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Floor Debate
January 12, 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 seventh day of the One Hundred Second Legislature, Second Session. Our chaplain for today is the very Reverend Ryan Lewis from St. Thomas More Church in Omaha, Nebraska, Senator Krist and Senator Mello's district. Would you all please rise.

REVEREND LEWIS: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Lewis. I now call to order the seventh 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.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, I have a Reference report referring LB911-923, LB926-938, LB728, LB777, LR365, LR371, LR372CA, and LR373CA; that's signed by Senator Wightman, as Chair of Reference. Hearing notices from Transportation; Education Committee; Banking, Commerce and Insurance; the Appropriations Committee; Business and Labor Committee; General Affairs Committee; and the Health and Human Services Committee; those all signed by the respective Chair. Mr. President, several reports received in the Clerk's Office, on file, available for member review, include reports from the Equal Opportunity Commission, the Department of Insurance, the Natural Resources Department, State Treasurer, and the Workers' Compensation Court. And finally, a series of...or the lobby report as required by statute. That's all that I have at this time, Mr. President. (Legislative Journal pages 213-217.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) Senator Harms, you are recognized for a motion.

SENATOR HARMS: Thank you, Mr. President. I move that a committee of five be

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appointed to escort the Governor of the state of Nebraska to the Legislative Chamber to deliver the State of the State Address. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Harms. You have all heard the motion. All those in favor say aye. Opposed, nay. The motion is adopted. I would appoint the following committee: Senator Fischer, Senator Pahls, Senator Heidemann, Senator Cornett, and Senator Howard. Would the Escort Committee retire to the rear of the Chamber to escort the Governor. The Chair recognizes the Sergeant at Arms. (Gavel)

SERGEANT AT ARMS: Mr. President, your committee now escorting the Governor of the great state of Nebraska, Dave Heineman, and First Lady Sally Ganem.

PRESIDENT SHEEHY: (Gavel) Ladies and gentlemen, members of the Nebraska Legislature, the Governor of the great state of Nebraska, Governor Dave Heineman.

GOVERNOR HEINEMAN: Thank you. Thank you very much. Mr. President, Mr. Speaker, members of the Legislature, Tribal Chairmen, distinguished guests, friends and fellow Nebraskans: I am pleased to be here at the beginning of the 2012 Legislative Session, and I want to acknowledge and recognize that nine of your members will be leaving the Legislature at the end of this year. They include your outstanding Speaker, a steady and rock-solid Appropriations Committee Chairman, a superb Revenue Chair, a tenacious Transportation Committee Chair, an effective Natural Resources Committee Chairman, an excellent Banking Committee Chairman, a fighter for western Nebraska, an advocate for children and families, and a fiscal and social conservative. Senators Flood, Heidemann, Cornett, Fischer, Langemeier, Pahls, Loudon, Howard, and Fulton, thank you for your service. Individually and as a group, you have done an outstanding job and Nebraskans appreciate your service. I am proud of the Legislature and what we have accomplished together. I am proud of our citizens for their input, their insight and their leadership. Every day I am proud to be the Governor of this great state. As I enter my eighth year as Governor of Nebraska, I am more determined than ever before to keep Nebraska moving forward and to address the key challenges of today. One of the most important challenges that we face is the safety of children that are part of Nebraska's child welfare system. Reforming Nebraska's child welfare system is complicated and complex with no single simple solution. We didn't get into this situation overnight, and we won't get out of it overnight. It was just a few years ago when many Nebraskans were unhappy with and complaining about the Department of Health and Human Services, how it was operating the child welfare system. The decision was made to reform the system and change the culture that was necessary to move forward. It hasn't been implemented as well as anyone would like, but I don't want to return to the failed practices of the past. I want us to do better in the future and my sense is so do you. This is a very difficult challenge because no single one entity of government is totally in charge of the child welfare system. It involves local law enforcement, county attorneys, parents, guardians ad litem, CASA volunteers, foster parents, the

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Department of Health and Human Services, providers, the courts, the Legislature and many others. Nebraska continues to place children into the child welfare system at approximately two times the national average. We can and must do better than that. Your Health and Human Services Committee has provided the state a series of recommendations to begin a conversation about how the courts, the Legislature and the executive branch can work together to develop a more collaborative, a more coordinated and a more comprehensive approach to protecting Nebraska's children. I've read the committee report several times. I am working with the leadership of your Health and Human Services Committee to develop a common-sense plan of action for the future and I want to thank Senator Campbell and Senator Gloor for their vast commitment of time on this issue. I want to emphasize what I have said previously: I have no intention of reinstating the lead agency model in the Central, Northern or Western Service Areas. The focus must be to provide a more efficient delivery of services that helps our children. I support efforts to streamline the focus of our current child welfare system, and I have asked Senator Ashford and Senator Hadley to introduce legislation that transfers the management of the Youth Rehabilitation and Treatment Centers at Kearney and Geneva from the Department of Health and Human Services to the Department of Correctional Services. This would create a safer treatment environment at these facilities for the youth and the staff. The transfer will also allow the Department of Health and Human Services to put a greater focus on children impacted by abuse and neglect. We're all in this together. All of us have a responsibility to improve the system. The accountability starts with you and me. Together, we need to bring stability to Nebraska's child welfare system. The focus should be on the future and on measurable results. Another key issue that we face is the new federal healthcare law that raises taxes, cuts Medicare, and contains an enormous unfunded Medicaid mandate. Because it is the current law, our state is moving forward with the planning and designing of a state health insurance exchange. Our state has been working hard for nearly two years to protect Nebraska's interests, and I want to assure you and our citizens that Nebraska will not default to the federal government regarding a health insurance exchange. However, it is important to recognize that the United States Supreme Court will decide whether this law is constitutional or not by June 29 of this year. In an unprecedented move, the court will have three days of oral arguments on this issue in late March. The simple truth is it would be a costly mistake to spend millions of taxpayer dollars to begin implementing Obamacare until the United States Supreme Court makes its decision. Another critical issue is our proposal to merge the Department of Labor into the Department of Economic Development. This is the opportunity for business, labor, and state government to provide a more coordinated and an even greater focus on job creation, worker training and worker retraining. Thank you, Senator Harms and Senator Mello, for introducing this bill. Most importantly, we have worked together to put Nebraska in a strong financial position. We have made difficult decisions for the good of our state. Nebraska hasn't always been as well-positioned as we are today. When Senators Flood, Heidemann, Cornett, Fischer, Langemeier, Pahls, Loudon, and Howard began

