

So all the second amendment really does...or the second section of the amendment does is to say, look if you've got two local subdivisions that do merge, then for the purposes of LB 285 their budgets shall be the combined budgets of the two political subdivisions prior to the merger. I should tell you that Senator Koch has brought to my attention a suggested amendment to that amendment which I will try to offer at a little later time to also build into that concept the so-called ratchet concept which is built into 285, so that the combined political subdivisions have the advantage of the ratcheting concept, which every other political subdivision does have after they are combined. Now, another part of the second amendment deals with the city with a home rule charter. Now I know that when the Revenue Committee dealt with 285 it certainly intended for home rule charter cities to be under the lid. We never thought that home rule charter cities were not under the lid. However, it has come to our attention that because 285 specifically makes reference to the Political Subdivisions Budget Act, and because the Political Subdivisions Budget Act specifically exempts out home rule charter cities, a strong possibility exists that some savvy home rule charter city could litigate LB 285 and get exempted out from its coverage. So we want to make certain that that doesn't get done. After all, when Senator Murphy brought in his amendment to include the sales tax under the lid, or under 285, I don't think...I think he was speaking to Omaha, and I think he was speaking to Lincoln, both of which are home rule charter cities, and when this body approved that amendment, I think this body was dealing with Omaha and Lincoln. So we want to make certain that that gets done. Now I should tell you one more thing, and that is the city of Lincoln has brought to me a Supreme Court case, 1937 Supreme Court case, entitled Eppley Hotels Company versus the City of Lincoln, which held back in 1937 that the Legislature could not constitutionally put a lid on home rule charter cities, that in fact, because home rule charters were allowed by the Constitution of this state when the Legislature attempted to put a general ceiling on all cities, that that would be unconstitutional as applied to a home rule charter city. Now in my reading of the case I have to conclude that the case was dealing with a fairly specific circumstance down in 1937, that circumstances have changed, so that chances are our lid, because it does deal with issues of statewide concern, would likely be upheld, but it does raise a problem and it might be worth an Attorney General's opinion on that point between now and the time that this bill comes up for Final Reading. Then, subsection 3 of the amendments, exempt