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Floor Debate
April 02, 2012

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Dr. Fred Richart from the First United Methodist Church in Auburn, Nebraska, Senator Heidemann's district. Would you all please rise.

DR. RICHART: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Dr. Richart. I now call to order the fifty-fourth day of the One Hundred Second 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, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB670, LB715, LB750, LB821, LB905, LB905A, LB959, LB970, LB1053, LB1057, LB1057A, LB1080, LB1114, LB1128, LB1128A, LB1145, LB1145A, and LR358CA; those all reported correctly engrossed. Enrollment and Review also reports LB1155, LB1091, LB1091A, and LB1158 to Select File, some having Enrollment and Review amendments. Senator McCoy offers new resolutions,

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LR615, LR616; both will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1281-1286.) [LB670 LB715 LB750 LB821 LB905 LB905A LB959 LB970 LB1053 LB1057 LB1057A LB1080 LB1114 LB1128 LB1128A LB1145 LB1145A LR358CA LB1155 LB1091 LB1091A LB1158 LR615 LR616]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Members, the cookies that are on your desks this morning are to celebrate Senator Lathrop's birthday which was yesterday, April 1. Speaker Flood, you're recognized for an announcement.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. If you can indulge me for just a little bit here, I want to talk about where we're going this week and make a few announcements as it relates to today's agenda. We're going to remove LB830 and LB1097 from today's agenda. We're going to remove LB830 and LB1097 from today's agenda. Today, obviously it's a late night, I'd like to at least begin the discussion, if possible, on LB720, which is Senator Lautenbaugh's bill as it relates to Class V school boards. That's on the second page of your agenda. Tomorrow, anticipating a 9:00 a.m. start, I would ask that senators join myself and Senator Heidemann in Room 1525. Senators, join myself and Senator Heidemann in Room 1525 at 8:30 tomorrow morning, and let's have a discussion about the number of bills we have on the green sheet and the A bills associated with those. And that will become more clear the later I talk this morning, you can hear why I think this meeting is important. Tomorrow, we're going to do Final Reading on five or so bills that don't have a General Fund impact. I anticipate General File debate on the OPS bill, LB720, and then there's that LB599 relating to prenatal care. I also see a Select File discussion tomorrow of LB825, Senator Dubas's ACCESSNebraska bill; LB1063, the Children's Health and Treatment Act; LB872 which is the apportionment bill from Senator Hadley; and LB727 which is a Revenue cleanup bill. It has a public hearing tomorrow. I see us taking that up later in the day. We'll also be addressing any overrides. The Governor's vetoes are expected back today on his budget...on our budget. His overrides will come back to us, and then tomorrow we'll take up the overrides, if any, during the day. Tomorrow is an important day because I'm trying to, as your Speaker, get all the bills that have a financial impact in a form so that they can be read on Final Reading Thursday. So we're going to work late into the night, tomorrow night especially, because we're going to ask Bill Drafters to get us those bills back on Final Reading, those that we move to Select, so they can lay over the constitutional layover day on Wednesday and they can be taken up on Thursday. So tomorrow is a crucial day in our session to get us in a position to be able to finish out and do it at least in a way that makes sense. On Wednesday, we're going to start at 9:00 a.m. We'll have some Final Reading bills. We've got a lot of bills on consent calendar. There are a lot of bills on consent calendar, and we're going to do Final Reading there. And then on Thursday, and this is the focal point of the week, my plan is to have all the bills that have an A bill up on the agenda. Now tomorrow morning at 8:30 as a Legislature, we need to talk about how much those bills cost, how much authority we have. We'll have the benefit of knowing where we go

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on the overrides tomorrow, and so the green sheet should be in the best shape it's going to be in Wednesday to be able to answer those questions on Thursday. But I will tell you right now looking at the green sheet, we have \$10 million more spending than we have authority, based on the assumptions that are accurate now. Now those assumptions are fluid and they're going to change tomorrow, Wednesday, all the way up until Thursday. But we have more bills costing money than we authority. And so that's going to mean as a Legislature my preference is that we figure that out as members of the Legislature and not send everything over to the executive branch where it can be vetoed at the will of the executive branch. We have to make those decisions inside here. We've done this a couple of years ago; we're going to have to do it again. It's not a pleasant process. The options that you have are: running your bill and seeing how it goes on Final Reading; you can pull your bill; you can ask me not to schedule your bill; you can ask people to vote against your bill. At the end of the day, we have to balance the lines out, and that's the mission that we're on right now and maintain...you know, I want to maintain a 3 percent minimum reserve. That's something that I think the Appropriations Committee has really focused on as well. So that's kind of the outline of where we're going this week. It's all designed to get to Thursday with those A bills, and there are a lot of them. So tomorrow morning at 8:30 for senators in Room 1525. The other thing I want to talk about just briefly is just making sure we get folks here tonight and every night. The rules provide that the Speaker of the Legislature has the ability to grant excused absences, obviously for a very long time, and the Legislature can do that, we've just allowed folks to check in, check out as necessary. No excused absence will be honored past 5:00 p.m. tonight. You're expected to be here. We have to have enough members to do the state's business. If you do need to go somewhere, please see me, but no absence will be allowed after 5:00 p.m. with the exception of Senator Seiler, who for good reason can't be with us today. I would encourage you to visit with me if you have circumstances that require you to be somewhere else, you know, we'll do our best. But we have to have a full crew as we go into this final week. So thank you very much. I really appreciate your efforts and look forward to having a good week.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, we will now proceed to Final Reading. The first bill is LB711. [LB711]

CLERK: (Read LB711 on Final Reading.) [LB711]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB711 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB711]

CLERK: (Record vote read, Legislative Journal pages 1286-1287.) 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President. [LB711]

PRESIDENT SHEEHY: LB711 passes. We will now proceed to LB751. Mr. Clerk, the

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first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB711 LB751]

CLERK: 38 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB751]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB751]

CLERK: (Read title of LB751.) [LB751]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB751 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. (Visitors and doctor of the day introduced.) Record, Mr. Clerk. [LB751]

CLERK: (Record vote read, Legislative Journal page 1288.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB751]

PRESIDENT SHEEHY: LB751 passes with the emergency clause attached. We will now proceed to LB751A. [LB751 LB751A]

CLERK: (Read LB751A on Final Reading.) [LB751A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB751A pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB751A]

CLERK: (Record vote read, Legislative Journal pages 1288-1289.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB751A]

PRESIDENT SHEEHY: LB751A passes with the emergency clause attached. We will now proceed to LB799. [LB751A LB799]

CLERK: (Read LB799 on Final Reading.) [LB799]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB799 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB799]

CLERK: (Record vote read, Legislative Journal page 1289.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB799]

PRESIDENT SHEEHY: LB799 passes. We will now proceed to LB824. [LB799 LB824]

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CLERK: (Read LB824 on Final Reading.) [LB824]

PRESIDENT SHEEHY: All provisions of law having been complied with, the question is, shall LB824 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB824]

CLERK: (Record vote read, Legislative Journal page 1290.) 37 ayes, 6 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB824]

PRESIDENT SHEEHY: LB824 passes with the emergency clause attached. We will now proceed to LB834. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB824 LB834]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to dispense with the at-large reading. [LB834]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB834]

CLERK: (Read title of LB834.) [LB834]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB834 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB834]

CLERK: (Record vote read, Legislative Journal page 1291.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB834]

PRESIDENT SHEEHY: LB834 passes. We will now proceed to LB842. [LB834 LB842]

CLERK: (Read LB842 on Final Reading.) [LB842]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB842 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB842]

CLERK: (Record vote read, Legislative Journal page 1292.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB842]

PRESIDENT SHEEHY: LB842 passes. We will now proceed to LB845. [LB842 LB845]

CLERK: (Read LB845 on Final Reading.) [LB845]

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PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB845 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB845]

CLERK: (Record vote read, Legislative Journal pages 1292-1293.) 46 ayes, 0 nays, 3 excused and not voting. [LB845]

PRESIDENT SHEEHY: LB845 passes with the emergency clause attached. We will now proceed to LB858. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB845 LB858]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB858]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB858]

CLERK: (Read title of LB858.) [LB858]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB858 pass? All those in favor vote yea; opposed, nay. (Visitors introduced.) Record, Mr. Clerk. [LB858]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1294.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB858]

PRESIDENT SHEEHY: LB858 passes. We will now proceed to LB867. [LB858 LB867]

ASSISTANT CLERK: (Read LB867 on Final Reading.) [LB867]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB867 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB867]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1294-1295.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB867]

PRESIDENT SHEEHY: LB867 passes with the emergency clause attached. We will now proceed to LB870. [LB867 LB870]

ASSISTANT CLERK: (Read LB870 on Final Reading.) [LB870]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied

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with, the question is, shall LB870 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB870]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1295.) Vote is 46
ayes, 0 nays, 3 excused and not voting. [LB870]

PRESIDENT SHEEHY: LB870 passes. We will now proceed to LB882. [LB870 LB882]

ASSISTANT CLERK: (Read LB882 on Final Reading.) [LB882]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB882 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB882]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1296.) Vote is 46
ayes, 0 nays, 3 excused and not voting. [LB882]

PRESIDENT SHEEHY: LB882 passes. We will now proceed to LB907. [LB882 LB907]

ASSISTANT CLERK: (Read LB907 on Final Reading.) [LB907]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB907 pass? All those in favor vote yea; opposed, nay.
Record, Mr. Clerk. [LB907]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1296-1297.) Vote is
46 ayes, 0 nays, 3 excused and not voting. [LB907]

PRESIDENT SHEEHY: LB907 passes. We will now proceed to LB916. Mr. Clerk, the
first vote is to dispense with the at-large reading. All those in favor vote yea; opposed,
nay. Record, Mr. Clerk. [LB907 LB916]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading. [LB916]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read
the title. [LB916]

ASSISTANT CLERK: (Read title of LB916.) [LB916]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB916 pass with the emergency clause attached? All those in
favor vote yea; opposed, nay. Record, Mr. Clerk. [LB916]

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ASSISTANT CLERK: (Record vote read, Legislative Journal page 1298.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB916]

PRESIDENT SHEEHY: LB916 passes with the emergency clause attached. We will now proceed to LB933. [LB916 LB933]

ASSISTANT CLERK: (Read LB933 on Final Reading.) [LB933]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB933 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB933]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1299.) Vote is 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President. [LB933]

PRESIDENT SHEEHY: LB933 passes. We will now proceed to LB962. [LB933 LB962]

ASSISTANT CLERK: (Read LB962 on Final Reading.) [LB962]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB962 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB962]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1299-1300.) Vote is 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President. [LB962]

PRESIDENT SHEEHY: LB962 passes. We will now proceed to LB963. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB962 LB963]

ASSISTANT CLERK: 41 ayes, 0 nays to dispense with the at-large reading. [LB963]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB963]

ASSISTANT CLERK: (Read title of LB963.) [LB963]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB963 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. (Visitors introduced.) Record, Mr. Clerk. [LB963]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1300-1301.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB963]

PRESIDENT SHEEHY: LB963 passes with the emergency clause attached. We will now proceed to LB983. [LB963 LB983]

ASSISTANT CLERK: (Read LB983 on Final Reading.) [LB983]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB983 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB983]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1301-1302.) Vote is 47 ayes, 0 nays, 2 excused and not voting. [LB983]

PRESIDENT SHEEHY: LB983 passes. We will now proceed to LB1079. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB983 LB1079]

ASSISTANT CLERK: 43 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB1079]

PRESIDENT SHEEHY: Mr. Clerk, the at-large reading is dispensed with. Please read the title. [LB1079]

ASSISTANT CLERK: (Read title of LB1079.) [LB1079]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1079 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1079]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1302-1303.) Vote is 42 ayes, 4 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB1079]

PRESIDENT SHEEHY: LB1079 passes with the emergency clause attached. We will now proceed to LB1079A. [LB1079 LB1079A]

ASSISTANT CLERK: (Read LB1079A on Final Reading.) [LB1079A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1079A pass with the emergency clause attached? All

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those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1079A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1303.) Vote is 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB1079A]

PRESIDENT SHEEHY: LB1079A passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB711, LB751, LB751A, LB799, LB824, LB834, LB842, LB845, LB858, LB867, LB870, LB882, LB907, LB916, LB933, LB962, LB963, LB983, LB1079, and LB1079A. Mr. Clerk, we will now move to the items under Select File, 2012 committee priority bills, Ashford division, LB1058. [LB711 LB751 LB751A LB799 LB824 LB834 LB842 LB845 LB858 LB867 LB870 LB882 LB907 LB916 LB933 LB962 LB963 LB983 LB1079 LB1079A LB1058]

CLERK: LB1058, I do have Enrollment and Review amendments, Mr. President. (ER266, Legislative Journal page 1274.) [LB1058]

PRESIDENT SHEEHY: Senator Larson. [LB1058]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB1058 be adopted. [LB1058]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1058]

CLERK: I have nothing further on that bill. [LB1058]

PRESIDENT SHEEHY: Senator Larson. [LB1058]

SENATOR LARSON: Mr. President, I move that LB1058 be advanced to E&R for engrossing. [LB1058]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1058 advances. We will now proceed to LB1001. [LB1058 LB1001]

CLERK: LB1001, Senator Larson, I have Enrollment and Review amendments. (ER260, Legislative Journal page 1275.) [LB1001]

PRESIDENT SHEEHY: Senator Larson. [LB1001]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB1001 be adopted. [LB1001]

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PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1001]

CLERK: I have nothing further on the bill, Mr. President. [LB1001]

PRESIDENT SHEEHY: Senator Larson. [LB1001]

SENATOR LARSON: Mr. President, I move that LB1001 be advanced to E&R for engrossing. [LB1001]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1001 advances. We will now proceed to LB972. [LB1001 LB972]

CLERK: LB972, I have Enrollment and Review amendments, Senator. (ER261, Legislative Journal page 1275.) [LB972]

PRESIDENT SHEEHY: Senator Larson. [LB972]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB972 be adopted. [LB972]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB972]

CLERK: I have nothing further on the bill. [LB972]

PRESIDENT SHEEHY: Senator Larson. [LB972]

SENATOR LARSON: Mr. President, I move that LB972 be advanced to E&R for engrossing. [LB972]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB972 advances. We will now proceed on the agenda under Select File, 2012 Speaker priority bills, Nordquist division, LB1115. [LB972 LB1115]

CLERK: LB1115, Senator, I have Enrollment and Review amendments. (ER265, Legislative Journal page 1275.) [LB1115]

PRESIDENT SHEEHY: Senator Larson. [LB1115]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB1115 be adopted. [LB1115]

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PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1115]

CLERK: I have nothing further on that bill, Senator. [LB1115]

PRESIDENT SHEEHY: Senator Larson. [LB1115]

SENATOR LARSON: Mr. President, I move that LB1115 be advanced to E&R for engrossing. [LB1115]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1115 advances. We will now proceed to LB1020. [LB1115 LB1020]

CLERK: LB1020, I have Enrollment and Review amendments, first of all, Senator. (ER263, Legislative Journal page 1275.) [LB1020]

PRESIDENT SHEEHY: Senator Larson. [LB1020]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB1020 be adopted. [LB1020]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1020]

CLERK: Senator Nordquist would move to amend with AM2700. (Legislative Journal pages 1304-1305.) [LB1020]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized to open on AM2700 to LB1020. [LB1020]

SENATOR NORDQUIST: Thank you, Mr. President and members. This amendment is to address a couple issues that were raised during General File debate. We talked to Senator Price in between and also worked closely with Senator Adams, Senator Adams' committee staff on this. The two key areas, the first was actually Senator Loudon brought up whether we're giving this to all districts, and the bill wasn't completely clear so we wanted to clarify that these grants for school-based health centers are on a competitive basis and the Department of Education would select those on a competitive basis. And then to address Senator Price's concern, instead of having preference given to medical shortage schools and medical shortage areas, or those with a majority of free and reduced priced lunch, we changed the "preference given" language to that...to the department shall consider those issues when selecting. So we removed the word "preference" and say "shall consider." That's the gist of AM2700, and I'd appreciate your

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support of that and the bill. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You've heard the opening of AM2700 to LB1020. Seeing no requests to speak, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question for the body is on the adoption of AM2700. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1020]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB1020]

PRESIDENT SHEEHY: AM2700 is adopted. [LB1020]

CLERK: I have nothing further on the bill, Mr. President. [LB1020]

PRESIDENT SHEEHY: Senator Larson. [LB1020]

SENATOR LARSON: Mr. President, I move that LB1020 be advanced to E&R for engrossing. [LB1020]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1020 advances. We will now move to LB1113. [LB1020 LB1113]

CLERK: LB1113, I have Enrollment and Review amendments, Senator. (ER268, Legislative Journal page 1275.) [LB1113]

PRESIDENT SHEEHY: Senator Larson. [LB1113]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB1113 be adopted. [LB1113]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. The amendments are adopted. [LB1113]

CLERK: Senator Flood would move to amend, AM2026. (Legislative Journal page 1184.) [LB1113]

PRESIDENT SHEEHY: Senator Flood, you're recognized to open on AM2026 to LB1113. [LB1113]

SPEAKER FLOOD: Good morning. Thank you, Mr. President and members. I mentioned this amendment on General File. AM2026 would strike a broader nonuniform definition of the word "knowledge" found on page 4, line 6 through 25 of the green copy, and replace it with the words "actual knowledge." And that standard would be changed

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throughout the bill. The Bar Association had favored the definition that's in the green copy as it tracks the current definition of the Nebraska Uniform Trust Code. This amendment, which was suggested by the Bankers Association, would retain the words "actual knowledge," and that's standard for powers of attorney, and this is the standard that is in the original Uniform Power of Attorney Act. It is my understanding that each of the other states that has enacted the Uniform Power of Attorney Act has kept the "actual knowledge" standard. After General File debate, leadership at the Bar Association considered this amendment and the bar is okay with it. Uniform Law Commission is also okay and the commission does not take a position one way or the other. On a final note, I had a question after final...General File debate about how this bill relates to powers of attorney for healthcare. LB1113 does not affect and it is not meant to affect Chapter 30, Article 34, which spells out the power of attorney for healthcare and how they are used. With that, thank you for your consideration of AM2026, and I urge your adoption. [LB1113]

PRESIDENT SHEEHY: Thank you, Senator Flood. You've heard the opening to AM2026 to LB1113. Member requesting to speak, Senator Lautenbaugh. [LB1113]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Members of the body, I do rise in support of this amendment. I understand the distinction being made here and I think it's crucial that we adopt the language set forth in the amendment. I'm not saying anybody tried to do something different for any reason that was improper, but I think this is just a better standard and I would urge you to support the amendment. Thank you, Mr. President. [LB1113]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Flood, you're recognized to close. Senator Flood waives closing. The question for the body is on the adoption of AM2026 to LB1113. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1113]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB1113]

PRESIDENT SHEEHY: AM2026 is adopted. [LB1113]

CLERK: I have nothing further on the bill, Mr. President. [LB1113]

PRESIDENT SHEEHY: Senator Larson. [LB1113]

SENATOR LARSON: Mr. President, I move that LB1113 be advanced to E&R for engrossing. [LB1113]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.

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Opposed, nay. LB1113 advances. Mr. Clerk, do you have items for the record?
[LB1113]

CLERK: I do, Mr. President. Communication from the Governor to the Clerk. (Read re LB131, LB968 and LB969.) Bills read on Final Reading this morning were presented to the Governor at 11:30 a.m. (Re: LB711, LB751, LB751A, LB799, LB824, LB834, LB842, LB845, LB858, LB867, LB870, LB882, LB907, LB916, LB933, LB962, LB963, LB983, LB1079 and LB1079A.) And a new resolution: Senator Gloor would offer LR617, Mr. President; that will be laid over. That's all that I have. (Legislative Journal pages 1305-1306.) [LB131 LB968 LB969 LB711 LB751 LB751A LB799 LB824 LB834 LB842 LB845 LB858 LB867 LB870 LB882 LB907 LB916 LB933 LB962 LB963 LB983 LB1079 LB1079A LR617]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to the 1:30 p.m. agenda items, legislative confirmation reports.

CLERK: Mr. President, the first report I have, Senator Campbell, Health and Human Services. It involves four appointments to the Stem Cell Research Advisory Committee. (Legislative Journal page 1199.)

PRESIDENT SHEEHY: Senator Campbell, you're recognized to open on the legislative confirmation report for the Health and Human Services Committee.

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. Colleagues, I want to start by quoting from the annual report of the Nebraska Stem Cell Research Act that was published on March 26 of this year. The Nebraska Stem Cell Research Act was passed in the 2008 Legislative Session. The act created the Stem Cell Research Advisory Committee and members of that committee include the dean of each medical school in Nebraska accredited by the Liaison Committee on Medical Education, Creighton University, and the University of Nebraska Med Center. In addition, four scientists from outside the state of Nebraska were approved by the 2009 Legislature as members of the advisory committee and those individuals are currently being considered for reappointment by the Legislature. I want to inform all of you at this point that this committee acts a little bit differently than the usual gubernatorial commissions in the sense that they review and develop a grant process and make grant awards to Nebraska institutions or researchers to conduct stem cell research that does not use human embryonic stem cells. These four scientists meet twice a year, once to review the grant process and once to grant monies to institutions in the state of Nebraska who are doing that type of research. The Health and Human Services Committee held a confirmation hearing on the reappointments of the four scientists on March 27. The in-person appearances of the appointees were waived for the following reasons: Number one, a meeting of the advisory committee was not going to coincide with the Legislature's calendar. The Health and Human Services Committee was

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provided--and I would be glad to share these with you--voluminous resumes of each scientist. Dr. Joseph Acierno, Deputy Chief Medical Officer for the Division of Public Health at the Department of Health and Human Services, agreed to appear on behalf of the appointees as he has met and worked with each of them through the Stem Cell Research Advisory Committee. And I will give you the resume, the very brief summary of their resume for the four scientists. Dr. Bradley Keller is an M.D., an undergraduate from the University of Pennsylvania. He received his medical degree from Penn State and did postgraduate work in pediatrics and pediatric cardiology. At this time he has multiple appointments with the University of Pittsburgh as a professor in the Department of Pediatrics. He is an adjunct professor at Carnegie Mellon in the Department of Biomedical Engineering and is a professor in the Division of Pediatric Cardiology at the University of Louisville. Dr. Dennis Roop has his Ph.D. and is a professor of dermatology. He is the Charles C. Gates chair of the Regenerative Medicine and Stem Cell Biology, and the director of that center at the University of Colorado Denver Health Sciences Center. He also has a master's in microbiology and a Ph.D. in microbiology from the University of Tennessee, Knoxville. He is a coleader of the Cancer Cell Biology Program at the University of Colorado Cancer Center. Dr. Gerald Spangrude has a Ph.D. His bachelor of science is from the University of Montana and he has a Ph.D. in experimental pathology from the University of Utah, Salt Lake City. He's done postdoctoral fellowships, one at Stanford and another in Australia funded by a fellowship from the Leukemia Society of Medicine. He has administrative experience as the director of the Stem Cell Biology Section of the Blood and Marrow Transplant Program at the University of Utah. And last, Dr. Rebecca Morris has a Ph.D. She earned her bachelor of science in biology and a Ph.D. in biology from Syracuse University, Syracuse, New York, and did a postdoctoral training fellowship in the Biology Division at the Oak Ridge National Laboratory, Oak Ridge, Tennessee. She is presently professor and section leader of the Laboratory of Stem Cells and Cancer at The Hormel Institute at the University of Minnesota. I have commented to my colleagues on the Health and Human Services Committee that I expect that one of these four scientists, if not more, might receive a Nobel prize for the work that they are doing. We are truly privileged as a state to have these outstanding scientists be willing to serve on the Stem Cell Research Advisory Committee, and I would urge your confirmation of their appointment. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Campbell. You've heard the opening of the Health and Human Services Committee confirmation report. Seeing no requests to speak, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is on the adoption of the confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1307.) 35 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

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PRESIDENT SHEEHY: The Health and Human Services Committee confirmation report is adopted. We will now move to the confirmation report from Banking, Commerce and Insurance.

CLERK: That report involves the appointment of Catherine D. Lang as director of Department of Economic Development. (Legislative Journal page 1221.)

PRESIDENT SHEEHY: Senator Pahls, you're recognized to open on the Banking, Commerce and Insurance Committee confirmation report.

SENATOR PAHLS: Thank you, Mr. President and members of the body. A gubernatorial appointment hearing was held for Catherine Lang on February 14, 2012. Catherine Lang was appointed by Governor Heineman to serve as the director of the Department of Economic Development. She will also continue to serve as the Commissioner of the Department of Labor. Ms. Lang has worked in state government since 1981. Most recently she has worked in the following capacities: Three years of special counsel to the Tax Commission; three years as director of Property Tax Division; seven years as the Deputy Tax Commissioner, and four years as the Commissioner of Labor. In 2011, Ms. Lang took over the duties of the director of Economic Development under the direction of the Governor. I urge you to confirm this appointment. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pahls. You've heard the opening of the Banking, Commerce and Insurance Committee confirmation report. Members requesting to speak: Senator Christensen, followed by Senator Burke Harr. Senator Christensen.

SENATOR CHRISTENSEN: Thank you, Mr. President. I'm just going to state why I voted no coming out of committee. Very simple, I support Cathy Lang, I do not support the merger which this does not do. I like separate accountability. We have seen over the years as departments have gotten larger and larger, like HHS is easy to pick on, there's no accountability. It's too big. And I don't even want anything moving that direction. So my no vote was for that reason. I will continue to vote no. It's not that I have anything against Cathy Lang. It's strictly against the policies that I believe in. Thank you.

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Christensen. Senator Burke Harr, you are recognized.

SENATOR HARR: Thank you, Mr. President, members of the body. Would Senator Pahls yield to a question?

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SENATOR COASH: Senator Pahls, will you yield?

SENATOR PAHLS: Yes.

SENATOR HARR: Thank you, Senator. I'm a little confused. I don't think we as a body voted to bring Department of Economic Development and Department of Labor together. Is that correct?

SENATOR PAHLS: That's correct.

SENATOR HARR: Okay. And do you know of any other area where we have one person running two different departments?

SENATOR PAHLS: It's my understanding in the Veterans Department, there are...John Hilgert is in charge of two separate operations. I've requested that information and as of this moment I have not received anything from the Governor's Office on that.

SENATOR HARR: So to be clear, you don't know for sure of any other department...or any other person that runs two or more departments.

SENATOR PAHLS: Yes, agencies...

SENATOR HARR: Or agencies.

SENATOR PAHLS: It's my understanding under the title of an agency, there are people who do cover two separate...

SENATOR HARR: And who is that?

SENATOR PAHLS: The only one I know is John Hilgert.

SENATOR HARR: And what does he cover?

SENATOR PAHLS: Veterans, two agencies dealing with the Veterans Affairs. I do not have that information in front of me. I requested it but I have not, as of this moment, received any information.

SENATOR HARR: And from whom did you request that information?

SENATOR PAHLS: From the administration.

SENATOR HARR: And how long ago did you request that information?

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SENATOR PAHLS: Several days ago.

