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Floor Debate
March 03, 2010

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-sixth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Pankonin. Please rise.

SENATOR PANKONIN: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Pankonin. I call to order the thirty-sixth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Record please, Mr. Clerk.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the record?

CLERK: I have no corrections this morning, Mr. President.

SPEAKER FLOOD: Are there any messages, reports, or announcements?

CLERK: Mr. President, at this time I have neither messages, reports, nor announcements.

SPEAKER FLOOD: (Visitors introduced.) Members, you may not be aware, but today is the Clerk's birthday. Please join us in a round of celebration for his birthday. He is 29. (Laughter) We'll correct (laugh) the record tomorrow. All right, ladies and gentlemen, we're going to move to Select File, 2010 senator priority bills, the Harms division. Mr. Clerk, LB735. [LB735]

CLERK: Mr. President, LB735. Senator Nordquist, I have no amendments to the bill. [LB735]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB735]

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SENATOR NORDQUIST: Mr. President, I move LB735 to E&R for engrossing. [LB735]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted (sic). Mr. Clerk. [LB735]

CLERK: LB258. Senator Nordquist, I have E&R amendments pending first of all. (ER8164, Legislative Journal page 551.) [LB258]

SPEAKER FLOOD: Mr. Clerk, we just adopted the E&R amendments. [LB258]

SENATOR NORDQUIST: But, Mr. President, I move the E&R amendments to LB258. [LB258]

CLERK: We had no amendments to the first bill so we advanced it. [LB258]

SPEAKER FLOOD: The Chair will correct myself. We moved the amendments on LB735. We now...we moved LB735. We now turn to LB258. Senator Nordquist for a motion. [LB735 LB258]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB258. [LB258]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB258]

CLERK: Mr. President, Senator Karpisek would move to amend the bill, AM2006. (Legislative Journal page 725.) [LB258]

SPEAKER FLOOD: Senator Karpisek, you're recognized to open on AM2006. [LB258]

SENATOR KARPISEK: Thank you, Mr. President, members of the Legislature. AM2006 is an amendment to go onto Senator Harms's bill with the taking of driver's licenses for MIPs. All my amendment would do would be to also include illegal drugs. Everything in the amendment would be identical to the minor in possession except for the one fact that the person would have to take a drug case...or, excuse me, a drug class rather than an alcohol class. If everyone would remember, two years ago the Legislature passed a bill that increased criminal provisions for drug and alcohol offenses. At that time, I had a bill and the body moved decision to link the two criminal provisions being decided that minors in possession of alcohol should be treated the same as being in possession of drugs. At that time, I didn't feel that it was right to have an MIP be more strict than being caught with marijuana or other illegal drugs. Senator Chambers disagreed, and I think we all remember that I weathered a filibuster from Senator Chambers and I learned a great deal from him at that time, but we did get that through. I feel that telling children in

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the state that illegally drinking alcohol is more serious than taking illegal drugs and that they should therefore use drugs instead of alcohol because if they get caught the penalties will be much less, I feel that that's what we would be doing if we don't put this amendment in. I don't think that's the right message to be sending young people. In order to rectify this situation, I offer this amendment and propose that it is germane because it would harmonize the provisions. Senator Harms and I have been working on this issue, along with Senator Ashford, and that's why we've been a little bit slow getting to the mike this morning. That is the extent to what my amendment does and, Mr. Speaker, I would like to yield my time to Senator Harms, if he would so choose. [LB258]

SPEAKER FLOOD: Senator Harms, you are yielded 7 minutes 5 seconds. [LB258]

SENATOR HARMS: Mr. President, I'm going to have to call for a point of order. Is this the time to do this or should I... [LB258]

SPEAKER FLOOD: You may proceed, Senator Harms. [LB258]

SENATOR HARMS: I'm going to call for a point of order. We've worked really hard on trying to resolve this issue and we found that we're unable to do this, and so I'm asking for a point of order and asking for the Chair to give an opinion on the germaneness of this issue. And my concerns are that this is two sets of laws. LB258 opens up 53-101, which is the Nebraska Liquor Control Act, and Senator Karpisek's amendment opens up 28-416, which is part of the Uniform Controlled Substances Act, and it's two separate bills...I mean it's two separate portions of law. Even though I, in my own heart, agree with what we tried to resolve, and I think teenagers will most likely turn to marijuana because the penalties will be less, but what I'm asking for is a ruling on the germaneness of this and whether it's germane or not. I think we have several options with this. There is a bill that will be moving across the floor, LB800, that, quite frankly, I believe this bill (sic) could be amended into that deals with penalties for teenagers, and it is about drugs and a lot of other issues. I always thought that was a good fit for Senator Karpisek, may have to look at, maybe introducing the bill...the amendment as a bill next year. Whatever we work out, I have pledged to Senator Karpisek my support for addressing this issue because I think it is important. I think it is something we need to address and deal. So, Mr. President, I would ask for a ruling on the germaneness of this amendment. [LB258 LB800]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Harms and Senator Karpisek, will you both approach the Chair, please? Legislature will stand at ease. Senator Karpisek, on the record would you like to share with the Legislature your reasons for why you believe that AM2006 is germane? [LB258]

SENATOR KARPISEK: I would. Thank you, Mr. President, members of the body. I do recognize that we are talking about different chapters of law and for that reason I

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understand that the Speaker's hands are tied when it comes to ruling on germaneness of my amendment. However, while the Speaker is following the letter of germaneness rule, I believe it is the spirit of germaneness... [LB258]

SPEAKER FLOOD: Senator Karpisek, point of order from the Chair. The Chair has not yet ruled on your issue. [LB258]

SENATOR KARPISEK: Oh. Excuse me, Mr. President. (Laughter) I would just like to say that I feel that it is germane because it deals with the drivers' licenses of minors who are caught with a minor in possession of alcohol or of illegal drugs. It is not the same chapter of law but I feel that it deals with the same penalty of taking the drivers' licenses, also the same of making them attend a class, an education class. Senator Harms's bill is one of alcohol; my amendment would be one of drugs. Thank you, Mr. President. [LB258]

SPEAKER FLOOD: Thank you, Senator Karpisek. It is the ruling of the Chair that AM2006 is not germane under the Rules of the Legislature. The Karpisek amendment proposes language to the drug provisions of the Criminal Code found in Chapter 28, while the original bill goes to the provisions of Chapter 53. While the concepts are similar, the drug counseling class requirements are different. For that reason, the Chair rules that AM2006 is not germane. Senator Karpisek, for what purpose do you rise? [LB258]

SENATOR KARPISEK: Mr. President, I would like to attempt to overrule the Chair's ruling. [LB258]

SPEAKER FLOOD: There has been a motion to overrule the Chair. Members, each member will be entitled to speak once. You may not yield time. Senator Karpisek, you're recognized to open on your motion to overrule the Chair. [LB258]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I don't want to take up a lot of time on this, however, I do feel that it is very important that we get some of these issues on the record. I don't want to hold things up but I don't think that we can just pass over this without the talk of it. As I started before, I realize they are different sections of law. I do believe the Legislature has recognized that there would be situations in the future where the Chair would have no choice but to rule the way they did and the body must, in my opinion, do the right thing, at least talk about it and attempt to overrule the Chair. I feel that's why the motion to overrule the Chair exists. Again, I will restate my reasons for why I believe this amendment is germane to the bill. Two years ago, the Legislature passed a bill that increased the criminal provisions for drug and alcohol offenses. At that time, this body made the policy decision to link these two criminal provisions by deciding that minors in possession of alcohol should be treated the same as being in possession of drugs. This bill increases the penalties for

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minors in possession of alcohol and, therefore, is germane to allow my amendment in order to harmonize these provisions. Otherwise, in my opinion, you are telling the children of this state that illegally drinking alcohol is more serious than taking illegal drugs and that they should, therefore, use drugs instead of alcohol because if they get caught, the penalties will be much less. I don't think this is the message we should be sending the children of our state, our young people. In order to rectify this situation, I offer this amendment and propose that it is germane because it would harmonize the criminal provisions for alcohol and drug offenses. For this reason, I ask that you support in overruling the Chair. Thank you, Mr. President. [LB258]

SPEAKER FLOOD: Thank you, Senator Karpisek. You've heard the opening on Senator Karpisek's motion to overrule the ruling of the Chair. Senator Stuthman, you are recognized. [LB258]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I do not support the motion to overrule the Chair and I'll give you the reason why. The fact is the principle of what Senator Karpisek is trying to do I support, with the drug portion of it on it. But, in my opinion, we have not had a bill that dealt with just that. We've not had a hearing on that bill. I think in the future, you know, this should come, you know, as a proposed bill to deal with that issue. And I think this is one of the concerns, you know, in leaving the body this year that I am very much concerned about, is the fact that we have very little institutional knowledge left here, and I respect those that have the institutional knowledge that are here. But I just think we'll be setting a precedent as far as the fact that, you know, that we can put anything onto anything that looks similar. It's almost similar but it does not relate to the same section of the law. So this is why I feel that this issue should not, you know, be surfaced at this time. I do not agree with overruling of the Chair. I respect the Chair's decision on the ruling that it is not germane to the subject and I really respect that and I think we should follow that. But I'm also concerned also with the fact that this is an issue and I support the issue that Senator Karpisek is trying to raise, the fact of the alcohol and the drug issue. But I think that needs to be addressed in the near future, in the years to come, and define what we really want to take care of that. So at this time, I do not support the overruling of the Chair. Thank you, Mr. President. [LB258]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator White, you're recognized. [LB258]

SENATOR WHITE: Thank you, Mr. President. Unlike my revered colleague Senator Stuthman, I do support Senator Karpisek's motion and please let me explain why. Germaneness is a matter of subject issues. It's not where we put the statutes. It's about whether it's the same subject. And what I would tell you is this. If we think it is advisable to take drivers' licenses away to ensure compliance with prohibitions against intoxication, I see absolutely no difference between alcohol and marijuana, heroin, or

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Ecstasy, and I don't see any rational basis for just saying alcohol will cost you your driver's license but these other drugs that are prescribed won't. It's the same subject. We are trying to compel our children to avoid the use of intoxicants that are illegal for them to possess or use, and that for a minor includes alcohol. It's the same thing. Now, we can talk about whether this is advisable or not. I've had folks, senators I respect, who have talked to police officers who have deep concern that this will cause deaths among minors because they will flee from police because they fear losing their license and that, in fact, it could do what we don't want. It could lead to the death of our youth. I don't know what's right or wrong in that. I haven't made up my mind. But I can tell you this. If it's sauce for alcohol it's sure sauce for pot, Ecstasy, heroin, cocaine, take the drug of your choice. I think it's the same subject matter and I urge the body to take it up with that respect. Thank you. [LB258]

SPEAKER FLOOD: Thank you, Senator White. Senator Wallman, you are recognized. [LB258]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, I would have to agree with Senator White and Senator Karpisek. As I talk to people in law enforcement and also in the beer...beer distributor people, they say alcohol, if you ban alcohol, there will be something else as the drug of choice. Not the gateway...alcohol is not the gateway, it's a legal drug. Marijuana, heroin, all these other things are not, meth, which is a terrible problem in my district, and meth is far more onerous to young people than alcohol, plain and simple. So what are we going to drive kids to do? I'll have a hard time supporting this bill unless Senator Karpisek's amendment is put on there because it just makes sense. If you're going to do this, make a law, I think this is definitely germane to the issue, because if you're driving high on some other drug there's no difference. So thank you, Mr. President. [LB258]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Council, you are recognized. [LB258]

SENATOR COUNCIL: Yes, thank you, Mr. President. This is going to be an interesting position that I take here but I rise in support of Senator Karpisek's motion to overrule the Chair on the germaneness issue, and it gets to the second point, which is a problem that I have with the amendment, as well as the underlying bill. And I respect and appreciate Senator Harms and his conviction with regard to this issue, but one of the problems with the bill in the first instance is that we're talking about a criminal act and the punishment for the criminal act and tying it to another privilege, because I know there's the issue of right, but of driving. And I certainly understand the underlying intent and I don't dispute that at all, but I think that this draws us further into an area that I don't believe to be appropriate, and that is tying the issue of a matter that's governed by the driving Rules of the Road and, under a different section, motor vehicles and tying it to these criminal prosecutions. As far as germaneness, it's my opinion that the

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underlying bill goes to the possession of an illegal substance by a minor and what to do about that. Senator Karpisek's amendment goes to that same issue--possession of an illegal substance by a minor and what to do about that. My problem is the...what we're doing about it and I just don't believe that--in view of what was presented to the committee for discussion, there was a lot of debate on either side of the issue, there was a lot of interest in trying to assist particularly with regard to the evidence that was presented during the hearing and during discussions outside the hearing with regard to particularly the number of youth in our rural community who are wracking up minor in possession penalties understood and appreciated the desire to try to impact that--but I don't believe that this is the way, the appropriate way to impact that by tying or trying to take a traffic-related penalty and apply it to a criminal prosecution. So while I support Senator Karpisek's motion to overrule the Chair as to germaneness, I will oppose the amendment. If it is the body's decision to overrule the Chair, I will get back up on the mike and oppose the amendment. But as far as germaneness, I believe that the issue is germane to the underlying subject matter. The question is whether the underlying subject matter is appropriate. [LB258]

SPEAKER FLOOD: Thank you, Senator Council. (Visitors and doctor of the day introduced.) Continuing with discussion on Senator Karpisek's motion to overrule the Chair on the issue of germaneness, Senator Langemeier, you are recognized. [LB258]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in opposition to the motion to overrule the Chair. We have had a longstanding tradition to look at germaneness based on section of law and the moment we start to veer from that with term limits and we continue to dilute the process that we have before us. I would ask you not to overrule the Chair and I look forward to having Senator Karpisek try and bring this to a bill that will come up in the future that might be more germane. And also, I look forward to him bringing it as a bill next year so we can have a hearing and have fair debate. But I think as we start to dilute this process, we could just put a bill up on the first day of session and then we just start amending on to it for 90 days or 60 days and, at the end, we have this thing that we better know as Christmas trees that are irrelevant to anything. And I think we need to, as a body, with term limits, we need to start to protect our process. Even though some of these processes aren't written in statute or written in our rule book, it's a long-founded tradition and I think we need to stick by that and make sure our system stays as open as the public wanted us to be with the Unicameral system. And with that, I think the motion to overrule the Chair on germaneness would be a bad idea and I'd ask that you not vote to overrule the Chair. Thank you. [LB258]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator Lathrop. [LB258]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good morning. I am going to stand by the Chair on this one and it puts me at odds with a couple of my very

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good friends. I appreciate what Senator Karpisek wants to do here and there is a certain logic to the symmetry that he's trying to accomplish with this bill. And what I heard, as we started to talk about this, the ruling of the Chair, is I like the idea that Senator Karpisek is advancing so I'm going to support overruling the Chair. We're confusing things. We have a procedural motion here that doesn't have anything to do with the merits of Senator Karpisek's idea. If you like Senator Harms's idea, it probably makes pretty good sense that Senator Karpisek's bill would be something...or his idea would be something that you would vote for. But there's another question that needs to come first and the reason it's important is broader than or bigger than what we're doing with Senator Harms's bill. It's about how we're going to govern ourselves. And as soon as we open the door, as soon as we open the door we set a precedence and the next time somebody else introduces a bill, for example, we have a bill come out of Education, it just opens the door. And now it doesn't matter what it is, if it deals with Education--germaneness; anything that deals with education, just starting adding amendments. And it's a little bit like Senator Langemeier said, we'll just throw up an Education bill, one from each committee, and everybody can start amending things into it. I appreciate what Senator Karpisek is trying to do. I think for the integrity of the institution it's important that we think not about the merits of his bill or his amendment but about the institution. Whether this is germane, it's not. The reality is, if this is germane, the next amendment could be about shoplifting. We want to teach minors a lesson about shoplifting so we're going to take their drivers' licenses. We could do that with nearly everything. Alcohol is a bit different and, first of all, it's in a different chapter; second of all, it is legal after you reach 21 and that makes it distinguishable from marijuana, which is unlawful to have in your possession any time. I think that the amendment is not germane and I would encourage you to uphold the ruling of the Chair. Thank you. [LB258]

SPEAKER FLOOD: Senator, thank you, Senator Lathrop. Senator Dierks, you are recognized. [LB258]

SENATOR DIERKS: Thank you, Mr. Speaker. I think that Senator Lathrop put it together very well. I believe that we owe it to ourselves and the integrity of the body to support the Speaker on this issue, and so I will vote with him. Thank you. [LB258]

SPEAKER FLOOD: Thank you, Senator Dierks. Senator Carlson, you are recognized. [LB258]

SENATOR CARLSON: Mr. President, members of the Legislature, first of all I would say to Senator Karpisek, if this bill came by itself, from what I've heard so far I would be in support of what you want to do. And I appreciate Senator Langemeier's comments and Senator Lathrop as well. I have another concern in that going forward on matters like this and allowing AM2006 to become a part of LB258 takes away one of the most important aspects of the Unicameral and that is that our second house is the public, and

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I think that on issues we have to make a decision on these but I think on issues that merit a separate bill, need to go that way because we want to allow our second house to come in and testify on that bill. So I will be supporting the Chair, the Speaker on this matter. Thank you. [LB258]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Karpisek, you're recognized to close on your motion to overrule the ruling of the Chair. [LB258]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I really wanted to get a little bit of discussion on this. I do want to say that this is an overruling of the Chair, not the Speaker. The Speaker happens to be sitting in the Chair, which is unfortunate for me. (Laughter) I do agree that this may not go...it does not go into that chapter of law; however, in my four years here we have many times, maybe not many, a few times overruled the Chair. We have suspended the rules. On one of Senator Council's bills, as I remember, we suspended the rules. We've done this. This is why it is in the Legislature, in our rules. I don't believe that this is a completely different idea. Yes, I'll bring another bill. If this doesn't work, there is another bill that I hope to work with Senator Harms on and try to amend it into that bill, and it probably would fit there. To bring a bill this year really wouldn't have worked because I didn't know what Senator Harms's bill said. I guess I should have been more on the ball and read it over and seen that that was out of it, but I thought, in my mind, this will be germane, it deals with the same things, it will go right in. Senator Harms and I will work together to try to roll this into a different bill. If that does not work, I will bring a bill next year and hopefully we will do that. Mr. President, with that, I would like to remove my motion to overrule the Chair. Thank you. [LB258]

SPEAKER FLOOD: Your motion is withdrawn. The Chair's ruling stands. The amendment is withdrawn and it is ordered out of order. Mr. Clerk. [LB258]

CLERK: I have nothing further pending on the bill at this time, Mr. President. [LB258]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB258]

SENATOR NORDQUIST: Mr. President, I move LB258 to E&R for engrossing. [LB258]

SENATOR WHITE: (Inaudible.) [LB258]

SPEAKER FLOOD: Senator White, for what purpose do you rise? [LB258]

SENATOR WHITE: My light is on. I'd like to debate the bill. [LB258]

CLERK: Well, we make the motion and then we debate. [LB258]

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SENATOR WHITE: Okay. Sorry. [LB258]

SPEAKER FLOOD: Senator White, the motion was just made. We haven't had an opportunity to recognize you, but now that your light is on, you are recognized. [LB258]

SENATOR WHITE: (Laughter) As always, Mr. President, I appreciate your courtesy. I am in a difficult position as a result of what's just occurred. I had intended to support Senator Harms's bill. I want the body to know at this point I think we have a bill that encourages minors to use marijuana and other drugs and avoid alcohol. I cannot support this bill any further and I ask you to consider the implications of what it means not to have Senator Karpisek's bill (sic) in this. Does that push a child to say, look, pot, it's nothing, or I won't lose my right to drive if I have LSD? So that's the point I'd like to make and I appreciate the Chair's courtesy. [LB258]

SPEAKER FLOOD: Thank you, Senator White. Senator Karpisek, you're recognized. [LB258]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I appreciate Senator White's stance on that; however, I would...I never did intend to harm this bill. I had an amendment on General File. I have one now on Select. I said it would be coming. I do not intend to harm this bill. Senator Harms has worked with me very well on this bill and we will continue to do so. Again, maybe I don't agree with all of this bill but, again, Senator Harms has worked with me in the great reason that why we are a Legislature and a Unicameral, and I appreciate everything he has done. I think that people do and will support my idea, either on another bill or next year. I don't really want to take it another year but I also don't want to harm this bill for Senator Harms. So I would appreciate a vote to move it to Final Reading. Thank you, Mr. President. [LB258]

SPEAKER FLOOD: Thank you, Senator Karpisek. Senator Council, you are recognized. [LB258]

SENATOR COUNCIL: Yes, thank you, Mr. President. I think Senator White has raised a point and it relates to a point that Senator Lathrop appropriately and accurately raised when we were discussing the motion to overrule the Chair's ruling, and that is the issue, quite frankly the concern, and I have endeavored to work with Senator Harms because, as I've stated, I understand the intent of this piece of legislation but one of the problems that I have in reconciling is exactly what Senator Lathrop said. If the intent is to utilize the risk of losing your driving privilege to alter young people's behavior, there are a number of behaviors that we find unacceptable from young people, and where does it end? Senator Lathrop made reference to shoplifting. What about assault? What about theft? These are criminal offenses that young people commit that I don't believe anyone in this body doesn't want to alter that behavior. My concern is that this bill opens the

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floodgates to trying to use the driver's license privilege issue with regard to any criminal behavior engaged in by minors. And I would add, in response to another statement that Senator Lathrop made, and he was correct, about possession of marijuana being illegal at whatever age, as LB258 was originally introduced, it would impact anyone under the age of 21 and there was a lot of discussion about the impact of driver's license impounding and revocation for those individuals under age 21 who were 18, 19, 20, going to college, going to work, all of those issues, which led to the introduction and the passage of the Judiciary amendment that made exceptions if the youngster, the minor, was above a certain age. So I just think that this...we have to be careful about the way that we try to address a very serious problem, and there's no question that minors in possession of alcohol is a very, very serious issue and this body has a duty to try to address that. But to tie it to the driver's license when there are so many other behaviors that have an equal if not greater impact on the youngster as well as the community at large, when we look at some of the offenses that are found in LB63, some of the offenses there if committed by a juvenile we didn't even give any consideration to having driver's license impoundment as a part of those. We have juveniles who are illegally in possession of firearms and we don't...and that's a behavior that we absolutely must do something to eliminate. So that's the concern that I have with the bill, is that it opens the gate, and I just don't believe that it's the appropriate way to address altering a behavior that everyone wants to alter. [LB258 LB63]

SPEAKER FLOOD: Thank you, Senator Council. Senator Wallman, you are recognized. [LB258]

SENATOR WALLMAN: Thank you, Mr. President. I'd echo some of Senator Council's statements. And also, driving down the highway in Iowa, public radio, listening to public radio on issues with alcohol, cell phones. Guess what? Cell phones cause more serious accidents than DUI, not just possession, DUI, by the University of Iowa. They did this, and that was on the radio, public radio. So what are we doing here? If we pass this bill like it is without Senator Karpisek's amendment, which was declared, you know, not germane, then what are sending a message? Use something else? If I was a teenager, I guess maybe that's what I would think. But you go to a drug court. Do they lose their driver's license? I've sat through a drug court. I never heard anything about losing your driver's license. So I think we're with Senator Council, that I agree with her, we're going down a slippery slope. And do we want to keep doing that? This body, in my estimation, if I was a school teacher, as far as local control, parent control, police control, I did interview a highway patrolman, he says please don't pass the bill. This is a patrolman in my district. He was afraid of chases and things like this. So, yes, I interviewed lots of people on this issue and, even though it may sound like it's good, some things it sounds like it's good but it's not good. So without Senator Karpisek's amendment on there, I...you know, I can't quite understand why it's not germane to the illegal drug use, but that's the way it is. Thanks, Mr. President. [LB258]

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SPEAKER FLOOD: There are no other lights on. Members, the motion before the body is, shall LB258 advance to E&R Engrossing? All those in favor say yeah. Those opposed say nay. LB258 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB768. [LB258 LB768]

CLERK: LB768. Senator Nordquist, I have no amendments to the bill. [LB768]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB768]

SENATOR NORDQUIST: Mr. President, I move LB768 to E&R for engrossing. [LB768]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB768 advances to E&R for engrossing. Mr. Clerk, LB799. [LB768 LB799]

CLERK: LB799, no E&Rs. Senator Gloor would move to amend with AM2099. (Legislative Journal page 734.) [LB799]

SPEAKER FLOOD: Senator Gloor, you're recognized to open on AM2099. [LB799]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members of the body. A couple points to start off with and that is I visited with Senator Krist about this. He knows what my amendment relates to, is comfortable with this amendment. Others may not be but I would reassure them that...and I want to make it clear I plan to withdraw this amendment after we visit about it a little bit. But I want to talk about LB949, my priority bill, which would have adopted the newly revised 2009 International Residential Building Codes, except for a section that would have mandated that all new homes, townhomes, single and two-family dwellings have sprinkler systems installed in those homes when they're built. This is going to become code and a requirement for all new homes across this state. I want to visit with you about two reasons. First of all, 26 of you were kind enough to cosign this legislation and you deserve an update and knowing where this stands. And also and just as importantly because there is, I am finding out, a woeful lack of awareness outside, very, very few groups, and a complete vacuum within the general public about what is happening here, what this means, the chilling effect it will have on home building and the expensive cost we're talking about with questionable efficacy for fire safety in homes across our state if this goes into effect. Senator Krist's bill, which also deals with codes, provides me a vehicle to be able to talk about this. AM2099, which adopts LB949 with some tweaking, would say this. It removes the language that automatically adopts published code revisions, adoption of codes before they are written, defers legislative authority to the Code Council. According to past Nebraska Supreme Court rulings, this is an unlawful delegation of legislative authority. LB949, this amendment, AM2099, would remove the automatic adoption provision. It would adopt, therefore, the newly revised 2009 IRC with the exception of the section

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that mandates fire sprinklers in all new homes being constructed. And, again, this applies specifically to townhouses, one-family and two-family dwellings. Here's the update: The bill is in committee and, unfortunately, it appears that it will remain in committee in spite of offers to amend it in ways to make it more palatable to committee members. I would state that I believe the intent of putting sprinklers in all new homes is certainly well-intentioned. It's certainly meant to increase fire safety. However, the question is at what cost, at what level of increased safety are we talking about for that increased cost? We're talking \$3,000 to \$4,000 per home, our estimates. [LB799 LB949]

SPEAKER FLOOD: (Gavel.) [LB799]

SENATOR GLOOR: We build about 7,000 homes in this state every year, and at \$3,000 to \$4,000 a home we're talking about \$28 million a year in increased expense for home building in this state, \$28 million a year. With inflationary factors driving that up year by year as more homes are built and as the expense of supplies goes up. There are questions of effectiveness of these units and do they, in fact, work in climates where it gets 20 below with static sprinkler lines above ceilings. There are questions of enforcement. In rural areas of this state where there aren't building departments, where codes are loose, who's going to enforce this and how long before the State Fire Marshal comes before us and asks for additional staff to enforce this? [LB799]

