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Floor Debate
January 27, 2009

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SENATOR ROBERT PRESIDING

SENATOR ROBERT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourteenth day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Nathan Reckling of the Countryside Alliance Church in Princeton, Nebraska, Senator Wallman's district. Please rise.

PASTOR RECKLING: (Prayer offered.)

SENATOR ROBERT: Thank you. I call to order the fourteenth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR ROBERT: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, Enrollment and Review reports LB31, LB179, LB49A, and LB180 to Select File. The Committee on Banking, Commerce and Insurance, chaired by Senator Pahls, reports LB75, LB80, and LB192 to General File. Hearing notices from Banking, Commerce and Insurance Committee; from Urban Affairs Committee; and from the Agriculture Committee, all signed by the respective Chairs. That's all that I have, Mr. President. (Legislative Journal pages 297-298.) [LB31 LB179 LB49A LB180 LB75 LB80 LB192]

SENATOR ROBERT: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, confirmation reports.

CLERK: Mr. President, Senator Langemeier, as Chair of Natural Resources, would report on the appointment of Brian Dunnigan to the Department of Natural Resources. (Legislative Journal page 285.)

SENATOR ROBERT: Senator Langemeier, as Chair of the Natural Resources Committee, you are recognized to open on the confirmation report.

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SENATOR LANGEMEIER: Mr. President, members of the body, thank you. The Natural Resources Committee has offered a confirmation report on Brian Dunnigan as Director of the Department of Natural Resources. His term would serve from December 9, 2008, and then would further serve at the pleasure of the Governor. Mr. Dunnigan did appear before the Natural Resources Committee and stood the questions we had asked him. He has experienced his 26 years with the state of Nebraska, first working in the Department of Roads and then back to DNR in 2000...excuse me, 1987, where he was a flood plain management and dam safety division director. In 2005, he was appointed...moved up to the deputy director; and in March of 2008, the Governor made him acting deputy director. With that, I would ask for your support and confirmation of Brian Dunnigan as director of the Department of Natural Resources. Thank you.

SENATOR ROBERT: Thank you, Senator Langemeier. Is there any discussion on the report? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. You have heard the closing and opening on the confirmation report. The question before the body shall be, shall we adopt the committee report on confirmation? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 299.) 38 ayes, 0 nays, Mr. President, on adoption of the first confirmation report.

SENATOR ROBERT: The report is adopted. Next item, Mr. Clerk.

CLERK: Mr. President, a second report offered by Natural Resources Committee involves an appointment of Mr. Rex Fisher to the Game and Parks Commission. (Legislative Journal page 285.)

SENATOR ROBERT: Senator Langemeier, you are recognized to open on the report.

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I stand before you with the appointment of Rex Fisher. The hearing was January 22. He did appear for the position of Director of the Nebraska Game and Parks. He would serve from January 15, 2009, until January 15, 2014. He did appear before the Natural Resources Committee and stood the questions that we had asked for him. And we would ask for your favorable vote on the appointment of Mr. Rex Fisher to the Nebraska Game and Parks Commission. Thank you.

SENATOR ROBERT: Thank you, Senator Langemeier. Is there any discussion on the report? Seeing none, Senator Langemeier waives closing. You have heard the opening and closing on the adoption of the report by the Natural Resources Committee. All those in favor vote aye; all opposed vote nay. Mr. Clerk, please record.

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CLERK: (Record vote, Legislative Journal pages 299-300.) 38 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR ROBERT: The report is adopted. (Doctor of the day introduced.) Mr. Clerk, we will proceed to General File. First item on the agenda.

CLERK: Mr. President, LB99 introduced by Senator Carlson. (Read title.) The bill was introduced on January 9 of this year, at that time referred to the Agriculture Committee for public hearing. The bill was advanced to General File. At this time I have no amendments pending to the bill, Mr. President. [LB99]

SENATOR ROBERT: Senator Carlson, you're recognized to open on LB99. [LB99]

SENATOR CARLSON: Thank you, Mr. Speaker and members of the Legislature. LB99 is brought at the request of the Department of Agriculture to update the authorities of the department relating to anthrax, to bring the department's authorities in line with modern veterinary practices. Current provisions were first placed into statute in the 1930s and have remained largely unrevised since that time. The revised bill, LB99, gives the department express authority to cooperate with other entities should that be necessary, such as a bioterror attack or a large outbreak, which would require the department to work with USDA or some other appropriate entity. The current statutes governing carcass burial require only burial at a depth at no less than four feet. LB99, for anthrax affected animals, the depth should be at least six feet. The bill does provide such latitude which allows any additional methods that are better suited to the circumstances to be used. The current statute does not require the development of a herd plan, LB99 does. This is an essential part of a control program as it binds the livestock producer in partnership with the state veterinarian to take proactive steps associated with vaccinating, testing, cleaning, and disinfection and disposal of carcasses. The current statute requires disinfection of the property where the animals were kept. However, disinfection, cleaning or both are not always possible or reasonable due to the type or size of the premises involved. The department needs the flexibility in the bill to deal with each case as it is feasible. LB99 more specifically outlines requirements associated with vaccination, such as the sale of vaccine, recordkeeping for sale of vaccine, and the type of vaccine or control of the infection. Current statutes do not clearly define responsibilities of livestock owners. The assignments made in the bill removes express or implied liability of the state of Nebraska for costs incurred by owners of affected animals associated with the treatment, quarantine, disposal, and so forth of animals affected by anthrax. This conforms with the fact that state funded indemnity or eradication costs are seldom a mandatory feature of modern eradication programs. But the bill does retain authority for the department to assume costs that may be associated with an incident if the Legislature chooses to appropriate funds. LB99 is a reintroduction of LB788 that was heard in committee and advanced by the committee last session but failed to reach the

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floor for discussion due to lack of time. LB99, as introduced, incorporates committee amendments that were pending to LB788 last year. And the bill carries the emergency clause since it wasn't debated on the floor last year. The committee held a public hearing for LB99 on January 20. It was advanced by a vote of 7 for, no one against, with 1 absence. Three testified in favor of the bill. No one testified in opposition or in a position of neutrality. I would ask for your support to advance LB99. [LB99]

SENATOR ROBERT: Thank you, Senator Carlson. You have heard the opening to LB99. We will now proceed to discussion. Those wishing to speak are Senators Dierks and Louden. Senator Dierks, you are recognized. [LB99]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I just stand to support the motion to advance this anthrax bill to Select File. One of the things that anthrax is blamed for or could be blamed for would be a biosecurity malfunction. We have a difficulty right now in this country with the number of large animal practitioners or food animal practitioners who are available to identify some of these diseases. There's a strip of land between Canada and Mexico that goes down the west side of South Dakota, North Dakota, Nebraska, and all the way down to Mexico that we are underserved. And so it's vitally important that we keep these anthrax statutes updated, and this is just exactly what this bill does. So I would urge your support for this legislation. Thank you. [LB99]

SENATOR ROBERT: Thank you, Senator Dierks. Senator Louden, you are recognized. [LB99]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. For the most part, I would support this bill. There's one section that I do have a little problem with, and that's Section 17. And that states that, "The department is not liable for actual or incidental costs incurred by any person due to departmental actions in enforcing the Anthrax Control Act." And I'd wonder, would Senator Carlson yield for a question, please? [LB99]

SENATOR ROBERT: Senator Carlson, will you yield to a question from Senator Louden? [LB99]

SENATOR CARLSON: Yes, I will. [LB99]

SENATOR LOUDEN: Yeah. Senator Carlson, was there any discussion on this part of that section? Because I'm wondering, when you say they're not liable for any actions in enforcing this control act, I'm wondering how much latitude that would give the Department of Agriculture in causing, I guess, expenses to be to a stockholder that would perhaps be "suspicioned" of having anthrax, but yet again they might not have the anthrax. Would the department then incur some expenses on those people to come

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in there and do some work on that herd? And then it would be up to those people to pay the bills all the way through. Some of our other instances are with some of the other diseases, why, the state does have to pay for some of that. And I realize there are parts in there that the Legislature has to put money up if there's going to be any reimbursement. But does this Section 17 have to be in there? [LB99]

SENATOR CARLSON: Senator, that did not come up as a part of the discussion in the hearing. I will look into that. Part of this recommendation was that it will allow the bill to conform with the idea that state funded indemnity or eradication costs are seldom a mandatory feature of modern eradication programs. But it does retain the authority for the department to assume costs that may be associated with an incident if the Legislature chose to allow this appropriation. That's my only answer I can give you right now. Certainly, I'll look more into it and try to answer that more specifically. [LB99]

SENATOR LOUDEN: Thank you, Senator Carlson. What I would like to see is a little bit more investigation into the Section 17 to see exactly where that comes down on owners of livestock. And perhaps the bill can advance, and perhaps something can be done as we advance it. But I do have a concern about the one Section 17, because that is new language that was put into the bill. And it wasn't, the way I understand it, in some of the original language from the 1930s. First of all, anthrax isn't that big of a problem in the state of Nebraska. We have some areas usually on the northern side of Nebraska that has it that cattle from the early days, when they were bringing them up from Texas to feed to the Indian tribes had anthrax. And there is some in that dirt up there. And those spores do stay in the soil for 50 or 60 years. And whenever that soil gets disturbed, why, the spores do come out, I understand that. But we haven't had that much of an anthrax outbreak for several years. But I would like to see something done with Section 17. And I would, if it's all right, Senator Carlson, I'll continue to have discussion with you as we work this bill on through the process. With that, I would support the bill. Thank you, Mr. President. [LB99]

SENATOR ROBERT: Thank you, Senator Louden and Senator Carlson. Seeing no others wishing to speak, Senator Carlson, you are recognized to close on LB99. [LB99]

SENATOR CARLSON: I would ask for your support in advancing LB99. And between now and Select File we will address the questions that Senator Louden has on Section 17. And thank you for your support. [LB99]

SENATOR ROBERT: Thank you, Senator Carlson. You have heard the closing on LB99. The question before the body, shall LB99 move to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB99]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB99. [LB99]

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SENATOR ROBERT: LB99 does advance. Next item on the agenda. [LB99]

CLERK: LB100 is a bill by Senator Carlson. (Read title.) Introduced on January 9 of this year, referred to the Agriculture Committee for a public hearing. The bill was advanced to General File. At this time, I have no amendments pending, Mr. President. [LB100]

SENATOR ROBERT: Senator Carlson, you are recognized to open on LB100. [LB100]

SENATOR CARLSON: Mr. President, members of the Legislature, LB100 is brought, again, as a housekeeping measure at the request of the Department of Agriculture. The bill inserts a series of clarifications of authorities available to the department to implement and enforce the Nebraska Pesticide Act. Section 1 adds language allowing the Department of Agriculture to request more information regarding pesticides which have been registered under the federal Insecticide, Fungicide and Rodenticide Act. The department would also be able to request additional tests or field monitoring in order to determine the validity of the tests in Nebraska or similar ecosystems. Section 2 clarifies that Nebraska residents are not eligible for a Nebraska reciprocal license. The effect of this would be that all residents of Nebraska must be licensed in Nebraska and cannot go to a bordering state, be licensed there, and use the reciprocal agreement. However, people from outside of the state that get their own licensing in their own state, and we have that agreement with that state, they would be able to come into Nebraska. Section 4 adds language requiring an applicant for a noncommercial applicator license; Section 5 for a private applicator license; and Section 3 for a commercial applicator license. Each of those sections require the date of birth to be a part of the application so that we have appropriate ages being given licensure. The bill was heard and advanced out of the committee on a vote of 7 to 0 with 1 absence. There were two testifiers in support and no one in opposition or a neutral position. So, again, I would ask for your support of the advancement of LB100. [LB100]

SENATOR ROBERT: Thank you, Senator Carlson. You have heard the opening on LB100. Is there anyone wishing to speak? Seeing none, Senator Carlson waives closing. The question before the body is, shall LB100 advance to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB100]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB100. [LB100]

SENATOR ROBERT: LB100 does advance. Next item on the agenda. [LB100]

CLERK: LB101 is a bill by Senator Carlson. (Read title.) Introduced on January 9 of this year, at that time referred to the Agriculture Committee. The bill was advanced to General File, Mr. President. At this time I have no amendments pending. [LB101]

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SENATOR ROBERT: Senator Carlson, you are recognized to open on LB101. [LB101]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. LB101 is brought at the request of the Department of Agriculture. The bill would remove a sunset date for the Nebraska Farm Mediation Act. The bill is very brief and self-explanatory. LB101 outright repeals Section 2-4816 which currently sunsets the act on June 30 of 2009. Section 1 conforms an internal reference in the act's citation section. The bill contains the emergency clause to enable the sunset date to be removed before the current scheduled expiration of the program. The department's Mediation Program is funded through a combination of federal grants, state General Funds, and fees collected for mediation services provided. The current year budget authorization is for the department to expend \$130,000 of federal funds and \$65,000 of General Funds. Under the program, the Department of Agriculture contracts with mediators and provides training for disputes involving USDA programs and other disputes that arise where farm operators are a party to a dispute. The department also provides for related services such as financial counseling and special workshops for management and legal issues to be available to Nebraska producers. You may be aware that recently the Department of Agriculture sponsored a series of workshops to familiarize interested persons with issues involved in the recent VeraSun bankruptcy. This activity was a farm mediation sponsored event. Participation has been quite steady over the years. And over the past five years, the program has averaged 110 mediation inquiries per year, about 45 actual mediation interventions, and close to 1,000 contacts with citizens through workshops and other special services not necessarily confined to those seeking mediation. We expect the federal government's financial commitment to the certified state mediation program to continue. And unless federal programs were to change, USDA is obligated to allow producers to resort to mediation. Thus, we anticipate that the federal government will continue to provide cost share assistance. We believe this is a worthwhile program to continue. And while one possibility is to simply extend the sunset yet another time, we believe that our federal partnership is very likely to continue under any foreseeable fiscal circumstances at the federal level. The committee recommended removing the sunset date to end the periodic uncertainty as to its continuation. And so I would ask for your support to advance LB101. Thank you. [LB101]

SENATOR ROBERT: Thank you, Senator Carlson. You have heard the opening on LB101. Those wishing to speak, Senators Pirsch and Stuthman. Senator Pirsch, you are recognized. [LB101]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Carlson might yield to a couple of quick questions. [LB101]

SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB101]