SENATOR HARR: Okay. Thank you very much. I appreciate that. Ladies and gentlemen, you've heard of one department, but they both deal with Veterans Affairs and veterans' issues. Department of Economic Development and Department of Labor are two separate agencies. As a matter of fact, we had legislation to bring those two under one and it didn't go anywhere. And so what the Governor is trying to do through the back door is what he couldn't get done through the front door. And this has nothing to do with the abilities of Commissioner Lang. She does, I believe, a reasonably good job. But I have a big problem with the confirmation process of appointing someone when we as a body decide against having those two together. I wrote a letter to Commissioner Lang and a month later I got a response. And in that response I asked for what savings there would come from bringing these two together. It was basically what we're doing right here. That was it. Now I know we have a budget shortfall, but it seems as though this is not the way to do what we need to get done. So while I admire Commissioner Lang, and I understand what the Governor is trying to do, I don't think I can vote for this. Thank you very much.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Harr. Members requesting to speak on the confirmation report: Senator Harms, followed by Senator Smith, Senator Pahls. Senator Harms.

SENATOR HARMS: Thank you, Mr. President. Colleagues, let me maybe help you understand this a little bit better. The Governor asked me to introduce this legislation of bringing Department of Labor and the Department of Economic Development together, and I really felt after we got into it...first of all, I'm not being critical. I want you to understand this. I didn't feel like there was enough planning at the front in order to make this and I'm a planner. I think you've got to have everything laid out in front of you. I think that, to be honest with you, I think that people who...there are a lot of people who would like to have input, like to be heard, like to have the discussion. And so, I just decided this probably was not the thing for us to do and I asked for the bill just not to come back up in regard to this issue. Now let me also explain to you that there have been states that have done this that have been successful. Okay? There have been states who have done this who have not been successful. And I think the states that were not successful were states who did not do well planning. And the fear that I had after reviewing this is that we didn't want to have another Health and Human Services. So what I have done is to ask for a legislative study to be done to review this. I think there are some things that need to be done that probably ought to be moved out of the Department of Labor and some streamlining that can be done. But I think it's important to have the stakeholders and the people be involved and at least having some idea about what's really taking place. And there's a whole process that you go through when

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you merge two different types of agencies together and how you prepare for this, and how you address this issue, and how you prepare the public, how you prepare the people who are in those agencies. And I don't think at this point that that had been done completely. There's a lot of confusion about it. I just thought this would be much better for us to back up, take another look at it, and review it. It's not that I'm against it. I just want to make sure that it's planned appropriately and this would at least help that process. And the Governor may choose not to do it next year, I don't know, or may choose for me not to carry the bill. That's also fine. But I think we'll have planning and that's my point. So I wouldn't draw any conclusions based on the fact that it can't be done because it has been done. And there have been states, as I said, that have done it and decided to go back to the original. It all boils down to how you plan it, how you lay it out, and how it's to function, and that the organizational chart is clear, the communication lines are clear, everybody understands the authority and you've given the people, the appropriate stockholders input on what your going to take place. I hope that will clarify this for you. Again, it is not in criticism of the Governor, nor the plan, nor the program. It's just that I'm a planner and I think you have to do it at the front end. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Harms. (Visitors introduced.) Continuing with floor discussion on the Banking, Commerce and Insurance Committee confirmation report, members requesting to speak: Senator Smith, followed by Senator Pahls, and Senator Burke Harr. Senator Smith.

SENATOR SMITH: Thank you, Mr. President. And as Senator Harr discussed a few moments ago, I, too, have concerns about this confirmation report. And I know that Senator Harms had given lots of consideration, lots of serious thought to the gains and the benefits to combining these departments. And I know that's not what we're talking about here. I also want to recognize the thoughtfulness of the Governor in this in trying to make government work more efficient. However, I've heard from many, many people in the business communities and in the business and in the economic development communities that have raised great concerns about the director of the Department of Labor being also the head of the Department of Economic Development. At the very least, it divides the attention of the director between two very, very important departments, and I do have some concerns with that. I would personally feel much more comfortable with some type of a separate interim director during anytime there's an interim study to decide what is the long-term approach to combining agencies. But both of these agencies are much too important, I believe, to combine under one director or to have the same director overseeing the operations of each of those departments. I just believe that we deserve better in the state, particularly with labor and overseeing the Department of Labor. But also we've spent considerable time this session talking about economic development activities and how to attract businesses to the state and we certainly don't want to rush into this and do something that would offset the gains we've made during this session in improving the climate for economic development. So thank

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you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Smith. Senator Pahls.

SENATOR PAHLS: Thank you, Mr. President and members of the body. I do understand some of the concerns that have been spoken to this morning. The issue that I think we need to talk about is Ms. Lang has been in charge of the one department for four years, she has been in charge of the other department since, I think, approximately six months ago, so she is operating both departments right now. And I can assure you if the Chamber of Commerce was against this idea, they probably would have stepped forth and said, hey, let's take a look at this. Again, this is not dealing with the actual merger, as Senator Harms, he said he took that off, he wanted to take a little bit more or a look at that. This is to see if this person who...is she capable of handling both departments? And I've heard also said, we don't want to do this like HHS. Well, this is small compared to that. Even together both these...the departments together, I would say, around 400 people. Keep in mind, the commissioner has been one department for a number of years. She has experiences in this department, at least I would assume, around six months. I did not hear a lot from the Chamber of Commerce. Anytime there's change, I'm sure that people who have questioned that, you know, why are we doing that? But if you've met this person, I think just her charisma would really send you...send a message to you because she does capture you when she talks with you, the enthusiasm, the dedication to what she's about. And if you also look at what she does for the community of Lincoln, the number of boards she sits on, this is a person who is a doer. And I think we'd be very fortunate to have a doer in both of the departments. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Burke Harr.

SENATOR HARR: Thank you, Mr. President. Would Senator Pahls yield to some questions, please?

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Harr?

SENATOR PAHLS: Yes.

SENATOR HARR: Thank you. And now, I want to go back to my earlier line of questioning. You said you had requested from the administration, and again I'm in no way impugning the administration, I'm just trying to get the record straight. How long ago did you request that information about committees...or heads of agencies of more than one agency?

SENATOR PAHLS: I was just double-checking. The example that was given to me was of John Hilgert, the one that I talked about earlier.

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SENATOR HARR: Okay. And how long ago did you request that information?

SENATOR PAHLS: That was last week when I knew that this confirmation would be coming up.

SENATOR HARR: Okay. And you are not aware of any other, correct?

SENATOR PAHLS: No, I am not...of any other departments.

SENATOR HARR: Okay. That's fine. Let me ask you this. What is the mission statement of the Department of Economic Development?

SENATOR PAHLS: Well, you know, I don't have that in front of me and I do value a mission statement, but I think exactly what the title implies, we're looking for economic for the state of Nebraska. If you look at all the activities they do, it is to promote business and industry in the state.

SENATOR HARR: Okay. Thank you. And you don't know the...and I won't expect you to know the mission statement of the Department of Labor. Do you know that?

SENATOR PAHLS: No, I would not but I would think Senator Lathrop, who probably has worked with them in the past, would have some idea what that's about.

SENATOR HARR: Okay. And I appreciate that, because that's my real issue is when I wrote a letter to Director Lang, Commissioner Lang, on December 28 of last year, I asked her, what is the mission statement if you combine these two? Are you planning to keep them separate? At that time she was planning to combine them. But the mission statement at the Department of Economic Development is just that. It's to...for economic development. Mission statement at the Department of Labor is just that. It deals with labor issues. So it's a little different than what John Hilgert has where it's veterans and it's dealing with Veterans Affairs. We have two separate agencies. Now as Senator Harms said so eloquently, that doesn't mean we can't find a common ground between the two of them and have them work together. But we don't have a plan forward, we don't have a mission, common uniting mission statement between the two that shows what is intended. Again, we're trying to get through the back door what we couldn't get through the front door. Commissioner Lang, I believe, is doing a good job. And she is a doer, I'll grant you that. But if you ask someone to do too much without a mission statement, without knowing where to go, you're just asking for trouble, you're asking for a burn-out. The offices, there have been no changes. I don't know where her office...do you know, Senator Pahls, where her office is going to be? Is it going to be with the Department of Labor or the Department of Economic Development?

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SENATOR PAHLS: At this moment it would be in both because they have not merged.

SENATOR HARR: Okay. And do you know, does she have a COO type person to run the everyday affairs of one while she's at the other agency?

SENATOR PAHLS: Well, in each of the offices, they have what I...I'm going to use this word loosely, "divisions," people who are in charge of certain parts of that division.

SENATOR HARR: Okay. Do you have the organizational chart to show how the reporting works?

SENATOR PAHLS: I do not have that in front of me, no. There is one out there. I just do not have that in front of me.

SENATOR HARR: Okay. So what you pretty much would have is an organizational chart that would have a two-headed person running...one person at the head of each, right?

SENATOR PAHLS: Yes.

SENATOR HARR: To the best of your knowledge there's been no change in the organizational chart.

SENATOR PAHLS: At this moment there have been no major changes. I'm sure there's been some. It's similar to what I would say a school superintendent would be like. He has...

PRESIDENT SHEEHY: One minute.

SENATOR PAHLS: He's in charge...

SENATOR HARR: Okay.

SENATOR PAHLS: ...but he has other people doing a lot of things for him.

SENATOR HARR: And Richard Baier who did this before did a pretty darn good job, didn't he?

SENATOR PAHLS: Yes.

SENATOR HARR: As a matter of fact the Chamber hired him, is that correct to the best of your knowledge?

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SENATOR PAHLS: Yes.

SENATOR HARR: Okay. Well, I guess my question is, how could this one person do what two people did so well? I haven't heard that the Chamber is for or against this. Now, you implied that if they were against it, they'd say it. I would imply if they were for it, they'd say it, but they haven't taken a stance on this issue. So I don't know if we can say the Chamber is...where they stand officially on this. We're about ready to break for lunch. I think it's probably a good thing we break for lunch and have a little time to think about what we are doing. Do we want to do this and, if so, do we want to go with our eyes wide open or our eyes wide shut? We went into privatizing HHS with our eyes wide shut and it didn't turn out well. So I would...again, nothing against the commissioner, nothing against the Governor, but I think we need to have a better battle plan before.

PRESIDENT SHEEHY: Time, Senator.

SENATOR HARR: Thank you.

PRESIDENT SHEEHY: Thank you, Senator Harr. Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Enrollment and Review reports have examined and engrossed LB398, and find it correctly engrossed, likewise with LB719, LB721, LB729, LB742, LB743, LB761, LB766, LB772, LB779, LB788, LB823, LB896, LB898, LB1035, LB1042, LB1049, LB1062, and LB1101. Explanation of vote from Senator Nordquist (Re: LB536, LB985, LB985A, LB310, LB391, LB782, LB810, LB863, LB902, LB965, LB995, LB1039, LB1130, Legislative Journal pages 1307-1308.) [LB398 LB719 LB721 LB729 LB742 LB743 LB761 LB766 LB772 LB779 LB788 LB823 LB896 LB898 LB1035 LB1042 LB1049 LB1062 LB1101 LB536 LB985 LB985A LB310 LB391 LB782 LB810 LB863 LB902 LB965 LB995 LB1039 LB1130]

And, Mr. President, Senator Avery would move to recess the body until 1:30 p.m.

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand at recess.

RECESS

SENATOR GLOOR PRESIDING

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

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

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

CLERK: I do. Enrollment and Review reports they've examined and engrossed LB734 and find the same correctly engrossed, likewise with LB737, LB740, LB768, LB795, LB805, LB819, LB851, LB869, LB880, LB881, LB941, LB1030, LB1077, LB1083, LB1106, LB1116, LB1122, LB1141, and LB1148. An amendment to be printed: Senator Loudon, LB1053A. That's all that I have, Mr. President. (Legislative Journal pages 1309-1310.) [LB734 LB737 LB740 LB768 LB795 LB805 LB819 LB851 LB869 LB880 LB881 LB941 LB1030 LB1077 LB1083 LB1106 LB1116 LB1122 LB1141 LB1148 LB1053A]

SENATOR GLOOR: Thank you, Mr. Clerk. Members, when we recessed, we were on the Banking, Commerce and Insurance Committee's confirmation report. There were senators in the speaking queue. Senator Smith, you are recognized.

SENATOR SMITH: Thank you, Mr. President. And I notice there's a few other lights on so I'm not going to be long on this. But right before we ended, we had heard from Senator Harr, and also Senator Pahls had made some comments that...somewhat in response to some of the comments I had made. And while none of the chambers of commerce have really weighed in heavily on this issue, certainly not in strong opposition to it, once again nonetheless I have heard from professionals in the economic development community on this issue and also some business leaders that have been involved in and engaged in attracting businesses to Nebraska and working to structure a responsive business climate. And they...once again, a number of people have grave reservations about putting the director of the Department of Labor responsible also for the Department of Economic Development. Once again, I applaud the Governor for looking to improve government efficiency in combining agencies. I know that's not what this is about. I applaud Senator Pahls and Senator Harms in their support of the intent of making government work more efficient. But both of these departments are much too important than to share one director's attention. And so once again I'm going to have to stand in opposition to seeing this confirmation go forward. I just do not believe that it's the right thing for the Department of Economic Development. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Smith. Senator Larson, you are recognized.

SENATOR LARSON: Thank you, Mr. President. I, too, rise with reservations about combining Department of Economic Development and Department of Labor. After many conversations with economic development directors in District 40, they are very much opposed to the combination of Department of Economic Development and the Department of Labor. And they feel that they won't receive the same amount of attention that they receive right now. They feel that they've received a great amount of attention

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from the Department of Economic Development and they've really appreciated that. But at the same token, they feel that they have received very little attention from the Department of Labor. And it worries them that there will be that combination with one on top and then a combination of the two divisions. So today it's nothing against Mrs. Lang, but it has everything to do with the combination of the two. And I feel that there obviously was a bill that would do this. And we...you know, that bill hasn't been heard and that bill hasn't been voted upon by this Legislature. And obviously there's a process that we go through. Before we put Mrs. Lang on top of both organizations or the head of both organizations, I think we should pass that bill first if that's what the Governor wants to do or not pass it if that's what the Legislature wants to do. Therefore, we can have a director of each division, the Department of Labor and Department of Economic Development. So I feel that we should go through the proper legislative process before we put her at the head of both divisions. And thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Larson. Senator Pahls, you're recognized, and this is your third time, Senator.

SENATOR PAHLS: Thank you, Mr. President, members of the body. I just want to go over Catherine Lang's background so you have an idea so maybe you feel more comfortable about her ability. She's been the special counsel for the Tax Commissioner for three years; three years director of the Property Tax Division; seven years as a deputy tax commissioner; and four years as Commissioner of Labor, and she has been serving in this position. In 2011, she was appointed as the interim and she is doing both jobs right now. And what I did after several of the questions, I did talk to somebody from the administration. And just to give you maybe a better feel, in the Department of Economic Development, she does have a deputy director right under her and he's been there for a while. There's a person in charge of the administrative services. There's a legal counsel. There's marketing. There's business development, community and rural development, and rural development commissions also serves under there. Tourism and...travel and tourism, I think, a bill we just...we pulled that out from the department. Under the Nebraska Department of Labor, she is a commissioner but she also has a general counsel, she has somebody working in finance, somebody in the administrative services, employment, and in training, unemployment insurance benefits, unemployment insurance tax, the labor market information, and one dealing with safety. So as I take a look at both of the departments, they seem to be...they have other people in leadership positions. So this is not just one person's, I'm going to use the word, "job." And if she is a good administrator, she should be able to do both of those. Another question that was asked about the mission, and I did look up just...not just the mission but some of the purpose of some program objectives. Now in the Department of Labor, I looked up...and there are a number of them, I'm just going to pick a few of them: to subject all employee occupation safety and health inspections covering their Nebraska operations; to protect Nebraska by enforcing Wage and Hour Act; to provide unemployment insurance to Nebraskans; to provide free unemployment services to the

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unemployed; to provide training for the skilled and displaced individuals. Then you go over to the Department of Economic Development. You'll see there is some correlation there: enhance opportunities for start up, retention, and expansion of business in the state; attract new employers and employees to Nebraska; to retrain existing workers for high skills and high-paying jobs; to meet the training and human resources needs of a new and expanding industry; to encourage the expansion of existing industry and location of new industry; to stimulate rural development, innovation, and foster information transfer to and from within rural Nebraska. I could go on and on because there are a number of program objectives under each one. And if you would like, I mean, if you go to the Web site, you could find those. It seems like both organizations are well-defined, they know what they're going to be held accountable for. Now we have an opportunity to put in what I call, and I'm going to use the word, a new CEO who has an awful lot of energy. I wish she could be here talking instead of me because I think not only do we need women in some of these high places, because I think she has unbelievable capabilities, and we're not leaving her with no help. As I said, on each one of the departments, there are a number...

SENATOR GLOOR: One minute.

SENATOR PAHLS: ...a number of people in leadership positions. So, and I also look at what she does in the area of community. This individual has the capabilities. So I urge you to support her confirmation for this position. Thank you.

SENATOR GLOOR: Thank you, Senator Pahls. (Visitors introduced.) Senators in the speaking queue: Schilz, Conrad, Burke Harr, Smith, and Hadley. Senator Schilz, you are recognized.

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon. In my life, I've been involved in economic development for quite a few years on our county level, and I've sat here and I've looked at what happens in economic development. I have an issue with what we're doing here today, and it's about process. It's not...it doesn't have anything to do with the qualifications of the person that we're talking about here today. What it has to do with is a process. Senator Harms has LB971 and that's the bill that would merge Economic Development and the Department of Labor. But before we get to that, we're asked to confirm somebody to rule over both of these agencies. I believe that that's a disservice to Ms. Lang. I believe that that's a disservice to the state of Nebraska, to the Legislature, and everybody that should have a say in what happens with this. When I look at those two departments and those two agencies, I see vastly different charges. People in economic development, for lack of a better term, they're kind of gunslingers. They're supposed to go out there. They're supposed to make things happen. People that are involved in the Department of Labor are supposed to make sure that things work the way they're supposed to work. And if you're in economic development, you know that a lot of times in order to make things

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happen, to get things off of dead center, you have to be able to play a little fast and loose, not breaking the rules but taking them to the edge of the envelope. I sincerely wish that we would have had the opportunity before this confirmation hearing to have the debate on LB971 to see what people's thoughts were on the merger of those two agencies. I think that was the right way to go. I think that should have been the process. But here we are. I mean, whether you like it or not, this seems to me like we're placing the cart before the horse. I'm not in support of merging these two agencies. I don't feel that that is in the best interest of Nebraska, and I'm not sure especially that it is in the best interest of rural Nebraska. We have got to have economic development in rural Nebraska. We have got to start to stem the issue of population decline. I commend Governor Heineman, Senator Pahls, and everybody for trying to find more efficient ways to do government. But I am not sure that this is either going to be more efficient nor is it going to be the right thing, the proper thing, more effective thing to do to move Nebraska forward in the economic development community. If you look around the country at the states that have done this, that have merged these two agencies or agencies like them, quite honestly what you'll see is a lot of them are backing off. They're saying, whoa, wait a minute. We may need to take a step back and relook at this. They are two different agencies, folks. They have two very different jobs, two very different charges to protect the state of Nebraska and to grow the state of Nebraska. [LB971]

SENATOR GLOOR: One minute.

SENATOR SCHILZ: We need to make sure that we're thinking about this properly. We need to make sure that the process is followed correctly. We need to make sure that we don't put people like Ms. Lang in a situation to where we're having to make a decision on a confirmation when we haven't even decided if that's the direction that the state of Nebraska, that the Legislature wants to go. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Schilz. Senator Conrad, you are recognized.

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in strong support of this nominee for the positions that she has indeed been nominated for. Catherine Lang is a talented, hardworking, dedicated, and responsive public servant. I want to talk just a little bit about my experiences in working with Director Lang as a legislator and then also my experiences in terms of what I've seen in terms of leadership capabilities that she's exhibited within our community here in Lincoln. And at the outset, let's be clear. This is a part of our checks and balances. Of course, these nominations and appointments are primarily an important part of executive function as the Governor has the prerogative to put together his leadership team and his cabinet to help carry out his policy agenda. But we as senators do indeed have an important role in terms of the checks and balances that exist to provide confirmation for some of those political appointees. And it's, of course, every senator's prerogative if they choose to discuss

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other policy-related issues that may come up in any given confirmation report or hearing. And I'll leave those comments to senators as they see fit, of course. But let's be clear about a few things. In judging the fitness of this applicant, I can tell you that as a state senator, whenever I've had questions related to any area within her jurisdiction, the director has been incredibly responsive in terms of providing timely and accurate information and providing helpful solutions and suggestions to help me do my work and respond to constituents as they need help navigating complex systems of state government. Additionally, I have seen the director work in a variety of philanthropic activities here within the Lincoln community, and to take a very, very thoughtful approach not only in her private sector charitable work but also which carries over into her work in the policy level to take a thoughtful approach to work force issues which extends sometimes beyond the traditional boundaries and make interesting, unique, and important connections in terms of working families issues and work force issues that affect the entirety of not just the employees but families as a whole. And I think that is critically important to have in a leader who is charged with helping to carry out, implement, and set policy in relation to some of our most important functions in state government. And to the critics, I have this to say: Is it appropriate to play politics with somebody who has such a distinguished career, to use her as a flash point, and to put that career and that leadership to hang in the balance while you're working on political issues not related to her specific confirmation? And if, indeed, these departments, both Labor and Economic Development, are so critical, which I believe that they are, what's the alternative? To have no leadership and, even worse, not to have the strong, sound, thoughtful, competent leadership that Catherine Lang gives to the state of Nebraska. Colleagues, I urge your favorable support of this qualified and exemplary nominee. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Conrad. Senator Smith, you are recognized, and this is your third time, Senator.

SENATOR SMITH: Thank you, Mr. President. And I've been listening to the discussion and I just want to make it very clear, this is not a political opposition in any sort of way. And I've heard some of my colleagues make comments about how much they think of Commissioner Lang and they've worked with Commissioner Lang on issues in the past and they think very highly of her. And they somehow think that standing here in opposition to this confirmation is somehow against Ms. Lang. It is definitely not. I hold Ms. Lang in high regards as well. I think she's a very capable commissioner and director of the Department of Labor. That's not what this is about at all. This is about whether we want to risk sharing her attention between two departments that are vital to the success of this state. This is not in any way a referendum of Ms. Lang or her abilities. This is about process, and I think we heard it very...communicated very well from Senator Schilz. I could not have said it better. I think that there's a process to follow and I don't particularly care for the way this is...we're kind of getting the cart before the horse on this. This is about risk of attention and focus on the Economic Development Department

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being second place to the Department of Labor. One of the things I'd be very curious about is some of those states that we're seeking to mirror and model in terms of being successful in economic development, how do they go about this? I'd be surprised if they are leading the path on this and if they are doing something similar to what we're attempting to do here. So, colleagues, once again this is not about Commissioner Lang. This is about sharing her attention between two departments that are vital to the interests of Nebraska. Thank you very much. Thank you, Mr. President. And let me provide the remainder of my time to Senator Harr if he would like it.

SENATOR GLOOR: Senator Harr, 2 minutes 50 seconds.

SENATOR HARR: Thank you, Mr. President, members of the body. I have my light on, so if I don't finish my thought, I will at that point. Thank you, Senator Smith, for yielding your time. Thank you, Senator Pahls, for your work over lunch to answer some of the questions we have, and I will get to that. But I think it's important that I respond to Senator...statements made earlier regarding whether this was personal against Commissioner Lang. And I don't think anything could be further from the truth. As a matter of fact, I would challenge anyone to find anything that's been said against her. No one denies she's a great woman because she has done good work. That, again, is not the issue. And I want to thank Senator Schilz and Senator Smith for making that point abundantly clear. This is not about the qualifications of Catherine Lang. If it were, we wouldn't be having this conversation. This is about policy. This is about how we want to operate as a body. We had LB971, a thoughtful bill brought by Senator Harms. And what did we learn? What we learned is that these two, while they do have overlapping missions, they are not consistent 100 percent with each other and that more thought and time needs to go into how do we operate and how do they work together. Now you can force a baby and this is a forced labor. We don't need this. We can do this the right way, the Nebraska way, which is to look at how things are done, how other states have done this. I haven't heard of any other state where it was done in this manner where I hear where they've merged... [LB971]

SENATOR GLOOR: One minute.

SENATOR HARR: Thank you...where they've merged the two departments, but I haven't heard any testimony or any statements where you'd had two separate agencies run by the same person. I sent a letter to Director Lang on December 28, 2011, to the Nebraska Department of Economic Development. I did not get a response till January 23, a month later. A month! Is that efficient? No, that is not efficient. When I asked why it took a month to respond to a one-page letter asking what is your mission statement, what is the need for this merger, and is there any savings, and what does the organizational chart get, if I had been answered that, I would have been happy. But I didn't get an answer. It took a month and I'll explain why when I get a chance. Thank you.

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SENATOR GLOOR: Thank you, Senator Harr. The Chair recognizes Senator Hadley.

SENATOR HADLEY: Mr. President, members of the body, good afternoon. I stand in favor of this confirmation. If you watched 60 Minutes a couple of...two or three weeks ago, you saw a man named Sergio Marchionne. And that name may not mean anything to you, but he happened to be in Grand Island about two or three months ago because Case New Holland, he's the CEO of that operation. He stopped by the Chrysler dealership in Grand Island because he's CEO of that operation. He is CEO of Fiat worldwide. He is CEO of Fiat Industrial. He is CEO of the Global N.V. And he made an interesting comment. They said, how can you do all those things. He said by hiring very good people to work for me. I think the fact that a person has two agencies isn't a problem as long as you have the people underneath that can do the job. If you're a good administrator, a good leader, you hire those people. I think we're getting the idea of merging these two departments confused with having one person head both departments. I think there's a big difference. I don't think we're saying automatically that this merges the two departments, but we do need a good leader in both departments. And I think Ms. Lang can do that. I think in any industry you have people that rise to the task that is needed. And while we debate this next year what happens to those two departments, we need good leadership and we will have good leadership with Ms. Lang. So I'm going to ask you to give a green vote to this confirmation. Don't get this confused with whether we're merging the departments. We're picking a person to head the two departments. I think there's a big difference. Again, I will vote green on this confirmation. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Hadley. Senators in the queue: Burke Harr, Harms, Krist, Schilz, and Lathrop. Senator Harr, you're recognized, and this is your third time too.

SENATOR HARR: Thank you, Mr. President. So, again, I'm going to refer to this. I wrote a letter on December 28 and I said...congratulate her on her new appointment. I said, why do you see a need for the merger, have you created a mission statement, and what can you do that hasn't previously been done? Three simple...and then I did ask organizational chart, four simple questions. Took a month to get a response. That is not effective response to a state senator from a department chair. I expect better. Now in her defense she told my office, well, the problem is you sent it to the Department of Economic Development and my office is at the Department of Labor and so it sat on my desk for three weeks, sat on my desk for three weeks. I did get a response. The response was, we don't have a mission statement, which is good because the bill LB971 didn't go anywhere. There was nothing that prevented collaboration before. So whether you have the same person chairing or not, that doesn't prevent the collaboration. And the only change...let's see, and the change...there would be no change to the organizational chart other than there would be a different person, only

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one head. Well, that sounds like what we're doing here and I was asking about LB971. But people said, well, she does a great job. No one denies that. And that she is surrounded by great people. No one denies that. Yet when the rubber hits the road and you ask for something, guess what happens? Nothing. You want an example, I just gave you an example. Now we can go on and on, that's just one time, maybe, you know, we can come up with a number of excuses. The fact of the matter is, it is very hard to keep your eye on two balls at one time. You are constantly juggling. Commissioner Lang is a very good person and I do not want to set her up to fail. I want to make sure if she's doing this, she is given the proper tools to do what she needs to do, and I don't know if we are because all we're doing is a cost savings of one director job. Fiat guy surrounds himself with a number of great people, no ifs, ands, or buts about it. Lang surrounds herself with a number of great people, no ifs, ands, or buts about it. But these people are being asked to do something different than they did before, and it's not maybe part of their job title. We don't know. We don't have enough information. Going forward next year maybe I could be all for this. I think LB971 has some great potential. But there's a reason it was pulled. It was because there wasn't a clear mission as to what was supposed to happen. I've said it before and I'll say it again, I stand up for the hardworking middle class. I want to make sure that they are taken care of. I want to make sure when you go to the Department of Labor, your interests are being taken care of. Vice versa, when you go to the Department of Economic Development, I want to make sure your concerns are taken care of. I'm not stroking my ego but I think a letter coming from a state senator probably would get more attention than a letter coming from an average Joe. And yet it still took a month for a response, and that response was basically we're not changing anything, we're not doing anything. [LB971]

SENATOR GLOOR: One minute.

