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Floor Debate  
March 04, 2010

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[LB9 LB297 LB510 LB763 LB799 LB800 LB836 LB867 LB877 LB882 LB888 LB888A  
LB901 LB906 LB919 LB926 LB937 LB937A LB945 LB952 LB956 LB1013 LB1036  
LB1063 LB1087 LR352]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-seventh day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Ernie Waltke from Our Savior Lutheran Church in Wymore, Nebraska, Senator Wallman's district. Would you all please rise.

PASTOR WALTKE: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Waltke. I now call to order the thirty-seventh day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Just one item, Mr. President: A report of registered lobbyists to be inserted in the Journal for this week. (Also reports from the Nebraska Department of Revenue and the University of Nebraska.) That's all that I have. (Legislative Journal pages 749-750.)

PRESIDENT SHEEHY: (Visitors introduced.) We will now proceed to the first agenda item under legislative confirmation report from the Natural Resources Committee.

CLERK: Mr. President, Senator Langemeier, as Chair of the committee, reports on the appointment of Jerrod Burke, Game and Parks Commission. (Legislative Journal page 724.)

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on your confirmation report from Natural Resources Committee.

SENATOR LANGEMEIER: Mr. President and members of the body, the confirmation report is for Mr. Jerrod Burke to the Nebraska Game and Parks Commission. Mr. Burke is from Curtis, Nebraska. We held a hearing on February 24, 2010, for his

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reappointment to a six-member commission, representing District 5. He is a farmer and an educator and is employed at School District 125 in Curtis, Nebraska. He serves as secretary-treasurer of the Nebraska 8-Man Coaches Association, serves on the city of Curtis board of zoning and adjustments, and is a cochair of the Medicine Valley Public Schools committee association. He is a graduate of the University of Nebraska at Kearney with a bachelor's degree in industrial technology and also with a master's degree in industrial technology. He came before the committee. He stood the questions the committee had for him and was passed out of committee for your consideration unanimously. And I'd ask for the adoption and the confirmation of Mr. Jerrod Burke to his second term on the Nebraska Game and Parks Commission. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of the Natural Resources Committee confirmation report. Members requesting to speak: Senator Christensen, followed by Senator Carlson. Senator Christensen, you're recognized.

SENATOR CHRISTENSEN: Thank you, Mr. President. Jerrod is a member from my district that has been very eager to serve. He's been excellent to work with. In 2007, when we had a number of flood-damaged structures from the dam project in Champion, to roads and other recreational facilities washed out in Hayes County and problems around, he worked very diligently with people trying to address questions, concerns, seeing what we could do as a state and to work forward. He's been a fabulous representative and I encourage your vote to renew his appointment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Carlson, you're recognized.

SENATOR CARLSON: Mr. President and members of the Legislature, I've been pleased with the many different candidates that we've had in our committees to approve for appointment, and one of these that stands out is Jerrod Burke. He's an individual that has called me several times, concerned about water issues. He stays on top of things. And you can tell by his resume that he's got other things in his life that would take his focus away, but he really puts in the time and effort, and he would be a good appointment. I fully endorse his appointment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Carlson. Seeing no additional requests to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of the Natural Resources Committee confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 750.) 39 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

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PRESIDENT SHEEHY: The confirmation report is adopted. We will now move to the first item under General File, appropriations bill, LB888A. [LB888A]

CLERK: LB888A, by Senator Conrad. (Read title.) [LB888A]

PRESIDENT SHEEHY: Senator Conrad, you're recognized to open on LB888A. [LB888A]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. LB888A is simply the fiscal note required to accompany the substantive legislation, LB888, which creates the Nebraska Uniform Limited Liability Company Act. As noted and during debate on General and Select File for the substantive legislation, this does not carry with it a fee increase in terms of registering an LLC. It has no General Fund impact but, rather, is an additional cash authority to the Secretary of State to carry out duties under the Uniform Limited Liability Company Act. With that, I'm happy to answer any questions; otherwise, I'd appreciate your support. Thank you. [LB888A LB888]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the opening of LB888A. Seeing no requests to speak, Senator Conrad, you're recognized to close. Senator Conrad waives closing. The question before the body is on the advancement of LB888A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB888A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB888A. [LB888A]

PRESIDENT SHEEHY: LB888A advances. We will now move to the first item under Select File, 2010 Speaker priority bills, LB799. [LB888A LB799]

CLERK: LB799. Mr. President, at this time I have no amendments to the bill. [LB799]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB799]

SENATOR NORDQUIST: Mr. President, I move LB799 to E&R for engrossing. [LB799]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB799 advances. We will now proceed to LB926. [LB799 LB926]

CLERK: LB926. Senator, I have Enrollment and Review amendments. (ER8175, Legislative Journal page 692.) [LB926]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB926]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB926.

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[LB926]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB926]

CLERK: I have nothing further on that bill, Senator. [LB926]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB926]

SENATOR NORDQUIST: Mr. President, I move LB926 to E&R for engrossing. [LB926]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB926 advances. We will now proceed to LB1063. [LB926 LB1063]

CLERK: LB1063. Senator, I do have Enrollment and Review amendments. (ER8172, Legislative Journal page 692.) [LB1063]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1063]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1063. [LB1063]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1063]

CLERK: I have nothing further on that bill, Senator. [LB1063]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1063]

SENATOR NORDQUIST: Mr. President, I move LB1063 to E&R for engrossing. [LB1063]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1063 advances. Mr. Clerk, we will resume to General File, 2010 senator priority bills, White division, LB952. [LB1063 LB952]

CLERK: LB952 by Senator White and others. (Read title.) The bill was discussed yesterday, Mr. President. Committee amendments, as offered by the Revenue Committee, were adopted. Senator White then moved and offered AM2091 as an amendment to the bill. Senator Fischer then moved to amend that amendment with FA67. Those two amendments are currently pending. (Legislative Journal page 739.) [LB952]

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PRESIDENT SHEEHY: Senator White, would you like to give us a brief recap on LB952? [LB952]

SENATOR WHITE: Yes, Mr. President, and thank you. Good morning, members. This is the bill that we've talked about for a couple of days now at different times. It is a bill that would exempt those fees associated with complying with an unfunded federal mandate from sales tax. This is a, literally, in my opinion, a triple tax. We start with the project itself, which will run, at current estimates, at least \$2.8 billion. Because that money is not available to the people of Omaha, because the state does not have the money, and because the federal government is not giving us any money of any significance on this project, the people of Omaha will have to borrow it. At that point in time, they will finance it through sewer bonds, and the basic cost of the project will double in terms because of the finance expenses. That assumes that they bring it in at budget. The scope of the project, I think, is unprecedented in the history of the state of Nebraska, with the sole exception of the interstate highway project. It will involve, as I understand at this point, the replacement of 19 linear miles of combined sewer pipe, but will also require the boring of a tunnel that is 17 feet in diameter, more than twice the height of an average room, that will run from Eppley Airfield all the way to Bellevue. That tunnel will be deep underground. The waste from it alone, disposing of it, is going to be a huge undertaking, the displaced soil. And the tunnel itself will be used to store wastewater and sewage until the storm abates. It can be pumped out and put through sewage treatment plants. This is an unprecedented expense for the citizens of Nebraska to bear. It is an expense that is not chosen by the people in the metropolitan area and it's one imposed upon them by Washington, and it is an expense that is done for the good of the country, for the good of the whole state. I had a discussion with Senator Pankonin. Plattsmouth, for example, is downstream of Omaha. All of our borders that touch the Missouri River will be affected, including Falls City and that area, and Rulo in Senator Heidemann's area. The cost will drive an enormous hardship in the metropolitan area. We talked. Senator Nordquist raised some numbers yesterday. We are talking about a sewer bill for a packing company going up by \$1.2 million a year. We are talking about a person on Social Security who has very limited income, with a modest home in my neighborhood or in Senator Council's neighborhood, who will add \$50 a month to their sewer bill. This is the kind of an unfunded mandate that bypasses so many of our in-place protections for the very vulnerable. There is no homestead exemption that will protect the desperately poor, those hanging on by their fingernails, from this charge. It is not protected by property tax provisions; and yet, it is a property tax because you cannot have a home in the metropolitan area without a connection to the sewer system. It has raised huge issues for the folks in Sarpy County, huge questions of expense and of a burden on their development. We have asked the people of Nebraska to look to the folks in Omaha as neighbors, not as people that live in a foreign place or foreign from their interests or their day-to-day activities but as Nebraskans who are facing a unique, indeed historically unprecedented, unfunded federal mandate and expense. I had a very interesting conversation with Senator

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Heidemann. I had hoped he would be here. He has talked about a small village in his district that was ordered by the EPA to rebuild its sewer lagoons, which I think is because there is only...I...there's only one reason for that, is they're worried they'll overflow, that I can imagine. And yet they are looking at, a village of 80 are looking at a per-home charge for sewer connection of \$40 a month for the next 40 years. This is not just about Omaha. Those folks in that village, too, should be able to reach out and find relief from fellow Nebraskans. These unfunded mandates with regard to sewers are coming to everyone, and we have to make a decision in this body. Are we going to just, as a state, as a matter of policy, say, hey, tough luck, you're in the wrong town, and we're going to throw a 7 percent sales tax on top of that to grind salt into the wound? And I know we need the money. I know that we are worried in the future. But yet, we have not budgeted one nickel of the money we're talking about here going forward, not a nickel. What we really are saying is, look, if the economy is flat, we're going to count on the federal government ordering people to spend a lot of money on projects they don't want, and then we're going to tax it, too. That is disastrous tax policy and it is a bad precedent, not just for the people in the metropolitan area but for the people in the small communities across the state who are facing similar problems. So I'd ask you, ladies and gentlemen, to look at this as a matter of statewide concern, a matter of statewide policy, a matter of fellow Nebraskans who have been forced into this bad position by a federal government that then walked away from them financially, that have been forced into this situation. And they recognize they cannot ask you for money from the state treasury because we have none to give, and they recognize that and can deal with that, even though many other cities have gotten support from their states when they face these problems. But we can deal with that. What we now are asking is simply this: Do not compound our misery. Refrain from taxing us as we struggle to comply with the orders of the federal government. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. (Doctor of the day introduced.) Senator Fischer, would you like to give us a brief recap on your FA67 to AM2091. [LB952]

SENATOR FISCHER: Thank you, Mr. President. And, yes, I will be brief. If you look at the World-Herald this morning, they did have an article on this bill, and they say that my amendment would trim the tax exemption by \$100 million. I don't know if that is correct or not, but the purpose of this amendment was to truly address the federal mandate. We've heard of a lot of talk about the federal mandate. And to be brief here, Mr. President, the amendment strikes, on page 3, lines 16 through 20, which does not deal with the federal mandate. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Fischer. We will now resume floor discussion on FA67 to AM2091. Members requesting to speak: Senator Gay, followed by Senator Dubas and Senator White. Senator Gay, you're recognized. [LB952]

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SENATOR GAY: Thank you, Mr. President. Actually I would say I am in support of Senator Fischer's amendment because I do think we need to discuss the unfunded mandate portion. I handed out an article written by one of the MUD directors, Mark Doyle, who's also a constituent of mine. And I think if you take time to read that during the debate, he did a fine job of spelling out some of the facts. Obviously, he's...as the director of MUD, he's in support of the bill. But I think he laid out some of the facts and why they think this bill could help ratepayers. My concern...why does a Sarpy County senator care so much about this, is my concern is this. We have our own sewer systems in Sarpy County in our communities; however, we flow into the basin. So in the '70s and early '80s, we...it just made sense to have a smaller county go together with Omaha and go into the basin, and that's how we combined...or that's how we got into this. Well, right now, what we're saying is we've never asked Omaha to pay for our repairs, and we're willing to pay a portion of these fees to help out the Omaha...the unfunded mandate that's been taking place. However, why we're interested, we're paying a "bulk 2" rate, and our rates are going from \$17, if you are in the MUD system, to \$50 a month. And it's a concern. If I don't speak up a little bit for those constituents who are using this service, directly or indirectly, by attaching to the Omaha system, I'd be a little remiss. I do think it's wrong maybe. I understand paying taxes on the use. That's been the policy since '67. Now we're asking them to pay a tax on the tax of this new sales charge or the usage charge that's on their bill. And I just think that's wrong a little bit. I know the revenue situation. I know yesterday, when Senator Adams spoke on the revenue, I understand that as well. We just left a meeting and I understand the budget situation in the coming years. But what we're saying here is in the coming years we're going to continue to tax this other amount of money again, and I just kind of think that's wrong. We need to make sure. And I guess I'm just trying to speak up for that taxpayer that's going to have to pay that all again and again and again over the years. Anyway, if Senator Price would yield to a question... [LB952]

PRESIDENT SHEEHY: Senator Price, would you yield to Senator Gay? [LB952]

SENATOR PRICE: Yes, I will. [LB952]