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their terms in January of 2005, and when I assumed the Office of Governor that same month, the state had just experienced some very difficult economic times. Taxes were too high, too many young people were leaving the state, and Nebraska wasn't competitive nationally or globally for jobs. You and I worked in cooperation with our citizens and our business leaders to dramatically alter Nebraska's economic position. Working together we passed the Nebraska Advantage, and it has been incredibly successful. Approximately 270 businesses have committed to invest more than \$5.9 billion in our economy and to create more than 19,500 jobs here in Nebraska. Working together we passed the largest tax relief package in Nebraska's history that repealed the estate tax, eliminated the marriage penalty in the income tax system, repealed the sales tax on construction labor, and lowered income taxes. We wisely built up our Cash Reserve. We worked together to control the growth of state spending and to pass balanced budgets without raising taxes. We adopted a businesslike approach to agency budgets, encouraging them to save money and keep it, compared to the previous practice of spend it or lose it. State government began tightening its belt just like Nebraska families and businesses were doing and look at the results. Nebraska has the second lowest unemployment rate in America at 4.1 percent. According to Forbes, Nebraska is the eighth best state for business and careers. Nebraska has the fourth largest agriculture economy in America. MSN Careers says Nebraska is the third best state for job seekers. According to Forbes, Lincoln is one of America's safest cities and it is the best city in America for new jobs while Omaha is the most affordable city in America and the fifth best city in America for young professionals. According to CNNMoney, Papillion is the fifth best place in America to live. Bloomberg Businessweek identified Arlington, Nebraska, as the second best place in America to raise kids because it's a Midwestern farming community with topnotch schools. Think about that, that's Nebraska--small towns, safe communities, good jobs, great schools, affordable homes, and an unmatched quality of life. Whether it's Arlington, Wahoo, Auburn, Holdrege, Imperial, Scottsbluff, Gering, Valentine, Cedar Rapids, Norfolk, North Platte, Kearney, Grand Island, York, or a neighborhood in Lincoln, Omaha or Sarpy County, Nebraska communities are the American dream. We have faith and confidence in Nebraskans, their families and our communities. We believe in freedom, hard work, and self-sufficiency. We believe in providing every child the opportunity to receive a quality education. Let me say it again: Nebraska has what hardworking American families want--safe communities, good jobs, great schools, affordable neighborhoods, and an unmatched quality of life. America's elite cities are too expensive for middle-class families. These cities have high taxes and burdensome regulations, both of which discourage job creation. Today, technology connects us like never before and now Americans can live and work anywhere. This provides Nebraska an opportunity for growth like we have never before seen. America's middle-class families want to live in states like Nebraska because we have career opportunities, short commute times, a lower cost of living, and a sense of community. For the first time ever, Nebraska's population growth exceeded the national average for two years in a row in 2009 and 2010. And in 2011, Nebraska only narrowly missed growing as rapidly as the national

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average. Nebraska has economic and education momentum. Working with our citizens, we have developed a bold, innovative, and strategic vision to grow our economy and to strengthen our education system. Just last year we invested in the University of Nebraska's Innovation Campus. We passed the Talent and Innovation Initiative to continue improving Nebraska's small business and entrepreneurial environment. We've made exceptional progress during the past few years, but we have more work to do. According to the Tax Foundation rankings, in 2006 Nebraska was one of the top ten highest tax states in America. Nebraska was 45th out of 50 states. Today we are 29th. Since 2006, Nebraska has made greater and more significant improvement in our tax climate than 48 other states. That's good news, but we can do better than 29th. Even with our healthy economy, many Nebraska middle-class families still struggle from paycheck to paycheck. We can help these families by changing Nebraska's income tax structure and allowing them to keep more of the money they make. If your adjusted gross income is more than \$54,000, you are taxed at the same marginal rate as Warren Buffett. That is unfair to middle-class families. Our hardworking taxpayers are tired of government taking too much of their paycheck. In 2011, Nebraska net tax receipts grew by \$349 million. The opportunity to provide tax relief for our taxpayers is now. Our hardworking, middle-class taxpayers need more discretionary income to take care of their families and to provide their kids a good education. For the past few months, I have been working with Senator Cornett to develop a major tax relief initiative for Nebraska's hardworking, middle-class families, and today Senator Cornett is introducing that bill. Senator Cornett, thank you. We are asking you to join us in providing tax relief for Nebraska's middle-class taxpayers. Our proposal lowers rates and expands the brackets so that Nebraska's hardworking taxpayers can keep more of their income. Our proposal eliminates the inheritance tax. You've probably seen the recent headline in Forbes--Nebraska is named as a state "Where Not to Die in 2012." Even high tax states like Massachusetts, New York and California don't have an inheritance tax. Nebraska is one of only eight states that has an inheritance tax and we need to change that. I know you'll hear from county officials, but this is about good tax policy and completing the elimination of the death tax. Our proposal reduces the corporate income tax rate to help small businesses grow. Our highest priority should be tax relief for Nebraska's hardworking, middle-class taxpayers. Special interest groups will argue we can't afford tax relief because they want to take that money from our hardworking taxpayers and spend it on their favorite projects. The question is, tax relief for hardworking middle-class taxpayers, or more spending for special interest groups? The choice for us is clear. I'm going to fight for Nebraska's hardworking taxpayers because they need our help. For example, if you are a young family of four living in south Omaha with an adjusted gross income of \$30,000, with our proposal, you will receive a 29.5 percent tax cut. If you are a mom living in northeast Lincoln with two kids with an adjusted gross income of \$40,000, you will receive a 10.5 percent tax cut. If you are a hardworking middle-class family of four living in Bellevue, York, Kearney, Valentine, Alliance, or Columbus with an adjusted gross income of \$75,000, you will receive a 10.9 percent tax cut. If you live in Norfolk or Grand Island and your adjusted gross income is \$100,000,

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your tax cut will be 7.2 percent. However, if you live in central Omaha and your adjusted gross income is \$1 million, you will only receive a 2 percent tax cut. The focus of this bold tax relief plan provides Nebraska's hardworking, middle-class taxpayers the help they need. Nebraska families have had to tighten their belts and learn to do more with less, so should government. This is about our future. This is our time. This is our moment in history. Together we can make it happen. Let's get to work. Thank you very much.

PRESIDENT SHEEHY: (Gavel) Thank you, Governor Heineman. Would the committee escort the Governor from the Chamber.

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk.

CLERK: Mr. President, new bills. (Read LB968-979 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 223-226.) [LB968 LB969 LB970 LB971 LB972 LB973 LB974 LB975 LB976 LB977 LB978 LB979]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to General File, LB343. [LB343]

CLERK: Mr. President, LB343, a bill by Senator Brasch. (Read title.) The bill was introduced on January 12 of last year, referred to Government Committee, advanced to General File. Senator Brasch presented her bill yesterday, Mr. President. I do have a motion to the bill. [LB343]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Brasch, you're recognized to refresh the body's memory on LB343. [LB343]

SENATOR BRASCH: Thank you, Mr. President. To recap LB343 and where we left off in yesterday's discussion, these statutes are requested by the Board of Examiners for Land Surveyors, a four-member board of surveyors and one at large who are appointed by the Governor. With this legislation, the board will be able to modify their rules and regulations for registration and certification requirements as similar professions do, such as the engineers, such as the architects, and geologists all establish standards for their profession and industry in the state. Specifically, these changes will include elevated education requirements. Their rules and regulations directly reflect statutes so no land surveyor certification requirements will be changed by the passage of LB343. With this bill the board intends to enhance education requirements for registration as a land surveyor in the state of Nebraska where no formal... [LB343]

SENATOR GLOOR: (Gavel) [LB343]

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SENATOR BRASCH: ...education is required, not even a high school diploma. This is a reasonable request from the board. LB343 is the first step forward for the board to update and make changes to education requirements that are well below national industry standards. The board believes they will be better able to accomplish elevating educational requirements through their rules and regulations rather than coming to the Legislature on every occasion. It will be a gradual process and over an extended period of time; no land surveyor's credentials will be held in jeopardy. The board will establish attainable, reasonable, and professional standards for the industry they practice in. This is what we are entrusting them as they look at the recommended national standards of the industry for land surveyors and those of our surrounding states. We are encouraging additional available educational opportunities to meet the changing technology and skills for performing the duties of a registered land surveyor. Thank you. [LB343]

