that the individuals are working longer and living longer. Delaying the age at which distribution must be taken delays the age at which a taxpayer must pay taxes on the pension distribution. As you might recall under legislative rule 5, subsection 15, no bill proposing a structural change with impact-- which impacts the benefits or funding status may be enacted until an actuarial study has been conducted to determine the cost to the proposed changes. Recurrent-- Retirement Committee requested an analysis by the actuary, Cavanaugh-- Cavanaugh Macdonald. The analysis has been distributed to each view. The actuary has concluded that extending the required minimum distribution age from 70 1/2 to 72 is not expected to have a cost impact on any of the defined benefit plans administered by the Public Employees Retirement Board. There is some chance the change will extend the actual retirement age for certain inactive vested members, and if that occurs, it would be a positive impact on the system's funding. However, the amount of liability involved is small and we would not expect any funding improvement to be material. Having said all that, I'd be glad to answer any questions you might have. It's just a technical change that we're trying to keep our plans in compliance with what the federal government has done as of December of this past year. I'd encourage you to advance LB1054 to Select File. Thank you.

**WILLIAMS:** Thank you, Senator Kolterman. Senator Lowe, you're recognized.

**LOWE:** Thank you, Mr. President. And thank you, Senator Kolterman, for allowing me to speak. LB1054, it's a retirement bill. That's not why I'm up here to speak. I'm here to speak that we had a three- day weekend. We all had plans we needed to do. Mine was to go out with my son, finish up his bathroom and start working on his office here in Lincoln. Instead, I made three trips to Kearney, three trips back and forth. I met Friday with Mayor Stan Clouse; Police Chief Brian Waugh; the sheriff, Neil Miller; the county attorney, Shawn Eatherton. And I've met with Sherry Morrow from the county; Jonathan Nikkila, City Council member; Paul Gordon from YRTC; Mark LaBouchardiere from-- YRTC administrator; and CEO Dannette Smith of DHHS. I met with police officers. And I met with the wife of one of the staff members who is still in the hospital. Thursday, one of the young men reached up, grabbed a ceiling tile support and stabbed a staff member. Thursday night, Friday morning, four youth decided to go on a rampage, breaking apart their beds. When the call came in, the officers didn't know how many youth were involved. They thought up to 24. Kearney PD, Buffalo

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

County Sheriff's Department, and UNK, because they have the authority to go up there, showed up. State Patrol was probably there too. They were armed with shotguns. The first gun to go in though was the beanbag gun, a nonlethal weapon. But they also had a police dog. They did not know what they were going into other than when they came to the door, the young man was standing there pounding at the door, yelling at them. Very intimidating. When he finally did back away, enough so they could get in, they did not know what they were going to-- what was going to happen. This was almost a life and death moment. The young man did not back down. He was still intimidating the police department. And it took him a while before he finally gave in and laid on the floor. These boys, these girls that you call them are not boys and girls. They lost that a long time ago when they decided to do what they did. These are not boys and girls who stole a pack of cigarettes to get up there. Their rap sheets are long and I'm getting tired of hearing senators stand on this floor and saying these are innocent children. They lost that a long time ago. We have a problem.

**HILGERS:** One minute.

**LOWE:** Thank you, Mr. President. We are sitting on a powder keg. The staff at YRTC have their hands tied because what we have done on this floor, we have passed bills that they are not allowed to do anything. We have passed bills so that we cannot move these youth to a safer facility. They used to be able to go to the sheriffs and to the county jail, but you cannot send a 15- or 14-year-old to the county jail that is built for-- for adults and that is full of adults. YRTC was built for misguided youth, not for hardened criminals, and that's what we have up there now. It is not safe.

**HILGERS:** Time, Senator.

**LOWE:** Thank you.

**HILGERS:** Thank you, Senator Lowe. Senator Clements, you are recognized.

**CLEMENTS:** Thank you, Mr. President. I stand in support of LB1054. As a tax preparer, I've heard about this change from age 70 1/2 to age 72. I believe the thinking about it is that more people are working to age 70. If I get elected, my next term I'd be 76 before I'm done here, which bothers me a little bit. But anyway, I-- I would like to ask Senator Kolterman a question.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**HILGERS:** Senator Kolterman, would you yield?