SENATOR GAY: Thank you, Senator Price. Senator Price, we had talked earlier, you and I, just off the record, our concerns about this. Maybe this bill doesn't address exactly our concerns. Have you visited with some of the mayors in Sarpy County about trying to get together with Omaha and their success with that? [LB952]

SENATOR PRICE: Yes, I have. And as you were able to articulate yesterday, that hasn't been as successful as we would have liked it to be. [LB952]

SENATOR GAY: And then when we had talked, there's a certain point...maybe this bill doesn't address it and maybe in the future you could have a bill that does address this. Why then, when we are just the users and attaching on, that we don't mind paying for

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that share we need to pay for, but the concern is we're paying for a lot of infrastructure. This is being done at the same time, the water and gas being done, and right now we can't differentiate between what we're paying for in the sewer repair, the way I understand it, what needs to be done under the federal mandate, and all the other things that go in. We'd like to understand, the way I understood it, talking to my mayor in Papillion and La Vista, that right now they don't have any understanding. Is that your understanding as well? [LB952]

SENATOR PRICE: Absolutely. It does look like there's a little bit of an opportunity tax being taken here, if you would, you know, and that... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR PRICE: The fidelity of what we're asking for is exactly what the floor amendment is, in that we keep it down to the sewer separation and that we don't try to have a lot of Christmas tree actions going on and taking further advantage of the residents of Sarpy County. [LB952]

SENATOR GAY: Yeah. And I think our mayors and our, we acknowledge we're part of...we utilize part of the system, and we're willing to pay for that fair share of the usage and repairs. However, the sewer separation, per se, is not Sarpy County's problem. What Senator White talked about, that 16 miles, none of...we won't flow into that ever, ever. And then, but we're still...we understand we're in the basin, we'll pay for part of that. But I would encourage in the future maybe we look into that a little more and get something done for our taxpayers. However, I think this is a small bit of consolation if they wouldn't have to pay the tax on the additional fee that's being charged. [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

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

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Dubas, you're recognized. [LB952]

SENATOR DUBAS: Good morning, Mr. Lieutenant Governor, members of the body. When we come to the Legislature, we're representing our districts, and each of our districts have their own separate set of unique circumstances and pluses and minuses, and we're proud to represent our districts. But we also come here as state senators. And we have to look at the big picture when we're making policy because the decisions that we make don't just affect the citizens in our district, they affect us statewide. So our job is to sift through all of the pros and cons and listen to the arguments, and then hopefully, at the end of the day, we're making a decision that will serve the state of Nebraska in the best possible manner. Each and every one of us in this body have

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brought a bill forward or multiple bills forward that are going to be of particular service to our districts--things that our districts are either needing some additional help on or we're wanting to get things going in our district. Water has been and will continue to be a very focal point for this body. This bill is a tough call because of the economic challenges we're facing today, and we're going to have a lot more of these tough calls as the session moves forward. I had a bill earlier in the session, LB297. It was a bill to help our beginning farmers and ranchers in small districts. It was a bill that was of utmost importance to me and the residents in my districts and the residents in rural Nebraska. I knew I had an uphill battle from the git-go, not because you couldn't support the concept, not because you didn't believe in the farmers and ranchers and small businesses in our state but, again, just because of the economic challenges that we're facing. You were gracious and kind enough to allow me to advance my bill from General to Select File. You allowed me extra time to see if there were any changes I could make to the bill. You allowed me extra time to talk with you, to hear what your concerns were so that I was able to come back on Select File and again make my points and again have the discussion. You were able to agree with me on the concept, but at the end of the day when you had to make the decision, you had to weigh the pros and the cons, and I knew your decision came down to where we were with our economy. And I totally respected the vote at the end of the day. Again, you weren't opposed to the concept. It's just those are the types of hard decisions we're having to make right now. I know there are many people in the body right now who have their mind made up on this particular bill either to vote yes or no. But for those who are still trying to sort through the facts and making your decision, I think we could afford Senator White and his colleagues that are supporting this bill that extra bit of time from General to Select File to continue to work on this bill. Maybe there are some other things we can do; maybe not. Maybe the bill is in the best shape that it can be right now. But to have the time between General and Select File to continue to talk with senators, to make your case, to put out there why this bill is so important to your citizens, I think, you know, is something that you afforded me that option. I'd like to see us afford Senator White and his colleagues that same option. This is an issue that impacts the urban areas of our state, particularly Omaha, in a big, big way. So whether it's on General File or Select File or Final Reading, this will be a tough vote, again, not because we're disagreeing with the concept, but numbers don't lie. When we look at our green sheets, when we look at the budget, when we look at those things, you know, the numbers are what they are. [LB952 LB297]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR DUBAS: But balancing our budget is something that we are required to do. And this bill, along with a lot of other bills that are going to come our way, are going to cause us to have to wrestle with these decisions and as to what's worthy of our yes vote and what we just can't justify. And I think what makes this bill so hard is the numbers are hard and fast and cold, but we know at the end of those numbers are real live people whose finances are going to be impacted, whose lives are going to be impacted

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by whether we do or we don't pass this bill. And I think for that fact alone, you know, if we can give Senator White and his fellow colleagues the opportunity to continue to try to make their case, see if there's any changes that they can make to this bill--just as you did for me, which I truly appreciated--I think Senator White would appreciate that, too. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Members requesting to speak on FA67 to AM2091, members are Senator White, followed by Senator Krist, Senator Giese, Senator Nordquist, and Senator Lathrop. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I can't tell you how much I appreciate Senator Dubas' words. I don't know, in the end, what will happen with this bill, but I can tell you there are a lot of issues and questions, many revolving around Sarpy County. This project is so huge and so complicated and so hidden in the shadows on a lot of levels that there has never, to my knowledge, been a really proper, open discussion in the public forum about the project and various ramifications. The ability just to talk about this has made a world of difference for the mayors of Sarpy County so they can express their concerns in a way that they don't feel they've ever had an opportunity to do before now. My constituents have been horrified by what they're learning about. And if they understand where the money is going and why they go, and there's a longer conversation so they can understand the very difficult choices that are being made at the city level, at the MUD level, at the state level, that will make a big difference. I myself learned something extraordinary yesterday. And I wish Senator Heidemann was here. I hear he's not feeling the best and I hope for a speedy recovery. But he was really kind to share with me the discussion of the village of 80 homes that had to rebuild their lagoons, because of an EPA mandate, and now are looking at a \$40-a-month sewer connection fee for the next 40 years. And he invited me down to his district, and I will go down there. If I get an opportunity to do this after this session, I will go down to see it. And what I guess I would say to you: Is this bill's language perfect for all villages who face this or all cities or towns? No, but I am willing to work with that. What I really think we need to do is search our principles as Nebraskans and say, is this where we tax? You know, if you are of a conservative nature, if you are a fiscal restraint person, if you're a person who opposes tax increases, then I think the issue is how do I justify a tax on a tax on a tax? If you are person who says government has a role, government has a role to provide services and require a clean environment and it has to do it in an equitable manner that is fairly distributed across all society which bears all of the benefits, then you have to be deeply concerned about the fact that we have unfunded federal mandates that are hitting select parts of Nebraska while other parts are unscathed, at least so far. And the burden is being dropped unfairly on certain people and not being shared by others. I was very impressed by Senator Adams' concern, as I am. He sees TEEOSA and school. He is absolutely devoted to one of the most arduous committees, I think, with that and Appropriations, that we face. And he says, I keep

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thinking about the TEEOSA and school funding, and he's concerned about that. And one of the elements that he's always talked about is fairness--we're going to spread the burden reasonably across the state and equalize it, and we're going to equalize the benefits. And yet here we are looking at a third of a billion dollars, over time, that is going to only fall on the metropolitan area. And this money from that won't be counted in the property tax calculation. It won't be equalized in any normal sense that we've always deemed to be fair. It won't be distributed with our calculations of what is fair under the property tax. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: And that is, again, what we're having here. It's because of this unfunded federal mandate, because it's coming through the sales tax system, but because it's tied to where you live and your home, elaborate long-term negotiated mechanisms to make sure there is fairness in the collection of taxes and in the distribution of the taxes--and TEEOSA has those, it really does--are being bypassed. And I would point out to my friends in agriculture, we found over the years that it was an undue burden on ag land to tax it at 100 percent. And in order to adjust and balance that unfair burden, we got a constitutional amendment, and we now tax it at a much lower rate than we do private homes or businesses. Again, this tax, however, bypasses that whole delicate balance. All of those long-term discussions and... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

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

PRESIDENT SHEEHY: Thank you, Senator White. Senator Krist, you're recognized. [LB952]

SENATOR KRIST: Thank you, Lieutenant Governor, colleagues. This is the last time I intend to get up and speak on the issue, not because I'm not passionate about it or I don't believe that people in District 10, which I represent, or the city of Omaha, in general, needs your help, but because I'm not sure I have anything more to add to the conversation. Thank you for the conversations, both on and off the mike, the debate. It's had...personally I've learned a lot from your comments and from your suggestions. To be clear, yesterday I referenced the urban versus rural. I referenced the vote being about Omaha, up or down on Omaha. I still believe to some extent that that is true, but I want to compliment...and I heard clearly what Senator Carlson, Senator Utter, Senator Hadley, and others said in the fact that these are different economic times. If Omaha was coming to this Legislature in years past, it may have been able to make the loan, float the bond, whatever the issue might have been. And today, we are faced with some incredibly tough economic decisions. To be clear, again, we would not be having this debate if the leadership in Omaha would not be solving their problem and their issues in

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this way. They're not communicating with the citizens and their neighbors, specifically Sarpy County. They're doing themselves no favors by not communicating and being up-front. And perhaps, perhaps we could reduce the tax burden by assessing different tax levels in the city rather than the method that they are currently choosing. Yesterday we heard, both very seriously and comedically, about those areas around the state that did not qualify for the same kind of tax help that we're asking for. And to be frank, senators spoke of the onerous, huge project, and how they wished they could help but not sure that they could bear the burden of all. There has been an amendment, a floor amendment by Senator Fischer, and I thank her for that, trying to reduce that, and maybe we'll go that direction. I specifically want to thank Senator Dubas for her perspective. It is in that vein that the 49 of us will come to some decision. It may not be the best decision, at least from some of our perspectives, but it will be a decision. Because at 2:00 we can draw blood and at 4:30 we can dine together because that's what this body does. It talks about issues, it gets to the point, and it makes logical decisions based upon good legislation. On behalf of my district, thank you for your consideration. On behalf of Omaha, thank you again for your deliberation over this issue. The voters will decide the leadership problem in Omaha. We need to help them as much as we can. We need to help my district and the Omaha area as much as we can today. And I'll yield the rest of my time back to Senator White if he would like it. [LB952]

PRESIDENT SHEEHY: Senator White, you're yielded 1 minute 20 seconds. [LB952]

SENATOR WHITE: Thank you so much, Senator Krist. Let me explain something that we've talked about. So often we get, I guess I call it State Capitol tunnel vision. You know, our problems are huge. Our responsibilities are myriad. The pressure to deal with the problems on your plate... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: ...can be overwhelming. And we talk about the tough times the state is facing. And what I would say to you is 40 percent of the population of the state, roughly, are served by this sewer system and this water system. The times are tough, incredibly tough there as well. We all are in this together with tough times. It's not isolated that we have challenges to balance our budget here. Our families across the state have huge problems. And the tough times that we deal with today are a result because of the tough economic times back in our districts, back in Omaha, back in Sarpy County, back in Elkhorn. Those districts are having enormous troubles with their own economic problems. So we are just a reflection of what they have. Now on Senator Fischer's amendment I'd point out this is economic activity, in my opinion, has never... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

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SENATOR WHITE: Thank you, sir. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Giese, you're recognized. [LB952]

SENATOR GIESE: Thank you, Mr. Lieutenant Governor. I want to talk about just a couple words this morning that we tossed around, and that is the unfunded mandate. It is very difficult to do, and those are two words that set off a city council or a city or state, and they are very important words. One of the things that we deal with in my hometown is we have to deal with a community across state lines. And how we do that is with cooperation, diligence, patience, and a lot of hard work. But what we realize in doing that is that we must all sit down at the table. We must all come together and figure out the best way to get things done. And I use that rationale for Senator White's LB952 and other amendments and the situation that Omaha finds themselves in now. We, as a state, though, I think must come together and resolve this problem. Whether LB952 passes or not, we'll have that vote. But I think that one of the things that we are forced to do is to talk about it. And again, I want to reiterate that we are all one and all have to figure out what we are going to do to resolve this problem as a state. One of the questions...and I will yield to Senator White, but one of the questions that I would like to ask him is what...why should a community like South Sioux City or Wayne or Dakota City be concerned with the problems of Omaha or the metro area, and why should we have to help them resolve those problems? So I would yield to Senator White. [LB952]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Giese? [LB952]