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SENATOR CARLSON: I will. [LB101]

SENATOR PIRSCH: Very good. You said that the number of mediations that are handled per year under this act are about somewhere in the mid...between 100 and 200. Is that right? [LB101]

SENATOR CARLSON: A little over 100 mediation inquiries and about 45 actual mediation interventions. [LB101]

SENATOR PIRSCH: Okay, thank you. What are the kind of typical subject matter of the mediations? What might they include? [LB101]

SENATOR CARLSON: Well, I think certainly an important part, and I don't know if it's a majority or not but those involve financial difficulties and allows for counseling and some help before a farm is foreclosed or this type of action is taken. And so it's proven to be very, very beneficial to agricultural people throughout the state. [LB101]

SENATOR PIRSCH: Okay. So financial mediations, debtor...okay. Very good. And what is the ongoing appropriation on a yearly basis? Do you know what the...is there an A bill? [LB101]

SENATOR CARLSON: It's a matching program. And the federal government provides 70 percent, Nebraska provides 30 percent. And so currently, Nebraska's responsibility is \$65,000 and the federal government, \$130,000. So that leaves...that gives \$195,000 total for the program for this year. [LB101]

SENATOR PIRSCH: Very good. And you think this is a good program judging by its past performance and something that helps out the state then. [LB101]

SENATOR CARLSON: Absolutely. I think it's really important for people in agriculture. [LB101]

SENATOR PIRSCH: Very good. Well, thank you for your comments. [LB101]

SENATOR CARLSON: Okay. [LB101]

SENATOR ROBERT: Thank you, Senators Pirsch and Carlson. Senator Stuthman, you are recognized. [LB101]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask several questions of Senator Carlson, if he would respond. [LB101]

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SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB101]

SENATOR CARLSON: Yes. [LB101]

SENATOR STUTHMAN: Senator Carlson, are you familiar when this Farm Mediation Act was started? [LB101]

SENATOR CARLSON: It was started in 1988. [LB101]

SENATOR STUTHMAN: In 1988. Was this an effect of the fact that the farm crisis in the early eighties and people needed somewhere to turn to try to get some assistance and it was put into a statute in 1988? Was that the reason for this Farm Mediation Act? [LB101]

SENATOR CARLSON: I would believe that it was, Senator. [LB101]

SENATOR STUTHMAN: Okay, thank you, Senator Carlson. Do you also know, you know, what was the reason to have a sunset date on it at the time that it was put into place? [LB101]

SENATOR CARLSON: I don't really know. I think there could have been some uncertainty to begin with how long this program was going to be federally funded and how effective it was going to be. And I think many times a sunset date is put on those kinds of bills so they can be periodically reviewed. And they have been reviewed every two years. And then it went to three years, and now it's gone to seven years. And the department feels like as well as it's working, that we could just remove the sunset provision. [LB101]

SENATOR STUTHMAN: Senator Carlson, I do support this bill because I think it's important that individuals that get into a farm crisis or get into some type of a financial situation have somewhere to turn, some agency, some group where they can talk to them and get some legal advice as to what to do because of the situation that they're in. And I truly support that. Being one of the individuals that had survived the farm crisis in the early eighties, you know, I think that was very important that there was someone there that you could talk to and get some sense of direction. That's why I think this is a situation where it should continue because there are a lot of small producers out there that, you know, need some advice as what to do when they get into a financial situation. So I do support this bill. And thank you, Senator Carlson. [LB101]

SENATOR ROBERT: Thank you, Senators Stuthman and Carlson. Senator Dubas, followed by Senator Wightman. Senator Dubas, you are recognized. [LB101]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I'd just like to

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expand a little bit on some of the questions that Senator Pirsch had. You know, we think of farm mediation and that's families who are struggling with some financial situations. But there are many spin-off programs from the farm mediation. In fact, just recently this organization has held meetings throughout the areas that are struggling with the bankruptcy of VeraSun. And they allowed farmers to come and get questions answered, helping them understand exactly what this bankruptcy means to them and the contracts that they hold and, you know, the services that are available through farm mediation should this bankruptcy adversely affect them. There are legal aid clinics that have...that are spin-off from this program. My family, personally, has used some of these programs. Not that we were in financial struggles but bringing our son into the operation we weren't quite sure the best way to do it, and you know, we were in the middle of drought and how are we going to accomplish this. And so it's a great resource for farmers and farm families to turn to, to get the kind of objective advice that they need to make these very, very important decisions. Most of the time we have very positive working relationships with our bankers. They are members of our family, for the most part. We rely on them for our sustenance, basically. But there are times when you may be at odds with your banker. And just having that objective voice to come into the discussion, to help you navigate those discussions is extremely beneficial and has kept many people going in their farm operations. Other programs that have spin-offs from farm mediation is estate planning which is a critical tool for farmers and their operations. So this program has definitely proved its worth. At the federal level the funding continues. It's proven itself at the state level. Just by removing the sunset date doesn't mean that we still can't go back and reassess and reexamine the program. But the fact that it has proven so successful in obtaining its objectives, I think, merits the removal of the sunset date. And I hope the body will support this. Thank you. [LB101]

SENATOR ROBERT: Thank you, Senator Dubas. Senator Wightman, you are recognized. [LB101]

SENATOR WIGHTMAN: Thank you, Mr. President. I think it's amazing today how Senator Carlson is sweeping through this legislative body like a broad broom. But that's what happens when you attend summits, as he did last week. No, I really want to thank Senator Carlson for bringing this bill. I do think it's a very important bill. I know we've discussed it in Appropriations and the continuation in the past. And I realize we're extending a sunset. But I think we are starting to see economic times that might rival the times of the eighties. And this bill was an aftermath of the farm recession or almost depression that we experienced in the 1980s. I know that it resulted in a number of farmers who were losing their farms being able to have their bids considered by lending agencies, particularly Farm Credit and others, and were allowed to repurchase their farms and continue farming. And they've been an asset to the communities in many instances, most instances. So I think this is an important bill. I think we are revisiting or starting to revisit some of the times of the eighties. Hopefully, it's nowhere near as severe. But I do feel this is an important bill and certainly will support it. Thank you, Mr.

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President. [LB101]

SENATOR ROBERT: Thank you, Senator Wightman. There are no others wishing to speak. Senator Carlson, to close on LB101. [LB101]

SENATOR CARLSON: Mr. President and members of the Legislature, thank you for the good positive discussion concerning LB101. And I would ask for your votes to advance the bill. [LB101]

SENATOR ROBERT: You have heard the closing on LB101. The question before the body is, shall LB101 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB101]

CLERK: 46 ayes, 0 nays, Mr. President, on the advancement. [LB101]

SENATOR ROBERT: LB101 does advance. Next item on the agenda. [LB101]

CLERK: LB24 by Senator Friend. (Read title.) The bill was introduced on January 8 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB24]

SENATOR ROBERT: Senator Friend, you are recognized to open on LB24. [LB24]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I introduced...LB24 is a fairly easy bill, easy to understand, I think. I introduced the bill on behalf of Brigadier General Tim Kadavy, Adjutant General of the Nebraska National Guard. The Government, Military and Veterans Affairs Committee held the committee hearing for LB24 last Thursday, January 22. And no one testified in opposition or in a neutral capacity. The committee advanced the bill on a unanimous 8 to 0 vote. LB24 is a cleanup bill harmonizing current state statutes and clarifying the Military Department's authority to replace, repair, or calibrate radiological instruments. The language of the current statute only allows the Nebraska Emergency Management Agency or NEMA to charge for repairs known before the fact at the time NEMA receives the instruments for calibration or repair. What was discovered through the rules and...rules process and review by the Attorney General was the legislation as currently written does not allow for the billing for repairs that were made after the fact. Basically, through calibration and maintenance repairs and parts not known at the time the service was requested it could be discovered with no way for NEMA to bill and receive payment after they have been completed. LB24 provides consistent language throughout the statute that allows for the maintenance, repair, and calibration after the fact. This program provides a cost-effective alternative to state and local first responders to keep their radiological instruments calibrated and repaired. The bill has no additional cost to the state, if

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enacted. I want to thank Chairman Avery and the members of the Government, Military and Veterans Affairs Committee for the early hearing. And I would ask for the advancement of LB24. Thank you, Mr. President. [LB24]

SENATOR ROBERT: Thank you, Senator Friend. You have heard the opening on LB24. We will now proceed to discussion. Those wishing to speak, Senator Avery, you are recognized. [LB24]

SENATOR AVERY: Thank you, Mr. President, colleagues. This bill was heard by the Government Committee on the 22nd of January. It is a technical amendment or actually a technical cleanup bill to a bill we passed last year. It is supported by the Department of Military Affairs, it is supported by General Kadavy. It was also supported by the Nebraska Emergency Management Authority. And it had no opposition in committee and was reported out 8 to 0. I urge your passage. Thank you. [LB24]

SENATOR ROBERT: Thank you, Senator Avery. There are no others wishing to speak. Senator Friend waives closing. The question before the body is, shall LB24 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB24]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB24. [LB24]

SENATOR ROBERT: LB24 does advance. Next item on the agenda. [LB24]

CLERK: LB85 introduced by Senator McGill. (Read title.) The bill was introduced on January 8 of this year, at that time referred to the Urban Affairs Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB85]

SENATOR ROBERT: Senator McGill, you are recognized to open on LB85. [LB85]

SENATOR MCGILL: Mr. President, members of the body, LB85 is essentially the same bill that I introduced last year on urban growth bonds. It was LB813 in that form. It was heard and advanced out of the committee then with no dissenting votes and made a Speaker's priority as it was also voted out unanimously from the committee just last week, this year. LB85 would allow a municipality to create one or more urban growth districts in parts of the city which have been developed since 1988. All or a portion of the estimated sales and use tax revenues generated within the district could then be pledged for payment of an urban growth bond. The proceeds of the bond could be used to fund a range of infrastructure needs, including roads, bridges, streets, and parks within that municipality. This year's bill differs from last year's in three ways. After we met with some representatives from the Governor's Office, we found a few amendments that we included in this bill this year to help relieve some of their concerns. First, we

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added or we wrote to make sure that only sales and use tax revenue was pledged and that property tax is only a backstop measure, similar to highway allocation bonds. Second, it makes clear that the amount of the bonds that can be issued is limited by the annual revenues and the municipality cannot issue more than can reasonably be paid on an annual basis. And third, the term of the bonds are limited and cannot mature later than 25 years after issuance. As was the case last year, I introduced this bill on behalf of the city of Lincoln which is trying to find ways to address the demands of their growing areas and the maintenance of the infrastructure throughout the city, especially with their streets and roads. The appeal of this approach is that it asks for no state funds, requires no increase in local taxation, and would give the city administration and city council an additional tool using existing city revenue sources to keep from falling behind in this important city function. Now, Lincoln has grown over 40 percent in the last 20 years. There's a lot of infrastructure needs that the city has not been able to keep up with. I think this is a great tool where they're not coming to us asking for more funding. It's a way for them to help themselves to meet the needs that they have within our city. I would encourage you to look at the statement of intent on your gadget because I feel like we've really laid out exactly what this bill is, what it does. It's a complicated bill, but we're trying to be as transparent and forthright as possible. So I would appreciate any questions and ultimately hope you'll vote to advance LB85. [LB85]

SENATOR ROBERT: Thank you, Senator McGill. You have heard the opening on LB85. We will now proceed to discussion. Those wishing to speak, Senators Lathrop, Pahls, Utter, Adams, and others. Senator Lathrop, you are recognized. [LB85]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm standing today in support of LB85. And I would...my thought in coming to my support for this bill really is this: We have municipalities who we are not helping as much as we used to with their roads. We have established a form of government and the limitations on municipalities a long time ago. And as cities need to be more creative in their growth, and Lincoln and Omaha are good examples, Sarpy County is a good example, very, very growing communities in that county. We need to give the cities the tools they need to grow because the state is picking up less of those highways and the streets in the municipalities. And this provides a tool to the city of Lincoln, but it also provides a tool to those people who are the mayors of your communities. It's not limited to Lincoln. It's not limited to Omaha. It's available to the mayors and the city councils across the state. And it provides a well-reasoned, thoughtful approach to growth for these cities who find themselves, because of...in some cases because of state unfunded mandates, with their budgets in a tight spot. And in order to be responsive to the needs of the cities, I think, giving them the tools they need which we are with LB85, is important. These cities deserve our support. And I think we can do that with the passage of LB85. So I'm in full support. Thank you. [LB85]

SENATOR ROBERT: Thank you, Senator Lathrop. Mr. Clerk for an announcement.