**KOLTERMAN:** Yes, I will.

**CLEMENTS:** Senator Kolterman, the federal law you were talking about-- this bill affects our bill. Nebraska bill only affects public retirement plans, but the federal law is applicable to both public and private individuals. Is that right?

**KOLTERMAN:** That's correct. That we're-- we're making changes to statute to comply, make sure that our public retirement bills are in compliance with the federal regulation.

**CLEMENTS:** Thank you. Another question. If someone has already turned 70 1/2, but they're not age 72, could they stop withdrawing and wait till they turn 72?

**KOLTERMAN:** No, they may not. They have to-- they have to continue to take their withdrawals.

**CLEMENTS:** And that's the federal regulation and we're matching that, is that correct?

**KOLTERMAN:** Yes, correct.

**CLEMENTS:** All right. And another thing I know that in the past, charitable contributions could be made of an IRA account of an individual. And do you know how charitable contributions are, if they changed in the federal law and how they are in a state retirement plan?

**KOLTERMAN:** It's my understanding that on an individual basis that you're talking about like a 401(k) or an IRA, those types of plans are going to continue to allow for that. But I can't tell you with certainty that the-- that the public employees retirement plans will allow for a charitable contribution. I'll have to find that out for you, Senator.

**CLEMENTS:** Thank you. Thank you, Senator Kolterman. That's all the question I have. The reason I am supporting this is, of course, it's a change in federal. It matches-- helps match our state retirement plans up to what federal guidelines are now. What I was getting back to earlier was that many people are working till age 70, maybe 71, too, and if they're still working but have to take money out of their retirement account, they're going to have-- might slip into a higher

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

tax bracket, likely pay a higher tax rate on those retirement distributions than what they would if they wait till after they're retired and not getting a full-time salary from a job or a business. And with that, I appreciated Senator Lowe's comments. I would like to yield the rest of my time to him if he'd like it.

**HILGERS:** Senator Lowe, 1:50.

**LOWE:** Thank you, Mr. President. LB1054. Senator Kolterman, I thank you again for allowing me to speak. And thank you, Senator Clements, for the time. I want to reiterate, we are sitting on a powder keg. Somebody is gonna get killed. If a police officer comes into a situation like that, and is advanced on, he pretty much has the right to do anything he wants. It will ruin his life and all he was doing was his duty. An innocent man will have his life ruined because--

**HILGERS:** One minute.

**LOWE:** --we, this Legislature has allowed it. And I'd like to thank Senator Howard. You have a heavy job and I truly appreciate everything you're trying to do for the youth, for these young people. But we have caused this problem. We don't allow them-- we don't allow the law to do what needs to be done with these youth. Nebraska has gangs. Maybe it's a surprise to some people. But we have one facility, Kearney YRTC, where we put these people, multiple gangs. These guys don't like each other. They're not youth from Scottsbluff.

**HILGERS:** Time, Senator, but you're next in the queue, you may continue.

**LOWE:** Thank you, Mr. President. They are not scattered across the state. Many of them come from Omaha and Lincoln. Many of them are on opposing gangs. They may not like each other at all. That is not good. We don't have an option. And what happens when a 15-year-old stabs somebody at YRTC? What happens when a 15-year-old clubs somebody with a pipe at YRTC? We put him in a time-out for a couple of days and there are senators on this floor that want to shorten that time period, because they're children. They want to shorten that time period to a couple hours. And what happens after that? They don't go to the county jail. They don't go anywhere else, but they go back and they face those that they just assaulted. They go back out to the general population at YRTC. That's crazy. We have created a crazy situation at YRTC- Kearney. I'm not talking about the whole population at YRTC-Kearney, I'm talking about maybe 10 percent, maybe 10 of them.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