SENATOR WHITE: Oh, absolutely. And thank you, Senator Giese. Well, there are a number of reasons. I mean, one is the history of the fact that we have a common identity as Nebraskans, and that many, in fact, of my constituents came from Senator Giese's district. Most of the people in the metro area, folks, as children, lived in your districts. I mean, an enormous number of them have moved to Omaha because that's where the economic opportunities were as our economies in the rural areas have gotten worse and jobs have been reduced. They don't want to leave Nebraska. So one is, they're your friends and neighbors. They're often people you knew growing up. Second thing, though, is more of a self-interest. Right now, the economic engine of the state that's probably been the biggest contributor financially, and I mean right now, is Omaha. Agriculture and Omaha, the metro area, is where the income tax, the sales taxes that help drive the state, help pay for schools across the state, help pay for healthcare, help pay for all kinds of...the State Patrol, all those kinds of things are...the economic engines that we tax are located disproportionately in the metropolitan area. And so if the metropolitan area suffers, if we lose businesses because of this, then the whole state will immediately suffer on a tax basis. And third and finally--because I'm a strong believer, Senator Giese, in that what is right for one Nebraskan is right for another

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Nebraskan--if this language isn't right to protect South Sioux from a federally mandated sewer project that they are not getting money for,... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: ...then I will work with you on Select File to find language. Because the principle is what we're really talking about and it is the principle of we are not going to selectively tax different parts of our common people who have the misfortune to get hit with an unfunded federal mandate. What Senator Heidemann told me about that small village struggling with their sewer lagoon moves me just as much as what the people of my district are going to struggle with. And it's wrong for us to put a sales tax on them as they fight to keep their community together because of an unfunded federal mandate, as it is to put it in Omaha, as it is to put it in South Sioux. Really, we're fighting about a basic principle. Are we, under times of pressure, just going to shrug and look and say: tough luck, South Sioux, tough luck, Omaha; we're going to tax that unfunded federal mandate? Or are we going to recognize that they're part of our community... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR WHITE: ...and we need to help as well? Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Giese. Senator Nordquist, you're recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President and members. As I said yesterday, I rise in strong support of the underlying legislation and I appreciate Senator Dubas' comments about how we as state senators, how we do look at this, should look at legislation through a perspective, through a prism that includes the entire state. Last year, there was legislation that came forward that Senator Wightman introduced, LB9. And we were in tough fiscal times last year. We were showing a \$300 million deficit. On the Appropriations Committee, we had to make a lot of tough decisions. But on the floor I supported Senator Wightman's LB9 which exempted mineral oils for use at grain elevators. Now if I would have looked at that through the prism of my district only, I would have said, why the heck would I support this reduction in tax revenue to the state? Not a lot of mineral oils or grain elevators in south Omaha. But I knew that that was important to the economy of rural Nebraska and the economy of Nebraska at large. And that's what this is. This is important to the economy of the metro area and the economy of the state at large, and I think we all need to look at it through that prism. We were facing tough times last year. We made a tough decision. We had to rebalance our budget, find that money somewhere else. We can do that with this. As Senator Mello rightfully pointed out yesterday, we don't have a budget for the next two years. We do that on a biennial basis. We can set priorities and find the priorities. As Governor

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Heineman said in his State of the State: You want to control spending? You lower taxes. You quit feeding the beast. All right, that's how you reduce the size of government. You quit feeding it. So with this legislation, we can help the economy of the urban area, of the metro area, and it will lift the economy of the state at large. As I said yesterday, and it's so important to point out, when businesses are coming to the state, looking to come to the state, they're going to see hundreds of thousands of dollars, potentially a million dollar increase in sewer use fee as the largest user in Omaha is going from \$1.4 million a year to \$2.4 million a year over a five-year period. Now this project, we're going to be paying on these bonds for 30 years. It's likely that that rate will go up. I mean, the rate of running the sewer is going up from \$45 million to \$300 million--over sixfold--so it's likely the sewer use fee is going to go up over sixfold. That's going to scare a lot of businesses away. And it's up to us as state lawmakers to not pile on. I'll yield the rest of my time to Senator White if he so chooses. [LB952 LB9]

PRESIDENT SHEEHY: Senator White, you're yielded 2 minutes 20 seconds. [LB952]

SENATOR WHITE: Thank you, Mr. President, and thank you, Senator Nordquist. He is exactly right, folks. It's an issue here of, are we killing the golden goose as well? It really is, are we hurting an economy that is under pressure already? And as a result, as an unintended consequence of putting a sales tax in place, are you actually going to reduce revenue from other areas? And let me again bring it home to you. You are the CEO of a large packing plant in Omaha. Your sewer bill just went from \$1.5 million...or \$1.2 million to \$2.4 million. You're wondering, why are you going to do that? You want to go to the local chamber of commerce, and you're upset. And they say, look, don't blame us; blame the feds. Guys, wherever you go, the feds, they're doing that to people. And I'm sorry, but it's not us. It's not a decision of Nebraska. It's not a decision of the metropolitan area to do this to you. And the CEO is part of the community. He's likely to say, yeah, okay, I don't like it. It's a real cost of business. I've got to justify it to my stockholders; but oh, okay, I understand it's not a climate change. But then, when they look on their bill and they say: And oh, by the way,... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: ...the state of Nebraska decided to slap 7 percent on my pain, so rather than trying to help me and show that they have a positive business climate, they're actually picking on me. In a predatory move, they're throwing 7 percent on my misery. Okay, now that changes the climate, because it's not the feds. It's not...now it's your neighbors. They're taking more money from your business and now you've got to wonder about what climate you're working in. What business climate am I working in here? What are the people of Nebraska's attitudes towards my problems to run a profitable business? And I'm going to start looking for other places. And then when that plant closes, folks, the property tax of that plant goes away, which means your TEEOSA obligations to the metro area go up. And when that plant closes, the income tax that

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you've been collecting... [LB952]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator White. Members requesting to speak on FA67 to AM2091, we have Senator Lathrop, followed by Senator Mello, Senator Howard, Senator White, and Senator Nordquist. Senator Lathrop, you're recognized. [LB952]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. As you know, I am in favor of LB952 and I've been listening to the discussion that's been going on for the last couple days, and I'm struck by the policy decision that we are going to make and I'd like to talk about that for a minute. As a general rule, it seems fair and equitable and consistent with our traditions that if we must impose a tax in some respect on sales, for example, that we do it on sales that are part of the regular economy. If we're going to grow jobs, if we're going to make jobs come to Nebraska, if we're going to generate economic activity we should...and good policy requires or perhaps dictates that that should be the focus of where our sales tax come from. But today...but today we are talking about something that's not generated by our economy. It's not generated by the business sector. It's not generated by the consumers. It's not generated by economic activity. What we have is a federal mandate that's been dropped on us. And a lot of us are looking at the end product. There's money in this federal mandate. There's money for the state, there's money for the city if this bill fails. And it struck me, it's a little bit like finding a wallet on the ground, a bunch of hungry people finding a wallet on the ground. They don't have any money and there it is. It isn't theirs. They didn't work for it. But they open it up and there's some money inside. And we are at, with this policy question, the moral crossroads. And the moral crossroads are, as you consider this policy question, are we going to keep somebody else's wallet, take the money out of it and spend it, or are we going to find out who it belongs to and give it back to them? I think we can look at this issue as a matter of a true difference between the economy-generating sales and having something dumped on us. And, yes, there's money inside that wallet and the question for us today is whether we're going to keep the wallet, open it up, take the money out of it and spend it, because it's somebody else's money and it's a great opportunity when you don't have any, or are we going to do the right thing, give the wallet back, not take that money which wasn't ours in the first place, and give it back to the people of the city of Omaha so that they're not paying a tax on something...on a sale that wasn't generated by our economy and wasn't generated by the consumers of this state? I'd ask you to consider LB952 in the context of that analogy that this is a windfall. Are we going to do the right thing and not take advantage of it? Or do we simply say we're hungry right now, we don't have enough money to go around, I don't really care where it comes from, it's somebody else's and I need it? I'd encourage your support of LB952. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Mello, you're recognized. [LB952]

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SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I'd like to take this time to share a little facts and a little background a little bit on some of the issues that surround LB952. It's my understanding that our Department of Revenue, 18 months ago, issued a ruling that actually started this taxation process on this sewer separation fee. It was my recollection last year, in voting for a bill I know of Senator Wightman's and Senator Adams', of a trying to rectify a situation where that same Department of Revenue issued a ruling that put sales taxes on mineral oils and wood chips. Now I would look at this situation as an issue of fairness, in the sense that we can support a sales tax exemption that was unilaterally decided by the Department of Revenue last year dealing with mineral oil and wood chips, full well knowing that in my district there's not a lot of mineral oil used or wood chips burned because of the area of the state I represent. But it was good policy because the fact is this: It was the fair thing to do when those services were not taxed before, and a department comes in, unilaterally raises taxes on these services. The Legislature took it upon our prerogative to go in and change that. I think that same principle applies to LB952. The Department of Revenue came in 18 months ago, unilaterally raised taxes and assessed a sales tax on this project which now we are here debating today whether or not we should remove that Department of Revenue unilateral sales tax increase. As I found out, talking with Metropolitan Utilities District in the greater Omaha area, the city of Omaha annexed Elkhorn a few years back. Just this week the city of Elkhorn was officially moved now to the Metropolitan Utilities District for their gas fee. So the residents who lived in the former city of Elkhorn now have to pay an additional fee on their gas infrastructure replacement. They also will now have to pay an additional sales tax because of what the Department of Revenue issued 18 months ago. LB952 changes that. It doesn't change any annexation rules in regards to whether or not the city of Omaha annexed the city of Elkhorn; but, at least in this process now, a city that at one point in time didn't have to pay a gas fee, now has to pay a gas fee and now have to pay a sales tax on that fee. It would be my hope, as discussed on the floor today, FA67 essentially reduces the implications of the taxation that will happen on the greater Omaha area with this project. It lowers it from \$350 million to about \$217 million. That's still \$100 million and...give or take, \$133 million that people will be paying more in taxes if we adopt FA67. Some of the other members, we've chatted off and on the mike...and this does have statewide implications, not only because it deals with tax policy but it deals with, as what Senator White alluded to, doing the right thing for the entire state. If there was another city that was in a similar situation that the city of Omaha is in right now,... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR MELLO: ...it would be all of our responsibility to look to rectify that situation for that municipality or for that village. This is not about Omaha versus the rest of the state. This is about trying to ensure that we have good tax policy, and that when the

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Department of Revenue can unilaterally come in and raise taxes and issue a credence that says you will pay more taxes on this service, it is the responsibility of the legislative branch of government to debate that issue and determine whether or not we want to let that unilateral action stand. With that, I still stand in support of LB952. I stand in opposition to FA67. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Howard, you're recognized. [LB952]

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor. You know, in my district, we kind of like to know things in dollars and cents. And down here we have a tendency to talk in hundreds and thousands and half-million dollars. I brought my MUD bill in because I'd like a little information about this fee, this tax, whatever its proper name is. If Senator White would be available to yield to a question or two... [LB952]

PRESIDENT SHEEHY: Senator White, would you yield to Senator Howard? [LB952]

SENATOR WHITE: I'd be delighted. [LB952]

SENATOR HOWARD: Thank you, Senator White. As I said previously, I brought my own MUD bill in for a reference, for clarification. And in the simplest terms possible, because I don't want to take too much of my time up analyzing this, but right now my water infrastructure replacement fee that I see on my bill is \$3. What I'm wondering is, we talk about this \$50 fee that...number one, when is that going to go into effect? Number two, is that in addition to this \$3 that I'm already paying? And number three, I'm also paying a sales tax right now of \$15.87. Now am I going to be continuing to pay that? Am I going to be paying more? What's the dollars and cents on this thing? [LB952]

SENATOR WHITE: Well, Senator, let me try to answer as near as we can. In terms of what the ultimate amounts will be, it's really whether the project comes in at budget or not. Now a project this size, I've never seen come at budget, ever, that I know of. You look at the big dig in Boston and it was three times the estimate. Current estimates right now are \$2.8 billion, and then we have to finance it. So that basically doubles. All right? And the sales tax on that, at 7 percent, is \$325 million over 20 years, and that's if it comes in on budget. But every dollar it runs over budget, it doubles because of the finance costs. Now, in terms of what it does to your bill, the estimates, if they bring it in at budget right now, by 2014 your charge will go to \$35 a month for the sewer replacement. By 2017, it will go to \$50 per month more than you are paying now. Your taxes that you pay now won't change if this bill passes. You will still pay sales taxes on those normal fees, but what will be exempted is the increased amount of money necessary to comply with the federal mandate. Now the amount of money, \$50 a month, that bothers me the most, Senator--and you and I share similar districts--\$50 a month in our district, to a lot of elderly in small homes, is a real problem. We have mechanisms in

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place now under property tax that would take care of that. They could go in and they could ask for an exemption because of hardship. There will be no exemption for this. [LB952]

