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Floor Debate  
March 29, 2010

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fiftieth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Reverend Clint Poppe with the Good Shepherd Lutheran Church here in Lincoln, Nebraska, Senator Fulton's district. Would you all please rise.

PASTOR POPPE: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Reverend Poppe. I now call to order the fiftieth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Any messages, reports, or announcements? (Gavel)

CLERK: Attorney General's Opinion addressed to Senator Christensen (re LB1033). A notice of hearing from the Transportation Committee. That's all that I have. (Legislative Journal pages 1121-1128.) [LB1033]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Speaker Flood, you're recognized for an announcement.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I have a significant schedule change I want to pass along this morning that you're going to want to know about as relates to the rest of our day. We will be passing over LB999 today on

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the agenda. Again, we will be passing over LB999 on today's agenda, that is Senator Campbell's bill to provide a two-year moratorium on new hospital licenses. We've been working over the weekend with the parties involved on this bill. We've been working over the weekend with the parties involved on this bill to see if we can't find a resolution. And we're going to be spending some time into the weekend working on a negotiation that will, hopefully, be productive. It's too early to tell. It's in its early stages right now of being structured. But this bill will most likely not come back later this week. It will come back, if I'm successful, next week. So I want to reiterate we are passing over LB999 on today's agenda. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR407, LR408, and LR410. Also, later this morning the cookies that will be distributed out to you are in recognition of Senator Bob Krist's birthday, compliments of his wife Peggy. Happy Birthday, Senator. Mr. Clerk, we will now proceed to the first legislative confirmation report. [LR407 LR408 LR410]

CLERK: Mr. President, the first confirmation report is from the Health and Human Services Committee involving two appointments to the Foster Care Review Board. (Legislative Journal page 1027.)

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on your first Health and Human Services Committee confirmation report.

SENATOR GAY: Thank you, Mr. President. Health and Human Services Committee held a hearing on March 23 for the appointments of Marcia Anderson and Gabriella McTate to the state Foster Care Review Board. They appeared in person and answered questions from the committee and received unanimous approval from the committee. Marcia Anderson is from Omaha and obtained her bachelor of science degree in business administration from the University of Nebraska at Omaha and a law degree from Creighton Law School. She is a practicing attorney in Omaha and she has served on the local state Foster Care Review Board since 1995. This is a new appointment for a three-year term. Gabriella McTate is a social worker and trainer at the Family Enrichment Center in Omaha where she has worked for over 30 years. Ms. McTate obtained a bachelor's from Ohio State University and her master of social work at Tulane University in New Orleans. Several years ago, she was also named social worker of the year and has served previously on the Child Abuse Prevention Fund Board. Ms. McTate will be a new appointment for a three-year term as well. I'd ask for your confirmation of Marcia Anderson and Gabriella McTate to the state Foster Care Review Board. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the first Health and Human Services Committee confirmation report. Are there members

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requesting to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the adoption of the first confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, pages 1128-1129.) 37 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. Next report, Mr. Clerk.

CLERK: The second report from Health and Human Services involves two appointments to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1028.)

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on your confirmation report.

SENATOR GAY: Thank you, Mr. President. Also on March 23 the committee heard Susan Petersen for a new appointment and the reappointment of Raymond Meester to the Commission for the Deaf and Hard of Hearing. They were supported unanimously by the committee. Susan Petersen is an appointment for a three-year term on the commission. She's employed as a deaf educator in Ralston Middle School in Ralston, Nebraska; graduated from the University of Nebraska - Omaha with a bachelor of science in elementary education and will obtain her master's degree in deaf education from the University of Nebraska this summer. Ms. Petersen serves the deaf community on a number of boards including Nebraska Hands and Voices, Heartland Deaf Abuse Advocacy Services and Nebraska Deaf Awareness Week committee. Raymond Meester is a three-year reappointment to the commission. He currently serves as chairman of the commission. He is a pastor at Heritage Presbyterian Church in Lincoln where he is active in deaf ministry. Reverend Meester obtained his bachelor's at Sterling College in Sterling, Kansas, his master of divinity degree at Princeton Theological Seminary in Princeton, New Jersey, and his doctorate of ministry at McCormick Theological Seminary in Chicago, Illinois. He is a child of deaf parents and is conversant in American Sign Language. I'd ask for your confirmation on the appointment of Susan Petersen and the reappointment of Raymond Meester to the Commission for the Deaf and Hard of Hearing. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the second Health and Human Services Committee confirmation report. Are there members requesting to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the adoption of the second confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1129.) 38 ayes, 0 nays, Mr. President,

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on adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. We will now move to the third confirmation report.

CLERK: Third report offered by Health and Human Services involves the appointment...an appointment to the Child Abuse Prevention Fund Board. (Legislative Journal page 1028.)

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on your third confirmation report.

SENATOR GAY: Thank you, Mr. President. Camille Ohri was also heard on March 23 when the committee met on appointments. And she would like to be on the Child Abuse Prevention Fund Board. Ms. Ohri's appointment was approved unanimously by the committee. Ms. Ohri, if confirmed, will be a new appointment to the board and will serve until July 16, 2012. She is a graduate of the University of Nebraska of Omaha's social work program. She currently works as a prevention educator with the North Central Health Department in O'Neill. She's active in her community, serving as a board of director on the Building Blocks for Community Enrichment, the board of Prevention Pathways in Norfolk, the O'Neill Family Preservation Team, and the O'Neill Drug-Free Team. She was employed from 1984 to 1998 as a child protective services worker and a supervisor with the Nebraska Department of Social Services. I'd ask for your support for the confirmation and appointment of Camille Ohri to the Child Abuse Prevention Fund Board. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the third Health and Human Services Committee confirmation report. Are there members requesting to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the adoption of the third confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1129-1130.) 36 ayes, 0 nays, Mr. President, on adoption of the report.

PRESIDENT SHEEHY: The third confirmation report is adopted. (Doctor of the day and visitors introduced.) Mr. Clerk, we'll move to the first item under General File, LB1002A. [LB1002A]

CLERK: LB1002A, Mr. President, a bill by Senator Louden. (Read title.) [LB1002A]

PRESIDENT SHEEHY: Senator Louden, you're recognized to open on LB1002A. [LB1002A]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body, and good morning. LB1002A is the appropriations bill to fund LB1002. This is a...has been a journey to get where LB1002A is today. In the original LB1002, the bill was to use a turnback of 70 percent of the sales tax on alcohol in the designated areas defined in the bill. When the fiscal note arrived, the Department of Revenue needed up to \$70,000 to operate the collection funds. The Liquor Control Commission would have required \$98,760 to implement the provisions of LB1002, thus making a cost of over \$170,000 of overhead expenses to implement a fund of \$250,000 that was in the original LB1002. After discussion with agency people, I decided to amend LB1002 to use grant fund appropriations to save \$170,000 of implementing expense. Turnback money affects general revenue and I didn't see any reason to acquire a huge administrative expense when it could be addressed for \$170,000 less. LB1002 was then amended to Select File to appropriate from the General Fund \$100,000 and to direct the Commission on Indian Affairs to administer the program with one full-time employee, with an estimate of \$38,900 salary and benefits, plus \$3,000 in operation costs, for a total to the Commission on Indian Affairs of \$41,990 for fiscal year 2010-2011. The whole operation now costs less than the administrative costs were to be in the original bill. The original fiscal note estimated there would be an impact of approximately \$266,000 of sales tax revenue from the sale of alcohol in Whiteclay for fiscal year 2011 and '12. That was just the sales tax revenue in Whiteclay. There's a very large amount of sales tax revenue from alcohol sales in the designated area. [LB1002A LB1002]

PRESIDENT SHEEHY: (Gavel) [LB1002A]

SENATOR LOUDEN: The amended version of LB1002A now asks for \$141,940 to implement the program for 2010-11 from the General Fund. The people in the area certainly contribute to the General Fund in just alcohol sales alone to more than fund LB1002, and this isn't taking into any consideration of the alcohol tax. Senator Karpisek has introduced bills that contribute sizeable amounts of revenue by increasing license fees on various alcohol products and permits. One of those bills is LB861; another one is LB867. There's money generated to cover the appropriations of LB1002A. There have been questions about what does South Dakota do and what is the Oglala Sioux Tribe doing? I would point out that the Oglala Sioux Tribe is building an \$8 million nursing home in Whiteclay, Nebraska. That was announced last week in Pine Ridge, South Dakota, and as I passed out a copy of that press release, at this time it will require 80 to 100 jobs, and this is an enormous boost for Whiteclay and all of northwest Nebraska. How often do we have someone build a facility of this size that offers 80 to 100 jobs and not give up all kinds of tax incentives? I would ask if anyone here today can number any? Since LB1002 has been introduced, it is perhaps a turning point to begin to change the landscape in the area. South Dakota has now passed a law allowing nursing homes to be built on reservations and there have been discussions on other facilities that will be built with low-interest loan funding. The \$100,000 in LB1002

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isn't enough by itself to cure the situation in Whiteclay, but the intent is to use the money for seed money to apply for grants. We have already begun searching for available money and the indications are the Commission on Indian Affairs can be successful with grant applications. LB1002 is really a turning point. Of all the years that I have been involved with the Whiteclay issues, this is the first time that the Legislature has ever been involved. Thanks to Chairman Ashford of the Judiciary Committee and Chairman Karpisek of the General Affairs Committee that had a legislative study completed this summer, we have had more interest and cooperation to address issues and find solutions to improve Whiteclay and the surrounding area. A nursing facility with 80 to 100 jobs could very well be the beginning of a future for that area. As I would point out, we at this present time doesn't have much to do with our bill but the Oglala Sioux Tribe is committed to building this facility in Nebraska. With that would be 80 to 100 jobs. I think there's other towns around here that would probably be turning cartwheels if they had a facility come into their town that was offering 80 to 100 jobs, notwithstanding the amount of service that goes with a facility like that, including maintenance, food, and otherwise. With that, I would ask that you would adopt LB1002A. Thank you, Mr. President. [LB1002A LB1002 LB861 LB867]

PRESIDENT SHEEHY: Thank you, Senator Loudon. You've heard the opening of LB1002A. Mr. Clerk, you have an amendment on your desk. [LB1002A]

CLERK: Senator Utter would move to amend with AM2401. (Legislative Journal page 1130.) [LB1002A]

PRESIDENT SHEEHY: Senator Utter, you're recognized to open on AM2401 to LB1002A. [LB1002A]

SENATOR UTTER: Thank you very much, Mr. President, and good morning, colleagues. Ladies and gentlemen, I have been to Whiteclay. And as a matter of fact, have spent just a little bit of time in Whiteclay. I have seen the...I have seen the terrible things that go on in Whiteclay and I must admit to you that I am...that I wish that they didn't go on and that I wish there was a good, clear solution to the Whiteclay problem. I understand Senator Loudon's passion for this legislation, his passion for at least trying to start to do something in the Whiteclay area. I completely understand. But this is not a new problem, ladies and gentlemen. We have had this, this problem has been there for a long, long time, and now we are attempting to start something that would be a solution to that problem. I understand and appreciate those things and I respect Senator Loudon's viewpoint on this issue, but I think we need to step back, take a deep breath, and reconsider exactly what we're doing here. We have not funded new programs in this Legislature and even in the previous sessions since we have had the fiscal problems that we have here now because of the dollars and, frankly, we're funding...we haven't funded anything this session that is new because of the dollars. And then I would submit to you that this is not just a Nebraska problem. And before we're going to