SPEAKER FLOOD: (Gavel) [LB799]

SENATOR GLOOR: There are questions about the quality of the installers. How are we going to regulate to make sure that the installers putting these units in are doing a decent job and we aren't left with drippy sprinkler lines throughout the state in homes? And there are serious and sad consequences on the impact on low-income housing, the increased expense, the lack of availability of houses for low-income families, the increased fund-raising that will have to be done by organizations like Habitat for Humanity who now are going to have to raise another \$4,000 to put up a home. And there are also differences of opinion between building departments on interpretation of the statutes. Can individual building departments in some of our municipalities opt out or opt in? So this is where we're at. This would be my last update. Senator Krist has agreed to submit a study resolution. I will cosign that study resolution and we'll attempt to mollify some of the individuals that are out there and answer some of the legitimate questions that still remain that have to do with clarification on the option of... [LB799]

SPEAKER FLOOD: (Gavel) [LB799]

SENATOR GLOOR: ...being able to opt in or opt out. Ultimately, we will come back with another bill next session that I think will be a better bill and a bill that can get passed and a bill that will remove this very onerous additional expense to home builders across

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the state of Nebraska. Thank you, Mr. President, and I would ask to remove AM2099, withdraw it. Thank you. [LB799]

SPEAKER FLOOD: The amendment is withdrawn. [LB799]

CLERK: I have nothing further on the bill, Mr. President. [LB799]

SPEAKER FLOOD: Senator Lautenbaugh, you're recognized to speak. [LB799]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I am addressing the amendment that has since gone by the wayside but away we'll go anyway. And I really hope we're all paying attention to what Senator Gloor just said and that is that his priority bill is dying and his priority bill dealt with sprinklers being required in new residential construction at the cost of thousands of dollars per a simple Habitat for Humanity home and more for more ambitious homes, thousands of dollars in mandated expenses for new construction based upon a national act that we haven't voted on that is coming in and will alter our laws, hopefully unconstitutionally, so hopefully it won't come to pass. But this is significant because I think about 25 of us signed onto Senator Gloor's bill and there was a reason why we signed on to Senator Gloor's bill, because it's a darn good bill. And we should not be in the business of adding these costs to new construction, especially at the lowest, most modest level of construction, because everything we do at the margin increases costs and prevents perhaps one more unit being built, perhaps one more Habitat for Humanity home being built, etcetera. And this isn't a policy that we chose to adopt. This is a policy that's coming at us from elsewhere. And I was a big supporter of Senator Gloor's bill. I remain a big supporter of Senator Gloor's bill and we do need to address this next year. No one is against public safety. Senator Gloor isn't against public safety, heaven knows. Sometimes Senator Gloor favors safety to a fault, I've thought, on other bills we've debated where he saw risks that I didn't see or could explain away at least. But this is an important piece of legislation that is going by the wayside. And there was a proposed rule change that would have allowed things to come out of committee if it was declared a priority and a lot of us had a big problem with that, and that rule change did not come out or did not get looked upon favorably by the Rules Committee, and I understood why, but sometimes things like this happen. There are some other important priorities, I believe, that were not designated priorities because of that same problem, but we may have an opportunity to discuss those on coming bills as well. But this bill is what's before us now by the amendment. I applaud Senator Krist for being willing to bring the study. I think it's the right thing to do, facing the hand that we're dealt. But make no mistake, by letting this bill die we are running a risk of mandating a substantial increased cost of production or construction, excuse me, on new residences and condos, and we should at least be aware of that. And I think if we're going to increase costs to our citizens dramatically, we should be the ones that make that decision. We should be the ones to debate it. It's up to us. We shouldn't allow it to happen. And we

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can say, well, we didn't do it, that was a national body that made that change. It's on us to make those decisions and we should. And I'm sorry we won't see Senator Gloor's bill this year but it's important and I thank all of you who cosponsored it. I thank Senator Gloor for having the courage to carry it. I'll yield the rest of my time to Senator Gloor, if he would have it. [LB799]

SPEAKER FLOOD: It is 10:00. I'm going to deny that request. We're moving on the agenda now to General File, 2010 priority bills, Cornett division, LB1018. Mr. Clerk. [LB799 LB1018]

CLERK: Mr. President, LB1018 was a bill originally introduced by Senator Cornett. (Read title.) The bill was introduced on January 20 of this year, at that time referred to the Revenue Committee for public hearing. The bill was advanced to General File. There are Revenue Committee amendments pending. (AM1910, Legislative Journal page 603.) [LB1018]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB1018. [LB1018]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. LB1018 is the result of careful consideration and investigation. It would adopt the Nebraska Advantage Transformation Tourism and Redevelopment Act. The act would allow cities throughout Nebraska, after a vote of its residents, to commit their local option sales tax dollars generated within a specific geographic area to pay back debt on the project. The bill would encourage the development of major tourism destinations throughout Nebraska and simultaneously encourage the redevelopment of the portions of our cities which may be suffering from the affects of age. While the threshold varies for the major tourism projects according to taxable sales in individual counties across the state, ranging from \$10 million in our smaller communities to \$50 million in our largest, the legislation does not vary when it comes to redevelopment projects, a \$10 million threshold for redevelopment projects within the boundaries of any city in our state. Let me be clear, this allows a city to commit the local option portion of the sales tax only after a vote of the people. It does not commit any portion of the state sales tax. I provided a matrix to each of you yesterday, when I thought the bill was going to be up, identifying the thresholds for the projects in individual counties across the state. In some cases these amounts may seem high. They are high for a reason. We want this mechanism to be used only for those major tourism or redevelopment projects. It should not be used for smaller projects. The kinds of projects that I envision for this mechanism are those that would transform a community or an area along our interstate system in such a way that individuals traveling through our state should want to stop and spend a few dollars. Further, the kinds of redevelopment projects should be transformative as well. I know my home community of Bellevue is looking at a major redevelopment along Ft. Kirk Road, which has been devastated since the opening of the Kennedy Freeway a

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few years ago. This will give them that much needed tool in their toolbox. During committee we heard testimony from the mayors of two cities who want the opportunity to utilize this. Additionally, we heard from the chambers of commerce from both the State Chamber and the Bellevue Chamber, we heard from developers and economic development experts. The message the committee heard was clear from these folks, we need an additional tool to be able to develop and redevelop our cities. With this tool, cities will be able to transform their communities into tourism destinations and better places to live. Thank you. [LB1018]

SPEAKER FLOOD: Thank you, Senator Cornett. Mr. Clerk, are there amendments? [LB1018]

CLERK: Mr. President, Revenue Committee amendments, AM1910. [LB1018]

SPEAKER FLOOD: Senator Cornett, as Chair of the Revenue Committee, you are recognized to open on AM1910. [LB1018]

SENATOR CORNETT: Thank you, Mr. Speaker. The Revenue Committee amendment, AM1910, to LB1018 would make seven changes to the bill, many of which are clarifying changes and strike Section 35 of the bill, which would have allowed a county that imposes a local option sales tax to use this bill as incentives upon approval by the registered voters of the county. To clarify the concerns: one, treatment of lodging for purpose of the bill and space requirements; the treatment of local option sales tax refunds and the funding for the Department of Revenue to carry out its duties under this bill. Under the clarifying treatment of lodging, this is to ensure lodging is included in the 60 percent space requirement for food and not in the space required for other retailers. Thank you. [LB1018]

SPEAKER FLOOD: Thank you, Senator Cornett. We now turn to discussion of AM1910 to LB1018. We begin with Senator Gay, followed by Senators Stuthman and Coash. Senator Gay, you are recognized. [LB1018]

SENATOR GAY: Thank you, Mr. President. I rise in support of the bill. I had been paying attention and commend Senator Cornett for bringing this bill. The thing I like about this is we need to make sure that communities, individual communities have options to grow. And I've seen and I've heard over the years, but more and more as our budgets are getting squeezed, these communities are going to receive less state aid. But we need to also give them opportunities to go and do the things they need to do. And this is a unique situation that could be utilized. And I saw on the statement of intent that Sarpy County communities have come in. But I do believe this is a statewide opportunity that could be used. And yesterday we talked about things going on in Ogallala and other communities throughout the state. And as these communities are changing in population and those other demographics, things change as well. Parts of

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your community that used to be the thriving parts of the community maybe aren't so much and they need to be looked at again. You got big box stores who sometimes get up and leave and then what do you do. So I like the idea. This is very...it's broad enough to be utilized, the way I understand it, there are no projects at present that absolutely are just waiting on this. But it's creativity on behalf of the communities to say, if you allow us to do this with a vote of the people, the people in the community have to approve of this as well, that we'd like the ability to use the sales tax that we already...that we receive. So I'm a fan of it. I'm a fan of more and more bills that are allowing communities, and in this case it's not a county, but cities and counties and that local control that we all talk about when we're here in the Legislature, that to actually do things that give them some opportunities and control. And this bill is one of those. And I support the amendments that the Revenue Committee put on and the bill overall. Thank you, Mr. President. [LB1018]

SPEAKER FLOOD: Thank you, Senator Gay. Senator Stuthman, you're recognized. [LB1018]

SENATOR STUTHMAN: Thank you, Mr. Speaker, members of the body. I would like to ask Senator Cornett a question or two. [LB1018]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Stuthman? [LB1018]

SENATOR CORNETT: I'd be happy to. [LB1018]

SENATOR STUTHMAN: Thank you. Senator Cornett, I want to discuss a little bit about the effects of this and the fact is that...if...let's just use the scenario that an area wants to put in a water park. And then they purchase the equipment for this water park. This sales tax that is paid on this water park, explain to me, you know, how is that going to be...how is that going to benefit the purchaser of the equipment on establishing this water park? [LB1018]

SENATOR CORNETT: Currently, under the law, sales tax is remitted...all sales tax is remitted to the state. The state keeps their portion. And then returns with a handling fee the portion to the municipality from which it was collected. Under this bill after a vote of the people and an assessment of the viability of a project, they would designate an area for this development. And then with a vote of the people they could turn back the sales tax collected from the site of the project to the project. [LB1018]

SENATOR STUTHMAN: Okay, thank you, Senator Cornett. The way I understand this, and I wanted to put it in a practical situation, if an individual comes and puts in a water park and he purchased all of the equipment for this water park and he pays the sales tax on that equipment. The state will still receive their 5.5 percent, the sales tax. The

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local option, which would be the city's portion of that sales tax, would be maybe 1.5 percent. That would be the maximum they could go to. So in other words the way I understand this is, is the developer of the project has the potential to receive back, in a ten-year time frame, that 1.5 percent of sales tax that was generated by the local community, that would be the payback for that. Would this be correct, Senator Cornett? [LB1018]

SENATOR CORNETT: Pardon me, sir, not from the local community as a whole. If you look at page 11, Section 28, I believe, it's just from the area of the site, the designated area. [LB1018]

SENATOR STUTHMAN: I think in that designated site, yes. But it states in there the refund of local option sales tax on qualified purchases up to 1.5 percent for all purchase of qualified property. So in other words, it is the sales tax that the individual has to pay... [LB1018]

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SENATOR CARLSON: One minute. [LB1018]

SENATOR STUTHMAN: ...on the equipment that he has purchased for establishing this water park. [LB1018]

SENATOR CORNETT: Yes, I'm sorry, I misunderstood your question. [LB1018]

SENATOR STUTHMAN: Yeah. [LB1018]

SENATOR CORNETT: I thought you meant all the sales tax generated in the whole municipality. [LB1018]

SENATOR STUTHMAN: No, no. [LB1018]

SENATOR CORNETT: But, yes, for that project yes. [LB1018]

SENATOR STUTHMAN: It's just defined as what it is, what this individual developer is doing. He's purchasing equipment and he will get a rebate on the sales tax that he has paid. He has paid the 7 percent sales tax, 5.5 to the state, the 1.5 to the local city. And he's going to get this 1.5 percent back in ten years, in my opinion. Is this correct? [LB1018]

SENATOR CORNETT: Yes over that period, yes. [LB1018]

SENATOR STUTHMAN: Okay. So in other words, he's going to be getting just a few

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crumbs back every year for ten years, he's going to get 10 percent of the 1.5 percent of the 7 percent that he paid in sales tax. Is that really going to be beneficial? [LB1018]

SENATOR CORNETT: If you look at the size of the projects we're talking about, yes, the developers definitely think that it would be beneficial. [LB1018]

SENATOR CARLSON: Time. [LB1018]

SENATOR STUTHMAN: Thank you. [LB1018]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Cornett. Those still wishing to speak: Senators Coash, Giese, and Stuthman. Senator Coash, you're recognized. [LB1018]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. LB1018 is my priority bill. And I chose this priority bill because, as I've mentioned a few times during this session and last, tourism is important to our state. And I've long felt that making tourism part of the Nebraska Advantage Act is something we need to do. When we do that, we give tourism the focus that our number three industry in our state deserves because it is our number three industry. And right now we spend or we invest comparatively to our nation we are 44th out of 50 in how we decide to invest in our number three industry. And I'm committed to changing that. And I believe LB1018 gets us there. LB1018 gives options not mandates. It allows local communities to take control of their own destiny and be creative about how they want to enhance this part of their economic activity. It means risky economic times. Developers are going to be very scrutinizing in their selection of where they go. With the enabling kick-start incentive that LB1018 gives us, Nebraska communities are going to start to gain a competitive advantage over its neighbors. LB1018 is going to create jobs from both the development projects themselves and also the long-term career opportunities from new tourism enterprises and other businesses. Because of the qualifications required of these new development projects, investments ranging from \$15 million to \$50 million, that's not lunch money, colleagues, \$15 million to \$50 million and net employment increases are required. These projects are going to have a real potential for us. And I want to see this happen. As I was looking at this bill before priority came, I wanted to make sure there were a couple things in here and they are--local control, we've had a lot of discussions about that in this body. We're a local control state and we apply that to everything--apply it to education, we certainly apply it to our tax policy. And local control is part of this bill. It allows the local communities the choice, a vote of the people, if they want to direct their portion back to these projects. So it's communities developing communities. And I think we all benefit. And so I appreciate Senator Cornett bringing this bill. I appreciate the body's consideration and I urge the body's support. Thank you, Mr. President. [LB1018]

SENATOR CARLSON: Thank you, Senator Coash. Senator Giese, you are recognized.

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[LB1018]

SENATOR GIESE: Thank you, Mr. President. I was wondering if Senator Cornett would yield to a question. [LB1018]

SENATOR CARLSON: Senator Cornett, will you yield? [LB1018]

SENATOR CORNETT: Yes. [LB1018]

SENATOR GIESE: Thank you, Senator. Would you address the elimination of Section 35 in your amendment, AM1910, dealing with counties? [LB1018]

SENATOR CORNETT: Yes, I would be happy to. If you look at the original bill, counties were included in this. And then it was pointed out to us that we were probably in violation of the constitution. And I have some notes here, I'll just read for you. The Legislature may also authorize any incorporated city or village, including cities operating on home rule charters, to appropriate from local sources of revenue such funds as may be deemed necessary for economic or industrial development projects or programs subject to approval by a vote of a majority of the registered voters of such village or county voting upon the question. If you look at Chase v. County of Douglas, the court case stated, an expenditure of tax money an income from proprietary functions for the purpose of a municipality or by a county of property for industrial development violates the constitution. So we...the way...we had to remove the county provisions on this because of constitutional reasons. [LB1018]

SENATOR GIESE: Thank you. [LB1018]

SENATOR CARLSON: Thank you, Senators Giese and Cornett. Senator Stuthman, you are recognized. Senator Stuthman waives. Senator Schilz, you're recognized. [LB1018]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. And I'd like to stand here today and say that I'm in support of issues such as this. I think that there are some good things that can come from bills like this. The one question that I do have, and if Senator...and I didn't have a chance to talk to her before, but if Senator Cornett would yield to a question. [LB1018]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1018]

SENATOR CORNETT: I'd be happy to. [LB1018]

SENATOR SCHILZ: Yeah. As I look at this, we see that you have this tiered, which I think is right. But on the bottom side of that tier you've got a factor of \$10 million and \$15 million respectively. And I was just wondering, you know, a lot of the development

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or projects or things that would go on in my area wouldn't come anywhere near to those kind of dollars. And I was just wondering if...how you arrived at that...at those numbers and what your thinking was on that. [LB1018]

SENATOR CORNETT: Yes. We arrived at those numbers, and we actually have changed them a couple of times now during the development of the bill. The purpose of the bill is to incentivize larger attractions. We don't want...we want the cities to be able to try and utilize or do their own development for smaller projects. What we're looking at on these thresholds are tourist attractions, larger things that would get people to stop, stop in your community and have the developers look at larger projects to develop in your communities rather than the small, you know, main street development. [LB1018]

SENATOR SCHILZ: Right. And, I guess, I just come to that and I think of a perfect example, and you can tell me if you think that this would be something that would apply. But in Keith County, in Ogallala, our local chamber of commerce is looking for a building, looking for a place. And they've been having some issues in finding one that they can afford. Do you think that that is some of the intent? Because in Ogallala in Keith County that chamber of commerce is what directs all of those visitors and tourists to all the attractions in the county and in the nearby area. And we were looking at a project costing \$250,000 to \$300,000. And I was just wondering if you thought that that was...and obviously with the numbers that we see here that doesn't fit. But is there some way to address those kind of situations? [LB1018]

SENATOR CORNETT: I'd be happy to work with you on that issue. I do think that that dollar amount is probably too low for what we're looking at doing in this bill. I know that Ogallala is a huge tourist destination in the state already. You're...I go there every year, I love it. (Laugh) We're not...we're looking at more larger projects or redevelopment projects. [LB1018]

SENATOR SCHILZ: Okay, thank you. Thank you very much. [LB1018]

SENATOR CARLSON: Thank you, Senator Schilz and Senator Cornett. Those members wishing to speak: Senators Janssen and Dubas. Senator Janssen, you're recognized. [LB1018]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I was wondering if Senator Cornett would yield to a question. [LB1018]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1018]

SENATOR CORNETT: Yes. [LB1018]

SENATOR JANSSEN: Thank you, Senator Cornett. I was sitting in my office and I was

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just kind of playing with some of the numbers we were talking about. What are the size and scope, and you maybe have already said this, size and scope for the projects? Are they \$5 million, \$10 million or...? [LB1018]

SENATOR CORNETT: If you look at the bill, they are broken down. And I did provide everyone with a matrix yesterday, I thought the bill was coming up. And it was on your desk, that break down the size of the projects for the communities. The largest project would be \$50 million. And if you're talking about sales back...the dollar amount generated from that, it would be whatever...the turnback would be whatever the sales generated from that specific area would be. [LB1018]

SENATOR JANSSEN: From the sales of that area? [LB1018]

SENATOR CORNETT: Local option sales tax only. [LB1018]

SENATOR JANSSEN: So if I were...I got an example, I was kind of running through my head. And I thought of it when Senator Stuthman was up speaking, about the...basically getting 1.5 percent turnback. If I had a project in, say, a water slide for \$1 million and that was going to be the sales and you were selling me a \$1 million project, it would be \$70,000 in tax, \$55,000 of which would go to the state and \$15,000 that would go to the local option, if they so voted on it. Is that an accurate description? [LB1018]

SENATOR CORNETT: None of the projects are under \$10 million. [LB1018]

SENATOR JANSSEN: Okay. Well, extrapolate that number out. [LB1018]

SENATOR CORNETT: Yeah, then it would be that and then the sales generated from whatever that project would be. So say for instance you developed a tourist attraction...and this is just one I can think of, like the Kearney Arch for that...all the...well, you'd probably...the sales for the tickets and the people that stop there from that area, the local option would be turned back to help pay for the project. [LB1018]

SENATOR JANSSEN: So it goes to the developer then in this case or would it go to pay off the bond or...? [LB1018]

SENATOR CORNETT: It would go to pay off...it's listed in there, the fees and the cost of developing the project, so the bond, the developer, whatever those costs would be. And it goes through a very rigorous process in regards to feasibility studies. [LB1018]

SENATOR JANSSEN: So in this case we're using \$10 million, then it would be, in my scenario, instead of \$15,000, \$150,000. This money would it be generated, say it would be, if they do not opt for this and they still do the project, that \$150,000 is turned back to the local government for roads or however they see fit. [LB1018]

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SENATOR CORNETT: Correct, that's why we put in the provision that it has to be, one, have the feasibility study and then also it has to be a vote of the...all the registered...I mean, all your qualified voters. So the voters actually have to approve these projects. [LB1018]

SENATOR JANSSEN: All right. Thank you, Senator Cornett. Thank you, Mr. President. [LB1018]

SENATOR CARLSON: Thank you, Senator Janssen and Senator Cornett. Senator Dubas, you're recognized. [LB1018]

SENATOR DUBAS: Thank you, Mr. President. Good morning, members of the body. Would Senator Cornett yield for a question? [LB1018]

SENATOR CARLSON: Senator Cornett, will you yield? [LB1018]

SENATOR CORNETT: Yes. [LB1018]

SENATOR DUBAS: Thank you, Senator Cornett. I have some of the same, similar concerns and questions that Senator Schilz raised. Do you know how many communities across the state have a local option sales tax? [LB1018]

SENATOR CORNETT: I don't know the exact number, I would have to get back to you on that. [LB1018]

SENATOR DUBAS: Okay. Yeah, I was going to do some checking myself but I just thought if you had that information I would get it from you. [LB1018]

SENATOR CORNETT: I can get that from you, it would only take a few moments. [LB1018]

SENATOR DUBAS: Okay, thanks. And again, going back to some of the same questions that Senator Schilz asked, you know, I have some pretty small communities in my district. I know of several of them that do have the local option sales tax. But just am wonder if this is...if the amount of sales tax that they're going to generate in a small area, if this would really be a tool that would work for them? I'm looking the last, what is it, the last tier? [LB1018]

SENATOR CORNETT: Yes, it would...you would have to have a project that qualified. [LB1018]

SENATOR DUBAS: So \$15 million...can you give me an example of what a \$15 million

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project would be? [LB1018]

SENATOR CORNETT: One of the examples that was brought to us would be if someone in one of the smaller western communities wanted to put in an arena for rodeos, for local rodeos, that would hit the level of development and will have the developers actually start looking to our smaller communities to do some of these projects. If you're talking about your whole district, yes, it would be a sales tax turnback from just that area, but it would benefit the whole area to have that development. [LB1018]

SENATOR DUBAS: Okay. Well, thank you very much. And if you can get that information for me otherwise, like I said, I was going to look it up too. Thank you. [LB1018]

SENATOR CORNETT: I think my staff is working on it right now. [LB1018]

SENATOR DUBAS: Thanks. [LB1018]

SENATOR CARLSON: Thank you, Senator Dubas and Senator Cornett. Mr. Clerk for an announcement. [LB1018]

CLERK: Mr. President, the Natural Resource Committee will meet under the south balcony at 10:30; Natural Resources, south balcony, 10:30.

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Hansen, you're recognized. [LB1018]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Cornett yield to a couple of questions? [LB1018]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1018]

SENATOR CORNETT: Yes, I'd be happy to. [LB1018]

SENATOR HANSEN: Thank you, Senator Cornett. I was reading through the statement of intent, no, it was the committee summary. And if you would have that, could you explain the difference on...of this what Section 1 says, would include LB952, Section 4 as part of the revenue, Nebraska Revenue Act of 1967. Does that LB952 compare to the LB952 we were talking about yesterday? [LB1018 LB952]

SENATOR CORNETT: I'm sorry, was that the 1967 act? [LB1018]

SENATOR HANSEN: I don't know. It says, it would include LB952, Section 4, as part of

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the Nebraska Revenue Act 1967. [LB1018 LB952]

SENATOR CORNETT: I believe that's the act that enacted sales tax, but I can get back to you on that. That is the section I'll have to look at. [LB1018]

SENATOR HANSEN: The intent of this revenue or of this tourism bill would certainly not to be replacing sewer pipe in the city of Omaha, would it? [LB1018]

SENATOR CORNETT: No. [LB1018]

SENATOR HANSEN: Okay. That was my main question. But it did refer to LB952. But I think, you know, I agree that tourism is a great part of this state and it's a great part of the state in the western part and all the rural parts too. So we need...I agree with Senator Schilz that we don't spend near enough on tourism in this state. Somehow we need to get some money out there to promote our beautiful state, whether it be agritourism, ecotourism, or any new business that includes any of the rest of the above. So thank you, Senator Cornett. Thank you, Mr. President. [LB1018 LB952]

SENATOR CARLSON: Thank you, Senator Hansen and Senator Cornett. Senator Rogert, you are recognized. [LB1018]

SENATOR ROBERT: Thank you, Mr. President, members. I rise in support of the Revenue Committee amendment and the underlying bill of LB1018. As you'll recall from last week, my bill, LB381, is similar in provisions to this bill here. And Senator Cornett and myself and Senator McGill worked to move my bill back to the Revenue Committee. And we scheduled a hearing...Senator Cornett scheduled a hearing next week to discuss the possibility of taking some of the provisions out of there and adding it to this bill to make it a better bill, if necessary. I know Senator Coash was speaking earlier, I wasn't in the Chamber, but he may have mentioned that I think this bill and LB381 are similar and can be partnered up to do a lot of the same things. Senator Hansen just mentioned that we don't spend enough on tourism in the state. And Senator Coash, last week, passed around a piece of paper that mentioned we were somewhere in the 44th, something to that effect, Senator Coash says, in terms of number of states spending on tourism. And that, in my opinion, has increased because last I knew we were 49th or 50th. So we're actually doing better or somebody is spending less, one of the two. And this is a good tool. Infrastructure developments in small communities, large communities, anywhere across the state where you're remediating blighted areas, starting from scratch, either way, the funding for those has dried up and is gone. Unless you have private development and private investment, there isn't any public money right now to do that. TIF financing seems to be the only tool that works. And the problem with TIF financing is that it takes dollars off the tax rolls for a series of years to finance the bonds. That's a good tool, but it's not always the best because you got to go through and you got to declare things blighted and substandard and it becomes kind of a painful

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process and an expensive process that may not be the best way. I think LB1018 and possibly some of the provisions from my bill, LB381, will be an excellent tool in developing new projects, redeveloping old projects and moving forward into basically the twenty-first century for making some parts of these communities anew. Thank you, Mr. President. [LB1018 LB381]

SENATOR CARLSON: Thank you, Senator Rogert. Senator Gay, you're recognized. [LB1018]

SENATOR GAY: Thank you, Mr. President. I was listening to the debate and a lot of this has gone to talking about tourism. But this is also tourism and redevelopment. There are community opportunities for redevelopment of an area that has not performed maybe where it should or it needs some extra work in your community. So the \$10 million threshold is reasonable because we don't need for every little project. But part of this, when we look at the redevelopment, the community has to submit the application, it has to create jobs, it has to do some other things. It's looked in four years to demonstrate that the project has worked and that it's still...so it has a lot of...when you look through this bill it has a lot of good checks and balances in there to make sure that we're getting what was promised from the communities that decide to do this. So it is fairly stringent to get to this point. But there are communities out there, whether it's Grand Island or Kearney, who could use this. I mean there's probably an area...and you don't know what the creativity may be in an area. It could be...who knows. I mean, so I think what the idea is here is to allow those communities to be creative, look for development that can enhance their community and fits in their area. I don't know what fits in exactly in different communities, none of us do. But statewide when we look at this, we're giving a statewide tool that communities can use. And when you look at who's supporting this bill, you know, you look at the economic developers, the state chamber, League of Municipalities. So there are people who with this statewide views of...and they know what's going on and they feel that this is a good tool. Again, it's a tool we're allowing that's not taking money out of the state's coffers. It's just creativity. And this enhances that, I think. But when you look through the bill there are many opportunities. And what I like about this, too, we've talked about creating something and then does it work. Well, this has a built in review in four years whether the project is working as well. So I think it's very well done. And, again, I support this and the amendment that Senator Cornett has. So also, in Section 32, an independent consultant helps review this as well to submit the application. Just because you submit the application doesn't mean you're going to get this. So like I say, I think we're allowing communities to go and look for projects and be proactive and deal with some of the challenges that may face them in the future. And Senator Rogert brought up the fact, too, you know I think credit is a little bit tight on things right now and that will free-up as well. But you're reading about a lack of credit. You know, maybe this is something I hope that will change, and I'm sure it will. But this is just a great tool I think for these communities to use. And I'd encourage your support. Thank you, Mr. President.