Maybe a few more. Maybe a few of the girls. Not all of them. Ninety percent of the youth of the young men and women that are up there want to serve their time, want to get better and want to leave and go back with their families, 90 percent. That's pretty good. Maybe some of them will stay away, maybe. But we've moved them in with the 10 percent. And in order to get along, they have to do what those 10 percent say. Think about that. We are creating a worse situation by doing what we're doing. YRTC-Kearney is at the highest point that we can sentence a youth. And we want to give him a time-out for clubbing somebody over the head. I saw pictures too, Senator Howard. I talked to the wife, the one man, the one staff member tried to block the blows with his hands. He did not fight back. He tried to block the blows with steel bedding with his hands until his hands could not take it anymore. And then they started beating on his body and he laid in a pool of blood. We have created this-- this body. We must do something now before somebody is killed. This man had heart surgery a year ago and we are allowing this to happen. Let's let our judges place these young men and women at a place where they can no longer do harm to anybody. The city of Kearney is tired of this. You wonder why we have a staffing shortage up there. Why would you--

**HILGERS:** One minute.

**LOWE:** --work up there in these conditions? We have allowed this. We have passed bills to allow this. Let's do something right for a change. Let's protect the innocent people and those that have committed the crimes, let's put them where they need to be so that those who committed crimes can get better. These are not polite young school children. These 10 percent, they will kill you. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Lowe. Seeing no one else in the queue, Senator Kolterman, you're recognized to close on LB1054.

**KOLTERMAN:** Thank you, colleagues. Again, I'd encourage you to vote green on this bill. I will say that we have had an opportunity since the discussion started to talk to the Public Employees Retirement-- the management team over at NPERS and at the present time, required minimum distributions are not being paid to any charities, but we'll continue to look at that and get some more information on that. At the present time, it's not-- it's not occurring, though. With that, I would encourage you to vote green. Appreciate your vote. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**HILGERS:** Thank you, Senator Kolterman. The question before the body is the advancement of LB1054 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Please record.

**CLERK:** 35 ayes, 0 nays on the advancement of the bill.

**HILGERS:** LB1054 advances. Senator Cavanaugh, for what purpose do you rise?

**CAVANAUGH:** I rise on a point of personal privilege.

**HILGERS:** Please proceed.

**CAVANAUGH:** Thank you. I thought we could use some good news this morning. Many of you know my brother Matthew Cavanaugh and his wife Erin-- Dr. Erin Feichtinger. This morning at 6:15 a.m., they welcomed a beautiful baby girl into the world, 8 pounds, 1 ounce, and I just got notice of the name. Her name is Lola Rose Cavanaugh. She has dark black hair and we're very excited. I'm sure you all will get to meet her in a committee hearing coming soon. And I just wanted to share that with everyone since most of you know them. Thank you.

**HILGERS:** Thank you, Senator Cavanaugh. Mr. Clerk, next item.

**CLERK:** Mr. President, LB267 by Senator Bolz. A bill for an act relating to county government, provides a duty for the county board relating to deficient bridges and authorize a tax levy. Senator Bolz presented her bill on two occasions this session, Mr President, February 3 and January 31. Pending are the Government, Military and Veterans Affairs Committee amendments, and Senator La Grone has pending to that amendment, AM2265.

**HILGERS:** Thank you, Mr. Clerk. Senator Bolz, would you like to take a minute to refresh us on this bill?

**BOLZ:** Thank you, Mr. President. LB267 would provide an option to counties all across the state to utilize already existing authority to address an increasing number of bridges across the state that are growing older and less safe. The most recent statistics that I have are that 11.8 percent of bridges across the states are not in good condition. In fact, they are deemed structurally deficient. Under current statute, a county has the authority to bond for court how to-- courthouses, jails, and other county buildings. The bill diversifies this current authority for counties to utilize bonding for the repair,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

retrofitting, reconstruction, or replacement for bridges that are deemed deficient or scour critical pursuant to Department of Transportation standards. I'd encourage your support for the Government Committee amendment, which clarifies that it should be a majority vote of the county commissioners and should be used only under emergency circumstances. I would urge the body's opposition to AM2265, which is reflective of a bill that was heard earlier and is limiting and tying the hands of county commissioners and was not supported by a committee vote. It has not yet come out of committee. So again, I would encourage the body support for LB267 to provide counties more flexibility to repair bridges. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Bolz. Senator La Grone, would you like to refresh-- take a minute to refresh us on AM2265?