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find any kind of a solution that is going to solve the Whiteclay problem, I think all parties have to come to the table. They have to be engaged with their inputs and also with their funding. Nebraska cannot afford and should not be the sole party to trying to solve the problem on the...the alcohol problem on the Pine Ridge Reservation alone. It is not our problem alone. I suggest to you that the state of South Dakota needs to be engaged, that the Bureau of Indian Affairs needs to be engaged, that the Sioux Nation needs to be engaged as well as Nebraska, and so far I don't believe that we can say that that is true. And when we try to solve this problem, I think we need to have a specific plan in mind. It needs to be a plan that has achievable goals. It needs to be a plan that will produce a positive outcome and it needs to happen at a time when we can afford to do it. We must keep in mind what is ahead of us. We must prioritize and we have to ask ourselves, as we're looking at this legislation, is this of the highest priority at this stage in time for the funding...for funds to flow to that are Nebraska funds alone? We must learn, ladies and gentlemen, to separate the real needs from the feel-good wants and I hate that term "feel good" but, frankly, I think the \$100,000 that has been added to this bill to provide seed money for some unknown project at this stage of the game is not a good expenditure of state funds, and we have to decide whether or not feel good...this gives you enough satisfaction to go home and say, well, we threw \$100,000 at the Whiteclay problem and that makes me feel better because at least we were trying to do something, and I suggest to you that \$100,000 won't make a dent in the alcohol problem in Whiteclay. And I know that \$100,000 does not sound like a lot of money in the face of the \$3 billion budget that the state has, but I will tell you that to me \$100,000 is a lot of money. And if we spend \$100,000 here and \$100,000 there on a specific...on projects that we don't know what the outcome might be, that the outcome is in question that we'll be able to do any good, and continue to do that, then we are talking about a lot of money. And so I have to ask you to take a look at what we're doing. This amendment strikes the \$100,000 of so-called seed money that would be available. It does not strike the compromise that was reached between Senator Louden and Senator Heidemann with regard to the salary of a grant writer with regard to the \$41,990 that is in there,... [LB1002A]

PRESIDENT SHEEHY: (Gavel) [LB1002A]

SENATOR UTTER: ...but it does strike the additional \$100,000 that was added after the bill was introduced. And so I'm going to ask you this morning to step back and think about where we're going to be a year from now. Are we going to be talking about a \$700 million shortfall or are we going to be talking but something that is closer to \$1 billion? We don't know yet and I think that this is probably a bill that has not come to this body at the right time. So I would ask you to consider that. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Utter. You've heard the opening of AM2401 to LB1002A. Members requesting to speak: Senator Harms, followed by Senator Ashford, Senator Karpisek, Senator Heidemann, Senator Louden, Senator Howard, and

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others. Senator Harms, you're recognized. [LB1002A]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Utter, would you yield for a question, please? [LB1002A]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Harms? [LB1002A]

SENATOR UTTER: Absolutely. [LB1002A]

SENATOR HARMS: Senator Utter, can you identify anywhere else in Nebraska that has a worse environment than Whiteclay? [LB1002A]

SENATOR UTTER: No, I think that's a bad situation, Senator Harms. I don't think there's any question about that. [LB1002A]

SENATOR HARMS: All right. Okay. That's fine. Senator Utter, there has never been a good time in this body to begin to address this issue. Do you realize that? [LB1002A]

SENATOR UTTER: That may be true. [LB1002A]

SENATOR HARMS: Thank you, Senator Utter. My concern is this, colleagues. I realize times are very difficult. This, to me, is not a feel-good bill. This is a tragedy of what's happening in Whiteclay and we just have walked away for decades of this issue. And I realize these are difficult times but I'm here to tell you that problem is going to become worse. In the time that we have with our economy it will become more severe. And what this money does, very simply, is it gives us an opportunity to go out and apply for grants that we have seed money and matching money where we can double and triple the amount of dollars there. This is what this is about. It's about expanding those dollars into an investment in the people that need the help. When you take a good look at what Whiteclay is going to be having in regard to the nursing home that's going in there, that they're going to employ between 80 to 100 people, if we can couple that with federal grants or other opportunities for private grants through foundations, we have a chance to start to make a difference. We have never, in all the time I can remember as a kid growing up in western Nebraska, we have never dealt with the issue. We just keep pushing it aside. It's never important enough. It's never a top priority. It's always South Dakota's problem. But it's our problem, colleagues. And I appreciate what Senator Utter is doing here, but the point is that we need to step to the plate and begin to address the issue. Even if you took the \$100,000 and cut it in half, you still have some seed dollars. We can write grants, but if we don't have any seed money to match it we can't go anywhere. It just doesn't happen. So I would urge you to give serious consideration to Senator Louden's amendment and not support Senator Utter's AM2401. Thank you, Mr. President. [LB1002A]



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PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Ashford, you're recognized. [LB1002A]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And I rise to support Senator Loudon and oppose Senator Utter's amendment. This is my...as I've said over and over, I've been here a long, long time, go back a long time. There is no issue that has transcended my two times here in any greater sense than the Whiteclay issue, and we have arrived at a point in our legislative history where we are going to be doing something about this issue in a meaningful way. Senator Utter is correct that these are difficult times and Senator Harms mentioned that, but I can tell you, from my discussions in the Omaha area talking to the Omaha business community and other groups that have been coming forward in the arts, they have come forward on the issue of the prenatal care, and they are going to come forward on the issue of Whiteclay. But I think what is imperative is that we demonstrate to those potential donors, and they are out there and I have talked to them and they are ready to help us raise money for Whiteclay and the programs that Senator Loudon is putting into effect. But it has always been the case since we started with LB775 and economic development what the business community, at least in my community, want to see--and they are very generous, extremely generous--is a commitment by the state to have matching dollars, and it has worked over and over again. It has worked in the development of the Qwest Center. It has worked in the area of economic development. It has worked in the area of the arts. I hope we can get something done on prenatal care. And it clearly will work in this area. A hundred thousand dollars is a very insignificant amount of money on a almost \$4...\$7 billion budget. So it is...it is, in my view, there is nothing more critical, maybe other than prenatal care, which I think probably is the most important issue that we haven't dealt with yet. But there is nothing more critical other than that, in my view, than what Senator Loudon has brought to us. I respect Senator Utter's comments. It is prudent. [LB1002A]

PRESIDENT SHEEHY: (Gavel) [LB1002A]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. It is prudent to stand up for restraint in spending. There is no question about that. We have, though, made significant spending cuts and spending reductions and it may very well be that we will have to make more spending cuts and spending modifications and reductions in a special session and then going into the next session. But we are...we are a Legislature that has the authority and the responsibility to make priority choices. This is one of the most important priority choices we can make. We cannot be complicit on this issue any longer, and I believe that we are at the threshold of great change, as evidenced by the newspaper article that was handed out this morning about the nursing care facility in the Whiteclay area in Nebraska. We are turning the corner on Whiteclay. We are no longer going to be viewed by the country as a state that doesn't deal with this, as Senator Harms so rightly discusses, this chronic problem. It's time for change. We are here. It is

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in Senator Louden's bill. We must not...we must not retreat. We must move forward on Whiteclay because it reflects who we are as a people. Thank you, Mr. Lieutenant Governor. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Karpisek, you're recognized. [LB1002A]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I rise in support of Senator Louden's A bill and not in support of Senator Utter's amendment. I will say on General File that Senator Louden and Senator Heidemann got together and talked and moved the bill on. That was to take the \$250,000 out and leave the grant writer in. I think, after thinking about it, we need some seed money in there. Now I am a little bit in the middle here that kind of made...a deal may have been made to move on, take the money out, now it's coming back. I have to say, though, I think that this \$100,000 is very vital to have in this bill. I know it's a tough time and I know it puts Senator Heidemann in a very tough spot and the Appropriations Committee. We've talked about it. We've tried to find the money. And I appreciate the spot that he is in on that and the committee. Senator Utter talked about what we don't even know. Senator Utter, I'm sorry you were not involved in the discussion this summer. We have a plan. The plan is moving forward. This is the way it's going, so I'd appreciate not hearing that anymore. However, there are a lot of other things going on in Whiteclay. The Attorney General has found \$10,000 for a cleanup that's going to happen on Earth Day. I appreciate that. It's a step in the right direction. This nursing home that we are reading about this morning is great. We thought it was coming. We've tried to work with the nursing home maybe to even put a treatment center next to it, with it. We don't know. Maybe it's not even a good idea to do that but, again, we're tossing those ideas around. These grants that we're going to try to get absolutely are going to need some seed money. To have a grant writer but no money to try to match grants sets it up for failure. Then it's going to be, well, I told you it wouldn't work. Well, of course, because there's no money there to match. It's pretty tough. There are many problems there and this is not going to fix everything. It's probably not even going to be much of a start, but it is a start, and to not start on something just because we don't have enough money is ridiculous. I don't have enough money to buy a new car today, but if I need a new car I'll go get one and make payments on it. You can't do everything all at once and to back away because you can't do it all at once is not good policy. I'm very frustrated that a couple years ago that we've sent \$400 million back to taxpayers, which I voted for and I supported. Was that the time we should have done something? Maybe. Now is not the right time, I hear. Things are tough, I agree. We need to do something. This is a big issue. There are other big issues and I agree and we can't be everything to everyone. No one probably knows that more than Senator Heidemann. He does a good job trying to get all the parties together and get something where we can, and I appreciate that. This is a hard issue to talk about but we have neglected it for years and years and years, and I have to say we've even pretty much neglected it in the four years that I've

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been here. But now we got it going. In the General Affairs Committee, we've had interim study that didn't go... [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR KARPISEK: ...as well as planned because of the special session last year and budget constraints. My bill that we overrode the Governor on brought in roughly half a million dollars, and I know that that money is already plugged in. I have another bill, the committee priority bill, that will bring in another roughly \$150,000. There's argument where that should go. It should go to Liquor Control Commission, those sort of places, but I think that as the money comes in it doesn't shoot straight across. The balloon gets bigger; the balloon gets smaller. I think we could take some money and move it over there. Again, we need to do something. We're moving in the right direction. I don't want to see our momentum stop and I think it could if we don't get some money into this. Please help us... [LB1002A]

PRESIDENT SHEEHY: Time, Senator. [LB1002A]

SENATOR KARPISEK: ...to pass LB1002A. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Heidemann, you're recognized. [LB1002A]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor and fellow members of the body. It's a tough issue. It can be an emotional issue and one of these things that really makes you think. I will say I am going to support AM2401 from Senator Utter. We had a good discussion on General File on LB1002 and there was people on both sides of the issue, and I got a little involved a little bit later on in the game, in the discussion, and there was somewhat of an agreement, I would have to say, that was made that we would move forward with the grants fund administrator, which is actually I think right at \$41,990, right at \$42,000. And I believe, if I'm not mistaken, that that's actually the only bill that I supported this year or the only thought, conception that was going to cost the state of Nebraska money. So you can't say that there wasn't people, when they voted for that bill, wasn't willing to step forth and be hopefully part of...the beginning of the part of a solution. But that was the agreement, that we was going to move forward with that and see if we couldn't get some grants out there. The argument is you need seed money. This fund was created and set up that it can take not only General Fund money or grants that come in but even private donations, and I think that this person that's going to go out and look for these grants will look for not only those grants but for other funds that can go into this fund. Donations, it might be that could be the matching point for these grants that are going to be had or hopefully got. I've never been to Whiteclay so I can't say that I know that issue, but I will tell you that for 13 years I worked in Alaska and I was around the native population up there and I will say some of the best people

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that I ever worked with up there were natives and we tried to go out of our way to employ them. And they was also on the other side of the spectrum where they caused a lot of trouble when they didn't show up for work or they didn't show up for work in a way that was going to help you. I battled a lot of things in Alaska, whether it was the weather or people or just tough conditions, tough working environment. The only time that I ever really got down was when I was working out at Nome. We most of the time never got to work out of a town but I actually lived in a town of Nome, Alaska, for awhile and I actually asked my boss if I could get out of there because I couldn't take looking at the native population and what they was doing to themselves. And I've come to the conclusion that, and I think about this when I think about Whiteclay, that all the money in the world, because they got money from the government, time and time again they would get their checks and it would enable them to do things that you knew wasn't good for them. And I've come to the conclusion that all the money in the world wasn't going to do them any good because they had no purpose and no reason for living, because...I think we as a country are a little bit guilty that we've taken that away from them. And when I look at this situation in Whiteclay, I think we really need to ask ourselves, what is \$50,000... [LB1002A LB1002]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR HEIDEMANN: ...or what is \$100,000 going to do? And even though it might be the start of something, I do worry about that we're doing this just so that we're doing something. And I probably have a little bit of a problem with that because there are times when maybe we do that as a state. We just do...put some money out there just to say that we can do something, but I don't believe this is the time that we should be doing that. Some people say it's just \$100,000, what's \$100,000 in our budget? Maybe to put it in perspective, I will let you know that on Friday of this week we're going to save \$51,000 in this state by furloughing everybody in this building. Everybody that works for us in our offices, everybody that works in the Clerk's Office, the Fiscal Office, Legislative Research and everybody else will not get paid on Friday. We're going to save \$51,000. [LB1002A]

PRESIDENT SHEEHY: Time, Senator. [LB1002A]