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[LB1018]

SENATOR CARLSON: Thank you, Senator Gay. Those members still wishing to speak: Senators Stuthman, Pirsch, and Council. Senator Stuthman, you're recognized.

[LB1018]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask Senator Gay a question. [LB1018]

SENATOR CARLSON: Senator Gay, would you yield? [LB1018]

SENATOR GAY: Sure. [LB1018]

SENATOR STUTHMAN: Senator Gay, I appreciated your comments before and I think you're very, very knowledgeable of this type of a bill. Would you say that the payment back to a contractor, how is that going to be handled when the local sales tax...when the sales tax is generated and paid for by the construction individual, the contractor, that money is all sent to the state. The 1.5 percent gets sent back to the local community and the portion that was generated in that project, how...have you got any knowledge as far as how is that going to be repaid to the contractor, the one that is doing this project? [LB1018]

SENATOR GAY: Well, Senator Stuthman, I'll try to answer that question. But that's probably a question for Senator Cornett. The way I understand it, though, would be that the Nebraska Department of Revenue would work with them. Part of this goes back to pay some of the development costs, whether it's, you know, whatever that may have been, the infrastructure to create the opportunity, whether it be the sewers, lights, things like that, street lights, any of those and you would know any of those community, they cost a lot. But I think it goes back to there. But that's probably...I don't want to...I can't answer it because I didn't draft that. But the way I'm reading this is the Department of Revenue...you've got to go submit the application and it would be covered there. And they...however they handle that. I don't know the details of the day to day. [LB1018]

SENATOR STUTHMAN: Okay. [LB1018]

SENATOR GAY: Thank you. [LB1018]

SENATOR STUTHMAN: Okay. Thank you, Senator Gay. Senator Cornett, would you answer a question, please? [LB1018]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1018]

SENATOR CORNETT: Senator Stuthman, I'm sorry, you didn't direct the question at

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me, so I wasn't listening. [LB1018]

SENATOR STUTHMAN: Okay, I will ask you the question again and I will...I just want to find out if when the sales tax that was generated by the project, the local option tax, the 1.5 percent, when that comes back to the community and the portion that was generated from this project, how soon is that going to be of benefit to the contractor? Is he going to get that as soon as the community gets some money from the state? [LB1018]

SENATOR CORNETT: If you read the bill, that was part of the handling for the Department of Revenue. The Department of Revenue will actually be the one that remits those payments, like...similar to how they do with the Qwest Center and how they will do with the Lincoln arena. I don't have the exact time frame on that. [LB1018]

SENATOR STUTHMAN: That was a concern that I've had. And I've been visiting with some of the contractors. And the issue that they've had is that, you know, it seems like the time frame from what they are entitled to get seems to affect them quite a bit. And in my opinion, Senator Cornett, you made the statement that it is the Department of Revenue that would be taking care of the reinstatement of that money to that contractor. [LB1018]

SENATOR CORNETT: They are the ones that will be handling the sales tax, just as they do now with the cities. I don't know the exact time frame or turnaround for that, but I would be happy to check with Department of Revenue for you. [LB1018]

SENATOR STUTHMAN: Okay. I would like to have that answer. And I would appreciate that. Thank you, Senator Cornett. That was the issue that I had, you know, as these projects are developed. And I do truly support those projects because we must remember also that we're talking about that 1.5 local option tax but also it generates the 5.5 percent for the state. So the state does benefit also from this. And it's not costing the state anything. The state is the beneficiary of a lot of extra sales tax because this project is in the process of being completed. So with that, thank you, Mr. President. [LB1018]

SENATOR CARLSON: Thank you, Senator Stuthman, Senator Gay, and Senator Cornett. Senator Council, you are recognized. [LB1018]

SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Cornett yield to a couple questions? [LB1018]

SENATOR CARLSON: Senator Cornett, will you yield? [LB1018]

SENATOR CORNETT: Yes, I'd be happy to, Senator Council. [LB1018]

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SENATOR COUNCIL: And, Senator Cornett, as I understand it what LB1018 sets up opportunities for the four tiers of what are defined as tourism development. And then there is another potential project area that's called a redevelopment project. Is that correct that the sales tax, the local sales tax option could be refunded for either, there's two categories. [LB1018]

SENATOR CORNETT: Yes, that's correct. [LB1018]

SENATOR COUNCIL: Okay. And so on the first category where there are the four tiers, a recreational facility does not fall within that definition. [LB1018]

SENATOR CORNETT: No, that is like a tourism or a destination spot. In the redevelopment area it could, though. [LB1018]

SENATOR COUNCIL: Okay. And see, that's where I'm getting kind of confused because there are some destination recreational facilities, for example, Worlds of Fun in Kansas City is viewed as a destination facility. And my question was, under which of the two categories would a political subdivision be able to access dollars for something like Worlds of Fun? [LB1018]

SENATOR CORNETT: They would be able to access it under the first provision or the first area, which would be the tourism part. The redevelopment part, what we're looking at is, I mean, you could still do it under redevelopment, I believe. It would just have to be a project that qualified. [LB1018]

SENATOR COUNCIL: Okay. [LB1018]

SENATOR CORNETT: And it has to go through the whole qualification and feasibility process. [LB1018]

SENATOR COUNCIL: Okay, and see, that's where my question arises, when I look at Sections 7, 8, and 9, those are the sections that deal, and correct me if I'm wrong, that deal with the tourism. But there's no mention, there's no definition of recreation facility in that section. It speaks to entertainment destination and, for example, amusement...an amusement park wouldn't meet that definition because it requires 60 percent of the gross area to be set aside for food, drinks, and dining. Is that an oversight on the...should recreational facility, a definition for that be set forth somewhere in that section of the law? [LB1018]

SENATOR CORNETT: I would be happy to look at doing that if...as an amendment on Select File, if you would like to do that. [LB1018]

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SENATOR COUNCIL: Yeah, because the way...the... [LB1018]

SENATOR CORNETT: I know you have the project that you're looking at. And this...that would be something that you could use or at least that would be the intent that you could use it. [LB1018]

SENATOR COUNCIL: Okay. Yeah, because as it reads now it appears that the only way that a project like that could be considered under this bill would be under the redevelopment project provisions. [LB1018]

SENATOR CORNETT: And that was not the intent. [LB1018]

SENATOR COUNCIL: Okay. [LB1018]

SENATOR CORNETT: I would be happy to look at that for you. [LB1018]

SENATOR COUNCIL: Okay, thank you. [LB1018]

SENATOR CARLSON: Thank you, Senator Council and Senator Cornett. Senator Pirsch, you're recognized. [LB1018]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to quickly rise and lend my support to the underlying bill and the measure. And I appreciate, this is you know, oftentimes in Revenue we see a lot of exotic and complex economic development structures and bills. But this seems very straightforward and it is, in my opinion, economic development done right and on a couple of counts here. In that regard, I'd like to thank Senator Cornett for bringing the measure forward. The first feature that I like about it is it requires the locality to have skin in the game. It is, you know, the localities have the best understanding of the risks and the possibilities with each new economic development project. And this would...the source of funding for this is levying of the local option sales tax. And so, I think that that's great that the correct incentive is there. And with respect to the second feature I do think that is good about this particular measure is that the citizens, the taxpayers are in control. The bill would require that if a locality is going to use this economic development tool that they'd have to get approval by the citizens first to use the financing mechanism. And I think that's only right. And so for both of those reasons I do stand in support of both the amendment and the bill here today. And I thank Senator Cornett for bringing it forward. Thank you. [LB1018]

SENATOR CARLSON: Thank you, Senator Pirsch. There are no other lights on. Senator Cornett, you're recognized to close on AM1910. [LB1018]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Just for

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clarification on Senator Stuthman's question, we have checked with the Department of Revenue. And the sales tax is remitted to the state, the state handles the sales tax, determines what goes back to the cities. They turn that money back on a quarterly basis. The contractor or the development project has to turn those receipts and/or bills into the city. So there is a lag of a few months from the time of...the time that sales tax is generated to the time that they do receive that. But with that, I just wanted to make sure I had answered Senator Stuthman's question to his satisfaction. I would urge the body to support the Revenue Committee amendment and the underlying bill. Thank you. [LB1018]

SENATOR CARLSON: Thank you, Senator Cornett. You've heard the closing on the committee amendments. Question is, shall the amendment to LB1018 be adopted? All those in favor vote aye. All those opposed vote nay. Record, Mr. Clerk. [LB1018]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB1018]

SENATOR CARLSON: The amendment is adopted. We return to discussion on LB1018. There are no senators wishing to speak. Senator Cornett, you're recognized to close on LB1018. [LB1018]

SENATOR CORNETT: Thank you very much, Mr. President, members of body. I urge the body to support LB1018. I just want to go over a couple of very important points here. This is no new sales tax. It is no state sales tax. It is only projects approved by the majority of voters. They'd have to go through a very strict qualification and feasibility process. But we feel this will give the municipalities tools that they can use to develop and redevelop their communities. And I would be happy to work with Senator Schilz and Senator Council on the suggested amendments. Thank you. [LB1018]

SENATOR CARLSON: Thank you, Senator Cornett. You've heard the closing on the advancement of LB1018 to E&R Initial. All those in favor vote aye. All opposed vote nay. Please record, Mr. Clerk. [LB1018]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB1018. [LB1018]

SENATOR CARLSON: Thank you, Mr. Clerk. The bill does advance. Next item, Mr. Clerk. [LB1018]

CLERK: LB943 is a bill by Senator Harms. (Read title.) Introduced on January 14 of this year, at that time referred to the Urban Affairs Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM1922, Legislative Journal page 611.) [LB943]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Harms, you're recognized to open on your bill. [LB943]

SENATOR HARMS: Thank you, Mr. President and colleagues. Some of you may recall several years ago Senator Phil Erdman introduced legislation that would remove the legal barriers to allow first-class cities to merge. Well, the communities of Scottsbluff and Gering have been slowly working towards bringing these two communities together so that they could be more cost-effective, more efficient, and quite honestly, try to save taxpayers money. In working towards this goal, these two communities are about to merge their law enforcement offices. They've been working on this just about a year now, and they discovered that in order to merge their law enforcement agencies, they're going to have to merge the two civil service commissions. This requires an amendment to the Civil Service Act; thus, that's the reason why we bring this bill before for discussion today. What this bill does, this bill allows any two or more first-class cities who have civil service commissions to merge their commissions. The existing commission shall be dissolved without any further action of the governing body. Members of the existing commission would be eligible for appointment to the merged commission. The Civil Service Act shall be applicable to a merged commission except as for the following provisions, and those are: (1) a merged commission shall consist of three, five, seven, or nine members as provided in their local agreement, cooperative agreement, (2) each city participating in the agreement shall appoint at least one member to the merged commission, and (3) each member of such merged commission shall be a resident of one of the cities participating in the agreement for at least three years immediately preceding his or her appointment to this commission, and (4) the term of office of each member of the merged commission shall be provided in the agreement except they should not exceed more than six years. The agreement can also stagger the terms of the offices of the initial members of the merged commission. And (5), at the point of appointment not more than four members of a seven-member commission or more than five members of a nine-member commission shall be of the same political party. Mr. President, this completes my introductory comments and would urge the committee, or my colleagues, to vote for this. I'd be happy to answer any question. And there is an amendment. [LB943]

SENATOR CARLSON: Thank you, Senator Harms, for your opening on LB943. And as the Clerk has stated, there are committee amendments. Senator McGill, as Chair of the Urban Affairs Committee, you are recognized to open on your amendment. [LB943]

SENATOR MCGILL: Mr. President, members of the body, this is simply an emergency clause so that we can get this passed and activated so that Scottsbluff and Gering can move forward in a quicker manner with some of their consolidation. And we'd just like to thank those cities for working together so well, because it seems like it's human nature to be territorial and fight each other when it comes to these issues. But they've really been a wonderful example of how communities can work together to cut costs and bring

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efficiency to our state. Thank you, Mr. President. [LB943]

SENATOR CARLSON: Thank you, Senator McGill. Members, you've heard the opening on LB943 and the committee amendment AM1922. The floor is now open for debate. Senator Nelson, you're recognized. [LB943]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to stand in support of this bill and thank Senator Harms for bringing it. I do have a question or two of Senator Harms, if he will yield. [LB943]

SENATOR CARLSON: Senator Harms, will you yield? [LB943]

SENATOR HARMS: Yes, I will. [LB943]

SENATOR NELSON: Thank you, Senator Harms. This sounds like a good move to save money and an effort at cooperation. My only question would be, are there other cities in the state, within the state, where this could be applied, where they might want to merge? Are you aware of any? [LB943]

SENATOR HARMS: I'm really not. These two cities are, as you know, are so close together, that I think, Senator Nelson, this is just the beginning. The original legislation that was introduced by Senator Erdman was for these two cities. And I think it's going to...we're going to find that during these difficult times it's going to begin...people will...and other communities might very well be looking at this. So I don't know if there are any other cities or not, but it sure does give them the opportunity to do this with their first-class cities. [LB943]

SENATOR NELSON: I'll have to confess, I have never been in Scottsbluff. I'd like to get there sometime. Are Gering and Scottsbluff adjacent to each other or a few miles apart? [LB943]

SENATOR HARMS: Yes. Yes, they are. They're just across the river. [LB943]

SENATOR NELSON: Just across the river. [LB943]

SENATOR HARMS: Um-hum. [LB943]

SENATOR NELSON: All right. Thank you very much for your response, Senator. Thank you, Mr. President. [LB943]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Harms. Are there other members wishing to speak? Seeing none, Senator McGill, you're recognized to close on AM1922. Senator McGill waives closing. The question is, shall AM1922 be adopted? All

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those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB943]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB943]

SENATOR CARLSON: Thank you. The amendment is adopted. We return to discussion, the underlying bill, LB943. There are no lights. Senator Harms, you're recognized to close. [LB943]

SENATOR HARMS: Thank you, Mr. President and colleagues. I would encourage you to vote in favor of this. It gives us an opportunity to do something that all of us would like to see. Cities are coming together during difficult times and saying we can no longer afford to be in the same position in the next five or six years. So I would urge you to go ahead and support this and, hopefully, it will become a model for other cities to follow. Thank you, Mr. President. [LB943]

SENATOR CARLSON: Thank you, Senator Harms. Members, you've heard the closing on the advancement of LB943 to E&R Initial. All those in favor vote aye; all opposed vote nay. Have all members voted who wish to vote? Record, Mr. Clerk. [LB943]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB943. [LB943]

SENATOR CARLSON: The bill does advance. Thank you, Mr. Clerk. Mr. Clerk, next item. [LB943]

CLERK: Mr. President, the next proposal, LR297CA, offered by Senator Karpisek. It's a constitutional amendment moving to amend Article XIII, Section 2, of the Nebraska Constitution. Introduced in January, referred to Urban Affairs, advanced to General File. I have no amendments pending at this time, Mr. President. [LR297CA]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Karpisek, you are recognized to open on your bill. [LR297CA]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. LR297CA would amend Article XIII, Section 2 of the state constitution to allow the Legislature to grant municipalities more flexibility in funding sources for economic and industrial projects and programs subject to a local vote of the people. These economic and industrial projects and programs are commonly referred to as LB840 plans. There are right now about 50 municipalities that have already adopted LB840 plans. For example, local voters in Blair approved an LB840 plan to attract Cargill to their community. Likewise, voters in Nebraska City approved an LB840 plan to bring the Excel Corporation to their city. Under current constitutional provisions, LB840 plans can only

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be funded with property tax dollars or local option sales tax dollars. All municipalities with LB840 plans, fund them with local option sales tax dollars. Municipalities need to be able to leverage other dollars to help fund LB840 plans, with the approval of their local voters. LR297CA would essentially accomplish the same thing as Amendment One, which was considered by Nebraska at the November 2008 General Election. Unfortunately, Amendment One failed to pass, with roughly 312,000 in favor and 371,000 against. There are a couple reasons I feel why Amendment One did not pass. The League of Municipalities was unable to effectively communicate with municipal officials across the state on the need to help advocate for passage of this important constitutional amendment. I feel this was due to an opinion rendered by the Nebraska Accountability and Disclosure Commission in August of 2008, relating to the use of public resources in educating the public on ballot questions. Nevertheless, over 312,000 Nebraskans voted in favor of this proposal without a broad-based campaign educating voters on the necessity of doing so. This is good reason to believe that voters would pass the proposed constitutional amendment outlined in this CA. Hopefully, we will again get strong editorial support from the Lincoln Journal Star and other papers which supported Amendment One in 2008. It is also significant to note that the Legislature passed LB626 in the 2009 session to clarify the law and expressly state how public resources may and may not be used to inform citizens on ballot questions. Due to passage of LB626 in 2009, which amended the Nebraska accountability and disclosure laws relating to the use of public resources to educate the public on ballot questions, the league and other groups can now effectively communicate with their members and others about the advantages of this CA. I feel that LR297CA will be easier for voters to understand than Amendment One in 2008. Amendment One would have deleted language from the current constitutional provision referencing local sources of revenue. The difference on this CA is on page 2, line 24, and page 3, lines 3 through 6 would delete the same language as Amendment One. However, this one would also insert new language into the constitution to expressly state on page 3, lines 6 through 11, that subject to such vote, funds for LB840 plans may be derived from property tax, local option tax, or any other general tax levied by the city or village or generated from municipality-owned utilities, grants, donations, or state and federal funds received by the city or village subject to any restrictions by the grantor, donor, or state or federal law. For example, LR297CA would not let municipalities use gas tax monies for anything other than constructing and maintaining highways, streets, and roads. LB840 plans have already resulted in a successful economic development projects and programs to help promote job retention, create thousands of better jobs, develop a more diversified local economy, as well as broader tax base for cities and villages. Please support putting LR297CA on the ballot at the general election in November of 2010. If the Legislature does place this issue on the ballot, the league will be working with municipal officials and other organizations across the state to help educate voters on the need to pass this CA at the November '10 ballot. This also is not self-executing. If approved by voters at the November ballot, the Legislature would have the authority to pass enabling legislation to allow municipalities to use sources of revenue in addition to

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property taxes and other local option sales tax to fund the LB840 plans subject to the approval of their local voters. After enabling legislation passes, municipalities would then have to develop a plan and submit it to local voters for their approval. LR297CA would provide more flexibility in funding LB840 plans to give voters in cities and villages the option of leveraging a wider diversity of funds to create even more jobs across the state. Thank you, Mr. President. [LR297CA LB626]

SENATOR CARLSON: Thank you, Senator Karpisek, for your opening. Members, the floor is now open for debate. Those wishing to speak: Flood, Adams. Speaker Flood, you're recognized. [LR297CA]

SPEAKER FLOOD: Thank you very much, Mr. President. I thank Senator Karpisek for bringing this forward. I support LR297CA and let me tell you why. I've always supported this because I think about Madison, Nebraska. Madison, Nebraska, has its own electrical plant. They generate electricity for the citizens of the community of Madison. And those funds at this time are restricted from being used as economic development tools to bring new jobs and businesses to the city of Madison. In a way, they are restricted from doing that. This allows the citizens of this state and the citizens of the city of Madison to approve a constitutional amendment so that if a business was interested in Madison or if the city of Madison wanted to develop an industrial park and it wanted to use some of its excess funds, its profit from its electrical plant, they could put forward a proposal to the citizens of Madison, Nebraska. If the citizens agree by a majority vote, then the funds would be able to be used for those purposes only. I think taxpayers are protected here. There is always going to be a vote in the city. There is always going to be an opportunity for the citizens to weigh in. And what I like about this the most is we're not talking about a sales tax increase, we're not talking about a property tax increase. We're talking about funds that are sitting in the electrical plant account that can't be used for economic development, and Madison has got a proud history of providing the electrical service and they actually sell their excess power other places, and that generates income. And that money is sitting there and the fund is very healthy, but the city's hands are tied on economic development. I think if you want to help cities with economic development and you want to find a way for them to do it without raising taxes, this is an obvious choice, and a good one at the end of the day. So for those reasons and many others, I do support Senator Karpisek's LR297CA and would encourage you to vote for it. Thank you, Mr. President. [LR297CA]

SENATOR CARLSON: Thank you, Speaker Flood. Senator Adams, you're recognized. [LR297CA]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I stand, too, in support of this. I'm going to put my former mayor's cap on for just a moment. LB840 plans are being used more and more across the state, and the essence of it is cities are allowed to develop a plan for economic development, go to the voters with that plan,

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and if they get approval, spend the money in the way that that plan prescribes. And currently, as has been pointed out, there is local sources of revenue is the language which typically has meant local option sales tax and property tax. But I think that the information I saw indicated that almost every LB840 plan currently in existence is using sales tax dollars. And city officials do that because they want to try to keep property taxes down and out of the mix. But local option sales tax gives them a little bit of flexibility. What this simply does is take it a little bit further and say, municipalities, you may have other sources of revenue that you want to blend into your economic development plan. What Senator Flood has pointed out is typically the case. There may be cities that are generating revenue in city-owned utilities. And for an industrial park...or for a plant that may be coming in or an industry that may be coming in, developing the utility infrastructure is part of the total package. This simply, I think, gives cities the flexibility they need. And we just spent most of the morning on a bill, LB1018, that was about giving cities the flexibility that they need. And this has a vote attached to it and the language is going to be clearer this time around. I would encourage your support. Thank you, Mr. President. [LR297CA LB1018]

SENATOR CARLSON: Thank you, Senator Adams. Members still wishing to speak: Senators Gay, Lautenbaugh, and Hadley. Senator Gay, you're recognized. [LR297CA]

SENATOR GAY: Thank you, Mr. President. First of all, it's I am in support of the constitutional amendment. However, I was listening to Senator Karpisek, his introduction, and he talked about how to promote this a little bit. I don't remember how I voted when this was on the ballot. It sounds like it was on the ballot before. It was probably something I would have voted for but I don't remember. But I guess when it goes on the ballot, those people, average citizens out there who are looking at this thing, you know, they don't understand all the intricacies of what we're doing here and how this is going to be so beneficial. They'll never understand these conversations we have going on. They understand it but they won't...they don't have time to pay attention. But I guess, can...if Senator Karpisek would yield to a question? [LR297CA]

SENATOR KARPISEK: Yes, I would. [LR297CA]

SENATOR CARLSON: Senator Karpisek, will you yield? [LR297CA]

SENATOR KARPISEK: Yes, I will. [LR297CA]

SENATOR GAY: Thank you, Senator Karpisek. I guess on that, so you described it. Could you just describe it again, how this would be promoted? Because I think if we put something on, a constitutional amendment, first of all, that we want passed or we wouldn't put it on the ballot, so we'd like to see this done. It makes sense to us. But how again...what is the changes now before? You said it was voted on. How can municipalities and other people now promote this? Can you just review that again?