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[LB85]

CLERK: Mr. President, Senator Langemeier, Chair of Natural Resources, would like to have an Executive Session on Tuesday at 10:00. I assume that's this Tuesday, south balcony. Yes, sir. South balcony, 10:00, Natural Resources Committee, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Mr. Clerk. Returning to discussion, Senator Pahls, you are recognized. [LB85]

SENATOR PAHLS: Thank you, Mr. President. I just would like to have a couple of questions for Senator McGill, just for clarification. [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: I'd be happy to. [LB85]

SENATOR PAHLS: Okay. Senator, I'm going to put this in...trying to concrete form. I don't mean the kind you put on cement or on the streets. But I see the city of...let's say the city of Lincoln. Right now, they have an infrastructure that cannot be touched if it were there before '88. Would this bill allow them to work on infrastructure? [LB85]

SENATOR MCGILL: It would. It doesn't limit where the bond, where that money can be spent... [LB85]

SENATOR PAHLS: Okay. [LB85]

SENATOR MCGILL: ...where the bonds can be used. [LB85]

SENATOR PAHLS: But the taxes would actually come from let's say the circle out around the city after '88. [LB85]

SENATOR MCGILL: Here's where it gets complicated. (Laugh) The urban growth district, we look at the area that's grown, so say the SouthPointe area of Lincoln. [LB85]

SENATOR PAHLS: Um-hum. [LB85]

SENATOR MCGILL: You designate certain streets and boundaries and then determine what percentage of the city that district makes up. [LB85]

SENATOR PAHLS: Okay. [LB85]

SENATOR MCGILL: So say it's 4 percent of the city, then that means they take the

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overall sales tax of the city and just take 4 percent of the annual sales and use tax. So it's not literally the sales tax coming just from the stores, shops in that district, but it's used to determine what percentage... [LB85]

SENATOR PAHLS: Oh. [LB85]

SENATOR MCGILL: ...of the overall sales tax is used. [LB85]

SENATOR PAHLS: Okay. But as I read the bill, it said that one or two of these areas would be developed. So in the city of Lincoln that would be a very large area, I'm assuming, urban growth here. [LB85]

SENATOR MCGILL: The city council determines...well, yes, the city has grown 40 percent. [LB85]

SENATOR PAHLS: Right. [LB85]

SENATOR MCGILL: So there is a lot of regions to choose from. But the city wouldn't be able to reasonably pay off. You know, if they just made an urban growth district of the entire 40 percent, they wouldn't be able to afford that. So they'd be taking a much smaller slice of that growth to designate that percentage of their sales tax revenue towards the bonds. [LB85]

SENATOR PAHLS: Okay. So, basically, there's a possibility of more than one or two of these urban growth areas then. [LB85]

SENATOR MCGILL: Yes,... [LB85]

SENATOR PAHLS: Okay. [LB85]

SENATOR MCGILL: ...there is. [LB85]

SENATOR PAHLS: Okay. [LB85]

SENATOR MCGILL: They could, every couple of years, you know, say we're going to take this small area towards a bond, and then a couple years later maybe they want to do another project. So there is the flexibility to do that, but it has...there's language to make sure that it's reasonable, that they have to be able to pay it back within the language of the legislation. [LB85]

SENATOR PAHLS: Okay. To me this sounds a little bit like TIF, which is property tax. Many of the areas that improve themselves by the TIF,... [LB85]

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SENATOR MCGILL: Um-hum. [LB85]

SENATOR PAHLS: ...you know, property tax relief, I'm thinking of the city of Omaha. [LB85]

SENATOR MCGILL: Well, it's a different mechanism. And really this is the same thing that, you know, the highway allocation bonds that cities can currently use. And Lincoln does use that tool right now, that allowed them to bond and put money towards roads improvement. They feel that this would be another additional tool to help and give flexibility because those bonds in and of themselves aren't enough to get Lincoln out of the hole they're in because of how much they've grown. So they're really just looking for some other mechanism to put on the table to help them pay for roads since they can't come to us asking for more money. [LB85]

SENATOR PAHLS: Okay. So you're basically telling me they're looking for flexibility to find ways to fund these. [LB85]

SENATOR MCGILL: Yeah. [LB85]

SENATOR PAHLS: The interesting thing that I think of Lancaster County and Douglas County, Lancaster, they have very few of these SIDs. In Douglas County we have an unbelievable number of SIDs which they have a taxing authority. They build their roads and all that from that authority right there. And I think sometimes that has caused some issues in the Douglas County area as opposed to those in the Lancaster. I thank you for trying to find a creative way of helping the cities. Thank you. [LB85]

SENATOR ROBERT: Thank you, Senators Pahls and McGill. Senator Utter, you are recognized. [LB85]

SENATOR UTTER: Thank you very much, Mr. President, colleagues. I do have a couple of questions on this bill, if Senator McGill would yield. [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR UTTER: Typically in our neck of the woods at Hastings, we have traditionally used the local option sales tax for special projects. And, for example, a few years ago we passed some local option sales tax to finance a water park and have used it in that manner. It appears to me that maybe the city of Lincoln and other cities it's become more of a permanent thing. We tried that in Hastings and without identifying the specific projects that we were going to use this money for, why, it didn't go over well with the voters. In the cases where you have kind of a permanent local option sales tax, you

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have...are now designating a portion of that tax that you've used for other purposes. So in essence you may be spending some money you've used for other purposes in the past to repay these bonds. Is that correct? [LB85]

SENATOR MCGILL: That is true. Since this is existing sales tax revenue if they chose to say 1 or 2 percent of the sales and use tax to put towards bonding, then yeah, that money has to come from something else in the budget. [LB85]

SENATOR UTTER: The other part of the bill that concerns me somewhat is the very last page of the bill, on page 4, if you want to take a look at that. And in short words, it says that municipalities which issue these bonds are required to levy property taxes upon all taxable property in the municipality. In essence, that kind of removes these bonds from the area of a strict revenue bond and gives it some general obligation bond characteristics. I'm sure the reason for this is to enhance the interest rate on those bonds. But it also, to me, has the potential to obligate all of the taxpayers of the city to an increase in their property taxes to help pay for these bonds in the event that the revenues from the sales tax weren't sufficient enough to pay the bonds. Is that correct? [LB85]

SENATOR MCGILL: That language is there, as you said, because it does improve the rate for the bonds, so we get a better deal. You have to put into context the fact that we're giving a city council the option to use this. Theoretically, they could issue more bonds and, you know, get in over their heads and not be reasonable. But they've been elected just like we have. And they'll be held responsible if it gets out of hand, the same way that we would. The fact...I find it hard to believe that they would do that intentionally anyway. And it gives them an option to use. Theoretically, if they did get into trouble then, yes, that is the backstop measure. But it wouldn't be pretty for them either. [LB85]

SENATOR UTTER: So the question becomes, I think, to us is that in effect we may be authorizing the issuance of a general obligation bond without a vote of the people should the guarantee ever become...come into effect. [LB85]

SENATOR MCGILL: We already...this is the same language, that backstop language is the exact same as used in highway allocation bonds right now, which cities like Lincoln are using right now responsibly. [LB85]

SENATOR ROGERT: One minute. [LB85]

SENATOR UTTER: That's all I have for now. Thank you. [LB85]

SENATOR ROGERT: Thank you, Senator Utter. Senator Adams, followed by Senator Stuthman, Loudon, Wightman, and Friend. Senator Adams. [LB85]

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SENATOR ADAMS: Thank you, Mr. President. Would Senator McGill yield to a question, please? [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR ADAMS: Senator McGill, having been in city government for a lot of years, I see some real benefit to this. But I'm not 100 percent comfortable yet. And Senator Utter has started down a line of questioning that frankly was the way I was headed. So do I sense that the reality is here that in part what we're saying is that the city can use sales tax to fund roads? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR ADAMS: Parks? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR ADAMS: Other types of infrastructure like waste water and water? [LB85]

SENATOR MCGILL: They currently already bond without a vote of the people for waste water. [LB85]

SENATOR ADAMS: Okay. Let me set up a scenario for me, and tell me where my thinking is awry. So we have a new residential development going on in town. And it needs streets, it needs water, it needs sewer, maybe even some recreational area within this new residential area. Typically, what we might do is to issue revenue bonds and assess the property within that area on a per foot basis for the streets, on a benefit basis for water and sewer. If a city had this mechanism they could avoid that assessment measure. Would that be correct? [LB85]

SENATOR MCGILL: I honestly don't know the answer to that, but I can find that for you, Senator Adams. [LB85]

SENATOR ADAMS: Okay. All right. And if that be the case, when a city issues revenue bonds and they're pledging an assessment stream against it, then they wouldn't have to go to a general vote of the people. [LB85]

SENATOR MCGILL: You're...an assessed amount of revenue that would be coming in, is that what you're saying? [LB85]

SENATOR ADAMS: Right. If I'm going to...if we're going to have a street project and

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we're going to assess the front footage of these property owners, that assessment is what we're going to pledge to the bond. [LB85]

SENATOR MCGILL: It doesn't include, no, you're not pledged assessed sales tax revenue... [LB85]

SENATOR ADAMS: Okay. [LB85]

SENATOR MCGILL: for...yeah. [LB85]

SENATOR ADAMS: Okay. So then it seems to me then that in order...if we're going to use these sales tax revenues--and correct me if I'm not thinking right--to pave those streets, to put that park in, then the revenue stream, instead of that assessment, is the general obligation sales tax revenue. [LB85]

SENATOR MCGILL: The money is the existing sales tax revenue, which means... [LB85]

SENATOR ADAMS: Okay. [LB85]

SENATOR MCGILL: ...money will have to be taken from other things in the current budget... [LB85]

SENATOR ADAMS: Okay. [LB85]

SENATOR MCGILL: ...to go towards the bond. [LB85]

SENATOR ADAMS: Okay. Now it's making more sense to me then. So if it's a general obligation, in effect, and I'm going to call it general obligation. If I'm wrong correct me. I'm going to call it general obligation because we have the sales tax base of the entire municipality that we're pledging to maybe what ordinarily might be an assessed...an assessment in a new area. But we're going to do that without a vote of the people in this bill. But we're going to pledge the sales tax base of the community to bonds without a vote of the people. [LB85]

SENATOR MCGILL: A percentage of it, yes. [LB85]

SENATOR ADAMS: Okay. What would you anticipate if we're going to pledge that sales tax base...what do you see that doing to property taxes in that community? [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR MCGILL: Nothing necessarily. Again, the city council with the local control

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this would give them, would give them the option of saying, okay, instead of putting money into maybe some other project, we're just going to dedicate it to these bonds. Instead of using the sales tax revenue on whatever else, you know, they're using it on, put it into this. Or with the highway allocation bonds, they did increase the wheel tax at one point to help cover it, cover those particular type of bonds. But there's no...it does not necessitate an increase in property taxes. [LB85]

SENATOR ADAMS: All right. [LB85]

SENATOR MCGILL: It's a tool they can choose to use. [LB85]

SENATOR ADAMS: Thank you, Senator McGill. I may have some additional question. I've got to mull this over a bit more. The part that's most concerning to me right now, initially, is that this becomes, in my opinion, general obligation without asking the voters. Different than a revenue bond where you have pledged an assessment stream. But maybe we can talk some more about that. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Adams. Senator Stuthman, you are recognized. [LB85]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I want to kind of continue on in the discussion that Senator Utter and Senator Adams were involved with. I want to use the worst-case scenario. As Senator McGill had stated, Lincoln has grown 40 percent in the last 20 years. So the city council has a right to utilize 40 percent of the total sales tax generated in Lincoln to put aside for road improvements, road maintenance, road infrastructure, building of streets, replacing of streets, they could utilize that. The situation that I'm concerned with is communities like Lincoln fund their operation from property tax and sales tax. If you take the sales tax pool and take 40 percent away from that sales tax pool, how do you replace that money to run the operation of the city? It's to come from an increase in property tax. In my opinion, that's where it has to come from. Or can they increase the sales tax? No, I don't think they can. I mean, that would be the worst-case scenario because the way I understand it, you know, it is the new growth that has occurred in the last 20 years around a community. That percentage can be used, any part of that percentage can be used to be set aside for road improvements in the community. Let's just say that a community of Columbus, you know, has expanded 10 percent. They could go up to 10 percent of the sales tax that they are generating in the community to be set aside for the street improvements in the area. But to run a city and to run an operation it takes X amount of dollars. And that increase and that amount of dollars most generally is increased every year. Sometimes it's kind of steady, depending upon, you know, if they discontinue some services in the community, then it could be stable. But I haven't seen that happen very often. And the issue is this thing could amount to be a substantial increase in the property taxes is what it would come down to. And that's a concern that I

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have. Say it's only 2 percent, say it's 4 percent, it won't be as much. But will the communities be able to absorb that in their services that they are providing? Are they going to cut back 2 percent or 4 percent? Then the property taxes won't go up at all. And I have that concern because I think, you know, this is a way that's going to guarantee an increase in property tax without a vote of the people. And those concerns were by Senator Adams, and Senator Utter also. I'm not so much concerned about the vote of the people as the fact that I'm concerned about the property owners in the community. You know, taxes are going up. And we're taking a portion of the money that is utilized in a community to run the operation, we're setting that aside to pay for...to pay for infrastructure, not necessarily any new infrastructure... [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR STUTHMAN: ...just to maintain the infrastructure that they have there already. I do support the bonding part of it because I think that we should have the ability to bond and be able to pay an annual payment on that bond to make some improvements that will generate additional revenue. I don't see where this here will generate additional revenue. Hopefully it would, but I don't think so. But on the present I am concerned that it could very well be a property tax increase. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Stuthman. Those wishing to speak are Senators Louden, Wightman, Friend, Pirsch, and others. Senator Louden, you are recognized. [LB85]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Well, I agree with Senator Utter, Senator Adams, and Senator Stuthman when they're talking about the...how this would work and would probably perhaps end up as a levy on property tax. So I will not discuss that any farther. What my concern would be then the next step would be on page 3 of this. It says, "Any municipality that has established an urban growth district may, by ordinance, issue," and then it goes on, "urban growth bonds," and it names that, etcetera, "roads, streets" and goes on to say: other public infrastructure within the growth district and in any other area of the municipality. As I look at those that testified, the city of Lincoln had quite a few testimonial people there. So, I guess, would Senator McGill answer or yield to a question, please? [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR LOUDEN: What I'm wondering is, is I guess discuss something a little bit closer to the heart of the people that live here in Lincoln is that sports arena that they were going to build down here on the railroad tracks. Now, could the city go in there and

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declare that a growth district, put up some of these bonds, build this infrastructure, and literally put a property tax on the rest of the city? What part of this bill says that they can't do that in there? [LB85]

SENATOR MCGILL: That isn't...the arena would not be an infrastructure need. That is not at all what the city is trying to do with this bill. And, you know, if you needed that spelled out in the bill we could do that. They get...the bonds could be used to develop some of the roads around the arena, but that is not at all (inaudible). [LB85]

SENATOR LOUDEN: Well, it lists parks and other public infrastructure within the growth district. So, I mean, is that a park, a sports park or something like that? I'm wondering what... [LB85]

SENATOR MCGILL: It's not a sports park. [LB85]

SENATOR LOUDEN: ...what there is in there to set it up so that something like that could not happen. [LB85]

SENATOR MCGILL: If we need to clarify that with an amendment on Select File, we can do that, because that is not the intention at all of the city of Lincoln. [LB85]

SENATOR LOUDEN: Well, I would think that that would have been clarified beforehand. And if it was, would you have had the people from Lincoln and a bunch of those people like that testifying in favor of this? [LB85]

SENATOR MCGILL: Oh, absolutely. We're in desperate need of roads money, like \$200 million down. We need the money for the roads. The city council wanted a little flexibility in terms of what projects they were using. But this...everybody was testifying because we need road money. [LB85]

SENATOR LOUDEN: Then you're actually looking for a way to sell bonds to do your road because you're not going to be able to use that 1.5 percent sales tax that you have because you have that already then to construct roads. Is that correct? [LB85]

SENATOR MCGILL: I'm sorry, I'm... [LB85]