SENATOR GLOOR: Thank you, Senator Brasch. Mr. Clerk. [LB343]

CLERK: Mr. President, Senator Langemeier would move to indefinitely postpone LB343. Senator Brasch, as introducer, you have the option to take the motion up or lay the bill over. [LB343]

SENATOR BRASCH: I'd like to take the motion up. [LB343]

SENATOR GLOOR: Senator Langemeier, you're recognized to open on your amendment. [LB343]

SENATOR LANGEMEIER: Mr. President, members of the body, I first thank Senator Brasch on her explanation of LB343. I still, as I brought up yesterday, have some concerns. And I first want to say I don't have concerns that these are surveyors wanting to do this. My concern is, is we're changing a public policy statement here. We're saying that an agency, as minimal as the requirements are, are in state statute. We want to scratch that and give it to a board appointed by the Governor, five-member board, with the executive director making the sixth member, in four districts, and one at large, to make your own rules. So what happens when a constituent calls and there's been some catastrophic error in a survey and we have a family feud brewing out there, and they said, hey, what are you going to do as the senator to help me on this? We've all gotten those kind of calls. Maybe they shouldn't come to us, but we get them anyway. What are you going to tell that constituent when you said, you know, we did have oversight, minimal as it was, but we gave that away, we gave it back to their board because they wanted to increase education requirements. My argument would be, as is realtors, I'm an appraiser, we have a whole list of requirements to become an appraiser--it's within state statute. And as those requirements then, that board, we still have a board for that, as we want to change those requirements we come to the Legislature and ask for those changes to be put in state statute. I would recommend that the surveyors, if they want to

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up the requirements...which I think they should. My understanding is there is a problem out there of individuals coming to Nebraska, spending two years as an apprentice with no requirements, taking the test and passing it, and then going to other states and say, hey, we reciprocate, we have a license in Nebraska, so now give me one in Iowa or give me one in Missouri or some other state. That is problematic. But I would argue, and we have time to get a bill introduced really, really quickly here, to introduce one more bill that says these are what we want to make these requirements be, we want it to be associate's degree, we want it to be whatever that this board is going to put together. Bring it in a bill, put it in state statute. And so this body retains their responsibility of oversight of what's going on in Nebraska. And so with that, I don't think LB343 is the bill to go forward. I think there could be an opportunity into the future to bring another bill with those requirements that they want to put in. I'm not arguing that those requirements shouldn't be there. I think this is just a fundamental policy change for us as the Legislature to give up our right to oversee what these individuals have for training. So with that, I would ask for your support of the motion to indefinitely postpone and that would not advance LB343. Thank you, Mr. President. [LB343]

SENATOR GLOOR: Thank you, Senator Langemeier. Members, we now move to floor discussion. Senator Brasch, you are recognized. [LB343]

SENATOR BRASCH: Thank you, Mr. President. Thank you, Senator Langemeier. Senator Langemeier, you have brought forth some good points you have made. And the last time the Board of Land Surveyors came to the Legislature was in 1971, many, many years ago. They have made no changes during that period of time. Because this bill was brought to me before the Missouri River flooding, and as I met with them before this session we did discuss the impact, great impact of the land from the Missouri River flooding, perhaps a bill at this time will be brought forward with educational requirements. I would like to consider this. And at this point I will make a motion to lay the bill over. [LB343]

SENATOR GLOOR: Senator Brasch. [LB343]

SENATOR BRASCH: Yes, Mr. President. [LB343]

SENATOR GLOOR: Are you now asking that the bill be laid over pursuant to the filing of the amendment for indefinite postponement? [LB343]

SENATOR BRASCH: Yes, I am. [LB343]

SENATOR GLOOR: So ordered. Returning to General File. [LB343]

CLERK: Mr. President, the next bill for consideration, LB190. It's a bill by Senator Council. (Read title.) The bill was introduced on January 7 of last year, at that time

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referred to the Urban Affairs Committee, advanced to General File. There are Urban Affairs Committee amendments pending, Mr. President. (AM376, Legislative Journal page 652, First Session, 2011.) [LB190]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Council, you're recognized to open on LB190. [LB190]

SENATOR COUNCIL: Thank you, Mr. President. Fellow members of the Unicameral, I rise this morning to ask for your favorable consideration of the advancement of LB190 with the amendments that will follow. In a representative democracy, governing bodies should be a portraiture and a miniature of the populace that it represents and governs. Indeed, all citizens should have the opportunity to participate in the governance of all crucial life support areas. As a result of the efforts of my predecessor, most political subdivisions in the city of Omaha are reflective of this representative government philosophy, that is most of the governing bodies in the city of Omaha are elected by district. One of the governing bodies that has not been reflective of this representative government philosophy is an entity that has a tremendous impact on the lives of the people it serves and represents. And that entity is the Metropolitan Utilities District, which is commonly referred to as MUD. In its nearly 100-year existence, the governing body of MUD has been elected at large. And as a consequence, the MUD board has essentially been representative of a certain geographic, economic, or political perspective. By way of example, in the 100-year history of the MUD board there has only been one African-American member of that board, and that person was appointed to complete an unexpired term and not elected to that position. Even more illustrative of the need for LB190 is the fact that the overwhelming majority of the current MUD board, as well as prior boards, live west of 72nd Street in Omaha. So the eastern part of the city has not been reflected in the composition of the governing board of MUD. With an at-large elective system, potential candidates from the eastern parts of the city of Omaha with limited financial means cannot meaningfully participate in the election process for MUD board. This is so because the costs associated with mounting a campaign that would reach the number of voters in the city of Omaha is most cost prohibitive. The door-to-door, face-to-face campaigning that most of us in this body engage in is neither practical nor possible. In that regard I must note anecdotally that I cannot recall an occasion, since I've lived in north Omaha my entire life, when a candidate for MUD board has actually physically campaigned in north Omaha. In fact, I can only recall one occasion, and that was due to the fact that someone in north Omaha attempted to seek election to the MUD board. But I can only recall one occasion where MUD candidates have actually physically campaigned in north Omaha. I must also take this opportunity to note that my office here in the Legislature handles a significant number of calls from north Omaha residents on MUD-related issues and concerns. While MUD operating officials have been very responsive when our office contacts them and presents these issues and concerns to them, the fact remains that these MUD customers do not view any one or more of the MUD board members as representative

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of them or their issues and concerns. While I do not doubt that the MUD board members themselves view themselves as being representative of all of the residents in the district that MUD covers, the fact of the matter is that the residents of particular portions of that district do not view themselves as having a representative on the MUD board, someone who they can contact, someone who they can address their concerns to. If it were the case then I would submit to you that I wouldn't receive the volume of calls that I receive in my office. You can ask my staff the percentage of the time that they spend on responding to constituent concerns that are MUD-related--and that is gas turnoffs, water turnoffs, rate issues. It is particularly important that the MUD board become more representative at this particular time. MUD is addressing some tremendous challenges that will impact the delivery of service and the cost of these services. The coordination of the combined sewer overflow project coupled with the upgrade of MUD's delivery system is just one example of the challenges facing MUD. The combined sewer overflow project and the upgrade of their delivery system will have a dramatic impact on the eastern part of the city since most of that work will be performed in that area. And the people who will be impacted the most by any increase in rates associated with that work are the residents of the eastern part of the city who have no member on the MUD board from their area. When I originally introduced LB190, it also provided for district elections of the Omaha Public Power District board. But after further review of the OPPD governance structure and discussions with OPPD officials, one of the amendments you'll be asked to approve removes OPPD from LB190. OPPD's removal is due to the fact that the OPPD service area, unlike the MUD service area, consists of 13 counties. And its districts are established according to the fact that it does cover 13 counties. Further, under existing law the OPPD districts can be redrawn by the Nebraska Power Review Board. I have been assured by representatives of OPPD that they understand the need to provide that their board be more representative and that they will pursue that objective via the Nebraska Power Review Board. They also understand that, failing in that regard, that I will pursue a legislative resolution... [LB190]