**LA GRONE:** Thank you, Mr. President. AM2265 simply replaces the bill of Senator Briese's LB20 and on-- on the committee amendment as well that as Senator Bolz laid out just addresses when this can be used and clarifies the vote requirements.

**HILGERS:** Thank you, Senator La Grone. Debate is now open on AM2265. Senator Blood, you are recognized.

**BLOOD:** Thank you, Senator Hilgers. I'm-- I would ask that Senator Briese yield to some questions, because the amendment that I stand against which is Senator La Grone's amendment, is initially Senator Briese's bill, LB20.

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes, I will.

**BLOOD:** Senator Briese, we're gonna try and get as much done in five minutes as we can, so I'm gonna to ask that you please be concise.

**BRIESE:** Sure.

**BLOOD:** Can you tell me how many municipalities or counties with-- within Nebraska, the LB20 will impact?

**BRIESE:** It will impact Lancaster County and Douglas County.

**BLOOD:** So Lancaster and Douglas County, the two most urban areas.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**BRIESE:** Yes. Yes.

**BLOOD:** Can you share an example of abuse or possible abuse of authority that caused you to bring LB20 forward?

**BRIESE:** This was brought forward when we were researching a bill. I had LB1000, and I can tell you about that later, but during that research, we came upon this exception in statute that allowed--

**BLOOD:** No.

**BRIESE:** --these bonds to be issued without a vote.

**BLOOD:** I'm sorry, Senator Briese, the question I ask is, do you have a particular example of abuse of authority?

**BRIESE:** No, I have-- I have made no judgments personally on the use of this. I know it was used, I believe, for the Juvenile Justice Center in Omaha, this particular statutory exclusion. But I didn't bring this bill out of concern over that particular facility. I just brought it up out of concern--

**BLOOD:** I'm glad you brought up that facility, I'm sorry to talk over you, we only have five minutes. So in 2018, this body mandated a new juvenile court judge in Douglas County, correct?

**BRIESE:** OK.

**BLOOD:** Do you remember that? Cause you and I both voted for it.

**BRIESE:** OK.

**BLOOD:** So if we mandate a public building commission to move forward and also potentially add more judges, are we not adding in extra steps and creating hurdles to growth?

**BRIESE:** This is about taxpayer protection.

**BLOOD:** OK. Last time I asked you that question, you said transparency. So don't we already have public hearings on all bond issues? Isn't that when the public gives their input?

**BRIESE:** Well, oftentimes those hearings are not well-attended. This gives the public a right to vote. And I think anytime that you're

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

going to make the public indebted long-term to pay off something like this ever, they ought to have a right to weigh in.

**BLOOD:** You know, and that's a really good point, because this bill-- bill, to me is clearly about citizen apathy. In a special election, it's the minority who gets to decide at the polls, just as it is the minority who goes to public hearings. So, for example, in Omaha, there's a population of 561,620 people and only 205,000 are registered voters. So in 2016, a presidential year, the turnout was 57 percent. That's 116,850 people or 20.8 percent of the total population. So 20 percent of the population basically tells Omaha what to do. So the question I have is, how is that more effective than having a public hearing that's open to every resident?

**BRIESE:** The polls are also open to everybody who wishes to weigh in. I think it's much better to have tens of thousands of folks voting as-- or making this decision as to-- as opposed to 10, 15, 20 people at a public hearing.

**BLOOD:** But Senator Briese, aren't there already levy limits, restriction lids, and bonding that can help sort out this budgeting process? And it's not always going to raise property taxes if done correctly.

**BRIESE:** What's the question there?

**BLOOD:** All right. Don't those things already exist? And isn't it kind of a fallacy when we constantly say that when we bond, we have to raise property taxes?