SENATOR LOUDEN: Okay. You say you need this to do bonds. And what it starts out as is a way of using that 1.5 percent sales tax that would come within this growth district. So you already have that. So then if you're trying to build roads with something like this, then you're trying to set up so that you are finding a way to sell bonds to build those roads. [LB85]

SENATOR MCGILL: Yes. [LB85]

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SENATOR LOUDEN: Then this is a bonding measure, it isn't a growth district measure. It's a bonding measure to build your roads. [LB85]

SENATOR MCGILL: Clearly...that's very clear. [LB85]

SENATOR LOUDEN: Okay, thank you, Senator McGill. What I'm wondering, I have some problems with this because it looks like to me it is a way, as Senator McGill just stated, to do road construction, to sell bonds to do road construction. And you probably wouldn't have a vote of the people. So I feel that if you're going to do that, then go ahead and put it up to a vote because the bonding issue, the cost of those bonds and the payback will be on the entire municipality. So with that, at the present time I would like to see either some more work done on this or perhaps it should be reconsidered on what should be done with that. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Louden. Senator Wightman, you are recognized. [LB85]

SENATOR WIGHTMAN: Thank you, Mr. President. If Senator McGill would yield to some questions, I would like to engage in some conversation with Senator McGill. [LB85]

SENATOR ROBERT: Senator McGill. [LB85]

SENATOR MCGILL: Yes, yes. [LB85]

SENATOR WIGHTMAN: I also have some real questions, as Senator Stuthman probably raised primarily, but as Senator Adams, Senator Utter, and Senator Louden have also raised. I do feel that this very easily could result in an increase in property taxes within the municipality. Do you concede that could happen? [LB85]

SENATOR MCGILL: The city council at any time could do a measure that would mean an increase in property taxes. [LB85]

SENATOR WIGHTMAN: I agree with that. Obviously, the sales tax along with other sources of revenue are all taken into the mix,... [LB85]

SENATOR MCGILL: Um-hum. [LB85]

SENATOR WIGHTMAN: ...and then the property taxes are the final resort as far as what we look to, to complete the city budget. [LB85]

SENATOR MCGILL: Yes. [LB85]

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SENATOR WIGHTMAN: And if the municipality can pledge the sales tax to provide payment for these bonds, which is what you would do, then very likely as the sales tax revenues are used up in these bonds, obviously, that's going to affect how much sales tax there is to assist in meeting the city budget. Is that correct? [LB85]

SENATOR MCGILL: That's true. [LB85]

SENATOR WIGHTMAN: So almost surely if you do enough of these or if you do any, perhaps, it will result in additional property tax. [LB85]

SENATOR MCGILL: That's true, but I don't know why everybody seems to believe our local city councils aren't responsible enough to keep themselves in line. It's a local control issue in... [LB85]

SENATOR WIGHTMAN: Well, and I think that may be possible. [LB85]

SENATOR MCGILL: ...in most sense. [LB85]

SENATOR WIGHTMAN: Now you are giving the city council bonding authority and authority to pledge the sales tax revenues to the extent necessary to meet the bond payments. Is that correct? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WIGHTMAN: And Lincoln right now, the same as most municipalities, has a 1.5 percent city sales tax? [LB85]

SENATOR MCGILL: Yeah. [LB85]

SENATOR WIGHTMAN: Is Omaha the only...they have the right to exceed that, don't they? [LB85]

SENATOR MCGILL: I don't know the answer to that. [LB85]

SENATOR WIGHTMAN: Okay. Now these bonds would not require a vote of the people, and that's been discussed previously. [LB85]

SENATOR MCGILL: True. [LB85]

SENATOR WIGHTMAN: And, of course, right now the city can build streets and commit funds for the construction of infrastructure without a vote of the people, is that correct? [LB85]

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SENATOR MCGILL: They...well, they have highway allocation bonds that they currently use without a vote of the people. And then they can just do annual budgetary contracted work. [LB85]

SENATOR WIGHTMAN: But this does take out of the sales tax stream of revenue available to the city an amount equal to what the sales tax might be under your proportionality rule of this urban improvement district. Is that correct? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WIGHTMAN: Now, I know Lexington, and Senator Utter mentions Hastings, has pledged the sales tax frequently for bonds that have been voted on by the people. And I know we've used it for an aquatic park, and we've used it for a city auditorium, and such things as that which sometimes uses up a great deal of the sales tax authority of the city. I assume the same is true here in Lincoln, is that correct? [LB85]

SENATOR MCGILL: For a particular project, I... [LB85]

SENATOR WIGHTMAN: Yes, for a particular project. [LB85]

SENATOR MCGILL: Our sales tax isn't based on a particular project. [LB85]

SENATOR WIGHTMAN: The city of Lincoln does not? [LB85]

SENATOR MCGILL: No, well, at least with Senator Utter's case I know that the people voted for that sales tax to go directly to that water park. Lincoln just has a permanent sales tax base. [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR WIGHTMAN: You have not used it for property tax relief or... [LB85]

SENATOR MCGILL: Honestly, I don't know the answer to that. Maybe... [LB85]

SENATOR WIGHTMAN: Well, Lexington did at one time. We also used .5 percent, or .4 of 1 percent of the 1.5 percent for economic development. [LB85]

SENATOR MCGILL: I don't know the answer to that, but I can get it from the city. [LB85]

SENATOR WIGHTMAN: But all of this would jeopardize the city's ability to make payments on these other projects, I assume, or at least would be a competing factor for the funds. [LB85]

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SENATOR MCGILL: It would be competing for other budgetary needs in the city. [LB85]

SENATOR WIGHTMAN: Okay. With that, I'll wait and see if I have additional questions. Thank you, Senator McGill. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Wightman. Those wishing to speak, Senators Friend, Pirsch, Avery, White, and others. Senator Friend, you are recognized. [LB85]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I felt it appropriate. It's a pretty good discussion so far. And I suspected that this might happen. I hoped it would happen, actually. We kicked this bill out of the Urban Affairs Committee with 6 votes. Nobody was a no vote. There was an absent. I think what needs to...couple of things need to be pointed out about this particular piece of legislation. Okay? First of all, and it's probably just me being a little bit...I guess, there's history here. There's nothing functionally or technically...necessarily functionally or technically wrong with this bill, nothing. The language will do exactly what the committee knew that it's supposed to do. But another point that needs to be made, it is new policy. We're changing the way local officials are going to be able to function in a taxing authority capacity. Make no mistake, we're not trying to hide anything here, this is new policy. And that's why I expected this type of debate. I even told Senator McGill yesterday, expect some of this. This isn't status quo type of stuff. If the intent is not what I thought it was, then I think that I would advise Senator McGill to entertain amendments. But at this point in time, I don't think that I would help her or advise her to entertain any amendments. Functionally and technically there's nothing wrong with this bill. The fourth thing, property tax hike. I've heard this for six years. Depending on which side of the issue you're on, we're either offering up more local control or we're forcing a property tax hike. Give me a break, okay? This doesn't...isn't going to force a property tax hike, unless there are irresponsible local control officials involved in the fray and we vote for them, too. There's all kinds of general obligation bonding, Senator McGill brought up one of the points, that doesn't require a vote of the people. If we want to have a debate for five hours about that, let's have that debate. We have other bonding bills in these committees. They're going to come out here because people are looking for creative, functional ways, and responsible ways to fund the...this isn't a gambling bill. This is bonding that other cities, other states have utilized. I look at it this way: If you don't like the policy, vote no. I don't mind the policy because I think that it is exactly that, the cliché, a local control issue. If you have a bunch of city officials that are that irresponsible that they're going to float bonds with bad bond ratings, these are...hey, by the way, these are general obligation bonds. They can be general obligation bonds. Let's go to this a second. Once this area is formed, once this area is formed for a city to utilize, the municipality may issue urban growth bonds or refunding bonds to finance or refinance the construction or improvement of roads, streets, streetscapes, bridges,

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related structures, parks--I knew what the intent was--or other public infrastructure within the growth district. This could provide revenue. [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR FRIEND: This could do all kinds of things. We're absolutely not sure yet because we've never done it before. This is brand new. The bonds, notwithstanding any other provision or any other amendment that comes in, any other thing being equal, these are general obligation bonds. The cities are expressly required to levy sufficient property taxes on all property within the municipality at the necessary rate to provide sufficient funds to pay off the principal and interest of the urban growth bonds as they mature. Doesn't mean people's property taxes are going to go up. It means if you can't pay the bonds, they're going to be serviced with the full, you know, full faith and credit of the people. [LB85]

SENATOR ROBERT: Time. [LB85]

SENATOR FRIEND: Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Friend. Senator Pirsch, you are recognized. [LB85]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. I wonder if Senator McGill would yield to a couple of questions. [LB85]

SENATOR ROBERT: Senator McGill, would you yield to a question? [LB85]

SENATOR MCGILL: Yes, I will. [LB85]

SENATOR PIRSCH: Very good. Is the bonds that would be floated then, revenues would be generated, the expenditure of those revenues by the municipalities, would those be contained only to areas within the designated urban growth district or might these revenues be spent outside of that district in some circumstances? [LB85]

SENATOR MCGILL: They could be used outside of those districts. For instance, I live in an older part of town, and so there are infrastructure needs in my part of town as well. And the language in the bill leaves it open to the city council to determine where in the city the money is used. [LB85]

SENATOR PIRSCH: So is there any reason to, you know, focus attention to the name urban growth district in this bill insofar as the monies will be raised from the municipality as a total and can be spent anywhere in the municipality? [LB85]

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SENATOR MCGILL: Yeah, that's really just how they...we've developed a mechanism to determine sales tax revenue, what percentage. So... [LB85]

SENATOR PIRSCH: I see. [LB85]

SENATOR MCGILL: ...I mean, it's just the tool used to determine that. And the revenue is not limited to that district. [LB85]

SENATOR PIRSCH: Okay. So for older decaying or not decaying, but necessarily some areas of cities within the state or towns that are having infrastructure problems or street, really there's no prohibition of spending the money on any area of the city. [LB85]

SENATOR MCGILL: I would, personally, hope some of that money is used on older parts of the cities that have needs that are dangerous, in some cases, with bridges. [LB85]

SENATOR PIRSCH: Very good. And then just with respect to...and I appreciate your answering that question, helping me to understand the scope of the bill. This would be...this was originally a bill from...that was introduced last year. Is that correct? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR PIRSCH: Okay. And so there's been some discussion, I guess, that there...in bringing forward the bill, you are saying that there is a need or a benefit by bringing a new tool, if you will, to the arsenal of raising funds for road building. Correct? Is that... [LB85]

SENATOR MCGILL: Absolutely. [LB85]

SENATOR PIRSCH: Okay. Are there...but you had mentioned that there are other mechanisms currently within the arsenal of municipalities by which they can pay for these infrastructure needs. Could you just kind of briefly go into what exists currently and why they're inadequate to address what you're hoping to address in this...with this new mechanism? [LB85]

SENATOR MCGILL: Well, there are a lot of things a city can and could still do. For instance, they could still put up a larger general obligation bond to the vote of the people. That's not out of the picture. And we're not trying to get around that because there are a lot of benefits to going that route for major projects. So we're definitely not trying to take that away from the arsenal. Then there are highway allocation bonds, which the city is using. They've taken a couple out over the last five years. [LB85]

SENATOR PIRSCH: And, I'm sorry, I had a hard time hearing you. [LB85]

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SENATOR MCGILL: Highway allocation bonds. [LB85]

SENATOR PIRSCH: Highway allocation bonds. [LB85]

SENATOR MCGILL: Allocation bonds, and that is bonding that's done without a vote of the people. But it simply is not enough to satisfy the need because Lincoln has been growing so heavily. And then they can just do projects on an annual basis and just contract them out and not use bonding at all. [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR MCGILL: But they really feel that an additional tool could really help them since we are in such a horrible position. I mean, I don't need to tell people that we don't have enough money for roads. And this is something that has been considered innovative because it is different, as Senator Friend mentioned,... [LB85]

SENATOR PIRSCH: Thank you. [LB85]

SENATOR MCGILL: ...a different approach at it. [LB85]

SENATOR PIRSCH: I appreciate it. Other than roads, can these funds be used in other manners, or is this... [LB85]

SENATOR MCGILL: For parks and other infrastructure such as that. [LB85]

SENATOR PIRSCH: Oh, thank you very much. I'd yield the balance of my time to Senator McGill if she wanted a quick comment. [LB85]

SENATOR MCGILL: How much time? [LB85]

SENATOR ROBERT: You have 25 seconds. [LB85]

SENATOR MCGILL: I'll just waive that and wait for my turn. [LB85]

SENATOR ROBERT: Thank you, Senator Pirsch and Senator McGill. Wishing to speak, Senators Avery, White, Price, and others. Senator Avery, you are recognized. [LB85]

SENATOR AVERY: Thank you, Mr. President. I want to just make one or two points. The city of Lincoln is in crisis when it comes to infrastructure and we badly need this bill. The city is woefully short of money to finance infrastructure. The city is growing and we are finding ourselves increasingly unable to keep pace with that growth through the development of infrastructure. This bill will provide an important tool to the city. It will

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help us finance that future growth and existing growth. It will not cost the state anything. And it is my belief that it will not raise taxes. It merely authorizes the use of a portion of sales and use taxes that are generated within these growth districts in order to finance the bonds. Several people have raised concerns about the possible impact on property taxes. Let me just tell you that the city can only turn to the property tax if the sales tax and use taxes are insufficient to service the bonds. This is a normal part of bonding authority. Virtually all bonding requires that the full faith and credit of the city be put behind the bonds. And if one source of revenue to service the bonds does not...is not adequate, then other sources have to be used. But let me repeat. We do not expect that to happen in this case. We do not expect property taxes to become involved. Property taxes are explicitly only provided as a backstop to be used only in the dourest of circumstances. This bill is about helping cities help themselves. Nobody is asking the state to pony up any money. Nobody is asking for new taxes to be generated. And I can tell you this, nobody in this Chamber is more committed to holding down property taxes in this state as I am. Certainly nobody is more committed to it than I am. I can tell you that when I was campaigning for office I heard that every day, that we have a heavy property tax burden. And I got that message loud and clear as all of you did. So let me reiterate that we do not expect property taxes to be involved. Using the property tax is simply a normal way and a normal feature of bonding authority. This is not a new idea. We need this badly. The city of Lincoln, if it's going to continue to grow, has to have the means to finance its infrastructure. I urge you to support this bill. And, Mr. President, if I have any remaining time, I'd like to yield that to Senator Friend. [LB85]