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[LR297CA]

SENATOR KARPISEK: Sure. [LR297CA]

SENATOR GAY: I think I know how but it probably wouldn't hurt to explain that again.
[LR297CA]

SENATOR KARPISEK: On Amendment One, it just struck the language saying that it could only be derived from property tax or local option sales tax. It still strikes that now, but then the new language added says it also can be any other general tax levied by the city or village or generated from municipality-owned utilities, grants, donations, or state and federal funds received by the city or village subject to any restrictions of the grantor, donor, or state, federal law. So that will all be on there. Before, it was just striking the only place that it could come from, opening everything up, and now it actually states where else it could come from. [LR297CA]

SENATOR GAY: Yeah, and the technical. I opened up the constitution and looked at that. No, what I'm...I guess let me rephrase the question. What I said is, if I'm just...a voter shows up and on the ballot it's going to read...I think this is the way it's going to read: a constitutional amendment to change the powers of municipalities relating to fund sources for economic or industrial development, and then it says "for" or "against." How do we promote...how do...how are we going to promote this? It's kind of a complex thing, quite honestly. But how do you promote this to citizens who are going to vote on this? You had mentioned that there's... [LR297CA]

SENATOR KARPISEK: The League of Municipalities will now be able to...with the LB626 passing last year, they know what they can and can't do much better, how they can get out and try to promote what they're trying to do. Also I don't know that that's going to be the exact ballot language because we still...I think the Exec Committee can work on that. And we will try to make it as clear as we can on the ballot. [LR297CA LB626]

SENATOR GAY: Okay. So I guess that's my concern because I know the league, they do a good job, but is there other people do you think who would be helping in the promotion campaign? Because it's a lot of voters to educate on a fairly complex subject. But who else do you think might be involved in this? [LR297CA]

SENATOR KARPISEK: You know, Senator Gay, I guess I'm not sure. I would think maybe NACO would be involved. I don't know, maybe in the larger communities where the county and the city are more the same one. I guess I don't know exactly who all we would get in, but I can find out who the league is thinking about bringing on board.
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SENATOR GAY: Yeah. Well, and like I say, I'd support the...I support the bill. I'm just trying to get some details of how it would be successful if it would. I do think, as Speaker Flood has talked about, and Senator Adams, and I'm sure everyone in this body can probably find an example we could use, and maybe even as senators we'd be involved in that process if we decide to vote this out today. But I do think on these constitutional amendments, there were several introduced this year, and it's a pretty serious thing when we're bringing these out. I think this is a useful tool... [LR297CA]

SENATOR CARLSON: One minute. [LR297CA]

SENATOR GAY: ...and I can see where it would be very helpful to communities to do this. And also I do like the fact, Senator Karpisek, that the communities have to vote on this themselves, too, so there are many checks and balances. And, again, just earlier, this is one more example of earlier what we just did on Senator Cornett's bill. We're allowing communities to take charge of their own destination or future, I guess, so I do support it, and thank you, Senator Karpisek. [LR297CA]

SENATOR KARPISEK: Thank you. [LR297CA]

SENATOR GAY: Thank you, Mr. President. [LR297CA]

SENATOR CARLSON: Thank you, Senator Gay and Karpisek. Senator Lautenbaugh, you're recognized. [LR297CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body, and I'll be very brief on this. I do support this. I applaud Senator Karpisek for bringing it. I think it is important. Programs such as this have been very helpful. I believe Cargill ended up in Blair, in part because of something akin to this, and I think it's important that we give these communities this flexibility on economic development. It's a great proposed constitutional amendment. I think it is important that we get the word out there. And I know the league will do a good job on that and I guess I'd suggest, Senator Gay, if you're looking for a project over the next few months, all things considered, you can take the forefront on this. Because it is important, I think we should all support this and I hope it advances. Thank you. [LR297CA]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LR297CA]

SENATOR HADLEY: Mr. President, members of the body, first time to speak this morning. I guess I am in favor of this but I have some questions because about the part of it that talks about generated by utilities. And I guess the reason I have that concern is that I'd always been under the understanding that one of the things in a city that you try not to do is use a public utility and the profit from that, since you basically have a

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monopoly, you can charge what you want, and then when you start using the profits from that for other things other than the actual public utility. And I guess I had always thought that that was something that we wanted to try and guard against in cities. So would Senator Karpisek yield to a question? [LR297CA]

SENATOR CARLSON: Senator Karpisek, will you yield? [LR297CA]

SENATOR KARPISEK: Yes, I will. [LR297CA]

SENATOR HADLEY: Senator Karpisek, do you think I have any reason for concern, the fact that we have a monopoly, a public utility, that can charge what they want for electricity and the taxpayers have to pay it--you know, they need the electricity--and then we turn around and use the profits from that for other things than the actual utility itself? [LR297CA]

SENATOR KARPISEK: Senator Hadley, I do understand what you're saying and I had a little bit of those same questions. I'll give you my answer and then I'll make sure that I'm right. [LR297CA]

SENATOR HADLEY: Okay. [LR297CA]

SENATOR KARPISEK: I'll just read you a little bit: Subject to such a vote, the local option sales tax or any other general tax levied by the city of village or generated from municipally-owned utilities, subject to any restrictions of the grantor, donor, or state or federal law. So as I said in my opening, for example, a gas tax could only be used for highways, streets, and roads. In my opinion, I would say that any overage on utilities could only be used for economic development for that utility, to maybe run electricity to the industrial site. [LR297CA]

SENATOR HADLEY: Okay. [LR297CA]

SENATOR KARPISEK: That's my understanding. I will check and make sure. [LR297CA]

SENATOR HADLEY: Would you check that out? [LR297CA]

SENATOR KARPISEK: I sure will. [LR297CA]

SENATOR HADLEY: Because I guess what I'm concerned about is that suddenly we're using profits from the local electric company to put in maybe streets or a curb and gutter or something such as that. And I guess in the past I'd always thought that we wanted to try not to use a monopoly situation to generate, quote, profit for the city. Thank you, Mr. President. [LR297CA]

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SENATOR CARLSON: Thank you, Senator Hadley and Senator Karpisek. (Visitors introduced.) We return to discussion. Senator Louden, you're recognized. [LR297CA]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I rise, I'm concerned whether to support this amendment or not, or this bill or not, as it's written. I was wondering if Senator Karpisek would answer some questions for me, please? [LR297CA]

SENATOR CARLSON: Senator Karpisek, will you yield? [LR297CA]

SENATOR KARPISEK: Yes, I will. [LR297CA]

SENATOR LOUDEN: A few years ago, Senator Karpisek, I think Lincoln sold their hospital or something like that, and they received an amount of money for it and that money has been sitting around someplace, drawing interest and whatever. But anyway, we've always been...legislation was introduced to...for them to be able to use that money or something. Now, will this open up such a situation that they could, if a city or something has an account like that that they can go ahead and use that for economic development or whatever? I guess what I was thinking about, can they use that money to build their sports arena? [LR297CA]

SENATOR KARPISEK: No, Senator Louden, they would not. Each one of these is subject to a vote for those funds. So in my opinion they could only use that for something similar and it would have to be a vote of the people. [LR297CA]

SENATOR LOUDEN: Okay. And then as Senator Hadley pointed out, and that was one of the concerns I had, was generated from municipally-owned utilities. In several towns around, some generate their own power, some buy it from a power source such as Basin Electric or someplace like that, and then resell that to their trade area. Some of these towns have a huge service area around the towns with their electric power. And consequently, they could use that money to fund some of these revenue bonds to do this. Is that correct, the way this is written now? [LR297CA]

SENATOR KARPISEK: What would happen, could happen, to Senator Hadley's question also, the utilities would want this for load management by expanding customers. And, again, it would take a local vote of the people not to set the rates but to be able to use the overage for the project. [LR297CA]

SENATOR LOUDEN: But there's nothing in here to decide how much of that money from their municipally-owned generation facility that they could use. I mean, should...you know, in case there's someplace along the line should any be set aside for repair work on their system or something like that. And what I'm wondering when you

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throw it wide open, that they can use that money from the utility side of it, is there any stopgap in that thing so that what can be used or percentage? [LR297CA]

SENATOR KARPISEK: It could only be used for expanding the utility that it's coming from. Most places...I know when I was mayor, we always had a sinking fund or an overage for repairs, those sort of things. By doing this, if there's that overage, you really can't use it in anything other than just the repairs. Again, if they would want...need to expand to control their load, right now they wouldn't be able to do so. But this would be a vote, again, of the people for that project. [LR297CA]

SENATOR LOUDEN: Okay. Thank you, Senator Karpisek. [LR297CA]

SENATOR KARPISEK: Thank you. [LR297CA]

SENATOR LOUDEN: I guess what I noticed that the LR297 does is it more or less expands the sources that a city or town can use for economic and industrial development. That in itself isn't at all bad. The question is, is which sources and should they be listed in this amendment, and also should some of them be deleted from it? So with that, thank you, Mr. President. [LR297CA]

SENATOR CARLSON: Thank you, Senator Louden and Senator Karpisek. There are no other senators wishing to speak. Senator Karpisek, you're recognized to close on LR297CA. [LR297CA]

SENATOR KARPISEK: Thank you, Mr. President, members of the body, and thank you for the questions. As we go along, the league will get me a little more up to speed and nail some of those things down. But, again, this has to be voted on by the people of Nebraska. We have to have enabling legislation here to let it happen. Then the local people have to vote for it if they would approve these projects. Senator Gay asked who else would be involved. The league sees the chambers of commerce and Nebraska Economic Development also helping out, and Senator Lautenbaugh stole my thunder, as usual, to ask Senator Gay to be involved. I do think that they would anticipate any of the senators that would be willing to help out to do so. This does expand where the city can use some of that money for economic development. I feel that, especially in these times, economic development is the way that we can stay viable. And by expanding this only by a vote of the people is the way to go. Let the locals decide their own way that they want to do that. With that, Mr. President, I would appreciate a green vote. Thank you. [LR297CA]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the closing on the advancement of LR297CA to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LR297CA]

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CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of the constitutional amendment. [LR297CA]

SENATOR CARLSON: The bill does advance. Mr. Clerk, next item. [LR297CA]

CLERK: LB1051 is a bill by Senator Christensen relating to Abstractors Act. (Read title.) Introduced on January 21 of this year, referred to the Banking, Commerce and Insurance Committee. I have no amendments pending at this time, Mr. President. [LB1051]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Christensen, you're recognized to open. [LB1051]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman and fellow colleagues. The Abstractor Board of Examiners brought the LB1051 to me for introduction. It amends the Abstractors Act to allow the renewals of certificates of authority to be issued on a biannual basis to harmonize with the rest of the act. It also changes related fees from an annual to a biannual basis. The bill would also change the annual publication of the roster of the abstractors to a biannual basis and gives permission to charge the public for the roster at the cost of producing it. LB1051 should help realize some small savings cost in administration and in publishing by harmonizing the rest of the Abstractors Act to a biannual schedule. Thank you for consideration of LB1051 and I'd encourage you to vote it and move it forward. Thank you. [LB1051]

SENATOR CARLSON: Thank you, Senator Christensen. Members, you've heard the opening on LB1051. The floor is now open for debate. Senator Nelson, you're recognized. [LB1051]

SENATOR NELSON: Thank you, Mr. President, Senator Christensen. I'd like to address a question or two to Senator Christensen if he will yield. [LB1051]

SENATOR CARLSON: Senator Christensen, will you yield? [LB1051]

SENATOR CHRISTENSEN: Yes. [LB1051]

SENATOR NELSON: Senator Christensen, this is an unusual bill for you to bring. I see no element of controversy whatsoever. [LB1051]

SENATOR CHRISTENSEN: (Laugh) That's correct. [LB1051]

SENATOR NELSON: All right. I do have a question here. And the statement of intent goes into some background telling what a certificate of authority is and a certificate of

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registration. And the certificate of authority just says that a business or an individual is authorized to engage in the abstracting business. Would that be correct? [LB1051]

SENATOR CHRISTENSEN: In the statement of intent? [LB1051]

SENATOR NELSON: Yes, at the back...on the second page, if you would turn that over. Committee statement. [LB1051]

SENATOR CHRISTENSEN: Oh, on the committee statement. [LB1051]

SENATOR NELSON: I'm sorry. I'm sorry. [LB1051]

SENATOR CHRISTENSEN: Okay. [LB1051]

SENATOR NELSON: Well, let me read it to you. [LB1051]

SENATOR CHRISTENSEN: Just read it to me quick. [LB1051]

SENATOR NELSON: Sure. A certificate of authority is the authorization to engage in the business of abstracting granted to an individual or a business entity. Now, across the state we have individuals that engage in this, but there are also firms in some of our larger cities... [LB1051]

SENATOR CHRISTENSEN: Um-hum. [LB1051]

SENATOR NELSON: ...that employ a number of abstractors. And so it appears that there's also a separate certificate of registration which is granted to an individual. Does this mean that, if you know the answer to this, if there is a firm that employs perhaps ten abstractors or people that are doing abstracting work that the owner can be the one who is registered but the others are not required to be, if you know? [LB1051]

SENATOR CHRISTENSEN: Registration goes to the individual and the authority goes to the business. [LB1051]

SENATOR NELSON: So it would be your impression that if there are ten individuals that are working for an abstracting firm, that each of them would have to be a registered abstractor? [LB1051]

SENATOR CHRISTENSEN: Correct. [LB1051]

SENATOR NELSON: All right. So basically what we're doing here is we're stretching this out over two years, and there's no fiscal impact apparently. It's the same amount of money that's coming in over...it's just a two-year period. [LB1051]

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SENATOR CHRISTENSEN: That is correct. [LB1051]

SENATOR NELSON: All right. [LB1051]

SENATOR CHRISTENSEN: Basically what it's going to save them is about \$1,200 a year in the printing of that book, which they now will do on a biannual basis if we approve this. [LB1051]

SENATOR NELSON: All right. So there would be a savings there. Okay. Thank you, Senator Christensen. Thank you, Mr. President. [LB1051]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Christensen. Senator Stuthman, you're recognized. [LB1051]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask a question of Senator Christensen. [LB1051]

SENATOR CARLSON: Senator Christensen, will you yield? [LB1051]

SENATOR CHRISTENSEN: Yes. [LB1051]

SENATOR STUTHMAN: Senator Christensen, in reviewing the bill, what it's really doing is going to a biannual fee and it's doubling the fee, is that correct? [LB1051]

SENATOR CHRISTENSEN: Correct. [LB1051]

SENATOR STUTHMAN: So there is really no additional cost other than the fact of it's twice as much but it's every other year. [LB1051]

SENATOR CHRISTENSEN: That is correct. [LB1051]

SENATOR STUTHMAN: So in the fiscal note part of it, it states that if the board was to set the registration renewal fee at the upper limit provided for in the bill, the potential maximum revenue increase could be \$84,000. This is based on 300 renewals. And the difference between the current fee and the maximum new fee, can you explain that to me a little bit? [LB1051]

SENATOR CHRISTENSEN Okay. Right now, what that's telling you, they're not at their maximums on all these levels. So they could change that right now as the bill is. If we did nothing with the bill they could increase half of that this year because next year the fee would be the same once they raised it, so over a two-year period it would amount to that much. But all that's telling you is they're not using the maximum amount in their fee

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range. And all I done was doubled the fee range because it's now on biannual. [LB1051]

SENATOR STUTHMAN: Thank you, Senator Christensen. And I totally agree with you and respect that you have taken that into consideration, the fact that you didn't raise the additional amount that could be adjusted, too, and that would generate that extra \$84,000. What you have done is kept it the way it was but made it a biannual fee. Is that correct? [LB1051]

SENATOR CHRISTENSEN: Yes. [LB1051]

SENATOR STUTHMAN: Thank you. I do support the bill. Thank you, Mr. President. [LB1051]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Christensen. Seeing no other lights, Senator Christensen, you're recognized to close. Senator Christensen waives closing. The question is, shall LB1051 be advanced? All those in favor vote aye; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1051]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB1051. [LB1051]

SENATOR CARLSON: LB1051 does advance. Mr. Clerk, next item. [LB1051]

CLERK: LB727, Mr. President, a bill by Senator Coash. (Read title.) Introduced on January 6 of this year, at that time referred to the Judiciary Committee. Advanced to General File. I have no amendments at this time, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Coash, you're recognized to open. [LB727]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. Members, I'd like to take you down just a little bit of a back story here. If you remember last year, we discussed LB669, which is a bill that I brought that would have added some additional judges to our state at the behest of the Judicial Resources Commission. Judicial resources continued to be stretched in our state. Access to justice continues to be something we have to take a look at. The Judiciary Committee has definitely looked at that. And if you remember last year, I committed to this body that I would look at this issue over the interim and I would work with interested parties and I would bring an effort to alleviate judicial resource...or the lack of judicial resources in our state. So I'm not bringing you an additional judgeship today, colleagues. What I am bringing you is LB727. LB727 is the result of some interim work and I would like to thank the Speaker, members of the bar, the judges, Senator Ashford, Senator Lathrop. We all got together and we looked at what we can do to alleviate some of the judicial resource burden so that our citizens can have access to justice. So let me tell you what LB727

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does. This is an extra tool in the Supreme Court's toolbox to entice retired judges to sit on the bench. Currently--and this bill does nothing to change that--there is a daily rate available at the discretion of the Supreme Court to county and district judges should they decide to serve on the bench after their retirement. But there is no authority currently to do anything with part-time judges. What LB727 does is gives an additional stipend...the authority for an additional stipend that can be used to give to a judge who might work part-time for an extended period of time. So the judge is going to have to agree to this, and should he or she agree they're going to receive an additional stipend. Now, the idea behind this stipend is that it's going to be in an amount commensurate with health insurance, so the idea here is we're going to try to incent and attract some judges who may or may not be retired or be close to being retired so that they would come and serve on the bench temporarily. Let me give you a couple of examples of where this might be used. From time to time, you might have a judge who's got an extended illness and needs to take some time away from the bench. This additional stipend might incent a judge who's retired to come and take care of that. You might have...from time to time in our state, we have big, big cases and it takes a judge a long time to hear that case and it might take away from their original cases. So we might use a retired judge for that. I will tell you, through my work on the Judiciary Committee and working with judges across the state, what they're telling me is this will work. A barrier to retiring or a barrier to coming on as a temporary judge is the cost of health insurance. So the cost of this will be commensurate with that, and so a judge who's under 65 could retire, still have their benefits. A judge whose spouse is under 65, we could use this stipend to cover this as well. So colleagues, this is my effort this session. I want to be clear, this isn't the end of it, but this is what we bring you today. This is what we can do. I will point you to the fiscal note and I starred something on the fiscal note here. It's the last sentence here. It says, "Since the use of retired judges can be less expensive than creating additional judgeships, it may be that an increase in expenditures from use of this stipend may be more cost-effective in the long-term." So I thank the Fiscal Office for seeing it the way I do. With that, colleagues, I will urge your advancement of LB727 to Select File. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Coash. You've heard the opening on LB727. The floor is now open for debate. Senators wishing to speak: Ashford, Hansen, Nelson, Stuthman. Senator Ashford, you are recognized. [LB727]

SENATOR ASHFORD: Thank you, Mr. President. And I would also like to commend my colleague, Senator Coash, because he has worked diligently on this issue for over a year. The retired judge idea came about after the discussion that we had last year about allocating additional judges to meet the needs of various districts in the state. And Senator Coash has presented a couple of bills, really, that expand the number of judges, (inaudible) juvenile judge in Douglas County and obviously the Lancaster County judge issue we discussed last year. We realize that the financial exigencies are such that we're not going to add any additional judges. But we also know that the needs

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throughout the state, and it's not just in the metropolitan areas, but the need throughout the state, needs vary. And there are judges on the county court and district court level and juvenile court level who have expressed a desire to work beyond their retirement. And they don't want to sacrifice their insurance. They don't want to sacrifice the benefits they have upon retirement, but they do want to continue to work. And I have had conversations with many, many judges, not just from Omaha, but other parts of the state, who are really energized--and, in fact, I think that would be the word--energized by what Senator Coash is proposing, so that they would not be...this bill will allow these judges to continue to work on a limited basis without sacrificing their benefits. And these judges are excellent at what they do. They...to me, it's always been a shame that because some judge reaches a certain age, that they really cannot continue to work. We lose all of that institutional wisdom and all of that expertise. And we really do give to the court system what I think they need more of, and that's the discretion to work on caseloads as they occur, rather than...and as Senator Coash rightly suggests, this bill does not solve all the problems. It does not address, necessarily, the issue of how do you replace a judge and where does a judge go and all of that stuff. I'm sure that we will continue to talk about that over the next several years until we get it down. But this is good policy. It is...I strongly endorse it and I appreciate Senator Coash's work and Senator Lathrop who has also worked on this alternative, and urge that we advance this bill. Thank you. [LB727]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Hansen, you're recognized. [LB727]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I do want to ask Senator Coash a couple question in a moment, but prior to that I would like to tell the body that in my occupation of ranching, if I ever get an honorary doctorate it will be in extended service. And my two questions, my first two questions...and then Senator Coash. Would Senator Coash yield, please? [LB727]

SENATOR CARLSON: Senator Coash, will you yield? [LB727]

SENATOR COASH: Yes, I will. [LB727]

SENATOR HANSEN: In my extended service on the ranch, Senator, I ask two questions: How many days and how much pay? Those are the questions I have for you. It's not written out in the bill, how many days and how much pay. Would you respond to that? [LB727]

SENATOR COASH: Yes, I could. I didn't know if you were done, Senator Hansen. Thank you. Senator Hansen, we had talked about putting that in this bill. If you...and we decided not to and I'll explain why. In 2008, this Legislature passed LB1014 which expanded the statutory authority of the Supreme Court as they determined. And what

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we felt was...and in talking with the Supreme Court and the Chief was they need to have some authority because of the unpredictable nature of using retired judges that if we put a minimum number of days, they may not need them. If we put a maximum number of days, you might be paying out too much. And so we left it purposefully broad in this particular bill to allow the discretion of the Supreme Court to use retired judges as they see fit. And I'll tell you that when they use retired judges now, it's still that broad in that perspective as well. [LB727]

SENATOR HANSEN: Thank you. In the fiscal note in the second paragraph it said this bill could have a General Fund impact depending on the additional compensation amount, and that would have to do with both the days and the amount. So we, in the course of the Appropriations Committee this year, we had a very good visit with Chief Justice Heavican, sat down with us for an hour and a half. Said that they, through budget restraints, that he would be adding no new judges. And the retirement of judges came up, that whole subject came up, and using retired judges. Travel came up because this, through the Supreme Court, may be the first item that we have in consolidation of counties in western Nebraska because of the number of cases that they have, the number of judges that they have available. And the retired judges also came up too. But I need to be assured and I hopefully the other members on the Appropriations Committee, through that conversation we had with the Chief Justice, I think we all have to be assured what number of days we're talking about and what the amount per day is, to come up with a hard figure that this is not going to have a fiscal impact. I think that the Chief Justice does a great job with his budget. He does a great job with the county courts and we want him to continue doing that. But I just need to be reassured that this is not going to be a budget item. [LB727]

SENATOR COASH: Senator Hansen, if I could respond. Last year, the Appropriations Committee appropriated \$80,000 in the last budget to pay retired judges. However, statutorily, they're only allowed to use that \$80,000 for a daily rate. What they can now do if we pass LB727 is in addition to paying a daily rate they can also use that money to pay a stipend for health insurance. So they're going to use the same pot of money. There's no...we're not asking for more money. We're just asking for another tool to use the money that was appropriated so that...because we talked...I had the same conversations with judges that you did, Senator Hansen. We talked about travel and we talked about health insurance. [LB727]

SENATOR CARLSON: One minute. [LB727]

SENATOR COASH: And in talking with the judges, health insurance seemed to be one of the things that kept many judges from retiring, and we wanted to address that issue so that they might look at this as an option to come and serve on a temporary basis without having to add additional judgeships, which is tough in this economy. [LB727]

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SENATOR HANSEN: Thank you, Senator Coash. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senators Hansen and Coash. Senator Nelson, you're recognized. [LB727]

SENATOR NELSON: Thank you, Mr. President and colleagues. I want to rise in full support of this. I certainly endorse what Senator Hansen has said about the effective work of Justice Heavican in trying to cut down expense, and to do whatever he can to help out with the budget. And I just have to say that I think he's doing us a great service there. And I am entirely supportive of using retired judges wherever we can so that we don't have to get into the business of adding judgeships. I do have a question or two for Senator Coash if he would yield. [LB727]

SENATOR CARLSON: Senator Coash, will you yield? [LB727]

SENATOR COASH: Yes, I will. [LB727]

SENATOR NELSON: I just heard you make the statement that they hesitate to retire. We're talking about judges that have already retired, are we not, that would be coming in to serve, unless I misunderstand what your bill does? [LB727]

SENATOR COASH: Well, we're talking about both. We are talking about judges who have retired who would be more willing to serve if they can do this. But in our discussions on LB727, when I met with the whole group, there are many judges in our state that are right on that cusp and they are at the age where they can retire but they're choosing not to. And so the pool of judges that the Supreme Court has to take advantage of this, to take care of judicial resources, is increasingly smaller. And so the question was pretty straightforward to these judges who were on the bubble, to say: If you had this, would you retire, and if so, would you serve as a retired judge to help us fill some of these gaps? And the answer was yes. And that's...because we talked about, as Senator Hansen mentioned, with travel expenses or something like that, and it really came down to health insurance. So that's how we arrived at this particular bill. [LB727]

SENATOR NELSON: So if I understand you, by encouraging the retirement of a judge we're actually, upon that judge's retirement, reducing the outlay because retirement is going to be maybe 70 percent of what they were earning as an active judge on the bench? Is that correct? [LB727]

SENATOR COASH: It is my understanding that it depends on how long they've served, but it can be up to about that, yeah. [LB727]

SENATOR NELSON: Yeah. That varies. Well, then what happens after retirement? I would think that as part of the retirement benefits, the judges would have continuing

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health insurance. Is that not the case? [LB727]

SENATOR COASH: They can, but this allows them...this allows a payment if they continue to serve. So it's just a more fiscally incentive...it's a bigger fiscal incentive for the judges. [LB727]

SENATOR NELSON: Well, you said the stipend is based upon the cost of health insurance. But I guess the question in my mind is once they retire do they not have to pay for the cost of their health insurance? Do they continue to pay for it? Is this stipend going to help them out economically? Do you understand my question? [LB727]

SENATOR COASH: I do and behind you, Senator Pankonin, Chair of the Retirement Committee, is saying I can address that. So if... [LB727]

SENATOR NELSON: All right. May I...would Senator Pankonin yield to a question then? [LB727]

SENATOR CARLSON: Senator Pankonin, would you yield? [LB727]

SENATOR PANKONIN: Yes, I would. [LB727]

SENATOR NELSON: Yes. I think, Senator, you heard my questions of Senator Coash. Would you...and maybe run us through this to see how this would work as far as their health...costs of the health insurance that the stipend would be equivalent to? [LB727]

SENATOR PANKONIN: Senator Nelson, the judges would pay for their health insurance and retirement. We do not, as a state, pay for retired folks' health benefits. We do allow them, and the folks in education and judges to be in a plan so that they have the access to the plan... [LB727]

SENATOR CARLSON: One minute. [LB727]

SENATOR PANKONIN: ...but they have to pay for it. So to answer your earlier question, they do not get that benefit. So this would provide them for a way to pay for that benefit in their retirement which they would be responsible for themselves. [LB727]

SENATOR NELSON: Thank you, Senator Pankonin. That clears up my question and I understand now how this would work and how it would be beneficial, and so thank you. Thank you, Senator Coash. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senators Nelson, Coash, and Pankonin. Senator Stuthman, you're recognized. [LB727]

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I've been listening very closely to the debate and the conversation here, and I kind of want to echo the remarks of Senator Hansen, and I also want to refer to the fiscal note part of it as which Senator Coash described on the bottom paragraph that this could be cost-effective in the long term. But I want to go back up to the other paragraph, the third...the three paragraphs up. It says, "Authorization of this stipend does not have a fiscal impact however any use of the stipend would increase General Fund expenditures." So that tells me that if it is used, which is really the intent of this bill, there will be a General Fund expenditure. So, "no stipend amount is specified an expenditure increase cannot be determined." This looks...you know, I've been hearing in the background that there's money that is already appropriated for it. But according to this fiscal note, you know, this is kind of open-ended for me to be able to support this for the fact that there is no definite amount per day or up to so much per day. And if they agree upon something and there is appropriations already for it, I feel that maybe it will be in excess of that, and in time to come there may be additional need for appropriations. That is a concern that I have. But I would like to give the balance of my time to Senator Coash. [LB727]

SENATOR CARLSON: Senator Coash, 3 minutes and 20 seconds. [LB727]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Stuthman. Just to address a couple of questions that you had. First of all, these...there is already an appropriation and the Supreme Court is not going to be able to appropriate more stipend or more daily rate than they have appropriated. So while the fiscal note says there's a General Fund impact. It's not going to be above and beyond what was appropriated. Back to your question about how many days people would serve. What we found in talking with folks and talking with the Supreme Court is that they need the flexibility. And that's why a daily rate works very well as opposed to a salary. You work a day, you get paid a day. So what we're trying to do with this bill is give that authority to the court that would say: I need you for five days, would you work for me for five days? Or I've got a judge who's ill and doesn't expect to be back for three months, and I need you to work for three months, would you work for us for three months? I think we're going to see in our state, Senator Stuthman, a lot more retired judges take advantage of this, which is broadly, partly the intent of this bill is to add to the pool of resources so that the Supreme Court can fill temporarily where they need to, to keep access to the courts available to our citizens. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Coash. Members still wishing to speak: Senators Wightman, Pankonin, and Hadley. Senator Wightman, you're recognized. [LB727]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I do rise in support of LB727. I think it's a great way to take the pressure off of case overload that we have at

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the present time in many areas of the state. I think it's also to the advantage of judges who may want to retire early, as Senator Coash has said. I think we may see some who will retire early. I think with regard to the health insurance, a lot of it's going to depend upon whether they're 65 and under Medicare perhaps, because they will be paying substantial premiums if they retire prior to 65, or at least that would be my thought. I do have a couple of questions I might address to Senator Coash if he would yield. [LB727]