**BRIESE:** Well, typically, these bonds are paid for with property taxes, so the natural and obvious result of this bonding is an increase in property taxes-- tends to be.

**BLOOD:** Potent-- it's got potential, but not every time.

**BRIESE:** Yes.

**HILGERS:** One minute.

**BLOOD:** So since this authority was placed in statute five decades ago, there's been zero issues with the current procedure, correct?

**BRIESE:** I don't know about that.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**BLOOD:** So all of my research says that and that state law clearly is being followed when it comes to public hearings and open door meetings. And if they don't, policy is in place to hold bad actors accountable. They can contact the Attorney General and they can be sued by citizens. So to me, there's already provisions in both open meetings and Public Records Act that allow citizens to come forward to tell a body they screwed up and ask for remedies. So holding elected officials accountable not only when they vote, but should an incident arise, they can take immediate action already. That's already in state statute, is that correct?

**BRIESE:** I'm not sure of that, but earlier you said something about zero incidents of abuse of this. Well, there's a lot of folks that are taxpayers in Douglas County concerned about the Juvenile Justice Center. They would disagree with your statement there, I believe.

**BLOOD:** And those taxpayers contacted you--

**HILGERS:** Time, Senators.

**BRIESE:** No.

**HILGERS:** Thank you, Senator Briese and Senator Blood. Senator Crawford, you are recognized.

**CRAWFORD:** Thank you, Mr. President, and good morning, colleagues. I rise in support of LB267. I think when we do have instances of emergencies, it's really important that we empower our elected officials to act within the mean-- within limited means. And I think that we-- the bill and with the amendment especially, does a good job of making sure those are-- are limited conditions when we're empowering them to act. And I-- I do believe that especially with recent flooding and with the potential of future flooding, it's important to empower them to act in that way. And I'll yield the rest of my time to Senator Blood to allow a continuation of the debate we've been having.

**HILGERS:** Senator Blood, 4:20.

**BLOOD:** Thank you, Senator Hilgers. And thank you, Senator Crawford. And so I want to move on with that discussion. So we've already gone on record that there have been no problems and apparently nobody from one of the counties that we discussed reached out to Senator Briese on this bill, so we're not doing it in response to citizen complaints. So

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

what I don't understand and I said this in the hearing, we are willing to generate more expense with elections to allegedly create greater transparency when we already have transparency to resolve the issue of apathetic citizens not willing to show up at a hearing, although it's everyone's right to attend that hearing, and then saying send it back to the minority to vote on it. So apathy versus apathy. So it seems like we're looking for a problem that nobody provided compelling evidence in the hearing to prove that it existed, which is why we did not vote that bill out of committee, because there is no compelling evidence to show us that there was a problem in Douglas and Lancaster Counties were the only two counties that this bill applies to. In fact, if I remember correctly, we had a councilman, Ben Gray, and I can't remember what position, Chris Rodgers has-- is he county-- county commissioner was there as well. And they both said the same thing. It's-- it's not broken, why are we trying to fix something? So perceived apathy may-- apathy may also mean that the public trusts the officials that they have voted into office when they go to the polls. I-- I keep hearing this on our floor. We seem to know better than the voters that vote for their officials in the counties, even when we don't live in those counties. Now I am a firm believer that we make laws for all Nebraskans, and I know that not everybody agrees with that on the floor. They want you to stay in your lane because if you're urban, gosh darn it, I've already been told this, so don't tell me otherwise, what business do I have creating a law that pertains to people in the rural area. Although I'm pretty sure that everybody in Nebraska that's not a beginner vegetarian eats meat, so. But moving forward, as a public servant when we serve in any capacity, it is our job to make sure there is good research and there are facts and that we are looking for the most inexpensive yet productive way possible to move something forward. That's our job. And everybody I know that is an effective public official takes that job seriously. So I'd ask again, Senator Briese, yield to a question.

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes.

**BLOOD:** Do you feel Douglas County and Lancaster County have been inept in doing that?

**BRIESE:** Like I said earlier, I'm not passing judgment on what they have or haven't done. I didn't take a position on the juvenile justice-- juvenile justice facility. This is only about a-- an

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

exception to the statute that I think is wrong. It doesn't protect our property taxpayers to the extent that it should.