SENATOR HARR: Thank you. It didn't require any new research or information. It could have and probably was written in less than half an hour and still it took a month. Again, nothing against any one of the departments, nothing against Commissioner Lang, Director Lang, but this is about us doing right and having a process, and we're violating that process. We're trying to do, through the back door, what we can't through the front. And that's not the Nebraska way. Thank you very much.

SENATOR GLOOR: Thank you, Senator Harr. Senator Harms, you're recognized.

SENATOR HARMS: Thank you, Mr. President and colleagues. I want to clear up a couple of things if I might in regard to this. I think that Catherine Lang will do an excellent job in regard to this responsibility. But first let's just back up a minute and take a look at this. First of all, we don't understand what this structure is going to look like. And in order to put something together like this, you've got to have a leader. And I think what the Governor is doing is the right move because I know this summer they're going

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to do some in-depth planning, at least that was the discussion with his staff. And they have lined up to bring in a consultant to assist them in looking at what and how this can be done. And so when you look at the structure itself, it could be done very easily. You can have someone in charge of economic development and someone else in charge of labor and answering to a director or a commissioner. It's not unusual that you see that anywhere, whether it be in government or some other phase of management or Fortune 500 companies. It's the same concept. And I think in order for us to get this thing put together along with moving in the right direction, this is the only way it can be done. I don't see with bringing someone else in and having two heads you're going to get this thing accomplished or at least if they're actually going to merge this and they have to bring it back, but at least you'll have a chance to see and you'll have a chance to review what the organizational chart looks like. And that's what we're missing right now. And that won't come together until later on when this legislative session is over and they can bring people in to assist them. My point in regard to the bill that I introduced in favor of the Governor was there just wasn't enough planning up-front. And now I think we're in the process of getting that done, and I think by the end of this summer you will have a hearing under our belt. We will have had an opportunity to see how the stockholders feel, what kind of information they can bring to the table. We will have them bring forth publicly what has happened nationally where they have tried to merge these two different agencies and those that have been successful or not. There's been a major study that's been done nationally on this issue, and it shows you the concerns you ought to have and it shows you how to correct some of those concerns before you get into it. And when I saw that study I realized then that we need to back up and that this is not the time to have the debate about this bill because we don't know how it's going to work out because we don't have the plan. I think if you have a long-range plan, you have some thoughts or some ideas about how that organizational chart is going to look like and then you have a consultant in there helping you put this thing together, then at least you will have an opportunity to have this debate again. So I would urge you just to go ahead and support this and we'll wait and see what happens. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Harms. Senator Krist, you are recognized.

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. I'll be short because I'd like to get on to bigger and better decisions that need to be made within the session, short session, getting shorter by the minute. Whether or not we confirm this, Ms. Lang will continue to do the outstanding job she's done in Labor. Whether or not we don't confirm this, the Governor will still have her over the two positions whether we like it or not. And that's his prerogative. That's his prerogative. He could offer no other alternative as an appointment to economic development and continue to do what he's doing right now until next year. So the question came to mind earlier, why don't we bracket this until the beginning of next session, two days into it, and then we can talk about a bill that may or may not be up, an

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organization and structure we may or may not see. But I'm told and reassured by folks on the other side of that glass that she already has deputies in both areas and that that's the structure. So I'm not sure what we're discussing here other than the fact that we believe that Ms. Lang is, and I believe, the best candidate should this organization actually exist. Ask yourself why we're having this discussion. Senator Harms is right on target. It doesn't exist, so I'm not sure whether you want to vote yes or no. But it isn't going to make any difference because Ms. Lang is going to continue to do the great job she's doing and heading up both organizations from now until the time that we make a decision that the Governor cannot do or can do what he wants to do. Thank you, Mr. President.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Schilz.

SENATOR SCHILZ: Thank you, Mr. President, members of the body. And Senator Krist is exactly right. The Governor has the opportunity and the authority to have whoever he wants to be in charge of this. But there was a bill introduced called LB971 that asked and looks for our permission as the Legislature to merge these groups. So if we're going to merge these groups, these agencies, isn't that the first most logical step that we should do? I believe it is. Once again, this is the cart before the horse. I have all the faith in Ms. Lang to do the job at the Department of Labor. I don't know because I haven't seen the experience of her doing the job as Economic Development coordinator. I think it's...I think they're two completely different jobs. I think that we need to make sure the government, especially state government, is lean, understands what needs to happen, and that somebody that's in that position understands how to bring new business, entrepreneurship, to Nebraska, and we need to do that. And with that, I will go ahead and relinquish my time to Senator Pahls. [LB971]

PRESIDENT SHEEHY: Senator Pahls, you're yielded 3 minutes 10 seconds.

SENATOR PAHLS: Thank you, and I'll wait until mine for closing. But I do want to correct an idea that was sent forth. If Catherine Lang does not make this, she's out, period. She cannot have this position in the future. So a no vote right now means she's gone now and in the future. She cannot be renominated. That's just a point of information right now. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Lathrop.

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I have had...as Chair of Business and Labor Committee, I've had an opportunity to work with Ms. Lang. And just to give you a little historical perspective, it was shortly after I got here when someone finally recognized we had a big problem over at the Department of

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Labor. People had spent money out of an account they shouldn't have been spending money out of or they had not been documenting the accounts. We had problems with matching funds. We had problems with accountability over there. We had a great many problems. And the Governor nominated and we approved Cathy Lang to serve over at the Department of Labor essentially to go into an agency that had a lot of problems from the pension through the way they were spending grant money from the federal government, and she has policed that and cleaned it up. And so I'll tell you what my experience is and I've dealt with some of the people from health, a former director from...or CEO or whatever we called her from health. I've dealt with some of the directors or the people subordinate to the CEO of the health agency. I've dealt with a lot of these people, and I can tell you that I don't know that I've dealt with anybody who I appreciate as competent more than Cathy Lang. And as you might expect, I've had times where we haven't agreed or times where I wanted to see something done that didn't happen. But I never thought it was because she wasn't competent or that she didn't do her job or her part. She works for somebody that I disagree with quite often. And in the end, she's not free to run the Department of Labor or the Department of Economic Development the way she wants. That's probably true in every administration. So the limitations that I've encountered with Ms. Lang in her role as the Commissioner of Labor have reflected the position I think of the Governor and not her. I think she is a very, very competent person. If you looked at her track record with the state of Nebraska, she has been a...and I don't want to get too sappy about it, but she's been a devoted servant to this state for a long time and a very competent person at what she does. And when the Department of Labor was a mess, she was the one that went over to clean it up. And, again, I've had plenty of things that I wanted to see happen over at the Department of Labor, things that this Legislature has legislated over at the Department of Labor that aren't happening, but I never once thought she was the reason they weren't. And we can have a disagreement with the Governor, but we need to recognize the difference between the competence of the people he puts up and his policies that we may disagree with. But, understand, her first allegiance has to be to the Governor she works for, and while that causes me heartburn from time to time, I have never ever once suspected that she was not competent at what she does. And she'll have my support. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Larson.

SENATOR LARSON: Thank you, Mr. President. I've learned a lot in the year and a half that I've been in the Legislature. And one of the places I learned the most is the Judiciary Committee, and not just because I'm not a lawyer, because I sit on a committee with a number of very good state senators, Senator Lathrop among them, as well as Senator Ashford, McGill, Council, Lautenbaugh, Coash. And one thing that we always talk about is, is this good public policy? Mrs. Lang, her qualifications speak for herself. They really do. She would probably make a very good Department of Economic Development director. But this isn't about that. It's about the public policy moving

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forward. And I think Senator Schilz put it very well is that, you know, we're putting the cart before the horse. Senator Harms said we need to...you know, we need to approve her so she can supervise the combination of economic development and labor moving forward. Well, I think we as a Legislature need to approve that before that process continues instead of the Governor just deciding that we're going to hire the consultant and put everything together and then come to the Legislature and say, here's what...you know, we've already paid for the consultant, we're already ready to go. So, again, is this good public policy? And I think that's one of the key things that I've learned here in the Legislature is we're not doing this just for four years or one person, but is this good public policy moving forward. And let's not put the cart before the horse. I'd yield the rest of my time to Senator Smith if he should choose to have it.

PRESIDENT SHEEHY: Senator Smith, you're yielded 3 minutes and 10 seconds.

SENATOR SMITH: Thank you, Mr. President and colleagues. I just want to comment briefly on Senator Krist, when he was at the microphone. And I have the greatest respect for Senator Krist. He's been a tremendous senator. He's spoken out on issues of controversy and he's spoken from his heart. And I know that this particular issue has nowhere near the human impact as the other issues that he's been outspoken on. But I disagree with him on what he's said on the microphone. It does matter what we say. It does matter the opinion that we're expressing here. We're elected to express our opinions; we're elected to express the opinions of our constituents; and we're elected to ensure that we consider the interests of Nebraskans. And that's why I'm speaking out on this one, colleagues. Senator Pahls said that if a no vote, that Commissioner Lang is gone. She is not gone from the Department of Labor. Senator Pahls, I know we all have the highest regards for Commissioner Lang, but a no vote would ensure that she remains effective at the Department of Labor. A no vote would be that Commissioner Lang is able to focus her attention on the critical issues at the Department of Labor. That department deserves her undivided attention. And once again, I'm going to be voting red on this, colleagues, and that's why. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator. Members requesting to speak on the Banking, Commerce and Insurance Committee confirmation report are: Senator Karpisek, followed by Senator Flood, Senator Conrad. Senator Karpisek.

SENATOR KARPISEK: Thank you, Mr. President, members of the body. When this whole ordeal started about putting the two together, I didn't really think a whole lot of it. I thought they both have a lot to do that maybe they should stay separate. But then when I found out that it was going to be Cathy Lang to take over and be the director, I felt a little differently and I did vote it out of committee. I have had a few thoughts back and forth the whole time because I do think that she does a great job and I'd like to see her do a great job in both, but I wonder if they don't deserve to be separate and get the full attention. I also want to stand and say that I think that she does a great job at what she

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does and we could use many more like her, but I don't think that that means to spread her so thin. Maybe it's a good idea, maybe it is not. I don't know. The savings, the money savings, I don't really see is there. Will it help to go together? I guess that isn't my concern. My concern now is where we are with the bill and where this would seem to me if we confirm her that it would just do what the bill was going to do. I did hear Senator Pahls. Would Senator Pahls yield, please?

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Karpisek?

SENATOR PAHLS: Yes.

SENATOR KARPISEK: Thank you, Senator Pahls. And you struck everyone when you said if this is a no vote, she is gone, done. Can you...

SENATOR PAHLS: Okay. She will not lose her position as Commissioner of Labor, but the other department she would not be. That's what I was told. And to be honest with you, right now they're even doing more research to figure out in the future. Because I just went out there and said, guys, I need to know this for sure. And they're doing some research on that, that she would not be able to go for the Department of Economic Development. She will not lose her position as Commissioner of Labor.

SENATOR KARPISEK: And possibly not be able to be commissioner of the department of...or, sorry...

SENATOR PAHLS: Right, the Director of the Department of Economic Development. Yes.

SENATOR KARPISEK: In the future.

SENATOR PAHLS: Yes, sir.

SENATOR KARPISEK: Okay. Thank you, Senator Pahls. That helps a little. Would Senator Harms yield, please?

PRESIDENT SHEEHY: Senator Harms, would you yield to Senator Karpisek?

SENATOR HARMS: Yes, I will.

SENATOR KARPISEK: Thank you, Senator Harms. And we've talked a little bit about your bill, and I know you've been up quite a few times. Would you feel that if we did this confirmation it basically does the bill that you decided not to send through?

SENATOR HARMS: No, I don't. I think what it does, it just puts her in a position where

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you can actually start the planning process and actually do it the right way. Right now, there will be no one in charge of that aspect. You would have two directors and you'd never get anything put together. And to actually make the final merger and make this a reality, it's still got to come back to this Legislature. There's no reason in the world why you cannot have that head, such as Catherine Lang, in charge of this, and then this summer put it together so that we can bring it back in a proposal form for the Legislature. And don't forget that we also have a study on this issue to get the people's views about how this might work, find out how the stockholders feel. There's no reason why this cannot work if it's just planned appropriately. And I understand where people are coming from, but this bill was not ready for debate, to be very frank with you, as far as I'm concerned. As I said before, I'm a planner. You got to show it, put the plan together so then you can sell it and let people see it, even let the staff understand what the organizational chart would be like. And so I'm not being critical of the Governor or anyone else. I don't want you to take that. I'm just saying that's what you have to do in order to make this thing successful.

PRESIDENT SHEEHY: One minute.

SENATOR HARMS: And, Senator Karpisek, I think it can work if it's done appropriately.

SENATOR KARPISEK: Thank you. I appreciate that, Senator Harms. I was a little bit off in what I was hearing, so I appreciate you clearing that up. And I do want to say that I do think that Cathy Lang can do a great job. I am not saying that anyone in this isn't doing what they think is right. I'm not sure that this is the best idea. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Flood.

SPEAKER FLOOD: Thank you, Mr. President, members. I'm voting today to support the confirmation of Cathy Lang over at the Department of Economic Development. I appreciate the nice words from folks on both sides of this issues that have been said about Ms. Lang. I think, as Senator Lathrop stated, she is a professional, she is dedicated, she is honest, and she's a hard worker. And I guess for me on a confirmation, the question is, is there some reason associated with the nominee's character or along those lines that this person would not be a good fit to run a state agency. And I don't see any of those issues here. This is a vote on Cathy Lang and her ability. And I think of it, you know, when I run my business, sometimes the best person to give a job to is somebody that does a really good job. And I always think that if you give a busy person another job, you'd be surprised how good they do, because people that are efficient and know how things run can handle more responsibility. And my sense is she's one of those people. And the other part of this is, while we have a role as a Legislature to confirm or reject a confirmation, we don't ever want to turn this place into Washington, D.C. The Governor won a statewide election. He's running the

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executive branch. He's made a choice and I don't see any reason why we wouldn't confirm Cathy Lang. I take these things pretty seriously when it comes down to the individual's character and their ability. And if that's the way our executive branch wants to do it, and I happen to agree independently that she's a capable, responsible, honest, hardworking servant of the public. And if she feels like she can run both agencies and the Governor has confidence in her, I'm happy to support her. The other thing I want to say is, there is no merger of these two agencies until we decide, and that has not happened. And we still retain a lot of authority as it relates to whether or not those two merge, and that's a conversation for the Legislature next year it seems. So that's where I'm at on this and I know Senator Krist wanted some time. I'd give him the rest of the time that I have.

PRESIDENT SHEEHY: Senator Krist, you're yielded 2 minutes 35 seconds.

SENATOR KRIST: Thank you, Mr. Speaker, for your courtesy. First of all, let me respond to Senator Smith. And I apologize for my time on the mike before. I did not want to stifle anybody's opinion. I just thought that there was no consequence. Well, I was misinformed. There is a consequence. Without the confirmation, obviously, then she would not be able to function in that alternate role. Secondly, Senator Harms has said it best for me, that is if this merger is going to happen in an efficient, effective way, they probably need leadership at the top of both of those organizations in order to do the merger. For those reasons, I will vote green and I would encourage you to give this an opportunity and make it a more efficient government, particularly when Cathy Lang is involved. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Krist. Thank you, Senator Flood. Senator Conrad.

SENATOR CONRAD: Thank you, Mr. President. Again, good afternoon, colleagues. Just a few quick points, again, in support of this, what I believe to be not only qualified but entirely appropriate and exemplary candidate to continue her long career of public service in a new role as well. A couple of points I didn't have a chance to finish in my previous time on the mike. Again, I think that it is the province of the Legislature to exercise questions, concerns, critical judgment, advice, critique, call it what you will, when nominations do come forward regarding the direction that the executive branch is proceeding in when it comes to these kinds of managerial functions. I know that myself and others have utilized these very similar situations to talk about questions, concerns, and critiques in particular with the Department of Health and Human Services in the past. But after utilizing those opportunities to make those concerns known and on the record, I believe if you do check the record, then when it came to whether or not we're going to support or work against a specific nominee, I think the record is pretty clear that people have utilized the legislative prerogative and opportunity as they saw fit but then have separated the question in terms of policy and personality. And I'd hope that they

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would do the same when it comes to casting their vote for this extraordinarily qualified, dedicated, thoughtful, and talented public servant. And the other piece that I heard a lot about this afternoon which I find particularly interesting I guess and curious from my perspective is that there seems to be a lack of concern...or there seems to be a concern about the direction the Governor might be moving in with having a leader for both of these critical departments. And, again, as Senator Lathrop noted, I have been very clear and straightforward about my disagreements with the executive branch when they do present themselves, and they're always on a policy basis. They are, of course, never personal. But the one area where I guess that we've had probably the most common ground is in terms of economic development. And if you look at Governor Heineman's track record, I think he has worked cooperatively with the Legislature to modernize and evolve our Economic Development Department and programs to be successful in an ever-changing global economy. And I just don't...I can hardly think of another area where the Governor is worthy of praise in terms of his economic development efforts in many respects. And so to somehow suggest that he would jeopardize the important functions of economic development from either a rural perspective or otherwise I think is just unwarranted. And the record speaks clearly otherwise. And I have trust in his appointee to carry out continued success and forward momentum in regards to our state's economic development efforts and the important issues the Department of Labor undertakes as well. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Conrad. Seeing no additional requests to speak, Senator Pahls, you're recognized to close on the Banking, Commerce and Insurance Committee confirmation report.

SENATOR PAHLS: Thank you, Mr. President. I think we have established we have a competent person, we have a hardworking person who knows her stuff. So that part has been established. And Senator Cornett made a...Conrad made a comment about our Governor. We know that when you think of economic development, you happen to think of him. And I see no way that he's going to do anything that's probably going to put a stop to that. That is not his goal, especially if you listen to some of his comments. One thing about the dialogue as we've been going back and forth, the interesting thing about it is you just keep digging, digging deeper into it. So I do need to make this correction, make sure everybody understands this. It says, "No person after being rejected by the Legislature shall be again nominated for the same office at the same session, unless at the request of the Legislature, or be appointed to the same office during a recess of the adjournment of the Legislature." So if she is rejected today, she cannot be reappointed to this office again until next year. She cannot be appointed during the interim that...as we keep going down the rules and regs of our constitution. I think we have established, like I say, the qualifications are there, desire is there. Now it's up to us to vote on a green vote. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the closing. The

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question before the body is on the adoption of the Banking, Commerce and Insurance Committee confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1310-1311.) 32 ayes, 3 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. We will now move to the confirmation report from the General Affairs Committee.

CLERK: The appointment is to the Nebraska Arts Council, Mr. President. (Legislative Journal page 1280.)

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on the General Affairs Committee confirmation report.

SENATOR KARPISEK: Thank you, Mr. President, members of the Legislature. The General Affairs Committee voted unanimously to approve the appointment of Timothy Hart to the Nebraska Arts Council. Mr. Hart lives and works in Omaha where he is senior vice president and treasurer of First National of Nebraska. In addition to his professional success, Mr. Hart has served on the mayor's commission on city county merger and the Governor's commission on welfare reform. He currently serves on the Salvation Army board and the Opera Omaha board. He has chaired several successful fund-raisers, and at the committee hearing it became clear that he is uniquely gifted at increasing charitable resources to the arts. I urge your support of Timothy Hart's appointment to the Nebraska Arts Council. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You've heard the opening of the General Affairs Committee confirmation report. Seeing no requests to speak, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question before the body is on the adoption of General Affairs Committee confirmation report. All those in favor vote yea; opposed, nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1311.) 38 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. Mr. Clerk, we will now move to items under General File, appropriation bills, LB1020A. [LB1020A]

CLERK: LB1020A is a bill by Senator Nordquist. (Read title.) [LB1020A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized to open on LB1020A. [LB1020A]

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SENATOR NORDQUIST: Thank you, Mr. President. LB1020A appropriates the funds to carry out LB1020. Essentially, we are taking \$100,000 a year from the Education Innovation Fund and \$100,000 a year from the General Fund for each of '12-13 and '13-14. Section 2 is the amount not to exceed 10 percent of the total for administration of the grant program, so \$10,000 a year from each of the two funds for a total of \$20,000 for administration. I'd appreciate your support of this A bill. Thank you. [LB1020A LB1020]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You've heard the opening of LB1020A. Seeing no requests to speak, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is on the advancement of LB1020A. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1020A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB1020A. [LB1020A]

PRESIDENT SHEEHY: LB1020A advances. We will now proceed to LB1063A. [LB1020A LB1063A]

CLERK: LB1063A is a bill by Senator Cook. (Read title.) [LB1063A]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on LB1063A. [LB1063A]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. We need to move LB1063 from General to Select File. I will say at this time there is work being done on an amendment and if that amendment actually gets adopted, there wouldn't be a need for LB1063A. But at this time it is important to keep the A bill up with the other bill we need to pass from General to Select File. And there may be work done at that time to negate LB1063A and at that time we could IPP it. But it's important right now to pass it forward. Thank you. [LB1063A LB1063]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of LB1063A. Seeing no requests to speak, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the advancement of LB1063A. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB1063A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB1063A [LB1063A]

PRESIDENT SHEEHY: LB1063A advances. We will now move to item under Select File, appropriations bill, LB998A. [LB1063A LB998A]

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CLERK: LB998A, I do have Enrollment and Review amendments, Senator. (ER267, Legislative Journal page 1279.) [LB998A]

PRESIDENT SHEEHY: Senator Larson. [LB998A]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB998A be adopted. [LB998A]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB998A]

CLERK: I have nothing further on the bill, Senator. [LB998A]

PRESIDENT SHEEHY: Senator Larson. [LB998A]

SENATOR LARSON: Mr. President, I move LB998A be advanced to E&R for engrossing. [LB998A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB998A advances. Items for the record, Mr. Clerk. [LB998A]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB825, LB825A, and LB872 to Select File with Enrollment and Review amendments. And Enrollment and Review reports the following bills correctly engrossed: LB722, LB738, LB822, LB865, LB897, LB899, LB936, LB997, LB1005, LB1026, LB1038, LB1051, LB1054, LB1054A, LB1087, LB1087A, LB1121, LB1126, and LB1140; all those reported correctly engrossed. An amendment by Senator Cook to LB1063 to be printed. A new resolution, LR618, that will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1312-1319.) [LB825 LB825A LB872 LB722 LB738 LB822 LB865 LB897 LB899 LB936 LB997 LB1005 LB1026 LB1038 LB1051 LB1054 LB1054A LB1087 LB1087A LB1121 LB1126 LB1140 LB1063 LR618]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to the next item under Select File, LB357. [LB357]

CLERK: With respect to LB357, first order, E&R amendments, Mr. President. (ER89, Legislative Journal page 1189, First Session, 2011.) [LB357]

PRESIDENT SHEEHY: Senator Larson. [LB357]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB357 be adopted. [LB357]

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PRESIDENT SHEEHY: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB357]

CLERK: Mr. President, Senator Fischer, I now have AM1237, but I have a note you wish to withdraw. [LB357]

PRESIDENT SHEEHY: Senator Fischer. AM1237 is withdrawn. [LB357]

CLERK: Senator Cornett, AM1305. [LB357]

PRESIDENT SHEEHY: Senator Cornett, you're recognized to open on AM1305 to LB357. Senator Cornett has requested to withdraw AM1305. [LB357]

CLERK: Mr. President, I now have an amendment from Senator Utter. [LB357]

PRESIDENT SHEEHY: Is there a member who would like to handle AM1430? Senator Hadley, you're recognized. [LB357]

SENATOR HADLEY: Mr. President, I would withdraw this amendment. [LB357]

PRESIDENT SHEEHY: AM1430 is withdrawn. [LB357]

CLERK: Senator Schumacher, AM1441. [LB357]

PRESIDENT SHEEHY: Senator Schumacher, you're recognized to open on AM1441. [LB357]

SENATOR SCHUMACHER: I'd like to withdraw that. [LB357]

PRESIDENT SHEEHY: AM1441 is withdrawn. [LB357]

CLERK: Senator Ashford, AM2447. (Legislative Journal page 944.) [LB357]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on AM2447. [LB357]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. Sometimes you do wish Dennis were here to give everybody a kick in the rear, especially me. But thank you, Senator Hadley, for...let me just give you some general theory behind LB357 and then we can go into the amendments. AM2447 was filed earlier in the year and there is a substitute amendment coming down soon that will clarify AM2447. But let me give you a little background. This issue of giving the voters, in effect, an opportunity to engage in tax policy in every one of our cities across the state I think is so fundamental to how we

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govern as a state that it almost belays debate. Many, many years ago, I think it was 1976, we did allow citizens to vote on a .5 percent sales tax in their various cities and towns and villages. And hopefully I'm right on this, but somewhere around 80 cities and towns have exercised that ability. Omaha is one. Lincoln is one. And most of you I'm sure know which towns in your districts have exercised that opportunity. For me, LB357 is sort of a redo. I've introduced this bill years ago on behalf of the cities. And so this is my second full go around on LB357...or on voter initiatives on tax policy. And in a general sense, I hear a lot about this is a vote to give the cities a half-cent sales tax authorization. Well, it really isn't the cities. The cities are made up of us. We are the cities, at least the vast majority of Nebraskans live in and around cities. We take advantage of cities and towns everyday. So it's not so much the cities, which is sort of an abstract concept, but it's us. We're really giving ourselves the option to engage in fundamental tax policy. We've come through a rough patch in our state and our country, and we all know that it's critical that we do things differently, not only on the state level through the LR542 process but also on the local level, on the city level, and the county level. And that's why I've always thought that it would be good if we could combine efforts and merge efforts on a city/county level. I just...it seems to me that we have too much government and that we can reduce the size of government, not easily necessarily but I think it should be one of our top priorities. The idea of engaging the citizens in this process to me makes a lot of sense because what we've done in LB357 and AM2447 is we have, thanks to Senator Schumacher, we have put in the amendment what I think is absolutely critical to it, and that's requiring that the cities work with other political subdivisions within their counties on interlocal agreements. I can't think of anything more fundamental. And in addition to that, we've asked that when these matters go to the voters for...whether it's for a quarter cent or half cent or whatever it is, that the voters clearly know and understand what interlocal agreements are in place. Is there, for example, an interlocal agreement on infrastructure? Lincoln has a specific issue regarding an education issue and they've worked with that with the school districts. There are so many opportunities to collaborate on the local level. I think by having this half-cent authorization out there and engaging the citizens in a vote on a plan for each city, what we will get is the citizens saying back to the elected officials, really, this is what we need to see in this plan, just like school districts when they do overrides, for example, if the override doesn't pass. I know in Millard that happened. There was an override that didn't pass, so Millard School Board has gone back to the drawing board for another override but for a different...in a different manner, in a different way. I just, to me it seems so incredibly fundamental that we engage the citizens in our cities, in our counties and towns and villages, engage them and give them the opportunity to work with their representatives to come up with a viable plan for their cities. This bill...and when you get the amendment, when we get the amendment down, you'll see that the bill primarily almost totally is focused on infrastructure. Infrastructure is somewhat of a broad topic, but we know what it...we all know what it deals with. For example in Omaha, it can deal with the CSO sewer project. It can deal with...for gas lines, it can deal with streets. It can deal with a whole plethora of issues.