SENATOR HEIDEMANN: Thank you. [LB1002A]

PRESIDENT SHEEHY: Mr. Clerk, you have items for the record. [LB1002A]

CLERK: I do, Mr. President, thank you. Senator Carlson, an amendment to LB999 to be printed, Senator Pankonin to LB950. A series of study resolutions: Senator Mello, LR468 and LR469; Senator Avery, LR470, LR471, LR472; Senator Carlson, LR473, LR474; Senator Dubas, LR475; Senator Janssen offers LR476, that will be laid over; and Retirement Systems, LR477, an interim study; LR478, Senator Christensen, interim

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study. Thank you, Mr. President. (Legislative Journal pages 1130-1137.) [LB999 LB950 LR468 LR469 LR470 LR471 LR472 LR473 LR474 LR475 LR476 LR477 LR478]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Resuming floor discussion on AM2401 to LB1002A, members requesting to speak are Senator Louden, followed by Senator Howard, Senator Hadley, Senator McCoy, Senator Price, Senator Mello, and others. Senator Louden, you're recognized. [LB1002A]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I rise in opposition to Senator Utter's amendment, AM2401, and for various reasons. First of all, we're talking about money for grant funding. We're not talking about \$100,000. And this is probably the time to do something like this, when you can take that money and parlay it into some grant funding, into a lot more money. Sure, times are tight, but we can probably get more out of our \$100,000 now than we could in years when times were better because they would expect the state to come forwards probably. But that's what this is all about. This is all about leveraging other monies in order to be able to carry on some programs up there. And as was mentioned, there aren't any plans that was spoken, and I think Senator Karpisek described it quite well, there are plans going on up there. Some of those are out there on the horizon a ways and we don't like to discuss them, but there are indications where we've had talk of building a detox center and it would actually be built without costing the tribe or the state of Nebraska anything. There's ways there and there have been some indications they could be built with the low-interest loans as long as we find ways to operate the thing. So there are plans out there on what can be done to...with the health issues. Also, for the economic development, Whiteclay could be developed with a certain amount of retail sales there. Over the years, there's some of you that are still kids around here but it was not till 1953 that they sold liquor to Native Americans. Before that, they couldn't purchase liquor. So a lot of this with the liquor situation on Whiteclay started after 1953. And back in the 1970s through the late sixties and seventies, the state of Nebraska had a state sheriff stationed at Whiteclay and that kept everything in pretty good shape around there and toned down. They didn't have the problem with the transients laying around like they do now because the state sheriff was there. And somewhere along the line the state decided not to fund the state sheriff anymore in Whiteclay. So that's in, you might say, the last 20 years or 25 years when we've come to where we are today in Whiteclay. You want to remember, Whiteclay isn't a town of itself. It's part of Pine Ridge, South Dakota. It's all the same town with a state line through the middle of it, and most of the retail stores are in Whiteclay and that's...that will probably continue to be so because in the reservation side the tribe owns the land and business people cannot own their property if they go into Pine Ridge. So that's part of the reason we have Whiteclay. I would point out that the trade territory that comes out of the Pine Ridge Reservation into Nebraska, Dawes County up there, for instance, for the 2008 sales tax figures has...\$8.7 million of sales tax comes out of Dawes County. Now that's more than you have with Holdrege in Phelps County and yet some of these other towns have...and counties have a larger

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population. I think Sheridan County comes up with \$4 point...a little over \$4 million. Aurora in Hamilton County down there sitting on the Interstate have about \$4.7 million. So there is a huge trade area up there that we need to take care of and we need to do something about Whiteclay. It could be brought around to take care of trading area. This is all...and Senator Utter is a banker and a businessman, and he knows that you have to take care of business... [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR LOUDEN: ...where it's at. Also this \$100,000 is like, what would you say, compound interest and bankers should certainly understand compound interest because that's what we do with it. We'll take that money, use part of it for various different grants and probably be able to parlay it into a lot more than what we have now, being as the economy is tight. With that, I do not support AM2401. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Howard, you're recognized. [LB1002A]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I rise in support of Senator Louden, of LB1002, and in opposition to AM2401. I appreciate the comments that have been made by Senator Harms, Senator Ashford, Senator Karpisek, and while I have deep respect for Senator Utter, I would suggest he's not yet fully developed his social work skills. I think...I think we have an opportunity here. We can be the legislative body that addresses this problem. This is a deep wound in the state of Nebraska. People think that Omaha has a slum area. People think that there's parts of Omaha where you wouldn't want to go into because it's just too dangerous. And I can tell you I've spent time down there. I've spent time in the projects and I've been in some tight situations when we as social workers learned to go into the projects early in the morning because you don't go late in the afternoon. But Whiteclay, Whiteclay is a problem that has gone on in this state. It's unconscionable. I don't understand why we back away from that time and time and time again. And, sure, I've heard the argument, well, it's too big of a problem. You know, when I left Health and Human Services, I had 60 kids on my adoption caseload. You know, money was always short. Resources were really not there most of the time. And if I would have said, that's just too much, too many kids, what can we do, we'll just take care of them in foster care, but that's not the answer. You start to work on the problem and you start to make things better one step at a time. You get kids with families that want them, that love them and they're going to see them through their childhood, their adolescence, and through their lives, and this is the same kind of situation. We have a responsibility to this area, to the people that live in this area. And I'll say that when a population or a person doesn't have any hope for themselves or for their families, what they do is they look for the thing that will give them comfort and in this case it's the bottle. And that's sad, but true. And as long as they

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have no reason to think things will improve, it's going to be the bottle. And then we say that's too big of a problem for us to help them out with. That's just turning your back on something you can do, and we can do it this legislative session. And I thank Senator Louden for bringing us this bill and giving us this opportunity. Thank you, Mr. President. [LB1002A LB1002]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Hadley, you're recognized. [LB1002A]

SENATOR HADLEY: Mr. President, members of the body, I appreciate, Senator Louden's interest in this. I think it's a significant problem. Would Senator Louden yield to... [LB1002A]

PRESIDENT SHEEHY: Senator Louden, would you yield to Senator Hadley? [LB1002A]

SENATOR LOUDEN: Yes, I would. [LB1002A]

SENATOR HADLEY: Senator Louden, what is the primary cause for the problems in Whiteclay? [LB1002A]

SENATOR LOUDEN: Well, probably it's the fact that there's alcohol sold on the Nebraska side and Whiteclay is a suburb of Pine Ridge where there aren't any alcohol sold, so consequently anyone that's an alcoholic walks over to Whiteclay in order to purchase beer. [LB1002A]

SENATOR HADLEY: Of all the reservations in South Dakota, how many of them are dry? [LB1002A]

SENATOR LOUDEN: That I don't know. I know that Rosebud sells alcohol on that reservation. [LB1002A]

SENATOR HADLEY: Seven out of the eight reservations in South Dakota are wet. Pine Ridge is the only one that's dry. The reason we have Whiteclay is that they cannot buy alcohol on the reservation, yet the other seven reservations in South Dakota, alcohol could be purchased. On this money for grants, how much money has the state of South Dakota been willing to put into it, the tribe been putting into this fund that we're talking about, and the Bureau of Indian Affairs? [LB1002A]

SENATOR LOUDEN: The tribe hasn't been putting any money into this fund, what we're talking about. I've been mixed up in these sessions with Whiteclay and the tribe I think ever since I've been down here for some seven or eight years, whatever it has, and the discussion always got around that they thought they were...they should get some of the sales tax money on alcohol that was sold in Whiteclay, and that was usually the end of

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the discussion. I've been up there with Governor Johanns and various ones. So that's where it is. Now what the tribe has done, they went ahead, they're building this nursing home in Whiteclay. [LB1002A]

SENATOR HADLEY: Okay. Now, Senator Louden, how about the state of South Dakota? How much are they willing to put into this fund? [LB1002A]

SENATOR LOUDEN: That I don't know. At the present time, we haven't... [LB1002A]

SENATOR HADLEY: No, right now how much are they...have they committed anything? [LB1002A]

SENATOR LOUDEN: I do not know. I haven't talked to anyone from South Dakota. [LB1002A]

SENATOR HADLEY: How about the Bureau of Indian Affairs? Have they committed anything? [LB1002A]

SENATOR LOUDEN: The who? [LB1002A]

SENATOR HADLEY: The Bureau of Indian Affairs. [LB1002A]

SENATOR LOUDEN: This...the Indian Health Service will be the one that will be funding this healthcare facility up there. [LB1002A]

SENATOR HADLEY: But specifically the fund we're setting up, the \$100,000, the fund with the \$100,000, it's just the state of Nebraska right now that's funding this. Is that correct? [LB1002A]

SENATOR LOUDEN: Correct, because we're the ones that want to have control of it and we're going to spend the money in Nebraska. [LB1002A]

SENATOR HADLEY: Okay. Thank you. You know, you know, it's hard to stand up here but here are some facts, folks. This is an article from Montana: Banning alcohol on the Indian reservations seem to have little effect. With the proximity of liquor establishments right off the reservation, it doesn't seem to make much of a difference except the revenue generated remains off the reservation. This is in Montana they're talking about. Here's another one. This is a Rapid City newspaper article. It says alcohol has been banned on the Pine Ridge since in the seventies; regardless, Pine Ridge has one of the nation's highest alcoholism-related mortality rates. What needs to be done, and this is interesting, is tribal leaders as well as activists should shift the focus from Whiteclay and look within the reservation borders to develop their solution. Prohibition doesn't work but education, treatment, and community involvement can. Another article, this is also from



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the Rapid City Journal. In a nutshell, the issue comes down to whether the tribe should stand by its alcohol ban as a matter of principle or take a practical approach and benefit from the money residents now spend buying alcohol off the reservation. My only point is that, again, it's Nebraska that is funding this. We've got four other or three other areas that could: the tribe,... [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR HADLEY: ...Indian Health, the state of South Dakota. Somehow they can't come up with any money. It's ours. There are eight Indian reservations on...in South Dakota, seven of them sell alcohol, one doesn't. Where's the problem across from? It's in Nebraska and it's right across the border from the reservation that's dry. Why in the world wouldn't you set up, change, and use the taxes that you could get from that to try and help the alcoholism problem? I don't...these grants we're getting, if they don't deal with alcoholism we're not going to...we're not trying to solve the problem, we're not trying to solve the problem, because that's the underlying problem that is causing the Whiteclay problem. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator McCoy, you're recognized. [LB1002A]

SENATOR McCOY: Thank you, Mr. President, members of the body. I support AM2401 and yield the remainder of my time to Senator Campbell. [LB1002A]

PRESIDENT SHEEHY: Senator Campbell, you're yielded 4 minutes 50 seconds. [LB1002A]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. And thank you, Senator McCoy. I want to make a couple of comments with regard to Senator Utter's amendment. First of all, I was very pleased when in the original bill we put forward the money and the Appropriations Chair agreed that there should be a grant writer in the office of Ms. Gaiashkibos. That is critical. I think that she can truly bring a direction to this problem and focus and begin down the path. My concern, and I did articulate this, is that I do want to see that grant writer in place, I do want to see the grant writer have the ability to put out grants and for that office to say, given the grants we're doing, this is the direction. I talked with Senator Heidemann, and also I want to give great credit to Senator Gay for this idea, but that doesn't mean that come in January that once we've got the plan and we've got some grants in place that we can't come back and say, ah, now we're ready to match those. We might be able to use any number of funds. Senator Gay talked about maybe even the health funds we may be able to utilize for this. There's not a doubt in the body that we need to do something on Whiteclay. I have to say, in the grants that I have worked on over the years, if I got a matching grant, usually I would be given a period of time to match that grant. I just had

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a major grant from a foundation in Nebraska who said, we're actually going to give you a year and a half to match that grant. So I guess I believe that it's not as critical that we put the \$100,000 aside today. What is so critical is that we support the grant writer and hopefully come back by the 1st of January and say this is our game plan, this is the grants we have in place, this is the money we need to match it, this is what we're going to do. And I think that there are enough people committed in this body that they would find a way to do that. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Thank you, Senator McCoy. Senator Price, you're recognized. [LB1002A]