SENATOR CARLSON: Senator Coash, will you yield? [LB727]

SENATOR COASH: Yes. [LB727]

SENATOR WIGHTMAN: Thank you. Senator Coash, I see again...and I know this has been discussed some as to what the current rate of pay for retired judges serving on a temporary basis, and there's some statement in the fiscal note that it's a minimum of \$175 a day. Is there some discretion with the Supreme Court right now in how much they do authorize for pay? [LB727]

SENATOR COASH: Yes, Senator Wightman, there is some discretion as the fiscal note says. The way I understand it, the judges' salary increases on how long they've served, and the per-day rate is based on their current salary. So my understanding is if you've served a long time and your current salary has continued to increase, then your daily rate would be higher than if you served a short time. So the daily rate is tied to the salary at the time of retirement. [LB727]

SENATOR WIGHTMAN: Isn't the...the salary at the time of retirement. But you indicate that the daily rate for a judge who is currently serving may be higher based upon his time of service. And I guess I'm not sure that's correct. I think that is set by statute that we set the pay of judges. And I don't know that it goes up with experience. I don't think it does but I may be wrong. [LB727]

SENATOR COASH: I stand corrected, Senator Wightman. You are correct, but...you are correct about that because the...it is a statutorily... [LB727]

SENATOR WIGHTMAN: Set. [LB727]

SENATOR COASH: It's statutorily set by that. As the fiscal note states, the current daily rate is at least \$175. [LB727]

SENATOR WIGHTMAN: Do you know how high it can go? [LB727]

SENATOR COASH: I do not. [LB727]

SENATOR WIGHTMAN: I'm assuming it probably stays in that same range, but I do not

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know that. Whether it could go to \$200 or \$250, I'm not sure. [LB727]

SENATOR COASH: I have the answer for you here, Senator Wightman. [LB727]

SENATOR WIGHTMAN: Thank you. [LB727]

SENATOR COASH: The daily rate is computed by taking the daily rate paid minus the retirement benefits equals the daily rate for the retired judges. So approximately it's \$179.30 for a county judge and approximately \$192 per day for a district judge. And that came from the Supreme Court. This is how they calculate their daily rate. [LB727]

SENATOR WIGHTMAN: Thank you, Senator Coash. Well, to give the body an idea of how much savings that might be, I don't know the exact pay but I know it's in excess of \$120,000, I think, for both county and district judges. It may be substantially over that. Perhaps somebody may have that figure. But if you multiply that times...or divide it by about 250 days, you're going to have a pretty substantial daily rate for those judges that are serving. And if you end up appointing more judges in order to provide that. Because \$175 a day, and assuming you served about 260 days, is really only going to be about \$45,000 or \$50,000 a year. And that's because I think they're... [LB727]

SENATOR CARLSON: One minute. [LB727]

SENATOR WIGHTMAN: ...they're taking into account what the retirement of that judge is, as well. So it's a chance for the judges to have some additional income. It's a chance to have experienced judges sit on cases. I think it's a win-win situation for the state, for the judges, for everyone involved. And I just think it makes very good sense and I thank Senator Coash for bringing the bill. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Wightman and Senator Coash. Those still wishing to speak: Pankonin, Hadley, and Ashford. Senator Pankonin, you're recognized. [LB727]

SENATOR PANKONIN: Thank you, Mr. President. I want to be very quick because I would assume Senator Coash wants to get to a vote this morning and I think this is a great policy decision. I appreciate Senator Coash bringing it. I just want to answer a question that may come up in someone's mind, and actually Senator Fischer asked me this question earlier this morning. Does this temporary duty mean that a judge will accrue more retirement because of it? I want to assure the body that it doesn't. In 1974, the statutes were amended to allow the assignment of retired judges for temporary duty. Temporary duty assignment is not considered regular employment under the Judges Retirement Act; thus, new or additional retirement benefits will not accrue. I think that's important to note that in the record and I appreciate Senator Coash bringing this bill. I think it's...would give the judiciary more flexibility and it's something that is needed. But I

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wanted to answer that question if anybody has that, and I thank our committee counsel, Kate Allen, for researching that for us. Thanks. [LB727]

SENATOR CARLSON: Thank you, Senator Pankonin. Senator Hadley, you're recognized. [LB727]

SENATOR HADLEY: Mr. President, members of the body, would Senator Coash yield to a question? [LB727]

SENATOR CARLSON: Senator Coash, will you yield? [LB727]

SENATOR COASH: Yes. [LB727]

SENATOR HADLEY: Senator Coash, I read the bill. Right now, the Supreme Court has the ability to set the daily rate, is that correct? [LB727]

SENATOR COASH: That's correct. [LB727]

SENATOR HADLEY: Why do we need this bill then? Couldn't they just set the daily rate to include the stipend that we're talking about here? [LB727]

SENATOR COASH: Senator Hadley, I don't know. [LB727]

SENATOR HADLEY: Well, I was just curious. You know, in reading the language, they have the ability now to set the daily rate. We have nothing to say about that. They're the ones that do it. So I...it almost seems like, in reading the bill, that it might be a little redundant. I just throw that out, and maybe if we vote it out today on Select, we could look at that. [LB727]

SENATOR COASH: I will certainly look at that. I will tell you, there...I should know this but there...we talked about it and this bill was actually drafted by the Supreme Court and they said this is what...this is the statute we need to be able to do this. [LB727]

SENATOR HADLEY: Okay. [LB727]

SENATOR COASH: And they didn't come back and say: What we need to do is increase the daily rate. They said: What we need to do is change the statute in this way so that we can offer this stipend. [LB727]

SENATOR HADLEY: And I know we are trying to get to a vote so I'm not going to speak any longer, but there's just a couple questions that I might ask when we get around to Select, is that why are we not worrying about that the more lucrative we make it for judges to work after they retire, do we get not more of the more seasoned judges

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wanting to retire? I just throw that out. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Coash. Senator Ashford, you're recognized. [LB727]

SENATOR ASHFORD: Thanks. Very briefly, and hopefully I understood...maybe I could ask Senator Hadley again, if I could, Mr. President? Senator, could... [LB727]

SENATOR CARLSON: Senator Hadley, would you yield? [LB727]

SENATOR HADLEY: Yes. [LB727]

SENATOR ASHFORD: Can you repeat your question again? I was trying to get the answer and... [LB727]

SENATOR HADLEY: Which question was that, Senator Ashford? [LB727]

SENATOR ASHFORD: Well, the last one (laugh). [LB727]

SENATOR HADLEY: About... [LB727]

SENATOR ASHFORD: Essentially what we're doing here is simply this: We have an appropriation--and if this doesn't answer it, then you can ask it again--but we have an appropriation of \$80,000. The Supreme Court cannot access funds greater than \$80,000 in order to bring in a retired judge. However, this bill would allow the Supreme Court more discretion in how these people are paid and to what length of time they serve. So it would go beyond what we have now, which is a daily stipend rate. It would give the court more discretion on what is paid. And Senator Pankonin was very helpful in his explanation about the insurance. That insurance amount that they pay was entered into the calculation of the stipend. But this gives them, the court, more authority to move judges around and give more retired judges more discretion to...that's essentially what we're doing here. I think that's basically all we're doing, Senator Hadley. I don't know if that answers your question. And Senator Coash has already explained that so I apologize for being redundant, but I just wanted to double-check that...where we were on that. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Ashford and Senator Hadley. Senator Wallman, you're recognized. [LB727]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Ashford yield to a question? [LB727]

SENATOR CARLSON: Senator Ashford, would you yield? [LB727]

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SENATOR ASHFORD: Yes. [LB727]

SENATOR WALLMAN: Thank you, Senator Ashford. In regards to retirement, what is the average age of a judge retirement? Do you have any idea? [LB727]

SENATOR ASHFORD: I think it's in 70, 72. I don't think there's an age specifically, Senator Wallman. I believe I'm right. [LB727]

SENATOR WALLMAN: So there's not a whole bunch of early retirements then? [LB727]

SENATOR ASHFORD: No. [LB727]

SENATOR WALLMAN: Okay. Thank you. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Wallman, Senator Ashford. There are no other lights. Senator Coash, you're recognized to close on LB727. [LB727]

SENATOR COASH: Thank you, Mr. President, members of the body. Thank you for the questions today, members. Senator Hadley, hopefully you got your question answered. Here is one of the things that we did find out that I neglected to mention. When we talked with judges about how we can get them to take advantage of this program, they were...some were hesitant because of the daily rate. And what they wanted was some direction from the Legislature on how we can work with them. And that's where health insurance came up and so that was the impetus behind LB727. I will tell you, colleagues, this is nothing new to the nation. I would love to take credit for coming up with this idea, but the fact is there are 21 other states that employ a senior or retired judges program. I want to tell you what happened right across the river in Iowa. They were facing a much larger budget shortfall than we were, and their judicial branch was getting hit just as our judicial branch was getting hit. And I will tell you what they did. They instituted a program that we modeled this legislation after, and they took a judicial branch budget shortfall of \$15 million and they reduced, through the use of retired judges in a program similar to this, from \$15 million down to \$4 million. So they didn't erase their budget shortfall but they certainly made a big dent because they realized the cost-effectiveness of using the experience of their already sitting...previously sitting judges in order to help close that gap. And so I have to give credit to Speaker Flood. He's the one that contacted or got in touch with the Iowa bar and they were the ones that came back and said, look, this is what we're doing and you might want to take a look at that in Nebraska. So the precedent is out there. This does save states money. This is an extra tool in the toolbox and I appreciate the body's support of LB727. Thank you, Mr. President. [LB727]

SENATOR CARLSON: Thank you, Senator Coash. Members, you've heard the closing

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on the advancement of LB727 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to vote? Record, Mr. Clerk. [LB727]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB727. [LB727]

SENATOR CARLSON: The bill does advance. Mr. Clerk, items for the record. [LB727]

CLERK: Thank you, Mr. President. Your Committee on Transportation, chaired by Senator Fischer, reports LB1065 to General File with amendments. Senator Lautenbaugh, an amendment to LB951; Senator Ashford to LB817. New A bill, LB1109A by Senator Conrad. (Read LB1109A by title for the first time.) Communication from the Governor. (Read re LB190, LB190A, LB226, LB512, LB643, LB650, LB650A, LB667, LB690, LB691, LB698, LB705, LB708, LB721, LB722, LB723, LB725, LB731, LB736, LB738, LB743, LB746, LB749, LB751, LB762, LB787, LB788, LB791, LB797, LB798, LB806, LB814, LB816, LB832, LB848, LB871, LB873, LB890, LB891, LB892, LB911, LB914.) A second communication. (Read re LB867.) Mr. President, Judiciary will met in Exec Session today at 1:00 in Room 2022; Judiciary, 1:00. (Legislative Journal pages 735-737.) [LB1065 LB951 LB817 LB1109A LB190 LB190A LB226 LB512 LB643 LB650 LB650A LB667 LB690 LB691 LB698 LB705 LB708 LB721 LB722 LB723 LB725 LB731 LB736 LB738 LB743 LB746 LB749 LB751 LB762 LB787 LB788 LB791 LB797 LB798 LB806 LB814 LB816 LB832 LB848 LB871 LB873 LB890 LB891 LB892 LB911 LB914 LB867]

And Senator Langemeier would move to recess the body until 1:30 p.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, the same. We are at recess until 1:30.

RECESS

SENATOR CORNETT PRESIDING

SENATOR CORNETT: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence.

SENATOR FISCHER PRESIDING

SENATOR FISCHER: Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Madam President.

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SENATOR FISCHER: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Madam President, your Committee on Enrollment and Review reports LB770, LB865, LB910, LB910A, and LB1006 all as correctly engrossed. And that's all that I have at this time. (Legislative Journal page 738.) [LB770 LB865 LB910 LB910A LB1006]

SENATOR FISCHER: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk. []

ASSISTANT CLERK: LB952 was introduced by Senator White. (Read title.) The bill was read for the first time on January 14 of this year, referred to the Committee on Revenue, that committee reported the bill to General File with committee amendments. Those amendments were considered on March 1 of this year and were under discussion at the time we concluded debate on the bill. (AM1945, Legislative Journal page 567.) [LB952]

SENATOR FISCHER: Thank you, Mr. Clerk. Senator White, you are recognized to give us a brief recap of your opening on LB952, please. [LB952]

SENATOR WHITE: Thank you, Madam President. Members of the body, let me explain what's happened to the citizens in the metropolitan area of Omaha, Nebraska. The federal government hit us with a body block. They said that we must make dramatic and very expensive changes to our sewer system. This is a sewer system that does not just serve Omaha, it serves large parts of Sarpy County and other cities inside of Douglas County as well as the metropolitan...as well as the city of Omaha itself. In the metropolitan area live, oh, I would estimate at least 400,000, 450,000 of your fellow Nebraskans, well over one-third of the state's population based on the Congressional districts. And here's what happened to them. They were told that for the good of the United States that when there was a big storm they could no longer dump sewage, when their system was overwhelmed, into the Missouri River. And they said that we had to stop it. And the EPA told them that we had a number of years to get it done and then they revoke our permit to dump sewage under those emergency circumstances into the river. Right now, current estimates will be that the citizens in the Metropolitan Utilities District served by the storm sewers will have to spend at least \$2.8 billion to accomplish that work. And because we don't have the money and because the federal government is not giving us any significant contributions at all to do this work, we have to go and borrow it and put out a bond. Now, that means that the actual cost of repaying at current interest rates will almost double the underlying cost. So we'll be looking at close to \$6 billion if the project is brought in, at, or under budget. The issue that we face is this, this is a huge fiscal crisis looming and looking directly at the city of Omaha and the cities of Bellevue, Gretna, Millard now a part of Omaha, Ralston, all the cities in the surrounding area, even parts of Carter Lake, Iowa. And what's going on is that we must not only find the money ourselves, because we recognize, your fellow Nebraskans in the

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metropolitan area recognize that we cannot ask the state to lend us the money. We can't ask the state to help pay for this service because the state doesn't have the money. Now, I've talked to Senator Carlson and I've talked to Senator Christensen about some issues. And when I first got here, the state had a budget surplus. And the people in the Republican River Valley were hurting, they had a crisis because we had to get water into the river and take it to Kansas. We were able, as a state, to link up and help, lending them money and they're going to have to pay it back. That's what Nebraskans would like to do. That's who we are as a people. We try to work, whether you're from the city or you're from the farm, we try hard, I hope, to work together. Now, my constituents, the folks in the metropolitan area, recognize the money is just not there to ask your help with an appropriation. But what we found is most distressing. It is going to cost the average person soon, in a matter of years, \$50 a month per home in additional costs just to have a sewer service. That's every home and you got to have it, it's attached to your home, there's no running or hiding. It's a property tax in every fundamental way except that as we struggle to pay that back we've been advised by the Department of Revenue... [LB952]

SENATOR FISCHER: One minute. [LB952]

SENATOR WHITE: ...that we're going to have to pay sales tax, sales tax on that \$50 as we struggle to pay this unfunded federal mandate. That sales tax, if budgets go right now, over the years will add a huge burden to the people in the metropolitan area. This bill does not ask that any taxes that we're currently getting, the current sewer fees, normal fees, be excused. It asks only that as we wrap this up, and I guess there's been about \$100,000 collected as they've started to ramp it up, that that money be moved away from being taxable. Now the initial bill also has a provision that helps statewide. [LB952]

SENATOR FISCHER: Time. [LB952]

SENATOR WHITE: Thank you, Madam President. [LB952]

SENATOR FISCHER: Thank you, Senator White. (Visitor introduced.) As the Clerk stated, there are amendments to the...excuse me. As the Clerk stated, there are amendments from the Revenue Committee. Senator Cornett, as chair of the committee, you are recognized to open on the amendment. [LB952]

SENATOR CORNETT: Thank you very much, Madam Chair. It is a very simple amendment that switches two words from "means" to "actual." It's a technical amendment. I would urge the body to support the amendment to Senator White's bill. And I will be discussing some further questions from my cities in regards to this bill in a few moments. Thank you. [LB952]

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SENATOR FISCHER: Thank you, Senator Cornett. You have heard the opening on the committee amendment. Senators wishing to speak: Senator Utter, Cornett, Price, White, Gay. Senator Utter, you are recognized. [LB952]

SENATOR UTTER: Thank you, Mr. President...Madam President, excuse me. Colleagues, I rise to just talk about the bill in general, I guess. And as a member of the Revenue Committee I sat through the hearings and I conscientiously listened to the discussion that we talked in Revenue Committee and listened to the testimony that was given by the various parties. And I must admit to you I have a certain amount of sympathy for the size of the bill that is facing Omaha. It's my understanding it's faced Omaha for a long time. And then I have to look at the bill and I've talked to my people at home in Hastings about the bill. And I must say I'm having a very difficult time coming to terms to support this overall concept. Hastings utilities has, in the past few years, gradually upgraded the utility system in Hastings, and this includes sewer and this includes new gas lines and this includes new water lines. And they've done it on a systematic basis over a series of years and have never complained about the tax that was on the pipes or the tax that was paid. And I'm sure that all across the state there's numerous cities and towns and villages that have undertaken improvements projects, whether federally mandated or not, to improve their utility system--water, electric, gas, and sewer. And so I see this as a fairness issue that we have, since 1967, been paying this tax when the sales tax come into fruition. And now all of a sudden because of the size of the tax that is facing Omaha, and I understand has faced Omaha for a number of years that they've known this was coming, that now the...we should give up those revenues that other utility systems have maybe not gladly paid but at least have paid. And so for that reason, I'm having a...I'll have a difficult time supporting the amendment, supporting the bill. It just seems to me as a matter of fairness at least to the people of the state of Nebraska as a whole that this issue now carving out a special tax for Omaha, and we talked about the federal mandate...just on federally mandated projects. And as I understand the bill, the sewer system, the separation of the sewer system is the only federally mandated project. The rest of the projects are being done because this is the ideal time to do them when those...when the streets are torn up. So for that reason I can't support Senator White's bill and I'm sorry about that. Thank you. [LB952]

SENATOR FISCHER: Thank you, Senator Utter. Senator Cornett, you are recognized. [LB952]

SENATOR CORNETT: Thank you very much, Madam Chair. The reason I rise to speak today is a number of unanswered questions that pertain to my county and four of the cities in my county that are being lumped together under the city of Omaha's plan. The city of Omaha has listed the four cities in Sarpy County as co-owners and are therefore charging them the same fee that they are charging everyone in the city of Omaha for this improvement. The issues that the cities of Sarpy County have with this are (1) they've already paid to separate all of their sewers through a property tax increase; and

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over the course of the last two years, in conversations with the city of Omaha, I'm going to read you a letter from Mayor Black. There are five specific questions posed to the city of Omaha at the numerous meetings that have been asked multiple times and at multiple meetings. There has been no action or response to these questions. The questions are not that difficult to answer. One, how is the city of Omaha defining Sarpy County residents as co-owners? The city of Omaha entered into a compact agreement in the 1970's to provide sewer service for a fee to Sarpy County. The federal government...for...in exchange for the federal government helping build their sewer system. Some of the other questions were, for the city of Papillion, users are graded at different levels, whether they're bulk one, bulk two, and the questions they had is, should a bulk two customer be considered an owner and responsible for these improvement programs that is almost totally in the service area for Missouri River Water Treatment Plant, which is in a completely different watershed than the Papillion Watershed. Should bulk two customers only be responsible for the increased costs of the CSO program that are directly related to the Papillion Creek Waste Treatment Plant and inceptors? That is only a small portion of the Omaha wastewater system that bulk customers...bulk two customers use. The mayor's in Sarpy County also posed a question to the city of Omaha. If they face future improvements like this since they are listed as co-owners, will the city of Omaha help Sarpy County and the cities of Sarpy County in cost-sharing for their improvements? No answer was ever received from the city of Omaha. Should the cost of service model be used to analyze the impact of classifying bulk customers and out-of-Omaha ETJ customers as nonowners? That is in the Extra Territorial Zoning Jurisdiction. Is the 11...and this is the last question. Is the 11.99 percent of total cost distributed a portion to the bulk two customers when they produce only 4 percent of the flow? The cities of Sarpy County are more than willing to work with the city of Omaha on this issue. We want answers. We want to know why we're listed as co-owners? What our rates would be if we weren't listed as co-owners? Why we are being assessed the same amount as people that live in the city of Omaha when we only use a percentage of that system? I thank the body for their consideration on this. There were a number of rumors last week that have led me to be looking at an amendment that were going around the Capital. One that the city of Omaha was looking at discontinuing sewer service for Sarpy County if... [LB952]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB952]

SENATOR CORNETT: ...we did not support this bill. That is not possible under the compact or one way they list us as non-co-owners raising our rates or raising the fees associated with that. That led me to looking at an amendment that, if this bill makes it to Select File, I will be looking at where you will consider sewer systems or sewer fees like you do natural gas, and any fee increases would have to go through the Public Service Commission. With that, I thank the body for their time and urge the support of the bill.

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[LB952]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Those wishing to speak, we have Senators Price, White, Gay, Adams, Krist, Hadley, and others. Senator Price, you're recognized. [LB952]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise, I support this bill. And I will let you know, Senator Cornett has outlined a lot of the concerns there. But I would like to call attention to the fact that the underlying bill deals with an issue, but it doesn't quite deal with it in a manner which is agreeable. In that the CSO is just that, sewer. Gas and water lines are not a mandate and we all know that. I'm also concerned with as they dig up the roads, they get new roads. And instead of paying a prorated value for those roads, and I'm not going to stand here and act as if I know how to make that prorated formula up, but the residents of Sarpy County would have to pay for that new road. And the other thing is, how much is actually being done? Because I believe we have in there all new work being done. And it's my understanding that the linear miles involved in this, as directed for the federal mandate, are very finite and defined. So we're going to have to work on that. So that is of great concern. And as far as the part where some of my colleagues have stated a difficulty in understanding because of the magnitude of the charges, I would say, did we not just this week, for something in the greater Omaha area that was of a smaller magnitude, in the learning community per diem, did we not jump on that to eliminate that? So, you know, sauce for the goose and sauce for the gander and all the other sayings we like to have, everybody seemed to be pretty agreeable, other than ten senators, that the learning community per diem should go. So now we have something orders of magnitude larger. Yet we have failing support. I'll tell you why in my opinion. One and a half percent goes back to the local community, and that 5.5 percent goes to the state. And that 5.5 percent gets doled out to everybody. Now people say that's a loss of money and I take issue with that. Would someone please take the time to show me the line-item in a budget that counts on that money today. I submit you'll be hard-pressed to show me a standing requirement for that funding as it doesn't even exist. So those are the things I would like to see the commentary and the discussion on to work out as we move forward. And I do anticipate there will be amendments that follow to help clarify the separation of the sewer line from the gas and the water. And as Senator Cornett pointed out the ownership issue, there again is another amendment in the waiting because, you know, how you define things are very important. And with that, Mr. President, I yield my time. Thank you. [LB952]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I'd like to go back for just a moment and put this in perspective to you. Your fellow Nebraskans in Omaha and in Sarpy County, Douglas and Sarpy County, are going to pull themselves out of this hole and they can't

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and won't get any real federal help and they can't and won't get any state help. They're going to do it. They didn't make this problem, they didn't ask for this problem. It didn't come to them on a slow level over time where they could cope with it. They are told, you have to spend this money and you have to do it at the federal government's time line, not theirs. So what we're here about today, let's make no doubt about it, is the people in Douglas and Sarpy County have their backs to the wall. And all they are asking, all they are asking the state is, please, please don't pile on. As we struggle to pay just that portion of our bills attributed to this federal mandate and the work that we have to do, because you can't do it partway. You have those streets torn up, they're closed, it causes economic loss, it costs money to put the paving down. If you do that, you've got to replace the water and the gas at the same time, there's just no other way to do it. So let's be clear, we're asking for help as fellow Nebraskans. And when other Nebraskans, folks in the Republican River Valley are having trouble or, as Senator Carlson taught me, and I didn't support the latter bill, but getting rid of the weeds in the waterways and said these waters are the problem of the state, not the individual landowners. Well, this is a problem to keep the river clear. And it's an interstate problem and it's a statewide problem. And the people of Douglas and Sarpy know that we don't have the money at the state level help us. But don't step on our fingers as we're trying to climb this ladder out of this mess, please. And that's what this is, a simple plea as one Nebraskan representing many to all of you who represent many more. Now Senator Utter raises some points that are legitimate and I'd like to address a couple of them so you understand. The Omaha area is very unusual. The city of Hastings owns its own water system and its own gas system. And when a sales tax is charged on that water or that gas it goes back to the city and they put it in a sinking fund to make the improvements Senator Utter talks about. That does not happen in Omaha. What happens in Omaha, it's the Metropolitan Utilities District simply collects that tax, the 5.5 cents go to the state and 1.5 cents goes to the city. And the ratepayers, who I am concerned about, don't have the ability or the right to require that that money be held for regular future improvements, we lose it. So what we're looking at, folks, is something this simple. We are looking at a situation where your fellow Nebraskans have actually just getting leveled and we need your help. And something Senator Cornett alluded to and something I've been most disappointed in this debate has been the number of rumors and what I would consider unfair tactics on this issue. People of good faith can disagree on this issue. But Senator Cornett indicated the rumors that the city of Omaha could shut Sarpy County off the system. Those rumors were circulated for a reason, that they could unilaterally charge more. Today, this morning I was asked to speak on a radio show and I talked to exactly what I'm telling you now, in the same manner. And it was rumored that I had denigrated, had slammed the folks in the Republican River Valley. I did not such thing. But that's a tactic, it's a tactic to turn Nebraskans against Nebraskans. It's a tactic to decide that we are not one people, we are not one state, that people in Omaha are somewhere different or somehow different than the people in the Republican River Valley. [LB952]

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SENATOR LANGEMEIER: One minute. [LB952]

SENATOR WHITE: All we are is Nebraskans trying to provide for our families and have a life. We face different challenges at different times. But we don't glory in the troubles other areas are suffering and we certainly don't pile misery on that by additionally taxing them. Here's the problem I have on a...as a tax policy that really concerns me. This is not real economic activity. This activity is engaged only because we are ordered to engage in it by the federal government. It is in no way taxing income from profitable economic activity, it is in no way making an investment in property so you can make a profit, hopefully. It is in no way going out and selecting to purchase something you have a choice on. And one of the, I guess, myths that have been put out is that somehow the city will have to do a property tax. Well, folks, this is a property tax. You can't have a home or a business without a sewer, you just can't. [LB952]

SENATOR LANGEMEIER: Time. [LB952]

SENATOR WHITE: And that is the property we're dealing with. [LB952]

SENATOR LANGEMEIER: Time. [LB952]

SENATOR WHITE: Thank you, Mr. President. [LB952]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Gay, you're recognized. [LB952]

SENATOR GAY: Thank you, Mr. President. I'm not going to talk about unfunded mandates because we all don't like them. We've all said we don't like them, let's move on. The question is, Senator White, if he'd yield to a few questions. [LB952]