SENATOR HOWARD: Excuse me, Senator White. And I understand what you're saying, but that's not really answering the question that I had. You were talking about 2014 there would be an increase, and I believe you said \$35, if I was tracking you. What, of that, is going to be the tax that I will have to pay? [LB952]

SENATOR WHITE: Okay. [LB952]

SENATOR HOWARD: What's the dollars and cents? Two dollars? Three dollars? [LB952]

SENATOR WHITE: Okay. What you will see, Senator, is by 2014...and you have to understand, I'm not in charge of this project so you're asking me a question that I can only answer you based on information given to me by the city. All right? And by 2014, your sewer fee will go up 35 more dollars. All right? By 2017, it will go up by \$50. [LB952]

SENATOR HOWARD: Does your bill address this? Are you saying that you will be taking off the \$35? [LB952]

SENATOR WHITE: No, no, Senator... [LB952]

SENATOR HOWARD: You'll be taking off the...how much of the money will your bill address? [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: Senator Howard, we've been talking about it for a couple of days. It's takes 7 percent sales tax, on that \$50, off. [LB952]

SENATOR HOWARD: So by my calculations that would be \$3.50... [LB952]

SENATOR WHITE: Per month. [LB952]

SENATOR HOWARD: ...in 2017. [LB952]

SENATOR WHITE: Yes, if they bring it in at budget. And one of the concerns we have, Senator, which you should be concerned about very much is that \$50, and one of the things others should be concerned about, that little amount of money is a third of a billion dollars out of the metro area--\$320 million, if they bring it at budget, over the life

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of the project. [LB952]

SENATOR HOWARD: Where does the water replacement infrastructure fee I'm paying right now go, the \$3? [LB952]

SENATOR WHITE: They started that a year ago, as MUD did, to start trying to assemble money. Right now, you've paid it. It's going to this. But it will climb up and then it will be exempt after that. [LB952]

SENATOR HOWARD: So I'm not going to have a decrease in that. [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR HOWARD: Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. Let me continue with Senator Howard's questions because it's clear I have not done a good job in communicating to her and to maybe others in the body. What this does is takes sales tax off those fees necessary to improve the sewer system, just the sales tax. And here's an irony, and it's a concern. I've talked to a number of senators. A number of senators on the floor have said: Well, we need that money; we're sorry, we'd like to help Omaha, but we need that money, and we're counting on it and it's already being collected. Well, oddly enough...here's an irony. If the city had chosen to do a property tax increase--which I do not advocate--but if they did, just for our planning purposes, or they do decide to do a property tax increase rather than a sewer fee, the state won't collect any taxes on it, folks. The state won't collect taxes on it because you don't tax property tax. Instead, they said, no, the more appropriate and fair way to do it is a user fee. Now that's their decision. I don't have the data; I don't understand it; I'm not an expert in it. It's a project that they did, you know, obviously without my involvement, and I'm sure that's all to the good for them and me. But what I can tell you, the irony is we assume that this is revenue we have a right to; that this is revenue we're counting on; that this is revenue we're already getting. Guess what? It's not. It can be financed, a different method, and become completely free from sales tax. In fact, it regularly is in other communities. And if that's true, if Omaha did that, would we stand up and say, jeez, we've got to slap a sales tax on that property taxes because we're counting on that revenue? Well, no, of course not. So this is nothing that we can budget for. This is nothing we should budget for. If the federal government paid for this project, we would not get this sales tax money. If the cities had held the money in a reserve based on property tax, we wouldn't get this money. This is a windfall, and we are looking at spending it because we're addicted to spending. We cannot assume these kinds of receipts, because they are not true economic activity.

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They are an order from Washington to dig into your savings, if you have any, and buy a project you don't want. That's a completely different issue. And I am sorry I hadn't communicated adequately with Senator Howard of what the numbers are, but the numbers, on an average homeowner, are \$3, \$4 a month. But the guy that employs them, Senator Howard, the packing plant that employs your and my constituents, for them it's going to be \$80,000 or \$90,000 a year. And that's going to drive jobs out and it's going to take jobs from our constituents, because that packing plant is looking at a \$1.2 million increase and a 7 percent sales tax on that, and to them that's huge. And so those industries are going to reevaluate as well. And so it's not a small amount. It's a big hit. If it was a small amount, I don't think the Chamber of Commerce would be working on behalf of our bill...on behalf of this bill. It's going to hurt the metro area. And I know we are in a hard way. To everyone here, I know we're in a hard way and we want this money. We need this money. There's so many projects that we need to fund, whether it's roads, whether it's schools, whether it's healthcare, whether it's public safety and more state patrolmen. We have a lot of needs. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: But we don't need to take it this way. We don't have a right to this money. If it was funded in a number of different ways, we would never get this money to begin with. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Members requesting to speak on FA67 to AM2091: Senator Nordquist, followed by Senator Carlson. Senator Nordquist, you're recognized. [LB952]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think this is a significant amount. I mean, on a residential customer, you're talking about a couple dollars a month. But yet, we stand and we all talk about how great our property tax relief credit is, and that's only a couple dollars a month for people living in a lower income home, a home under \$100,000. So if that's important, then I think this is equally as important. As someone said in committee the other day: Nickels and dimes add up to dollars. I think that's absolutely it. But when you're talking about businesses here, some of the largest users in Omaha are going to see tens of thousands of dollars of tax just because of this. That's a job killer, and we cannot do that. I cannot stand here and say I'm going to represent the people in the metro area and around the state, and stand by and not let this legislation go forward to remove the tax. It's going to kill jobs. And that's why the Omaha Chamber came in, in strong support. They understand the importance of this to business owners in south Omaha and Elkhorn and the entire area. Also the United Cities of Sarpy County came in. They understand the importance. They're going to lose tax revenue to their city, but they understand the importance of it to the entire metro area at large. They know that we do not want to scare away businesses under this, and that's what will happen. And we can do our part right here. We can do our part

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to help protect and create jobs, and I think that's what this bill will do. If Senator White would like the rest of my time, I'd be happy to yield. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Senator White, you're yielded 3 minutes 20 seconds. [LB952]

SENATOR WHITE: I would only say this on Senator Fischer's amendment. This bill is good whether that amendment is adopted or not. But that amendment is designed to help...I mean, the bill, as it is, is designed to help rural areas that face, for example, reconstruction of their downtown, of small towns. It will add \$100 million in new taxes to the metro area if that provision is stripped out as we move through this. I'm going to support the bill whichever way. And I guess I would like the bill broadly written, if I had my preference, because I think that village in Senator Heidemann's district deserves relief, too. And I, you know, don't have a lot more to say to anybody other than I am grateful, very grateful, for your courtesy and your listening to this issue, and I look forward to seeing how the body resolves it. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Nordquist. Senator Carlson, you're recognized. [LB952]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to ask for Senator White's attention here, and then I'm going to make some statements, and then I'm going to give him the balance of my time. A question that I would have: Is the federal mandate the problem? Now if the federal mandate is the problem, then the federal government is also the problem as far as Omaha is concerned. And what if we could get the federal government to remove the mandate? Would that solve the problem? Now what would Omaha need to do if there were no federal mandate on the sewer system? I think they'd have to do something anyway. And I'm looking at figures from sources that I get, that one source says that a \$170-a-month utility bill would be affected by \$1.48 if this bill were passed. And Senator White has used the figure \$50 a month of additional billing on a regular or normal household will be the case. And yet I'm trying to get through my mind, but I think that that's going to happen anyway. And we're arguing and we're debating, which is fine, about whether or not that \$50 a month is, in fact, \$50 a month on the regular household, or is it \$46.50 a month? Senator Howard was asking that specifically. Well, if it's \$46.50 a month, that's still a problem. That's a problem for a lot of people. And if Senator White agrees that that's a problem for a lot of people, that's an Omaha problem that we can't solve here. Regardless of the outcome, there's going to be a burden put on what we might call an average household that is a real problem for them. Now, Senator White, I'm sorry I didn't ask you these questions one by one, because I wanted to make sure there was enough time, and I would yield the balance of my time to Senator White. [LB952]

PRESIDENT SHEEHY: Senator White, you're yielded 2 minutes 45 seconds. [LB952]

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SENATOR WHITE: Absolutely, if the federal government removed the mandate, the problem of this would not exist. We're not going to get them to do that, Senator, anymore than the people in the Republican River could get the state of Nebraska to change that compact. I mean, it came on from on high and, tough, we got to live with it. In terms of the amounts of money, Senator, here's what's happened. In a normal environment, a city can save money and move forward and slowly replace infrastructure. It's like any individual paying their mortgage. But what the federal government did to the city and the people of the metropolitan area was, we're going to accelerate your mortgage; pay it all now. Well, if you look at your mortgage payment month by month, it's manageable; it's not that much. But if you accelerate it and you've got to come up with all of that money right now, it's a backbreaker. And that's what's happening to us as a people. Now one of the things I want to talk about is we have had the mayor, in this case (laugh)--despite almost the unanimous support of every metropolitan senator for this bill--say he wanted the money out of that. Now out of that \$325 million, over the next 20 years he'll get \$40 million--\$40 million. The irony of that is that it's such bad tax policy. Such bad tax policy that one would take \$325 million from a metropolitan area, and then only to get \$40 million. If you're that owner or the CEO of that packing plant, you've got to shake your head. And I know there's a concern that property taxes might have to be raised in Omaha. But I can tell you right now, that would protect far more people. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: We could reduce the cost of this project, if property taxes were used, by 14 percent--or close to that--because we don't have to pay sales tax on the income stream coming back, and we also could protect our poor because of the homestead exemption. And we would do much better if he did that, but that's not what they've chosen. And I'm okay with that. That's their business. My business is, as a state, that whenever the federal government gives us an unfunded mandate against a city, a county, it's wrong for us to pile on. It's just wrong. When any part of the state is forced to spend a lot of money or take undue hardship because of a mandate from on high, whether that's a state compact on water and a settlement of a lawsuit they didn't control, or whether it's the federal government telling us, look, the clean water going down to Kansas City,... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR WHITE: ...then the whole state should suffer some, but we certainly shouldn't profit... [LB952]

PRESIDENT SHEEHY: Time, Senator. [LB952]

SENATOR WHITE: ...from the pain. [LB952]

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PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Carlson. Senator Howard, you're recognized. [LB952]

SENATOR HOWARD: Thank you, Mr. President and members of the body. My concern, and I want to make this perfectly clear, is the unintended consequences or possible unintended consequences of this bill. And this is what I really struggle with. The mayor of Omaha has already stated that if this funding is removed, the alternative is to increase property taxes. Now I consider myself to be pretty much the average person. When my property tax bill comes, I don't always look at it immediately. I set it aside until I have a little time to sit down and kind of check and see what it's gone up to, because it always goes up. And yesterday I took that time and I looked at it. And I see it's increased. It's increased due to a levy increase by Metro Community College and also by the learning community. Those are the two things that jumped out at me. Now I don't know if the mayor will follow through on a property tax increase, but I can tell you, I'm really concerned about this. And we talk about people not being able to stay in their own homes. I worry about this for all of us. I worry about this for myself. The bill continues to increase. I just think we need to be careful. We need to look at this in terms of dollars and cents. I'm going to weigh this very carefully. I'm listening to all of the debate here. But the unintended consequences that we sometimes deal with really can have an impact. I appreciate the time. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Howard. Are there additional members requesting to speak on FA67 to AM2091? Seeing none, Senator Fischer, you're recognized to close. [LB952]

SENATOR FISCHER: Thank you, Mr. President, and thank you, members. Interesting discussion on the bill. As I said when I filed this amendment, I filed it because I kept hearing discussion on unfunded mandates, and I thought it was necessary to point out that the unfunded mandate is a very narrow part of the focus of the bill. We didn't hear too much, I'm sorry to say, on really the true guts of this amendment, and I'm disappointed in that. But I think what we did hear has been very valuable. Every area of this state has needs, and it's our job to try and address the needs of the citizens, no matter where they live. And I think everyone in this body knows that each of us try to do that, and I hope that that will be recognized as this debate continues. I would also hope that we keep in mind that we're talking about tax policy and a major shift in the tax policy in the state of Nebraska. And I hope we continue to remember that this is a budget question. This is a question that we'll need to address. And if we support this, where do we cut? Because cuts will have to be made. Sure, it's easy to stand up and say, well, gee, we aren't going to do it this year; we can deal with the budget next year. You know, I look at the out-years and see what we're facing. There's programs I want to support. There's a number of things that we all want to support in this state but we're not going to be able to. That's the reality that we're dealing with. That's the economic situation we're

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in. And to put on blinders and say, oh, we can just go ahead and we'll address it in the future; well, you know, sure, we probably can. But I think we need to step up and address it now instead of compounding the issue for those of us who will be here in two, three, four years. So I hope we keep all those things in mind as we continue the debate on this bill. And, Mr. President, I would withdraw the amendment. Thank you. [LB952]