SENATOR PRICE: Thank you, Mr. President and members of the body. Good morning. Welcome back. I stand here in support of AM2401 and I'll tell you a couple reasons why. And I'll be listening on the mike, hopefully someone will answer these questions for me. Are we sending and creating a fund to help people in Council Bluffs? They're right across the bridge. They have a gambling problem. Their state is having a problem with some of their funds, so I'd like to know, are we sending tax dollars out of the state or spending tax dollars here to help in Council Bluffs? The next question I have, would Senator Campbell yield to a question for me, please? [LB1002A]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Price? [LB1002A]

SENATOR CAMPBELL: Yes, most certainly. [LB1002A]

SENATOR PRICE: Thank you very much. Senator Campbell, I'm not going to try to ambush you. I'm sorry I didn't talk to you off the mike before this, but you have expertise in this that may be helpful to me. When we talk about matching funds and grants, what is it...what do you think the rate of match that typically happens here? Are we talking a dollar for dollar, two for one, three for one? [LB1002A]

SENATOR CAMPBELL: Mr. President and Senator Price, I think at this point it very much depends on the grant. It can be fifty-fifty. It can say, well, you need to raise this. In some case it will say if this is...let's say you need to raise \$2 million and they're willing to give \$100,000 to that project, they may say, I want you to raise all the money till you get to that last piece and then that piece will come in a matching grant and they'll put the last \$100,000 in. So... [LB1002A]

SENATOR PRICE: Well, thank you very much, Senator Campbell. [LB1002A]

SENATOR CAMPBELL: ...terms are very different. [LB1002A]

SENATOR PRICE: Great, because that really does help paint the picture for us. Ladies

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and gentlemen, we already heard that it's...we said it was a pittance that we're sending; \$100,000 doesn't really matter. On some people's accounting techniques \$100,000 is nothing, to others it means a lot. But if we're going to go out and write a grant and want to write multiple grants that's going to be...maybe not the panacea for this problem but we're going to recoup many, many dollars, my question is, if you're paying a grant writer and you pay that person \$40,000, you have \$60,000 left to pay or to use for grant writing, how many grants will we get on \$60,000? Would Senator Louden yield to a question? [LB1002A]

PRESIDENT SHEEHY: Senator Louden, would you yield to Senator Price? Senator Louden, would you yield to Senator Price? [LB1002A]

SENATOR LOUDEN: Yes, I would. [LB1002A]

SENATOR PRICE: Thank you very much. Senator Louden, have you already gone out and done some leg work and found what grants are available and what the rate of matching requirement is for those funds? [LB1002A]

SENATOR LOUDEN: No, I haven't done that. I've been working on this, but there's other people that are doing it, and my observation has been and what they've told me is they usually have to have some money in order to apply for grants. [LB1002A]

SENATOR PRICE: Thank you very much. So we say some money and I know this is a problem, I understand this is a problem but I think we've heard articulated many times, again and again and again, where there are multiple entities involved here, we're the ones who have been taking the lead. We've been, to coin a phrase that we've used before, we're leaning forward in the foxhole here trying to take on an issue, but yet we're not really being met with very much help by these other entities, at least from what we can see here. So now you've been working on this for a couple years there, Senator Louden, and I'll just address the body. We've been working on it for over a year. We don't know what type of grants are available. We don't know the dollar amount that will be matched. [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR PRICE: And I what Senator...thank you...I believe what Senator Utter has done is a very prudent thing. Look at the delta. That's another thing. Ladies and gentlemen, look at the delta of what Senator Louden has asked for and what Senator Utter is proposing, and look at the difference in that, and is that going to really be the panacea for what we're going about here today? Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Price. (Visitors introduced.) Resuming floor discussion of AM2401 to LB1002A, members requesting to speak: Senator Mello,

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followed by Senator Dubas, Senator Christensen, Senator Utter, Senator Council, Senator Wallman, and others. Senator Mello, you're recognized. [LB1002A]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise at this point in time in opposition to AM2401 with the hopes that there will be some negotiations that are being...are currently being discussed with Senator Heidemann and Senator Loudon, Senator Karpisek, Senator Utter, and the reason being is this. I think there is a general philosophical belief you have or you don't in regards to the state of Nebraska's involvement and/or the profit in revenues the state of Nebraska makes off the miseries involving the Pine Ridge Reservation. That's a general belief whether we have it or not. I completely understand where Senator Hadley's point of questions were going. What are other entities doing? What is the state of South Dakota doing? What is the Bureau of Indian Affairs doing? But the point is this. The state of Nebraska is the entity that is making General Fund dollars off the sales tax of alcohol at Whiteclay. So the fact is we do have an interest, perhaps above and beyond what these other organizations have, because we're reaping the profits. We are making General Fund tax dollars that help balance the budget, that all of us are concerned about right now, and that's what Senator Loudon has at least tried to address with LB1002. Now my point is this. I firmly think that the funding of LB1002 can be done in a different way. Senator Krist had a bill that would have transferred \$350,000 into Health Care Cash Fund to deal with cancer research for veterans, a very noble, worthwhile issue that I would have supported. He is choosing a different path as his priority bill right now; thus, we have \$350,000 from the Health Care Cash Fund that now is available to deal with immediate crisis, healthcare-related issues. I cannot think of a bigger issue regarding alcoholism, tobacco use, and healthcare issues than the people who are suffering at the hands of alcohol distributors at Whiteclay. I think it's something we can do as a state and a very small amount of money to see whether or not this is the appropriate path we should travel. Senator Utter makes a very valid point. This might not be successful. I completely give him that point. There's a lot of programs and a lot of legislation that we have passed over the years that have turned out to not be successful, but we learn from it. And the issue of Whiteclay has been around for years but yet we have not seen a legislative bill travel this far in the process that would appropriate funding to try to rectify the serious social ills that plague that part of our state. It's my hope, it's my hope that Senator Heidemann, Senator Loudon, Senator Karpisek and others can find a compromise, because I generally don't support taking General Fund dollars to support LB1002, but I know that there is Health Care Cash Fund dollars that were reserved for another bill that could be used for LB1002, and it's a matter of whether or not we can find compromise. Senator Campbell's point, I also work in resource development and grant writing, and Senator Campbell's point is correct. There are numerous grants that this new grant writer could apply for that might not need up-front capital or up-front seed money to get the actual grant. But there are a lot more grant applications, and I've seen them firsthand, that do require you have some kind of matching funds up front to even be considered for a grant application. I don't want to see us fund a grant writer's position

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and then leave that person with no resources to apply for any grants. And at this point in time, there's an awful lot of grants that do that. [LB1002A LB1002]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR MELLO: Colleagues, we can find a compromise on this piece of legislation. It's going to be a matter of whether or not we have enough time to do it today or whether or not people who want to see a solution to a problem that has plagued our state for decades now to try to find a way to utilize Health Care Cash Fund money to fund the fiscal note and the A bill associated with LB1002. I encourage my colleagues to continue to dialogue, continue the conversation. I would encourage you at this point to vote against AM2401 with the hopes that we can find a solution come Select File on LB1002A. Thank you, Mr. President. [LB1002A LB1002]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Dubas, you're recognized. [LB1002A]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. Most of what...the points that Senator Mello just made were things that I was going to say also, so I'll try not to repeat. But we do reap a considerable economic benefits off of the alcohol sales at Whiteclay, so we're spending a lot of time this morning talking about the money that's going out and very little time talking about the money that's coming in that's helping us meet many of our General Fund obligations. So that has to be a part of the equation. That has to be a part of the dialogue. And my next question is, if not now, when? We have talked about Whiteclay for forever. We have talked about the problems. We have said there's problems there. We have said we need to do things. And we've talked and we've talked and we've talked, and then we've talked some more. And then when we were done talking, we talked some more about it. That's all we've done is give lip service to this. And sometimes when a problem is so huge it's kind of hard to know where do you take that first bite or how do you get into it, and I see this bill, LB1002, as that first attempt to try to come up with some solutions. As Senator Hadley pointed out, there's multiple bureaucracies that are involved in this, both in our state, in South Dakota, at the federal level. Everybody needs to be at the table. Everybody needs to be involved. But we need to be taking a step as a state and look at where our particular responsibilities lie, where we can address particular things. If we're just sitting around, waiting for South Dakota to do something or the BIA or the fed, whatever, if we're waiting for them, we're going to be right where we're at today. We're still going to be waiting. It's time for us to step up to the plate and start to look at where Nebraska fits in this mix. Yes, we need a plan. Yes, we need to work things out. But you can't do that until you start. I was very appreciative of the comments that Senator Mello made about there is an opportunity for compromise here. There is an opportunity to find some dollars that wouldn't necessarily impact our General Fund obligations. And I hope that those who are interested in this subject on both sides of the issue will be willing to come

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to the table and see what is it that we need to do. What? How can we be creative in getting the funding into place? And then the Legislature shouldn't just step back and let it go. We need to continue to be very involved and very active with this particular solution and making sure that it's going the direction we hope that it goes. You don't just turn it over and then let it go. We need to continue to stay involved with it. I think the Judiciary Committee and the General Affairs Committee worked very well together last year during the interim. I would hope to see that partnership continue so that we can continue to look at what are the issues that are going on and what are the directions we need to take. So it's time for us not to just talk the talk. It's time for us to walk the walk and get involved and take some steps as far as the state of Nebraska goes, and then hopefully maybe these other entities will see what we've done and they'll step up and see what they need to do. This is a very complex problem. The alcoholism is just a symptom of a much, much deeper issue. It's hard to know, as I said, where to start but we have to start somewhere and I see this bill as the place to start. And I hope that we can advance it and work on a compromise and find some ways to have some action rather than talk. Thank you, Mr. President. [LB1002A LB1002]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Resuming floor discussion of AM2401 to LB1002A, members requesting to speak: Senator Christensen, followed by Senator Utter, Senator Council, Senator Wallman, Senator Haar, Senator Dierks, and others. Senator Christensen, you're recognized. [LB1002A]

SENATOR CHRISTENSEN: Thank you, Mr. President. Colleagues, I'd just sit here and ask you, are we going the right direction? The reason I say that is throwing money at something very seldom solves anything. And I don't know the exact plan here but I'm concerned if it doesn't relate to jobs people don't change. I know it's kind of a Catch-22. If you don't get the people to change, people don't want to provide the...a business don't want to provide the job opportunities. It's...we're in a very difficult situation here. If I believed this had jobs tied to it and people are going to make a change in their lives, I'd be all over it. I'm not sure until we get the states working together and we get the people working together here, that we can line up not only helping them solve their alcohol problems but helping them have jobs also, that we're not going to solve this issue. I realize this is kind of like the chicken and the egg, which come first? Which do you want to do first? Get the jobs? Do you want to try and do some education and cleanup and help the people try and change their lives? Very difficult issue. And I don't know, I'll be honest, I don't know how you go about this because I really don't believe there will be any change in the people if they don't have something to make their lives fulfilling, give it purpose, and give them a new outlook on life. And if you don't have a job and a purpose, you have no other reason to change. You're just going to lay there and drink, as people describe what it is up there. And that's sad. I wished I knew what to do. I'm not sure we're on the right track. I hate to lay out \$100,000 here and not know what direction we're going. Is there plans for it? Would Senator Louden yield to a question, please? [LB1002A]

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PRESIDENT SHEEHY: Senator Louden, would you yield to Senator Christensen?  
[LB1002A]

SENATOR LOUDEN: Yes, I would. [LB1002A]

SENATOR CHRISTENSEN: Senator Louden, can you tell me, is this just going to be educational and informational this money is used for, or is there going to be jobs, training, things this way with it? [LB1002A]

SENATOR LOUDEN: The bill designates it for healthcare, law enforcement, and economic development, any one of those three in that designated area, which is an area from actually Gordon to Chadron. [LB1002A]

SENATOR CHRISTENSEN: And can you answer, who's going to make the actual decision if we go after the jobs or the education or the... [LB1002A]

SENATOR LOUDEN: The Commission on Indian Affairs is the one that has control of the money. So when people apply for those grants, and if you notice in the bill you got to be a political subdivision to apply for those grants so it isn't just anybody can run up there and get a grant and go do something. So it's got to either come from a county, city, or some political subdivision. [LB1002A]

SENATOR CHRISTENSEN: Because I guess I'm concerned that if we don't put the two together, the training and the cleanup with job opportunities, it won't work. Do you know that the two will be working together or it could be for any one of the three separately?  
[LB1002A]