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But how empowering can it be then to bring the citizens of our state together city by city by city, town by town, county by county, to enter into a conversation about how their cities are going to look 25 years from now? I mean, it seems to me that that is the fundamental point. This is an opportunity that comes around every generation. It's 30 years ago when we passed this bill the last time. When we, in Omaha...one of the great experiences that I have had in public life was serving on the board that created the Qwest Center. And we could have...and Senator Fischer was absolutely right on the voting for occupation tax. It's the right way to go. She was right. She is right. This body was right in approving that measure. When we had the Qwest Center ready to go and we worked on it and worked on it and worked on it, we decided and the city officials decided at that time, in that case it was Mayor Daub, we said we're going to go...we don't have to necessarily go to a vote of the people on this but we're going to go for a vote of the people on this initiative. And we did. And we went throughout the city. We started in way west Omaha and moved east and we had meetings and we talked about what this could do to the river front. What could this do to our infrastructure? How would our...and I remember so well the discussion about how do people get off the interstate and get to the Qwest Center. You know, and so every...we went, we had these public meetings and the citizens raised these issues. You know, don't...and what's your parking going to be like? What is the parking going to look like at the Qwest Center? Is there going to be adequate parking? What about the environmental concerns? Well, there were environmental concerns at the UP yards and the ASARCO plant. I mean, you can just imagine. We've been smelting lead for 100 years where the Qwest Center now is. But what I...I believe in the power of the people, as we all do, and I'm not saying that to be grandiose or grandstanding. We all believe that. We believe in this body by empowering our fellow citizens that they are going to make the right decision. We trust them to make the right decision because they're us. We are them. They are us. We trust them to make the right decision. This bill is about that. There may be situations where by passing an initiative in Holdrege or in Gering or wherever it is that it's going to eventually result in a lower tax in somewhere else, whether it's property tax or some other tax. In Omaha, we have the restaurant tax. You know, I trust the people to look at what they're doing and decide if it's worth it to move in the direction of a sales tax. I personally have always thought that if we could follow Senator Pahls and reduce the sales tax rate and get out of the property tax business that we'd be better off as a state. But by giving the cities that option,... [LB357]

PRESIDENT SHEEHY: One minute. [LB357]

SENATOR ASHFORD: ...that opportunity locally to decide...one minute? [LB357]

PRESIDENT SHEEHY: One minute, Senator. [LB357]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. This amendment which will be substituted with another amendment has some other provisions that requires, it

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has a ten-year sunset that the other sales tax initiative 30 years ago did not have. It provides for transparency on the ballot, provisions to do that. And it has some other provisions that I will talk about when we get to the amendment. But I urge this body to adopt this half-cent, local-option initiative and give the voters the opportunity to chime in on the biggest issues of our time, what our cities and towns and state are going to look like 25 years from now. Thank you, Mr. Lieutenant Governor. [LB357]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening of AM2447 to LB357. Mr. Clerk, do you have an amendment to the amendment on your desk? [LB357]

CLERK: I do, Mr. President. Senator Mello, I have AM2538, but I have a note you want to withdraw that one. [LB357]

SENATOR MELLO: Yes. [LB357]

PRESIDENT SHEEHY: AM2538 is withdrawn. [LB357]

CLERK: Senator Mello would move to amend with AM2710. (Legislative Journal page 1320.) [LB357]

PRESIDENT SHEEHY: Senator Mello, you're recognized to open on AM2710 to AM2447. [LB357]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, over the next 15 years the city of Omaha will undertake what will likely be the largest public infrastructure project in the history of the state of Nebraska. At a cost expected to exceed \$1.7 billion, the project has a potential to create thousands of new jobs and provide a long over due jump-start in the local construction economy. Unfortunately, this project will also have the effect of driving up sewer utility costs, forcing some Omaha residents out of their homes and driving some Omaha area businesses out of the state. Much of the discussion surrounding the city of Omaha's federally unfunded, mandated combined sewer overflow, or CSO project, has revolved around the effect this massive public works project will have on Omaha area residents whose sewer bills will see drastic increases over the life of the project. While the severe pain felt by residential customers from this unfunded mandate will be substantial, the potential effect of the CSO's current plan fee structure on industrial water users is potential devastating to our state and local economy. Of the more than 160,000 water users in the greater metropolitan area, the 29 users who are classified as industrial will be forced to pay 5 percent of the entire project, which averages out to nearly \$3 million for each of these businesses which employ a significant number of Omaha area residents. Collectively, the top nine water users, six of which reside in my legislative district in south Omaha, employ more than 4,000 Nebraskans, paying an average salary of nearly \$46,000 a

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year. While the fee structure of this project is largely a local government issue, the impact that the CSO project will have on our state's economy and budget will be deep and extensive. The problem of the Omaha combined sewer overflow project is not unique. The city of Plattsmouth faces similar unfunded federal mandate on a smaller scale. Ultimately, the city of Omaha and city of Plattsmouth will not be the last Nebraska cities to face a mandate on their sewer or storm water systems, as communities throughout the state will soon be forced to deal with their aging infrastructure and, without some form of assistance, local water users will be the ones bearing the brunt of this increasingly heavy burden. Plans for both CSO projects had to be approved by the Nebraska Department of Environmental Quality, a code agency that reports to Governor Heineman, in Omaha's plan in 2003 and Plattsmouth's plan in 2009. Since these plans were approved, no attempt to provide assistance to these communities have been made by the state of Nebraska, either by the Legislature or by Governor Heineman, prior to the 2010 Legislative Session. As many of you no doubt remember, efforts were made in 2010 to address the Omaha CSO project which had been unsuccessful, including LB952, which would have exempted sewer-use fees paid on CSO projects from state and local sales tax; and my priority bill last year, LB682, which would have created a turnback of state and local sales tax on increased sewer fees used to fund a project. AM2710 would seek to offset the increased sewer fees being used to fund the Omaha CSO project by requiring that a city of the metropolitan class put the proceeds of the first quarter cent of additional half-cent sales tax increase toward a CSO project for a period of 25 years after the increase is imposed until the project is completed or until the termination of the tax increase, whichever one comes first. Based on initial projections of the Legislative Fiscal Office, this would provide approximately \$22.5 million towards the CSO project in Omaha, offsetting the significant sewer fee increase that are currently projected to increase over the next 10 years. Since the language of the local ordinance creating the city of Omaha's restaurant tax provides that the tax would sunset with a half-cent increase in local sales tax if the city of Omaha wanted to increase its local sales tax under AM2710 and the subsequent bill, LB357, the result would be the elimination of the restaurant tax. Essentially then, AM2710 gives the city of Omaha the ability to eliminate one tax and reduce another tax, or reduce another while potentially saving manufacturing jobs that are at risk if nothing is done to lower the CSO fees by a dramatic amount. Colleagues, in conversation, I'd like to thank Senator Ashford for the ongoing conversation about this issue essentially since the end of last legislative session. Now I understand that there may be some reticence in regards to AM2710 in regards to what its impact would have, essentially, on the city of Omaha. First off, there is some well-documented information that when the city of Omaha created their restaurant occupation tax that it was to generate a certain amount of money; actually it was the 2.5 percent tax was to generate \$14.7 million; \$13.5 million was to go to fund the police and fire pension liability. The additional \$1.27 million went to the general fund. Subsequent projections after that tax came into effect was projections increased. The city of Omaha, ultimately, their first year saw an actual collection of the restaurant tax to \$18 million, and this recent year they saw the

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collection of \$22 million in the restaurant tax. What is done under AM2710 ultimately matches the dollar amount, essentially, or slightly more the dollar amount that the city of Omaha currently gets from the restaurant tax. Roughly, under AM2710, they would receive \$22.5 million back if they adopt a half-cent sales tax by eliminating the restaurant tax. The other \$22.5 million would go directly to help pay the cost of the CSO, which would lower the CSO-mandated sewer fees. Colleagues, over the course of ten years that equates to roughly \$250 million, give or take, and over the course of 25 years that equates about roughly close to \$600 million to help pay off the CSO costs out of a \$1.7 billion project. No doubt I know that there are some who are concerned that AM2710 limits the flexibility of the city of Omaha in regard to their usage of the potential increase in local option sales tax. On the contrary, I argue that this helps meet an existing obligation before the city of Omaha embarks on any new infrastructure projects. With a project the size of \$1.7 billion, the city of Omaha ultimately understands that that is a priority. It is a priority amongst ratepayers; it is a priority amongst the businesses who are being asked to pay this unfunded federal mandate; and I argue that this should be our opportunity to help the city of Omaha out. If we provide them this ability to increase their local option sales tax by a half percent, it only seems fitting that the first quarter percent goes to pay for the largest public infrastructure project in the history of the state before the city of Omaha chooses to embark on any other potential infrastructure project. I'll draw the body's attention to a recent news article that came out in February 3, 2012, where it was suggested by the city of Omaha that if they received this local option sales tax, the infrastructure that they want to finance is so-called streetscape projects at a number of historic business districts throughout the city. No doubt, colleagues, I'm not suggesting that business districts or putting streetscapes isn't important. Actually, a well-known streetscape in south Omaha was redeveloped over the last ten years, but they redeveloped that utilizing federal dollars and prioritizing federal community development block grant dollars to pay for that, not asking an increase in local option sales tax and diverting money away from what we know is soon to be \$60 a month sewer-use fee bills for residential customers within the greater metropolitan area. Colleagues, I urge the body to adopt AM2710 to help bring some relief to those in the metropolitan area that have to deal with the CSO project. I'm not suggesting, so to speak, that there aren't other worthwhile infrastructure projects that should be considered somewhere down the road. I only contend that the number one project that I hear about in south Omaha from businesses and ratepayers, as well as people who I don't represent in the metropolitan area, believe the city's number one priority should be financing and funding the combined sewer overflow project before they embark on any other new spending idea, infrastructure or otherwise. [LB357 LB682]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB357]

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SENATOR MELLO: Thank you, Mr. President, and I'd urge the body to adopt AM2710. [LB357]

SENATOR CARLSON: Thank you, Senator Mello. Members, you've heard the opening on AM2710 to AM2447 and the underlying bill, LB357. The floor is now open for debate. Senator Flood, you're recognized. [LB357]

SPEAKER FLOOD: Thank you, Mr. President. Members, good afternoon. I have been a consistent "no" on LB357, not that consistent, I only voted once last year. But I feel like I've been answering the question for over a year as to what I want to do with Senator Ashford's proposal. And last summer I had the opportunity to go to several different cities and talk to folks in places like Columbus and Kearney and Hastings, North Platte, and obviously Norfolk, and other communities, and I kept hearing this everywhere I went. My objection to LB357 has been that if you give the cities carte blanche half cent, it may have a temporary reduction in the property tax paid by the city's inhabitants, but I bet you in 20 years when you look at the tax situation you'll have another half cent, you know, you'll be up to 2 percent on the local option and your property tax will be right up where it was it at. And I don't know long term if you are saving anybody any money or if you're controlling a tax burden. The only thing that I feel, in my opinion, LB357 would serve a good purpose for is infrastructure, not general fund spending or daily operations. I'm talking about running the sewer south of Norfolk to develop an entire part of town that's kind of been forgotten because of the Elkhorn River and the difficulty in getting services down there. I'm talking about helping pay for an industrial highway that we're paying for ourselves in Norfolk between Highway 81 and Highway 35, because we'd wait a lifetime for the environmental reviews under the Department of Roads' process. I'm talking about maybe finding a way to leverage some of this money to get natural gas pipes in the ground and looped between Albion and Norfolk to deliver enough gas so that we're back on the map and we're recruiting jobs. That's infrastructure from where I sit. And if this bill takes us there, provided that there is a heightened level of folks on the city council that have to approve it on the ballot, it's something I would like, and that the people have to vote on it, I'm not going to save the people from themselves. And I live in probably one of the most conservative communities in the state of Nebraska. And I can tell you, anything on the ballot from where I live will be scrutinized very, very carefully. But I don't want to be looking around in 20 years living in Norfolk looking at my time in the Legislature and saying, gosh, it would have been nice to take some significant steps in some of these issues like developing our town south of the Elkhorn River, locating the next Nucor, or getting enough natural gas that we can add a job in industrial agriculture in the next 20 years. And I think when it comes to infrastructure, the choices are that obvious; they are that important. If I was in Lincoln and my population had increased 25,000 people over the last 15 years or more, I'd be saying I can't wait seven years for that south beltway. We need to build that south beltway. And God forbid if I was sitting in Omaha and I was looking at a \$1.7 billion CSO project and homeowners in low-income neighborhoods

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paying \$50 on their bill before they even start paying for their water, I see that as a big issue. And when you're sitting in this seat and you're working for everybody... [LB357]

SENATOR CARLSON: One minute. [LB357]

SPEAKER FLOOD: ...in the state, I think you've got to look at the problems in Omaha; you've got to reconcile the problems in Lincoln; you've got to think about what a York needs, talk about what's going on in York with some of the environmental remediation that they've been doing, or in Hastings. If it is for infrastructure, I'm willing to go there as long as there's a vote of the people and the city council ups the ante on how many it takes. I don't want, from where I sit, general fund spending because I think in 20 years it will be less of an investment that we can look back on. And I want it...just a window of 10 years to put it on, if you don't get it done in 10 years or the life of the bonds you're out of business on this. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Flood. Senators wishing to speak include Ashford, Mello, Dubas, Fulton, and Krist. Senator Ashford, you're recognized. [LB357]

SENATOR ASHFORD: Thank you, Mr. President. I thank you, Senator Flood, for his comments. The amendment that will be coming down will, I believe, fulfill those concerns, especially as it relates to infrastructure and projects and that there be a three-fourths vote of the city council before these matters go on the ballot. I understand, as Senator Flood has just suggested, that the CSO project in Omaha is a massive obligation. And I was chatting with Senator Lambert and I hope I cast this right because I'm going to ask him if I did or not, but he indicated that in Plattsmouth that the voters in Plattsmouth voted to increase the sales tax to pay for a CSO obligation in Plattsmouth. Could I ask you, Senator Lambert, if that's correct? [LB357]

SENATOR CARLSON: Senator Lambert, would you yield? [LB357]

SENATOR LAMBERT: Yes, I will. Yes, we increased the sales tax half a percent, the voters did, for streets and sidewalks, to replace the old ones that were torn up by the CSO. [LB357]

SENATOR ASHFORD: Thanks, Senator Lambert. I believe that the voters, if presented with something similar to what Senator Lambert is talking about in Plattsmouth regarding the CSO, would have the same sort of reaction depending upon how it was presented. Senator Mello is right, it is the largest public works project in the state's history, \$1.7 billion is the estimated cost. In the amendment that's coming down shortly, there will be a provision that says that at least 50 percent of the...of a quarter of the percent of the sales tax would...it would be necessary that that go to a project that has an interlocal agreement or agency agreement, potentially it could with MUD or some other agency, to address the CSO. I am supportive, I am supportive of allocating sales

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tax to the CSO and...but I am more trusting of the voters of Omaha to make that decision and not me. I think that faced with that obligation and presented wisely to the voters of Omaha that they will look at some way to utilize a broader tax base to alleviate the cost of the CSO project. Senator Mello is spot on in his analysis of the obligation. I think where we may differ here is that who is it that should be making the decision about it. My argument today is it should be the voters of Omaha. And quite frankly, working with Sarpy County, because there are parts of Sarpy County which also pay the CSO bill, I believe I'm correct, and that it would be, I think, a viable project to work with them to come up with a plan whereby the Sarpy County and Douglas County could combine and work on the CSO obligation. This bill, certainly, would provide that opportunity for them to do that. I, too, have been around the state this year and talked to mayors and I don't think they want to raise taxes, I think they...at all, in fact I haven't met one that did. But what I do think mayors want to do, the ones I've talked to, is they want...they have needs and they now have a...for projects like the one that Senator Lambert is talking about where the reliance has totally been on property tax, that if there is a way of spreading that reliance out to other forms of revenue that it should be presented... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR ASHFORD: ...it should be presented to the voters. It should be presented to the voters. The voters of Omaha are not going to vote for a spurious, ridiculous, silly tax increase without a commensurate reduction in other taxes or fees. That's just not going to happen. But I think it's their...it is their responsibility, not ours in the Legislature, it's their responsibility, their obligation, and more importantly, I think it's their right to once in a while...once every 30 years or so chime in on what they think the city should be like and how it should be paid for, or the towns or the villages, and now with county interlocal agreements and the regional interlocal agreements that are in this bill we could have a broader reach and a broader policy and save money, create efficiencies. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford and Senator Lambert. Senator Mello, you're recognized. [LB357]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I have to agree with a good amount of what Senator Ashford just said. And believe me when I say, colleagues, I don't offer this amendment lightly. But from studying this issue now for the last three years, understanding that I hear this from my constituents as well as many from the metropolitan area, your constituents, when they do find out that their sewer tax bill is going to start off at \$13 and end at \$60 over the course of 10 years, that raises concern and actually it alarms people. How are you going to raise my taxes from \$120 a year for my sewer-use fee to close to \$700? And that's for residential ratepayers. That's not even bringing in commercial or industrial ratepayers. By no means have I ever stood

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on this floor and said the city of Omaha doesn't have pressing infrastructure priorities; they do. Streets and sidewalks are a continual priority. It's my hope that we can find ways to help them in the future, whether it's through an infrastructure bank or other financing mechanisms. But to ask the voters to raise taxes on themselves through new spending priorities when we have the largest public infrastructure project that right now is really going under the radar with the exception of those who learn about it, I question whether or not that's good public policy because I no doubt know that there are people in Lexington, there are people in Plattsmouth, people in Kearney, people in Columbus who all have different priorities. Each community has their own priority. But it's been loud and clear the more people in Omaha, in the metropolitan area, find out about the cost of this project and finding out that the current way to pay for it is a flat tax being instituted on everybody, that raises concerns. We know the sales tax is the most regressive tax we have in Nebraska. But something that is more regressive is a flat tax that, regardless of your usage, regardless of your income, you pay the same amount as everyone else. It's not really a user fee when you don't really sometimes use the service or when someone else uses the service 30 times more than you do. I'm not calling judgment right now on any elected official in the city of Omaha, anyone who works for the city of Omaha, anyone who's been involved in this project. I simply think the best public policy for our state to try to provide a solution moving forward with the largest public infrastructure project in the state is to provide some guidance. Ultimately, the city of Omaha, by eliminating the restaurant tax, they still have funds that they can spend on infrastructure. As I mentioned before, the restaurant tax brought in initially was only projected to bring in \$14.8 million. It's now bringing in \$22 million. So the question is, the city of Omaha has been able to spend that additional revenue on other priorities, infrastructure or otherwise. They'll still have that same authority to do that additional, give or take, \$9 million. But what I'm suggesting is, all the other cities we're talking about under LB357 will spend their sales tax on infrastructure. Why not just provide the city of Omaha a little bit more guidance of saying we want to see the infrastructure addressed is a current priority, a current project that's underway. We don't want to get... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: ...diverted to something else; we want to take care of business on an issue that we know is hurting our residents, it's hurting our businesses, it's hurting our manufacturing base. Colleagues, no, the city of Omaha doesn't lose with AM2710. We simply provide some guidance to them of saying that we as a state feel the CSO project in Omaha is the number one priority in regards to infrastructure because we've heard loud and clear from ratepayers, both residential and industrial, that we need a solution and we need a solution big enough to actually deal with the cost, to lower the fees. We don't just need pennies to be thrown at a problem. Thank you, Mr. President. [LB357]

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SENATOR CARLSON: Thank you, Senator Mello. Senator Dubas, you're recognized.
[LB357]

SENATOR DUBAS: Thank you, Mr. President. First, I'd like to thank Senator Ashford and others who have been working on this issue and I know they're working very hard to make it an accountable and workable solution. But I feel I need to bring maybe a different perspective into this discussion and that is from the discussion of more rural communities around the state, smaller communities who have their own sales tax but don't have the ability to draw from people outside of their community who pay that sales tax. There's a factor called the pull factor and that's where your local per capita taxable retail sales is divided by the state average per capita. And if you have a...if that number is greater than one, that means your retail sales activity of the area has exceeded that population. If you're less than one, that means just the opposite. So having a number over one means you're able to draw from others outside of your community to come in and contribute to that sales tax base, where, again, our smaller rural communities don't have that ability to. You know, my hometown of Fullerton has a 1.5 percent sales tax. There's not too many people that are coming in from outside of the Fullerton area who are contributing to the sales tax base of Fullerton. Many of the rest of us around the state, smaller communities, have that same thing. In fact, I have a very small village in my district who is ready to take a sales tax vote to the people, 1.5 percent they're asking for. This is a very small village who is needing to do updates on their sewer system. There is no way they're going to get people from outside of their village to come in and help them generate the type of dollars, and you know, they're talking a hundred thousand dollars or less of money, but to this village that's a lot of money, just like the money that's being talked about in Omaha. So I'm listening to this debate very carefully because I do understand and appreciate the very real problem that the residents in Omaha are facing right now. But because people from communities such as mine, such as Fullerton and others, have to rely on going to larger metropolitan areas like Omaha, like Lincoln, like the Grand Islands, the bigger areas to get things we can't get in our home communities, we're helping you pay for the things that you need in your town. And, yes, we come in and we use your streets and we use those kinds of things. But it is an issue for citizens from the smaller communities who are not only taking care of their infrastructure needs and other things in their home communities all on their own without any outside help, but then they're going into other communities trying to help them as those sales tax rates go up, trying to keep property tax rates down, they're contributing to that, but yet, I guess what I'm trying to say is, you know, we aren't able to get that same type of help with our needs. So I am definitely not unsympathetic to what we're trying to do here, and again I'm very appreciative of the work that Senator Ashford and others are doing to try to get this, as Senator Flood talked about, a much more targeted type of activity so that the money is being spent, not just in general fund, but it is going towards infrastructure. No matter what we're talking about, we are seeing all of our communities, from the smallest to the largest, needing very real updates and those cost very real dollars. And how do we figure out ways to pay for them? [LB357]

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SENATOR CARLSON: One minute. [LB357]

SENATOR DUBAS: That is the crux of the matter. Senator Mello mentioned the fact that sales tax is one of the most regressive taxes we have and I couldn't disagree with...couldn't agree with him more, excuse me, and especially when you're looking, again, our smaller communities who are made up of many elderly people, many people on fixed incomes who don't have a lot of choice about the things that they need to buy. They aren't spending their money on discretionary things; they're spending their money on things that they really need. So again, I'm understanding where we're trying to go with this and appreciating the work, but I come at it from a perspective of those of my constituents who have to go to these larger areas to buy. Whether it's inputs for the ag operations or their own businesses or their own home needs, it gets frustrating as we see those costs go up and we have no input or say into it. I also see it as we're giving away some of our state tax base... [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR DUBAS: ...by allowing communities to increase. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Dubas. Senators wishing to speak include Senators Krist, Lathrop, and Mello. Senator Krist, you're recognized. [LB357]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. Deja vu all over again. In 2010 we had a debate brought forward by a senator who is no longer a member of the body and it's said that it might of had some success or a potential of success if it would have been anybody else in the body who brought it forward. But essentially it was this: it was exempting tax on that CSO project in the city of Omaha. And many of you stood up and said, you know what, we did our own; we didn't need tax exempt to do that. That would have saved the taxpayers that have to support the infrastructure in the state of Nebraska millions of dollars, and we allowed it to go forward. And we allowed the city of the metropolitan class in the state to support the sewer system, sewer separation, CSO projects, and other things in the state where hundreds of thousands of people, sometimes in a day, supporting an event in the Omaha area used the streets, used the sewer systems, enjoy a "big city experience" and then go back to a small town. So I can't disagree with Senator Dubas, but I represent Douglas County, northwestern part of Omaha, I can disagree in the fact that it's different. It's a city so it's the same, but it's different. It's different because hundreds of thousands of people come in and use the sewers. I said in 2010, ultimately there's 1.8 million people in the state of Nebraska and in any one-month period a million people flush the toilet in Omaha. Think about that for a second. So how do we compare those apples and oranges? I don't think we can. Relating back to this particular issue with LB357 and the underlying amendments and the amendment that I know is coming from

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Senator Ashford, this, folks, is the Legislature telling them we're going to give away a half-cent sales tax opportunity to you, but we don't trust you to do what's right so we're going to make sure you do what's right, a little bit, kind of, sort of, because we're going to make sure that a portion of that goes to CSO or goes to things it needs to be spent on. I don't disagree with that. I think that we should be very judicious about giving away sales tax authority from the state, but it's time. It's time that we put it back into the cities, and particularly into this project, or potentially into the Omaha city project with CSO. I think Senator Ashford is on the right track. I think last year when I supported it and spoke about it in committee that I spoke very favorably of it. I'm even more in favor of it now. I do think that the amendment offered by Senator Ashford, which I think is forthcoming, will clarify for us where that tax authority should be and what it should be limited to. Thank you, colleagues. [LB357]

SENATOR CARLSON: Thank you, Senator Krist. Senator Lathrop, you're recognized. [LB357]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good afternoon. I stand in opposition to this amendment and I want to explain my position. While I support the bill and what will eventually become the next amendment from Senator Ashford, I want to explain my opposition to this amendment that would essentially require that if you have a CSO project, or you're Omaha, you need to spend this additional authority on the CSO project, or at least half of it. Senator Ashford will have an amendment for us very soon that will essentially say that if you're Omaha you have to spend half of it reducing some other tax and half of it on infrastructure, infrastructure, not just any infrastructure project but one that you must collaborate with another political subdivision on. And why is that preferable then, in contrast to Senator Mello's attempt to dictate how that money will be spent? I first of all want to express my appreciation for Senator Mello's concern over the sewer separation project. That is a billion dollar, and we've been hearing this since Tom White was here, that's a billion dollar nick for the city of Omaha and they're trying to figure out a way to do it. However, if we give authority to every community out there to raise, depending on their needs, a half cent of sales tax for an infrastructure project, but we tell Omaha you are going to have the same authority but you must use it for a particular infrastructure project, we're not really being fair to the city. They...it is up to city government to decide what their priorities are and they may very well be the CSO project. The people could go to the city council and say we'll vote for this; you should vote for it, city council, but first it needs to be a CSO project...the money needs to go to the CSO project. Or they may come in and say, you know what, I'm tired of losing my tires to your city streets, pave some streets and then use some of it for the CSO project. So here's my point. While I appreciate what Senator Mello is driving at--and he is an adamant advocate for this subject matter, getting the CSO paid for by some means other than the chosen means, and I get it, I really get it--what the amendment would do would be to constrain the city of Omaha in a way we are constraining no other community with the use of this. And remember, if you don't