PRESIDENT SHEEHY: FA67 is withdrawn. We will now return to floor discussion on AM2091 to LB952. Members requesting to speak are Senator Council, followed by Senator Nelson and Senator White. Senator Council, you're recognized. [LB952]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have certainly appreciated the level of the debate of this issue the last couple of days. And I just want to reiterate the fact that when we look at the impact of this increase in the sewer fees--and that's how it has been decided by the city of Omaha as the way to cover the costs of complying with this federal mandate--is the difficulty involved on imposing, first of all, that increased fee on residents, particularly residents of my district who, in fact, have been the victims of the combined sewer problems in Omaha before the federal mandate, and to be forced into a position, which simply because the federal government comes in and says that this separation should occur, that these people, who have been seeking to have this accomplished for decades, are placed in a position of first paying a very high, potentially very high additional sewer fee, and then to have that additional sewer fee subject to 7.5 percent more in costs. And as Senator Cornett responded to a question I asked yesterday as to how other states have dealt with this situation, they have looked to increases in property taxes, which has had a detrimental and adverse effect on low-income and elderly people, particularly those with homestead exemptions who have gone to the...to the sewer fee, I apologize, that particular impact on them, that it's in the best interests of the state of Nebraska to address this very serious situation through assisting the city of Omaha and Metropolitan Utilities District carry out these much needed sewer separations and pipeline projects so that the citizens of the residents of the city of Omaha can receive this sewer fee, quite frankly, without being taxed out of their homes. And I was having a sidebar conversation with Senator Ashford. And I think you need to understand and appreciate the potential impact of this. In Section 8 housing--and those are housing developments that are managed by the Omaha Housing Authority--the tenant is responsible for his or her utilities. A failure to pay those utilities leads to eviction from that Section 8 housing and, upon eviction, it eliminates those individuals from consideration for any other public housing. And while there are some who may not think that an additional \$50 or an additional \$54 doesn't mean anything, it means an awful lot to a person whose rent may only be \$50 based upon their income. So with this additional sewer fee, the sales tax on that sewer fee, without assistance in eliminating at least a portion of what, in my opinion, is clearly a tax, we are going to harm a significant number of members of residents of the state of Nebraska. And I trust that that's how we look at this issue. Yes, the individuals who will be impacted the greatest will be in Omaha. But these are residents of the state of

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Nebraska. And we have an interest in protecting and assisting residents of the state of Nebraska,... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR COUNCIL: ...particularly in a situation where they're not in it solely as a result of their own action or inaction but because of this federal mandate. And for those reasons, I urge the body to support AM2091 and the underlying bill. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Nelson, you're recognized. [LB952]

SENATOR NELSON: Thank you, Mr. President, members of the body. This is the first time I've spoken on this issue. I am a senator from District 6 in Omaha. We have a lot of things to consider here. But I want to rise and stand in support of LB952, and I want to thank Senator Fischer for withdrawing her floor amendment. Senator Fischer said that this is...would be a major shift in tax policy. I don't think so. I think it would be a minor shift in tax policy, and I think it would be for the good of the state of Nebraska. As has been said, we're dealing with federal mandates. We get these mandates from the federal government, and yet they don't see fit to provide the funds to help us out wherever we are, whether we're in a larger city like Lincoln, metropolitan Omaha, or various small towns in the state of Nebraska, and I come from a small town in the state of Nebraska. So what are we to do? How are we going to fund these mandates? It's a sacrifice on the part of all our citizens. Let me read into the record just a few statements here that Mr. Doyle made, and this is what Senator Gay put out. When the district's board of directors voted to create the infrastructure replacement funds, we believed that these funds would be exempt from sales tax. Since they're not exempt, it's disappointing that our customer owners are now forced to pay an additional \$1.2 million of annual sales tax. The district paid sales tax at the time of construction on every piece of pipe, every vehicle purchased in transport work. And it goes on: On top of the initial sales tax on the construction and the maintenance paid by the district customer, they also pay an additional 7 percent sales tax to operate this natural gas and water utility. This also results in a windfall for government when, for example, natural gas prices rise. I serve on the Appropriations Committee, and I know there are concerns from our Chair and other members of the committee of how are we going to cope in the next few years here? Where are we going to get the income to sustain our expense? Well, an answer is to reduce our expenses. I'm an optimist. We're going through hard times right now, but I don't think they're going to continue. This is always cyclical, and we're going to see better times in the state of Nebraska and we're going to see them in Omaha. I listen to "Grow Omaha" every Saturday morning, which is a program telling about the work of the chamber of commerce and how we're trying to bring businesses in and encourage them to come in and increase the jobs that we have, and also it goes on out to the rest of the state of Nebraska as far as that goes. I'm optimistic about that. I think we're going

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to get those, if we don't discourage people from businesses and businesses from coming in because of additional taxes that are going to have to be paid to the extent that Senator White has talked about so capably. I think that we are going to see an improvement in our economy. We're going to have a tough time in the next couple of years finding income that we need, to the extent that we can't reduce state expenditures. But times are going to get better. I don't think we should take advantage of this windfall. The city of Omaha will lose if we pass this bill, which we should. They're going to lose 1.5 percent. The state will lose 5 percent. But why should we take advantage of that as a state, in detriment to the city of Omaha and other towns, for the next 30 years? It is a windfall. I think it's a matter of fairness that we should help each other out. We, in Omaha, are willing to help out the rest of the state of Nebraska when it's necessary; we have done that already. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR NELSON: I think it's incumbent on all of us to take a look at this and, at least to the extent that we can eliminate this sales tax on top of another tax, we should go ahead and do it. It's a shift in tax policy to that extent, but it's only a shift in tax policy when we are faced with federal mandates of this size. Thank you, colleagues. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. I yield my time to Senator Ashford, who for decades has worked in the municipal area, and he can explain some history to you on a human level that may bring home what exactly the people in the metro area are facing. [LB952]

PRESIDENT SHEEHY: Okay. Senator Ashford, you're yielded 4 minutes 40 seconds, and you're also next in the queue. [LB952]

SENATOR ASHFORD: And I won't use my time, I don't believe, but thanks for that introduction, Senator White. I've never had an introduction before (laugh) so I...listen, I asked Senator White if I could talk about this briefly, and I haven't talked on the issue and I'm not going to make a long speech about it, but here's what I am concerned about, and Senator Council touched on it. I have spent a lot of time working in the older areas of Omaha. I spent a number of years, I think about ten years, working with low-income housing in Omaha. Omaha is a city with...unfortunately, has historically and still remains, in many respects, a segregated city. And as a result of that, we have many, many people living in poverty, on the edge. When I ran the Omaha Housing Authority, I would look at the numbers every month to determine how much money we had actually to sustain these homes, to allow people who really had absolutely nothing,

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trying to raise families and attempting to make it on a day-to-day basis. Throughout all that period of time...and I recall when Senator Council was running for mayor of Omaha, and she talked about the need to have affordable housing, to make sure that we have a policy in our city for affordable housing so that people had an opportunity to live in a better place and to live throughout the city of Omaha. But it was a struggle that she undertook and, unfortunately, was not as successful as I'd hoped she could have been, because she really was telling the story as it was, the unfairness and the inequity...and it really is a statewide issue. I know it's an Omaha issue in some respects, and I know it's a tax issue in some respects, but in many respects it's really the issue that we've been facing in this Legislature since I've been back, and it was clearly an issue we talked about for the eight years I was here before. And that is, when we have...may I have a gavel, Mr. Lieutenant Governor, please? [LB952]

PRESIDENT SHEEHY: (Gavel) [LB952]

SENATOR ASHFORD: When we have...thank you. When we have, in our state, areas and pockets of great poverty...and those areas are not just in Omaha. They exist throughout the state. They exist in Scottsbluff, and Senator Harms and I have had many discussions about the impact of poverty in rural Nebraska on crime and education. But it exists and it exists throughout our state. It seems to me that we would be sending so much the wrong message to say to the people who live in our city...in this case, it happens to be Omaha. It could be some other city. It could be some other town or some pocket of poverty throughout our state where, because of some governmental action or lack of governmental action, the people who could absolutely least afford it--in fact, they can't afford it at all--to ask them to pay additional taxes or additional fees to the government. And that's what will happen here. That's what will happen here. I don't mind paying the extra sales tax. I don't think I would be...and I think Senator Adams is right. We have a budget issue. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR ASHFORD: And I may need some of my time. I have...we have a budget issue. And I'm happy to pay the additional sales tax because, quite frankly, we're going to need the extra sales tax. If it was that simple, that would be great. You know, Brad will pay the extra sales tax; Norm will pay; Brenda. We'll all pay the extra sales tax because we have the ability to pay the extra sales tax. But that's not what we're talking about here, in my view. What we're talking about is raising money--taxes--on people who have begged and pleaded for government for 50 years or longer to help them separate their sewers, if you will; create an affordable housing plan for their city; to try to break through the segregation that exists in our city; to try to improve the educational opportunities for the people in poverty in our city. And it hasn't happened. [LB952]

PRESIDENT SHEEHY: Senator Ashford, you're now into your time. [LB952]

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SENATOR ASHFORD: Thank you. It has not happened. And it's a lot of people and these are people that have lived in my city for generations. It seems to me that when we make government policy, that when we make tax policy we have to think, in making that policy, not about those people who can afford it, because we can all do that, we can all afford to pay that sales tax. When we make policy and tax policy, we have to think about those people who not only are on the margins but are below being on the margins, who don't have access to healthcare, who don't have access to the kind of educational opportunity that they need, that don't have access to jobs. This is a fundamental issue, in my mind, that goes to the essence of how we govern. If we need to raise a tax across this state to deal with a state issue, that's one thing. But to tax the people who have begged their government for years and decades and decades, to no avail, for help...and as Senator...and many senators...Senator Nelson said it well, to ask these individuals to pay \$50 or \$80 a month that they do not have, it's taking the people who can least afford it, who do not have the means or the ability, is wrong. It's wrong. Members, I know this maybe is taking this issue beyond where it has been taken in this debate and maybe it's more than you need to hear, but I'll tell you it is true. It is absolutely true. And it's not just Omaha. It's anywhere in our state where there's poverty, anywhere in our state where we don't deal with the issues of poverty and segregation. That's what this debate is about, in my mind. I urge this body to support this bill because it's sending the message, as I hope we do in other measures before this Legislature this year, that people who are on the margins, people who are poor, people who don't have healthcare, people who do not have affordable housing, people who just can't make it need our help. Senator Nordquist and the other senators are talking about employers and jobs. That's fine and I don't debate that. That's fine. I still think businesses, quite frankly, will still come to Omaha. I still...if we don't pass this bill I think we'll get up in the morning and pay the tax. I think we'll still have money to go on vacations. I think all those things will be the case. But it is the people of this state--and I'll tell you, the group is getting larger and larger and larger--they don't have access to the things we have access to. And every time we have a vote like this, we must think about those people, because they have nobody else to protect them, no one else to help them. It is absolutely...it is very, very important that this bill be passed, not for Omaha, not for my sales tax, not for some business, necessarily, though I understand that it impacts some businesses greater than others, but for the people who cannot make it, who have no healthcare, who have to go to the emergency rooms, for the people who are on the margins in this society. We must talk about that every chance we get... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR ASHFORD: ...and I think this is the opportunity we have to talk about it. I urge that we adopt the amendment and pass the bill off General File to Select File. Thank you, Mr. Lieutenant Governor. [LB952]

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PRESIDENT SHEEHY: Thank you, Senator Ashford. Members requesting to speak on AM2091 to LB952: Senator Lautenbaugh, followed by Senator Hadley. Senator Lautenbaugh, you're recognized. [LB952]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This has been a remarkable debate in several ways. And let me point out that I am a cosponsor of this bill and will vote for it. But I've sat here and listened to a lot that's been said, and we just heard, I think, Senator White describe Senator Ashford's perspective as the human perspective. I'm not sure what our other perspectives are but I'll offer mine, wherever it comes from, as well. But I'm going to echo something that I did here a couple times at the mike. We tend to remember things that we say here, at least I hope we do, and we try to strive for a little consistency, or at least we should. And I heard last year, primarily from some of my Omaha colleagues, that during the special session when we sought to freeze TEEOSA, we were mandating a property tax increase, because there's no other option, as we all know. There's no way humanly possible to cut spending, we were told last year. It cannot be done; we are foolish to even think people should consider it. So, if we froze TEEOSA, we were mandating a property tax increase, we were told. More remarkably, last session we were told if we decreased the rate of increase to OPS, it was constitutionally suspect. Not just bad policy, not just a bad day in the Legislature, but a constitutional violation leading to litigation if we cut that, because there's no conceivable way spending can be cut. We all know that. Somehow we did it last year but no one else can. So, now here we are, and we're going to forgo millions in tax revenue. And as I've said at this microphone maybe a half-dozen times this year, we're going to be \$600 million to \$1 billion short in the coming couple years, and so we are. But if anyone from the metro area, any of my colleagues feel particularly put upon or feel that some of our other colleagues here are less than enthusiastic, it could be because they were beaten about the head and shoulders with these arguments last year. And now here we are saying something entirely different and saying, well, yeah, if we do this it may cause a property tax increase. But different year, different rules, so we move on, I guess. I did hear something this morning that was encouraging: Government-funded and government-mandated economic activity is not real economic activity that we should be taxing. It's encouraging to know people still feel that way in this country, that free market, free people is good economic activity and that's the kind of activity we should strive for, and that something that is run by the government and mandated by the government and, despite how stimulatory it might allegedly be, isn't real legitimate economic activity. I urge you all to call Washington, if you feel that way, and share your beliefs with them. And I will be voting for this bill. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB952]