SENATOR LOUDEN: Well, there's several different organizations going up there. I think it's the ABOUT group that's doing this Earth Day at the present time and they're...they've received some grant money, I think from the Attorney General's Office. I think Senator Coash worked on that. I've pointed out to them that there is some deconstruction money available if the city or county owns a property that needs to be tore down. [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR LOUDEN: And so it could be any one of them. It isn't...this money here is more or less under the Commission on Indian Affairs and they will elect to do it, whether it would probably be law enforcement and healthcare would probably be some of their priorities. At the present time, there isn't much for law enforcement on Whiteclay or in Whiteclay. [LB1002A]

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SENATOR CHRISTENSEN: Okay. Thank you, Senator. Thank you, Mr. President.  
[LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Utter, you're recognized. Senator Utter. [LB1002A]

SENATOR UTTER: Thank you, Mr. President. And let me just take a minute or two and tell you how important that I think it is that whatever solution is drawn up to work on this problem that all of the parties need to be involved. They need to be involved both with their input and with their dollars. And if we're talking about seed funds for grants and seed money, we need to be sure that South Dakota, the reservation, the tribe and the Bureau of Indian Affairs, every party that's got a stake in this thing needs to participate I think. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Council, you're recognized.  
[LB1002A]

SENATOR COUNCIL: Pardon me, and thank you, Mr. President. I rise in support of LB1002A and I strongly support Senator Loudon in his efforts to address a condition that has been allowed to exist for far too long in this state. I mean it has even gone beyond a situation of benign neglect. There are certain who believe that it's deliberate neglect of the conditions that exist in Whiteclay and it is time for this state to step forward, and even if that means we step forward alone, it's our time to step forward and begin to address these efforts. I know that there have been questions raised about exactly what kind of grants are going to be sought, what...exactly what kind of matching terms and conditions will apply, but I'm comfortable with the fact that the parties have been working together for a number of months, have identified potential opportunities. I'm most encouraged by the potential economic development opportunity that I understood has been discussed as one of the outcomes of the use of these funds and that is to develop a recycling business, potentially a greenhouse business, and that goes to the concerns, the legitimate concerns, that Senator Christensen and others have raised with regard to providing hope. One of the ways that you provide hope, you instill hope in people, is to let them know that you consider them worthy enough of an investment in their future, and that's what this represents, and I must add a small investment in restoring hope to the residents of the reservation near Whiteclay. This state has benefited significantly from the addition to our General Fund revenues from the sales tax dollars generated on the beer sales in Whiteclay. This body has said we're unwilling to return a portion of those sales tax, we're unwilling to take any other steps in that regard. And Senator Utter and Senator Hadley, you know, raised interesting points about prohibition on the reservation but, you know, I'm not here to second-guess the leadership of the reservation as to what they believe is in the best interest of their community and they believe what's in the best interest in their community is that the sale of alcohol and the use of alcohol on the reservation be prohibited. What Senator



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Louden, through this effort, is attempting to do is provide for services that will minimize and hopefully ultimately eliminate the heavy reliance on alcohol in the Whiteclay area. So I would urge my colleagues to oppose AM2401. Someone mentioned considering this as feel-good legislation. Well, allow me to remind you, we've passed some other feel-good legislation this session and some of them will not have any impact on altering any condition that exists. This bill will have the potential of dramatically... [LB1002A]

PRESIDENT SHEEHY: One minute. [LB1002A]

SENATOR COUNCIL: ...impacting the Whiteclay situation. Senator Price, some grant organizations just want to see that you have a stake, some financial stake, and they won't limit the amount of grant money they give you when they see that you have a stake. I serve on boards and commissions where the only thing they want to see is whether the board members have made contributions, and if they show that they have a 100 percent contribution rate from the board members, they grant significant funds. So this is a demonstration on the part of the state of Nebraska that we do have a stake in correcting the situation in Whiteclay and perhaps it will provide the impetus for the others who have been mentioned to step forward and fulfill their obligation to improve the quality of life for the residents of the Pine Ridge Reservation. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Wallman, you're recognized. [LB1002A]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. There's a saying in the military, when the going gets tough, the tough get going. We've let this go far too long and we can see here today in the body nobody wants to tackle this. We can hear it now--don't tackle it; leave it alone; leave them take care of "theirself." If you dig a hole deep enough you may not have a ladder long enough to get out, and that's in psychology 101. If you go down into a hole you need a ladder to get out, but you need somebody to help you get out. And if this is just a little bit of help we can give them, I think it's well worth doing. And I would yield the rest of my time to Senator Utter. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Utter, you're yielded 4 minutes 5 seconds. Senator Utter. Senator Utter, you're yielded 4 minutes. [LB1002A]

SENATOR UTTER: Thank you very much, Mr. President, and good morning, colleagues. I won't need the entire 4 minutes. In the spirit of compromise, and we've worked on this thing on the side some and there's...I know there's another amendment that follows mine right up. I request permission to withdraw my amendment. [LB1002A]

PRESIDENT SHEEHY: AM2401 is withdrawn. Mr. Clerk, you have an amendment on your desk. [LB1002A]

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CLERK: Senator Heidemann would move to amend with AM2414. (Legislative Journal page 1137.) [LB1002A]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM2414. [LB1002A]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor and fellow members of the body. There's been a lot of work both on the mike and off the mike, and I've been involved in a little bit of both of that. I will say that we have been in discussion with Senator Louden and Senator Utter. We have reached a little bit of a resolution and we have agreed--and I will yield the remainder of my time, after I get done, to Senator Louden--we've agreed that we're going to give it a chance to work and we've talked about that it takes about a 10 percent match for these if you do get a grant. We've agreed that we're going to take \$25,000 of General Funds and put it into this fund so that they can go out there and at least get started. I think this is important. I actually support this AM2414 and I will support LB1002 after that, A and the bill, if this gets adopted. This will give them an opportunity to go out between July, when they get their grants administrator, and next January we can come back as an Appropriations Committee and as a body to see how they're doing and go from there. If we see this is successful and we think this is a priority, this body can actually give them more money if we think this is the right direction. So with that, I urge you to support AM2414, the compromise to LB1002, and I'll yield the remainder of my time to Senator Louden. [LB1002A LB1002]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Louden, you're yielded 8 minutes 25 seconds. [LB1002A]

SENATOR LOUDEN: Thank you, Mr. President and members, and thank you, Senator Heidemann. As Senator Heidemann has mentioned, we had some discussion and some compromise off the mike here, and I will support AM2414. This will give us a chance at least to get our program started, get our grant writers way in the swing of how the operation is going to go and find ways for improving the grants. The money...the whole system won't come into effect until 90 days after the session ends, which is somewhere around in July, so they will have about five or six months there before the next session starts to see what they can do with the \$25,000 that we've agreed to. I think this is some way we can keep this legislation moving this way. We can go ahead and get our programs in gear, get it set up and see how well it's working. And I'm sure with the people we have involved so far with it, we will be...continue to show some progress. Thank you, Mr. President. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening of AM2414 to LB1002A. Members requesting to speak: Senator Dierks, followed by

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Senator Ashford, Senator Heidemann, Senator Krist, and Senator Karpisek. Senator Dierks, you're recognized. [LB1002A]

SENATOR DIERKS: Thank you, Mr. President, and good morning, colleagues. I think that when we talk about this issue, we seem to zero in on the money thing, and I think we've done that long enough. Everything we touch anymore or anything we deal with has to do with money. Today, I think we should consider a little bit of philosophy in what's right and what's wrong. So I'm going to be with Senator Louden today on this issue. And thank you for your time. [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Ashford, you're recognized. [LB1002A]

SENATOR ASHFORD: Just a second. Yes, Senator. (Inaudible) call the question. I could to Senator Krist, if he'd like it. No? Then I'm done. (Laughter) [LB1002A]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Are there additional members requesting to speak on AM2414? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM2414 to LB1002A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1002A]

CLERK: 39 ayes, 1 nay on the adoption of the amendment. [LB1002A]

PRESIDENT SHEEHY: AM2414 is adopted. We will now return to floor discussion on LB1002A. Seeing no requests to speak, Senator Louden, you're recognized to close. Senator Louden waives closing. The question before the body is on the advancement of LB1002A. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1002A]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB1002A. [LB1002A]

PRESIDENT SHEEHY: LB1002A advances. Mr. Clerk, we will now move to the first item under Select File, LB918A. [LB1002A LB918A]

CLERK: Senator Nordquist, I have not amendments to LB918A. [LB918A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB918A]

SENATOR NORDQUIST: Mr. President, I move LB918A to E&R for engrossing. [LB918A]

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

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Opposed, nay. LB918A advances. Mr. Clerk, we will now proceed under Final Reading, LB817. [LB918A LB817]

CLERK: Mr. President, with respect to LB817 on Final Reading, Senator Rogert would move to return the bill for a specific amendment, AM2314. (Legislative Journal page 1065.) [LB817]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on your motion to return LB817 to Select File. [LB817]

SENATOR ROGERT: Thank you, Mr. President. Good morning, members. Last week, I put an amendment on this bill that we realized shortly thereafter we had a drafting error. And basically what we're doing is just clearing up some technical portions of the criminal...National Instant Criminal Background Check System or the NICS system. And so simply that's all this bill is doing is putting it in the right place and doing what we originally wanted to do. And so I ask for your support to move it back to Select File to add it on. I will comment also that Senator Christensen has a proposed amendment to follow, so stay tuned. Thank you, Mr. President. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening on the motion to return LB817 to Select File. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB817]

CLERK: 38 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB817]

PRESIDENT SHEEHY: The motion to return is adopted. We'll now move to the amendment. Mr. Clerk. [LB817]

CLERK: AM2314. [LB817]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM2314. [LB817]

SENATOR ROGERT: Thank you, Mr. President. Once again, AM2314 is a technical change regarding the National Incident Criminal Background Check System. We had a drafting error last week and we're just putting it where we need it to be. I appreciate your green vote on this amendment. Thank you. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening of AM2314 to LB817. Are there members requesting to speak? Seeing none, Senator Rogert, you're recognized to close. Senator Rogert waives closing. The question before the body is on the adoption of AM2314 to LB817. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB817]

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CLERK: 42 ayes, 0 nays, Mr. President, on the motion to adopt the Select File amendment. [LB817]

PRESIDENT SHEEHY: AM2314 is adopted. Next amendment, Mr. Clerk. Senator Nordquist, you're recognized for a motion. [LB817]

SENATOR NORDQUIST: Mr. President, I move LB817 to E&R for engrossing. [LB817]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB817 advances. [LB817]

CLERK: Mr. President, Senator Christensen would move to return LB817 to Select File for a specific amendment, AM2415. (Legislative Journal page 1138.) [LB817]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on your motion to return LB817. [LB817]

SENATOR CHRISTENSEN: Thank you, Mr. President. I ask you to move LB817 back to Select for the amendment AM2388...wait a minute, sorry, AM2415. I had to clarify between the...this second amendment just adds a little different language on the last part in here that says, upon registration or issuance, the State Patrol has got to notify because of the potential cost of notifying everybody now and then at future changes. So that's why the previous amendment was removed if you'd read it, and we've got this one here. But what this does is just going to make clear what I think the intent of the law was when we done LB430, cleaned up the concealed carry permit. There's been a misunderstanding or difference in opinion on what the language meant currently, and that's why I originally introduced LB1033 to address this issue and that's why I bring this amendment here to finally and hopefully put to rest the concerns about having concealed carry permits open across the whole state, not having to register them, the guns for them, and not have the restrictions that even LB430 took care of, of cities having a different law than the state and every city being different. So this one just goes in and cleans up the language to make sure that no one is going to require a registration on top of the concealed carry permit. It's just adding that little bit of language that just says: and shall not have the power to require registration of concealed handguns owned, possessed, or transported by a permitholder under this act. And that will just make it very clear that make sure every city, towns on the same page, that we're reading it the same way, and hopefully be able to put this to rest on concealed carry being open through all cities across the state. Thank you. [LB817 LB430 LB1033]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the opening on the motion to return LB817 to Select File for an amendment. Members requesting to speak, Senator Lautenbaugh, followed by Senator Council. Senator Lautenbaugh, you're recognized. [LB817]

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SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this motion and I'm a little disappointed that we're even having to do this, but I understand why we are and it is important to clarify. I was under the impression that we had addressed this with a prior bill a year or two ago and we apparently had not. So this does make it clear that a valid concealed carry permit holder would not be subject to additional restrictions in the city of Omaha. I would urge your supporting of this motion and supporting the underlying amendment. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Council, you're recognized. [LB817]