SENATOR GLOOR: (Gavel) [LB190]

SENATOR COUNCIL: ...with respect to OPPD. In fact, to continue to include OPPD in LB190 would have worked contrary to the overall objective of LB190. By requiring a seven-member district for OPPD would have actually resulted in a dilution of representation, not only for the eastern part of the city of Omaha but the entirety of the city of Omaha. With the committee amendment that is forthcoming, LB190 provides for a seven-member board to be elected from seven districts to be drawn by the Douglas County Election Commissioner. It had been my hope that LB190 would have reached the floor during the last session while we were engaged in redistricting and that the districts for the MUD board could have been drawn at that time. The committee amendment further provides for the staggering of the election of the board members by district over the next four years such that the entire board does not have to stand for

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election upon enactment of this bill. The committee advanced LB190, with the amendments I noted, on a unanimous vote. The only testimony at the hearing in opposition to LB190 was from MUD. And you all recently received an e-mail from MUD reminding the body that the board last February voted 4 to 2 to oppose this bill. That should be expected. However, I trust that this body sees the value and need to provide all customers of MUD the opportunity to participate in its government. With that, I urge you to approve the amendments that will be forthcoming and advance LB190 as amended to Select File. Thank you, Mr. President. [LB190]

SENATOR GLOOR: Thank you, Senator Council. The rolls are being handed out this morning to celebrate Senator Janssen's birthday, Sunday, January 15, we believe. As the Clerk stated, there are amendments from the Urban Affairs Committee. Senator McGill, as Chairman of that committee, you're recognized to open on the committee amendment. [LB190]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, the committee amendment is pretty simple. The original bill also pertained to Nebraska Public Power Districts and not just to MUD, so we struck all the language relating to NPPD, and then took out language that allowed for the seventh member to be elected at large and went ahead and just made seven election districts within the bill. This amendment and the bill did advance unanimously out of committee, and I ask for your support. Thank you, Mr. President. [LB190]

SENATOR GLOOR: Thank you, Senator McGill. There are amendments, Mr. Clerk, to the committee amendments. [LB190]

CLERK: There are, Mr. President. Senator Council would move to amend the committee amendments with AM680. (Legislative Journal page 1154, First Session, 2011.) [LB190]

SENATOR GLOOR: Senator Council, you're recognized to open on your amendment to the committee amendment. [LB190]

SENATOR COUNCIL: Thank you. Thank you very much, Mr. President. My amendment to the committee amendment takes further some of the issues that were raised during my discussions with representatives of MUD after the bill was introduced and after the hearing was held. And I need my colleagues to know that I had a number of conversations with MUD representatives and officials trying to craft the bill to be as acceptable as possible to MUD but maintaining the intent of the bill. AM680 does address one of the concerns that was raised by MUD and that was the thought was that LB190 would have come before the body for debate during the last session, and several members of the current MUD board had just stood for election during the 2010 election cycle. And the desire was that the terms for the new districts would be staggered in

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such a way that those board members would not have to immediately stand for reelection; further, that the staggering would allow for some continuity on the board until such time as the district election process was completely put in place. So if you look at AM680, it merely provides for a staggering of the elections for the seven districts. And referring back to the committee's amendment, when the bill was originally introduced it provided for trying to maintain as closely as possible how the MUD governance body has worked while incorporating district elections. And so it provided for the drawing of six districts to be elected by district and to maintain the election of what has been referred to in the statute as the outside member, and that's the board member who represents the areas of MUD service that lie outside of the boundaries of the city of Omaha. Again, as a result of discussions with MUD officials, AM680 simply provides for all of the board members to be elected from a district and there would be no necessity for an outside member because the districts would be drawn to include that area that is currently covered by the outside member. And with that, I would urge approval of AM680 as well as the committee amendment, AM376. Thank you. [LB190]

SENATOR GLOOR: Thank you, Senator Council. We now move to discussion. Are there members who wish to be recognized? Seeing none, Senator Council, you're recognized to close on your amendment to the committee amendment. [LB190]

SENATOR COUNCIL: Thank you very much, Mr. President. Again, the intent of this bill and its amendments are simply to provide a more representative form of governance for the MUD board. All other major governing bodies in the city of Omaha are elected by district. This is consistent with those district election principles that govern those other political subdivisions and would enable there to be direct input from areas of the city that quite frankly have not had that level of input during the 100-year existence of MUD. I would urge your approval of the amendments because those amendments make the bill better. Those amendments address concerns that were raised by MUD officials and would allow for LB190 to go forward and to achieve the election of MUD board members by district by the end of 2016. Thank you. [LB190]

SENATOR GLOOR: Thank you, Senator Council. Members, the question is, shall the amendment to the committee amendment to LB190 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB190]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Council's amendment to the committee amendments. [LB190]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB190]

CLERK: I have nothing further pending to the committee amendments, Mr. President. [LB190]

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SENATOR GLOOR: Senator McGill, you're recognized to close on your committee amendments. Senator McGill waived. The question is, shall the committee amendments to LB190 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB190]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB190]

SENATOR GLOOR: The amendment is adopted. [LB190]

CLERK: I have nothing further pending to the bill, Mr. President. [LB190]

SENATOR GLOOR: Are there senators wishing to be recognized? Seeing none, Senator Council, you're recognized to close on the advancement of LB190. Senator Council waived. The question is the advancement of LB190 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB190]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB190. [LB190]

SENATOR GLOOR: The bill advances. Continuing with General File, LB370. Mr. Clerk. [LB190 LB370]

CLERK: LB370, Mr. President, a bill by Senator Wightman. (Read title.) The bill was introduced on January 13 of last year, at that time referred to the Revenue Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB370. [LB370]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I want to talk a little bit, for the next half hour or so, about the possibility of LB370 eliminating provisions relating to the issuance of tax deeds, which I suspect, outside of people in real estate, not a lot of people have a lot of knowledge about. LB370 would eliminate several sections of Chapter 77, primarily 77-1831 through 77-1846 inclusively, and would amend other sections referring to a treasurer's tax deed to make them reform them in keeping with the elimination. Issuance of a treasurer's tax deed can and has resulted in people losing their property without a public sale, after receiving only one notice by registered or certified mail. In my business we've had that happen. Also, loan companies have lost their liens as a result of this as well. And I'll tell you a little bit of the background that brought the bill to me. It was a manager of a credit union. They had received one notice. Apparently, the manager was out of town, it got put in the file,