SENATOR HADLEY: Mr. President, members of the body, good morning. I wasn't going

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to speak again, but I did want to respond to a couple things that have been said. It's been said that this may not be a real big change in tax policy for the state of Nebraska. Well, let me read: With the enactment of the Revenue Act of 1967, charges for sewer services have been taxable. Something has been on the books now for 43 years. I think that's a change in tax policy, significant change. I really think we're talking about this because of the magnitude of the change. It's a big issue. But we're getting confused again between paying for the service and the sales tax on it. Fifty dollars: 7 percent, \$3.50. We talk about the \$50; we don't talk about the \$3.50 sales tax--and that's really what we're talking about. Secondly, federal mandates. It's fun to get up and bash the federal government, federal mandate. By golly, the federal government is upset that we're mixing sewer and storm sewer together, at times, and putting it in the Missouri River. Should we be upset about that? Should we rail at Washington for telling us what...that this isn't good? Where have we been for the last 40 years? Is it good that...you know, this is terrible that the federal government...it is terrible that the federal government has to tell us that we shouldn't be doing this. Lastly, kind of shame on Omaha. Omaha, the city of Omaha, said no to a property tax and yes to a sewer fee. I think there's some political games being played here. If we go with the sewer fee, there is a sales tax on it. That's an easy way to do it, right? You kind of get your cake and eat it, too. You get to...people don't see much in the, you know, sales taxes--invisible taxes. People pay them. The city of Omaha gets the sales tax--good deal. But they could have gone to a property tax. And I want to echo what Senator Ashford said and what Senator Council said. If you're worried about poor people, you're worried about the people who can't afford these kinds of things, we have mechanisms in the property tax to help lower income people. We have homestead exemptions. We wouldn't put a sales tax on this. So I guess if someone has the answer to me of why Omaha decided to go and put it on a sales tax, on a user fee rather than using property tax that would be spread over everybody that owns property, with built-in mechanisms to help the poor, I'd like to know. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Hadley. (Visitors introduced.) Senator Cornett, you're recognized. [LB952]

SENATOR CORNETT: Good morning, Lieutenant Governor and members of the body. I wasn't going to speak this morning, like Senator Hadley, but I've heard things today that I just want to respond to. Senator Hadley and Senator Council are exactly correct in that the other municipalities in this state, when faced with situations like this, have raised their property tax. And I understand Senator Howard's concerns when she sees her property tax bill, but strictly from a tax policy standpoint, property tax is the most direct method of funding these improvements. What we are doing or what is being done with the sales tax on this, by going to a sales tax on the fee, is instead of funding the improvements through a property tax increase, we're pushing or shifting it so it doesn't look like it's costing as much as it really is. And the political will in the city of Omaha is not to raise property tax even though they're one of the lowest property tax

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municipalities in the state, which I think Senator Fischer brought up yesterday. By implementing it in this fashion, we are taxing the people that least can afford this. We're taxing the elderly, where if it was on property tax they would be exempt under the homestead. We're hitting people that are young, poor, elderly, instead of the people that can most afford to pay it. I received, this morning, from Senator Gay exactly what this would mean to my district. And between now and 2014--I don't seem to have what I did with the paperwork--but I believe it was a 72 percent increase in fees, broken down by each year: 12 percent one year, 14 percent another, 12 percent another. Remember, this is a fee that is going to be anywhere between \$15 and \$50 by the end of the point of implementation. People will be paying more in the end, with this fee, than they would be by paying property tax. When Senator Hadley brought up, it would be a...this is a significant shift in policy--it is. But when...and the sales tax in 1967, what he was referring to, I don't think it was the intention at that time to tax people in this fashion. It was the assumption that the municipalities, when looking at these projects, would use property tax. With that, I support the amendment and the underlying bill. Thank you. [LB952]

PRESIDENT SHEEHY: Thank you, Senator Cornett. (Visitors introduced.) Are there members requesting to speak to AM2091 to LB952? Seeing none, Senator White, you're recognized to close. [LB952]

SENATOR WHITE: Thank you so much, Mr. President. And ladies and gentlemen of the body, I note a number of people have been checking out. That's been at the request of a lobbying effort by the city of Omaha that they can "not be here" so they don't have to vote no. But we are going to ask for a roll call vote, and an absence is a no vote, so lest there be any mistake about the record. I do want to talk to you about this amendment. This is an amendment that I put in to reduce the fiscal note. It's not really an amendment I believe in, and I want to explain why. I really believe the tax policy we're talking about here today should apply to the entire state. But what AM2091 does is substantially reduce the fiscal note, and it does that by limiting the benefit of the bill with regard to the replacement of gas in water pipes to the metropolitan area. I don't think that's right. But the pressure of the fiscal note--I thought I'd offer it so the body would have a real choice, and you'll make your own mind up on whether it's the right thing or not. But let me explain what it does to the fiscal note. In 2010 and '11, rather than having a total fiscal note of \$3,669,000, it will reduce it to \$1,547,000. In '11-12, rather than a fiscal note of \$6,342,565, it reduces it to \$2,068,000. In the fiscal note, year '12-13, rather than having a fiscal note of \$7,133,000, it reduces it to \$2,830,000. And in '13-14, rather than a fiscal note of \$8,135,000, it's reduced to \$3,800,000. I don't think that's good policy. I don't think that just Omaha faces these kind of massive infrastructure issues. But if what we're about is money, rather than principle, then I think AM2091 benefits my district, but it denies those benefits to other parts of the state, and that is not what this is about or should be about. What we ought to be talking about here is controlling spending. What we ought to be talking about is understanding that the

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whole state is interrelated. The things that negatively affect the metropolitan area really negatively affect the whole state; that choices are made, and how we raise taxes impact the economy. To those who are concerned that this is money we're entitled to, that this is money we have a right to expect, that this is money we can plan on having and spending, I would tell you if the city and if the metropolitan area, instead, decided to do this through property tax, you would get not one nickel in sales tax. If the city--and I'm not advocating this--but if the city did that, on one level Senator Ashford's point would be moot, because the issue of homestead exemption and the protections that we have in place on property taxes, from unduly falling on the poor, would apply. But because they're doing this through the form of a fee, sales tax hits them, and hits the poor the hardest. And all due respect to Senator Hadley--in 1967, when this sales tax was passed, there was no such thing as the Clean Water Act. There were no federally unfunded mandates. And, in fact, right through the '70s and the '80s, when the Clean Water Act was passed, the sewer lagoons throughout this state, a lot of the sewer treatment plants were built with the help of federal money, and that still happens sometimes. [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: And in those communities they have no sales tax on this issue. So what we are talking about here, really and unequivocally, is this: When the federal government picks one portion of our people and throws a burden on them with no assistance, are we going to throw another burden on them, too? I urge you to vote your own conscience on AM2091. Thank you much, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the closing of AM2091 to LB952. The question before the body is on the adoption of AM2091. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB952]

CLERK: 20 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB952]

PRESIDENT SHEEHY: AM2091 is not adopted. We will now return to floor discussion on LB952. Members requesting to speak: Senator White, followed by Senator Nordquist. Senator White, you're recognized. [LB952]

SENATOR WHITE: Thank you, Mr. President. Again, I appreciate people returning. There are still a number of supporters of this bill who are not here and that have had to be off the floor. I should say that if we drop too far, I'll ask our supporters to check out, as well, and then we won't have a quorum. And that's quite possible, too, because if we're going to play legislative pool with something this important, we can play back. But I don't think that's what should happen. I think what we deserve is an honorable up or down vote, but not that it's the end of the debate. What Senator Dubas said was so true:

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This is an incredibly important bill. And we are going to call the house. At this time I request a call of the house. Yes, I'm closing. [LB952]

PRESIDENT SHEEHY: No, you are not closing. [LB952]

SENATOR WHITE: Oh, I'm sorry. [LB952]

PRESIDENT SHEEHY: We still have additional lights on, Senator White. You are on your first 5 minutes. [LB952]

SENATOR WHITE: All right. Thank you. [LB952]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized. Senator Nordquist waives. (Visitors introduced.) Are there additional members requesting to speak? Seeing none, Senator White, you are recognized to close on LB952. [LB952]

SENATOR WHITE: Thank you, Mr. President. I would request a call of the house at this time, and I will close as we move forward. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB952]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB952]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator White, we're down to three members. Would you like to start your closing? [LB952]

SENATOR WHITE: Thank you. Members of the body, I would like to once again tell you this is not the end of the discussion. As Senator Dubas said, this allows us to continue to talk about something that's enormously complex: the largest public works project, in my experience, since the interstate. There are huge problems of poverty, of whether or not the safety nets of property tax, TEEOSA are going to apply or not, of whether we're properly allocating expenses across county lines and across metropolitan city lines--and it is going to be a \$6 billion problem. Now I would submit to you this is a new tax, that what our answer should be, as a people, is we are going to control spending rather than take advantage of mandated federal expenditures that are not accompanied by federal money. I think the principle that should be talked about now and on Select File is this: What is our response as a state to a massive change in circumstances since the 1967 law was passed? That change in circumstances is: the economy has changed; the federal ability to sustain its policies through expenditure of federal monies has

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disappeared. And the question is this: How does the state respond as a matter of tax policy? If we say we do nothing, we just put sales tax on it, what we have done is compounded the tax on a tax. We are taxing a sales tax on a federal tax. But worse than that, in my opinion, is we are walking away from long, long, generations-long methods of protecting the poorest among us. All of the mechanisms that protect the very marginal, in ownership of homes, don't apply here. There will be no homestead exemption to protect the elderly. There will be no separate financial funding to help them keep their homes livable. You will see them fleeing their homes into nursing homes, and you will see an increase in the number of elderly going into nursing homes, at great state expense. You will see businesses second guess whether Omaha and the metropolitan area is the right place to do business. You will see all kinds of unintended consequences on TEEOSA, because TEEOSA is built, also, with a long number of intended checks and balances to make sure that our resources are fairly allocated and that our needs are fairly met. All of that gets bypassed. All of that is bypassed under this system. And you are looking, in effect, at a \$50-a-month per household increase in property tax, with none of those protections, because the circumstances that our policies were built on, in 1967, have so changed that the whole point of those policies in many respects are just not relevant. The way the world works has changed, but our tax policy hasn't. When we are dealing with the biggest public works project in generations, in this state, to move this forward to Select File, to have honorable debate so that when Senator Heidemann has more time we can talk about the impact of what that unfunded federal mandate on his small village in his district... [LB952]

PRESIDENT SHEEHY: One minute. [LB952]

SENATOR WHITE: ...has done to them and whether or not we're handling this situation properly as a state, that debate is important. It is really important, and not just for Omaha. I ask you to advance this to Select File, if for no other reason than there will be no bigger expenditure of money, probably, in your life as a public servant, than this one. And to pass it forward without looking at it long and hard does a disserve to us but, even more importantly, to every Nebraskan. I appreciate your support in at least moving it to Select File. Thank you, Mr. President. [LB952]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the closing to LB952. Senator White, all members are present or accounted for. How would you like to proceed? [LB952]

SENATOR WHITE: A roll call vote, please. [LB952]

PRESIDENT SHEEHY: There has been a request for a roll call vote. Mr. Clerk. [LB952]

CLERK: (Roll call vote taken, Legislative Journal page 751.) 25 ayes, 18 nays, Mr. President, on the advancement of the bill. [LB952]

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PRESIDENT SHEEHY: LB952 advances. The call is raised. Mr. Clerk, do you have items for the record? [LB952]

CLERK: I do, Mr. President. Thank you. Senator Karpisek would move that LB867 become law notwithstanding the objections of the Governor. That will be laid over at this time. The Transportation Committee, chaired by Senator Fischer, reports LB945 to General File with amendments. And Enrollment and Review reports LB1036, LB919, LB937, LB763, LB1087, all to Select File, some of those having Enrollment and Review amendments attached. An announcement: Business and Labor, 11:30, north balcony. That's all that I have, Mr. President. (Legislative Journal pages 752-755.) [LB867 LB945 LB1036 LB919 LB937 LB763 LB1087]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to under General File, 2010 Speaker priority, LB882. [LB882]