SENATOR COUNCIL: Thank you, Mr. President. And I guess it's no surprise Senator Lautenbaugh, we always end up on different sides of the issue, but the part of Senator Lautenbaugh's statement that I agree with is that it's regrettable that we even have to be in this position. This body passed LB430 last year, and LB430 prohibits any city from enacting any ordinance that would regulate the ownership, possession, or transportation of a concealable handgun. The bill that was enacted last year goes on to specifically hold and while it states in express terms that any ordinance enacted by a city that attempts to regulate the ownership, possession, or transportation of a concealable handgun that is subject to the concealed carry law that this body also enacted is null and void. That is the express language of the current law. So for Omaha, the city of Omaha to say that its ordinance that provides for the registration of any handgun, concealable or otherwise, is not subject to LB430 flies in the face of the express current language of the statute. The ordinance is null and void by its express terms. And I think that in addition to the fact that the clear and unambiguous language of LB430, and as much as I philosophically am opposed to the carrying of concealed weapons this body enacted that piece of legislation, it expressly subjects any conflicting city ordinance to be deemed null and void and certainly the city of Omaha should not need to have additional admonition by having to amend a statute that is already very clear and specific as to its terms. Now, I have not seen AM2415, but it's my understanding from Senator Christensen that AM2415 also includes a...I don't even know what I call it, perhaps a requirement that the Nebraska State Patrol notify carry concealed weapons permit holders of their duty to report their weapons stolen. If Senator Christensen would yield to a question. [LB817 LB430]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Council? [LB817]

SENATOR CHRISTENSEN: Yes. [LB817]

SENATOR COUNCIL: Am I correct, Senator Christensen, that AM2415 also includes that addition of language directing the State Patrol to notify carry conceal permit holders

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of the need for them to report their weapons stolen? [LB817]

SENATOR CHRISTENSEN: Correct. [LB817]

SENATOR COUNCIL: Okay. Thank you. Quite frankly, that would be the first step for me to impose additional obligations on carry conceal weapon permitholders. And if AM2415 does advance, next year I will introduce legislation that places a penalty associated with the failure... [LB817]

PRESIDENT SHEEHY: One minute. [LB817]

SENATOR COUNCIL: ...to report a weapon stolen. One of the concerns that the Omaha Police Department has is that many of the weapons that are used in the violent acts in Omaha are weapons that were duly purchased, many of them duly registered, many of them the property of carry conceal permitholders who fail to report their weapons stolen and are not advising the police until the police determine that the weapon belongs to some permitholder. And that if we're going to continue to have these circumstances, then these permitholders need to be held to a higher standard, and if the weapon is lost or stolen and not reported, they should sacrifice their permits. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Fulton, you're recognized. [LB817]

SENATOR FULTON: Thank you, Mr. President and members of the body. I'll go brief here...I'll be brief here. LB430 last year was my priority bill. I thought this had been put to rest as a result of that. That's one of the reasons why I chose it as a priority bill last year. LB817 encompasses some other issues but among them now we're going to have to come back and reiterate that which was first iterated under LB430. And I'm hopeful for the record and for communities across the state that we recognize the preeminence of state law when we indeed choose to invoke it. And so I stand in favor of both this motion and the amendment. I would like to yield the remainder of my time to Senator Lautenbaugh, please. [LB817 LB430]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded 4 minutes, 10 seconds. [LB817]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do believe we need to do this and here is why: We thought we were clear with Senator Fulton's priority bill last year and I don't think the city is doing what we thought they were going to do. And I understand that there is a problem with gun violence, particularly bad in Omaha, but we do have to actually obey the laws we pass and respect the rights of legitimate gun owners. And I have a problem with the fact that we have to do this but we are doing it and I don't know how we can be clearer than we are with this amendment.

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But let me tell a little story. I had a client who came to me a year or two ago who was arrested for...ticketed, I should say, for discharging an air rifle in the ditch behind my church, an air rifle. He was hunting rabbits and he was ticketed for...I don't remember the charge under the ordinance, but we went in and pled to disorderly conduct, disturbing the peace, something like that, a minor fine. No big deal. So I said to the judge, since I don't do criminal defense work I was a fish out of water, I said, so how does he get his air rifle back because the police had impounded it. He said, well, you have to get a note from the prosecutor saying give it back, the case is over. So I go to the city prosecutor and say, okay, can I have a note? Mr. Conboy said, certainly. He gave me a note saying give the air rifle back. I go to the police department, say, okay, my guy wants his air rifle back. Here's the note from the prosecutor, the case is over, and the response was, no, we don't just give firearms back here once we have them. I don't care what you have. You have to go to court and basically file a replevin action. You have to file an action against the city to get your property back and hope they don't destroy it in the meantime, and pay an attorney to do that. And I hope someone from the city is listening as we're having this conversation because I'm frankly a little ticked off that we have to bring this bill, this amendment to deal with something we dealt with last year. Couldn't have been clearer last year I didn't think, and we're being clear again today. And I hope I'm being clear when I say you need to follow the laws that we pass. And if we need to have a law next year that says you get attorney's fees with replevin actions if you have to file suit to get your gun back that they should not be lawfully holding anymore, I have a feeling I will do that because this needs to stop. I have long supported law enforcement. My record here is clear and I understand the problems with gun violence in Omaha, but we cannot take steps that violate state law. We cannot take steps that violate the property rights of our citizens to keep and bear arms, and that's what's going on here and I don't like it. And I would urge you to support this motion, support this amendment. And if the city is listening, I would urge you to cease this practice of retaining firearms beyond the time it is necessary and you don't have a legal reason to retain them. You are violating people's rights. [LB817]

PRESIDENT SHEEHY: One minute. [LB817]

SENATOR LAUTENBAUGH: And this should end and it should end now. I thank Senator Christensen for bringing this motion and this amendment and I urge you to support it. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.) Continuing floor discussion on the motion to return to Select File LB817. Member requesting to speak...seeing no requests to speak, Senator Christensen, you're recognized to close. Senator Christensen waives closing. The question before the body is on the motion to return LB817 to Select. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB817]



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CLERK: 41 ayes, 1 nay on the motion to return. [LB817]

PRESIDENT SHEEHY: Motion to return is adopted. Mr. Clerk, we'll now move to the amendment. [LB817]

CLERK: AM2415. [LB817]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on AM2415. Senator Christensen waives opening. Senator Council, you're recognized. [LB817]

SENATOR COUNCIL: Thank you, Mr. President. And I certainly appreciate the concern that Senator Lautenbaugh has raised about the process with regard to weapons that are confiscated. I would ask Senator Lautenbaugh if he would be willing to yield to a question. [LB817]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Council? [LB817]

SENATOR LAUTENBAUGH: Yes, I will. [LB817]

SENATOR COUNCIL: Senator Lautenbaugh, do you believe that a responsible permitholder should report his or her weapon lost or stolen? [LB817]

SENATOR LAUTENBAUGH: Yes. [LB817]

SENATOR COUNCIL: And in the event that someone fails to do that and that weapon is used in the commission of a crime, would that be circumstances that you would consider to be a legitimate basis for law enforcement not to return the weapon? [LB817]

SENATOR LAUTENBAUGH: For not returning or for having a separate offense involved? [LB817]

SENATOR COUNCIL: For not returning. [LB817]

SENATOR LAUTENBAUGH: I would have to think on that because it would honestly depend on the circumstances and whether or not the person knew at the time that it was actually missing. [LB817]

SENATOR COUNCIL: Okay. Well, and let's take that another step further that if the...and that's one of the issues and concerns that I have. I hear repeatedly and consistently about responsible gun owners and how responsible they are. There are ordinances in some locations that require the weapons to be kept in a locked cabinet and for the ammunition to be kept separate from the weapon. And yet when the weapon

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comes up lost or is stolen, then the first response that I hear is, well, it depends on whether they knew that the weapon was lost or stolen. And that gets to the basic concern that I have that something as dangerous as a firearm for permitholders not to be held to a standard that requires them to know where their weapon is and whether their weapon is secured and not be allowed to use as a defense that, I didn't know it was stolen. I don't know it was lost, is an indication to me that they're not responsible gun holders. And then the question that I was posing was that in that situation where a, quote, responsible gun owner had or professes no knowledge that their weapon wasn't where he or she maintained it and then was used in the commission of a crime, whether or not the law enforcement could then retain that weapon under those circumstances. Let me ask if Senator Lautenbaugh would yield to yet another question. [LB817]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Council? [LB817]

SENATOR LAUTENBAUGH: Yes, I will. [LB817]

SENATOR COUNCIL: Would you believe that a failure to report a stolen, lost...a weapon lost or stolen to be grounds to impose some limitation or restrictions on a person's ability to carry a concealed weapon? [LB817]

SENATOR LAUTENBAUGH: Senator, I'll give you the unsatisfactory answer but it's the only one that I can give you. It would all depend. [LB817]

SENATOR COUNCIL: Okay. All right. Well, we'll see next year whether we can develop the circumstances that will allow you to see the value and the wisdom... [LB817]

PRESIDENT SHEEHY: One minute. [LB817]

SENATOR COUNCIL: ...in imposing a higher standard, particularly on those individuals who carry or are permitted to carry their weapons concealed. This body has taken great steps to provide them additional rights in terms of transporting those weapons, possessing those weapons. A bill passed a couple of days ago that said if they had committed a misdemeanor assault or a misdemeanor crime of violence as long as it occurred more than ten years ago, they're still free to carry a concealed weapon. I believe we ought to impose some corresponding duties on the individuals who want the privilege of carrying a concealed weapon. [LB817]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Christensen, you're recognized to close on AM2415. Senator Christensen waives closing. The question before the body is on the adoption of AM2415 to LB817. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB817]

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CLERK: 42 ayes, 2 nays, Mr. President, on the adoption of the Select File amendment. [LB817]

PRESIDENT SHEEHY: AM2415 is adopted. Do you have anything further, Mr. Clerk? [LB817]

CLERK: Nothing further, Mr. President. [LB817]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB817]

SENATOR NORDQUIST: Mr. President, I move LB817 to E&R for engrossing. [LB817]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB817 advances. Mr. Clerk, do you have items for the record? [LB817]

CLERK: I do, Mr. President. Enrollment and Review reports LB594 to Select File with Enrollment and Review amendments attached. LB1070 is reported correctly engrossed. And a series of study resolutions: LR479 through LR492 by various members all calling for interim studies. Senator Gay would like to print an amendment to LB999 as does Senator Hansen as does Senator Cornett. That's all that I...oh, excuse me. Name adds: Senator Rogert would like to add his name to LB999. (Legislative Journal pages 1139-1148.) [LB594 LB1070 LR479 LR480 LR481 LR482 LR483 LR484 LR485 LR486 LR487 LR488 LR489 LR490 LR491 LR492 LB999]

And a priority motion, Mr. President. Senator Carlson would move to recess 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

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: 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. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: (Gavel) Are there messages, reports, or announcements? Speaker Flood, you're recognized for an announcement.

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SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I wanted to give you a snapshot as to what the rest of our day and rest of our week look like in terms of scheduling. My hope today is that we can get through and/or resolve or at least end on LB1014 by Senator Haar. My intent is to stay in session until 9:00 p.m. unless LB1014 is resolved sooner than that. We will not go on to LB1103. Just to repeat, my goal today is to get to LB1014. And if we're still on it at 9:00, we will adjourn. If we've resolved it prior to that, we will adjourn. As far as the rest of the week looks like I've got about two hours of Final Reading right now that we're looking at. My intention tomorrow, on Tuesday, is to schedule about one hour of Final Reading and then return to General File debate on Tuesday. On Wednesday I'm planning to take up consent calendar beginning at 9:00 in the morning. You'll get a list of those bills on your agenda later today for tomorrow. On Wednesday after consent calendar, I'm planning on some Select File, followed by some General File. And on Thursday my intent is to take up that second hour of Final Reading. And then we will make a decision as to whether we do Select or General File after that. Obviously, we'll be adjourning for the week sometime in the afternoon of Thursday. But hopefully, that gives you a little peek as to what we want to accomplish this week. We have about two and a half weeks left in the session. We are planning on some late nights. Obviously, tonight we could go as late as 9:00 p.m. We'll see where we get on LB1014 and the rest of the bills on today's agenda. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, do you have items for the record?