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never came to his attention, and the next thing he knew, a treasurer's tax deed had been issued and they had lost their lien. Now a lot of title insurers will not insure with just a treasurer's tax deed. And they've required the party that is contesting the treasurer's...or the party that's relying on the treasurer's tax deed to go in and file a quiet title action. And that's happened frequently across the state of Nebraska. So for more background, if property taxes are past due and paid, which an investor can do, he can purchase a tax sale certificate, that's the first step, by making payment of the unpaid taxes to the county. And probably most of you are familiar with the tax sale certificates. The tax sale certificate bears interest at an interest rate of 14 percent per annum, so they're a pretty good investment, and that continues on until redeemed by the owner of the property. If the tax sale certificate is not redeemed within three years of its date of issue, the investor may take action to have the property sold or obtain ownership of the property. And the most common method is to go through a judicial sale, but on some of the less valuable properties that's not been the case and maybe in some instances even in fairly valuable properties. LB370 would change the process by which the investor may convert the tax sale certificate into ownership of the property. I wish to thank Senator Cornett and members of the Revenue Committee for advancing LB370. It did advance on a vote of 7 ayes and 1 present and not voting. If the tax sale certificate remains unpaid for three years, as I said, the Nebraska law currently allows two methods for disposing of the real property to pay off the tax sale certificates. One method is a foreclosure, a judicial foreclosure of the tax sale certificates, which of course would be supervised by a court, and would result in whoever the successful bidder was at the time of the sheriff's sale acquiring ownership of the property. The other method authorizes, and that's the one we're talking about here, the county treasurer to issue a tax deed without a public sale of the property at the time ownership of the property changes. Nebraska happens to be the only state that allows either process to be used to convert tax sale certificates into ownership of the property. LB370 was introduced to eliminate the treasurer's tax deed as the alternative method. The counties need their tax revenues and, as most of you know, that's why they sell the tax sale certificates. They can hold on to this and draw the 14 percent, the same as any investor is going to do. But unfortunately, they have budgets that they have to meet every year. And as a result of that, they would rather see the money come in rather than just be entitled to the 14 percent that they would get if they continued to hold the certificate. So once a year, every year, they conduct a sale of these tax sale certificates. As I understand it, although I've never attended one, they may have a dozen, two dozen people, probably far more than that in some of the larger counties, fewer than that in some of the smaller counties, in which they just kind of use a rotation system, as I understand it. And so they start their rotation, I don't know whether they draw for first or whatever they do. Now as an investor, if you don't want that tax sale certificate, if you think that's a particularly risky one, you just drop out. But then you're out of that round. And then you get back in at the next round of the rotation. So investors are encouraged to purchase tax sale certificates issued by counties for past due taxes. And I might say that there are businesses that just start up that that's the primary business of some

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business entities is to purchase tax sale certificates. As I say, they pay an attractive interest rate of 14 percent per year. When we consider that in light of 1 and 2 percent that maybe CDs are paying, it's a fairly lucrative rate. It hasn't always been that big of a range of interest rates as we have right now. And then after three years, after purchasing the certificate, the investor can, as one of the two methods, request the issuance of a tax deed. But they've got to have given notice first. The holder of a tax sale certificate can obtain ownership of the property with a fair market value that may be far in excess of the holder's investment. A simplified example will illustrate the point. First, assume the county assessor has done his or her duty and has assessed the residential property at its fair market value. Let's say, as an example, that occurs here in Lancaster County. Second, the 2011 average value of residential property in Lancaster County reported to the Department of Revenue currently is about \$146,150. Third, the reported average property tax was \$3,136 at that value in 2010 for Lancaster County. Using this data for a simplified example, it is possible for an investor to obtain ownership of a property with a market value of \$146,150 using a tax sale certificate with a face value of \$3,136 plus interest, and plus paying off the other two years of the back taxes. So you could...and I'm not saying this is going to happen very often to this extreme because people with that much investment in a house are probably going to be a little more careful. But let me tell you where it does happen. It happens with people who have acquired these tax sales or someone who's acquired a tax sale certificate, they're also experiencing a very horrible financial situation. And I'm sure as a practicing attorney all of us have seen these people in which they quit answering their mail and finally quit looking at their mail. They get a registered mail, they don't even want to open it because it's going to bring more bad news. So here this one notice that's required to be given goes unnoticed by the property owner. And, as the instance that I mentioned, it also goes unnoticed in some instances by a loan company. So all of a sudden three years elapses, they've given the one notice, they go in and request the tax sale certificate or the tax...treasurer's tax deed,... [LB370]

SENATOR GLOOR: One minute. [LB370]

SENATOR WIGHTMAN: ...and they're the owner of the property. Now as I say, a lot of title insurers will not insure over that tax deed. And they require that they bring it to quiet title action in the district court in that county,... [LB370]

SENATOR GLOOR: Forty seconds, Senator. [LB370]

SENATOR WIGHTMAN: ...thank you, but as a result they get the treasurer's tax deed and they could get it for as little as we talked about in this example or a smaller percentage. Under the judicial foreclosure process, a public sale is conducted where there can be a determination of the fair market value of the property by exposing the property to multiple buyers, not just the holder of the tax certificate whose investment was for unpaid taxes that may be far less than the property's fair market value. I have a

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lot more, but I'll stop for now. Thank you, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Senator Wightman. Members, we now move to floor debate. Senators wishing to be heard: Council, Langemeier, Schumacher, Harr, Wightman, and Louden. Senator Council, you are recognized. [LB370]

SENATOR COUNCIL: Thank you very much, Mr. President. Would Senator Wightman yield to a couple of questions? [LB370]

SENATOR GLOOR: Senator Wightman, would you yield? [LB370]

SENATOR WIGHTMAN: I will. [LB370]

SENATOR COUNCIL: Senator Wightman, am I correct in my understanding that one of the reasons that...for the introduction of LB370 was a problem or a concern that arose with regard to the notice that is required to be given before a tax deed is issued? [LB370]

SENATOR WIGHTMAN: That happened to be the circumstance for which it was brought to my attention, yes. [LB370]

SENATOR COUNCIL: Okay. And would it be possible to address that concern and provide a little more protection for the actual property holder by clarifying those notice provisions and perhaps giving consideration to providing for a redemption, a short redemption period after being notified that a tax deed is to be issued? [LB370]

SENATOR WIGHTMAN: Senator Council, I think either of these would be helpful, either a notice maybe that's provided by...that actually is served by the sheriff, which I think would get the attention. If it's going to be so, it's, I think, got to also apply to lenders as well as to the homeowner. [LB370]

SENATOR COUNCIL: Right. [LB370]

SENATOR WIGHTMAN: I think a redemption period afterwards in which some sort of notice was required before it would ripen into good title could also be a possibility. However, I would say that there are many, many counties that are not using these at all. I'm going to get into a list of those when I get up next, but I won't take all of your time. But I see Adams County was one of the larger counties that hasn't issued a tax deed for many years. A number of others have had only two or three over a period of 10 or 15 years, these are smaller counties. Adams is probably the largest one that I've seen that hasn't had any. [LB370]

SENATOR COUNCIL: Okay. Well, thank you, Senator Wightman. And I want to tell you

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that one of the concerns I have about eliminating the tax deed is that much of the tax delinquent property in my district, for example, doesn't have a lot of equity. The homeowner, the landowner doesn't have a lot of equity. Much of the tax delinquent property in my district is subject to condemnation or has been placed on the condemned list. And when people purchase those tax certificates, by not allowing them to pursue the tax deed option as opposed to incurring the cost of going through judicial foreclosure, often means that property just remains unattended because there's nothing that the tax certificate holder can do to obtain clear title to do anything to the property. So I'm reluctant to support removing the tax deed process as an option in those situations and looking instead to provide the kind of protections that would prevent a homeowner who could redeem their property from doing so prior to the issuance of a tax deed. And I would hope, Senator Wightman, that you would be open to considering amending LB370 in those manners between now and Select File. Thank you. [LB370]