SENATOR LANGEMEIER: Senator White, would you yield? [LB952]

SENATOR WHITE: Certainly. [LB952]

SENATOR GAY: Senator White, you handed this out, this bill, and it's... [LB952]

SENATOR WHITE: MUD... [LB952]

SENATOR GAY: Yes. [LB952]

SENATOR WHITE: ...bill, how they bill for things. [LB952]

SENATOR GAY: Yes. And I highlight, there's several things on the gas infrastructure replacement, there's a \$3 surcharge; water infrastructure there's a \$2 surcharge. And

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then city of Omaha sewer, it says \$15.92. [LB952]

SENATOR WHITE: Right. [LB952]

SENATOR GAY: This bill is just a random bill, I assume it's somebody in Omaha. But on that, so on this double tax you're talking about,... [LB952]

SENATOR WHITE: Yes, sir. [LB952]

SENATOR GAY: ...tell me on that, you're saying they're being taxed on these surcharges or the actual sewer bill? Which part are they... [LB952]

SENATOR WHITE: Well, let's go through it slowly, Senator. And I would just tell... [LB952]

SENATOR GAY: Not too slow, I only got 5 minutes, so (laugh). [LB952]

SENATOR WHITE: Okay. I'm sorry. But it is complicated. I would argue with you if the federal government would get past these unfunded mandates I will too. But as long as they're making us spend the money I can't. But I would tell you right now an unfunded federal mandate is a tax. You know, the federal government can take money from you from an income tax and then say we're going to build this sewer treatment plant for you. That's a tax or they could just order you,... [LB952]

SENATOR GAY: Yeah, I'm not arguing that,... [LB952]

SENATOR WHITE: ...pay for it, so that's tax one. [LB952]

SENATOR GAY: Yeah, let's get to this. [LB952]

SENATOR WHITE: Tax two is that when MUD buys pipe for water or gas to comply with this big project, MUD does pay sales tax on that pipe. Okay? So they pay sales tax on any item, any consumable item that they would normally have to pay, that's tax two. Now here's the thing, if we had the cash, for example, Senator Heidemann, Auburn got a big federal grant to build a sewer treatment plant. And that's great, I'm happy for them and glad that happened. They didn't have to pay sales tax on that because the federal government paid it and they don't have to do what we're going to on the third level of tax. Because we, through MUD, have to borrow that money and then pay interest on it as well, we're going to pay tax again because every payment I make on my credit card to pay off this pipe that we've already paid sales tax on, they are going to put a 7 percent tax on that payment plus the interest that that payment represents. That's a third level of tax, in my opinion. [LB952]

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SENATOR GAY: Right. And I agree with that. So now we're at the point, though, how much has been collected on that other tax so far to date? [LB952]

SENATOR WHITE: I want to talk to you about that because I had initial information, then they sent me corrected information. On the sewer...the water improvement so far for work MUD has done so far consistent with the federal mandate, it's \$1.8 million. I had said \$99,000 and that was inaccurate. I just got the additional number just now. It's \$1.8 million because they've started to try to do the work. We are not asking for that back. But we are asking that as we move forward that those sales taxes on that portion not be collected. The \$15, the normal sewer fee, we have no objection that sales tax be levied on that. The water and the consumption tax that we're using for water, by the way, we pay sales tax on water out of our tap. Anybody who uses well water doesn't pay sales tax but we do because it's coming through that. We're not saying normal sales tax on water should be excluded, it will not, it stays the same. We're simply saying to comply with this federal mandate those expenses and that stream of payments to pay those off should be excluded from tax. [LB952]

SENATOR GAY: Right. And on the portion that's extra, I guess, and I'm not going to get...I will later on, the Sarpy County situation, my colleagues have discussed that and I'll address that a little bit more. What I'm saying at some point we need to explain the money that would be coming in, projected revenues that we haven't yet collected,... [LB952]

SENATOR LANGEMEIER: One minute. [LB952]

SENATOR GAY: ...narrow that down, is going to be how much? Because people are basically saying we're going to give up state revenue, the city is worried they're going to give up city revenue. [LB952]

SENATOR GAY: Um-hum. [LB952]

SENATOR GAY: There's a certain point, I'm leaning towards supporting this because what I'm saying is we shouldn't be collecting it in the first place. Don't go spend money that we haven't collected. How much is that? [LB952]

SENATOR WHITE: It depends on the following, Senator, right now under the bill it would exempt a class...this kind of a wide ranging pipe replacement across the state. And that's the fiscal notes you've looked at on the bill right now, about \$5 million a year which, oddly enough, about \$1.3 million only is Omaha. So the Fiscal Office thinks there's other kinds of projects like this going on in the state, in small communities throughout the state. I like that. I don't think when a small town is facing its survival and has to replace its gas and water in a whole business district as a complete project replacement, not pipe by pipe breaking, okay, but a complete project replacement, I

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don't think we should get in their way of trying to rebuild their community. [LB952]

SENATOR LANGEMEIER: Time. [LB952]

SENATOR WHITE: So that's what I initially offered. We have an amendment,... [LB952]

SENATOR LANGEMEIER: Time. [LB952]

SENATOR WHITE: ...I have an amendment that will take that out and limit this only to Omaha. And then the fiscal on that... [LB952]

SENATOR LANGEMEIER: Time. [LB952]

SENATOR WHITE: ...is \$1.2 million. I don't like that though. [LB952]

SENATOR LANGEMEIER: Thank you, Senator Gay and Senator White. Senator Adams, you're recognized. [LB952]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, I'm going to sound like a broken record and you can say that I'm crying in my own soup, if you want, so be it. And I took on this job as Education Committee chair and I'm fine with it. I know my responsibilities. But let me lay it out to you again. You know what the perfect storm is for the state of Nebraska when it comes to TEEOSA aid? The perfect storm is three things: ARRA money going away, land values not picking up, and revenues not picking up. I ask you, what's your guess? We know that our money is going away, it's gone. Land values, your guess is as good as mine. Revenues, (laugh) who knows? My guess is they aren't going to be where they need to be. So where that leaves us, all of us, not just me but all of us is not just next year but probably the next year trying to figure out how we're going to even get state aid back to the same level we're at right now possibly. Now, I wish I were more articulate and could stand here and debate tax policy. But quite frankly, I can't get by this impending storm that we're going to have on TEEOSA. And whether it be Senator White's bill here, Senator Loudon's bill the other day, virtually eliminating two or three bills we had in Education with my name on them because they carried a fiscal note, I know what it's going to be like to make substantial cuts in state aid over this next biennium and work with school districts of all sizes to try to explain. And they're all going to stand there and say right now, we understand the cuts have to be made, we understand it, we get it, that's all right, we're going to prepare. And then when it hits the floor and when it comes down, all heck is going to break loose. Why is my school getting hit? Or why is this school gaining and mine losing? And that's no fun. So whether it's in the Education Committee on bills there that carried a fiscal note that didn't get out or in the Revenue Committee if it was going to erode the tax base, I said no to it. And quite frankly, I'm a little embarrassed that on some of those Revenue bills or Education bills I said no what was probably pretty good policy, good tax policy, good

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education policy. But I'm not in a position right now to give anything away given the impending storm we've got coming on TEEOSA. Thank you, Mr. President. [LB952]

SENATOR LANGEMEIER: Thank you, Senator Adams. Senator Hadley, you're recognized. [LB952]

SENATOR HADLEY: Mr. President, members of the body, I raise just to ask some questions, make a few comments. We're talking about a federal mandate here. And we're saying this is terrible, it's a terrible federal mandate. Well, if I understand the federal mandate it's because Omaha, when it has large rainfalls, they haven't separated their storm sewer and their sewage properly. And so some of it can be dumped into the Missouri River in terrible storms. Is that a bad federal mandate? Do we want to march on Washington and say, by golly, we want to continue to dump things in the Missouri River? How long has this been going on? We act like it's brand new. Somebody finally told us that this is wrong. Well, it's been wrong for a long time. I have sympathy, it is money. Clear up a couple other things. We talked about sales tax. I checked with the city of Kearney because they run an enterprise fund for their water and sewer, the only enterprise funds that they have. When they collect sales tax that sales tax goes to Lincoln, like any other municipal sales tax, and it's sent back to them in one check. It is not separated out, it does not go back to the sewer and water fund, it goes to the general fund, just exactly the way MUD and Omaha works. It is a question about tax policy. I think there are some good points on both sides. Another question I have is MUD's interest in this. We heard testimony from MUD about how bad this taxation would be. Well, I guess, I'm confused about that because all MUD does is collect the tax and send it to Omaha. They're not paying the tax, they're collecting the tax. But suddenly they've become a player in this, a quasi government agency has become a player in whether or not we should be collecting the tax. I understand the cities of Sarpy County, the residents of Sarpy County being very interested in it because they're the ones having to pay it. I understand the citizens of Omaha, but I certainly don't understand why MUD has an oar in the water on this one. They're the collector, they collect it, then send it on. So it concerns me that they're involved in this. They're lobbying this. And so I ask why, why do they do that? I think this is a difficult issue. I will finish up by saying Kearney recently, in the last three or four years, we developed a new well field up northwest of Kearney. The reason we did that is because our old well field, about 12 wells, is on the Platte River. And we were quite frightened that we would have a chemical spill, some type of accident that we would no longer have a well field or the federal government would come in and say, your well field is in the wrong place. Did we wait? Did we wring our hands and say, no, we can't afford that. We went ahead and did it, it's done, it's completed. I feel very sorry for the taxpayers of Omaha, but it is an Omaha problem. Right now I see it as an Omaha problem. If there are other federal mandates, you can argue whether they're right or wrong, but in this case I think it's an appropriate federal mandate. [LB952]

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SENATOR LANGEMEIER: One minute. [LB952]

SENATOR HADLEY: Thank you, Mr. President. [LB952]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Louden, you're recognized. [LB952]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I looked at this bill and also looked at it in committee, I guess, I'm still wondering about some of the issues on this. And I was wondering if Senator White would answer some questions on this. [LB952]

SENATOR LANGEMEIER: Senator White, would you yield? [LB952]

SENATOR WHITE: Certainly. [LB952]

SENATOR LOUDEN: The way I understand the problem is, is as you build this pipelines or whatever, sewer lines and all, then they have to pay a sales tax on those pipelines and as they buy the material to put it in there, that's correct on that part? [LB952]

SENATOR WHITE: It's half correct, Senator. There's two levels. The Metropolitan Utilities District does pay sales tax on the pipes it builds. So the idea that it just collects them, as Senator Hadley had indicated, isn't accurate. It actually pays... [LB952]

SENATOR LOUDEN: Now when they pay that... [LB952]

SENATOR WHITE: ...sales tax on the pipes that it buys. [LB952]

SENATOR LOUDEN: Okay. Now does the city collect...get part of that sales tax also... [LB952]

SENATOR WHITE: They do, they get... [LB952]

SENATOR LOUDEN: ...beings it's inside the... [LB952]

SENATOR WHITE: ...1.5 cents out of every 7 cents collected. [LB952]

SENATOR LOUDEN: On that. And then as they get the pipes in the ground and they start using them they charge a fee in order to pay for those pipes. Is that... [LB952]

SENATOR WHITE: That is correct. [LB952]

SENATOR LOUDEN: And then as they charge that fee, they charge a sales tax on that

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fee and... [LB952]

SENATOR WHITE: Yes, for water and gas, yes. [LB952]

SENATOR LOUDEN: Yes, and the water and sewer. [LB952]

SENATOR WHITE: Well, sewer is handled by the city and that's different. [LB952]

SENATOR LOUDEN: Okay. [LB952]

SENATOR WHITE: MUD is one thing, the city is something different. The city has the ability to not pay sales tax on its purchases. So it can buy the pipe, if it chooses, and not pay a sales tax on that at all. So here's what is odd, the city may end up buying the pipe for the sewer side or lending its certificate to the contractor so it doesn't pay sales tax, if that's what the city chooses to do. But then it will pay...it will charge sales tax to its own citizens as they pay off the bill. [LB952]

SENATOR LOUDEN: As the fee to use those...for the people to use those sewer lines there is a fee. And then they have...they charge a sales tax on that fee... [LB952]

SENATOR WHITE: Right. [LB952]

SENATOR LOUDEN: ...to help pay for the pipes back. Now... [LB952]

SENATOR WHITE: Right and normally sewers, traditionally, you know, the fees have generally always been taxable. Traditionally, water has been taxable, gas has been taxable. But the city's ability to purchase things without paying a sales tax is also well established. [LB952]

SENATOR LOUDEN: Yeah. In other words, they pay a sales tax for the fee to use it and then...but there is also...they have to charge a sales tax in order to pay off whatever money they use to buy that pipe. [LB952]

SENATOR WHITE: Correct. [LB952]

SENATOR LOUDEN: Yeah. [LB952]

SENATOR WHITE: And we have to borrow that money. And therefore, the interest, basically, doubles it. So we pay a sales tax on the \$1,000 pipe, right, we pay \$70 in sales tax on that. We have to borrow money and that means we pay back \$2,000 for that pipe over time. And now we have to pay another \$140, the ratepayers, the citizens do, \$140 more dollars for that pipe. [LB952]

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SENATOR LOUDEN: Now, as we're getting back to the sewer system because that's the big deal in Omaha, it has been...I think I started taking the Omaha World-Herald when I was 19 years old and they had problems with the sewer line then. And it hasn't went away in, what, nearly 50 years or so. Anyway, if they would go ahead and put that...buy that pipe and put it in with property tax, then would they not pay any sales tax on any of that sewer pipe? [LB952]

SENATOR WHITE: If the city paid cash for that pipe, they wouldn't pay sales tax at all in the first instance to buy it. And if they had cash and they couldn't justify charging it back to the citizens, you know for like a credit card payment, there would be no sales tax either. If you take, for example, I think Senator Heidemann was kind enough to talk to me about, I believe, it was Auburn that had a big sewer project that the federal government paid for or most of it. Federal government doesn't pay sales tax, period. So the people of Auburn get a new sewer system, the federal government pays for it,... [LB952]

SENATOR KARPISEK PRESIDING

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: ...which is good, but they don't have any stream of income, you know, on their sewer fees paying for that again that they're getting taxed on. So it's a completely different situation. Omaha is unique in size and how it got hit on this. [LB952]

SENATOR LOUDEN: Okay, and that's what I was wondering, if that would go away if they did this with their property tax? [LB952]

SENATOR WHITE: Well, if the city paid cash for this, right, and then they raised property taxes for it literally, there is no sales tax on property tax. So you'd be right, Senator. [LB952]

SENATOR LOUDEN: Okay, thank you, Senator White. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senators Louden and White. Next is Senator Wallman, followed by Senator Pankonin, McCoy, White, Fischer, Heidemann, Council, Gay, and others. Senator Wallman, you're recognized. [LB952]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator White yield to a question? [LB952]

SENATOR KARPISEK: Senator White, would you yield to a question from Senator Wallman? [LB952]

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SENATOR WHITE: I will. [LB952]

SENATOR WALLMAN: Thank you, Senator. You know, this is a storm water issue especially. Have you talked to the NRDs for assistance in this storm water project? [LB952]

SENATOR WHITE: I have not, Senator. You know, I know that there have been a number of debates in the watershed area, you know, should they, for example, have a runoff tax and tax big parking lots and stuff. But I'm not...I don't know what the details are of those at all. [LB952]

SENATOR WALLMAN: Thank you. This is a huge issue for parking lots and city streets and churches and things like this. So thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Wallman and Senator White. Senator Pankonin, you are recognized. [LB952]

SENATOR PANKONIN: Thank you, Mr. President. I want to visit a little bit today about this issue. And I want to start by saying how much I respect Senator White and the fact that he's looking out for his constituents and his city and...he does such a good job when he gets up to speak and so much ability. So he's doing the things he thinks is correct and I admire him for it. I want to tell you a little story about the community I'm from, Louisville, Nebraska. As many of you know, I was the mayor of this little town of slightly over 1,000 population before I was elected down here to the Legislature. And we had some water issues at that time regarding our well field. When I say well field, it was one bigger well and one small well. And we had a state mandate when I took office to fix that problem because our major well was too close to the Burlington Northern Railroad line and they were always worried about derailment and a chemical spill or something like that that would take that well out. And our second, smaller well was in the state highway right of way. So we had problems with both wells. And the small one didn't have enough capacity to run the city's system. And so my worst dream, my bad dream during those days was that our larger well would go out and we would have that truck show up with gallon jugs of water and wondering how long that might happen. So we eventually started down the road to a solution that was mandated by the state of Nebraska. And that ended up with a new well field, new pipes under the railroad tracks to get to a new water treatment facility, new pumps and that sort of thing. That happened after I was out of office and I was down here. But, of course, the water rates went up significantly because the community of Louisville had to service bonded indebtedness and pay for this new facility. And citizens weren't happy and probably are still not happy that their water rates went up significantly, like we're talking here. So I had to go back to a meeting once, I was down here to help explain why that little city had to do this and it was mandated by the state of Nebraska. Anyway, sales tax has

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been and was paid on those bills and will be for years to come. And so I've had people from my community and the current mayor say, why would we be doing this for Omaha when we were mandated by the state, in this case, to do something with our water system and we had to pay the sales tax. So I've got an issue that way. The second issue I have with this bill, as Senator Adams has said, we will be facing some very difficult times ahead with school funding. And the TEEOSA and school funding, in general, also affects a committee that I'm on and that's the Retirement Systems Committee, because the education component is a large part of our retirement system. Those monies come from local property tax, state aid, sales tax when we can generate it. And I think that is a legitimate question to be concerned about our tax base, as Senator Adams has said, as we move forward because of the situation that the state is going to find itself in of really needing any nickels and dimes, I think we're going to be down at that level before maybe these next two years are over. So even though I'm very sympathetic to the situation that Omaha has found itself in to no fault of their own, it was just a design issue from going way back that was obviously a mistake. But at the present time we've got the situation when there are storms of having untreated sewage traveling into the Missouri and that's not right and needs to be fixed. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR PANKONIN: And so I appreciate the fact that it's going to get fixed but I have a hard time, I'm going to listen to the debate and look at the possible amendments. But I know my small community had to face a mandate from the state of Nebraska. And my citizens, the community I live in and myself will be paying sales tax on those bonds and that indebtedness for many, many years because we were mandated by the state to fix our water problem. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Pankonin. Senator McCoy, you are next and you're recognized. [LB952]

SENATOR McCOY: Thank you, Mr. President. Senator White yield to a question, please. [LB952]

SENATOR KARPISEK: Senator White, will you yield to a question from Senator McCoy? [LB952]

SENATOR WHITE: Oh, certainly. [LB952]

SENATOR McCOY: Just looking for a yes or no answer here, Senator White. Did this legislation originate from MUD? [LB952]

SENATOR WHITE: Well, Senator, it was a joint issue with I and some other people who have been talking about it a long time. When I ran for office, I started talking about how

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are we going to this and handle this. Doug Clark, who is MUD's lobbyist, is a neighbor of mine. He lives about four blocks away, so we would meet and talk. So that's how it came to me. [LB952]

SENATOR McCOY: Thank you, Senator White. And is updating this 100-year-old cast iron water and gas infrastructure, is that federally mandated? Again, just yes or no. [LB952]

SENATOR WHITE: Some questions can't accurately be answered yes or no. [LB952]

SENATOR McCoy: Well,... [LB952]

SENATOR WHITE: But what I would tell you is there are federal mandates in different areas. Whether or not this particular pipe under certain circumstances is required, I can't tell you. But I will say, for example, cast iron pipes with lead joints, there is Clean Drinking Water Act requirements that those kinds of things be replaced. [LB952]

SENATOR McCOY: I understand that. But are we currently under a federal mandate to replace that infrastructure? [LB952]

SENATOR WHITE: Not that I am aware of. [LB952]

SENATOR McCOY: Thank you, Senator White. I'd yield the remainder of my time to Senator Heidemann. [LB952]

SENATOR KARPSEK: Senator Heidemann, you're yielded 3 and a half minutes. [LB952]

SENATOR HEIDEMANN: Thank you, Mr. President. Fellow members of the body, I think there's been a little bit of discussion whether this will affect the budget and if this has actually been accounted for. I do want to talk a little bit about that. I've got my light on, I'm going to talk about a few other things. I'll probably press my light again and talk again on a few other items. But for this time, I believe it has been stated that this will not affect our budget that we have before us. I will say that as you look at the fiscal note, the way I read the fiscal note anyway, it looks like it's going to affect us by \$3,669,180. It will affect this year, that's a partial year I will have you say. So as you look at the fiscal year 2011 and 2012, it actually grows to \$6.3 million, a significant amount of money. And as you go out year after year after year, it actually grows and gets bigger. But we can start just with fiscal year 2010 and 2011 what affects us now, the \$3.6 million. And I probably will talk a little bit more about this. We've heard Senator Adams talk about it. We are in a very, very, very difficult budgeting year. We have been underneath the gun for well over a year, as we did our biennium budget last year, as we went into special session and had cuts upon cuts and transfers upon transfers, it's getting to the point

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where it's very difficult to transfer anymore, because there's no more to transfer. And the cuts are being felt. If you don't think that this \$3.6 million isn't a significant amount of money this time around, you're wrong. Right now \$1 million is very important to us, \$100,000 is very important to us. We are talking about looking for places at \$10,000. So this is...this will affect this year's budget, it will significantly, definitely affect the out-year's budget significantly. It's something as when we're talking about this bill and if you're for this bill, if this is a priority of this body so be it. But we have to realize that this will affect us. And I will touch... [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR HEIDEMANN: I will touch on this point later on. Thank you. [LB952]

SENATOR KARPISEK: Thank you, Senator McCoy and Senator Heidemann. Senator White, you are next and you are recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I have a number of points I'd like to make. First, I really appreciate Senator Heidemann's views on this. And I remember the Governor's State of the State address, said we're not going to rely on new taxes to balance the budget, we're going to control spending, which I appreciated that. This is not economic activity that's undergone. Senator Heidemann has apparently has decided that we're going to have to spend this money. I would urge you that we haven't collected it and we shouldn't be planning on it, nor should we ever plan that once the federal government requires spending that we get to tax on that too. I just don't think that's good tax policy. The other thing I want to talk to you about is fairness for a minute, folks. And this is very important. When the federal government ordered Omaha to change its sewer system, that was a shot to Omaha, we get that. And we have to spend \$3 billion, well, actually \$6 billion by the time you pay for the interest to comply with that order. And I really appreciate my long time bench mate and friend, Senator Adams, and Senator Heidemann's concerns over the budget. But one of the things we've always talked about is that as Nebraskans we will fairly share the burden of taxes across the state. We won't pick on one group of people more than another. That is why we have reduced valuations for farmland. That is why we have graduated income. We have equalization in TEEOSA. We look at what your ability to pay is, and then we look at what your needs are. This is not at all an equal burden. The city of Omaha, the people of Sarpy County, the people of Douglas County have to pay sales taxes on what will be \$6 billion that they don't want to spend, they shouldn't have to spend but they do. So as they have to pay that \$6 billion, the state says, you know, I really feel for you, Omaha, but I have this project over here I want, and I know nobody else in the state has to bear anywhere near that kind of a tax burden. But, jeez, we need the money. Well, a couple of things happen there, (1) is we're ignoring that all Nebraskans are in this together; (2) we're saying, gosh, tough luck, but we sure could use the windfall of money that this unfortunate event that you're suffering through will cause and we're going to take it. And

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then, (3) we're going to spend it where we want, not to go back to help you. And so we have said, too, we have an addiction to spending. We are just going to spend money because we see it coming down the pike. And there is no reasonable way that Senator Heidemann or anybody could really anticipate and decide in advance that they were budgeting for an unfunded federal mandate. And if they did, I would say that's an illegitimate assumption that you are going to base the tax policy of this state on orders to spend money. And what I'm really concerned about is, other areas are going to see similar problems, folks, and have. I don't mean to pick on my good friend, Senator Carlson and Senator Christensen from the Republican River Valley, but I do that because they made a very compelling argument three years ago. They said, look, the state entered into this compact, we didn't want to do it, the state is the one that would have to pay it. They'd have to pay Kansas. Why are you dumping it on us? And I thought that was a heck of an argument. I think it was a statewide problem. And we tried to help. And I appreciate what we did. And it's going to happen to other communities... [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: ...and has happened to other communities. And I have the same principle. I don't think, especially when it's really substantial that we as a state should pile on. Now that's just me. And, again, I just want everyone to know this is not rural against urban. It's not us versus them. What it is, is we have a problem in Omaha and we need your help. I greatly appreciate my friend, Senator Pankonin's comments about, you know, sorry about that, we had to do it. And get that, I appreciate that. But I also recognize that Senator Pankonin is down stream of Omaha. And that the benefit of Plattsmouth in his district, the overwhelming benefit of a cleaner river will not inure to the people of Omaha who are upstream of this problem. It will really inure to the people downstream. This is a statewide problem. All we are asking, and really out of deep respect, is that you look at the folks in the metropolitan area as your fellow Nebraskans and say, yeah, this is a problem we all need to share in. And, yes, we are going to have to make you pay for it on your own, we get that. And no, we're not going to slap another sales tax to profit on your misfortune. Don't... [LB952]

SENATOR KARPISEK: Time, Senator White. [LB952]

SENATOR WHITE: Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator White. Next we have Senator Fischer, followed by Senator Heidemann, Senators Council, Gay, Krist, Carlson, Nordquist, Mello, Stuthman, and Price. Senator Fischer, you're recognized. [LB952]

SENATOR FISCHER: Thank you, Mr. President and members. As I read through the bill it's quite evident to me that this is not a situation where it's urban against rural. That

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has nothing to do with this bill. Something else that has nothing to do with this bill is all this discussion on pipe. I don't know why we're talking about pipe in the context of taxation. I know many of us, I think all of us received an e-mail from Doug Ewald, with the Department of Revenue, and in there he gave us information from the statutes on the taxation of sewer, gas, and water services. I happened to find that very enlightening to read through in conjunction with reading this bill. It's been very helpful. This exemption we're talking about, it's a tax on service, it's a tax on service. It's a tax on a service that's been in place more than 40 years. So, I guess, what we're talking about here is, do we want to change tax policy in the state of Nebraska? That's not an urban issue, that's not a rural issue, that is a statewide issue. So are we going to change that tax policy? If you look at the e-mail that was sent out from the Department of Revenue in reference to those current statutes that have been in effect for 40 years, you will see that, yeah, there's charges on sewer services that came about with the enactment of the Revenue Act of 1967. Those are charges on sewer services. It's a sales tax on service. So I think our discussion here shouldn't be about double taxation, which I disagree respectfully with Senator White, that's not the issue here. There is no double tax happening. We're having a discussion on tax policy. Are we going to change a tax policy that's been in effect for 40 years, which is the tax on services? With that, I will give the rest of my time to Senator Heidemann and visit about some more things in the future. Thank you. [LB952]