CLERK: I do, Mr. President. A series of study resolutions, LR493 through LR500, all will be referred to the Board. That's all that I have. (Legislative Journal pages 1148-1152.) [LR493 LR494 LR495 LR496 LR497 LR498 LR499 LR500]

PRESIDENT SHEEHY: We will now proceed to the agenda item under Select File, LB1109. [LB1109]

CLERK: First of all on LB1109, Senator Nordquist, I have E&R amendments. (ER8215, Legislative Journal page 987.) [LB1109]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1109]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB1109. [LB1109]

PRESIDENT SHEEHY: You've heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB1109]

CLERK: Senator Conrad would move to amend with AM2419. (Legislative Journal page

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1152.) [LB1109]

PRESIDENT SHEEHY: Senator Conrad, you're recognized to open on AM2419 to LB1109. [LB1109]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I do want to introduce to you briefly AM2419. This issue was recently brought to my attention from the legislative Fiscal Office in relation to some certification deadlines and time lines that we previously had not accounted for in the legislation. And so this is an amendment that is technical in nature and is related to the cash transfer contemplated in the legislation to meet appropriate time frames otherwise established in law. With that, I would appreciate your support. And again, thank you for your time, kind consideration and support of the underlying bill which creates the Nebraska Innovation and High Wage Employment Act. Thank you, Mr. President. [LB1109]

PRESIDENT SHEEHY: Thank you, Senator Conrad. You've heard the opening of AM2419 to LB1109. Are there members requesting to speak? Seeing none, Senator Conrad, you're recognized to close. Senator Conrad waives closing. The question before the body is on the adoption of AM2419. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1109]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Conrad's amendment. [LB1109]

PRESIDENT SHEEHY: AM2419 is adopted. [LB1109]

CLERK: I have nothing further on that bill, Mr. President. [LB1109]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1109]

SENATOR NORDQUIST: Mr. President, I move LB1109 to E&R for engrossing. [LB1109]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1109 advances. We will now move to LB1109A. [LB1109 LB1109A]

CLERK: Senator Nordquist, I have no amendments to the bill, Senator. [LB1109A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB1109A]

SENATOR NORDQUIST: Mr. President, I move LB1109A to E&R for engrossing. [LB1109A]

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PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB1109A advances. We will now proceed to item under General File, LB931. [LB1109A LB931]

CLERK: Mr. President, LB931 was a bill originally introduced primarily by Senator Sullivan. (Read title.) Introduced on January 13 of this year, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2047, Legislative Journal page 717.) [LB931]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on LB931. [LB931]

SENATOR SULLIVAN: Thank you, Mr. President. And, members, good afternoon. I am the primary sponsor of LB931 which has been designated as a priority bill by the Banking, Commerce and Insurance Committee. Senator Langemeier was the original sponsor of the legislation, but through an odd set of circumstances has removed his name from the bill making me the primary sponsor of the legislation. The proposed committee amendment would make significant changes to LB931 by incorporating the original provisions of my LB818. In essence, LB818 allows a brokers price opinion or a comparative market analysis prepared by a real estate licensee to be utilized as part of a loan evaluation portfolio only when a certified appraisal is not required by federal regulations. Provisions of Senator Langemeier's original LB931 are included in the committee amendment. Right now I'd like to yield the remainder of my time to Senator Langemeier to talk about his original LB931 and some of the events that have led us to where we are today. [LB931 LB818]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Langemeier, you're yielded 8 minutes 45 seconds. [LB931]

SENATOR LANGEMEIER: Mr. President and members of the body, I am the primary introducer of LB931. When we started in January, I introduced it on behalf of the Nebraska Appraiser Board. LB931 had two components in it. One, which was a technical change that I have brought for the last six years to this body to keep us up-to-date with USPAP requirements that are put on the educational requirements for appraisers. We follow the federal guidelines. As you know, as you've been in this body, we just don't allow our statutes just to blindly follow federal changes. Each year we come back and change the dates or change what we need to change. That is one component that was in LB931. The second component which is a new development since we've had this last banking crisis. It was...the banking world has been asked to separate themselves from appraisers. And so we've got what they call appraisal management companies that are being developed throughout the United States. Appraisers register their abilities and their level of licensing with appraisal management

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companies. Then those appraisal management companies then, on a rotational basis, they're supposed to dole out appraisal requests that banking institutions have requested. We had an issue with that component with the Bankers Association, they did not like the AMC language, and so we have turned that into an interim study, which I have already filed, which we will continue to look at how we're going to deal with appraisal management companies as that continues to grow. As every committee does, we amend bills together in the committee. LB931 happened to be the choice to go out. The committee, over my objection, wanted to put LB818 into it, which is fine, that's...don't vote based on that because we do that all the time. But LB818 was a bill that the appraisers were opposed to. And it was put in as stated earlier. We had hoped to be able to negotiate some resolution over this turf battle between the bankers and the appraisers. And the appraisers didn't come very forthright in that negotiation process. And so LB818 was put into the bill with the AMC portion stripped out. That's what you have in the committee amendment and I think Senator Pirsch is going to introduce that as the Vice Chair of the Banking, Commerce and Insurance Committee. And so I'll let you listen to that as we go forward. And I'm more than happy to answer any questions that may arise as we go forward. And I thank Senator Sullivan for the time. Thank you, Mr. President. [LB931 LB818]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Thank you, Senator Sullivan. (Visitors introduced.) You have heard the opening to LB931. As was noted, we do have a Banking, Commerce and Insurance Committee amendment, AM2047. Senator Pirsch, you're recognized to open. [LB931]

SENATOR PIRSCH: Thank you. I stand here, Mr. President, members of the body, I stand here as Vice Chairman of the committee. The committee amendments would become the bill. Overall the committee amendments would do two general things. First, the committee amendments contain the slimmed down version of LB931 as introduced. Some provisions have been cleaned up and some provisions have been omitted altogether, such as all of the sections regarding licensing of appraisal management companies. That topic will be addressed at another time. Second, the committee amendments contain certain concepts from LB818 which was introduced by Senator Sullivan and Senator Utter. This part of the committee amendments would provide that a brokers price opinion or comparative market analysis prepared by a real estate licensee may be used for the purpose of obtaining, extending, or modifying financing in a transaction other than a federally related transaction. What is a federally related transaction? It is defined in the amendments as a real estate related transaction that, first, requires the services of an appraiser; and second, is engaged, contracted for, or regulated by a federal financial institution regulatory agency as defined in the amendments as the Federal Reserve, the FDIC, the OCC, the OTS, or the NCUA. A real estate related financial transaction having a value of more than \$250,000 is a federally related real estate transaction for which an appraisal is required by federal law. That means that the ability of a lender or borrower to use a brokers price opinion or

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comparative market analysis in the lending transaction would be limited in any event to transactions with a value of \$250,000 or less and those that are otherwise exempted by federal law from the requirement to obtain an appraisal. The committee amendments would further provide that a brokers price opinion or comparative market analysis involved in a transaction other than a federally related transaction may not be used as the sole basis to determine value of the real estate that will secure the lending transaction. Currently, under Nebraska's Real Property Appraiser Act a brokers price opinion or comparative market analysis may be used for the purpose of determining the listing price of the property for possible sale. The committee amendments would expand these existing provisions to allow brokers price opinions and comparative market analysis to be used by lenders as part of a transaction that does not require the services of an appraiser. There will be additional amendments that are...amendment...well, amendments that are offered, the product of further talks between key stakeholders, and I urge support. They amend the committee amendment and not replace it. Thank you. [LB931 LB818]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the opening of AM2047. Mr. Clerk, do you have an amendment to committee amendment? [LB931]

CLERK: Senator Sullivan would move to amend the committee amendments with AM2248. (Legislative Journal page 1006.) [LB931]

PRESIDENT SHEEHY: Senator Sullivan, you're recognized to open on AM2248. [LB931]

SENATOR SULLIVAN: Thank you, Mr. President. As Senator Pirsch indicated, this has been a process. And AM2248 that I'm introducing provides clarifications and improvements to the committee amendments that you just heard and it also restructures our statutes all with regard to broker price opinions and comparative market analysis. You will hear those terms, BPOs and CMAs, used a lot in the conversation we're having this afternoon. And I will also underscore that these amendments that I'm talking about are the result of discussions among bankers, appraisers and realtors all around the table, trying to arrive at a compromise and consensus on this amendment that I'm presenting to you today. These amendments expand upon the committee amendments to require that a BPO or CMA in addition to being in writing must be signed by the preparer and must include the date on which it was prepared. Those requirements are based on proposals that were offered by the appraisers. The committee amendments clearly state that a BPO or CMA prepared for a lending transaction may not be used by a lender as the sole basis to determine the value of the real estate which will secure the loan. This requirement was again based on the proposal offered by the bankers in response to a suggestion by the appraisers. These amendments further provide that realtors providing BPOs and CMAs for this purpose shall have no duty to inquire as to any other basis used by the lender to determine such value. This clarification is based



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on a proposal offered by the realtors. The requirement that a BPO or CMA may not be the sole basis to determine the value of real estate in a lending transaction is subject to strict enforcement by financial institution regulators. These amendments would also clean up the language of the committee amendments. For example, the phrase "obtaining, extending, or modifying financing" would be changed to "originating, extending, renewing, or modifying alone." Also the provisions of statute regarding BPOs and CMAs prepared for lending purposes as well as for listing purposes would be moved by these amendments from the appraiser statutes to the real estate license statutes. The appraisers have pointed out that currently under the Real Property Appraiser Act the appraiser board has no regulatory authority over BPOs or CMAs specifically or over realtors in general. At the suggestion again of the appraisers these amendments would move provisions regarding BPOs and CMAs, whether for listing or lending purposes, from the appraiser statutes to the realtor license statutes. Provisions of law regarding regulation of realtor activities should be in the real estate license statutes where they would expect to be found. These amendments would make that case. These amendments would clean up and clarify the committee amendments. In total, they must be viewed in light of some basic realities. The bill as amended would allow BPOs and CMAs to be used only in connection with lending transactions for which no appraisal is currently required by federal law. Also, a BPO or CMA cannot be used by the lender as the sole basis to determine the value of the subject real estate. And I have to admit anything you've been told to the contrary is, quite frankly, incorrect. I urge adoption of these amendments to the committee amendments and then adoption of the committee amendments and the advancement of LB931. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. You've heard the opening of AM2248 to AM2047. (Visitors introduced.) Members requesting to speak on AM2248 we have Senator Utter followed by Senator Langemeier, Senator Gloor and Senator Carlson. Senator Utter, you're recognized. [LB931]

SENATOR UTTER: Thank you very much, Mr. President. And good afternoon, colleagues. First, I want to thank Senator Sullivan and congratulate her on the hard work that she has done putting this bill together. This has become...became extremely complicated during the process of not only the hearings but the things that happened after the hearings that finally led to the position that we're at today. And I will tell you that I urge your support of AM2248 and the balance of the bill, AM2047 and LB931 because, frankly, I think they are all important to the citizens of the state of Nebraska. This frankly, folks, is not a banking bill. This is a bill, in my opinion, that will benefit the people of Nebraska as they seek financing on their homes. It is of particular importance, I think, to the folks in the small communities and the community banks that are financing homes in those communities that quite frankly are not eligible to be sold in the secondary loan market. And as a matter of practice, community bankers for years have been almost the sole source of financing for some of the lower dollar homes that exist in

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our communities clear across the state. Banks have, in these communities have an excellent idea, an excellent opinion as to values in those communities. They do the evaluation process that is required by our federal regulators which is absolutely essential that we do. And they are not overly burdensome that we are able to put together an evaluation, I won't call it an appraisal, but we are able to put together an evaluation, save that borrower the cost of an appraisal, and at the same time help the people in those communities. We have...some banks have as a matter of their policy that every real estate loan will have to have an appraisal done by a qualified appraiser. And I don't argue with that if a bank has that as a part of their policy. The matter of brokers price opinions or the comparative market analysis actually becomes additional evidence that the bank can use in their evaluation process that supports the value that they came up with upon which they base their loan. In this particular process I want to mention to you that the...it is the banks that have all of the skin in the game here. If that evaluation is wrong, the banks stand...have the potential of losing money on that loan. Frankly, if an appraiser submits an appraisal that is wrong, it is still the bank that is in the position to suffer the loss. I think this is a good bill. It moves the whole matter of BPOs and CMAs into the real estate section of the law. And I think that's rightfully where it belongs. And I appreciate... [LB931]