SENATOR GLOOR: Thank you, Senator Council. Senator Langemeier, you are recognized. [LB370]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in kind of a unique position. I'm not 100 percent opposed to LB370 but I think we're taking a sledgehammer to a little problem. Senator Wightman, in his own statement, just said that Adams County isn't doing this, many other counties have only done it once or twice, maybe three times. I, personally, have had some experience with the notice part of this and I think the notice is the problem, is people are delinquent in their taxes. They obviously have something in their financial position or just in their life that they're missing these. They miss the tax statement that said you should have paid your taxes. That has gone to the wayside. Other notices have gone to the wayside by the treasurer. Now they get this letter and they get this 30-day notice. They don't know what it is. And then the next thing they know, they get the phone call and it's an individual saying, I now have the deed to your house, get out. That's problematic, in my mind, and I think that needs to be fixed. But to take out the whole tax deed structure and throw it to the side and say, well, many other states only have one method and Nebraska has got two, you don't need two, you only need one, well, we got a Unicam, we're the only state that's got that too. I don't fall prey to saying other states only have one and that's a logical reason to change something. Now the notice side, should it be more than 30 days? Should it be 40 days, 45 days? Maybe. Should it be something other than just a registered letter that they get? I would argue that most of these individuals, however I don't know any of them personally, I would argue that they're probably getting registered letters from other people saying, you owe us money too, whether it's the car or whatever it is at that time. They're probably getting a few of those. They don't even want to go to their mailbox. So does this notice maybe need to be changed where it's served by the sheriff's department? That is still a cheaper method to have that notice given than just getting rid of this and going to a judicial avenue. So do I think we have a problem? Yes, I do. Do I think LB370 is the right answer? I think you're taking a sledgehammer to a smaller

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problem. Senator Wightman kind of alluded to that himself. I think that this bill could be amended and maybe it has to be done, if we advance it on General File, if there would be a commitment to pare this back to a reasonable approach before you get to Select File. Now I understand the bankers are in support of this and I like the bankers. I understand their concern. But I think in that notice provision that they could be expanded into...still, if you had to send a notice to the homeowner and to the banker, if you went and looked in the lien file, there's no reason, it doesn't cost a lot of money to have the individual that's buying this property to go do a title search to find out if there's a lien on the property and send that individual a notice as well. I still think this all gets back to notices. I think it's a viable way to handle this. It allows people that want to buy these tax liens the opportunity to give counties cash flow. It's the whole purpose of doing these in the first place. It keeps them in the market without a lot of burdening expenses to execute their new interest in these properties. So with that, would Senator Wightman yield to a question? [LB370]

SENATOR GLOOR: Senator Wightman, would you yield? [LB370]

SENATOR WIGHTMAN: Yes, I will. [LB370]

SENATOR LANGEMEIER: Senator Wightman, thank you for yielding, first of all. Does that make any sense to you? I mean is there an ability to amend this for Select File or do you think that...or I mean is it of your belief that we just got to get rid of this system? [LB370]

SENATOR WIGHTMAN: Well, I think we might be best served by getting rid of it and that's what we concluded. However, we did talk about that possibility when we first met with my constituent. [LB370]

SENATOR GLOOR: One minute, Senators. [LB370]

SENATOR WIGHTMAN: And I think the minimum would be...and I still would prefer to get rid of it because as we looked at it I think the fact that we have another method sometimes serves as a trap because I think people think, well, they've got to foreclose it and so they don't watch their mail. Maybe a sheriff with the proper information on a summons could take care of that. But we looked at it from both standpoints when we originally drafted the bill and really thought it would probably be cleaner just eliminating it. And the fact I guess to use the information with regard to the various counties to serve both arguments for and against, some counties are doing fine and not using it, so the fact that it's a cheap way to get property to someone else... [LB370]

SENATOR GLOOR: Time, Senators. [LB370]

SENATOR WIGHTMAN: ...or to eliminate the tax lien...thank you. [LB370]

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SENATOR LANGEMEIER: Thank you. [LB370]

SENATOR GLOOR: Thank you, Senator Wightman. Thank you, Senator Langemeier. The Chair recognizes Senator Schumacher. [LB370]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. I thought perhaps I should share a little bit of what I can recall of my county attorney days and how this works as a practical matter and why it may be good to tweak this if we get it to Select File to accommodate some rough edges and maybe leave the procedure partially in place. You don't pay your taxes; the treasurer publishes a notice in the paper saying, I've got taxes for sale. If you are an investor and looking for a better rate of return than you can get in the CDs or in the stock market, 14 percent looks very attractive. In fact, it's so attractive it probably should be reduced a little bit, considering today's economic situation. But at any rate, you go in and you buy the taxes. In other words, you pay them off. And when you pay off the taxes, the treasurer gives you a slip of paper called a tax sale certificate and that draws 14 percent interest. In our history, we were lenient with people. We didn't want to right away go hammer them if they didn't pay their taxes, so that certificate has got to ripen, and as I understand it or remember it, it ripens for about three years. If no investor picks up the certificate, it ripens in the county treasurer's office. But eventually the time ticks off and it's ripe. When it's ripe, there's a very limited period of time which whoever is holding that certificate, be it an investor or the county treasurer, has got to collect it. There are two mechanisms of collection that are available to the private investor. They can send out a notice to the owner saying, hey, guess what, I got your certificate and I want your money, and if not I'm going to have your property. And if there's no response or no procedure started to contest that, the certificate is surrendered back to the treasurer; the treasurer signs a piece of paper saying, you got the property, it's yours, here's the deed. The other route is they can go through the rather cumbersome procedure called a foreclosure where there's lots of papers filed in courts and lots of proceedings in which the property is eventually sold and title transferred to the buyer. That court proceeding has a requirement that the bankers be notified, the owners be notified, anybody appearing to have an interest be notified, and there's a fairly elaborate notice and procedure that's resolved. The problem is, that I see it, in those pieces of property that the county gets stuck with, doesn't sell the property, if they don't sell the property, because this procedure becomes too cumbersome, then the county attorney gets stuck with doing these foreclosures on them and that's cumbersome. If the property is worth anything then you go through the foreclosure procedure for the very reason that Senator Wightman outlined. You go through it because you get good title. You get title insurance on it. But there's some of this property that's not worth very much and perhaps what we could do and look at, if we get to Select File with this thing, is a procedure for if the assessed value is less than something or another you can still use a tax sale procedure and the tax deed procedure. And I think Senator Langemeier's suggestion is very good that perhaps what we do is

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just simply give the same kind of notice on a treasurer's deed as we give on a notice of a lawsuit and either delivery by the sheriff or certified mail, and that the bankers or anybody who's shown to have a title interest in the property get a copy of that notice so that it just isn't one of these pieces of paper mailed to an owner who maybe isn't there or doesn't care and it goes in the trash. So it protects the interests of the banker, also makes things a little easier for the county, and I would think that that would be something we may want to consider. [LB370]

SENATOR GLOOR: One minute, Senator. [LB370]

SENATOR SCHUMACHER: Thank you. [LB370]