SENATOR ROBERT: Senator Friend, 2 minutes. [LB85]

SENATOR FRIEND: Thank you, Mr. President. And thank you, Senator Avery. Members of the Legislature, I don't know if I have enough time here. Probably by the second wasting it. But I do have my light on. Let's go back to the local control issue for a second. And I'm not trying to filibuster Senator McGill's bill. I just had a few more things to say. By the way, I think we're on this the rest of the morning, so if anybody was curious. Let's talk about what cities are doing right now. And some of you understand this, maybe all of you do, so I'm not going to go that far. I'm not going to make any assumptions. Tax increment financing removes acres and miles of property off of the property tax rolls each year. What kind of vote do you think you need to TIF a project? That's a rhetorical question. You need (laugh) you need a vote of the governmental subdivision. You need a vote of the city, a majority vote, 5 to 4 if there's 9 of them, 4 to 3 if there's 7. I think you get the point. Tax increment financing...nobody...but you know what? That's a really good tool. You know how many people I've heard in the last half a dozen years tell me, don't monkey with TIF; leave it alone; don't touch it because we, in our communities, need TIF. It is an economic development tool. I agree. I've seen it used in Omaha for decent projects, for blossoming projects. Some of them fail but...relatively, but most of them are...they're well planned out. But we're removing. [LB85]

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SENATOR ROBERT: Time. [LB85]

SENATOR FRIEND: Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Friend. Senator White, you are next. [LB85]

SENATOR WHITE: Thank you, Mr. President. I would like to speak in favor of this bill, and I'd like to remind the body of a couple of basic points. First of all, the concern that this will cause an increase in property tax, I think, has it backwards. The effort to bond using sales tax is an effort to avoid raising property taxes in order to provide immediate services now. The actual hard place that our cities are in that absent flexibility and being able to bond on long-term projects using sales tax means they will either give up growth or they will have to raise property tax now. That's what this bill is intended to avoid to give the cities the possibility of looking at income streams to fund growth other than property taxes now, which kill growth. So we have a situation that's really a problem for many of the cities. They have infrastructure needs that are critical. The commute times, the amenities, other aspects of living in a city require some type of public financing. They have a history of growing when that kind of financing is available. That is what they're trying to do, is put in place the infrastructure that makes a city a desirable place to live using sales tax, which is less objectionable to almost all citizens than property tax, to fund those kind of projects. If they're denied this kind of flexibility, in fact, then they will have a choice. They will either not grow, which is not good for us as a state or they will use property tax now because they have no other alternatives. I would also like to point out to the body that nothing in this bill permits a tax levy to be breached. The levy limits remain in place. The cities have the ability now to raise property taxes inside of those limits. This bill doesn't authorize them to violate it, in no way. So all this does, all this does is allow a modern financing tool to be available for use at the discretion of the city councils and the mayors of the affected cities. Now could it go wrong? Yeah, sure, it could go wrong. But even if it goes wrong, the ultimate result is no worse than what they're going to have to do anyway, which is look to property taxes to pay for the infrastructure nor are they in any way allowed to go beyond the limits we've set on maximum property tax as we sit today. The whole point of the property tax is to make it affordable. What we are doing is telling potential investors in these bonds that your money is safe and, as a result, the cities get that money for substantially less cost and they are able to do more with less money. Taking away the provision, saying that ultimately property taxes must stand behind these bonds if sales taxes are insufficient, actually puts the city in a more precarious financial position and also its residents. I think that the highway bonds that Senator McGill so ably talked about have these mechanism in place and have been used, and no one, no one has brought forward even one instance where a highway bond has been defaulted on and property taxes had to be increased in order to cover it. In fact, when certain resources weren't sufficient for one of the highway bonds, the city of Lincoln raised a wheel tax to cover it. [LB85]

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SENATOR ROBERT: One minute. [LB85]

SENATOR WHITE: So I would submit to you that this makes sense in terms of a modern financing tool to help city councils avoid property taxes, and the history in Nebraska has been that our communities have used it responsibly and well. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator White. Those wishing to speak are Senators Price, McGill, Fulton, Friend, and others. Senator Price, you are next and you are recognized. [LB85]

SENATOR PRICE: Thank you, Mr. President. I would like to know if Senator McGill would yield to a few questions. [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question from Senator Price? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR PRICE: Thank you very much. We've heard numerous times here the sales tax isn't clarified. The sales tax to be used to service the bonds would be that sales tax raised within the economic...the designated economic development area, correct? [LB85]

SENATOR MCGILL: It's not technically the sales tax revenue that comes exactly from those businesses. You take the...or you create an urban growth district physically in location, but then you take whatever percentage of the city that district is. So say that four-block radius or whatnot is 2 percent, then you just take 2 percent of the whole city's sales tax revenue. [LB85]

SENATOR PRICE: So, by de facto, it's just we were assigning it or ascribing it to that... [LB85]

SENATOR MCGILL: Yeah, a percentage, you know, that... [LB85]

SENATOR PRICE: ...that area percentagewise. [LB85]

SENATOR MCGILL: Yeah. [LB85]

SENATOR PRICE: Okay. And then if, for whatever reason, there was a downturn in the economy--God forbid--and the sales tax was not available, then you would service the debt in another manner, correct? [LB85]

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SENATOR MCGILL: Well, we're going to have sales tax revenue. It's not going to completely go away. And as has been said before, so far property taxes haven't had to be raised on highway allocation bonds, you know, or other ones, so. [LB85]

SENATOR PRICE: Correct. Correct. But more specifically, if the ascribed percentage is not available, you could retrogress and say that that economic development zone was not able to generate their fair share, then it would be spread to the other areas to make up for it, correct? [LB85]

SENATOR MCGILL: Oh, well, yeah, the money has to come from somewhere. [LB85]

SENATOR PRICE: Okay. So why don't we just say...not say that it would come from the economic zone, that all sales tax would be used, just to make it clear so no one would ever have any question that all sales tax within the city would be the pool for which you would service? [LB85]

SENATOR MCGILL: I believe it is, and I can get that clarified and talk to the folks, too,... [LB85]

SENATOR PRICE: That would be great. Thank you. [LB85]

SENATOR MCGILL: ...who drafted it. But in general, the sales and use tax is that first mechanism, even if it's... [LB85]

SENATOR PRICE: Great. [LB85]

SENATOR MCGILL: ...beyond that first specific chunk. Yeah. [LB85]

SENATOR PRICE: Okay. Thank you. [LB85]

SENATOR MCGILL: Uh-huh. [LB85]

SENATOR PRICE: That's...I'll yield my time, if you need it. [LB85]

SENATOR MCGILL: Um... [LB85]

SENATOR ROBERT: Senator McGill, 2:28. [LB85]

SENATOR MCGILL: Okay, I'll go ahead and take that then. (Laugh) I want to make one clarification because I know a lot of folks have been milling about. You know, maybe they trust that the city of Lincoln would be using this properly, but what about other areas of the state? And I just want to make it clear that there are two qualifications in

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this bill that are necessary for someone to use this mechanism. You have to have been growing pretty significantly really, but growing over the last 20 years, and you have to have a sales and use tax. That means that less than a dozen cities in Nebraska fall into this category, so we're not talking about a lot of cities getting themselves into a heap of trouble and too much in debt. We're talking about maybe five that would possibly use this. Omaha hasn't...they supported the bill, but they're not, you know, dying to use this, in particular. And so far we haven't heard from anybody else who really, you know, is...they may support it as an option but aren't, you know, planning to use it right away like the city of Lincoln. And so, you know, I hope that folks out there realize that this isn't something where we're opening the floodgates to every community in the state to possibly get themselves in debt and raise property taxes. Like I've noticed many of the senators asking questions about this. You don't even have...some of you don't even have cities in your area that could use this, and so you shouldn't have to be that...you shouldn't be all that worried about the impact on your own communities. I have full faith in the Lincoln City Council not to get themselves into too much trouble. And, you know, with that, thank you, Mr. President. [LB85]

SENATOR ROBERT: Senator McGill, Senator Price, thank you. Senator McGill, your light is on next. [LB85]

SENATOR MCGILL: Waive. [LB85]

SENATOR ROBERT: She waives. Senator Fulton, you are next and you're recognized. [LB85]

SENATOR FULTON: Thank you, Mr. President, members of the body. I'm going to vote for this bill to move forward on Select File with thanks to the body for the debate. I would like to take this opportunity, though, to, oh, maybe shed some light on what's going through my mind because I have the sense, in listening to debate, that it's something that's going through a lot of our minds. This isn't...there's good and there's bad with this bill. It's not a pure way that can go forward such that we can fund roads. I think really what makes this bill attractive is the ability to fund roads, at least at the local level, something which we as state legislators have some responsibility to do--the provision of infrastructure for our citizens, for our state going forward. This bill would provide a tool for locales to better fund roads and infrastructure. That's the good thing. We're talking here about the principle of subsidiarity, local control. That's a good thing. It may also seem to be a bad thing because perhaps that locale will choose unwisely or choose to fund projects or fund or act, I guess would be a better way, choose to act in a way contrary to what we would like to have them act, and that's a bad thing. Perhaps this could lead, at some point down the road, to a property tax increase by way of choice. We would have granted that authority and that's why we're having a problem with this bill. That's where I have hesitation in voting for this bill. But if we come back to this principle of subsidiarity, the ability to let locales act, that's what's good about this bill and

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that's why I think we should move the bill forward. Again, we have responsibility to provide infrastructure, yet we as a state don't have a way right now that will work going forward. Right now what we have is the gas tax. And there have been other bills brought forward, other ideas, there will be other ideas, but right now our citizens, our constituents who are looking to us to provide for roads funding, right now all we have for them is the gas tax. So that's another reason why I'm willing to vote this bill forward because I haven't been able to come up with another idea that works mathematically and structurally going forward. Well, here's another idea. So if we're looking for a...oh, a purist reason or an absolute reason to vote for or against this bill, I don't think it exists. Because what we're talking about here is granting authority to locales, so there will be good and there will be bad. I just ask that we move this forward, with thanks for this debate. So if I have any more time, I'd yield it to Senator McGill, if she would like it. [LB85]

SENATOR ROBERT: Senator McGill, 2:10. [LB85]

SENATOR MCGILL: I want to...I can...I'll use this time to address one issue that actually Senator Price brought up a little bit ago and many people have, and that's the economic downturn issue. Regardless of if this bill is in place or not, when there's an economic downturn a city council has to vote to either cut services or increase property taxes. With or without this bill, if there's a bad economic time, city councils are put in a bad position. They can raise property taxes if they need to. This is just a mechanism to finance some roads. And the economy is bad; they can raise property taxes as it is. And for that to really be the issue that is getting at people's guts, city councils can do it with or without this. You know, this is just a tool for them to try to develop their infrastructure and their roads in a new way. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator McGill and Senator Fulton. Senator Friend, you are next and recognized. [LB85]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I believe it's the last time I'll speak to this, but you never know when I would. I think it's a good discussion that's going on here. I said that before. I do believe, I did believe it was going to happen and I'm glad it did. There's an idea being floated around. We had some discussions with the Speaker, Senator McGill, Senator Utter, and myself to...and the idea being this: Senator Utter has filed, and I believe if you look on your Chamber Viewer, has filed an amendment on Select File to...and I haven't read it yet but it's my understanding to incorporate a vote of the people in the functional language. I also had a talk with Senator Janssen--I believe his light is on--about some ideas that...or at least one idea that he had. It's my understanding that he may be interested in those...in those discussions that our office is going to facilitate. I can tell the body this, Legislature. We will work through our research analyst, legal counsel, whatever, to work through these issues with all the parties, anybody else has ideas and concerns about this legislation.

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The discussions are going to be ongoing. I don't think I've ever done this, but I'm asking that we would actually slide this, and I've seen it done, we would actually slide this on to Select File so that we can work through some of these issues. It will actually give us time to work through some of these issues. Now, you do have my word--as half of you are smirking at me to slide a Senator McGill bill on to Select File--you do have my word that if there are concerns obviously we're going to have an opportunity to bog the process down and put a stake in the heart of this bill on Select File. You can debate all you'd like. But you also have my word that if your concerns need to be heard, they'll be heard. And Senator McGill was involved in that meeting. And I think she agreed with that...with that thought process. It doesn't mean that we're accepting and we believe in these amendments. Let me make that really clear. I'm not...I haven't even got a chance to look at the amendments. I haven't advised anybody about what they should do with them. I'm just telling you, I know there's one out there, there might be another one, and I think in order to get this discussion going I don't think we have to bracket this bill to do it. I think we can move it to Select File, have a decent debate after all of these issues are forced forward. Look, I'd be happy to answer any questions about the discussion that was ongoing here a little bit a little while ago. If not, I guess I would just respectfully ask for the advancement of LB85 to Select File, and in the time between the discussion that we're having here and the Select File there's going to be plenty of discussion and work done on this piece of legislation. Thank you, Mr. President. [LB85]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Friend. Those wishing to speak, we have Senator Adams, Campbell, Stuthman, Wightman, Pirsch, and others. Senator Adams, you're recognized. [LB85]

SENATOR ADAMS: Thank you, Mr. President. And, Senator McGill, at the end of my comments I'm going to give you some time to respond, if you want. Since I last spoke, I have been asking a lot of questions and trying to get my hands around this, and a lot of people have provided some good insight and some of my questions have been answered. So here's the question that continues to gnaw at me a bit, and I'm going to give you a moment to respond. If I think at the various bonds that a municipality can issue, if it's for water and sewer we can issue those bonds without a vote and we're going to pledge a revenue stream, either an assessment, a front footage assessment against the properties that benefit from the water and sewer or we could pledge the fee structure and the city council, without a vote of the people, just a city council vote, can adjust the fee structure to pay on that bond. If it's a street bond--we're going to build a new street--we're going to pledge an assessment, a front footage assessment, which by state law we've even gone to a vote of the people on that one to ask the front footage if they're okay with that. And if they are, we issue the bonds and we've encumbered that title and we're pledging the assessment along that street. If I'm going to do a TIF project and I'm going to issue bonds, and those bonds anywhere out to 15 years, we don't go to