SENATOR KARPISEK: Senator Heidemann, you're yielded 2 minutes and 27 seconds. [LB952]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. We have heard a little talk about the town of Auburn, which happens to be in my district. I think it's been stated that actually they've got a grant for their whole project. Actually, in reality Auburn has a sewer project that is going on. The USDA is being a partner in it. They did get a grant for \$2.7 million. Unfortunately, the rest of it was \$9.67 million, it was a loan. And they will be charged...as that has to be paid, the loan has to be paid back, they will be charged the sales tax on that. They also have a drinking water project, it's a \$6 million project. They once again did get a little bit of a grant, but unfortunately the majority of it was a loan. They will have to pay that loan back. And there will be sales tax on that. I found a list of projects, and these are just sewer projects across the state of Nebraska. And I was curious about how big they are, where they're at, whose district it's in, whether they would qualify. And I haven't really got a list, but I'm just going to go through this and pick out a few and point out and see if we can find out if they qualify or not. And lo and behold, Auburn is on first of the list, but it doesn't qualify for this under Senator White's bill, so they will pay. Let's go down a little bit, pick out just a little bit... [LB952]

SENATOR KARPISEK: One minute. [LB952]

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SENATOR HEIDEMANN: ...bigger one. Plattsmouth at \$4.8 million, phase 2 of a CSO project, they would not qualify. Here's one, Senator Schilz's district, Broadwater, we have a lagoon upgrade. A lot of times when you do a lagoon upgrade it's definitely a federal mandate because they're telling you need to do something a little bit better, \$665,000. Let's see if Senator Schilz is going to qualify under this bill. No, sorry, that isn't going to work. Let's pick out another one here. Oh, here's a bigger one in Senator Christensen's district, in Benkelman, they're going to do some sewer rehab and nonpoint source, \$2.3 million. Is it going to qualify? Well, let's see here, no, nope, nope, nope, that's not going to work for them either. [LB952]

SENATOR KARPISEK: Senator Heidemann, you are now on your own time. [LB952]

SENATOR HEIDEMANN: Thank you, Mr. President. I have a little bit further to go so that will work. By golly, here's Pawnee City in my district, \$3.5 million for sewer rehab. Will it qualify? Unfortunately, I'm out of luck too. We'll go down here a little bit, here's one in Aurora, which would be Senator Dubas. It's a wastewater treatment upgrade, looks like about a \$3 million project, they don't qualify either. Let's see, we'll go down here a little bit, Senator Giese, South Sioux City, a little bit smaller project, maybe they would qualify because it's a little smaller, \$250,000, let's look here, no, nope, nope, nope, they don't qualify either. Here's one, Senator Haar, in Raymond, Nebraska. Holy smoke, everybody loves Raymond, surely they'll qualify. Let's look here, \$505,000 for Raymond. Do they qualify? We don't like Raymond either, they don't qualify either. So can't go there. Here's Senator Giese again, in Dakota City, another \$100,000, kind of small, maybe they qualify. No, nope they don't qualify either. Turning the page here, let's see, we got Pankonin, Pankonin, Sullivan, Hadley, Senator Flood, surely, he's the Speaker, we could get him to qualify (laugh). They don't like him either, he doesn't qualify, can't do that. Here we got three more in Speaker Flood's district, one in Meadow Grove, and two more in Norfolk, Meadow Grove for \$350,000 and Norfolk for \$1.4 million and \$3.9 million. Do they qualify? Surely the Speaker is going to qualify for something here (laugh). Nope, they don't like the Speaker either. Senator Schilz's district, in Lodgepole, that sounds like a nice little town, they're doing a lagoon expansion, which undoubtedly sounds like another federal mandate, \$1.8 million, \$1.1 million, excuse me. They should qualify in Lodgepole, shouldn't they? Nope, they don't qualify either. And I can go down through this list, we got Wayne at \$6.3 million, Senator Giese's, they don't qualify; Senator Schilz again in Broadwater, they don't qualify. And you can go on, in Gering they don't qualify. There's bigger, here's \$1.2 million lagoon upgrade which undoubtedly will be probably a federal mandate in Culbertson, Senator Christensen's district the way it looks. You can go on and on and on through this list, it's quite extensive, and a lot of people just different districts. And my point being is they don't qualify. It's a fairly narrow range of what we're dealing with here. I'm taken back by all the projects that are across the state of Nebraska. And undoubtedly a lot of these projects do have federal mandates, what's driving this. And I could go on in my district that actually federal mandates that I know are being affected and they don't qualify. So I

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think it's something that we need to look at the amount of money that actually even will be covered underneath this bill how it would affect the state of Nebraska. And I think it's something we need to take into consideration. Thank you. [LB952]

SENATOR KARPISEK: Thank you, Senator Heidemann. Senator Council, you are recognized. [LB952]

SENATOR COUNCIL: Thank you, Mr. President. I rise in support of AM1945 and the underlying bill, LB952. I have listened intently to the discussion of this measure. And of what I've heard, one point that was made that I absolutely agree with, Senator Fischer, this is a question of state tax policy. And when we talk about what the state's tax policy has been for the last 40 years, you're absolutely correct that there has been a policy in this state of imposing sales tax on the sewer fee and the sewer fee being for the provision of a service. But what's at issue here is the federal government now has mandated how that sewer service is to be delivered. And it's because of the federal government's mandate as to how the sewer service should be delivered that the residents in the Omaha area who are served by Metropolitan Utilities District and has that sewer service fee collected through MUD are now faced with the increased cost of providing that service. You know, the city of Omaha certainly understood and had been acting upon the need to separate its sewers. The interesting thing is that the sewer separation projects that occurred prior to the federal mandate had absolutely nothing to do with the Missouri River. It had more to do with the fact that the combined sewer system would not accommodate both the waste and storm water and particularly in my district. In the eastern part of the city, the lower elevation part of the city, when we had too much storm water in those sewer systems, it backed up into the homes of residents. And Omaha was working towards separating sewers on a strategic basis, not always did I agree with their schedule and how much they would devote from their general fund dollars every year to accomplish that. But the fact of the matter is but for the federal mandate, residents like myself would not be facing an additional \$50-a-month addition to my sewer fee. I'm still going to be utilizing the same sewer system, the same method of delivering sewer services. If I'm lucky enough to have been in the area to have them separated, but the fact of the matter is now because of the mandate everyone must bear this additional cost. And in addition to that is the imposition of the sales tax on that increase. Now, when we are talking about these fees and whether we call them fees or taxes, we have expressed great concern about increasing fees. Last year, this year, we don't want to increase hunting fees, it's viewed as a tax. And, you know, not everybody in the state hunts, but we saw that as being of value to the state. This is a state issue, a state tax policy issue. And if Senator Cornett would yield to a question. Senator Cornett, I know that you, as well as Senator White, myself, and others have been involved in the discussion of this issue... [LB952]

SENATOR KARPISEK: One minute. [LB952]

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SENATOR COUNCIL: ...for several months. What have you found other cities to have done in this situation and what was the impact? [LB952]

SENATOR CORNETT: The majority of the cities have used property tax to fund these sewer improvements. And the concern that have about this bill is the sales tax goes to...or the fee goes to every household. And a lot of those are going to be lower income or elderly, where with property tax you do not hit the people that are on homestead exemptions, like you will with this fee. [LB952]

SENATOR COUNCIL: And I thank you very much, Senator Cornett. And that's very important. And if I have any time remaining, I yield it to Senator Mello. [LB952]

SENATOR KARPISEK: Time is up, Senator Mello. Senator Krist, you are next and you are recognized. [LB952]

SENATOR KRIST: Thank you, Mr. President and members of the body. I'm not sure how much I'm going to speak to the particular issues of tax code, how to ride on the back of the citizens by any means possible. But I am going to speak to a couple of issues. It's been pointed out that this issue has existed since the mid-seventies, late seventies, and it is true. Despite the humor that we've heard this morning, it's a pretty serious issue for people in my district. It's a pretty serious issue for the people in Omaha. And it needs to be a little bit spoken to reverently because it is an issue that we need to speak candidly about. News flash, the state of Nebraska is in trouble financially, like the rest of the country. News flash, the city of Omaha is in financial trouble like the rest of the country. The reason we're here today is not because there aren't some other ways of getting things done in the city. The reason we're here today is potentially there might be poor leadership that has not found the way to answer Senator Cornett's questions and Sarpy County's questions. They haven't found an alternative way potentially to fund some of these issues with shovel-ready money. And rather than come forward and say we have to assess a property tax that will pay for those parts of the city that have not been separated, sewer systems have not been separated, and rest assured, there have been parts of the city that have been separated already. But rather than be up-front with the taxpayers and say, this is where we are, we have chosen, they have chosen this way to make sure that it gets spread out throughout the whole city. So stand outside your box for just a second and look at this problem, not in terms of we've always done it that way, we've paid our taxes on our projects in our parts of the state. Look at it in terms of is this the right tax policy. I believe it should be an assessed tax on the city, on the residents who need to fix their sewer systems. I don't believe it should be hidden in what's been discussed as double or triple tax. I also don't agree entirely with Senator Fischer and the fact that this is not an urban-rural issue. The first thing that one of the senior leaders in Omaha did when I was appointed on the 14th of September is asked me if I'd be interested in forming an urban coalition of senators to take the state back from the urban senators. And I responded to that as, no, sir, I would

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not, we don't need anymore divisive attitude in politics. This is about the city of Omaha needing help. And make no mistake, they are here through Senator White's bill as the other house in this government asking for assistance. So when you vote, make it clear this is Omaha standing against relatively the rest of the state. Once again, when you vote make it clear this is about Omaha versus the rest of the state, that's how I see it. And I'd love to hear somebody else's views on it. I yield the balance of my time to Senator White, if he'd like it. [LB952]

SENATOR KARPISEK: Senator White, you've been yielded 1 minute 20 seconds. [LB952]

SENATOR WHITE: Thank you, and thank you, Senator Krist. You're absolutely correct. This is not and should not be characterized as an us versus them. That is a road that causes only misery and bad government. I did want and I appreciate the chance because Senator Heidemann raised some interesting points about the... [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: ...about the projects this won't qualify for. And I do agree there are projects that it won't qualify for, Senator Heidemann. And many of them are in Omaha run by MUD. For example, MUD just did a propane plant overhaul, \$14 million, sales tax was paid, \$4 million on a liquid natural gas plant security upgrade, paid sales tax; a Platte West water treatment facility, Senator Heidemann, \$352 million, we paid sales tax on it, \$352 million and we did it and that was fine. That's the kind of thing we planned for, we expanded. It was not a federal order but we did it. These investments are a total \$375 million over the last five years and we paid sales tax on all of them. And going forward, so you understand... [LB952]

SENATOR KARPISEK: Time, Senator. Thank you, Senator White and Senator Krist. Speaker Flood for an announcement. [LB952]

SPEAKER FLOOD: Thank you, Mr. President. And good afternoon, members. A quick scheduling note, I'm going to be passing out a memo outlining the late nights that we're going to be scheduling this session. Remember, a late night can go as late as 11:59 p.m. Central time. And we will be taking advantage of those beginning Tuesday, March 23. Given our lengthy agenda and the work ahead of us, I anticipate a number of these with our current workload. Those are going to be passed out momentarily. Please post a copy in your office. We will be placing a list of the late nights on the Internet on my Web site and will forward by e-mail the same to you. Tomorrow we will be working through the noonhour. So please plan on working through the noonhour tomorrow. And next week I anticipate at this time adjourning at about 4:00 on Tuesday and Wednesday. But we will start working to at least 5:00 beginning next Thursday. So please make a note of that as well. Committees, I know you're working on Exec Sessions, please get those

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bills reported to the floor following action. We'll move forward and get our work done. So once again, a memo on late nights is being handed out to all of you at this time. Thank you, Mr. President.

SENATOR KARPISEK: Thank you, Speaker Flood. Continuing with the debate on AM1945 on LB952, we have Senator Carlson, followed by Senator Nordquist, Mello, Stuthman, Price, Lautenbaugh, Christensen, and others. Senator Carlson, you are recognized. [LB952]

SENATOR CARLSON: Thank you, Senator Friend (sic) and members of the Legislature. I'm going to talk a little bit about Senator White. You know, he and I, we agree on some things. There's a lot of things that we don't agree on. About a month or so from now if it's nice weather and we don't have schedule conflicts, we'll agree real quickly on a golf game and I appreciate that. Senator White has used the Republican River Basin as an example several times in the last day or two. And I'm okay with that, I'd be doing the same thing if I were him. I'm struggling with it a bit. I'm going to try and relate my concerns as they apply to the debate on LB952. In 2007, LB701 provided \$4 million over a two-year period to clear vegetation from the streambeds of the Republican and the Platte Rivers. Then in 2009, LB98 was my priority bill. And Senator White brought up a 1911 law that he felt put all responsibility of vegetation clearing on the landowners. Now, circumstances have changed significantly since 2007. If LB701 was before the body today, there would be no funding. But the project is just as worthy today as it was in 2007. But today we can't afford it. The vegetation removal for LB701 would not pass. In 2008, we passed LB1094. That was my bill. Senator White voted for it. And that loaned \$9 million to the NRDs in the Republican Basin to pay farmers who gave up their water for irrigation to satisfy the state of Nebraska in its compliance issues with Kansas. The NRDs want to repay, they intend to repay, they simply need a legal method by which to repay. Now, we're in 2010. If LB1094 came before the body today it would not pass. There is no money. Times are different. It's not my fault, it's not Senator White's fault, it's simply fact. Senator White has mentioned that the project in Omaha will add about \$50 per month to the average household sewer bill, sewer service bill. Now if I'm understanding correctly, if we pass LB952, the bill will be about \$47 extra a month instead of \$50 a month. That difference is significant, but the repayment of the loan from the Republican River Basin, if the average irrigated farm is 1,000 acres, is \$10,000 a farm. We can't spend money that we don't have. If LB952 is a priority, we need to find the money by cutting someone somewhere. [LB952 LB98]

SENATOR KARPISEK: One minute. [LB952]

SENATOR CARLSON: This is interesting debate. Senator White is doing a good job of debating it. And I'll continue to listen. Thank you. [LB952]

SENATOR KARPISEK: Thank you, Senator Carlson. Senator Nordquist, you are next

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and recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the underlying legislation. I want to make sure that we get all the facts on the record. We heard a long list of projects that didn't qualify. And under the original bill, as we're talking about here, I know there's an amendment that may change this down the road, but the sewer overflow is only about \$5.5 million out of \$25 million over the next four fiscal years. The other projects are gas and water infrastructure replacement. Talking to the Fiscal Office, there's a list of several hundred water infrastructure replacement projects across the state, of which roughly half of them are going to qualify for this exemption. This affects...this will affect everyone across the state with the underlying legislation. You know, we've had a lot of discussion today about what this is. Is it a tax? Is it a tax on a fee? No matter what it is, when you take money out of the pockets of Nebraska families, it's hitting them. And I'm hearing it in my district from senior citizens, they're going to see the \$50 increase, and granted this, as Senator Carlson said, this is only a couple bucks a month, but certainly it's important to those folks as they try to live on a fixed income, it's important to young people trying to afford a home for their family and seeing all these additional costs add up. I think we need to be serious as a state here looking forward. I know we're going into tough fiscal times. But as the Governor said, the key to lowering the...to controlling spending is lowering taxes. This is a tax, this is a new tax. Also, the Governor said during his State of the State speech that tax increases are job killers, not job creators. That is exactly it. And, folks, this \$50-a-month fee isn't just \$50 a month on residential homes. You want to know what? This is going to be thousands of dollars a month on businesses in the metro area that are big users of water. That's a lot of money. That's a...when businesses are looking to shop around, do you think they're going to move to La Vista or Papillion or to Omaha if they have to pay that kind of fee and then get taxed on top of it? I think they're going to look elsewhere. And the folks in my district have made it clear they do not want to see this tax. And I don't care if you live in south Omaha or Elkhorn, this is a tax. It's coming out of the pockets of working Nebraska Families and that's why I support LB952. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Nordquist. Senator Mello, you are next and you are recognized. [LB952]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I appreciate Senator Nordquist clearing up one of the bits I was going to discuss. But would Senator Heidemann yield to a question? [LB952]

SENATOR KARPISEK: Senator Heidemann, would you yield to a question from Senator Mello? [LB952]

SENATOR HEIDEMANN: Yes. [LB952]

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SENATOR MELLO: Senator Heidemann, in your comments you mentioned some of the future revenue lost to the state of Nebraska with the passage of LB952. In looking at the fiscal note, it does lay out a fiscal impact for both 2011...2010-2011, as well as 2011-2012. My question to you is, do we have a budget yet for fiscal years 2011-12? [LB952]

SENATOR HEIDEMANN: We have an out-biennium budget year. We have not...there are figures that are plugged in, but as far as an approved budget, no. [LB952]

SENATOR MELLO: When you say figures that have been plugged in, could you be more specific? Do we have, for an example, has the Governor provided the Legislature a budget proposal for us to start to debate and look at and evaluate for fiscal years 2011-2012? [LB952]

SENATOR HEIDEMANN: No. He's (inaudible), as you very well know, he does that next January. I would think you've been part of this process long enough you would know that. [LB952]

SENATOR MELLO: (Laugh) Well, I do know that, Senator Heidemann, and that's the reason why I asked you because some of your points I think to some extent, while in all due respect, are a bit misleading in the sense that this has genuine budget implications for future years where we've yet to develop those future budgets. Yes, it might have a revenue impact in future years, but we haven't come close to discussing next year's budget, let alone budget years fiscal '11-12, '12-13, '13-14. And the reason I bring this up is because I think everyone in the Legislature can all agree that we do have a unique fiscal challenge that lies ahead for the next couple of years. Senator Adams mentioned the state aid to education issue. I think we all understand the situation that we might see ourselves in, in 2011. But also let's not forget we put ourselves in that situation last year when we chose to put stimulus money into our state aid formula instead of running it outside of the formula; thus, potentially creating a cliff effect come next year when the stimulus money disappears. The other aspects, the priority of whether or not this is a priority of the Legislature, a priority of the state, Senator Nordquist was much more eloquent than I can be right now, which is any way you slice this pie it's a tax. It's a tax on a fee. You could even have a rhetorical debate on whether or not a fee is a tax. We just saw the Governor issued a veto because we chose to raise a fee, equating that to a tax. So the point is, if the Governor is vetoing a fee increase yet we're debating a tax on this fee, how can anyone legitimately not say this is a double tax; that we are taxing people's fees for a project that so many other senators have mentioned is an unfunded mandate. This is something that would not be happening if the federal government wasn't making us do it. Senator Hadley's point, whether or not this is a valid federal mandate, is a good question. It's something that if we want to continue to debate this issue, let's have that debate. But the fact is this: None of us work for the Environmental

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Protection Agency; none of us work for the Department of Energy. They have the final say over the state of Nebraska and the city of Omaha and whether or not this project happens and whether or not this project gets funded by a mechanism that's been chosen through MUD and the city of Omaha. I rise in support of LB952 not only because my constituents in south-central Omaha and Bellevue will see their taxes increase if we choose nothing, to do nothing with LB952. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR MELLO: There is a host of other areas as Senator Nordquist mentioned that do apply under LB952. Plattsmouth, right now, has a very similar combined sewer overflow project. But I think it goes back to, more importantly, a philosophical view you have: whether or not we should be taxing an additional tax. There's no other way to slice the pie, folks. It's that simple. We can have a disagreement. We can disagree, possibly, on the ramifications of future budget years. But the point is this: If we choose to do nothing on LB952, more Nebraskans will be paying more taxes and it will happen under our watch. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Mello. Senator Stuthman, you are next and you are recognized. [LB952]

SENATOR STUTHMAN: Question. [LB952]

SENATOR KARPISEK: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB952]

ASSISTANT CLERK: 25 ayes, 11 nays to cease debate, Mr. President. [LB952]

SENATOR KARPISEK: Debate does cease. Senator Cornett, you are recognized to close on...as the Chair of Revenue Committee, you are recognized to close on AM1945. [LB952]

SENATOR CORNETT: Thank you, Mr. President and members of the body. The Revenue Committee amendment makes this the actual cost of replacing the pipe. It reduces the fiscal note. I'd urge the body to support the amendment and the underlying bill. Thank you. [LB952]

SENATOR KARPISEK: You have heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Please record, Mr. Clerk. [LB952]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments, Mr.

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President. [LB952]

SENATOR KARPISEK: The amendment is adopted. Mr. Clerk. [LB952]

ASSISTANT CLERK: Mr. President, Senator White would move to amend with AM2091. (Legislative Journal page 739.) [LB952]

SENATOR KARPISEK: Senator White, you are recognized to open on AM2091. [LB952]

SENATOR WHITE: Thank you, Mr. President. I want to talk about AM2091 and I really also want to talk about whether this is a statewide problem or just an Omaha problem. I believe that it's a statewide problem. I put LB952 in, believing it to be a statewide problem, and tried to draft the language so it would be applicable to any community facing a combined sewer overflow federal mandate, clean up your sewers. And I, unlike Senator Lavon Heidemann, think a lot of times it's just how the city chooses to characterize its sewer work as to whether it would qualify or not. Now, I don't know whether those sewers in individuals cases across the state will qualify or not. All due respect, I don't think Senator Heidemann does either. I can tell you that it was drafted that way. But because people were concerned, because people were concerned about whether or not this fiscal note was too unwieldy, not because I necessarily believe this is the best policy, but in response to Senator Heidemann's thoughts that it was too much money, I prepared AM2091. Now, what AM2091 does is reduces the scope of LB952. And what it would do in fiscal year '10 to '11, rather than having gas and water infrastructure estimate and sewer overflow, it would reduce it to the total fiscal note of \$1,547,800; it would reduce in fiscal year '11 and '12 the cost to a total of \$2,068,000; in fiscal years '12 and '13, \$2,830,000; and in fiscal years '13-14, it would reduce it to the amount of \$3,801,000. This really just then more limits the infrastructure improvements to water and gas and things like that to a project connected with a federally mandated combined sewer overflow attached to a city of the metropolitan class. I don't like it. I really think that we share problems as a state. We share a problem that when the small town of Columbus where I grew up, and it's downtown is devastated, and if they say one of the ways that we're going to try to get those empty storefronts back, is we going to go through...tear up the pavements. We're going to replace water, we're going to replace electricity, we're going to replace sewer, and we're going to refurbish the whole project as a block plan, that the state ought to say, yeah, we're not going to tax you. We're not going to tax when you try to rebuild your community. Now, one of the things we need to talk about on shared pain and the idea that at least I got from Senator Heidemann's comments that the rest of the state doesn't take anything out of this; there's nothing good on LB952 for it. I disagree with that. But I also have the figures that can tell you pretty clearly what the people of Omaha have already done. We've already talked about the fact that we built a \$352 million water treatment facility that we paid sales tax on. Senator Heidemann, I may have a questions for you as we move on. But I do want to

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ask you, Senator Heidemann, if you think the city of Omaha is carrying its fair share as we move forward? Because as we move forward, even despite this, we have to overhaul the Florence water treatment center, and that will be \$70 million project, and we will pay sales tax, even if LB952 passes, on a \$70 million water treatment facility. The Platte South Water Treatment Plant upgrade, that will be a \$17 million project. We will pay sales tax on that even under this bill. So, no, is the bill perfect for all areas? No. One of the things we faced in Omaha is unique among the areas, so far. We got hit with a huge unfunded federal mandate. But there are others coming, guys. There are others coming. And I want you to understand what the impact is to the metropolitan area community. Now as I recall, and I'm trying to get this number verified, some of the packing plants, for example, some of the factories in Omaha will look at annual sewer bills after this project comes on if we don't pass this bill. The annual sewer bills they're looking at are \$85,000 a year, and we're going to put sales tax on that. That hurts everybody. Those jobs, Senator Nordquist was dead right. Those jobs will hurt everybody. But if this body has already spent money we haven't gotten, and as Senator Mello made so clear, money we couldn't possibly have already budgeted for because we don't even have a budget that's been proposed yet. But if we've already spent that in our minds and we're so addicted to spending that we can't pull back our expectations on what revenues are, that this scares you too much, then reduce it. If that's the case, I do clearly support AM2091. It is a bill at that level that reduces the infrastructure stuff to deal with the problem Omaha alone faces. Not what I consider an ideal situation, Senators. I think we're all Nebraskans. Not what Omaha alone wants. Omaha simply wants that this body realize that it right now is in a unique position just as the good folks in the Republican River were in a unique position when Kansas said the state is going to pay huge fines; huge problems are going to happen unless we get the water down there. Now, the people of the Republican River Valley didn't ask the people of the state of Nebraska to enter into that compact. They weren't...they didn't have the Attorney General calling them up, should I settle it on these terms or not? Next thing they knew, wham-o, we got to deliver or we're going to shut down wells. Well, that's what happened to Omaha. We have the sewers that we are paying normal fees for have been there for a century. Those are the services we always accepted and understood to be reasonable sewer fees. Now suddenly, wham-o, we've got to change those so cleaner water will go into the Missouri. And maybe Senator Hadley is right. Maybe that's the right kind of thing we should do, but historically, water treatment, things like this, there has been large federal involvements. The people of Omaha, unlike Auburn in Senator Heidemann's district were not so fortunate that the federal government will help them in any meaningful way on this project. And that per person, it's devastating. And all I can say to every senator here, sooner or later the bell will toll for everyone. Somebody in your district is going to get hit and hurt. And the question is, do we respond, Well, that's tough. We need your money; we're going to pile on? Or do we respond and say, that's not right that one Nebraskan or one small group of Nebraskans bear an undue percentage of burden, not just to deal with the federal order to that community, but then to help us get out of fiscal problems? I'd ask you this, each one you: If it was your

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district that for whatever fluke of events suddenly found itself saddled with multimillion dollar additional tax payments unlike any others faced by any other citizen, groups of citizens in the state,... [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: ...would you think that's fair? Would you think it's fair that your small town was getting hit that hard and then people in Lincoln were saying, yeah, well, we need your money. We got other problems; we got plans for your money, and yeah, it's not fair, and yeah, you're paying too much; and we sure feel sorry, but open your wallet. I don't think that's who we are. I don't think it's who we should be. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator White. Senator Price, you are next and you are recognized. [LB952]

SENATOR PRICE: Thank you, Mr. President, members of the body. Again, I rise as this is a complicated thing. But I'm...and the policy issues are what are at odds here. I think it's kind of interesting. You know, back in the day, so to speak, to use a euphemism there, we said I'd like to have OP things. You know, other people's things. And I guess OP taxes are good. As long as it's other people's taxes, we don't mind spending them. We just don't like to be taxed and have ours spent for other people's things, but OP taxes are okay. And what I'm interested in hearing is the thematic thread that talks about tax windfalls, yet I wonder how Senator Karpisek feels about tax windfalls. We wanted to kill a tax windfall we didn't agree with, but we seem to want to agree with, well, it's yours, other people's taxes, so we're okay with that. And that gives me rise for concern because we've heard Senator Mello and Senator Nordquist articulate quite well these impacts of taxes and how, well, now, taxes on you are okay but taxes on me are not okay. And that gives me grave concern. And I also have concern when we look at the fiscal note. And I encourage all the members of the Legislature to go to your laptop and take a look at the fiscal note. Because, you know, Senator Heidemann and others have articulated how important this other people's windfall is, and how incredibly important it is to the state. And we did hear out-year mentions of taxes in the range of \$26 million. And I'm here to say that they are absolutely correct. They are critical. They're critical when they're coming out of my constituents' pockets. It is a large amount of money for the state, but it's coming out of my constituents' pockets. OP taxes are, again, okay for everybody as long as it's not yours. And I tell you to look at that fiscal note because there seems to be a conflict in that fiscal note between the Fiscal Office and the Department of Revenue. Even within the elements who advocate for this tax who are against LB952, they cannot agree on the cost. I think that's kind of interesting that people will go along. And I just wonder what the other members of the body say about it when they look at the difference. And I know we see differences all the time, but I would say that a difference of a total of \$26 million to \$8 million is significant. And I