**HILGERS:** One minute.

**BLOOD:** So, Senator, isn't the public protection, though, and the ability for them to contact the Attorney General-- General being able to be sued by the citizens, aren't there already safety precautions put into statute to make sure that the people do their jobs and do it well?

**BRIESE:** Well, you-- you can be the judge of that, Senator.

**BLOOD:** And I-- and I am going to judge from what I see in Douglas and Lancaster County is that there has not been a problem in 50 years. And we did not vote this out of committee because there was no compelling evidence that showed us there was a problem that needed to be addressed. And because it did not come out of committee last year, we're trying to pull it out this year and replace a bill that I do support, as well as the amendment, that my communities are telling me that they need.

**HILGERS:** Time, Senators. Thank you, Senator Briese, Senator Blood, and Senator Crawford. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President, and good morning again, colleagues. Colleagues, I do rise in support of Senator Bolz's LB267 and the AM-- the committee amendment, AM1245, and against the La Grone amendment, AM2265. I do want to say that we're kind of in a unique situation here and I think it's been made clear, but we are attempting to attach a bill that could not come out of committee. It was tied, deadlocked. LB20 as this amendment to a bill that did come out of committee and came out of committee unanimously. I know senators on the committee have had new research, new discussions, changed their mind, variety of reasons and they've explained those stances on the floor. I do want to say as a Government Committee member, I do still stand in support of Senator Bolz's LB267. It's a very measured, very simple expansion of a current bonding authority to a problem that is unique to some counties, all counties certainly as presented to Lancaster County, a specific problem. You know, it's an opportunity they have right now to use that authority in other ways. And just having some very high-needs bridges to be able to look into this authority, in my mind it makes sense and is a clear, measured approach to addressing some key transportation and infrastructure issues. It

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

was a good idea when she introduced it, and that's still a good idea today. With that, Mr. President, I would yield the balance of my time to Senator Blood.

**HILGERS:** Senator Blood, 3:30.

**BLOOD:** Thank you, Senator Hilgers. And thank you, Senator Hansen. You know, I really, truly believe in protecting our property owners when it comes to property tax. I don't think there's anybody in this body that doesn't. But in the hearing, we had on one hand that a certain bond issue didn't get passed because it wasn't promoted correctly, but on the other hand, nobody shows up at the hearings when they do promote it correctly. And so is the question that we need new laws, or the people that are responsible for promoting those hearings need to do a better job promoting the already existing opportunities for the public to come and testify. Again, I go back to apathy. I don't understand when we try and change state statute, when we haven't identified any problems, especially when the constituents are not in your district and those constituents have not complained that there is a problem. And so to me, I go back again to compelling evidence. There is a reason we keep bills in committee. Unless I am compelled with information that is current or I'm compelled with information from letters of-- of testimony or people who come and testify in favor or against a particular bill, I am not going to favorably vote a bill out. I not once during that hearing, and the transcripts are on your computers, was told anything that wanted me to vote that bill out of committee. Now, what I can tell you is that I had a lot of people in my district and my county and other areas of eastern Nebraska who did not like the bill. And those voices were very loud and their evidence was very compelling. And so what I don't understand is why we're-- we're trying to obviously filibuster Senator Bolz's bills, my guess, with putting on a bill that really shouldn't be put on to that bill when we have a perfectly good government amendment, a perfectly good bill, a good bill that-- remember, that was the day everybody came and said, yeah, I voted it out of committee. But, you know,--

**HILGERS:** One minute.

**BLOOD:** --I was voting based on emotions. Well, again, I remind everybody, I voted that bill out of Government based on facts, based on research. It's a good, good bill. It's a bill that's needed. And the fact that we are not getting other people's bills done and dragging this out is really not doing anybody justice. Can we get down to work? Can we please get rid of this amendment and move forward? If

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

you don't like Bolz's bill, vote no. If you like it, vote yes. But as much time as we spend on the silly amendment and the rest of the bill, we could've knocked out five, ten more bills and moved forward. So when we're staying here till midnight here in a couple of weeks, remember this bill. With that, I give any time back to you, Senator Hilgers.