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remember anything else about the debate on LB357, this has to be something that's voted on by a supermajority in the city council and then the people have to approve it. And that means the politicians, the elected officials in the community are going to have to put together a package that the people find palatable, they find it a good reason to raise the sales tax, and that's going to be cutting revenue in some area and having projects the people buy into. Let the cities, let Omaha do just what your communities are going to be able to do with this half cent. Let the people decide what it should be spent on and let's not constrain or restrict the city of Omaha in a way we wouldn't restrict another community. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Mello, you're recognized. [LB357]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I appreciate Senator Ashford and Senator Lathrop's viewpoints, and Senator Krist's, on wanting to try to provide and ensuring that there is flexibility. By all means, I think I was the...last week, with Senator Lathrop, Senator Fischer, Senator Nelson, and others, trying to ensure that cities had flexibility when it came, ultimately, for them to deal with occupation taxes. That's not a general principle I don't subscribe to, because I do; the same reason I asked for flexibility in regards to us trying to restore, try to keep state aid to municipalities last legislative session. But the issue ultimately comes down to is this Legislature has prioritized projects and issues in the four years I've been here. When an issue rises to the level, even if it's a local issue, it rises to the level of concern and emphasizing this legislative body and ultimately the state of Nebraska to try to provide a solution, we consider it. In the sense of municipalities not having flexibility, the city of Omaha ultimately will always have flexibility. With my amendment, it simply addresses the CSO. Now granted their city charter, through ordinance, says that they have to eliminate their restaurant tax. That's their...they can ultimately choose not to do that if they change their city ordinance. But that's a decision that's left up to the local government to decide. What we're trying to decide on AM2710 is whether or not we as a state feel reducing the cost or the fees paid for on the combined sewer overflow project is a state priority, or whether or not we feel we'll allow the local government to determine how big of a priority it is. That's fair. As Senator Lathrop just mentioned, that's a fair debate, and that's essentially what we're discussing on AM2710, whether or not the state feels it is in our prerogative to prescribe to the city of Omaha that the combined sewer overflow project is the most important infrastructure project facing that city. As a resident of that city, I believe it is. There are some, no doubt, in this body who feel it may not be. There are some who believe that it is, but they want to allow the local government officials to determine that. Colleagues, I believe it is our priority, as a state, because of its economic impact it ultimately will have statewide on Nebraska. There was no economic impact study done when this project was finalized and they ultimately came to a way to pay for it of using sewer taxes to pay for it. There was no economic impact to show here is what it's going to do to ultimately the greater metropolitan

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economy regarding businesses who use water. And as Senator Dubas and Ashford and Lathrop just discussed, by requiring that the sales tax portion goes to pay this project it brings in money from outside the metropolitan area to pay for this project. It's a way to bring in outside resources to relieve the burden on the residential, commercial, industrial ratepayers in the metropolitan area that has to pay for this. I don't see AM2710 as any kind of infringement whatsoever on local control, of not allowing a local political subdivision to determine whether or not what's best for them. We've heard before... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: ...that this is a significant project. City of Omaha came in support of my turnback tax because they said it was such a significant project it needed state assistance. So the question is, if it was good enough for a sales tax turnback, why isn't it good enough for a local option sales tax? And no one has been able to answer that question except they want to determine it on their own which always concerns me that it may not be their number one priority locally and they want the state to come in and try to save them with this project. Colleagues, my hope is that we can move on, adopt AM2710, move on with LB357 and provide some guidance of what is the most important infrastructure project that should warrant the ability to go to the voters for a sales tax increase. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Mello. That was your third time. Senator Fulton, you're recognized. [LB357]

SENATOR FULTON: Thank you, Mr. President, members of the body. We're...seems like we're slowing down a little bit. And I've heard some pretty good arguments leveled in favor of the bill, but all of the arguments I have noticed touch on some philosophy. And I've not seen the other side, the...another side, there could be other sides, in opposition to the bill. And I am. I do not support this bill. I will say, however, I've read through AM2710, Senator Mello, and I will support AM2710. There are certain of these amendments, I think, that cause this bill to be better. And so in the event that it does pass, these are legitimate controls. But I don't support LB357. And I ask you to think about some things. At some time the Legislature, through its power, created political subdivisions. And at some time the taxing authority was given for sales taxes. Now I could go back and read the legislative history, probably will do that after having spoken on it, but when the Legislature granted sales tax authority, what was the purpose for doing such? Think about that. At some time sales tax authority was already granted to political subdivisions, to municipalities anyway, for what purpose? Another thing to think about, and this is where I...when I talk about philosophy, think about this stuff, think. Why do we want economic development? No one is against economic development, everyone is for it. But can many people describe why we want it? We want jobs, right? That's an answer. We want more jobs. Well, why do we want more jobs? Provides more

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opportunity, right? More jobs, more opportunity, we'll be able to grow Nebraska, more population. That's a good thing. Growth is good, and I do believe that. But why? Why do we want more population? The public policy reason, at least from the legislative branch, there are millions of different ways to answer these questions, but from our advantage as policymakers, more population, more opportunity, more taxpayers, a more diversified tax base. And ostensibly, one of the arguments that I've heard given in my six years here and in years previous, when you have more taxpayers then there's less tax per capita, and isn't that what we all want? But is that what's happened? It's not. We've seen sales taxes and property taxes all go up, perhaps not rates but flat dollars, yes, more of each. And so we have ideas about what our policy ought to accomplish. We should look historically at what ideas existed at the time when policies were put in place and let us verify whether the intention actually matched the end. It just seems to me that LB357 is another mechanism by which we can come up with ways to allow local units of government to apprehend more money in different ways. And understandably, and I think rightfully, we allow the volition of those to be taxed to be gauged through a vote. And those are good things. But the end of this policy is the same. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR FULTON: So I'll stop there. There are...I would love to go into this more deeply, I won't, but this side of it has not been brought out. I think it ought to be. And in the event that we get to a place where we vote, I'd at least like to have why I vote in the way that I do out there. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Fulton. Mr. Clerk, items for the record? [LB357]

CLERK: I do, Mr. President, thank you. Communications from the Governor. (Read re LB42, LB735, LB861, and LB1018.) A second communication, Mr. President. (Read re LB1072.) That's all that I have at this time, Mr. President. Thank you. (Legislative Journal pages 1321-1323.) [LB42 LB735 LB861 LB1018 LB1072]

SENATOR CARLSON: Thank you, Mr. Clerk. We return to debate. Senators wishing to speak include Senators Council and Adams. Senator Council, you're recognized. [LB357]

SENATOR COUNCIL: Yes, thank you, Mr. President. I've been listening to the debate and would like to hear more of the rationale being provided by Senator Mello and would yield the balance of my time to him if he would like to have it. [LB357]

SENATOR CARLSON: Thank you, Senator Council. Senator Mello, 4 minutes and 38 seconds. [LB357]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature, and thank you, Senator Council. I know Senator Council, when we discussed LB682 last year, was well aware of the concept of the sales tax turnback but also was well aware of the issue that has been festering in Omaha over the last 25 years in regards to trying to rectify a combined sewer overflow project. And ultimately, new parts of Omaha, as it's grown in areas of the metropolitan area, has developed separated sewers which has lowered the cost and has then allowed the city, essentially, to be able to further try to move forward on this project. But the reality, is with the EPA requiring it at a certain point in time with changes in their regulations, the city had to embark with the Department of Environmental Quality on this project on a time frame that was given. Now I've heard and talked to some of you on the floor about this of why can't the city of Omaha look to find other ways to finance this project. Why can't the city of Omaha get more federal funds, for an example? Colleagues, it's only in my humble opinion that I think the reality is federal funding on a project like this, when the federal government has unfairly mandated it, just isn't going to happen. And ultimately, with the federal government dealing with massive debt issues of their own to try to balance a budget, try to rein in spending, the likelihood of the federal government giving the state of Nebraska or the city of Omaha, I should say, a billion dollars or \$500 million to pay for this project is highly unlikely, it's highly unlikely. And the reality is, other municipalities across the country have asked for federal funds as well and has just not received the amount to really put a dent or impact into paying for the costs of these projects. And so understand that it's not a first choice, so to speak, to want to have to ask your voters, we need to raise the sales tax to pay for this unfunded federal mandated project. But the more Omaha residents find out that the way they're paying for the project is close to a 400 percent increase in their sewer taxes, it changes the story. From \$12 to \$60 a month creates a dramatic impact in everyday Omahans' lives. And as I've said before, it's a flat tax. It is the most regressive tax that can be put on to pay for an infrastructure project, where we're trying to provide the city of Omaha a new mechanism that allows them to pay a slightly less regressive tax through the sales tax, which means people in Omaha can determine whether or not they want to go purchase a new TV or go purchase a new washer and dryer. They can go purchase that somewhere else if they want, or they have the ability to make that determination on an individual household level. You don't get to determine whether or not you pay the sewer tax in Omaha. Every household that's hooked up to the sewer has to pay it. And so the question is, I argue with AM27...and we're giving voters more choice, more flexibility than they're getting with any other amendment. [LB682 LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: Because we're saying, one, if this authority is given to the cities, you, the ratepayer, get to determine whether or not you want to purchase new items that would pay the sales tax, where right now you have no authority. You pay the sewer tax regardless. And at the end of the day, I feel that giving voters the choice to provide a

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quarter cent sales tax increase on the sewers is the most flexibility we could provide, because we know there is always going to be a new infrastructure project that comes up, a new idea that gets thrown out, and at the end of the day it is a matter of persuasion of what is the best project. I think we as a state can make that determination that we need to meet our existing obligation of financing this combined sewer overflow project in Omaha. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Mello. Senator Adams, you're recognized. [LB357]

SENATOR ADAMS: Thank you, Mr. President, members. This is probably not the most appropriate time to take a position. I'm not going to support Senator Mello's amendment and I am more supportive of Senator Ashford's forthcoming amendment. But let me digress a little bit. When this sales tax bill came to us a year ago, and I come from a city and was mayor in a city that reaps the benefits of sales tax, largely because of our location, I had great skepticism and I can't say that all of that is gone yet. One of my first concerns with giving cities more sales tax would be and was, are we giving up a half cent that the state may need? Are we giving up some of our revenue base? We are, but something else came to mind. For the last three years we have been struggling through this decline in revenues and never once did we think about going with another half cent of sales tax. So will we ever? Will we ever? Are we really giving up the base, a base that we don't need or won't use, I should say, not that we don't need, but we won't use? I had another concern, and I'm not going to stand here and tell you that it's been completely mitigated by Senator Ashford's amendment. My other concern is, and I'll use this analogy, the rich get richer, and the poor really don't come out a whole lot better. So if you're a city that is a market center, if you're a city that is along the interstate, another half cent is greatly going to benefit you. That doesn't mean that another half cent won't benefit cities that are off the beaten path, that are small that don't have the sales tax base. I'm not going to argue that. But how much will it help them compared to those along the interstate like York, like Lincoln, like Omaha, or off the interstate, the Columbuses, the Norfolks? Senator Fulton said he doesn't know of any cities where taxes have gone down. I do. We took the property tax rate in York from 86 cents to 6 cents. Now it's at 13 because of bonds for a swimming pool. That's still awfully low. You know what I argue with some of the city council members back in York these days who are advocating for another half cent? I understand why. At what point is...if this is possible to say on the mike, is property tax too low? I know full well there are those that could advocate let's eliminate it altogether if we can, isn't that a good thing? Might be. In principle one could make the argument also that if you're going to live in the city there is a certain obligation that you have to pay some amount, whether it is a penny or a dime or 50 cents. I don't know what that magic number is. Potentially, I think, with Senator Ashford's amendment, wherein the money is committed to infrastructure projects, it doesn't necessarily flow directly to general fund; it doesn't necessarily just lower property taxes and give them more spending ability. Maybe it goes to pay off

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infrastructure debt, water and sewer. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR ADAMS: I know in York we have difficulties with new housing developments because of the cost of street, water, and sewer. It is so prohibitive to developers today they can't do it, and this may be helpful in that respect. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Adams. Senator Heidemann, you're recognized. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I do rise in opposition to LB357 and to any amendment that might be put to it because I don't think anything that you do to LB357, it's still going to walk, talk, and smell like a tax increase to me. I had a...listened to Senator Adams very intently and sometimes I find it interesting from a man who knows more about state aid funding and the formula than anybody else and there's components in there that say until you access so much property tax, we're not going to help you. And I had a bill on LB357 last year, and it failed, that said we could do a half-cent sales tax, if I recall, but you have to be at...I think the levy...it was the levy at 30 cents or 35 cents. And it failed, and I didn't understand that. I understand that cities need revenue to operate and I don't have a problem with that. We have given them the authority to tax property up to a certain point. A lot of these cities are not at that point. Senator Adams just said that they were at...down to 6 cents with a pool bond up at 13 cents. Do they really need sales tax revenue to make it work? Are they hurting? Is there anything that they're not doing now that they want to do? And I would have to think, probably not. And even you look at the largest city that we have in this state, I believe their levy is right at 29 cents. They have room to go. They have access to revenue. And I'm not...if anybody knows me, trust me, I ran for the Legislature because I don't like property tax. But we have given these cities the authority to access so much property tax and right now they're not wanting to do that, they're wanting more authority for sales tax. And that's the other thing I want to talk to you about. If you vote for this, you are giving up the state sales tax base. If this state ever goes through anything they did like the last three years or, worse yet, in the early 2000s, when this Legislature had to raise sales tax, if we do LB357 and we go up to 7.5 percent, you tell me the willingness of this body, if they need to, to take it to 8 percent. That to me is a little bit of magical level that you probably will not want to go to as a state. So what you're saying, when you pass LB357, is you're probably not willing to, as a Legislature, as a state, to give the state any more sales tax authority. And in times of need, I have problems with that. I have serious problems with that. We are a very responsible state; we are a conservative state. Through the last three years we cut our way out of our problem and I'm proud of that. But there might be a time down the road that you would need this half-cent sales tax authority and you will be giving it away, in

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my opinion, to the cities. I was wondering if Senator Adams might be willing to answer a question or two. [LB357]

SENATOR CARLSON: Senator Adams, would you yield? [LB357]

SENATOR ADAMS: Yes. [LB357]

SENATOR HEIDEMANN: Senator Adams, as I said, no one knows the state aid formula like you do. Why will we want to say, okay, we'll give you the half-cent sales tax authority, but at first you've got to be at least using a portion of your property tax base? Why is that not a good idea? [LB357]

SENATOR ADAMS: I can't argue with you on that. I can't. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR HEIDEMANN: I mean we've given them the authority to go so far, and I mean, I mean, I hate to use York, but do they absolutely...or are they not doing something right now that they need to do with where they're at on their sales tax and with the property tax? [LB357]

SENATOR ADAMS: You know, literally taken, and I suppose we could bring in the city manager and mayor and they could argue with me about it, but from my perspective they're running a good ship and they have a lot of latitude left in their property tax, probably to do other things. They see the advantage of the sales tax base that they have. [LB357]

SENATOR HEIDEMANN: Should we try to run the amendment that I had last year to try to say that you can do this but first you have to access so much property tax? Would that make this bill better? [LB357]

SENATOR ADAMS: Maybe from a principle standpoint, and a guy that deals with state aid all the time, Senator, you probably have me on that one. [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR HEIDEMANN: Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Heidemann and Senator Adams. Senators wishing to speak include Christensen, Lathrop, and Heidemann. Senator Christensen, you're recognized. [LB357]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Ashford yield to

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a question, please? [LB357]

SENATOR CARLSON: Senator Ashford, would you yield? [LB357]

SENATOR ASHFORD: Yep. [LB357]

SENATOR CHRISTENSEN: Senator Ashford, is the idea of doing this to do a project in Omaha for the sewer? [LB357]

SENATOR ASHFORD: No. [LB357]

SENATOR CHRISTENSEN: The idea of this is just we need more tax authority. [LB357]

SENATOR ASHFORD: No, the idea of this bill, as it was 20 years ago when I first introduced it, is to give the voters in my district and in every district in the state, and every city and township and village the opportunity to lower property tax, if it is appropriate, to take on projects that they have to make their cities better and use a sales tax base to do so. That's the reason for the bill. [LB357]

SENATOR CHRISTENSEN: If this lower property tax, is it tied in this bill so it has to offset property tax? [LB357]

SENATOR ASHFORD: No, it isn't because it's up to the local governing bodies, the elected officials in each city to put together a plan and go to the voters with that plan and sell the voters. That's the government closest to the people, Senator Christensen. I think that's the way it should go. We have done some things about interlocal agreements, thanks to Senator Schumacher, that do some revolutionary things about encouraging interlocal agreements. But essentially it's to...our cities are going through a rough time, they've lost aid, but more importantly than that, their challenges are greater than that even. So I think it's giving the cities and the voters an opportunity to vote, the voters to vote and to look at plans for the future. That's the idea of the bill. [LB357]

SENATOR CHRISTENSEN: But the public to vote on this is only for the additional half cent, correct? [LB357]

SENATOR ASHFORD: They could do a quarter cent, they could do a quarter of a quarter cent. They could do nothing; they could do a variety of things. But they have to make it clear to the voters what they are intending to do and, yeah, it's about our neighbors getting a chance to vote on their future, in my view. [LB357]

SENATOR CHRISTENSEN: Thank you, Senator. I appreciate hearing that because I didn't want to see this to be a...just to get a sewer project done, because I've been disappointed in the times that that has come up in this body because they keep

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looking...when Omaha looks at it as a need to separate the sewer and the storm water, it's very true. That's a storm water project. NRDs could take care of that with their current ability to bond and take occupation tax and things that way. So I appreciate hearing that that's not Senator Ashford's intent on this. But at the same time, I think Senator Heidemann brings up an excellent point here in the fact that, what are we going to do if the state ever needs more income? To me sales tax is the best place for everything. I know Senator Pahls had a bill probably four years ago now that would have got rid of property tax, would have got rid of income tax and put it all on sales tax by putting it on all items and had a lower rate than what we have now. That was an excellent proposal, but it was not well received by the committee it was in. So I think there's a lot of tough questions that need to be answered here and every time we give more authority, specifically on sales tax, to solve issues on the local level, it makes it more difficult to ever transition the state to a more healthy direction being on the sales tax end. So that's why I want to caution people about voting for this. I know it's got a vote of the people which is excellent; I applaud that part. But remember, we already got a cent and a half to the cities, if we now take it to 2 cents... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR CHRISTENSEN: Thank you...we're just locking it up even more difficult for the state to ever go that direction and not get ourselves up against or ahead of neighboring states on the sales tax level. So I think it's something you got to think about very clearly in your heads here on the direction you want to go here because we are strapping the state on its ability to be flexible on doing things in the future. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Lathrop, you're recognized. [LB357]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I walked in while Senator Heidemann was talking and heard him talk about the importance of having sales tax ability for the state. And I turned my light on, that was a couple of people ago, and maybe I'll just make this observation because I've cooled off a little bit since I heard that. We have given a number of tax cuts in this state since I got here. And the very first one that we gave, Ron Raikes was still here, was on the Revenue Committee, and he used to sit in the very back...back of the Chamber where Senator Seiler is now, and he stood up and he said, you know what, we promised to lower sales tax when things got better and here we are, we're ignoring that. We passed up opportunities to lower the state's portion of sales tax in favor of other tax breaks. So we have no one to blame for where our sales tax rate is but ourselves and that's because we've ignored the speech of Senator Raikes, we ignored his warning, and we ignored a promise that we made to the people when that was raised before we got here. So I guess my point is this. Again, we're going to cut taxes. We're going to do that again this year, it appears, and we have

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gone to income tax and not state sales tax. And, you know, there was a time when we promised the voters when that got raised--and I say "we," people that preceded all of us, because I don't think any of us were here, not even Senator Ashford, when that was bumped up some years ago--and now we've passed up another opportunity this year to lower state sales tax so that we have that available to us. And all I can do is observe that it must not have been that important. Having that ability, having that ability to raise sales tax, if necessary, must not have been that important because we passed up two or three opportunities to lower it, as we promised to do. And while I very much appreciate the leadership Senator Heidemann has shown on Appropriations Committee, and I always listen quite carefully when he speaks on issues of revenue and appropriations, in this case I can't help but observe that if it was that important to us, it would have been the subject of one of our two or three tax cuts since I've been here, which is exactly what Senator Raikes told us we should have done, probably the first year I got here. So that's my thought. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Heidemann, you're recognized. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. It has been a good discussion; I hope we can keep talking about this. This is an important policy decision that the state of Nebraska is about to make, we are about to make as a Legislature. And I hope that this thing just doesn't get to a vote here right quickly. I think we need to continue to talk about this. Senator Mello has talked about federally mandated projects. And my part of the world knows about federally mandated projects because we have gone through this already. This isn't...not something that is projected to be. There are many little towns in my area that have spent probably per capita far more than the largest city in this state will ever think about spending. And they are paying that bill, and they will pay that bill for many years to come because they've taken a loan out on it. And there's not just one. There's two or three or four. And it's just not my district. You should check this out across the state; it's happening. I wonder if Senator Mello would answer...be ready for a question or two. [LB357]

SENATOR CARLSON: Senator Mello, would you yield? [LB357]

SENATOR MELLO: Absolutely. [LB357]

SENATOR HEIDEMANN: Senator Mello, you talked about federally mandated projects and we need to give you this half-cent sales tax thing because the federal government is mandating that you do this, this, and this. And the mandate is, combined sewer overflow, where large rainfall events, raw sewage going in the Missouri River. Is that correct? [LB357]

SENATOR MELLO: That is correct, Senator Heidemann. It's dealing with water quality

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issues in the metropolitan area that ultimately comes from the combined sewer system we have now. [LB357]

SENATOR HEIDEMANN: And you keep bringing it up time and time and time again, I've heard it for the last couple years, you're having to do this because it is a federally mandated project. Thinking about, in large rainfall events, that you're actually getting raw sewage in the Missouri River, wouldn't you just want to do this as a community anyway because it's the right thing? [LB357]

SENATOR MELLO: Senator Heidemann, I think you probably can attest to this by following what has been done over a couple of years, whether it's through the Department of Environmental Quality or the EPA, is that ultimately scientific standards change every year. And so the question at hand has always been, and the city of Omaha has challenged the EPA on, where they thought were the appropriate water quality standards that were being pushed into the Missouri River. Ultimately, the city decided that at the end of the day their system was contributing to the fact that they couldn't debate the scientific standards anymore. And they chose to, essentially, adopt a plan to rectify their combined sewer overflow. But the underlying issue, more than anything else, is not so much sewage that's going into...the sewage that is being generated, so to speak, by residents. The issue, more than anything else, comes from the rainfall. We don't have an impervious surface way to deal with that issue in Omaha, nor does anyone else in the state, and that, at the end of the day, is the cause of the problems with the water... [LB357]

SENATOR HEIDEMANN: And how long has this been going on? [LB357]

SENATOR MELLO: Senator Heidemann, this has been going on roughly close to 25...more than 25 years actually of the city trying to deal with water quality issues that (inaudible). [LB357]

SENATOR HEIDEMANN: And why doesn't the city of Lincoln suffer from this same thing? [LB357]

SENATOR MELLO: Well, ultimately, the city of Lincoln doesn't deal with the same issues because the city of Lincoln is not as old as the city of Omaha. [LB357]

SENATOR HEIDEMANN: Because they've taken care of it as it's come up? [LB357]

SENATOR MELLO: What's that? [LB357]

SENATOR HEIDEMANN: Because they've taken care as it's come up and not delayed it and delayed it? [LB357]

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SENATOR MELLO: I would say, ultimately, the city of Lincoln is also not as old as the city of Omaha, doesn't have as old of infrastructure the city of Omaha has, nor is it near the size of the city of Omaha is in regards to trying to deal with that massive of a public infrastructure kind of project. So the city of Omaha, ultimately, has piecemealed it throughout the years and they came to the conclusion, in the sense of what the EPA required, that either the EPA was going to do it without the city of Omaha's real input, or the city of Omaha could do it on their volition, so to speak, and come up with their own plan, which is how the current... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: ...project has come to fruition. [LB357]

SENATOR HEIDEMANN: Thank you, Senator Mello. Don't get me wrong; I like the city of Omaha. I'm looking at Senator Lambert who I know is dealing with the same issue; I like Plattsmouth. But there are mandated projects across this state. I'm looking at Senator Sullivan now. I guarantee I can find a small town in your area that is dealing with this same thing. And we deal with it; and we pay for it; and we move on. And a lot of these small towns don't even have sales tax. We just deal with it in other ways, and usually the only way we can deal with it is property tax. But the bottom line is LB357 is an increase in sales tax. We will lose that base as a state and we'll never get it back and I oppose it for that reason. And any way you look at it, LB357 is a tax increase. And if you want to vote for that, I don't have a problem with that. Don't get me wrong. [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR HEIDEMANN: Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Heidemann. Those still wishing to speak include Senator Schumacher, Nelson, and Dubas. Senator Schumacher, you're recognized. [LB357]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Governance has been defined as bringing into being a future that is defined by the collective will. It's generally thought that government should empower people rather than restrict people when it comes to the development of that collective will and the building of that future. This particular concept that we're having this very good debate on today is about empowering people. If people want a new road in their community, or want to develop a gas pipeline into their community, or want to develop a new park of some kind, new infrastructure that they can agree on is part or should be part of their future, then government should empower them to do that. Without that empowerment, government is restricting and prohibiting a future in coming into being. What this particular measure does, it goes the extra step in looking at those projects which a

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community or communities or segment of counties and communities can agree are good things. And then instead of having to wait in line to go to hearings, to try and wait 5, 10, in the case of one project I'm thinking about, 15 years for that to happen, they can organize themselves and their money in order to bring into being a project. Now Senator Heidemann raises some very good points with regard to, well, we're spending down our tax base. That is a scary thing, particularly when nobody likes taxes and the state's burdens are likely to continue to go up. So we have to be kind of selective in what we put our money into. And this is a mechanism where local communities who value a project can open the doors to that project by making this assessment on themselves and then going to a state agency, such as, for example, the Department of Roads, and saying, look, we will come up with so much money to match the state money so that the state doesn't have to go it alone. And that way we can test whether or not an idea is a good idea or just a vision of the future that is a fleeting dream. If you're willing to put your money where your mouth is, then all of a sudden the state's burden on these projects becomes less and the community's desire to build its own future is empowered. Without that, our resources are really limited. We're restricted by the state, or restricted by conventional little town or county boundaries which may not fit the project that we have in mind. Or we are confined of trying to do it through a private mechanism, which may be cumbersome, involve securities laws, and simply not have the power to do what we seek to do. So I think this is a step in the right direction. I'm going to listen to the debate. I look forward to looking at the next iteration of Senator Ashford's amendments, which I have not yet seen. But I think we're on to something here. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR SCHUMACHER: And I would hope that we keep in mind this is not about taxes, necessarily. This is about empowering people, leveraging our assets, being able to put our money where our mouth is, and trying to bring a future into being which is good for ourselves and our posterity. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Nelson, you're recognized. [LB357]

SENATOR NELSON: Thank you, Mr. President, members of the body. I wanted to ask a question of Senator Heidemann if he's still present or available. [LB357]

SENATOR CARLSON: Senator Heidemann, would you yield? [LB357]

SENATOR HEIDEMANN: Yes. [LB357]

SENATOR NELSON: Thank you, Senator Heidemann. I'm...it's good to talk to you today because we don't often go back and forth like this. But you made a statement, the small towns don't always raise sales tax, but they manage to pay whatever their needs are,

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especially like infrastructure. How do they pay for it? [LB357]

SENATOR HEIDEMANN: Property tax, it's the only... [LB357]

SENATOR NELSON: Right. [LB357]

SENATOR HEIDEMANN: ...a lot of my smaller villages, you go across the state of Nebraska, they just...they don't have sales tax. They don't have the business base there to actually charge that. [LB357]

SENATOR NELSON: So their property taxes goes up. [LB357]

SENATOR HEIDEMANN: To a certain point, yeah, otherwise... [LB357]