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wish that other members would take the time to comment on that and I'd like to hear...I'd like to hear what other people think about how we pick and choose which tax revenue streams are okay and how we would choose, well, we don't want that one because it's statewide but this one is a local one. And I think Senator White said it very well: If a billion dollar federal mandate came down for a cleanup somewhere in the other part of the state...let's just say that happened. I mean, I'm not advocating that does, but let's say a billion dollar cleanup came for some industry in another location in the state, well, soon as heck, you'd have all those people who represent that area down here saying, come on now, everybody else help pitch in. And Senator Adams said how we have this...have the elements for a perfect storm. And I agree with him, we do. And how much of that did we put before us or how much did our predecessors put before us? But as long as we're spending other people's taxes, I guess it seems to be something that is more palatable than having to spend our own taxes. And with that, I would yield the balance of any remaining time to Senator White if he should choose to use it. [LB952]

SENATOR KARPISEK: Senator White, you're being yielded...I do not see Senator White available. Thank you, Senator Price. Senator Christensen is next, followed by Senators Fischer, Utter, Lathrop, Heidemann, Nordquist, and White. Mr. Clerk. [LB952]

ASSISTANT CLERK: Mr. President, I do have an amendment to the White amendment. Senator Fischer would offer FA67. (Legislative Journal page 739.) [LB952]

SENATOR KARPISEK: Senator Fischer, you are recognized to open on your amendment. [LB952]

SENATOR FISCHER: Thank you, Mr. President and members. This really is a very simple amendment. If you look on page 3 of the bill, what my floor amendment to Senator White's amendment will do is to strike the lines 16 through 20. And the reason I offer that amendment is because we've heard a lot of discussion, hours of discussion about a federal mandate. And we've heard that this is a federal mandate; it's required; we need to help those citizens. We heard Senator Heidemann talk about federal mandates across the state. So I thought I would offer this so we could narrow our discussion to federal mandates and how that federal mandate applies with regards to this piece of legislation. The way I read the bill and my understanding of this situation that we're trying to address with this legislation, those lines on page 3, 16 through 20, have nothing to do with a federal mandate. They don't deal with the federal mandate. They don't address the federal mandate. So I'm saying, let's take them out. Now, the next part of the bill on page 3, if you look beginning with line 21, that does discuss the situation faced by citizens in our largest city with regards to this federal mandate. So if you are truly interested in addressing the federal mandate and what's required by the federal government and the EPA and the sewer separation, I would imagine you're going to support my floor amendment. We all know and we all have been faced with requirements by the federal government. In my business, I'm faced with requirements

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by the federal government, as all of you are. If that's truly what we're talking about here, besides tax policy, if that's truly what we're talking about here, then let's discuss it. I welcome your comments. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Fischer. Senator Christensen, you are now recognized. [LB952]

SENATOR CHRISTENSEN: Thank you, Mr. President. I think about this bill and I really don't like how some of the discussion has went. A couple of senators talk about how anyone else would be concerned where it was. I'd be very concerned in my area too. I understand that. But if I understand right, this is not a new issue. The federal mandate may be, but I think we have known we've had an issue there for a number of years, probably since 1979 anyway when we got the commingled wastewater and sewer water. But when senators stand up and say that because it's an Omaha deal we don't want to do anything, I was a little frustrated. When the Qwest Center deal come up, I voted for that in 2007 to help take care of that situation. And that is perfectly an Omaha issue. It is not a state issue. It wasn't a federal mandate. It is something Omaha chose to do and I agree needed to do, you know. And we've possibly got one of them same kickbacks for Lincoln arena if they vote it through. We got another one if it gets out and gets debated that's been prioritized. We've had another one that I introduced on the Republican, and last I knew, probably wasn't going to get out. So I don't think it's just an attack on Omaha because we have approved a sales tax kickback for the Qwest Center being an Omaha issue. We have approved it in here for Lincoln arena if we choose to, which is a Lincoln issue, neither one of them have state consequences. But yet the Republican one hasn't been able to get out of committee. So I don't think we can say this is an Omaha-against-anybody-else issue. Yes, this is an Omaha issue I feel bad about and if there's anything that frustrates me on it is the length of time they have known about it and nothing has occurred. I toured this whole system with the Natural Resources three years ago when we had an interim study in Omaha. And they knew at that point in time that they was going to have to do something at some point in time. And from the information I've been able to gather, they've been known that this could be an issue coming since 1979. I know now it's a crisis and I understand that, but I actually don't know how to tell you I'm going to vote on this. It is very difficult. I understand the struggles that people are saying, you know, the state shouldn't be planning on this income. I understand the people that have said, you know, we do this; it affects the city's portion of the sales tax. This is very complicated. This reminds me of water. It's a multifaceted problem and it's very difficult to address, and it's going to be impossible to make the perfect solution to it. It is something that is very sad that has to be done, but we know it needs to be done, so. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR CHRISTENSEN: I appreciate the time to talk about this. I hope we can

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concentrate on the issue and not say that if this was somewhere else we would be looking at this differently because I don't think we would. That's why I brought up my bill on the Republican tax kickback. Thank you. [LB952]

SENATOR KARPISEK: Thank you, Senator Christensen. Next up is Senator Fischer, followed by Senators Utter, Lathrop, Heidemann, Nordquist, White, Council, and Price. Senator Fischer, you are recognized. [LB952]

SENATOR FISCHER: Thank you, Mr. President and members. As I said, I hope to hear discussion on my floor amendment to Senator White's amendment because, you know, maybe I'm not reading it correctly. But the way I do read it, is that the part that I'm trying to strike doesn't have anything to do with the federal mandate that faces the citizens in Omaha with their sewer separation. So if that's the sell we're getting on this bill, then let's address it. I would like to bring up a point though. If you look at the loss we have not just to state funds but also to the city of Omaha if this original bill would pass, it's easy to stand back and say I'm voting for this bill because I don't want to have a tax increase on these citizens. None of us in here want to have a tax increase on any citizen in the state of Nebraska. To me, that's a given. But the problem we face and all of us know it is the budget. It is the out-years. We can say, oh, we'll come back next year and address that. Well, of course we will. That's another given. We'll come back next year and address it, and the next year, and hopefully not the next year and the next year. That's the situation we're faced with in this state and our citizens recognize that, and they send us down here to make responsible decisions. They send us down here to do the best job we can, and hopefully not raise their taxes. But they want us to debate an issue and not stand up and say, well, we're not going to raise anybody's tax on this one; we're not going to do this and we're not going to do this. No, what we're going to do is have a thoughtful debate and a thoughtful discussion on important issues that come up before this body so we can make responsible decisions; so we can go home to our communities, talk to our people, and explain what we have done. And I have always found that that's the best policy. It's the best policy to be honest, to treat your constituents with...recognizing their intelligence, recognizing that they, too, understand issues. So debate is important, and having a factual debate is extremely important. So we're looking at a loss in revenue to the state of Nebraska. Over the next 20 years, that loss will probably be over \$300 million. How are we going to make that up? We didn't pass a bill earlier this session with a \$9,000 fiscal note to it. We didn't pass another one with I think it was a \$47,000 fiscal note to it. We're talking \$9,000. Well, folks, right now we're talking at a loss of revenue of over \$300 million. That's our problem in here. But let's look at Omaha and let's look at what the citizens of that community are going to be faced with if this bill would pass. We can stand up and say we're not going to put a tax on the people of Omaha for this. We don't want them to pay a tax, and I agree with it. We don't want them to pay a tax. But what will they be faced with? They will be faced with a loss of over \$40 million to the city of Omaha in the next 40 years. [LB952]

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SENATOR KARPISEK: One minute. [LB952]

SENATOR FISCHER: How are they going to make that up? How will that be made up? I can tell you in my legislative district and across rural Nebraska, I can speak from experience that our counties are at their lids right now. We made it up by increasing property taxes. Our schools have made it up by having to increase property taxes because most of them don't receive much in state aid. Our counties have hundreds and hundreds of miles of road that they have to maintain and keep up. Hey, guess what? They do it by increasing property taxes. My guess would be that if this bill passes, the city of Omaha is going to make it up by increasing property taxes. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Fischer. Senator Utter, you are next and you are recognized. [LB952]

SENATOR UTTER: Thank you, Mr. President and colleagues. I...this is...and no pun intended, but this is a stinky problem, there's no question about that (laughter). And I, as well as the rest of the body, have real questions, I guess, as to the solution. But let me just visit with you briefly about tax policy. And as I look at the tax policy that is involved with this issue, the policy that we deal with in hearings in the Revenue Committee, I'm sure that if we could all go back to 1967 when the sales tax was enacted, that we might say that no municipality of any size, whether it's metropolitan size or village size, would pay any sales taxes on anything that they purchased. Unfortunately, that wasn't what was done. So for the last 40-plus years, municipalities and cities and metropolitan cities have been paying taxes on everything but sewer pipe, which seems kind of strange to me that they don't pay on sewer pipe. But I wasn't there in those days when that policy was developed, but right now it seems grossly unfair to me that we stop and change a tax policy that cities and other metropolitan units have been adhering to for the past 40-some years. And I'm not sure that that's the proper way to handle this situation. So the overall tax policy of this state has to be brought into question here, for sure. I'm...let me tell you also a story about mandates, and I don't proclaim to be an expert on federal mandates, let me assure you of that, but I have indeed had some experience with them. As many of you know, my background is in the banking community, and still involved with our small bank out in rural Nebraska. And this year, FDIC insurance fees increased dramatically because of a federal mandate. The federal mandate was that we have to put money in to bolster the FDIC insurance fund, to take care of all of the banks that got into trouble and the banks that are closing primarily back on the east coast, and of course, other places too. Well, the FDIC insurance fees for our little bank went from \$10,000 to \$150,000. Now that's a pretty good jolt. They also told us at the same time, again a federal mandate, that we were going to pay the next three years' dues in advance. Well, folks, you deal with those problems in a business. And I guess my point in telling you this story is that this was a federal mandate. This was something that we didn't plan on but this is something that we had to deal with, and it's a traumatic

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experience as a business person to face some of those realities. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR UTTER: And this is a traumatic experience for Omaha, there's no question about it. But it appears to me like that it is something that we must figure out how to deal with. And this bill, I don't believe, does it, in all fairness to the entire state of Nebraska. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Utter. Senator Lathrop, you are recognized. [LB952]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I stand in support of LB952. And surely we've said almost all there is to say about this issue. I'm not hearing anybody's minds getting changed as we speak more and more about this. So I stand maybe after listening to a few hours of the debate to express some concern about the tone. And this certainly isn't true with everyone, but there's a little bit of an anti-Omaha sentiment to this. Sort of, it isn't happening in my neighborhood so why would I be concerned with this. And little bit of a...it looks like there's something in it for the state; they're taking it out of the people in Omaha. Those guys can afford it; I don't represent them; they're not my constituents. I think we must be very careful--very careful in this body when an issue comes up which seems to focus on a particular region of the state, that we approach this as state senators and not rural senators or urban senators or Omaha senators and outstate people. I think if you look at this as a matter of policy, that the federal mandate of a size that we're talking about to impose a tax on top of the cost of this significant mandate would be like taxing the cost of fixing your community after a tornado went through there. There are some things and sometimes when the bill for what we face in our communities is so high that for us to impose a sales tax on it is piling on. I think this is one such occasion. I don't believe it's appropriate to add a sales tax on top of the cost to do federally mandated sewer separation when the size of the project is as significant as we are talking about. We might, as a matter of policy, talk about what that threshold is, where it is. I don't know where the line would ultimately be, but I can tell you that this size of a project has clearly crossed it. The people in Omaha, we have a significant population that lives in poverty. We're talking about \$50 a month on their utility bill. That's a lot of money. That is a lot of money. And when I go from door to door when I was running, people...you know, we might not be living like this, but there are people who are right on the edge--right on the edge. And these kind of mandates and taxes on top of them are enough to throw them over the top and they'll find themselves in a place where they must leave their homes that they've raised their families in. And I think if we can do something about that cost, if we can lower that bill, that we owe it to the people of my community to do that and your community if it were you. Again, I stand in favor of LB952. Thank you, Mr. President. [LB952]

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SENATOR KARPISEK: Thank you, Senator Lathrop. Senator Nordquist, you're recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise as I said earlier about supporting this bill because of its relationship to jobs. And I think it's important that we look at some of the numbers. The project is going to be a job killer and then we're just going to pile on. We're just going to pile taxes on. I got a few numbers from three of the largest users in the city of Omaha for sewer system. Right now, one of them pays \$1.4 million a year. In five years, 2014, is going to be paying \$2.4 million a year. A million dollar increase in just five years, and then we add a tax on it. Another one, it's going from \$1.3 million a year to \$2 million a year. Another one, \$1.2 million to \$1.8 million in a five-year period. And that's all we have projections for is out that far. Can you imagine what this is going to be like through the duration of the project? This is going to kill businesses and we need to take action. I mean, Senator White mentioned about the meatpacking plants which use a significant amount of water and have a significant amount of sewer usage. That's why the Omaha Chamber came in support of this bill. They understand the importance of doing something on this to protect jobs. And in this economy we have to do something to protect jobs and to create jobs and to not scare jobs off to Iowa or some other community outside of Nebraska. That's how important this is. These are thousands of jobs on the line and we need to take action. Just as I said, those were five-year projections. We don't have individual business projections out beyond that. But just to give you an understanding of how big this is and how big an impact this is going to have on residents in my district, in west Omaha, in Sarpy County, right now it costs about \$45 million a year to operate our sewer system. By 2024, we're going to need \$300 million a year to operate the sewer system. That's a tremendous impact. That's a tremendous drain, and we need to make sure that as state policymakers we are not piling on. I'll yield the rest of my time to Senator Mello. Thank you. [LB952]

SENATOR KARPISEK: Senator Mello, you have been yielded 2 and a half minutes. [LB952]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in opposition to FA67 for one simple reason: taxes will still go up if you adopt FA67. People who are MUD or public utility users in the White amendment will have to pay still a sales tax on this gas and water pipe replacement. And I'll explain to you the reason why. The combined sewer overflow project, this is essentially starting the demolition of most of a variety of streets in the city of Omaha. The public utility, Metropolitan Utilities District, decided that in order to save the taxpayers money, that they would go, in turn, in a conjunction with the replacement of 100-plus years gas and water pipes to ensure that the main economic engine of this state, the city of Omaha will not have its streets and corridors torn up two separate times: one for the CSO and one for the gas and

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water pipe replacement. With that being said, MUD essentially is trying to dovetail off what the combined sewer overflow project will do in regards to only having to tear up infrastructure once and replace it once. FA67 says we'll get rid of you. You still pay taxes on the \$2 billion worth of gas and water pipe infrastructure replacement. Anyway you cut it, folks, taxes are going up if you adopt FA67. I appreciate what... [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR MELLO: ...Senator Fischer is trying to do of trying to limit it to a federally mandated project, but this is a unique circumstance where you have a public utility trying to save taxpayer dollars by dovetailing one of the largest public infrastructure projects in the state off the other largest public infrastructure project in the state. So if we choose to adopt FA67, if that's the will of the body, those of us who live in Elkhorn, who live in south Omaha, who live in Papillion, who live in Gretna, live in north Omaha, Bellevue, we will be paying more taxes. It's plain and simple. I encourage you to vote against FA67. We're going on a right path I think with AM2091 and LB952. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Nordquist and Senator Mello. Senator White, you are recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I really want to draw your attention, again, to the number Senator Nordquist talked about. Senator Nordquist, if you'd bring those by. We all are worried about whether or not we're protecting in this recession our economic base. Understand that in terms of the economic drivers of the state, farming is huge. And then there is the industry largely centered around the metropolitan area--industry. Let's talk about what it's going to do to that economic base and whether it is going to hurt us by chasing that base out of the state--a huge problem for everybody on the Revenue Committee every time we meet. We are going to have companies whose sewer fees are going to go up \$1 million to \$1.2 million just because of this project. Let me...that's a year. We are going to be, because of the federal mandate, adding \$1.2 million in overhead to a packing company per year. And then we're going to slap a 7 percent sales tax on them. Guys, that's poking somebody in the eye who has been knocked flat. Okay? We are talking about whether or not we are going to be serious about protecting the ability of the metropolitan area to attract and retain industry in the jobs, and the sales tax from the people who live there, and the income tax from the jobs they create, and the property tax that they pay on their homes and their businesses. Are we going to recognize that this has been a hurricane hitting a really...at a really vulnerable time? Now, we can talk about "woulda, coulda, shoulda" on what the city "shoulda" done or "coulda" done. I can't dispute that. But what I can tell is what we are dealing with today. We are dealing right now with an economic tidal wave that is hitting not just our towns...or not just our individual people who have homes that are looking...and imagine this, you have a modest bungalow like that predominates in my

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district in the Benson area. It doesn't have a garage or it's a one-car detached garage. And it has two bedrooms and maybe you finished a basement off. And you're 80 years old and you've lived there since you got back from the Korean War and you bought it with the GI Bill. And now you're on Social Security and the only thing in the world you own is that bungalow. And the thing you're most frightened of in the world, of being pushed out of it. Nothing worries you more. You're so frightened about that, that you will not take your high blood pressure medicine some days to make sure you can pay your heat. It happens all the time. You are so frightened by that, that though you've gotten homestead exemption, a sewer fee that moves your bill from \$15 a month to \$60 a month or \$65 a month means you're not going to eat one week a month. And these are not people who have been profligate. They didn't fail to plan. They worked hard. They lived modestly. Their whole life savings are in a very modest home. They easily qualify for homestead exemption because we all recognize here in this body we need to keep our elderly in their homes. It's the right thing. We're not going to chase them out with property tax. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: Guess what? That cold wind that's blowing, there's nothing standing between them and this sewer tax, folks. This is going to hit the elderly like a sledge hammer. And, oh, by the way, it's going to throw \$1.2 million a year in the overhead on a packing plant, plus 7 percent sales tax. This is the real deal. These are your fellow Nebraskans. They need your help. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator White. Speaker Flood for an announcement. [LB952]

SPEAKER FLOOD: Thank you, Mr. President and good afternoon, members. Quick note. We're going to be shutting down operations here at 4:00 this afternoon. Tomorrow we'll have a couple of Select File bills that should move fairly easily. My plan is to get back to LB952. We are working through lunch and we will stay in session until we have a General File resolution on this bill one way or the other. Could be here as late as 3:00 tomorrow afternoon. So just letting you know, we will be working through lunch tomorrow. We could be in session as late as 3:00, and hopefully we'll have an answer as to whether or not this advances or does not, and that being LB952. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Speaker Flood. Senator Council, you are recognized. [LB952]

SENATOR COUNCIL: Yes, thank you, Mr. President. I certainly appreciate the intent of Senator Fischer's floor amendment, but I think that the issue should boil back down to the original bill and the intent of the bill and what it is attempting to accomplish. And I

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know that reasonable minds can differ, but what is occurring with regard to this sewer fee is a tax. And we should be concerned about the tax that's being imposed on the citizens of the city of Omaha. And I, again, relate back to the residents in the district that I represent who have been forced to live for decades under this situation of combined sewers--combined sewers that during heavy rains would cause the combination of stormwater and sewage to back up into their basements. Now, the question has been raised by some of my colleagues, well, you know, why hasn't this been taken care of before? Well, first of all, in terms of who was being adversely affected by it, it was people in an area that the greater part of the city didn't care that it affected them. And in terms of how it was going to be paid for, didn't see the value in paying for it because of who it was affecting. And it wasn't until this issue...it became obvious that it was affecting others, any users of the Missouri River, then that's when the federal government came in and mandated it. And now we're going to impose this additional sewer fee, a rather significant amount in and of itself, upon these residents. And then to add on to that, the sales tax will have a very detrimental effect on many of the low-income and elderly residents, particularly in the district of this state that I represent. And there's been a lot of questions about, you know, what is MUD's interest? Well, MUD collects the sewer fees. And when people aren't able to pay the total amount of their MUD bill, you know, it's certainly going to have an impact on MUD because they've been selected to be the entity to collect what I will refer to as a tax. And if we're concerned about reducing the impact of taxes on the residents of this state, we certainly should focus our attention on those in this state who are in the least position to pay it. So I just urge my colleagues to continue the discussion, it's a very important discussion, but with the ultimate objective being to advance LB952. And if Senator White or Senator Mello would like the remainder of my time? Senator White? [LB952]

SENATOR KARPISEK: Senator White, you've been yielded 1 minute and 40 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President. Thank you, Senator Council. I mean, one of the things we want to talk about here is, you know, there's been criticism levied against the city of Omaha for not planning for this properly. And one of the things has been the political haves versus the political have-nots. A lot of poverty in the areas that have suffered the most from the sewer system as it exists. Those areas have never had the political respect. They've never been treated with the dignity and courtesy they should have been. They have had to live and tolerate conditions that almost all of us would find completely impossible. That's just a reality. And there's nothing I can do about that in the past, and neither can Senator Council. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: We can't do anything about that anymore. But what we can tell you is this: I am looking on the same people that have suffered from this in my district and

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Senator Council's district, and the elderly, even if their sewers haven't backed up into their basements, they're looking at this event with enormous fear. Because literally, that \$50 a month may mean they can't make it anymore on Social Security, that they just can't do it anymore. And that's one set of problems. But another set of problems is where am I going to get the jobs? Where am I going to get the jobs to keep the economic engine of the metropolitan area running when I am looking square in the eye of a CEO or a CFO of a major manufacturing plant, and they're saying (laugh) I just got whacked. [LB952]

SENATOR KARPISEK: Time, Senator White. Thank you, Senator Council and Senator White. Senator Price, you're recognized. [LB952]

SENATOR PRICE: Thank you, Mr. President and members of the body. I rise in support of FA67 even though I fear for its continued existence as already I hear rumblings that it may be withdrawn or somehow or other defeated. But I rise in support of FA67 and I also would ask that the body contemplate the impacts that Senator Nordquist has brought forth. In this time, how many more people do we want to put on unemployment? Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator Price. Senator Krist, you are next and recognized. Senator Krist waives. Senator White, you are recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. As we've done some rough numbers, and I need to do this a little more carefully, I was going to talk to Senator Heidemann. Senator Heidemann is in an Appropriations meeting and he was courteous enough to come to me and let me know, and we don't play when the other guy is not on the field. You know, it's not right. But Senator Fischer's amendment does have a major impact on the taxpayers in the metropolitan area. Our rough...and these are rough, back-to-the-envelope calculations are the difference if Senator Fischer's amendment is adopted for metro area taxpayers is \$100 million. That's the difference. That's the number difference as we figure it right now that FA67 means to the metropolitan area. And I want to talk to you...I want to finish the conversation if I might about what it means to the metro area. The metro area right now is doing much better than almost any other metropolitan area in the country. And it's doing that because we've generally been careful in the state and in the city about controlling taxes. Though we have huge problems, we also have been pretty good about providing very livable conditions in the city. But we could easily chase away our prosperity if we lose control of our taxes in that area. I mean, if you are...and we have packing plants. You know, you forget. That is not an industry that's really a rural industry. Omaha was the greatest packing center in the world for decades. We still have a major packing industry in Omaha. It provides important jobs for people who don't have a lot of skills in some circumstances. It gives them a job to get into the work field. And here's what happens. If you're a CFO of a packing company and you said, look, Omaha, I'm going to move because the feds

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whacked in. Now, you guys are whacking us on sales tax. I want to...forget it. I'm going to shut down my plant because I can make an extra \$1.4 million free and clear from profit by moving it somewhere else. Don't tell me in these times that doesn't happen. And if that plant moves across the river into Iowa, you've lost the property tax base which will affect school funding. I know Senator Adams has great concerns, and appropriately so. But if we lose a major industrial plant in Omaha, the impact on TEEOSA will blow away what we're talking here because we will lose that tax basis. And the people left behind will have a higher poverty level because we'll lose those jobs and we'll lose the state income tax that they pay now. And we will have additional costs in unemployment insurance and social service costs. And by the way, the sales tax that they pay now because they have a job in a plant on the Omaha side that uses our sewer system, that goes away too. And, you know, the thing is, it's tempting. It's tempting to say, oh, this is just...you know, you've just got to deal with it; I'm sorry about it, metro area, but we need this cash now. Understand, we are all interconnected. It's like pulling a thread on a sweater. You pull a thread here, you think you're fine--and you've got a hole around in the back. And that will happen because the economic vitality of the metropolitan area affects the health and ability of all Nebraskans. Just like the health and capacity of Sidney, of Scottsbluff, of Falls City affects the quality of life for all Nebraskans. We are one. I mean we are. And we get hurt the worst when we forget that. [LB952]

SENATOR KARPISEK: One minute. [LB952]

SENATOR WHITE: If we walk out of here and forget we're one state, if we walk out of here and forget that our problems are interrelated, if we forget that we will either share a bright future or a dim tomorrow but we'll do it together, then indeed we are in deep trouble and we will have not kept faith with the legislators and the citizens who came before us. Thank you, Mr. President. [LB952]

SENATOR KARPISEK: Thank you, Senator White. Mr. Clerk, are there items for the record? [LB952]

ASSISTANT CLERK: Mr. President, there are. New resolutions: LR346 and LR347 by Senator Janssen; LR348 by Senator Howard and others; LR349 by Senator Flood; LR350 by Senator Coash; LR351 by Senator Coash. Committee on Natural Resources reports LB747 to General File. Business and Labor reports LB829, LB934, LB780, LB872, and LB884 all to General File. Judiciary reports LB844 to General File; Natural Resources, LB785; Education, LB1071 and LB1070. An announcement that Urban Affairs will meet under the north balcony upon adjournment today; that's Urban Affairs under the north balcony. General Affairs has canceled the Executive Session for today and has rescheduled it for tomorrow, March 4, upon adjournment. An amendment to be printed to LB742 by Senator Avery. (Legislative Journal pages 739-747.) [LR346 LR347 LR348 LR349 LR350 LR351 LB747 LB829 LB934 LB780 LB872 LB884 LB844 LB785

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Finally, Mr. President, a priority motion. Speaker Flood would move to adjourn until Thursday, March 4, 2010, at 9:00 a.m.

SENATOR KARPISEK: You have heard the motion to adjourn. Everyone signify by saying aye who agrees. Opposed, nay. We are adjourned.