CLERK: LB882 by Senator Rogert. (Read title.) The bill was introduced on January 11 of this year, referred to the Agriculture Committee for public hearing. The bill was advanced to General File. There are Agriculture Committee amendments pending. (AM1853, Legislative Journal page 573.) [LB882]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Rogert, you're recognized to open on LB882. [LB882]

SENATOR ROBERT: Thank you, Mr. President. Good morning, members. On to General File. LB882 is legislation that is important for passage, basically due to some recent federal regulation changes. In April 2009, the FDA revised a portion of their rules dealing with the rendering of dead cattle that has resulted in a serious dilemma for beef producers in Nebraska and other states. Specifically, FDA's new rules require that the brain and spinal cord, which is referred technically as specific risk material--or I'll say SRMs from here on out--in cattle 30 months of age or older, to be removed prior to rendering. And that is due to BSE and other disease threats. I introduced LB882 with the intention of addressing the trickle-down consequences of revised federal regulation triggered by a rule that mainly affects cattle, but my bill deals purposefully and intentionally with dead animals without regard to species. In Nebraska, some rendering companies possess both the technology and the desire to remove SRMs prior to rendering, but some plants do not possess the equipment necessary, and in other cases the business model for a specific plant does not support such endeavors. The short of it is, those plants who do pick up cattle 30 months of age and older do not service the entire geography of Nebraska. For example, there are portions of southeast Nebraska with literally no rendering services. There are thousands of cattle producers, primarily cow-calf operations, who do not have access to rendering, and therefore, according to state statute, often have no lawful way of properly disposing of their

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mortalities. There are five specific components in LB882. The term "burn" has been changed to "incineration" at a request of the Department of Environmental Quality, to be in accordance with the DEQ statutory language. Two, it allows the owner or custodian of dead animals to bury, incinerate, or compost on the premise it dies on, or after relocation to an adjacent property under the ownership and control of the animal's owner or custodian. Three, it places restrictions on the vehicle used by the owner to transport the dead animal, and imposes a penalty of violation to these restrictions. Four, it allows Nebraska licensed renderers to transport dead animals to either a rendering establishment or to a facility with a permit to operate as a landfill under the Integrated Solid Waste Management Act. Five, it requires the Department of Ag to regulate composting and to develop, in consultation with the university, rules, regulations, and proper procedures for composting. This proposed legislation was the accumulated work of a lot of folks. The Cattlemen, the Farm Bureau, the Livestock Marketing Association, the Pork Producers, the Veterinary Medical Association, the Department of Ag, the DEQ, and the university, and the Department of Natural Resources were all involved in the collaboration of this language. LB882 has been voted unanimously out of committee with no opposition. We have a committee amendment that proposes that a veterinary clinic or a diagnostic laboratory, it gives them the option of using alkaline hydrolysis tissue digestion as a method of disposal. Alkaline hydrolysis is a process that produces very limited odor, eliminates radioactive contaminated tissues, destroys pathogens, combines sterilization and digestion into one operation, and reduces the volume and weight of waste by as much as 97 percent. It has been approved for the treatment of infectious waste in all the states where it has been requested for such approval. Furthermore, the method is used in many diagnostic and veterinary facilities, biomedical research institutes, pharmaceutical companies, healthcare facilities, mortuaries, governmental agencies, and ag facilities across the U.S. The original legislation is needed in order to comply with federal regulations, and the alkaline hydrolysis tissue digestion language is just an alternative method to incineration or composting, and we limited the application to only veterinary clinics and diagnostic laboratories. With that, I ask for your support of LB882. I thank the Speaker for his priority designation, and thank you, Mr. President. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening to LB882. As was noted, there is an Agriculture Committee amendment, AM1853. Senator Carlson, you're recognized to open. [LB882]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The committee amendment is a revised version of an amendment offered by Senator Rogert to recognize alkaline hydrolysis as a method of disposal availability to veterinary facilities and veterinary diagnostic laboratories. The primary purpose of the amendment is to facilitate planning for facility expansion and improvement for the Nebraska Veterinary Diagnostic Center of the School of Veterinary Medicine and Biological Sciences of the Institute of Agriculture and Natural Resources. The laboratory facilities

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project is currently on the UNL campus capital facilities priority project listing, and is anticipated that it will be placed on the UNL system priority list in the upcoming biennium. The end product of alkaline hydrolysis can be released into a sanitary sewer system in accordance with local and federal guidelines regarding pH and temperature. Residual bone material can be land disposed as other solids. The committee amendment was developed in consultation with the Department of Agriculture, the University of Nebraska, and the Department of Environmental Quality. I would urge the adoption of AM1853 and the underlying bill, LB882. Thank you, Mr. President. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening of the Agriculture Committee amendment, AM1853, to LB882. Member request...we do have an amendment to the committee amendment, but first we will have a Speaker's announcement. [LB882]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. My thought on today is that we'll work until 1:00 p.m. this afternoon or if we get to LB836. I don't want to start LB836 today. If we resolve the agenda through LB877, we'll quit sooner, whichever comes first, either 1:00 p.m. today or a resolution on LB877. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, you have an amendment to the committee amendment. [LB882]

CLERK: Mr. President, Senator Rogert would move to amend with AM2074. (Legislative Journal page 730.) [LB882]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM2074. [LB882]

SENATOR ROGERT: Thank you, Mr. President. AM2074 amends the committee amendment. After we got everything worked out, we realized we wanted to put an effective operating date. We're putting in October 1, 2010. This will allow the Department of Ag to have additional time to consult with the Institute of Agriculture and Natural Resources at the university on items such as guidance materials, finalizing composting protocol, and update and develop regulations. So I'm just asking for your support on this amendment. Senator Carlson was aware of it, and that's all we have. Thanks, Mr. President. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening of AM2074 to AM1853. Members requesting to speak: Senator Dierks and Senator Carlson. Senator Dierks, you're recognized. [LB882]

SENATOR DIERKS: Thank you, Mr. President, members of the body. I stand in support of both the amendment to AM1853 and that amendment as well, as well as the bill. It's

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remarkable the things that have changed over the years in the way we can use to dispose of animals. This alkaline hydrolysis thing is...we got a little bit of a start in that a number of years ago, but we limited the size of the carcass to 600 pounds, and now we can do it with a larger carcass than that. Then the other thing that's amazing to me is that the end product can be processed and sent through our sewer system without any difficulties. We have some other problems in this state and in this nation regarding disposal of animals, and I'd just like to take a brief moment to remind you that Congress is working on legislation, and they've got, both the House and the Senate, have these bills that will forbid the slaughter of horses in this nation. A couple of states have already done that. The language in those bills in Congress are...have not passed yet, but...and probably, because of the pressing issues, won't be passed this year. I've had some correspondence with Dayle Williamson, in Senator Ben Nelson's office, trying to make some sense out of what Congress is doing, and it's pretty difficult. But you should be aware that the United States Humane Society and PETA and some of those people have decided that we shouldn't slaughter horses anymore because they're more like pets, like dogs and cats. And they don't think they ought to be slaughtered for human consumption--which they have been over the years. And in Europe and some countries in Europe, why, horse meat is part of their diet just like we eat beef and hogs. But the effort is there and it's gained support from the eastern part of our country. And I think that what they don't realize is that over the last couple of years we have caused more pain and suffering among horses than ever before, because many of them are starving to death and many of them are being dumped on other property. You take, out in the desert in Nevada, horses are dumped out there in the desert daily because they don't have any place for them to go, and they starve out there. And if they don't starve, why, the wild horses challenge them. So we've just got a huge problem out there. And I'm trying to find some answers for that, for Nebraska, and I keep leaning on the fact that I think that...I think that the democratic process has failed us, in some ways, in the fact that we are losing some of our sovereignty. I think the state of Nebraska...I think the states of the nation are losing sovereignty. I think they've...they've been...it's been replaced by congressional...and overpowering...and judicial overpowering of our states' rights. We need to be taking a look at that. And I'm proud of the fact that Senator Tony Fulton has got a resolution out there that will talk about state sovereignty, and I think we really need to be very aware of that. We were formed, as a nation, as states, and the states formed the federal government, and it wasn't the other way around. But a lot of people think that the federal government formed the states. That's not right, folks. We are the ones that dictate... [LB882]

PRESIDENT SHEEHY: One minute. [LB882]

SENATOR DIERKS: ...what happened at the federal government. So I'm sorry I took some of your time on a little bit different issue, but it's something I think is important, and I want people to be aware of it and be able to come to grips with it when we get a chance to talk about it again. With that, I'd just ask you to support the amendment to the

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amendment and the amendment to the bill and the bill itself. Thank you. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Carlson, you're recognized. [LB882]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I believe that AM2074 provides for a more thoughtful and orderly implementation of the bill. I support its adoption. Thank Senator Rogert for bringing forth LB882, and would ask for your support. Thank you. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Dubas, you're recognized. [LB882]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I, too, rise in support of the amendments and the underlying bill. I know this is not the most glamorous topic to be talking about, especially right before lunchtime, but it really is an issue that is critical to those of us who raise livestock. In the past, we've had plenty of rendering plants available in close proximity--that when we needed an animal picked up, you know, they were there in a very short amount of time. But we've lost a lot of those rendering plants. They used to pay us to come get our animals. Now we almost have to pay them to come pick them up. So this is a public safety issue. It's just really critical for, as I said, those of us who raise livestock, in conducting our business. This bill is one that has involved a lot of parties to make it so that we are able to address this very important need, and I would encourage the body's full support. Thank you. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Seeing no additional requests to speak, Senator Rogert, you're recognized to close on AM2074 to AM1853. [LB882]

SENATOR ROGERT: Thank you, Mr. President. Once again, AM2074 just sets an operative date for the act of October 1 of this year. Thank you. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the closing. The question before the body is on the adoption of AM2074 to AM1853. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB882]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Rogert's amendment. [LB882]

PRESIDENT SHEEHY: AM2074 is adopted. We'll now return to the Agriculture Committee amendment, AM1853. Member requesting to speak: Senator Lautenbaugh, you're recognized. [LB882]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I told

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Senator Carlson I wasn't going to speak on this amendment, and that's true. I'm speaking "during" this amendment, which is an entirely different thing. This is what you do for a floor announcement when you're not the Speaker. LB836 is coming, and it relates to this bill in some way, I guess. And I want all of you to know that you've all gotten a lot of e-mail on it and we've worked very hard with Game and Parks to address the concerns, so if you're still getting e-mails on LB836, please see me and I'll explain the amendment. It's not what people were originally worried about. It is very different and a very good thing. And so with that, I urge you to support this amendment and the underlying bill. [LB882 LB836]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Carlson, you're recognized to close on AM1853. Senator Carlson waives closing. The question before the body is on the adoption of the Agriculture Committee amendment, AM1853, to LB882. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB882]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB882]

PRESIDENT SHEEHY: AM1853 is adopted. We will now return to floor discussion on LB882. Seeing no requests to speak, Senator Rogert, you're recognized to close. [LB882]

SENATOR ROGERT: Thank you, Mr. President. Thank you for adopting the committee amendment. Once again, LB882 is for an adjustment in the federal regulations of rendering of animals. I want to once again thank the groups following that came together and put the language together and worked it out nicely: the Nebraska Cattlemen, the Farm Bureau, the Livestock Marketing Association, the Pork Producers, the Veterinary Medical Association, the Department of Ag, the DEQ, and the University of Nebraska. And I thank them all for their hard work. I urge your green vote and send this to Select File. Thank you, Mr. President. [LB882]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the closing. The question before the body is on the advancement of LB882. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB882]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB882. [LB882]

PRESIDENT SHEEHY: LB882 advances. We'll now proceed to LB956. [LB882 LB956]

CLERK: LB956, a bill by Senator Adams. (Read title.) Introduced on January 14, referred to the Education Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB956]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB956. [LB956]

SENATOR ADAMS: Thank you, Mr. President, members. I'll try to make this easier than Rule 18 and residential schools. And really this is a very simple thing. Currently, the state of Nebraska contributes financial aid to students in Nebraska for postsecondary education, and the program currently is called the Nebraska Scholarship Act and it is administered by the Postsecondary Coordinating Commission. And it is need-based aid, and it follows the student, not the institution. So a student in Nebraska that wants to go to a community college, a Creighton, a Kaplan, it really makes no difference, because the money is with the student where they choose to go. The program is made up of both lottery dollars and General Fund appropriation. What I'm bringing you today are three relatively minor changes, but they're changes that come about as a result of discussions with the Postsecondary Commission that administer the program, our private institutions, and lengthy discussions in committee. The changes would be this: (a) We're going to change the name of the program from the Nebraska Scholarship Act to the Nebraska Opportunity Act. The question was asked of me: Why? When we have in the title "Scholarship," it implies that academic credentials are part of the qualification for this, and it's not. It's not. This is need-based. It's not test-score based. So we'd like to take that language of scholarship out of there. The other two components that we would like to adjust--these components already exist in law in our scholarship program, we merely want to adjust them--are these. Currently, in our scholarship program, award grants will not exceed 25 percent of university tuition. We want to raise that to 50 percent of university tuition. We think that is more reflective of current trends. It's been a long time since this has been changed. The other thing we do...and currently what we have said is that students that apply for this are Pell-eligible, need to be Pell-eligible. Well, what we're doing here is raising it and saying that in Nebraska what we're going to say is that a family contribution of \$6,000--it really goes up above that Pell eligibility level a little bit--and the intention here is, quite simply, for more of our students to be eligible for this aid. Now it doesn't open the door wide open, but it bumps up that family contribution a little bit, up to \$6,000, and it also says that we're going to help out to the tune of 50 percent rather than 25 percent of university tuition. It still puts blinders on as to the institution that a student goes to. The money follows the student. And this is an opportunity to maybe give a few more students in Nebraska a little more flexibility as to where they choose to go, and it also helps out, maybe just a little bit, that lower middle class student a bit. So those would be the three changes. Thank you, Mr. President. [LB956]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening to LB956. Member requesting to speak: Senator Gay, you're recognized. [LB956]