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a vote of the people on that one but we have...we still have a dedicated revenue stream, in effect. Now, it's slightly more nebulous, but if the city council and the redevelopment authority of that community have done a good job reviewing the project, what we're saying is we're going to pledge the increment off of this project, the increment that it will gain off of this project, to the revenue stream that this bond will take to retire over 8 years, 10 years, 15 years, whatever they've agreed on. So what I'm working out in my mind is we have all of these different kinds of bonds that are issued and, generally, there is a pledge of some kind of revenue stream to them and none of them that I've described have we gone to a vote to the people on. Now, if I want to build a swimming pool, now I'm going to have to do a GO, a general obligation, and in effect what I'm doing, I'm pledging the property tax base of the community towards that bond. Now, if I'm going to do that, by law I'm going to have to ask the people. Okay. Now I've got this thing narrowed down and now I'm going to give you time to respond. So correct me if I'm not thinking right, Senator McGill, but the way I'm envisioning this right now, aren't we pledging, in effect, the sales tax base of the municipality towards a bond and that sales tax base, if we're going to ask the voters on the property tax base to be obligated, the question that I'm wrestling with now, as I better understand what you're trying to do, is should we also ask the voters of that sales tax base whether they're willing to pledge to that project? And I give you whatever time I have to respond to that. Thank you.
[LB85]

SENATOR LANGEMEIER: Senator McGill, 1:20. [LB85]

SENATOR MCGILL: Your analysis is correct and I can understand why you feel a little unsettled and other people in here feel unsettled. It is different than what we've done before. There is no exact model. You know, you're comparing it to the property tax situation with bonding and then there are the other revenue sources. This is something entirely new, and so we need to make a decision on if we think this new idea and this new tool is something worth investing in or not. I mean, everything you've said is absolutely correct. I think this is a worthy avenue to pursue. I think the city of Lincoln needs it to happen. But what you're wrestling with, that is exactly what we're deciding in here. And it's been a great debate as we try to figure out what our role and what the local government role should be when it comes to pledging our tax dollars to bonds, and that's something I guess we're going to have to decide. Thank you, Mr. President.
[LB85]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Thank you, Senator McGill. Wishing to speak are Senators Campbell, Stuthman, Wightman, and others. Senator Campbell, you are recognized.
[LB85]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. I will be

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short in my remarks. I do support the bill because I think it's a tool that can be used by our cities to manage their growth. Lincoln has gone through some very impressive growth periods. It needs as many tools as it can get. One of the things that we have learned in Lincoln over the last couple of years is that a great amount of the infrastructure and improvements has been paid for by the developers who are putting in those areas. This would give us a tool in Lincoln to partner with the private sector as we begin to put the infrastructure into place. And with that, I'll yield any of my remainder time to Senator McGill. [LB85]

SENATOR ROBERT: Senator McGill, 4:08. [LB85]

SENATOR MCGILL: Thank you. I'll take this second to bring into the debate an issue that was just brought to me by the committee counsel that he thought would be a good thing to add into this discussion and that's, you know, when a city wants to bond, they have to go through the financial community to be approved for those bonds. And that is...that community will ensure that the bonds can be paid back, that those are...that that's a reasonable investment for everybody. So as we're having this discussion, remember that they are there, they have to approve the bonds and there's that element of accountability and guidance that goes along with the city council when they're making these decisions. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator McGill and Senator Campbell. Senator Stuthman, you are next and recognized. [LB85]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator McGill a couple questions, if I may. [LB85]

SENATOR ROBERT: Senator McGill, would you yield to a question? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR STUTHMAN: Senator McGill, the way I have understood this is that the growth of a community since 1988 or the 20 years,... [LB85]

SENATOR MCGILL: Uh-huh. [LB85]

SENATOR STUTHMAN: ...utilizing that percentage, can establish a percentage that the municipality...to utilize that percent that they agree upon or vote upon for utilization of the money for infrastructure. Now, does this mean the infrastructure of a new growth area or is that it can be utilized through the community? The way I understand it, it could be utilized--let's just use Lincoln as... [LB85]

SENATOR MCGILL: Yeah. [LB85]

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SENATOR STUTHMAN: ...an example--it could be used anywhere in Lincoln to improve streets? [LB85]

SENATOR MCGILL: It could. The way it's drafted right now, it could be used anywhere in the city. [LB85]

SENATOR STUTHMAN: Okay. In the bill, it states that any municipality that has established an urban growth district. Does that mean that, you know, outside of that area, what has grown in the last 20 years, does that mean that they can...they can designate a district of ten acres that they want to develop? [LB85]

SENATOR MCGILL: No. It has to be part of the city limits right now. [LB85]

SENATOR STUTHMAN: It has to be part of the city limits right now. [LB85]

SENATOR MCGILL: Yeah, has to be a part of the city right now. [LB85]

SENATOR STUTHMAN: But even if it's a part of the city limits and it's an area that hasn't been developed, would that mean that it's a new growth area? I'm trying to differentiate between... [LB85]

SENATOR MCGILL: Well, the money could be spent there then, Senator Stuthman,... [LB85]

SENATOR STUTHMAN: Okay. [LB85]

SENATOR MCGILL: ...to help develop that part of town. [LB85]

SENATOR STUTHMAN: Develop that. [LB85]

SENATOR MCGILL: Yeah, the money could be used for that. [LB85]

SENATOR STUTHMAN: That money will be utilized to maybe...have the...improve/establish the streets... [LB85]

SENATOR MCGILL: Establish the streets, yes. [LB85]

SENATOR STUTHMAN: ...in an area that isn't developed but... [LB85]

SENATOR MCGILL: Um-hum. [LB85]

SENATOR STUTHMAN: ...yet it is in the corporate... [LB85]

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SENATOR MCGILL: Yeah. [LB85]

SENATOR STUTHMAN: ...limits of the city. [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR STUTHMAN: Then that would be the establishment of an urban growth district. I'm trying...you know, new districts is what I'm trying to...trying to establish. You know, when is it a new district and when are they going to pay for the infrastructure of a new district compared to repair and remodel? [LB85]

SENATOR MCGILL: I think that what we've titled these is getting you confused perhaps and maybe we can talk. Maybe I can show you a map of the city and that might help explain it to you. But the urban growth district is a part of what is Lincoln right now. [LB85]

SENATOR STUTHMAN: And that is already developed? [LB85]

SENATOR MCGILL: Largely, yes, which is why there's already sales tax revenue coming from that part of town and, yes. [LB85]

SENATOR STUTHMAN: So in other words, it's an area that has been developed, like an area in the community, and they designate... [LB85]

SENATOR MCGILL: Yeah, like the SouthPointe mall area. [LB85]

SENATOR STUTHMAN: SouthPointe mall and they designate that's going to be our established... [LB85]

SENATOR MCGILL: Um-hum. [LB85]

SENATOR STUTHMAN: ...urban growth district. [LB85]

SENATOR MCGILL: Growth district. Um-hum. [LB85]

SENATOR STUTHMAN: And a percentage of the total growth of that community is the way of establishing that percentage of sales tax use. [LB85]

SENATOR MCGILL: The physical growth, so from X Street to Y Street, from First to Second, if that's 1 percent of the city, then we end up using 1 percent of the city's sales tax towards the bonds. [LB85]

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SENATOR STUTHMAN: And it could be...depending upon what they decide upon, they could have a lot bigger area? They could have a 10 percent area? [LB85]

SENATOR MCGILL: Yeah, it could be bigger but, remember though, the financial community has to approve those bonds and so it's not going to get out of control. When you were saying what if it was 40 percent, you know, growth, that's not going to happen. It's not. (Laugh) [LB85]

SENATOR STUTHMAN: No, I'm sure that it won't happen, but it could happen because there's been a 40 percent growth in the community since 1998 (sic) and they could establish that complete 40 percent of that district... [LB85]

SENATOR ROBERT: One minute. [LB85]

SENATOR STUTHMAN: ...as a growth area. [LB85]

SENATOR MCGILL: Theoretically, they could try, but the financial community would not allow them to do that. [LB85]

SENATOR STUTHMAN: I'm sure they wouldn't, but it is a possibility. It could happen. [LB85]

SENATOR MCGILL: They wouldn't be allowed to do it. [LB85]

SENATOR STUTHMAN: Yes, I'm sure it won't happen but it could. And I'm sure they won't, you know, designate the total area. They'll probably just designate an area that has a good...been a good resource of revenue that has brought in a lot of sales tax to a community and utilize that for the infrastructure and the repair and maintenance of the complete area of the city, correct? [LB85]

SENATOR MCGILL: I guess I missed the beginning of that question. I'm sorry. [LB85]

SENATOR STUTHMAN: The dollars that are utilized, the 2 percent or whatever they come up with and the dollars generated by that, can be used for improvements throughout the city of Lincoln. [LB85]

SENATOR MCGILL: Yes. Yes, they can. [LB85]

SENATOR STUTHMAN: And not designated just to that district but to... [LB85]

SENATOR MCGILL: Yeah, they can be used anywhere. [LB85]

SENATOR STUTHMAN: ...anywhere in the community. [LB85]

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SENATOR MCGILL: Yeah. [LB85]

SENATOR STUTHMAN: Thank you, Senator McGill. [LB85]

SENATOR MCGILL: Uh-huh. [LB85]

SENATOR ROBERT: Thank you, Senator Stuthman. Wishing to speak, Senators Wightman, Pirsch, Janssen, Utter, and others. Senator Wightman, you are next and recognized. [LB85]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. My term here or time here will be short. I just have one question, if Senator McGill would yield to a question. [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WIGHTMAN: Senator McGill, I've discussed this with you personally and I sense some of the opposition here is the fact that this would be a rather encompassing bill that could include every municipality in the state of Nebraska and does include every municipality in the state of Nebraska. Is that your understanding? [LB85]

SENATOR MCGILL: Well, you have to have been growing and you have to have a sales tax. [LB85]

SENATOR WIGHTMAN: Okay. I understand that. [LB85]

SENATOR MCGILL: Yeah, but... [LB85]

SENATOR WIGHTMAN: But that still is going to include a number of municipalities. [LB85]

SENATOR MCGILL: Maybe a dozen at most, but yes. [LB85]

SENATOR WIGHTMAN: But by the fact that it has to be growing, I know there's a provision in there that says that the area has to have been incorporated into the city or annexed into the city after 1988. Is that correct? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WIGHTMAN: Is there another one that...another provision in here that

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requires growth other than that? [LB85]

SENATOR MCGILL: I don't believe so. [LB85]

SENATOR WIGHTMAN: So really, that's the sole test, though. You might not be growing now, but somewhere around 1988 you probably had to be growing. Is that correct? [LB85]

SENATOR MCGILL: That's true. If you were growing in the early nineties, then that could be used, yes. [LB85]

SENATOR WIGHTMAN: So my question is, was any thought given to limiting the applicability of this legislative bill to cities of the primary class, which is the ones you're seeking to satisfy here? [LB85]

SENATOR MCGILL: We have discussed it and it's something that can be part of the conversation and dialogue and part of that discussion between now and Select File about what amendments may be appropriate to help satisfy the body and be able to move the bill forward. [LB85]

SENATOR WIGHTMAN: So without committing yourself now, you at least say that you would give that consideration... [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WIGHTMAN: ...on Select File. [LB85]

SENATOR MCGILL: Yes, I'd be open to discussing that between now and then, and I know there are some amendments that I will not support but that's one that I think should be an active part of the dialogue. [LB85]

SENATOR WIGHTMAN: Thank you, Senator McGill. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Pirsch, you're recognized. [LB85]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. I wonder if Senator McGill might yield for a question or two. [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB85]

SENATOR MCGILL: Why not? [LB85]

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SENATOR PIRSCH: Okay. And this time I'll try to leave you more than 25 seconds at the end of this to make any follow-up comments. But with respect to the bill, page 3, line 6, well, for that matter, the word "infrastructure" is used in...throughout other areas of the bill as well, I believe, but my question is, is the term "infrastructure," which is used as a term for which the funds can be used on, is that defined anywhere specifically in law? [LB85]

SENATOR MCGILL: I do not believe so and that's a discussion I've had with Senator Price, actually, and one of those discussions between now and Select File I think could be clarifying what specifically that language means. I know when it was drafted we wanted to give the city councils the maximum amount of leeway possible with what those infrastructure needs might be, but I think that's something we can definitely work out and try to get honed into something more exact. [LB85]

SENATOR PIRSCH: Okay. Similarly, the term...and used on page 2, line 15 and 16, and here's the complete sentence, which starts in line 14, "An urban growth district may be in an area along the edge of a municipality's boundary or in any other growth area designated by the governing body." Is the term "growth area" set forth or defined in law or is that just subject to one's interpretation as well? [LB85]

SENATOR MCGILL: Well, it's just what's in the language of this legislation itself a few lines later. That's within the municipality's corporate limits and outside the municipality's corporate limits as they existed on January 1, 1988. That is... [LB85]

SENATOR PIRSCH: Sure, and that would be a limiting... [LB85]

SENATOR MCGILL: That... [LB85]

SENATOR PIRSCH: ...feature that... [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR PIRSCH: ...anything that didn't exist in 1988 but does now exist would be the total universe then. And then,... [LB85]

SENATOR MCGILL: Yeah. [LB85]

SENATOR PIRSCH: ...as a further restriction perhaps, although it's nebulous, it must be a growth area designated by the governing boundary. But you would see that that probably is open to interpretation if not defined then. [LB85]

SENATOR MCGILL: Yeah. [LB85]

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SENATOR PIRSCH: Okay. I'll cede the balance of my time to Senator McGill. [LB85]

SENATOR MCGILL: I think I'll waive that for now. Thanks. Thank you. [LB85]