SENATOR NELSON: To a point where they can pay off the bonds, and so it's property tax. Can some of these smaller communities raise sales tax? [LB357]

SENATOR HEIDEMANN: They just don't have the business there to support it. They don't sell anything. [LB357]

SENATOR NELSON: All right. And what do you call a small community? I mean what's your... [LB357]

SENATOR HEIDEMANN: We have communities right now that are being forced to build...there's less than 100 people there. They was forced to build a \$400,000 lagoon because some things changed at the federal level. And there's not very many users paying off that loan. And it was a USDA loan over, I think, 30 or 40 years, if I remember right. [LB357]

SENATOR NELSON: If we as a state can find a way to help them in the future, would you be willing to do that? [LB357]

SENATOR HEIDEMANN: I always try to help my friends in the rural parts of Nebraska that have challenges before them. [LB357]

SENATOR NELSON: All right. Thank you, Senator Heidemann. I just want to stand in support of LB357 and the amendment, and I'm...the jury is still out on AM2710. I have to think about that. I can only make these comments as a longtime resident of Omaha. I was astounded at the city of York, the fact that they were able to reduce their property tax to 6 cents. But they are in a very unique position. If you've gone along Interstate 80 out there and you've seen the water tower that looks like a balloon, they have a tremendous amount of sales income coming in from the hundreds, thousands of cars that stop by, and that area has been built up so they're in a unique position. Omaha and

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other cities are not. You go south of York about 20 miles, there's a town of about 2,300; they have a sales tax. Highway 81 bypasses them, but nevertheless in the past calendar year, or whatever their fiscal year is, they raised a half a million dollars in sales tax for the projects that they needed. Are we going to give up our sales base as a state of sales tax? I don't think we're ever, as a state, going to raise our sales tax unless it's absolutely necessary. First of all, it's been said it's a regressive tax and we don't want to do that if we possibly can. In years to come we're going to try and cut our costs, reduce our taxes to the extent that we can and the extent that that's impossible...is possible. If you come up to Omaha and you drive the length of that city, which is almost as long as the county itself, there's a huge amount of infrastructure. Where I live in central Omaha, east of 72nd Street, not only do we have the sewer separation project... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR NELSON: ...but we have a lot of repairs on streets. Our property taxes are already too high and regardless of what we do, because of the schools and other things, they keep creeping up. A lot of elderly people are not afford to pay taxes on the real estate that they own, they're going to have to move. Let's give the people of Omaha at least an option to decide how they want to pay for the infrastructure, and the people of Plattsmouth as well. If they want to do it by raising a sales tax a quarter or a half and spread it across so it's not all coming down on the property owners, then let the people of Omaha do that. You know, if we talk about what's fair is fair, every town, every city has its own particular problems. Just because it won't work in smaller places, that doesn't mean that we aren't going to let it work if the people have a chance to vote in the larger places. Thank you, and I urge a vote...a green vote for LB357 and the amendments. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Dubas, you're recognized. [LB357]

SENATOR DUBAS: Thank you, Mr. President. The last time I spoke I referenced the pull factor. There are nine counties in our state that register a positive pull factor. That means they're at one or above. And the majority of those counties, you know, are in the east or along that fishhook, the I-80 corridor. The rest of those counties are looking at below one for a pull factor, which means they aren't drawing from outside of their own population base to help support their needs through a sales tax or whatever it is. In communities that are from 2,500 population or below, that pull factor is well under one and a lot of those communities do have a sales tax. I have quite a few communities in my district that do have a sales tax. But again, that sales tax is only being paid, by and large, by those people who live in that community; that you're not...you just don't have that ability to draw people from outside of your community because you don't have the offerings as far as businesses go. So you look at communities like Omaha, like the Lincolns; that pull factor is well over one. That means that they're getting people not

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only from just within their city boundaries but well outside their city, very likely well outside their county to come in and help support their sales tax base. So I think again that's...I understand where Senator Ashford is coming from and I think what he's trying to do...I think it's going a long way in putting that...ratcheting it down and putting accountability into it. But these are the issues that my constituents are bringing to my attention as far as their...you know, many of the things that they go to these larger communities, these larger population bases to buy are things that are not...it's not discretionary income. They can decide whether they want to go out to eat or go to a movie or a ball game or what have you, but they can't decide whether they need inputs for their farm operation or their business or necessities for their home. Those are things they have to have and so they have to do go to those larger population areas to buy those things. You know, I am typically a staunch supporter of local control and letting the local people vote on those decisions, and to a degree that's what we're talking about here with LB357 and the amendments. But I think to a larger degree it's not about local control. It's about allowing those communities who are at 1.5 percent, who are at that max that we have set in place, who are at that maximum level, to exceed that. So it's not about...it is, to a degree, about letting their citizens vote on it, but we're talking about allowing them to increase their taxing authority. And, you know, I have to agree with Senator Heidemann. You know, this is...the state relies on sales and income tax to support our state needs, and anytime we erode or shrink that base or make that a little bit more difficult for us to use, it puts us in a little bit of a difficult position. So as I said, I'm listening very carefully. I am not unsympathetic to the needs in Omaha and other places. But you know, when Senator Heidemann talked about where they're at in their property tax values versus...and levy limits and where many of my counties and small communities who are right up there against the limit, if they aren't there already, it's just kind of...it's difficult to juggle and to justify. So I am trying to keep an open mind but these are issues that I have to be able to go home and explain to my constituents why we voted or why I voted in a particular way. So I'll continue to listen very carefully but I think the points that senators like Senator Heidemann have brought up is something that we all really need to take into careful consideration. Thank you, Madam President. [LB357]

SENATOR FISCHER PRESIDING

SENATOR FISCHER: Thank you, Senator Dubas. Senator Karpisek, you are recognized. [LB357]

SENATOR KARPISEK: Thank you, Madam President and members of the Legislature. We've been on this same sort of topic last year and again this year, talking about sales taxes and occupation taxes. I think that it all goes back to we cut the budget for city and county state aid, so we did that and so now they, as the cities, turn around and want to raise these sort of things. They have to find the money somewhere. But I agree with Senator Dubas and Senator Heidemann that this is just a very good way for Lincoln,

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Omaha, and the interstate pathway to get money from someone else to help out with their taxes, and I don't like it. I don't know if they're even...Senator Mello doesn't sound like he's trying to veil that anymore; others seem to. We also don't want to fully fund state aid to schools, but Senator Nelson is complaining that senior citizens can't pay property taxes because those are going up because of schools. Well, then why don't we fund them? It all comes back around and somebody is going to pay it, and we've said it over and over and over that it's a tax shift and somebody is going to pay it and it's probably going to end up on property taxes. I don't know how many times I've heard that and said that in my last six years, but it's true and it's coming to fruition. So now, every time I have to go to Lincoln or Omaha to get something that I can't buy in my smaller town, I'm going to be charged more, which takes more money out of my pocket that I can't spend back home. Now we want to talk about fair. I don't think that's fair. Maybe if the senators are really not intent on making everyone outstate pay for these things, maybe you could show your driver's license and show that you don't live in their county or their city and you'd get a pass, kind of like in Lincoln if you get a parking ticket. I think two a year, that's the way it used to be, they'd let you by. I'll ask some of the senators as I walk around if they would be okay with that, but I'm sure they're not because that's the whole reason for this. Those of us in smaller communities do pay higher taxes for our sewer if something happens to our sewer. It happens every day, folks; we do it. My town of Wilber, probably one of our main exports or things that people come in for is food. There's no tax on food, so that doesn't get a whole lot out...of taxes out of that. I don't know how many more times I can say it. I just get frustrated that this is just a way to get outstate Nebraska to come in and help out with Omaha and Lincoln's taxes. They do have other ways of doing business. As I said on the occupation taxes, then put it on the people that live there. Small towns' occupation taxes are paid by the people who live there. I think somebody brought up Omaha had something like... [LB357]

SENATOR FISCHER: One minute. [LB357]

SENATOR KARPISEK: ...28 occupation taxes or something like that. My goodness! I know there's other things they have to pay for. I understand that. But that's how it comes down. We have to...when we do go there we pay a tax for everything we do. That's fine I guess. But please don't make us pay another .5 percent for your property taxes. Thank you. [LB357]

SENATOR FISCHER: Thank you, Senator Karpisek. Senators still wishing to speak: Senator Council, Carlson, and Krist. Senator Council, you are recognized. [LB357]

SENATOR COUNCIL: Yes, thank you, Madam President. And again, I appreciate the concerns that have been expressed by some of my colleagues that don't reside in the city of Omaha or in Douglas County. And Senator Heidemann is correct in his statement that the sewer separation issue in Omaha is not a new issue. But it's certainly an issue that, had it been addressed earlier or in a more scheduled and progressive manner, at

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\$1.7 billion as the cost to correct a problem, that exists by virtue of the age of the city of Omaha. And regrettably, when the city was developed initially the sewers were combined, and as the city grew and as technology improved the sewers were separated. But the tragic fact remains that the eastern part of the city has combined sewers that overflow and in order to have addressed it more expeditiously would have resulted in tremendous property tax increases on the residents of Omaha. And everything I hear about the desire to prevent and oppose tax increases, the kind of property tax increases that would have been required certainly would have received the scorn of this body. But that aside, I'm also mindful that while there's concern expressed about people from outside of Omaha having to pay on the occasions that they're in Omaha, last year when the attempt was made to just address the issues affecting Omahans by removing the sales tax from a fee, a tax on a tax, yet that didn't resonate with this body. There was no concern about relieving individuals in Omaha of a tax on a tax. And here is in this measure at least the expressed desire to reduce the need to rely on increased sewer fees, which are a tax, I don't care. I mean somebody was saying earlier something, a fee was a tax, is a tax is a tax is a tax. But with that said, I would yield the balance of my time to Senator Mello, if he would wish. [LB357]

SENATOR FISCHER: Senator Mello, you are yielded 2 minutes and 2 seconds. [LB357]

SENATOR MELLO: Thank you, Madam President, members of the Legislature. Thank you, Senator Council. I was glad that you were able to refute a couple of Senator Heidemann's, I think, questions or points, which is the city of Omaha has been working on this issue for a number of years. But the reality is the EPA said they needed to finish the project in a time line that necessitated the spending of \$1.7 billion so that the city of Omaha, in conjunction with the Department of Environmental Quality, could have say over it instead of the federal government coming in and doing it themselves and then just charging the city of Omaha back the costs, which was not a solution anyone in the metropolitan area wanted to see. And speaking with a few of you off the mike, you've expressed some concern of saying you just don't want to tie the hands of any municipality with this bill. Colleagues, at the end of the day, my understanding from Senator Ashford's amendment, it's being brought forward, at the end of the day it's semantics in regards to whether or not... [LB357]

SENATOR FISCHER: One minute. [LB357]

SENATOR MELLO: ...you're tying the hands, quote unquote, of any municipality. What my understanding we're going to be discussing is the sales tax increase goes to a vote of the people with a supermajority vote of the city council, and it can be used on infrastructure. Omaha is the only city that's slightly different because if they get to vote on a half-cent sales tax that we have to eliminate a tax right now in city charter, which is the restaurant tax. I'm simply stating with my amendment, instead of saying the open-ended question of, quote unquote, infrastructure, which incorporates an awful lot

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of different projects, we're simply saying that an infrastructure project needs to be the CSO. That's it. It's not tying the hands of any municipality. It's simply narrowing down what infrastructure project or projects that fall within the CSO need to be financed if LB357 is passed and is provided to municipalities to determine. It's not tying the hands of anybody. It's simply providing guidance on what is right now the largest public infrastructure project... [LB357]

SENATOR FISCHER: Time. [LB357]

SENATOR MELLO: ...in the history of Nebraska. Thank you, Madam President. [LB357]

SENATOR FISCHER: Thank you, Senators Council and Mello. Senator Carlson, you are recognized. [LB357]

SENATOR CARLSON: Thank you, Madam President and members of the Legislature. In listening to the debate that's gone on this afternoon, several things have caught my mind. And what I'm going to say doesn't mean that I may not end up supporting LB357. I've got questions about AM2710. But some things that Senator Heidemann talked about, as well as Senator Karpisek, really caught my attention. And first of all, I think the answer to the sewer problem, structural problem in Omaha could be answered through the Pappio-Missouri River NRD. There's a tremendous base of value there and a 1-cent tax across that NRD I think would solve the problem, but that's...Senator Christensen and I have talked about that before. But what Senator Heidemann said, be careful about giving up the state sales tax base, and there's a lot of merit in that. Let's consider sales tax at the state level for a moment. Who pays it? Who pays the sales tax collected by the state? Well, obviously, Nebraska residents, visitors that come to Nebraska, those passing through Nebraska. People who live out of state but close to our borders pay that sales tax. Now let's go to income tax. Who pays income tax in the state of Nebraska? Nebraska residents, and that's basically it. Let's go to property tax. Who pays property tax in the state of Nebraska? Again, basically the residents who own property in Nebraska. So that's our three sources of income, take care of education, take care of the other challenges that we have in the state. And at the state level we've got to be careful about giving up that tax base. If I saw Senator Karpisek, I'd ask him to yield, but I don't see him. [LB357]

SENATOR FISCHER: Senator Karpisek. I do not see him, Senator Carlson. [LB357]

SENATOR CARLSON: Okay. Thank you. This is an important matter. I understand the significance of it. I understand the concern that Senator Ashford has and I'm anxious to see what's a part of his amendment that's coming forth in a while that we can discuss that. Thank you, Madam President. [LB357]

SENATOR FISCHER: Thank you, Senator Carlson. Senator Wallman, you are

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recognized. [LB357]

SENATOR WALLMAN: Question. [LB357]

SENATOR FISCHER: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB357]

CLERK: 25 ayes, 0 nays, Madam President, to cease debate. [LB357]

SENATOR FISCHER: Debate does cease. Senator Mello, you are recognized to close on your amendment, AM2710, to AM2447. [LB357]

SENATOR MELLO: Thank you, Madam President. Members of the Legislature, AM2710 does something very simple. If we move forward on LB357, the city of the metropolitan class needs to split their half-cent sales tax authority between eliminating the restaurant tax within the city of Omaha and paying for the combined sewer overflow project that costs the city of Omaha roughly \$1.7 billion. I guess the arguments are...there hasn't been a lot of arguments I guess opposed to this amendment on the floor, with the exception of wanting to not limit the flexibility of the city of Omaha to utilize these funds potentially or utilize this authority. Colleagues, right now there is the most regressive tax being put forward to pay for the combined sewer overflow in Omaha. It's a flat fee. Someone who makes \$10,000 pays the same fee as someone who makes \$10 million, regardless of their water usage. That's concerning, particularly when the public still is in the dark in regards to how this massive public works project is going to be financed. Now I could easily see the argument of saying, well, the fees are already in place, the project is already being paid for, we don't want to limit what we want to spend this new sales tax authority on--new projects. That's one argument. That's one way to look at this issue. I'd argue though, colleagues, we have a priority already established in the Omaha area and it's the combined sewer overflow project. Those of us who ultimately are fighting for the businesses and the ratepayers who don't believe the way we're financing it is the fairest way to finance it, is why we have AM2710. The project right now could go ahead without AM2710 or LB357, because there's been no public commitment, even with any other amendment, that the city of Omaha would spend one dime of increased sales tax authority on the combined sewer overflow. There's never been a public commitment before today and I haven't seen one during the debate today. At the end of the day that decision will be, quote unquote, be decided amongst the leadership of the city. I'm not opposed to the projects and priorities of the city of Omaha when it comes to looking at ways to finance infrastructure. I simply believe that finding a new way to finance the CSO project is the number one priority and it should be the number one priority. It's what my constituents have brought forward to me. It's what six of the nine largest manufacturers in Omaha and water users have brought forward to me, expressing the dire economic impact that will occur if the city of

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Omaha doesn't look for other ways to finance this roughly \$2 billion project. I'm not suggesting that sidewalks or repaving streets isn't important, because it is, and I think the reason it's important is because the city of Omaha raised motor vehicle registration taxes to help do that the last couple of years. But to go to the vote of the people and ask them to increase sales tax on a variety of purchases day in and day out for new projects when we haven't found an equitable way to finance the largest public infrastructure project in the state, I don't find it to be good public policy. I traveled this path on General File where I wanted to see part of LB357 go to property tax relief. The city of Lincoln publicly came out and said that's what they're going to do. I've decided that instead of focusing on property tax relief for Omaha's purposes exclusively, finding a way to finance this massive public works project is a bigger priority, because the more ratepayers find out that their fees go up and their taxes go up over 400 percent to pay for this, and they have no say over it whatsoever, is concerning. [LB357]

SENATOR FISCHER: One minute. [LB357]

SENATOR MELLO: It doesn't really matter, colleagues, if you have a vote of the people on a new project when you're not providing the people an opportunity to voice opposition or try to change an existing way to finance a project, and that's ultimately what we're debating on AM2710. I understand this amendment only affects the city of Omaha. I have a tendency not to support things that focus exclusively on one class of municipalities unless there is an overarching reason to do so; \$1.7 billion, colleagues, in my mind is an overarching reason to do so. We want to make sure that we provide relief to ratepayers and to those businesses, that ultimately don't just reside in south Omaha but they reside across the metropolitan area, that will see a traumatic economic impact if we don't find a new way to finance this. The local option sales tax increase will reduce those taxes and reduce the restaurant tax. [LB357]

SENATOR FISCHER: Time. [LB357]

SENATOR MELLO: Thank you, Madam President. [LB357]

SENATOR FISCHER: Thank you, Senator Mello. For what purpose do you rise?
[LB357]

SENATOR MELLO: I'd like to have a...well, can I have a roll call vote in regular order?
[LB357]

SENATOR FISCHER: There has been a request for a roll call vote in regular order, Mr. Clerk. The question is the adoption of AM2710 to AM2447. Mr. Clerk, please call the roll. [LB357]

CLERK: (Roll call vote taken.) 8 ayes, 33 nays on the amendment. [LB357]

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SENATOR FISCHER: The amendment does not advance. Mr. Clerk. [LB357]

CLERK: Madam President, before, if I might, some items for the record. Enrollment and Review reports LB1020A and LB1063A to Select File. Enrollment and Review also reports LB972, LB1001, LB1058, LB1115 correctly engrossed. And a new resolution, Senator Avery, LR619. (Legislative Journal pages 1323-1324.) [LB1020A LB1063A LB972 LB1001 LB1058 LB1115 LR619]

Senator Ashford, is it my understanding that you want to withdraw AM2447 and offer, as a substitute, AM2712? [LB357]

SENATOR ASHFORD: (Inaudible) Clerk. [LB357]

SENATOR FISCHER: Without objection, so ordered. [LB357]

CLERK: Senator Ashford, AM2712. (Legislative Journal pages 1325-1330.) [LB357]

SENATOR ASHFORD: Thank you. And this is the amendment we've been discussing throughout the debate on the last amendment. It is designed to address many of the issues that have been raised, certainly over the last two years in my conversations with Senator Flood and going...trying to figure out how to make this as productive as possible and efficient as possible without having it be so broad that there could potentially be an impediment to the state using its tax base. And I believe we've gotten about as far as we can go in AM2712. I do want to address a bit, Senator Dubas is making, you know, a great point about cities, smaller cities, and then about coming in from rural areas to cities, and I get that. And several of the cities in the state have utilized their .5 percent sales tax and that does affect their ability or does affect the sales tax in the cities when they come in. The reality in Nebraska is a couple things. First of all a general statement and that is that we want to make the cities better, I think. I think we want to make it more efficient. We want to make the roads better. We want to make the infrastructure better so that it's easier to get into the cities to work, and certainly in the Omaha area, and I'm not going to be presumptive enough to say that everybody in rural areas works in cities. That's isn't true, I know that. But I know many do and I...and they use the roads in the cities and they need to be in good shape. The infrastructure in Omaha is not in good shape right now and it needs work, and I would guess that infrastructure around the state is probably in the same place in cities. So this bill, this amendment limits the use of the sales tax to infrastructure. Infrastructure benefits the people who live in the cities, the people who use the roads in the cities, the other infrastructure in the cities, in the towns that...so it does benefit...I believe it benefits everybody. So that's one response. The other, the point about the sales tax being used by the state, clearly, if we get into a crisis sometime in the future, it may be necessary to use a sales tax base. I understand that. Where not every one of the cities

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in the state have utilized the sales tax in the past, not every one of the cities is going to utilize this one, especially when it's narrowly constructed to apply to infrastructure. It's not open-ended. It's not unlimited. The infrastructure is part of what connects to what we've done in the roads bill, for example, and Senator Fischer's bill. We're making a commitment of state dollars for the roads. Well, the cities would like to do the same, I think, and they'd like to be able to continue the work on the state level in the cities to make sure that our roads and our infrastructure, our bridges or whatever infrastructure needs work in the cities, can be done. So by limiting this bill to infrastructure across the state, we are dramatically changing this bill and we are dramatically narrowing its scope to those types of projects which have a statewide interest. They encourage tourism, they encourage transportation, they encourage commerce, and the cities will be playing, with this amendment, will be playing an active role with the state in improving our infrastructure. I don't know how else you do it. I really don't know how else you do it. On the property tax issue do we...do some cities have property tax room? Some do, certainly. It's been the policy of this state, since I was in the Legislature and a few years before I was in the Legislature before, to reduce property taxes, not to increase property taxes. It's been our...and we do it in a variety of ways. We deal with schools differently than cities, I grant you that. We deal with other entities differently than other entities. But our goal has always been, I think, as a Legislature, to find ways to reduce property tax because it's...as Senator...as has been said, it is the tax people dislike the most. So I mean I...to say that we have to raise property tax a bunch before we can do sales tax I think is more tax and spend than what we're talking about in this bill. We're talking about, in this bill and with this amendment, infrastructure improvements and with Senator Flood's insistence, and I think he's absolutely correct, that there must be a supermajority of council members in the local area in order for there to be a vote of the people in the first place, and we've never done that before. I mean under the old legislation that passed 30 years ago we did not require supermajority, so that's another narrowing of the original LB357. We're not being so specific, even though in my view I'd love to see a good portion of sales tax in Omaha go to the CSO project, but again if we...and I've had great conversations with Senator Smith about this. If we, on one hand, say it's a local control issue, but then say, but we're going to tell you every single dime has to go to CSO, we're sort of...that doesn't go together. That's not consistent. So we've taken out in this amendment any reference to CSO as a mandated project for Omaha. A supermajority, a vote of the people in the...our fellow citizens, the people we represent, some of whom live in cities, it's a local control issue. We have not...we've reduced taxes and I think, you know, Senator Lathrop makes a great point on sales tax. We could have reduced sales tax by .5 percent, which we did back in the '80s and early '90s so that we...when we had additional revenue because the sales tax is relatively easy to move up and down. So when the times get worse you can move it up, or when it gets...when it's better you can move it down. But we haven't seen that decrease in sales tax and we had opportunities to decrease sales tax. I know there's concern about these things, I understand that, about giving away the tax base, and I'm as protective of the state's tax base as anybody. But I also see that so much of what's done in our state is

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done at the city, town, small city, village level to help support rural Nebraska to support themselves, to support rural Nebraska. And then with Senator Schumacher's insistence that we have interlocal agreements in place, we're bringing the counties, we're bringing school districts, we're bringing others in the communities together to say we want you to work together on this; we want you to work together on this because it will improve efficiency and regionalism and all the things that we know will improve efficiency, to do projects on a regional basis. So in summary, Mr. President, the amendments address the concerns I know that have been raised by the Speaker and others that if we're going to use state sales tax let's narrow it. We're narrowing it. But we still are fundamentally here talking about the people voting on improving infrastructure, which does help everybody that goes to the cities. If it were a broader based sales tax, maybe one could make an argument if you're going to do something that's singularly local to the city, well, you know, maybe that gets a little crunchy, but when you're talking about infrastructure and you're talking about streets that are going to be used by anybody that comes there, or bridges or whatever infrastructure project you do, I think you really do address that issue that Senator Dubas very correctly raises. So I would strongly urge the adoption of AM2712. Let's give the voters a shot at this to improve the entire state by enabling our cities, empowering our citizens, being collaborative, and being transparent. Thank you, Mr. President. [LB357]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Ashford. Members, you've heard the opening on AM2712 to LB357. The floor is now open for debate. Senators wishing to speak include Campbell, Lathrop, Hadley, and Fulton. Senator Campbell, you're recognized. [LB357]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. I certainly stand in support of the Ashford amendment and truly think that it makes a much better bill because it focuses in on what the cities can use it for. When we took away that state aid to the cities, it seems to me that they had to begin looking at some other mechanisms. What's important about this bill or this amendment is that it can allow a city to put forward a plan to its citizens and say, do you agree with this plan, would you agree to increase that sales tax? A component of the amendment has to do with cities of the primary class, which is of course Lincoln, and it stresses in there that part of it could be used for a project of an interlocal or joint public agency. This is important to our community. Lincoln and Lancaster County have over 40 joint departments, commissions, task forces. In fact, at one time this county and city led the nation in the number of interlocal agreements that existed between cities and counties. In many respects these interlocal agreements and joint public agency agreements allow this city and county to do great work and save the taxpayer an enormous amount of money by avoiding duplication. The second part of this amendment that I want to stress is the infrastructure. For our community, the south beltway has been a long-desired and

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worked for goal. This would allow us to get closer to that goal. And I hasten to add that one of the concerns that has been expressed over and over in our community is the number of deaths on Highway 2 and the whole effort in terms of public safety on the south beltway has become extremely important to our community. I hope that you will not just say, I know everything I need to know about the original underlying bill, I don't need to look at this amendment. Please take time to look at this amendment and I would encourage your support. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Lathrop, you're recognized. [LB357]

SENATOR LATHROP: Thank you very much, Mr. President. And, colleagues, good evening. There will be, no doubt, those who will characterize or try to frame LB357 as some kind of a tax increase and I want to talk about that at this opportunity because I don't think anything could be further from the truth. The barriers between this bill becoming law and a city imposing a half a cent of sales tax are very significant and they should give us some reassurance that this tax, taxing ability or taxing authority will not be abused. We are not raising anyone's taxes here. Let me repeat that. We are not raising anyone's taxes here. We are providing cities with authority, and what does it take for them to do that and what may they use the money for are at the heart of LB357 and this amendment. First of all, in order to get this to work, you have to have a supermajority on the council and you have to have a majority of the citizens on board. Now think about that for a minute, especially if you are in the city of Omaha think about that for a minute. What would it take for the city of Omaha or the city of Grand Island or anyone else to take advantage of the authority we will provide with LB357? As a practical political matter, it will be necessary for city leaders to develop a plan. They can't just go to the city council or to the people and say, we'd like the additional authority; we have some great projects and we'll tell you about them after this passes. I think it is critical that if the city of Omaha or the city of Grand Island or North Platte or York want to take advantage of LB357, they're going to have to go to the city council with a plan. They're going to have to be able to articulate what they intend to spend the money on to get the people on board, to get the city council on board in the first instance and the people on board thereafter. And if you're in the city of Omaha, understand that if the city were to take advantage of LB357 with this amendment it would be necessary that they spend essentially half of it getting rid of some other revenue stream and the other half on infrastructure. And you know, they're not just going to ask the people to trust them on the infrastructure. They're going to have to go to the people and tell them what they want to spend the money on and it has to be a collaborative effort with another political subdivision. So if you're having a city council meeting, maybe the people show up and say, we want the money spent on the sewer separation. Again, this amendment allows for flexibility to do just what Senator Mello wanted done. Or they might say, you know all those streets that you can barely drive on in the city of Omaha; we're going to spend some of the money resurfacing those and