SENATOR GLOOR: Thank you, Senator Schumacher. Senators remaining in the queue: Burke Harr, Wightman, Loudon, and Langemeier. Senator Burke Harr, you're recognized. [LB370]

SENATOR HARR: Thank you, Mr. President. I couldn't agree more with what Senator Langemeier said, that this is a bit of an overkill, and it seems as if the problem is notice. Let's address that issue, notice, and let's not change the complete rules of the game because of a notice issue. I would ask...and I agree with what Senator Schumacher said and my real issue is I'm not sure on it. I have kind of an understanding of how this works. I've been around it, but I do have some questions and I would ask first if Senator Schumacher would yield to questions. [LB370]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB370]

SENATOR SCHUMACHER: Yes. [LB370]

SENATOR HARR: Thank you, Senator. My first question is, if that tax certificate is out there and no one purchases it, what happens to it? [LB370]

SENATOR SCHUMACHER: If the tax sale certificate is not bought by an investor, it lays in the treasurer's office. When it is ripe, and if I remember right that's three years into the process, there is a limited number of days in which the county attorney has got to file a foreclosure action and foreclose it, much like you'd foreclose on a note. [LB370]

SENATOR HARR: And then at that point the county attorney sells the land? [LB370]

SENATOR SCHUMACHER: County attorney typically does a title search to make sure that he knows everybody who's got an interest recorded on the property and then files a lawsuit, a foreclosure action, which there's notice served either by certified mail or by the sheriff in the same manner as you do in a normal lawsuit, and that lawsuit asks the district judge to declare the lien valid, declare the amount of the lien, and order the

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property sold by the sheriff. [LB370]

SENATOR HARR: And how long is that process? [LB370]

SENATOR SCHUMACHER: That process can run, oh--usually they're done en masse--easily a year. [LB370]

SENATOR HARR: Okay. So during that time are any taxes collected? [LB370]

SENATOR SCHUMACHER: Please? [LB370]

SENATOR HARR: Are any taxes collected during that year period? [LB370]

SENATOR SCHUMACHER: Not unless somebody pays them. [LB370]

SENATOR HARR: And are any taxes collected during that three-year period? [LB370]

SENATOR SCHUMACHER: No, not... [LB370]

SENATOR HARR: It accumulates but... [LB370]

SENATOR SCHUMACHER: It just accumulates and accumulates interest, and once in a while you get a situation if a owner says this is really dumb paying 14 percent interest when I can go to the bank and get it for whatever he could get it for there, he'll come in and pay it, or a banker, rather, to avoid foreclosure, will pay it. [LB370]

SENATOR HARR: So assuming no one comes in, for all intents and purposes, at a minimum that property...there's no income coming to tax rolls for four years. Is that correct? [LB370]

SENATOR SCHUMACHER: Yeah, unless someone pays it. Yeah. [LB370]

SENATOR HARR: Okay. And if someone buys a tax deed, those taxes are paid and taxes are coming in. [LB370]

SENATOR SCHUMACHER: Right. The taxes are paid off. In exchange for that you get this piece of paper that says you're entitled to your principal and your 14 percent interest. [LB370]

SENATOR SCHUMACHER: Okay. Thank you very much. I appreciate that. And I guess my next question would go to...I would ask if Senator Wightman would yield to a question or two. [LB370]

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SENATOR GLOOR: Senator Wightman, would you yield? [LB370]

SENATOR WIGHTMAN: Yes, I will. [LB370]

SENATOR HARR: Thank you, Senator Wightman. Thank you. Thank you for bringing this to our attention, this notice issue. I would agree with what Senator Langemeier said earlier but I would ask a question. How many times have you found that there is a notice problem, are you aware of? [LB370]

SENATOR WIGHTMAN: Well, I know of three or four in my practice of law that...and one of them happened to be a farm in which there was substantial equity, and again, he was receiving many, many notices, then the one that I just told you about. So I know of three or four cases. [LB370]

SENATOR HARR: Okay. [LB370]

SENATOR WIGHTMAN: Now that may not be a lot. But if it's somebody's home, it's quite a bit of their life. [LB370]

SENATOR HARR: Yeah. Well, and that's fair. I appreciate it. My next question is, there are currently tax certificates out there. Is that correct? [LB370]

SENATOR WIGHTMAN: Yes. [LB370]

SENATOR HARR: Now those individuals who have the tax certificate now, would this be retroactive? Would they have to go through a tax sale or would they go...would they be able to go through a tax sale or would they be required to go through the judicial sale? [LB370]

SENATOR WIGHTMAN: If we were talking about this, we could do either right now. It would be required to go through... [LB370]

SENATOR GLOOR: One minute. [LB370]

SENATOR WIGHTMAN: ...a tax sale. That could be eliminated by itself and propose that it not apply until certificates were purchased after the effective date of this act. That's not there now but could be. [LB370]

SENATOR HARR: Okay, so... [LB370]

SENATOR WIGHTMAN: There was some question about whether that impaired contract rights, and there was some research done on that and generally the opinion was that this would not impair contract rights because it's a procedural method as

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opposed to substantive law but... [LB370]

SENATOR HARR: Well, and I'll maybe get into that a little bit more because I do think there might be an unfair taking there. And I hope we can work out an agreement similar to what Senator Langemeier asked for between General and Select. If not, I do have an amendment to clarify that those who do own tax certificates at this time would be allowed to go through a tax sale. [LB370]

SENATOR GLOOR: Time, Senator. [LB370]

SENATOR HARR: Thank you. [LB370]

SENATOR GLOOR: Thank you, Senator Harr. Senator Wightman, you are recognized. [LB370]

SENATOR WIGHTMAN: Thank you, Mr. President. I was discussing with Senator Langemeier at the time that our time ran out the last time up about some of the counties, and I would like to just mention some of those. I mentioned Adams County. It's, I'm thinking, about the seventh or eighth largest county in the state of Nebraska populationwise, might even be a little ahead of that but it's in that area, around 30,000-35,000 people I believe, maybe more than that. And their comment was there have not been many years since the treasurer's tax deed...it had been many years since tax deeds was issued in Adams County. There are a number of other smaller counties that are in the same boat. Red Willow County is another one that hasn't used it much. They say since 1981 they've issued one each year in 2002, 2009, 2010, so that would be three in the last 30 years. Some of the others just say that they...the counties have turned them down because of the question of the legality of the treasurer's tax deed, as is indicated by the fact that almost all of them are required to go to a quiet title action. So Douglas County, for example, has issued 44 in the last year, so that is a fair number. So it really varies from county to county. We certainly were aware of this concern that it might take away a rather cheap method of getting the taxes paid and getting the property back on the tax rolls. One of the things, and I alluded to this earlier, is the fact that this can be a real bonanza for investors and I think that they're looking at it largely from their own point of view, that, sure, they get 14 percent interest but, my gosh, if they can go in and get a \$50,000 property occasionally for an investment of \$8,000 or \$10,000, it makes it a lot more lucrative and does turn into a real bonanza for them. So I'm assuming that they're giving absolutely the minimum legal notice that could be required. And then in some cases there have been some instances where county treasurers I think have suspected that no notice was actually given, but we don't know that for sure. So at any rate, some counties have been able to collect their taxes, have kept properties on the tax rolls without resort to the treasurer's tax deed. Others have used it and I think the northwest part of the county, I know Senator Loudon has raised the issue, northwest part of the county seems to be one that has probably, in some of