SENATOR GAY: Thank you, Mr. President. Would Senator Adams yield to a few

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questions? [LB956]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Gay? [LB956]

SENATOR ADAMS: Yes. [LB956]

SENATOR GAY: Thank you, Senator Adams. Can you explain the qualifying maximum would be \$6,000 for the family, what that means? I mean you're raising that to... [LB956]

SENATOR ADAMS: Yeah, what we're saying is if a family can contribute, that would be their contribution that would make...you know, when you fill out your FAFSA forms, when students do--and someday you'll have to endure that--they will determine what your capable family contribution is, and that begins to then set the level of financial aid. So we're going to raise that up a little bit. [LB956]

SENATOR GAY: Which is good because you're allowing more people in the program. [LB956]

SENATOR ADAMS: Correct. [LB956]

SENATOR GAY: But on that, so is that like what you could pay for your books and tuition and all that? Is that a direct contribution that you write a check to the school or...? [LB956]

SENATOR ADAMS: The assumption is that you could handle that much of it on your own, your family could. [LB956]

SENATOR GAY: Okay. And then...and that's where you get away from the Pell eligibility. [LB956]

SENATOR ADAMS: Correct. [LB956]

SENATOR GAY: And then you got a 2.5 percent increase so you don't have to do this every year. [LB956]

SENATOR ADAMS: That's right. Thank you for bringing that up. Rather than have to come back into this every two or three years, we've built a kind of an inflation multiplier in there. [LB956]

SENATOR GAY: Okay. And then is there a cap on the budget, what we've put into this? You said it's state funds and... [LB956]

SENATOR ADAMS: There is a...and it's just about a fifty-fifty split. [LB956]

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SENATOR GAY: How much is in the pool? [LB956]

SENATOR ADAMS: But it's about...oh, about \$6 million, \$6.5 million of lottery, and then state contribution. So we got a total of about \$13 million, \$14 million into this financial aid fund. [LB956]

SENATOR GAY: Okay. So is there an income where, if you exceed a certain income, you don't qualify for this? [LB956]

SENATOR ADAMS: Right. [LB956]

SENATOR GAY: What's that income level? [LB956]

SENATOR ADAMS: I...well, I'm not sure what that number would be. Senator, I've been advised that that family contribution, what they're capable of making, that, in effect, sets the cap. [LB956]

SENATOR GAY: That's how you judge? So I guess now if we're going to contribute 50 percent instead of 25 percent, are we decreasing the amount of people? You're giving them a better opportunity,... [LB956]

SENATOR ADAMS: Right. [LB956]

SENATOR GAY: ...but won't that decrease the number of recipients of the scholarships? [LB956]

SENATOR ADAMS: We're going to be spreading the pot a little thinner. [LB956]

SENATOR GAY: It will be thinner. [LB956]

SENATOR ADAMS: Yes. [LB956]

SENATOR GAY: But do you know by how much thinner? [LB956]

SENATOR ADAMS: No, I couldn't say. I don't know. [LB956]

SENATOR GAY: All right. That's the only thing, when I looked at that, it makes sense because college is costing more and more, but yet the pool was going to be shrinking if we're going to pay for half their...or up to half their tuition now and then the income levels. That's where I had...and the only reason I say that, I'm in favor of the bill, it's...I trust your judgment that this is the right thing to do. [LB956]

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SENATOR ADAMS: No, you've hit on it right. [LB956]

SENATOR GAY: Yeah, but it's one of those things where you wonder how it's going to affect the people in your area and the state. But I suppose those are questions, if we can get to them at some point, it doesn't sound like...there's not a whole lot of opposition. But I do think as we shrink that pool, I wonder how many kids, you know, that we might be kicking out by...you're helping some more but you're also probably going to now say, well, we can't give you that many scholarships, because \$12 million... [LB956]

SENATOR ADAMS: Well, it's just...yeah, and the money goes to the institutions based on the number of students that they have to qualify, and then that money gets mixed with other things from the institutions: other scholarship opportunities, foundation monies, those kinds of things. [LB956]

SENATOR GAY: Yeah. Thank you, Senator Adams. Thank you, Mr. President. [LB956]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Nelson, you're recognized. [LB956]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Adams, if he would yield. [LB956]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Nelson? [LB956]

SENATOR ADAMS: Yes, I will. [LB956]

SENATOR NELSON: Thank you, Mr. President. Senator Adams, I have a question or two along the same lines that Senator Gay was...in the same area, at least. I've got some recollection, at least in the case of our kids, that when they were applying for scholarship, or even grants--is it FEMA or something like that?--you have those federal forms to fill out. [LB956]

SENATOR ADAMS: FAFSA forms, yes. [LB956]

SENATOR NELSON: Yeah. Does the University of Nebraska and other colleges, do they go through that process on... [LB956]

SENATOR ADAMS: Yes. [LB956]

SENATOR NELSON: Okay. So the parents are responsible for filling out all this information, and... [LB956]

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SENATOR ADAMS: Correct. [LB956]

SENATOR NELSON: ...ad nauseam, almost in all the detail. But it has to go through that process, first, and then you get down to the nitty-gritty here with the particular institution as to whether they qualify or not. [LB956]

SENATOR ADAMS: Correct. [LB956]

SENATOR NELSON: All right. So there is some protection there, I guess, as far as the information that's provided from the family as to what they can afford. [LB956]

SENATOR ADAMS: Absolutely. [LB956]

SENATOR NELSON: All right. Thank you, Senator. And thank you, Mr. President. [LB956]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Are there additional members requesting to speak to LB956? Seeing none, Senator Adams, you're recognized to close. [LB956]

SENATOR ADAMS: Thank you, Mr. President. Members, I'll just quickly run through the three points. We change the name. We take "Scholarship" out of it so that we're not implying that it is test-score based. It's "Opportunity." The other thing that we're doing is we're raising the family contribution eligibility level up to \$6,000, and we're saying that the institution could award up to 50 percent of university tuition rather than the 25 percent that it currently is. Thank you, Mr. President. [LB956]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the advancement of LB956. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB956]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB956. [LB956]

PRESIDENT SHEEHY: LB956 advances. We will now proceed to LB877. [LB956 LB877]

CLERK: LB877 was a bill introduced by Senator Cornett relating to revenue and taxation. (Read title.) Introduced on January 11 of this year, at that time referred to the Revenue Committee, advanced to General File. There are committee amendments, Mr. President. (AM1877, Legislative Journal page 559.) [LB877]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB877. [LB877]

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SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. LB877 was brought to me by the Tax Commissioner at the request of the Property Tax Administrator. LB877 allows the department to appeal an action or decision, a county board of equalization or Tax Equalization and Review Commission that relate to the valuation and equalization of real property. It also allows the Tax Administrator to direct when the county assessors are to implement soil surveys and allow the review of homestead exemption applications to ensure all requirements are met. With that, I'm going to do a section-by-section breakdown of the original bill. Section 1 is new language that gives the Tax Commissioner...or Property Tax Commissioner...pardon me, the Tax Commissioner or the Property Tax Administrator the power to appeal action or a decision made by county boards or Tax Equalization and Review Commissions. With the committee amendment that we have filed, we have limited that authority. Section 2 is new language that gives the Property Tax Administrator the authority to determine how county assessors use soil surveys. Basically, this is to grant them to use the soil surveys that are already in place and certified. Section 3 requires taxpayers to include a legal description of the real property when filing an appeal of value, and failure to appeal the legal description becomes a basis for a dismissal. This is something that we also clarified in the committee amendment. Section 4 deals with the legal description, as the section above. Section 5 is language to allow the Tax Commissioner to review homestead applications and why those applications were denied...if they are denied, why they were denied. Section 6 adds language to the list of those decisions which may be appealed to the Tax Equalization and Review Commission and refers to Section 1. Section 7 exempts the Property Tax Administrator from a filing fee for an appeal. That is currently in place, that exemption, for county assessors and county boards. Section 8 deals with the appeals, and if the state...if the county...or Tax Administrator files an appeal, that the state will pay the court costs on that. With that, I will wait to open on the committee amendment. [LB877]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening to LB877. As was noted, there is a Revenue Committee amendment, AM1877. Senator Cornett, you're recognized to open. [LB877]

SENATOR CORNETT: Thank you, Lieutenant Governor. The Revenue Committee amendment, the first part that I will deal with deals with Section 1 and Section 6. Revenue Committee amendment allows the Tax Commissioner to appeal only county boards' decisions and final decisions on exemptions of real or personal property. The amendment allows the Tax Commissioner to appeal any final order of the Tax Equalization and Review Commission. Language in the original bill on property legal descriptions in appeals was modified. The committee amendment would allow the taxpayer to provide a description sufficient to identify the property rather than a precise or an exact legal description as required by the original bill. Language was added by the committee amendments which requires county boards to electronically transmit copies

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of that final exemption case decisions to the Tax Commissioner within seven days. This language also establishes a time line of 30 days for appealing those final decisions. Language was added by the committee amendment which requires the Tax Equalization and Review Commission to electronically transmit copies of all final decisions to the Tax Commissioner within seven days. This language also establishes a time line of 30 days for appealing those final decisions. The amendment added a new section to the bill. This language was modified because existing language limited the right of appeal of exemption decisions to the county assessor. This change was made because existing language conflicted with the committee's policy of authorizing the Property Tax Administrator to appeal exemptions. I will advise the body that we will be working on an amendment that will be filed on Select File to address some of the concerns by all parties involved. Thank you. With that, I urge the body to support the amendment and the underlying bill. [LB877]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening of AM1877 to LB877. Are there members requesting to speak? Senator Louden, you're recognized. [LB877]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I support this amendment, AM1877, because I think as we work through that it made the whole process working with the county officials, the state...the TERC committee, and also the Property Tax Administrator a little bit more user-friendly. And that's what we were trying to do is to set it up so that the average person wouldn't have that much trouble if they wanted to protest their tax or take it to a TERC committee or someone like that. So I think it's a very good amendment and I would urge the adoption of LB...or of the amendment, AM1877. Thank you, Mr. President. [LB877]

PRESIDENT SHEEHY: Thank you, Senator Louden. Seeing no additional requests to speak, Senator Cornett, you're recognized to close on the Revenue Committee amendment, AM1877. [LB877]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I just want to urge the body to support the amendment. The amendment strengthens the bill and I believe is better public policy. Thank you. [LB877]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the closing. The question before the body is on the adoption of AM1877 to LB877. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB877]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB877]

PRESIDENT SHEEHY: AM1877 is adopted. We will now return to floor discussion on

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LB877. Seeing no requests to speak, Senator Cornett, you're recognized to close.  
[LB877]

SENATOR CORNETT: Thank you, Lieutenant Governor. I urge the body to support LB877. It limits the...it does grant the Tax Commissioner the right to appeal but only with exemption...only on exemptions from the county board, and allows them to appeal TERC decisions. Thank you very much. [LB877]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You have heard the closing. The question before the body is on the advancement of LB877. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB877]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB877. [LB877]

PRESIDENT SHEEHY: LB877 advances. Mr. Clerk, do you have items for the record?  
[LB877]

CLERK: I do, Mr. President. Your Committee on General Affairs, chaired by Senator Karpisek, reports LB906 to General File and LB1013 to General File, both having committee amendments attached. Judiciary Committee, chaired by Senator Ashford, reports LB510, LB800, and LB901 to General File with committee amendments attached. Senator Louden would like to print an amendment to LB836. Senator Fischer offers a new A bill. (Read LB937A by title for the first time.) And, Mr. President, a new resolution: Senator Adams offers LR352. That will be laid over. (Legislative Journal pages 756-763.) [LB906 LB1013 LB510 LB800 LB901 LB836 LB937A LR352]

Priority motion: Senator Flood would move to adjourn the body until Tuesday morning, March 9, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, March 9, 2010, at 9:00 a.m. (sic). All those in favor say aye. Opposed, nay. We stand adjourned.