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some of the money on the sewer separation project. But it will not happen, it will not happen until the leadership articulates a plan, they sell that plan to a skeptical city council, and then they sell the plan to a skeptical citizenry. Right? They're skeptical. And the reason we make them vote on this is because we know from our conversation the other night on... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR LATHROP: ...those fees, Senator Fischer's bill, that people are skeptical, occupation fees. We know that they're skeptical and they should be skeptical. They're concerned about the cost of government and paying for more government and what they get for it. This is going to be and my prediction is it will be rarely used. City officials will rarely be able to meet the burden of proof to persuade a city council and they'll never do it without a plan the people agree to. I think it makes perfect sense. It is not a tax increase. It is authority and the authority will never be granted by the people unless there is a plan clearly articulated on the use to which the money would be put. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Lathrop. Those still wishing to speak include Senators Hadley, Avery, and Gloor. Senator Hadley, you're recognized. [LB357]

SENATOR HADLEY: Mr. President, members of the body, I couldn't agree more with my good friend, Senator Lathrop. Those of you that think it's a slam dunk for any city to get this done, it's not. Let me just give you just a quick little history of Kearney, Nebraska. Probably ten years ago we went out for a half-cent sales tax increase. We were at the 1 percent. We had never taken advantage of the extra half cent. We came in with not a very good plan and we just got clobbered at the polls, didn't go through. A few years later we came back to use the half cent for projects, specific items--new library, new activity center, roads. It passed 75/25. Last fall we had an occupation tax that went out to a vote of the people and was defeated 65/35. So to say that it's kind of a slam dunk that we're going to raise taxes by putting this through, it just doesn't work that way. I would say the same thing, Senator Lathrop. I think the barriers, if anything, I think they're very high. Trying to get a supermajority on most city councils is difficult. In Kearney, that's four out of the five. You got the uses. You got to be very specific on the uses. You know, we got...talked about an occupation tax last week. I voted for it. I think a lot of us voted for it. It was a vote of the people. It allowed the people to vote on it above certain limits. I think they're kind of similar. We have the 1.5 cent that most cities have and we're asking for the right for the people to vote on the potential of raising it. So I stand in favor of AM2712 as it amends LB357. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Avery, you're recognized. [LB357]

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SENATOR AVERY: Thank you, Mr. President. Colleagues, there are a number of reasons why we ought to support LB357 and this amendment. As has been said already on the mike, LB357 is really the essence of local control because it gives citizens the ability to control their own environment. If the taxpayers decide they want to pay for services that are underfunded or they cannot...for services and infrastructure that cannot be funded, this bill gives them the ability to make that decision. It also makes government accountable. It's not a blank check. It gives local governments the ability to identify and to justify to their voters how the half cent in revenues would be spent. With this amendment, it would be confined to...largely to infrastructure, which is of course a great need in our cities. It would force governments to engage their citizens in a conversation about how they want to spend their tax money. People have the final say on any tax increase. In a sense, this is people taxing themselves. It also involves the imposition of a familiar form of taxation. Local businesses know and understand this tax. They're familiar with the collection of it so there is no need for new administrative or compliance burdens at all with this bill. The bill also puts into law a clear standard that taxes will not be raised without representation. This will involve a vote of the people. Voters must approve or it doesn't happen. There's also a question of fairness that's addressed in this bill and I think in this amendment. We have already in this body...last year we eliminated aid to cities. We have last year and again this year restricted cities' use of the occupation tax. So we have seriously taken resources from cities without regard to the harm done to their ability to absorb the financial shock. How much more can the cities take? We have a chance with this bill and with this amendment to give cities a chance to deal with their financial difficulties on their own, fashioning a plan with this new authority to go to the people, have a conversation with the people, convince the people this is the right thing to do, and getting their support. My own city of Lincoln has done a great deal to tighten its belt, been forced to do so. They reduced the nonpublic safety work force by 8 percent at a time when the city has grown by more than 6 percent in both area and in population. That's hard to do, folks, and I'm sure that Senator Adams, who has had to make these tough decisions as a mayor, and many of the others in here who have worked in local government, you know how difficult it is to make cuts like that. I'm afraid there is no more room for the city of Lincoln to make cuts. The public safety work force accounts for over 50 percent of the entire budget and you can't cut that. The city has done about all they can do. They have reduced the number of police officers in the middle schools. We have cut bus routes for people that need buses in order to get to work. We have cut the aging division. We have cut youth sport programs. We have cut the public pools. We've cut maintenance in our parks and reduced service at our main libraries, and we defer routine maintenance. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR AVERY: There isn't much more that we can do. We need resources and it is important that for a growing city like Lincoln that we have revenue to support the growth. We need to invest in our public infrastructure. This amendment allows us to do that. We

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need new sewer lines, we need new water pipes, and we need new roads and new street lights. These are some of the reasons why this bill is important and we must support it, and I plead for you to support this bill and this amendment. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Avery. Senator Gloor, you're recognized. [LB357]

SENATOR GLOOR: Thank you, Mr. President. Good afternoon, members. I agree with Senator Lathrop's comments. He referenced Grand Island as an example, and therefore I feel, like Senator Hadley, a need to rise and reiterate the fact that I do believe the city council in our community is a studied but feisty group when it comes to issues like this. I'd remind this body that, as a result of the decision to move the State Fair, the city of Grand Island also had to be a participant in the facilities and the relocation of the State Fair to Grand Island. Understand that moving the State Fair was seen as a huge, huge issue in the history of the community with great levels of community...and especially community leadership support for this move, and yet even within the city council, when the discussion of their level of participation came up, there was some push back. Ultimately, Grand Island honored the commitment to move forward and the State Fair made the move, but with something that was that popular there was still a spirited discussion about whether this was the right thing to do. When it comes to the parameters of an increase in sales tax, I am absolutely sure and, more importantly, extremely comfortable voting for LB357, assuming AM2712 is passed, because I know this body has a history, city council in Grand Island has a history of being very, very cautious before these things move forward, as does the citizenry which would have to therefore move forward too. Therefore, I am in support of AM2712 and LB357. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Gloor. Senators still wishing to speak include Senator Ken Haar and Senator Wightman. Senator Ken Haar, you're recognized. [LB357]

SENATOR HAAR: Mr. President, members of the body, what I find so interesting in the discussions we have about, well, with occupation tax and also with sales tax is there's somehow an implication that we have to tell local government what to do. It's almost like we believe that local government is inferior to what we do here, and I really disagree with that. In recent years, local government has participated in helping us through the economic crisis and we've given them mandates on what they must do, mandates on what they can't do, and I buy the theory that we're just tying their hands more and more. And when you think of it, in this bill a supermajority of the city council and then a vote of the people, what is more democracy and what is more local than putting those two things together? Senator Avery has already gone into some detail, I won't repeat that, of how the city of Lincoln has adapted to less and less funding in the past few years, but I

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think we have to leave it up to the city of Lincoln and the people and the city council to decide the quality of life that people in Lincoln want, a supermajority of the city council, a vote of the people of Lincoln. For example, if the people want certain things they're going to vote for it and if they don't want certain quality of life, and that includes the infrastructure as a big part of that, then they'll vote against it. I've had an idea for a while that could be funded through such a mechanism. There are a number of places in Lincoln, for example, where it's unsafe for children to cross the roadways. That's going to, at some point, require some kind of street construction, maybe underpass, overpass, whatever, but that would be the kind of thing that would fit perfectly into this scenario. It would be an infrastructure investment and something that the people could make a decision on. Generally, the people of Lincoln have been very supportive of education and children. And this sort of thing of looking at where we need safety infrastructure upgrades for children going to school might be one of those kinds of things. Again, it would be a supermajority of the city council, a vote of the people, and I think that's...you can't get more of a definition of democracy than that. It's government close to the people and that's where it belongs. Thank you very much. [LB357]

SENATOR CARLSON: Thank you, Senator Haar. Senator Wightman, you're recognized. [LB357]

SENATOR WIGHTMAN: Thank you, Mr. President. Members of the body, I do rise in support of LB357 and a little more reluctantly in support of AM2712. I could have voted for it without that amendment probably just as well, but with the amendment I will still vote for it. You know, part of my reason for at least questioning the need for AM2712 is I would like to see a little broader use that would be permitted of it. But I think almost all communities can find sufficient infrastructure and for that reason I can support the amendment. It seems to me that we'd get down, as Senator Haar, Ken Haar, just said, we are looking at local control. We're really building a pretty big hurdle here, it seems to me, in that we're talking about a three-fourths' majority, which goes almost beyond what you would normally think of as local control, because on most issues it only requires a majority vote, and then it goes to a vote of the people. And I would agree with what Senator Hadley said, that we've had bond issues, we've had other issues that were put up to the vote of the people and failed miserably. The public usually had input between that and when we came back with a new ballot issue and some of those that passed with a big majority. So I do think that it's important that the local body make sure that they have their ducks in a row when they're going to submit an issue to the people, that they have a well-thought-out plan, and I think this requires them to do that. They're probably not going to get a three-fourths' vote of their local governing board if they don't do that. So I do urge your support for AM2712 and LB357. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Wightman. Senator Sullivan, you're recognized. [LB357]

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SENATOR SULLIVAN: Thank you, Mr. President. As I've listened to the discussion and read the amendment, well, first of all I think at this point I stand in support of AM2712 and, of course, the underlying bill, LB357. I think what the amendment has resulted in is what I would consider creative financing, but even more importantly I was looking specifically at the section of the amendment that talks about the interlocal agreement. And I listened to Senator Campbell and she said, pay particular attention to that, and off the mike I also talked with Senator Schumacher. I think that this...certainly there it presents a hurdle that the local political subdivision would have to jump over, but more importantly, it requires some coordination and communication that, quite frankly, if achieved would develop into some creative results, and that's precisely what I think we were looking at in these cash-strapped situations, needing services that are desperately needed to be put in place but trying to find a way to finance them, and it gets people talking to one another. It gets counties talking and cities and school districts talking to one another, and we might be surprised at the results. Granted, they go into it with a plan, but in that process of communication and arriving at that interlocal agreement they will not only have a lot of buy-in from all the entities involved but in the process of this will be able to communicate more definitively to the taxpayers what they're trying to achieve. So I think this is a good approach. I like the amendment and it will be interesting, in spite of the hurdles that will have to be met for this to be achieved, what might come out of it. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Sullivan. There are no other senators wishing to speak. Senator Ashford, you're recognized to close on AM2712. [LB357]

SENATOR ASHFORD: Thank you all for this good debate and I would urge the adoption of AM2712 and the advancement of LB357. Thanks. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford. Members, you heard the close. The question is, shall AM2712 be adopted? All those in favor vote yea; all opposed vote nay. Senator Ashford, for what purpose do you rise? [LB357]

SENATOR ASHFORD: I'd just like a roll call vote, if I could. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford. [LB357]

SENATOR ASHFORD: I meant call of the house, roll call vote. I apologize. [LB357]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. [LB357]

SENATOR ASHFORD: And, Mr. President, a machine vote is fine. [LB357]

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SENATOR CARLSON: Record, Mr. Clerk. [LB357]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB357]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lautenbaugh, would you check in? Senator Heidemann, Senator Pirsch, Senator Louden, Senator Langemeier. Senators Heidemann and Louden, the house is under call. All members are present and accounted for. The question is, shall AM2712 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB357]

CLERK: 32 ayes, 10 nays on the adoption of Senator Ashford's amendment. [LB357]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. The call is raised. [LB357]

CLERK: Mr. President, Senator Mello, I now have AM2494, but I have a note, Senator, you wish to withdraw. Mr. President, I have nothing further on the bill. [LB357]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Larson for a motion. [LB357]

SENATOR LARSON: Mr. President, I move that LB357 be advanced to E&R for engrossing. [LB357]

SENATOR CARLSON: Senator Fulton, for what purpose do you rise? [LB357]

SENATOR FULTON: I would request a record vote, please. [LB357]

SENATOR CARLSON: Record vote has been requested. The question is, shall LB357 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB357]

CLERK: (Record vote read, Legislative Journal pages 1330-1331.) 29 ayes, 14 nays on the advancement, Mr. President. [LB357]

SENATOR CARLSON: LB357 does advance. Mr. Clerk. [LB357]

CLERK: Mr. President, with respect to the Final Reading of LB806, Senator Lautenbaugh would move to return the bill for a specific amendment...Senator Lathrop, excuse me, Senator Lathrop for specific amendment, AM2708. (Legislative Journal

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page 1331.) [LB806]

SENATOR CARLSON: Senator Lathrop, you're recognized to open on your motion to return the bill to Select File. [LB806]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This would be...sometimes we stand up and say this is a technical amendment, this is a cleanup. This one falls in the category of a cleanup. When we amended LB806 last week, we amended a turnback provision and we made it too broad. Concerns were expressed by those who were watching our activities on the floor. What we would do with the amendment, were you to allow this to return to Select File for purposes of the amendment, is to clean up the turnback language to limit its scope to where it was at before we offered our amendment to LB806 last week. It is appropriate, regardless of where you're at on LB806. I think the language we chose was maybe unartful and broadened turnback for horse racing too much, and what we'll do when we get it back to Select File is narrow that back to where it was. And I would appreciate your support on the motion to return to Select File for the specific amendment. Thank you. [LB806]

SENATOR CARLSON: Thank you, Senator Lathrop, for your opening on the motion to return LB806 to Select File. The floor is now open for debate. Senator Lautenbaugh, you're recognized. [LB806]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you for bringing this, Senator Lathrop. This is indeed a technical correction and I would ask your support in returning this to Select File and attaching this amendment to the bill. Thank you, Mr. President. [LB806]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Are there other senators wishing to speak? Seeing none, Senator Lathrop, you're recognized to close on the motion to return to Select File. Senator Lathrop waives closing. The question is, shall LB806 be returned to Select File for an amendment? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB806]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB806]

SENATOR CARLSON: The motion to return is adopted. Mr. Clerk. [LB806]

CLERK: Senator Lathrop would offer AM2708. [LB806]

SENATOR CARLSON: Senator Lathrop, you're recognized to open on your amendment. [LB806]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Once again, you will

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recall last week we made certain amendments to LB806, one of which dealt with turnbacks for horse racing facilities. We broadened that too broad and it would create all sorts of problems, unintended problems, and so what we're going to do with AM2708 is to take turnback at horse racing facilities back to existing law. This has nothing to do with where you're at on the underlying proposition of LB806 but, rather, deals with maybe an unartfully crafted amendment relative to turnback and is a necessary amendment in my judgment, and I'd appreciate your support. Thank you. [LB806]

SENATOR CARLSON: Thank you, Senator Lathrop. Members, you've heard the opening on AM2708 to LB806. The floor is now open for debate. Are there senators wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. He waives closing. The question is, should AM2708 to LB806 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB806]

CLERK: 32 ayes, 0 nays on adoption of the Select File amendment, Mr. President. [LB806]

SENATOR CARLSON: AM2708 is adopted. Senator Larson for a motion. [LB806]

SENATOR LARSON: Mr. President, I move that LB806 be advanced to E&R for engrossing. [LB806]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The motion carries. The bill is advanced. Mr. Clerk, next item. [LB806]

CLERK: Mr. President, LB817 on General File, a bill originally introduced by Senator Pirsch. (Read title.) Bill was introduced on January 5, referred to the Judiciary Committee for public hearing, advanced to General File. I have no committee amendments. I do have several other amendments, Mr. President. [LB817]

SENATOR CARLSON: Thank you, Mr. Clerk. Mr. Speaker for an announcement. [LB817]

SPEAKER FLOOD: Thank you, Mr. President, members. Earlier today I kind of predicted where I'd like to land. I'd like to get through LB1082 tonight and then adjourn before we reach LB720. Again, I'd like to till...through LB1082, which is just this next division, and then go ahead and adjourn for the night, understanding that tomorrow could be the latest night of the session for multiple reasons, one of which is we're going to wait for bills to come back to be placed on Final Reading to prepare us for our Thursday A bill experience. So that's where I'd like to go tonight, to get through LB1082. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Speaker Flood. Senator Pirsch, you're recognized to

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open on LB817. [LB817]

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, I hope you'll find that this LB817 is not large in scope, not revolutionary in substance. It is a bill, a follow-up bill, and I want to first of all thank the Speaker, Speaker Flood, for prioritizing this. It came out of committee 8 to 0. No opponents testified, no neutral, no fiscal note. As I mentioned, LB817 is a follow-up bill to last session's LB390, Senator Ashford's bill on behalf of the Governor which eliminated the Community Corrections Council in favor of creating the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. LB817 simply clarifies that the new focus of the new division is on research, evaluation, and data analysis; creates a new duty for the division to handle all offender data in a confidential manner and not release any identifiable information; and it cleans up the Community Corrections Act by eliminating outdated and duplicative duties. Thank you. [LB817 LB390]

SENATOR CARLSON: Thank you, Senator Pirsch. Mr. Clerk for an amendment. [LB817]

CLERK: Mr. President, Senator Pirsch would move to amend his bill with AM2603. (Legislative Journal page 1079.) [LB817]

SENATOR CARLSON: Senator Pirsch, you're recognized to open on your amendment. [LB817]

SENATOR PIRSCH: Thank you, Mr. President. This particular amendment, AM2603, encapsulate that which had been introduced in a separate act, LB816, also coming out of the Judiciary Committee at the same time, and all, again, 8 to 0, supported by the same proponents. All members of the committee did support it. There was no opponents, no neutral testifiers. And simply put, this amendment would provide that the setting aside of a conviction does not preclude the use of that conviction as evidence of the commission of a felony or misdemeanor to determine whether or not a law enforcement certificate or application for a certificate may be denied, suspended, or revoked. The rationale for this change is that criminal convictions are relevant to the ability of an individual to perform their duty as a law enforcement officer and that all relevant evidence should be available in a licensure action regarding a law enforcement certificate. Current law provides that a set-aside conviction may be considered for other uses, for foster care licenses, childcare licenses, and teaching certificates. This amendment, which incorporates then the language of LB816, adds law enforcement certificates to this list. I certainly would appreciate your green vote on this amendment and the underlying bill. Thank you. [LB817 LB816]

SENATOR CARLSON: Thank you, Senator Pirsch. Members, you've heard the opening on LB817 and the underlying amendment, AM2603. Floor is now open for debate.

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Seeing no senators wishing to speak, Senator Pirsch, you're recognized to close on AM2603. He waives closing. The question is, shall AM2603 be adopted to LB817? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB817]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment. [LB817]

SENATOR CARLSON: AM2603 is adopted. Mr. Clerk, next. [LB817]

CLERK: Senator Burke Harr would move to amend the bill with AM2439, Mr. President. (Legislative Journal page 940.) [LB817]

SENATOR CARLSON: Senator Harr, you're recognized to open on AM2439. [LB817]

SENATOR HARR: Thank you, Mr. President, members of the body. Thank you, Senator Pirsch, for letting me add this amendment onto his bill. This was originally LB1046, which passed through committee, 8-0 as well, with no opposition. This amendment changes provisions relating to law enforcement certification and continuing education. The amendment requires that each law enforcement officer attend at least 20 hours of continuing education courses in the area of criminal justice and law enforcement during each calendar year. I would ask for your support on AM2439. Thank you. [LB817 LB1046]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the opening on AM2439 to LB817. The floor is now open for debate. Senator Langemeier, you're recognized. [LB817]

SENATOR LANGEMEIER: Mr. President, members of the body, would Senator Harr yield to a question? [LB817]

SENATOR CARLSON: Senator Harr, would you yield? [LB817]

SENATOR HARR: Of course. [LB817]

SENATOR LANGEMEIER: Senator Harr, thank you for bringing this amendment. The question I have is, as we talked about having a meeting tomorrow morning to deal with our \$10 million of overexpenditures if we advance the bills we already have, and I see you have an A bill that I assume goes to this amendment because it's your A bill, how much more money are we talking about taking this \$10 million? It's growing here and we've been asked to have a meeting tomorrow to look at cutting. What are you trying to grow it to? [LB817]

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SENATOR HARR: It's what I'm trying to save the state. [LB817]

SENATOR LANGEMEIER: Okay. [LB817]

SENATOR HARR: It is a \$25,000 A note on there, but, as you're well aware, as a professional you realize that law enforcement is an ever-changing occupation and that we need to continue to make sure our law enforcement officers have the most up-to-date knowledge and best practices available to them, for among other things to avoid lawsuits. And so what this does is adds a \$25,000 A note to it. A majority of that is for training time where we would have to pay to put officers into...state officers, which would include Game and Parks, into hotel rooms, although if you read the amendment you can see they don't necessarily have to travel and that a large portion of the courses may be taken on-line. So while there is a fiscal note attached to it, I think it's best practices and we want to make sure our officers have the best education available so they can treat our citizenry and protect us to the best of their abilities. [LB817]

SENATOR LANGEMEIER: Okay. Thank you, Senator Harr. I again, I support the amendment, but it does add another \$21,000 we're going to have to deal with when we come up to this \$10 million to deal with tomorrow or Thursday. So thank you very much. [LB817]

SENATOR CARLSON: Thank you, Senator Langemeier and Senator Harr. There are no other senators wishing to speak. Senator Harr, you're recognized to close on your amendment. [LB817]

SENATOR HARR: I waive. [LB817]

SENATOR CARLSON: Senator Harr waives closing. The question is, shall AM2439 to LB817 be adopted? All those in favor vote yea; all opposed vote nay. Senator Harr, for what purpose do you rise? [LB817]

SENATOR HARR: I would ask for a call of the house. [LB817]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB817]

CLERK: 23 ayes, 0 nays to place the house under call. [LB817]

SENATOR CARLSON: The house is under call. Senators, record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Harr, do you want to accept call-in votes or do you want a roll call? [LB817]

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SENATOR HARR: I will accept call-in. [LB817]

CLERK: Senator McGill voting yes. Senator Conrad voting yes. Senator Ken Haar voting yes. Senator McGill, I think I've got you already. I did. Senator Campbell voting yes. Senator Gloor voting yes. Senator Price voting yes. Senator Schilz voting yes. [LB817]

SENATOR CARLSON: Record, Mr. Clerk. [LB817]

CLERK: 25 ayes, 1 nay to adopt the amendment. [LB817]

SENATOR CARLSON: AM2439 is adopted. We return to discussion on LB817. Raise the call. Mr. Clerk for an amendment. [LB817]

CLERK: Senator Harr, you now want to withdraw AM2636, is that right? Okay. [LB817]

SENATOR CARLSON: Without objection, it is withdrawn. [LB817]

CLERK: I have nothing further on the bill, Mr. President. [LB817]

SENATOR CARLSON: Are there other senators wishing to speak? Seeing none, Senator Pirsch, you're recognized to close on LB817. [LB817]

SENATOR PIRSCH: Yes, I will briefly close. Again, this is a bill that came out of committee, the underlying bill, unopposed, and simply clarifies that the focus of the new division is on research, evaluation, and data, and kind of winds up the Community Corrections Council. Thank you. [LB817]

SENATOR CARLSON: Thank you, Senator Pirsch. You've heard the closing on LB817. The question is, shall LB817 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB817]

CLERK: 31 ayes, 0 nays, Mr. President, to advance LB817. [LB817]

SENATOR CARLSON: LB817 does advance. Mr. Clerk, next item. [LB817]

CLERK: LB817A, a bill by Senator Burke Harr. (Read title.) [LB817A]

SENATOR CARLSON: Senator Harr, you're recognized to open on your A bill. [LB817A]

SENATOR HARR: Thank you very much, Mr. President. Members of the body, I want to clarify what I said earlier. There is a fiscal note of \$25,000, however, \$21,250 of that

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comes from the cash fund, so our General Fund, which we are so concerned about, the \$10 million, is \$3,750, less than a day's interest on that \$10 million. So while a concern, I think we can swallow that amount. So I'd ask for your approval on LB817A. [LB817A]

SENATOR CARLSON: Members, you've heard the opening on LB817A. Are there senators wishing to speak? Seeing none, Senator Harr, you're recognized to close. He waives closing. The question is, shall LB817A be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB817A]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB817A. [LB817A]

SENATOR CARLSON: LB817A does advance. Mr. Clerk, next item. [LB817A]

CLERK: LB979, a bill by Senator Lambert. (Read title.) Introduced on January 12, referred to General Affairs, advanced to General File. There are General Affairs Committee amendments pending, Mr. President. (AM1907, Legislative Journal page 539.) [LB979]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Lambert, you're recognized to open on LB979. [LB979]

SENATOR LAMBERT: Thank you, Mr. President, colleagues. LB979 would amend Section 9-326 regarding pickle card licenses to clarify that an incorporated or unincorporated volunteer fire company or a volunteer first-aid, rescue, ambulance, or emergency squad does not have to be in existence for five years before applying for a license to conduct a pickle card lottery. Under current law, a nonprofit corporation or any volunteer fire company or a volunteer first-aid, rescue, ambulance, or emergency squad may apply for a license to conduct a lottery by the sale of pickle cards. Current law also requires that a nonprofit corporation must be in existence for five years to be eligible for a license. LB979 would provide that a not-for-profit corporation that supports a volunteer fire company or a volunteer first-aid, rescue, ambulance, or emergency squad is eligible for a pickle card license immediately and does not have to wait five years to be eligible for the license. Recent changes in government accounting rules define funds raised by volunteer firefighters using the city's federal ID number as city funds and not under control of the volunteers. A city is prohibited from making donations to public funds to...of public funds to nonprofit corporations. This restriction applies even to charitable organizations. Clarification about this entity, of which this entity, the city, or the nonprofit corporation is raising funds, is also important to avoid questions about whether the volunteers work for the city or for the nonprofit corporation. Failure to provide this clarification could affect the volunteers' workmen's comp and insurance benefits. Because of changes in accounting rules, volunteer firefighter associations are organizing in various ways so that their finances remain independent from the municipality or fire district. LB979 would allow a volunteer association to obtain a pickle

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card license to support the volunteer fire company immediately, regardless of whether they remain a volunteer fire association under the city or incorporate as a separate organization. Passage of this bill is very important to support the maintenance and the opportunity to buy new equipment for volunteer fire companies. Thank you, Mr. President. [LB979]

SENATOR CARLSON: Thank you, Senator Lambert. As the Clerk mentioned, there are committee amendments. Senator Karpisek, as Chair of the General Affairs Committee, you're recognized to open on AM1907. [LB979]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. The committee amendment simply clarifies the language in the bill and adds more specifics to better address the problem that Senator Lambert is intending to solve with his bill. The committee amendment makes it clear that a nonprofit whose primary purpose is to support one of the exempted entities, such as a volunteer fire department, won't have to wait five years to start selling pickle cards and could do so immediately upon receiving a license from the Gaming Division at the Department of Revenue. So again we just want to make sure that it is a nonprofit whose primary purpose is to support the volunteer fire department or something like that to be able to be exempt of the five-year wait. Thank you, Mr. President. [LB979]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the opening on LB979 and the underlying amendment, AM1907. The floor is now open for debate. Are there senators wishing to speak? Seeing none, Senator Karpisek, you're recognized to close on AM1907. He waives closing. The question is, shall AM1907 be adopted to LB979? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB979]

CLERK: 29 ayes, 0 nays on adoption of committee amendments. [LB979]

SENATOR CARLSON: AM1907 is adopted. We return to discussion on LB979. Are there senators wishing to speak? Seeing none, Senator Lambert, you're recognized to close. He waives closing. The question is, shall LB979 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB979]

CLERK: 29 ayes, 0 nays on the advancement of LB979. [LB979]