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their smaller counties, used the tax...treasurer's tax deed more than other counties have. So would I be willing to work with somebody during...before Select File? Yes, I would be willing to consider that as a possibility or would be willing to sit down with them, not committing to anything in advance but look at optional methods that we might look at. But I think the absolute minimum is going to be a sheriff...a notice served by the sheriff on all lienholders and the property owner. I think if we have anything less than that, and I think that's what Senator Langemeier is suggesting, if we have anything less than that I don't think we've improved the situation very much. Even though it may be... [LB370]

SENATOR GLOOR: One minute, Senator. [LB370]

SENATOR WIGHTMAN: ...something that doesn't happen all that frequently, it does happen a good many times across the state of Nebraska if you took any one- to five-year period. So...but I would be willing to sit down and discuss that part at Select File. Thank you, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Louden, you're recognized. [LB370]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As you noticed, I was present and I didn't vote to advance this bill. I didn't vote against it but I didn't vote to advance it. I've always seen some problems with the bill the way it was; that to me there are two different classifications of property that we're talking about in taxes here. One of them is property that has a value that doesn't have the taxes paid on. The other is property that has very little, if any, value that doesn't have the taxes paid on, and those are the properties that in the areas that I represent have the problems. These small towns and stuff, a lot of people will leave there, they'll own property and they never intend to come back, pay taxes on it or anything. And so you have some neighbors that go ahead and pick up the taxes on it and get their tax deed. And the simpler it is, the better it is to get that property back on the tax rolls. So I think somewhere along the line we either have to have some type of classification of these properties. The properties that have a value...and usually those properties, somebody is picking up the taxes on in order to get that 14 percent interest, because nearly all county treasurers that you ever talk to always talk about people with...getting tons of mail asking about the delinquent taxes that they can invest in. And then you have these taxes out here that they don't want to invest in because they know they'll end up with some piece of property in some little town that's probably...you're going to have to take care of the weeds and clean the junk off and everything else. So I think that's why we need to have some clarification on what kind of properties we're talking about with that. And then some of the parts of the bill that I see as deleted, at any time before the delivery of a tax deed by the county treasurer that someone can pay that off, that should always be in there. If you are being foreclosed on by a bank or anything else when they

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take the foreclosure proceeding, you can walk up when they get ready to put it up for sale and pay it off and it's all over with. I mean that's been more or less common law all through the countryside on various things besides just tax sales. So some of those issues like that I think should be in there because this would take care of some of the issues where we...the concern was that people were not paying the taxes on someone's property and then they came in there and bought it for the taxes afterwards. Everybody gets a tax notice. You get one every year showing whether or not your tax is paid, and they also with that notice show how much delinquent taxes you have. So I think it needs work done on it. Whether we can reach that kind of an agreement as we progress along with this bill I guess that would be up to negotiations, but the way the bill stands as it's written, I do have a problem with it. And I think that perhaps if there's a problem out there, perhaps that can be fixed. If there isn't that much of a problem out there, I don't know what we're having a discussion about. Evidently there must be some place having a problem or else Senator Wightman wouldn't have brought this forward. So at the present time, in its standard form, I can't support this bill, but if, as we go through there, I can sit down with Senator Wightman and see what can be deleted and see what can be done. Whether we advance the bill today or whether we wait and correct it before we advance it would be another question to decide. Thank you, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Senator Louden. Senators remaining in the queue: Nelson, Burke Harr, Langemeier, and Wightman. Senator Nelson, the Chair recognizes you. [LB370]

SENATOR NELSON: Thank you, Mr. President. This was a little unexpected. I have very little to add to what has been said so far. I want to thank Senator Schumacher for going through the procedures because I think they're a little bit complex and we need to be reminded of how things work. I had some experience with this just this past year with a young man whose mother died prematurely and who had failed to pay taxes on the property, and all of a sudden he was faced with redemption of the taxes and a substantial amount to pay. And part of the problem there was the notice. As it turned out, he just never had notice of the fact that 14 percent interest was running on the taxes on this property. Well, we got it all taken care of. But I would generally agree that perhaps what we're doing here is more than we need to do in the bill; that if notice is the problem, we work on that. And I'd be very happy to work with Senator Wightman in taking a closer look at this and see that we don't do any more than we absolutely need to, because I think there is general benefit in what we're doing here as far as the counties are concerned and in their disposition of property. So I guess I rise in partial support of the bill, whether we can hold off and do some amendments first or do them on Select. And thank you, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Senator Nelson. The Chair recognizes Senator Burke Harr. [LB370]

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SENATOR HARR: Thank you, Mr. President. I apologize to the body. I was outside trying to figure out more on this bill. My issue and what I have a problem with is we want to encourage investors to buy tax certificates. When tax certificates are bought, that land gets back on the tax roll, taxes are paid, schools run more efficiently because they have more money and we have...government has money to work. If these aren't paid, if this becomes too burdensome, if we put a burden on businesses which, you know, I guess my...I stand with the working middle class, not with the special interests, I think is the theme of the day. And so if we make it too hard to do these foreclosures, we make doing business too burdensome and people just won't do it. If they don't do it, those taxes stay off the...that land stays off the tax roll for multiple years. And the issue here, what we really want to do is have notice. That's what's very clear from the introduction. It's very clear from what the problem is. The problem has been stated, people put notices in the file and they don't know about it. Here's a simple solution: Let's make sure they get proper notice. Let's not throw the baby out with the bathwater, to throw out another cliché. I want to make sure that we get these taxes...or the property back on the tax rolls. I don't want foreclosures. I want them back on the tax rolls and that's what this does. I want to work with Senator Wightman and I want to make sure that what we do is also constitutional. I do have an issue. I think we can come to a solution that solves the real problem but we have to be willing to work together, and I hope Senator Wightman will work with me if this does advance from General to Select. But right now, I'm not hearing necessarily that he is willing to help or is working, and I hope he is, but at this point I have trouble voting, I think, to advance this bill to the next level. Thank you very much, Mr. President. [LB370]

SENATOR GLOOR: Thank you, Senator Harr. Mr. Clerk, items for the record? [LB370]

CLERK: I do, Mr. President. First of all, an amendment to be printed: Senator Adams to LB633. Hearing notice from Natural Resources Committee, signed by Senator Langemeier. And a new A bill. (Read LB66A by title for the first time.) New bills, Mr. President. (Read LB980-995 by title for the first time.) Mr. President, one new resolution: LR374 is by Senator Heidemann, congratulating the Palmyra Volunteer Fire Department on its 100th anniversary. That's all that I have at this time, Mr. President. (Legislative Journal pages 227-230.) [LB633 LB66A LB980 LB981 LB982 LB983 LB984 LB985 LB986 LB987 LB988 LB989 LB990 LB991 LB992 LB993 LB994 LB995 LR374]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR356, LR357, LR359, LR360, LR361, and LR363. Mr. Clerk. [LR356 LR357 LR359 LR360 LR361 LR363]

CLERK: I have a few name adds, Mr. President: Senator Hadley to LB944; Senator

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Bloomfield, LB952 and LB944; Senator Coash, LB944; Senator McCoy, LB970.
Reference will meet upon adjournment. (Legislative Journal page 231.) [LB944 LB952
LB970]

And a motion, Mr. President: Senator Flood would move to adjourn the body until
Tuesday morning, January 17, at 10:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All
those opposed say nay. We are adjourned. (Gavel)