SENATOR ROBERT: Thank you, Senator Pirsch and McGill. Senator Janssen, you are next and you are recognized. [LB85]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I'm fresh off the Fremont City Council, so some of this is relevant to me. I keep hearing that we don't get a chance to vote on these bonds, there's no chance to vote on this. Really, there is a chance for the people to vote. Of course, as we all know, the city council is elected. I think I went out and campaigned for that and to represent the people. But that said, in Fremont we also have three hearings before these bonds come before you. There's a public hearing on these bonds, so if the people have a concern they can come to the city council meetings and relay those concerns or they can relay them at the coffee shop or wherever they want to relay them. Furthermore, if they really, really don't like it and the council acts on it, they can petition and bring a vote to the people. That's a lot of work, but the point is it's being portrayed as the people don't get a chance to speak on it, and they do. I did look at Senator Utter's amendment in talking to him. I guess I didn't look at it, I apologize, but...and I kind of looked at that. It does give the people a chance to vote on it but, in reality, wouldn't that just become a general obligation bond then? So kind of what's the point of the bill if that amendment is accepted to it? So I'm still out to sea on this. What I don't like about it--and possibly, Senator McGill, you can answer the question, I'll yield the balance of the time when I'm done presenting--is...and maybe this was said, I apologize, but what is the levy lid for Lincoln? Is Lincoln close to the levy lid? If I were supportive of something like this, I'd like to see...when you talk local control that they're saying we want local control, I'm saying, fine, you do have local control. You have a levy lid. And if you're not close to it, you shouldn't get to use this new bonding authority. So get to your levy lid and then this new bonding authority will be available. But right now they're saying we have roads projects, the roads need our help, the roads need our help. I understand that. You have taxing authority on the local level; use it. I know it's not politically fun but it is their authority to use it. And so that's what I would say on that and I yield the balance of my time to Senator McGill. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Senator McGill, 2:45. [LB85]

SENATOR MCGILL: Waive right now while I do some research, too, on some of the things that he just talked about. [LB85]

SENATOR ROBERT: Thank you, Senator McGill and Senator Janssen. Those wishing to speak, Senators Utter, Wallman, and Haar. Senator Utter, you're recognized. [LB85]

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SENATOR UTTER: Thank you, Mr. President, colleagues. I see this bill as...my concerns with this bill is that it's more of a kind of a wolf in lamb's clothing, if you will, and that's the potential to issue what here is kind of a quasi-general obligation bond without the vote of the people. And I have a real problem with that. And I know that Senator McGill has talked about other types of guarantees that municipalities make without a vote of the people. I'm a little concerned that this would begin a trend or perpetuate a trend that would continue to do that, and so that's my major objection to what we're doing. I'm certainly not one that wants to stand in the way of progress, and I understand that something like this could mean progress. But I also understand that taxpayers have rights and it seems to me like this is a protection of their rights when we're talking about a bill that is...that has the potential, not at first but later, to turn into a general obligation bond. Thank you. [LB85]

SENATOR ROBERT: Thank you, Senator Utter. Senator Wallman, you are next and recognized. [LB85]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Amanda McGill. Senator McGill, could I ask you a question, please? [LB85]

SENATOR ROBERT: Senator McGill, will you yield to a question from Senator Wallman? [LB85]

SENATOR MCGILL: Yes. [LB85]

SENATOR WALLMAN: Was this a massive approval from the city council for this legislation? [LB85]

SENATOR MCGILL: I'm sorry, what was the question? [LB85]

SENATOR WALLMAN: Was it approval from the city council? [LB85]

SENATOR MCGILL: Yeah. Well, the Lincoln City Council didn't make a formal vote, but a Republican representative from our...and the entire board is right now or the majority is, came and testified in the committee as the liaison between the mayor's office and the city council and came in, in full support of this bill. And they haven't...I haven't heard anything negative from any of the Lincoln City Councilmen. [LB85]

SENATOR WALLMAN: Thank you. [LB85]

SENATOR MCGILL: Um-hum. [LB85]

SENATOR WALLMAN: And I find it ironic we're debating on this as we try to narrow down taxes for services and streets and as we have a hard time voting a sales tax on

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gas and which, by the way, I supported, a use tax. Most foreign entities have much, much higher taxes on their fuel than we do. And we watch fuel shoot to \$4 a gallon. Our government did nothing. But we complain about 2 cents on gas. And the cities, I think, should...I'm going to support this bill. And thank you. [LB85]

SENATOR ROBERT: Thank you, Senator Wallman. Senator Haar, you are recognized. [LB85]

SENATOR HAAR: Yes, thank you, Mr. President and members of the body. I served on the Lincoln City Council for eight years during the 1990s, and so I'd sort of like to speak to that experience. You know, the danger of this bill of course is that it is local control, but I also think that's the real strength of this bill. The city of Lincoln is asking for a new tool and that tool would be exercised by elected officials. And having walked the streets of Lincoln, people read the newspapers, they're aware of what's going on, and if the city council abuses this, if the mayor abuses it, there will be an election to pay for it. So I speak in favor of this bill. I think the local control aspect is very important. Also I see, when I was on the Lincoln City Council, you know, everyone in government, in fact, knows the term "NIMBY"--not in my backyard. Well, this is almost the opposite of this. We're asking people to have improvement in their own backyard and, unfortunately, you can't do a bond issue for a little part of Lincoln. You can't do that. The bond issue has to be issued for the whole city of Lincoln. So I think this would give a way to deal with small areas of the city that have a need for infrastructure, especially newer parts of the city. There are some parts of Lincoln on the fringes which have been there and still don't have proper services, and I think this would be sort of a way to get at small areas and work with that instead of trying to deal with all the issues in the city at one time. So in that regard, I support this bill. [LB85]

SENATOR ROBERT: Thank you, Senator Haar. There are no other lights on. Senator McGill, you are recognized to close on LB85. [LB85]

SENATOR MCGILL: Thank you, Mr. President. This has been a great discussion this morning. You know, this is a new, innovative idea and I think it was worthy of the amount of time that we've been spending on it. And I've been really...this has been the first bill that we've really had to have I think a truly long discussion on and it's been really great to see many of the new senators playing an active role and asking a lot of questions and really trying to figure out exactly what this complicated plan is to allow cities to do some additional infrastructure work. I've been talking with many of the folks who do have thoughts on amendments, and I've asked them to hold them until Select File so that we can talk about them and so we can talk to the city of Lincoln and see what they're comfortable with as well. So I would really hope that we can get enough votes here to pass the bill on to Select File because I think we can make some meaningful changes to bring more people on board and to make people feel a little better about this new route that we're opening up, this new tool for our cities to use. So I

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would please ask you to advance the bill to Select File so we can continue working on it and continue this discussion. It also allows us all to go back and think about this plan in a little more depth while we come back and focus on some of the changes we may want to make to it. Thank you, Mr. President. [LB85]

SENATOR ROBERT: Thank you, Senator McGill. You have heard the closing on the advancement of LB85 to E&R Initial. The question before the body is, shall the bill advance? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB85]

CLERK: 36 ayes, 2 nays, Mr. President, on the advancement of LB85. [LB85]

SENATOR ROBERT: LB85 does advance. Next item on the agenda. [LB85]

CLERK: Mr. President, LB44 is a bill introduced by Senator Flood. (Read title.) Bill was introduced on January 8, referred to the Revenue Committee. The bill was advanced to General File. At this time I have no amendments to the bill. [LB44]

SENATOR ROBERT: Senator Flood, you are recognized to open on LB44. [LB44]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. LB44 makes technical changes in Sections 77-1624 and 77-5903. Specifically, it eliminates an obsolete tax reference in Section 77-1624 as the state no longer imposes a state property tax. And in Section 77-5903(7), "limited liability corporation" would become "limited liability company" for purposes of internal consistency in the statute. So, again, LB44 makes technical clean-up changes to Chapter 77 by eliminating an obsolete tax reference and clarifying the language of the statutes. I did work with Bill Drafters to put this together to clean this up. They thought this was a needed change and I appreciate their efforts. With that, I'd ask for your support in passing this bill. [LB44]

SENATOR ROBERT: Thank you, Senator Flood. You've heard the opening on LB44. Are there any wishing to speak? Seeing none, Senator Flood waives closing. The question before the body shall be, shall LB44 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB44]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB44. [LB44]

SENATOR ROBERT: LB44 does advance. Next item on the agenda. [LB44]

CLERK: LB45 is a bill introduced by Senator Flood. (Read title.) Introduced on January 8, reported back to the Legislature. At this time I have no amendments filed to the bill, Mr. President. [LB45]

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SENATOR ROBERT: Thank you, Mr. Clerk. Senator Flood, you are recognized to open on LB45. [LB45]

SPEAKER FLOOD: Thank you, Mr. President. Again, LB45 makes technical changes to Nebraska Revised Statute 77-5601 by deleting references to the Department of Revenue Enforcement Technology Fund. This fund terminated July 1, 2006, pursuant to the language of the statute. With that, I'd ask for your support in passing this bill. Thank you, Mr. President. [LB45]

SENATOR ROBERT: Thank you, Senator Flood. You have heard the opening on LB45. Are there any wishing to speak? Seeing none, Senator Flood waives closing. The question before the body is, shall LB45 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB45]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB45]

SENATOR ROBERT: LB45 does advance. Next item on the agenda. [LB45]

CLERK: LB120, a bill by Senator Wightman. (Read title.) Bill was introduced on January 9 of this year, at that time referred to Revenue Committee, advanced to General File. I have no amendments pending, Mr. President. [LB120]

SENATOR ROBERT: Senator Wightman, you're recognized to open on LB120. [LB120]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. LB120 seeks to change the penalty section of Nebraska Revised Statute 77-2010, which was enacted into law by LB502 passed by the 2007 Legislature. LB502 in 2007 was my priority bill and, actually, the penalty section was offered by me to the members of NACO, who were opposing this bill, but we are asking that it be clarified at this time. The law, as amended by LB502 in 2007, for the first time, in addition to a 14 percent interest penalty which...for failure to timely pay any tax due, which has existed for a long time, provided an additional penalty of 5 percent per month up to a 25 percent penalty for failure to timely file an appropriate proceeding for the determination of the tax. The law requires, under inheritance tax law, that the determination be made within 12 months of the date of death and the tax to be paid within that time. Now, the penalty did not affect the time that it was paid. If a determination was made and it was not paid, the only penalty--and it really was interest--was the 14 percent interest. At the time of the passage of 2007, it was believed and it was my belief that the filing of a petition for probate of an estate or administration of an estate would be an appropriate proceeding, although the statute did not specifically so provide. LB120 provides that the filing of a petition, since it gives notice to everybody in the county that a probate proceeding is pending, would constitute

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the filing of an appropriate proceeding under Section 77-2018.07, as it would be amended by LB120. At the request of the bar association, because they feel there's also a question with regard to exactly what is included as an appropriate proceeding, we also include in that that an application for determination of tentative tax within the 12-month period is also an appropriate proceeding. In addition, LB120 would provide that the county court could abate the 5 percent penalty for good cause shown. Since many of you are probably unfamiliar with the proceedings as far as determination of inheritance tax, you should know that inheritance tax can be either a separate proceeding or as part of a probate of an estate. The inheritance tax, not like other taxes. You just don't go in and file something and pay the tax to your county treasurer. It requires a filing of a petition with county court; further provides that the county...notice has to be given to the county attorney of any county in which property or at least real estate is owned within the state, and then a determination of the tax is made by the county judge. That tax then is paid to the county treasurer, and it can be to more than one county--the county in which it was determined and the county in which any real estate is situated that's owned by the estate. And as I said, unpaid inheritance tax, just like real estate taxes, delinquent real estate taxes bear interest at the rate of 14 percent. And of course, then the penalty section was added, the 5 percent per month, for failure to file a proceeding that would lead to a determination of the inheritance tax. In Section 2 of LB120, there's a clarification of a provision defining expenses that are deductible in the computation of inheritance taxes, specifically providing that expenses relating to taking possession or control of estate assets and the management, protection, and preservation of estate taxes, including, but not limited to, expenses related to the sale of estate assets, shall be a deduction. The section specifically excludes expenses related to day-to-day operation and continuation. If you continue a farming business or you continue a business for some period of time, those day-to-day expenses have not been excluded and will not be excluded under the amendment. Section 2 is for clarification purposes and is largely in response to a 2008 Nebraska Supreme Court case J.R. Simplot v. Jelinek, which left unanswered questions as to what are estate expenses and what creditors would be barred if they did not file claims in the estate. I might say that the reason for the penalty as contained in LB502, passed by the 2007 Legislature, was to try to assist counties in the enforcement of inheritance tax laws, and I also might say that currently many people who probably owe an inheritance tax do not pay it. If they don't have real estate, many of them do not ever file a proceeding. So this was given as a tool to the county boards, county attorney to enforce inheritance tax law. So far I've not seen any evidence that the penalty is being used by the counties in the enforcement of the inheritance tax law, so at most it's a scare tactic. But at any rate, it would be a fairly limited exception. The 5 percent per month penalty would still apply, but it clarifies what would constitute an excuse that might lead to an abatement of that penalty. I urge you your vote in favor of the advancement of LB120 to Select File. Thank you, Mr. President. [LB120]

SENATOR ROBERT: Thank you, Senator Wightman. You've heard the opening on

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LB120. We'll now proceed with discussion. Those wishing to speak are Senator Stuthman. Senator Stuthman, you're recognized. [LB120]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Wightman a question or two. [LB120]

SENATOR ROBERT: Senator Wightman, will you yield to a question? [LB120]

SENATOR WIGHTMAN: I will. [LB120]

SENATOR STUTHMAN: Senator Wightman, in your opening statement, can you tell me what is the time frame from the time of death until the interest starts accruing, the 14 percent interest? Is that a year, two years, half a year? [LB120]

SENATOR WIGHTMAN: Twelve months. One year. [LB120]

SENATOR STUTHMAN: One year, and then... [LB120]

SENATOR WIGHTMAN: Right. The 14 percent would accrue after one year and will continue to. The penalty would apply if the tax was not determined. One of them is for failure to pay; the other one is failure to file a proceeding, the 5 percent penalty, that would lead to a determination of that tax. [LB120]

SENATOR STUTHMAN: So if there's a determination of the tax due and it's not paid within 12 months, then it accrues 14 percent interest? [LB120]

SENATOR WIGHTMAN: That's correct. [LB120]

SENATOR STUTHMAN: If there's not a determination of the tax due, then explain that 5 percent penalty. [LB120]