SENATOR CARLSON: LB979 does advance. Mr. Clerk, next item. [LB979]

CLERK: Mr. President, LB793 is a bill by Senator Lautenbaugh. (Read title.) The bill was introduced on January 5, referred to the Judiciary Committee, advanced to General File. I do have Judiciary Committee amendments. (AM2056, Legislative Journal page

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573.) [LB793]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB793. [LB793]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. LB793 seeks to limit the number of frivolous lawsuits to be filed by inmates at public expense if they've previously brought three or more civil cases determined by a court to be frivolous. There were some misconceptions about this bill when it was first introduced and got a little bit of coverage. This does not say that an inmate may no longer file lawsuits after three of his suits have been determined to be frivolous; what it says is he may no longer file them in forma pauperis, meaning at the public expense, if three of his suits have been determined to be frivolous. I believe this is a necessary bill and I think we all have to realize that nothing is free and there are legitimate complaints that need to be made, and if an individual, inmate in particular, cannot afford to pay the filing fee, they proceed in forma pauperis. They're allowed to and that's important that we have that available. But the fees are still incurred, in a sense, by some, usually the counties, where these actions are filed, which tend to be largely Douglas, Lancaster, and Johnson Counties. And the existence of a lawsuit isn't free either, even beyond the filing fee, because it has to be assigned a case number; it has to be given a physical file; it has to exist on the court system; it bogs down. Even getting something dismissed, if it's relatively early on, as frivolous, there's a cost to be had. There's judicial time, there's other things that don't get heard while this thing works its way through the process, and that's a cost that I think we should try to address. There is a famous former inmate, I think he's still a former inmate, who took advantage of filing at the public expense during his incarceration, frequently. While he was incarcerated, he filed 665 cases, including 88 cases in one year. That is an extreme example and I don't know that we'll see the likes of him or...again, I should say, is the best way to put it. But I think it's important that we do try to put some kind of limit in place. And again this is not meant to keep meritorious suits from being filed and deny a hearing for meritorious claims. And you have to understand that judges do not lightly declare something to be frivolous. It doesn't roll in the door and the judge says, oh, this is frivolous; there's no possible merit. That's a high hurdle, a high hurdle for the state, or whoever the defendant is, to meet. This bill would allow for actions filed after the effective date of this bill. If three of your actions are found to be frivolous, you may no longer proceed at the public expense with additional filings. That's all it does in a nutshell. There's a committee amendment coming and I told Brad I would talk about it a little--Senator Ashford--I'd talk about it a little. It basically makes some changes on page 2, where it states that we...clean up the language a bit. Instead of the lawsuit being "declared" to be frivolous, it's "found" to be frivolous, which is a more lawyerly wording of it perhaps. And it says the court...down on line 22, a court "shall" permit the prisoner to proceed if that person is in danger of serious bodily injury, as amended. That's what the amendment does. We did not want to exclude the filing of suits where there is a danger

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of bodily injury, serious bodily injury, as it's set forth in here. So I think this is a good bill. Is it something that's going to be used every day? Far from it. Quite the opposite actually. But for the extreme cases, I think it does provide some measure of comfort and some measure of restraint, and we should be all about, hopefully, saving counties some dollars, and this is one way to do it. I would ask your approval of the bill. Thank you, Mr. President. [LB793]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. As the Clerk mentioned, there are committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you're recognized to open on AM2056. [LB793]

SENATOR ASHFORD: Thank you. There is no reason for me to be redundant. Senator Lautenbaugh has accurately described the committee amendment and I would urge its adoption. [LB793]

SENATOR CARLSON: Thank you, Senator Ashford. Members, you've heard the opening on LB793 and the underlying amendment, AM2056. Senator Council, you're recognized. [LB793]

SENATOR COUNCIL: Sorry, Mr. President, colleagues. I didn't expect Senator Ashford to be so brief. I rise in opposition to LB793. I do want to state, however, that AM2056 does address many of the concerns that I raised during the Judiciary Committee hearing on this matter. One of those concerns that is addressed was the issue that the original bill spoke to imminent threat of serious bodily injury and what were we subjecting inmates to in terms of their ability to bring these civil actions. But at the core of my objection is that LB793 limits access to the courts, and that is not something that this Legislature should take lightly in terms of an individual's ability to access the court. Now I appreciate the fact, and as Senator Lautenbaugh stated, there were certainly some inmates who abused this process. But I will submit to you that at least one of those named individuals files as many in forma pauperis cases since he's been released as he filed while he was incarcerated. So the issue here is that we're limiting access on the basis of the individual's status at the time, which is problematic for me. The other issue is that, even Senator Lautenbaugh admitted that a couple of the cases that were cited in support of this bill were extreme cases, the one individual with 600 and there was another individual with 60--I think it was reported 60 in one day. But to suggest to this body that the courts don't have other means available to them to limit access to those people who are abusing the process, and in fact, during the course of the hearing, Lancaster County officials admitted that the district court judges in Lancaster County have come together and they do have the authority to come together and decide as a group to place certain limits on the ability of certain individuals to bring lawsuits because of the number of lawsuits they have filed and the number of those lawsuits that have been found to be frivolous. So this bill is not absolutely necessary to address what I suggest to you to be the limited number of inmates who may be deemed

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as abusing this process. The other problem with this bill is that there is no time frame. So it does...once it takes effect, if during the course of the next year, for example, an inmate files three confinement case civil actions that are found to be frivolous and doesn't file a case again for seven or eight years, under this bill they would have to demonstrate to the court that there's reason for them to be granted leave to proceed in forma pauperis or they'd have to demonstrate that they were facing serious bodily injury. Now I submitted to my colleagues that a lot of the cost to the counties is already incurred, because when the person files the complaint, they file the in forma pauperis application along with the complaint. The bill is drafted to say that they can't proceed... [LB793]

SENATOR CARLSON: One minute. [LB793]

SENATOR COUNCIL: Thank you, Mr. President...in forma pauperis. So a lot of the costs that are asserted to be avoided by this legislation are already incurred. And if the bill acts as it's asserted that it will act, that once the filing has occurred there's a determination as to whether or not the case is frivolous, then it's the costs associated from that point forward. But the costs of docketing the case, preparing the file, assigning it to a judge, all of those costs are still going to be incurred regardless of whether LB793 with the amendment is adopted or not. Again my concern here is limiting access to the courts. I think that there are other avenues available to our courts and the process is the same and the effect on limiting costs are the same. [LB793]

SENATOR CARLSON: Time. [LB793]

SENATOR COUNCIL: Thank you. [LB793]

SENATOR CARLSON: Thank you, Senator Council. Are there other senators wishing to speak? Senator Schumacher, you're recognized. [LB793]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Lautenbaugh yield to a question? [LB793]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB793]

SENATOR LAUTENBAUGH: Yes, I will. [LB793]

SENATOR SCHUMACHER: Just a quick question: It now says, "A court shall permit the prisoner to proceed in forma pauperis if the court determines that the person is in danger of serious bodily injury." Does "person" in that line mean prisoner--the prisoner? [LB793]

SENATOR LAUTENBAUGH: Yes. [LB793]

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SENATOR SCHUMACHER: Okay. So even though that...generally in this statute it refers to prisoner. In this case, person means prisoner. [LB793]

SENATOR LAUTENBAUGH: Yes. [LB793]

SENATOR SCHUMACHER: Thank you, Mr. President. That's all I have. [LB793]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Lautenbaugh. Senator Council, you're recognized. [LB793]

SENATOR COUNCIL: Thank you very much, Mr. President. And, Senator Schumacher, you raise a pretty interesting point, because, you know, that's a concern. And oftentimes these civil actions that are brought by inmates are brought on behalf of themselves and others. And while the particular inmate who's filing the lawsuit may not be in a position where there's a threat of serious bodily injury, other inmates, if those confinement practices aren't addressed, could be placed in a position of serious bodily injury. And again that's the problem I have with LB793. I think that the process as it is in place now, courts have the jurisdiction and the authority to limit access to people who are abusing the process. But this bill I think unduly limits and restricts access to the judicial process. Again, there's no time frame, and say, for example, you've had three cases where the courts have ruled that they're frivolous...and I questioned that during the hearing. I don't...I think you'll have courts dismissing actions but judges going to the length to say, I'm dismissing on the grounds that I found it to be frivolous. I don't know that, you know, we're going to get that level of, and I don't want to say cooperation, but detail in the decisions when there may be a dismissal. The other concern about this is we're talking about inmates. We're talking about individuals who file pro se. We're talking about individuals who may have a meritorious claims, but they're not lawyers. They don't know how to frame the allegation. And on the face of the allegation, it may rise to the level of being frivolous, and without providing them an opportunity to present their case, we could be in a position where we are depriving individuals of a right to a remedy because an actual harm has occurred. Again, these are not lawyers. They're pro se plaintiffs, and the complaints, the petitions they file, aren't artfully drafted. They may or may not meet all of the conditions for establishing a prima facie cause of action, and they could be subject readily to a finding of dismissal on the grounds that it's frivolous without having an opportunity for their cases to be heard. For those reasons, colleagues, I would ask you to carefully consider whether this is the policy we want to promote at this time, whether or not...perhaps this is an issue that needs to be studied a little to see what the nature of these civil action filings are. If we're getting a lot of civil actions being filed over a particular practice of the Corrections Department, I would submit to you that the better course is to work with the Department of Corrections or our county correctional facilities to address changing those processes and procedures to reduce and/or eliminate these types of civil actions. But to deprive individuals who, but for being incarcerated, would

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be entitled to file and proceed in forma pauperis, to deprive them of this access to the court, I don't think this is the direction that we should be going and I urge you to vote against LB793 as amended. [LB793]

SENATOR CARLSON: Thank you, Senator Council. Senator Wallman, you're recognized. [LB793]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Lautenbaugh yield to a few questions? [LB793]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LB793]

SENATOR LAUTENBAUGH: Yes, I will. [LB793]

SENATOR WALLMAN: Thank you, Senator. The "frivolous" word, who's going to decide that, the judge or county attorneys or...? [LB793]

SENATOR LAUTENBAUGH: It would be a judicial determination as a section of the bill sets forth. The judge is authorized to make that specific finding in an order if he or she sees fit. [LB793]

SENATOR WALLMAN: Thank you. It seems like an easy thing to vote for but I've been through the court system with teenagers. But would the senator yield to another question? [LB793]

SENATOR LAUTENBAUGH: Yes, I will. [LB793]

SENATOR WALLMAN: Do these inmates, as far as you know, most of them have access to law books? [LB793]

SENATOR LAUTENBAUGH: Presumably, but I don't know the answer to that. [LB793]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Lautenbaugh. [LB793]

SENATOR CARLSON: Thank you, Senator Wallman and Senator Lautenbaugh. There are no other senators wishing to speak. Senator Lautenbaugh, would you close on AM2056? Excuse me. Senator Council, you're recognized. [LB793]

SENATOR COUNCIL: And very quickly, Mr. President, because I punched the light just as you were moving to ask Senator Ashford to close. But Senator Wallman raised an interesting point, and it's one of the issues that arises very often, and I get a lot of calls in my office from inmates. Senator Wallman, if an inmate is placed in administrative

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confinement or segregation, they don't have the kind of access to the library as those who are in general population. And so oftentimes those are the places where I think the bulk of these civil actions come out of, and without benefit of having that kind of access to the library as individuals in general population have, give rise to some of the flaws in the petitions and complaints that are being filed. So I just wanted to be able to answer that question for Senator Wallman. Thank you. [LB793]

SENATOR CARLSON: Thank you, Senator Council. Seeing no other lights, Senator Ashford, you're recognized to close on AM2056. [LB793]

SENATOR ASHFORD: I'd waive closing. [LB793]

SENATOR CARLSON: Senator Ashford waives closing. The question is, shall AM2056 be adopted to LB793? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB793]

CLERK: 32 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB793]

SENATOR CARLSON: AM2056 is adopted. We return to discussion of LB793. Seeing no other lights on, Senator Lautenbaugh, you're recognized to close on your bill. [LB793]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body, and I'll be very brief on this. Again, this is not something that will come up any day...every day, I should say. And it is very difficult to get a judge to make a finding that a lawsuit is, in fact, frivolous. This was brought to me and it was modeled after the federal Prison Litigation Reform Act, and that has resulted in a marked diminution of frivolous lawsuits in the federal system. Looking at the fiscal note on this, while a lot of the savings will be at the county level in those three counties I mentioned--Douglas, Lancaster, and Johnson--there's also a state savings of about \$4,000, I believe. And so if those of you who have bills out there with A bills, I'm doing my part to send some your way, \$4,000 at a time, and I would ask you to vote green on this and advance it. [LB793]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening on LB793A (sic). Are there senators wishing to speak? Seeing none, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question is, shall LB793A (sic) be advanced to E&R Initial? All those...I'm sorry. Senator Lautenbaugh, I got ahead of myself. I'm asking you to close on LB793. [LB793]

SENATOR LAUTENBAUGH: I'll waive closing. [LB793]

SENATOR CARLSON: Senator Lautenbaugh waives closing. The question is, shall LB793 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay.

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Have all voted who wish to vote? Record, Mr. Clerk. [LB793]

CLERK: 36 ayes, 1 nay, Mr. President, on the advancement of LB793. [LB793]

SENATOR CARLSON: LB793 does advance. Mr. Clerk, next item. [LB793]

CLERK: Mr. President, LB793A by Senator Lautenbaugh. (Read title.) [LB793A]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on LB793A. [LB793A]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This is the \$4,000 I was just talking about. No thanks are necessary; just a green light will suffice. Thank you, Mr. President. [LB793A]

SENATOR CARLSON: Thank you, members. You've heard the opening on LB793A. Are there senators wishing to speak? Seeing none, Senator Lautenbaugh, you're recognized to close. He waives closing. The question is, shall LB793A be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB793A]

CLERK: 35 ayes, 1 nay, Mr. President, on the advancement of LB793A. [LB793A]

SENATOR CARLSON: LB793A does advance. Mr. Clerk, next item. [LB793A]

CLERK: LB1082 is a bill originally introduced by Senator Karpisek. (Read title.) Introduced on January 18, referred to Retirement Systems for public hearing, advanced to General File. There are committee amendments, Mr. President. (AM2105, Legislative Journal page 695.) [LB1082]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB1082. [LB1082]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Before I talk about the specifics of LB1082, I think it's important to provide some history about what led up to this bill regarding the first-class city police officer retirement plan. Prior to 1984, first-class city police officers were enrolled in a defined benefit plan; however, in 1983 legislation was enacted which closed the plan to new members and replaced it with a defined contribution plan. The member contribution rate was set at 6 percent, which is matched by the city. In 2005, the Fraternal Order of Police, the Police Officers' Association of Nebraska, and the Nebraska Sheriffs' Association contracted with the actuarial firm of Milliman and Associates to conduct an actuarial study of their current retirement system and to look at several models, changing from a defined contribution

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plan to a defined benefit plan. In response to this study, LB371 was introduced in 2006 to create a defined benefit plan. The plan was based on comparable plans in the states that border Nebraska. All surrounding states provide a defined benefit plan for their police officers. The League of Municipalities opposed the creation of a defined benefit plan, citing unknown costs and future funding liabilities for cities, and instead offered enhancements to the defined contribution plan. But the police officer group wanted to move forward with a defined benefit plan. In 2008, when the economy took a severe downturn, police officers reevaluated their position and abandoned their request for a defined benefit plan and reached an agreement with the league for increased contribution rates and a reduced vesting period. As a result, LB426 was introduced in 2009 which would have increased the officer and city contribution rates from 6 to 8 percent beginning in 2009 and further increase contribution rates to 9 percent beginning in 2012. LB426 also contained a new five-year vesting schedule, the current vesting schedule is ten years, and exempted the cities' contribution rate increased cost from the levy and lid limitations. LB426 was designated a Retirement Committee priority bill in 2009, but due to concerns about the levy lid exemption in the bill the legislation was held in committee. At that time, two cities were up against their lids. Those were La Vista and Plattsmouth. During the 2009 interim, the committee met with interested parties to try to find ways to move forward on the bill; however, the budget lid exception remained the sticking point. The committee took no action on LB426 in 2010 and the bill died in committee. No legislation was introduced in 2011 because of the budget deficit issues that were the focus of that session. I was asked by the police officers to introduce LB1082 this year. As originally introduced, the bill was more or less a placeholder bill, a work in progress. It did not contain specific contribution rates or effective dates for the new rates to go into effect. It included a partial vesting schedule but did not specify when the new vesting schedule would begin. Like LB426, it did exempt the cost of any new contribution rates from the levy lid. My goal in introducing this bill was to make sure that all interested parties continued the discussion and negotiation process in trying to come to an agreement about improvements to first-class city police officer retirement benefits. These first-class city public safety officers put their lives on the line for us every day and I believe deserve an increased commitment to their retirement benefits. For example, the current 6 percent contribution rate was established 29 years ago and has never been increased. I want to...also want to give you some perspective on the benefit plans offered to law enforcement officers in Nebraska and police officers in surrounding states. All surrounding states provide a defined benefit plan for their police officers. Nebraska State Patrol officers and Lincoln and Omaha police officers are also in defined benefit plans. Nebraska county law enforcement officers hired after 2003 are all placed in such a cash balance plan. I think it is time for us to have this discussion and provide some improvement to the first-class city police officer retirement benefits. Thank you, Mr. President. [LB1082]

SENATOR CARLSON: Thank you, Senator Karpisek. As the Clerk mentioned, there are committee amendments. Senator Nordquist, as Chair of the Retirement Committee,

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you're recognized to open on AM2105. [LB1082]

SENATOR NORDQUIST: Thank you, Mr. President, members. The bill, LB1082, was voted out unanimously out of committee with a committee amendment, which at that point would have become the bill. Senator Karpisek says there will be an amendment which strikes the committee amendment and replaces it with an agreement between the interested parties, and I appreciate their time and willingness to work on this issue. I know it's been an issue that I worked on back when I was a staffer and I know Speaker Flood has been extremely involved with and Senator Karpisek and many others. So the committee amendment, as it was, would have moved the current rate from 6 percent to 6.5 percent beginning January 1, 2013, and it would have allowed each city to enact ordinances to increase beyond that minimum floor of 6.5 percent and there would have continued to be a 100 percent match, and the vesting schedule would have been changed to seven years from the current vesting schedule of ten. And again, there are no lid exemptions. But this committee amendment will be replaced now with an amendment that Senator Karpisek will be opening on. Thank you. [LB1082]

SENATOR CARLSON: Thank you, Senator Nordquist. Mr. Clerk for an amendment. [LB1082]

CLERK: Mr. President, Senator Lambert, you had an amendment pending to the committee amendments, but I have a note you want to withdraw, Senator. [LB1082]

SENATOR CARLSON: Without objection, so ordered. [LB1082]

CLERK: Senator Karpisek would move to amend the committee amendments with AM2695, Mr. President. (Legislative Journal page 1332.) [LB1082]

SENATOR CARLSON: Senator Karpisek, you're recognized to open on AM2695. [LB1082]

SENATOR KARPISEK: Thank you, Mr. President, and thank you for the drink of water. I think I can get through this now. AM2695 strikes the committee amendment; it becomes the bill and contains the following changes to the Police Officers Retirement Act. Contribution rates for police officers in first-class cities increase to 6.5 percent beginning October 1, 2013. Beginning October 1, 2015, contribution rates for police officers in first-class cities increases to 7 percent. Beginning July 1, 2012, the vesting schedule changes to seven years, which is currently ten years, and it also deletes the exceptions to the levy and lid limitations for payment of increased contribution rates. I would like to thank the police officers and the League of Municipalities for working through on this bill and I think it has turned out just the way we anticipated with them working through it. I would say that everybody is leaving a little bit disappointed, not getting everything they wanted and giving up a little more than they wanted. So as we know in here, that

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usually means that we must have a pretty good middle ground if nobody is running away really happy or really upset. I do appreciate all their work on it and I'd be glad to answer any questions. Thank you, Mr. President. [LB1082]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the opening on LB1082 and the underlying amendments. The floor is now open for debate. Those wishing to speak include Senators Flood, Harms, and Adams. Senator Flood, you're recognized. [LB1082]

SPEAKER FLOOD: Thank you, Mr. President, members. This represents, quite honestly, four or five years' work, probably eight years of work if you go back to Senator Erdman. Believe it or not, Senator Erdman introduced a bill to provide for a defined benefit contribution in 2005. I about fell out of my chair. The reality is these first-class cities, like the second-class cities are for the first and the villages for that, are our training ground to go to communities that have...or the State Patrol that have the defined benefit plan, and this is modest. This has been a long time coming and it represents, I think, a recognition of the fact that you don't want a 60-year-old police officer chasing a burglar in your backyard, not because they can't catch them but they'll tell you this job belongs to the people that are younger than 60. And a lot of these officers are working 65 and sometimes beyond in some of the smaller communities especially. And the Fraternal Order of Police and the League of Municipalities and the Police Officers' Association of Nebraska have been working on something like this for a long time. The cities feel like they've given; the police officers feel like they've given. And is it modest? It is modest. Would I have liked it to be more? Yes. Would you like that officer at Norfolk police to have a defined benefit? Of course. We can't afford it. We can't do it. It won't work. But this is something that I appreciate the compromise. I'm going to vote for it. I strongly urge you to vote for it. These police officers perform an outstanding service and this is a good step. Thank you. [LB1082]

SENATOR CARLSON: Thank you, Senator Flood. Senator Harms, you're recognized. [LB1082]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Karpisek, would you yield just for a question or two? [LB1082]

SENATOR CARLSON: Senator Karpisek, would you yield? [LB1082]

SENATOR KARPISEK: Yes, I will. [LB1082]

SENATOR HARMS: Senator Karpisek, could you tell me what organizations did you actually work with or they actually were involved in this whole process? [LB1082]

SENATOR KARPISEK: Well, to tell you the truth, it was the League of Municipalities

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and then I also worked with the lobby group for the police officers. [LB1082]

SENATOR HARMS: And they were agreeable to the recommendation that you're making now? [LB1082]

SENATOR KARPISEK: Yes, they were. [LB1082]

SENATOR HARMS: Okay. [LB1082]

SENATOR KARPISEK: Like I said, nobody is overly happy about this. The police officers would have liked a higher rate, but they came to the realization that we weren't going to be able to go outside the lid levy, so they understand, without doing that, this is probably as good as they can get. And I appreciate that the cities recognize the same thing and are willing to go there. [LB1082]

SENATOR HARMS: Thank you, Mr. Karpisek. [LB1082]

SENATOR CARLSON: Thank you, Senator Harms and Senator Karpisek. Senator Adams, you're recognized. [LB1082]

SENATOR ADAMS: Thank you, Mr. President. Members, I've heard the word "recognize" several different times, and I think that's a good term to describe this. First of all, recognition of Senator Karpisek, the league, the police officers for coming to this agreement; recognition of the fact on the part of the police officers that the days of defined benefit are waning. It's unaffordable. Recognition, too, in looking at this does include first-class cities, that if we start imposing too many of these kinds of retirement things on second-class cities we inevitably could push police officers completely out of second-class cities, where they're unaffordable. The recognition of the fact that there are caps established, levels established, I was concerned that in some of the original forms of this bill some of the discussion was that there would be a level set and then police officers could internally, with their city councils, negotiate above 6.5. I didn't think that was good policy because you got CIR issues out there. And you're looking at first-class cities and who are they going to be compared with? Other first-class cities. And you got a collective bargaining group that does really good at elevating the contribution rate and then they're compared to another city that doesn't, and it ends up coming out in salary and it's very problematic. This resolves that because it sets levels. It, in effect, caps it. Our other retirement programs, police...or State Patrol, school, it's a set level. If the level changes, you got to come back into the Legislature with a new bill. I think that needs to happen. This has some recognition of some growth in it. And literally everybody recognizes where we're at on this, the cities, the police officers, and we have found...Senator Karpisek has found some resolution here. I think this is a good way to deal with this problem. Thank you, Senator Karpisek. Thank you, Mr. President. [LB1082]

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SENATOR CARLSON: Thank you, Senator Adams. There are no other senators wishing to speak. Senator Karpisek, you're recognized to close on AM2695. [LB1082]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. And I have to say what I did on this bill was pretty much put it out there and get out of the way. And everyone came to the table and worked through it and I very, very much appreciate that. I've always...when I came here I wanted to try to create a defined benefit program for the Sheriffs' Association. I also have come to the realization that defined benefit programs are just not affordable anymore. We're having a hard time keeping the ones that we have, and I've had a couple retirement bills this year to try to do things to keep them going as good as we can. The retirement that all of these people, our public employees, have are a big part of what keeps them working, what keeps them in Nebraska after they retire. So I've tried to do some things to keep them sustainable. The defined benefit plans that we do have now, I will go down swinging to keep them where they are, but I do realize that we don't or probably cannot sustain any new ones. So again, I appreciate everyone coming to that realization and working together, and I would urge your green vote for AM2695. Thank you, Mr. President. [LB1082]

SENATOR CARLSON: Thank you, Senator Karpisek. You've heard the closing. The question is, shall AM2695 to LB1082 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1082]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB1082]

SENATOR CARLSON: AM2695 is adopted. We return to discussion on AM2105. Are there senators wishing to speak? Seeing none, Senator Nordquist, you're recognized to close. [LB1082]

SENATOR NORDQUIST: Thank you, Mr. President. I just want to thank all those folks that came to the table and worked on this. This is the right thing to do, to move forward with this plan. Again, Senator Karpisek said it right, this is a true compromise where everyone gave a lot and got a little bit, and it's the right thing to do for these people who serve our communities. We're surrounded by states that do have defined benefit plans. Obviously, as Speaker Flood said, many of these individuals go to our State Patrol system or larger communities that do have defined benefit plans, so I think this is a step in the right direction to maintain a sound retirement system for these individuals in our smaller communities so they can stay there and serve. I'd also like to thank the legal counsel for the Retirement Committee, Kate Allen, for all the hours she spent on this. Thank you. [LB1082]

SENATOR CARLSON: Thank you, Senator Nordquist. You've heard the closing. The

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question is, shall AM2105 to LB1082 be adopted? All those in favor vote yea; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1082]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB1082]

SENATOR CARLSON: AM2105 is adopted. We return to discussion of LB1082. Seeing no senators wishing to speak, Senator Karpisek, you're recognized to close. [LB1082]

SENATOR KARPISEK: Thank you, Mr. President. Members of the body, Senator Nordquist beat me to it but I did want to thank one last person, that is Kate Allen, the legal counsel for the Retirement Committee. She is the one that really did a lot of the hard work and the heavy lifting on the bill and keeping it moving in the right direction. And I still would like a green vote on the bill. Thank you, Mr. President. [LB1082]

SENATOR CARLSON: Thank you. Members, you've heard the closing. The question is, shall LB1082 be advanced to E&R Initial? All those in favor vote yea; opposed vote nay. Record, Mr. Clerk. [LB1082]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB1082. [LB1082]

SENATOR CARLSON: LB1082 does advance. Mr. Clerk, do you have announcements or items for the record? [LB1082]

CLERK: I do, Mr. President. Senator Lathrop would move that certain line-item vetoes, as contained in Section 1 of LB1072, become law notwithstanding the objections of the Governor. A new resolution, LR620 by Senator Hansen, that will be laid over. (Legislative Journal pages 1333-1334.) [LB1072 LR620]

And Senator Flood would move to adjourn the body until Tuesday morning, April 3, at 9:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All those in favor say aye. Opposed, nay. We are adjourned until tomorrow morning at 9:00 a.m.