**HILGERS:** Thank you, Senator Blood and Senator Hansen. Senator Bolz, you are recognized.

**BOLZ:** Thank you, Mr. President. Given the discussion on the amendment and other issues on the floor, I want to do two things as we wind down our time this morning. One is to bring us back to home base about the purpose and the need for LB267 and, two, to have a discussion about how we move forward in a body of 49 senators who need to work together through a number of issues before the session is over. So first, I want to reiterate that 11.8 percent of our bridges across the state are structurally deficient. This bill is trying to provide our local authorities with more flexibility to take care of those local problems and fix those bridges that are structurally deficient. They might be unsafe and they might, in fact, be limiting commerce and economic growth if people cannot move their goods to market. So fundamentally, we are trying to solve the problem of a significant number of structurally deficient bridges. Second, I think that this bill is carefully crafted. It is a bill with narrow and specific authority. It limits the overall bonding authority in larger counties to two million and smaller and smaller communities, so we are busy-- being fiscally responsible by making sure we're working within reasonable parameters. And I would remind you that the amendment requires a two-thirds vote of the county commissioners, so there is a higher than normal standard to use this additional authority. I also want to reiterate that while people may have different perspectives about bonding on this floor, bonding can in fact save taxpayer dollars when done appropriately-- appropriately, because when interest rates are low, you can lock in those costs and you can-- can manage your costs into the future rather than dealing with costs that may increase or decrease over time. And finally, I want to articulate that we are again using existing bonding authority so these are already tools in our county commissioners toolboxes. We're just adding bridges to that authority because we have a significant need that is well-documented and has been exacerbated by recent weather issues. What I want to say in-- in wrapping up my final comments before we go to lunch is that these kinds of issues, I think are of interest and importance all across the state. There's a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

deficient bridge on Roca Road, which is near my district. There is also deficient bridges in Johnson County, which is not my district, but I know because my mom talks to me about it. She's in Johnson. There are deficient bridges all across the state. So if we are concerned about these issues and I think we all are, infrastructure is an important issue to all of us. We have to work together to-- to try to address them and try to find solutions. If this is a solution that you have interest in but you would like to make-- make some changes to, I think that can be done through diplomacy, a discussion, conversation. Senator Briese discussed this morning the-- the need for us to work across differences and across geographical differences, across party differences, across ideological differences. But no one who is bringing the amendment to the floor this morning or brought concerns to the floor have brought them to me prior to discussion on the floor. Colleagues, I've spent my time here. I've spent eight years here. And let me tell you, if we are solution-oriented, solutions happen off the mike-- solution. If we are sincere in trying to find solutions to-- to bridges and in transportation and infrastructure, let's find those conversations off the mike and try to-- try to get to yes for the communities that we all serve. So what I want to say in closing is that my door is open to anyone and everyone who wants to talk about the structurally deficient bridges in their communities. If you want me to talk to your county commissioner, if you have a different idea, let's use this vehicle. Let's use this opportunity to find solutions to the problems in our communities and our counties. And I welcome that conversation with any and all of you. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Bolz. Mr. Clerk, for items.

**CLERK:** Mr. President, your Committee on Transportation reports LB944 to General File with amendments signed by Senator Friesen; Natural Resources reports LB770 to General File; and LR288 back to the floor for further consideration. Those signed by Senator Hughes. Confirmation reports from the Natural Resources Committee, two separate reports. A series of hearing notices from the Executive Board and from the Transportation Committee, all signed by the respective Chairpersons. Name adds: Senator Walz to LB153; Blood, LB518; Hunt, LB770; Kolowski, LB840; Quick, LB962; Blood to LB963. And Mr. President, Senator Friesen would move to adjourn until Tuesday, February 11 at 9:00 a.m.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 10, 2020

**HILGERS:** Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. Motion is adopted. We are adjourned.