SENATOR WIGHTMAN: Well, if there's not a determination of the tax due, the penalty would have been automatic, the 5 percent penalty, under LB502, the 2007 legislation. There would be limited exceptions under LB120 in that what the penalty was aimed at was those who were not ever notifying anybody they were going to owe a tax. So if they come in and ask to have a tentative tax, for example, assessed and paid that tax, that would eliminate the 5 percent penalty because they've given notice that they're going to owe a tax. So the 14 percent is probably sufficient. Also, it provides that if an estate proceeding is filed, because once it's filed then the county attorney and all the county officials have notice of that and probably there's not a need for a separate penalty because eventually it's going to be determined. The penalty was really aimed at those people who were trying to be secretive and never file anything that would lead to the determination of that tax, so it's possibly almost fraud. [LB120]

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SENATOR STUTHMAN: The majority of those that would probably not file would be those that are in the smaller amounts of tax due, in the smaller estates or would you say it would be open to all of them? [LB120]

SENATOR WIGHTMAN: I think that it would be more likely to be those that are smaller amounts of estate taxes. But today with so many people having retirement plans that maybe have tremendous value at the time of their death, and they're payable directly to a specified named beneficiary, I think it would be very easy, in some fairly substantial estates, not to ever file it because there's been no enforcement in place. And quite frankly, I think--and it would take different legislation than this--that there probably ought to be a reporting requirement, if we're really going to have an inheritance tax, of anybody that pays out claims to beneficiaries, even CDs, certificates of deposit. Almost anybody that redeems assets after the date of death, this is probably the enforcement penalty that counties need rather than this just threat hanging over their head that nobody enforces. [LB120]

SENATOR STUTHMAN: Would you say that a lot of those...the individuals that pass on and, you know, or probably do not own real estate property but do have, like you say, CDs or retirement plan or benefits like that, that would be...would be willed to the children, is this what we're really taking a look at? [LB120]

SENATOR WIGHTMAN: Actually, Senator Stuthman, it's probably not that that's willed, because if it was willed there would be probate proceedings. It's that that's paid out to beneficiaries, named beneficiaries, like you would have in retirement plans or annuities. [LB120]

SENATOR ROBERT: One minute. [LB120]

SENATOR WIGHTMAN: If it's under will, you're going to have to probate it to get those assets. [LB120]

SENATOR STUTHMAN: Okay. That clarifies a lot of the issues that I have and I do support this bill. Thank you, Mr. President. [LB120]

SENATOR ROBERT: Thank you, Senator Stuthman. There are no others wishing to speak. Senator Wightman, you're recognized to close. [LB120]

SENATOR WIGHTMAN: I'll waive closing. [LB120]

SENATOR ROBERT: Senator Wightman waives closing. The question before the body is, shall LB120 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB120]

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CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB120. [LB120]

SENATOR ROBERT: LB120 does advance. Next item on the agenda. [LB120]

CLERK: LB251 by Senator Cornett. (Read title.) Bill was introduced on January 14, referred to the Revenue Committee, advanced to General File. At this time, Mr. President, I have no amendments pending. [LB251]

SENATOR ROBERT: Senator Cornett, you're recognized to open on LB251. [LB251]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB251 updates Nebraska tax law to reflect the most current versions of federal tax law in force at this date. This procedure of updating annually has worked out for about...was worked out about ten years ago with the internal...or with the Revenue Committee and Bill Drafter's Office. Its purpose is to avoid dispute based on an out-of-date federal law where this law is cited in Nebraska statute. [LB251]

SENATOR ROBERT: Thank you, Senator Cornett. You have heard the opening on LB251. Are there any wishing to speak? Seeing none, Senator Cornett waives closing. The question before the body is, shall LB251 advance to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB251]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB251. [LB251]

SENATOR ROBERT: LB251 does advance. Next item on the agenda. [LB251]

CLERK: LB166, a bill by Senator Cornett. (Read title.) Introduced on January 12, referred to the Revenue Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM16, Legislative Journal page 292.) [LB166]

SENATOR ROBERT: Senator Cornett, you are recognized to open on LB166. [LB166]

SENATOR CORNETT: Thank you. LB166 amends a section of law which involved the administration of property tax. It was a bill developed by the Department of Revenue Property Tax Division. I'll explain the bill after I open on the committee amendment. Thank you. [LB166]

SENATOR ROBERT: Thank you, Senator Cornett. Mr. Clerk, an amendment. [LB166]

CLERK: Revenue Committee would move to amend with AM16. [LB166]

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SENATOR ROBERT: Senator Cornett, as Chair of the Revenue Committee, you're recognized to open on AM16. [LB166]

SENATOR CORNETT: Thank you, Mr. President, members of the body. AM16 strikes one of the sections in the original draft and removes it because the department decided it didn't need to be altered at that time. I would request the body support the passage of amendment to LB166. Thank you. [LB166]

SENATOR ROBERT: Thank you, Senator Cornett. You've heard the opening on AM16 to LB166. Is there anyone wishing to speak? Seeing none, Senator Cornett to close on AM16. Senator Cornett waives closing. The question before the body is, shall AM16 be adopted to LB166? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB166]

CLERK: 40 ayes, 0 nays on adoption of committee amendments. [LB166]

SENATOR ROBERT: AM16 is adopted. [LB166]

CLERK: I have nothing further on the bill, Mr. President. [LB166]

SENATOR ROBERT: There is no one wishing to speak. Senator Cornett, you're recognized to close on LB166. Senator Cornett waives closing. The question before the body is, shall LB166 advance to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB166]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB166. [LB166]

SENATOR ROBERT: LB166 does advance. Next item, Mr. Clerk. [LB166]

CLERK: LB41 is a bill by Senator Flood. (Read title.) Introduced on January 8, at that time referred to the Judiciary Committee. Bill is reported back to General File. I have no amendments at this time, Mr. President. [LB41]

SENATOR ROBERT: Senator Flood, you are recognized to open on LB41. [LB41]

SPEAKER FLOOD: Thank you, Mr. President, members. Good morning. LB41 makes two technical changes to Section 29-4004, which is part of the Sex Offender Registration Act. First, this bill would strike redundant language on page 2 of the green copy, lines 23 and 24, by striking the word "county" in front of "sheriff." This change also makes references to the sheriff consistent throughout the statute. Secondly, on page 5, line 19, this bill clarifies the language. The statute currently reads, in part: Any person required to register shall notify the sheriff, the county sheriff, in which he or she is located. LB41 would change this to read: Any person required to register shall notify the

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sheriff of the county in which he or she is located. With that, it's a technical bill. Bill Drafters helped me put this together. I'd ask for your support in passing LB41. Thank you, Mr. President. [LB41]

SENATOR ROBERT: Thank you, Senator Flood. You've heard the opening on LB41. Is there anyone wishing to speak? Seeing none, Senator Flood waives closing. The question before the body is, shall LB41 advance to E&R Initial? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB41]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB41. [LB41]

SENATOR ROBERT: LB41 does advance. Mr. Clerk, next item. [LB41]

CLERK: Mr. President, LB123, a bill by Senator Karpisek. (Read title.) Bill was introduced on January 9, referred to the Judiciary Committee. Bill was reported back to General File. At this time I have no amendments to the bill, Mr. President. [LB123]

SENATOR ROBERT: Senator Karpisek, you're recognized to open on LB123. [LB123]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB123 deals with Salvia divinorum. I know that many of you remember the bill from last year. Senator McDonald had the bill. It did get moved to General File but ran out of time. There was also an issue where we tried to get it attached to my marijuana bill. That met opposition, so I told the Attorney General that I would try to carry the bill this year, which I am. In the U.S., Salvia is a plant that is either chewed or smoked. When chewed, the leaf mass and juice are maintained within the cheek area, with absorption occurring across the lining of the gums. Effects first appear within five to ten minutes. And as well as, extract enhanced leaves are enriched with Salvinorin A, which is the compound which induces the euphoria that people get out of this. Results usually occur within 30 seconds and last about 30 minutes. A number of studies have reported the effects of using either plant material or Salvinorin A. Psychic effects include perceptions of bright lights, vivid colors and shapes, as well as body movements and body or object distortions. Other effects include dysphoria, uncontrolled laughter, a sense of loss of body, overlapping realities, and hallucinations. Physical effects may include incoordination, dizziness, and slurred speech. Salvinorin A are abused for their ability to evoke hallucinogenic effects which, in general, are similar to those of other scheduled hallucinogenic substances, including LSD, DMT, and other drugs that are on the Schedule I drugs. This came to light over a year ago when a head shop in Lincoln was selling Salvia. The Lincoln police cited the seller for selling Salvia and, just yesterday, the man was found not guilty of selling Salvia because there is not a law against it. I feel that this drug is not something that we can't control. It needs to be controlled. There is no age limit on it. There is nothing to say that it is illegal. I think that is sending the wrong message to our young

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people to say that it's okay. It is not okay. I have a letter from a lady in Delaware who says that her son committed suicide while on Salvia. She says he was a college prep school student, won the National Merit Spanish Award for the state of Delaware, worked in a nursing home after school, was extremely athletic and very popular, had a loving girlfriend that he planned to marry after college. He wanted to be an architect and was applying to architectural colleges just two short nights before he took his life. He was not a drug user and had routine drug tests at his place of work. His posthumous drug test showed no signs of drugs, which would not be surprising since Salvia is not detectable in any drug test and metabolizes within 15 minutes. The police searched our home after his death and only found Salvia, one of the highest potencies available. After his death, the state police found many notes he had written about his Salvia experiences, including a three-page suicide note. These notes led a noted psychologist to determine that he was under the influence of a drug when he wrote his suicide note. These findings, as well as an examination of the facts of his life, led our state medical examiner, in an unprecedented and brave move, to name Salvia divinorum as a contributing factor to his death. Folks, I just think this is a scary drug that is out there. We have no bans on it. We've heard testimony from people who said they used it and will not use it again because of the trip that they had, very scary. When they sell it, they even tell people that they should have a baby-sitter with them to make sure that they don't harm themselves. I don't think we need a drug out on the streets, available for anyone to buy, that needs a baby-sitter to sit with you. Please think about our children when you think about this one. It's another gateway drug. I think that it will entice people to use the drug, see what it's like--scary thought to me. With that, Mr. President, thank you. [LB123]

SENATOR ROBERT: Thank you, Senator Karpisek. You've heard the opening on LB123. (Visitors introduced.) Returning to discussion, we had Senators Ashford and Mello wishing to speak. Senator Ashford, you are recognized. [LB123]

SENATOR ASHFORD: Yeah, thank you, Mr. President and members. This bill was before us last year, as Senator Karpisek rightly suggests, and it was this year passed out of the committee unanimously. I do have a question, though, of Senator Karpisek, if I might ask him. [LB123]

SENATOR ROBERT: Senator Karpisek, will you yield to a question from Senator Ashford? [LB123]

SENATOR KARPISEK: Yes, I will. [LB123]

SENATOR ASHFORD: And this is a very serious matter, Senator Karpisek, but I've got to ask you about the last prosecution you referred to for someone that was tried for, I suppose, possessing Salvia. Is that what it was? And there was... [LB123]

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SENATOR KARPISEK: Was selling Salvia. [LB123]

SENATOR ASHFORD: Or selling Salvia and (laugh) he wasn't convicted because there was no law against it. Was that what you said? (Laugh) [LB123]

SENATOR KARPISEK: That is what the jury found. There was no law against it and they couldn't prove that it was him that sold the drug. [LB123]

SENATOR ASHFORD: Oh, okay. That's a curious situation. (Laugh) I've never...but I'm sure this prosecutor found some other basis for... [LB123]

SENATOR KARPISEK: It was a jury trial, Senator. [LB123]

SENATOR ASHFORD: No, but I mean there's some other reason for the prosecution other than selling Salvia or...this isn't something you need to answer. I was just struck by your comment that we would prosecute something that there was not a law against. But I assume we, from time to time, do that. But this is a serious matter and I appreciate your bringing this matter to us, Senator Karpisek, again. And we...I certainly support this. This bill places Salvia in the list of drugs that are listed as the most serious, the most dangerous drugs under federal law. The evidence we've heard on two occasions now is compelling. A case I think has been made by Senator Karpisek that this particular substance be denominated in such a manner and that it be prosecuted with a law that we pass, which is probably the better way to go. So with that, Mr. President, I would relinquish the remainder of my time. [LB123]

SENATOR ROBERT: Thank you, Senator Ashford. Speaker Flood, you're recognized for an announcement. [LB123]

SPEAKER FLOOD: Thank you, Mr. President, members. Given our work this morning and the number of bills that have been reported out from committees, we will start tomorrow at 10:30 a.m. Again, the start time for tomorrow will be at 10:30 a.m. We will begin with some Final Reading, and then we will proceed on to General File discussion. Thank you, Mr. President.

SENATOR ROBERT: Thank you, Speaker Flood. Returning to discussion, Senator Mello, you're recognized. Senator Mello waives. Senator Giese, you're recognized. [LB123]

SENATOR GIESE: Thank you, Mr. President, members of the body. I rise in support of LB123. For about the last year or two, we have been dealing with this as a local issue in South Sioux City. With all of our work that some of our folks do fighting gang violence and kids nowadays that are being coerced into getting into gangs, this is unbelievable that we have no recourse to stop this. We have a shop that sells Salvia that is

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approximately four blocks from one of our schools, and these folks that are doing this work to try to stop this are just frustrated. And I believe that the Legislature, this is something that we need to do and should have been done before. So again, I support LB123. [LB123]

SENATOR ROBERT: Thank you, Senator Giese. There are no others wishing to speak. Senator Karpisek waives closing. The question before the body is, shall LB123 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB123]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB123. [LB123]

SENATOR ROBERT: LB123 does advance. Mr. Clerk. [LB123]

CLERK: Items for the record: Enrollment and Review reports LB154, LB91, and LB196 to Select File, some of which have Enrollment and Review amendments attached. Committee reports: Natural Resources reports LB105 to General File with committee amendments, that's signed by Senator Langemeier; Business and Labor reports LB158 to General File with committee amendments attached, that's signed by Senator Lathrop. Hearing notices from Revenue, Health and Human Services Committees. And amendments to be printed: Senator Avery to LB154, Senator Utter to LB85. I have one name add: Senator Howard would like to add her name to LB250. (Legislative Journal pages 302-305.) [LB154 LB91 LB196 LB105 LB158 LB85 LB250]

And, Mr. President, a priority motion: Senator Hadley would move to adjourn until Wednesday morning, January 28, at 10:30 a.m.

SENATOR ROBERT: You have heard the motion to adjourn until Wednesday, January 28, at 10:30 a.m. All those in favor signify by saying aye. Opposed, nay. We are adjourned.