PRESIDENT SHEEHY: One minute. [LB931]

SENATOR UTTER: ...the help also of Senator Langemeier in helping move this bill along and helping reach the compromises that were necessary to make this bill possible. So I urge your support of AM2248, AM2047 and LB931. Thank you. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Gloor, you're recognized. [LB931]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Sullivan would yield for some questions, please. [LB931]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Gloor? [LB931]

SENATOR SULLIVAN: Yes, I would. [LB931]

SENATOR GLOOR: Senator Sullivan, will a broker get a fee for doing a broker price opinion? [LB931]

SENATOR SULLIVAN: It is possible for a fee to be charged. However, for that fee to be charged there would have to be some conditions. This BPO or CMA must be signed, it must be dated and also have the disclosure attached to it in 14 point type that says basically this is not an appraisal. [LB931]

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SENATOR GLOOR: Okay. If a BPO can't be used as the sole basis for determination for a piece of real estate, what else would need to go hand in hand with...I mean, a formal appraisal would be one answer. But what other things would be expected or allowed or required? [LB931]

SENATOR SULLIVAN: Well, this evaluation process that is, in fact, required for certain transactions for which an appraisal is not required, the evaluation process is, in fact, quite detailed. We're saying that a BPO, we're asking for it to be not the sole basis for that evaluation. This can vary from bank to bank. But there has to be documentation, first of all, of the real estate being evaluated and then there is again, it may vary according to...from bank to bank, but it has to show the process that they've used, that it could...the documentation and the information. So it's a whole process, all the way from collecting information about the individual piece of real estate, going to county records to look at such things as tax assessment, going out to actually inspect the property. And then also getting some information on comparable sales in the area and the source of that possibly, possibly could be a BPO or CMA. So it's a whole range of information that goes into that evaluation process. [LB931]

SENATOR GLOOR: Do we know are BPOs recognized statutorily in other states around us? [LB931]

SENATOR SULLIVAN: Well, that was part of the research that was done and one of the reasons that we wanted to have that kind of background information come here. Currently, I believe there are about half the states that have in statute some requirements or restrictions, if you will, with respect to BPOs and CMAs and lenders. I think 9 states have some more detailed restrictions, but about, oh I'd say, 16, 18 of them have, well I should say 9 states have no restrictions at all, about 15 to 16 of them have some restrictions that are similar to what we're trying to do today. [LB931]

SENATOR GLOOR: Thank you. I was a member of Banking...am a member of Banking, Commerce and Insurance and am asking some of these questions to sort of refresh my memory. In addition to which, I know Senators Utter and Langemeier, Sullivan have put a considerable amount of effort in trying to blend the two bills that came before us in Banking Committee into something that would be palatable and passable. And so I'm very appreciative of the time and effort. Again, I was supportive of LB931 and LB818 when they came out of committee, continue to be supportive of LB931 and both of the amendments as introduced. Thank you, Mr. President. [LB931 LB818]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on AM2248, we have Senator Sullivan followed by Senator Pankonin, Senator Wightman, and Senator Dubas. Senator Sullivan, you're recognized. [LB931]

SENATOR SULLIVAN: Thank you, Mr. President. This has been quite a process

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leading up to this legislation today. It's a process that initially started out, to me, being common sense legislation that I thought would give lenders another tool in their toolbox, so to speak, in what I thought would strengthen their underwriting standards and help them make good, sound lending decisions. Now granted, there has been some confusion, contrary bits of information that hopefully we can clarify today. But I wanted to reiterate quite simply what this legislation does. We are talking about in transactions of \$250,000 or less for which an appraisal is not currently required but for which an evaluation is required. This bill would authorize a lender to use a BPO or CMA as part of the evaluation process, not the sole source of the evaluation just part of it. And as I indicated in Senator Gloor's questioning, the evaluation, while it can vary from bank to bank, is very detailed and supported by a variety of different pieces of documentation and only a part of that perhaps can be a BPO or CMA. So I hope in the process of the discussions today we can clarify any questions that have been raised by e-mails that some of the senators may have received. I will remind everyone that in this whole process which involved realtors, appraisers and bankers around the table, trying to reach some consensus, that at the end of the time and end of the process the Nebraska Real Property Appraisers Board decided that they would have a neutral position on this legislation. That's contrary to some of the e-mails that you have received. So if there needs to be any further clarification, I've been assured that their lobbyist is available to reenforce that stance that they have. So I hope that we are answering questions that have been raised by e-mails that senators received. And I hope this discussion will answer everyone's questions. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Pankonin, you're recognized. [LB931]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. I just want to add a couple words. I think that, as has been stated, Senator Sullivan, Senator Utter, Senator Langemeier did good work along with Senator Pirsch and the committee on this bill. And just give you my perspective. I've been from a little different position than Senator Utter. I've been a community bank director for over 30 years. He's had more operating experience. But this is not a bill that's favorable to banks per se. I think this is a bill that helps our entire lending system, especially for transactions on residential real estate under \$250,000. There are federal requirements that if a loan that includes residential real estate for collateral over \$250,000, that's federal rule that you have to have a certified appraisal. So that's a moot point on that position. But as Senator Utter has said, in many real estate transactions in small town Nebraska these commonsense rules will make sense. I just want to quote from an e-mail I received this morning from a local community bank president in my area. And quoting now, "Our bank does not use broker evaluations very often, but removing another group of real estate professionals from providing evaluations would increase loan costs, delay loan approval, and remove an important source of information for community banks." I'll just reiterate. This is a systemwide bill that makes things move smoother. I think it's commonsense legislation.

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And I encourage you to vote for the amendments and the underlying bill, LB931. Thank you. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Wightman, you're recognized. [LB931]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. If Senator Sullivan would yield to some questions, I have a few questions. [LB931]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Wightman? [LB931]

SENATOR SULLIVAN: Yes, I will. [LB931]

SENATOR WIGHTMAN: Now as I understand it, Senator Sullivan, you said that in all of the situations that are being described where you could use a BPO there is no appraisal currently required. Is that correct? [LB931]

SENATOR SULLIVAN: That's correct. [LB931]

SENATOR WIGHTMAN: So as far as taking any business probably away from certified appraisers, that really wasn't the purpose, obviously of the act. But it wouldn't do that, is that correct? [LB931]

SENATOR SULLIVAN: I don't think that this will result in lenders using appraisers any less than they do now. [LB931]

SENATOR WIGHTMAN: Okay. Now the \$250,000 or less is with regard to residential real estate. Does the act only apply to residential real estate? [LB931]

SENATOR SULLIVAN: I don't believe so. Any real estate transaction of \$250,000 or less. [LB931]

SENATOR WIGHTMAN: So if I had a...or were buying a \$250,000 farm or refinancing a \$250,000 farm, wanted to get \$100,000 loan on that, the bank could go over and check some records and then get a BPO opinion, is that correct? [LB931]

SENATOR SULLIVAN: That's correct, under federal regulations right now that's possible. [LB931]

SENATOR WIGHTMAN: And right now they could just as easily go over and check tax real estate records and find that was appraised for tax purposes at triple the amount of the loan and make that loan without an appraisal anyway, is that correct? [LB931]

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SENATOR SULLIVAN: That's correct. [LB931]

SENATOR WIGHTMAN: Is there any...well, tell me first, Senator Sullivan, if you can, what would be the comparative cost of obtaining a certified appraisal compared to a BPO? [LB931]

SENATOR SULLIVAN: I'm not sure I can answer that, Senator Wightman. But if you'll give me a chance, I'll try to find out that information. [LB931]

SENATOR WIGHTMAN: But you assume it would be less, is that correct? [LB931]

SENATOR SULLIVAN: Yes, yes. [LB931]

SENATOR WIGHTMAN: And so one of the things that it would do, and certainly Senator Utter alluded to that, is that the cost would be less as a result of, at least in most instances the cost would be less than a certified appraisal, perhaps. [LB931]

SENATOR SULLIVAN: Yes, that's true. But I think, too, as also Senator Utter said, that in many cases where even an appraisal is not required, very often the lender will go after that appraisal anyway. So to use the...I'm going to save some money, I don't know if that is a legitimate concern of this particular piece of legislation. [LB931]

SENATOR WIGHTMAN: Okay. One other question. Now you've got the \$250,000 amount limitation that if it's larger you're going to have to have the certified appraisal, is that correct? [LB931]

SENATOR SULLIVAN: Yes, yes. [LB931]

SENATOR WIGHTMAN: Is there anything in there, in the bill itself or that you're aware of that would consider equity to ask that value or equity to loan value? [LB931]

SENATOR SULLIVAN: I don't think...I don't know that I can answer that question. I don't think so though. [LB931]

SENATOR WIGHTMAN: Perhaps Senator Utter...or I can talk to him off the...go ahead, if he's available, I would ask him a question or two. [LB931]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Wightman? [LB931]

SENATOR WIGHTMAN: Yes, I will. [LB931]

SENATOR WIGHTMAN: Senator Utter, I was talking with Senator Sullivan with regard

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to the \$250,000 limitation. If there was a house that was worth \$250,000 and you were making a loan of about \$250,000, which you probably wouldn't do at most local banks if that was to be retained in the bank, would you be required to have an appraisal? [LB931]

SENATOR UTTER: Absolutely. Any loan that you're going to make...not required...if it's under the federally related transaction... [LB931]

PRESIDENT SHEEHY: One minute. [LB931]

SENATOR UTTER: ...levels, you would be required as far as the bank is concerned to perform at least an in-bank evaluation. [LB931]

SENATOR WIGHTMAN: Okay, not a certified appraisal. [LB931]

SENATOR UTTER: Not a certified appraisal. [LB931]

SENATOR WIGHTMAN: But there is nothing in the bill that would relate to loan SF value or loan to equity? [LB931]

SENATOR UTTER: There's nothing in this bill. But I guarantee you, Senator, there's a lot in the other regulations that regulate commercial banks and community banks as to what the appropriate amount that they should loan on as a loan to value ratio. [LB931]

SENATOR WIGHTMAN: Thank you, Senator Utter. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Dubas, you're recognized. [LB931]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. Would Senator Sullivan yield for some questions? [LB931]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Dubas? [LB931]

SENATOR SULLIVAN: Yes, I will. [LB931]

SENATOR DUBAS: Thank you, Senator Sullivan. So I know you've outlined this in your introduction, as have other senators, but kind of in a nutshell, what are we specifically trying to address through this legislation? [LB931]

SENATOR SULLIVAN: Well, we're trying to address lending transactions that are...we call them nonfederally related real estate transactions. And those that are federally related transactions are those that require an appraisal. But those are not what we're

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dealing with in this legislation. We're talking about transactions by and large of \$250,000 or less that don't currently require an appraisal. We are asking for those transactions in the evaluation process to be able to use a BPO or CMA as part, not the sole basis, but as part of the evaluation process. [LB931]

SENATOR DUBAS: So what's been going on or what will happen if we don't pass this legislation? [LB931]

SENATOR SULLIVAN: Well, as Senator Utter had said earlier, a lot of this transpires today with using in-house staff. But again, that...if you use the in-house staff of a bank that individual that makes that evaluation has to be totally independent of the transaction in question. They can't be involved in making the loan, they can't be involved on the loan committee that decides on the decision of the loan. And even more importantly regulators are making sure in the documentation and underwriting guidelines that the evaluation process shows that there has been independent, third party process and evaluation used. Sometimes, quite frankly, that's difficult. So it's going to make life a little more difficult for community banks that have small staffs that aren't able to go out and get that independent, third party evaluation that can be given by a real estate licensee in the form of a BPO or CMA. [LB931]

SENATOR DUBAS: Okay. So currently do appraisers on a regular basis or do they have to be asked, do they provide this information to banks just on their own free will or does the bank have to call up an appraiser and say... [LB931]

SENATOR SULLIVAN: No, the bank has to call for that. [LB931]

SENATOR DUBAS: Okay, but there's nothing in place that's restricting this exchange of information between the two is there? [LB931]

SENATOR SULLIVAN: No. [LB931]

SENATOR DUBAS: Okay. Do real estate agents, do they...they still have to comply with the uniform standards that are in place for their operations, the way they operate, don't they? [LB931]

SENATOR SULLIVAN: The...that's one of the reasons that we are suggesting that the statute go into the real estate statutes and the Real Estate Licensing Act and, yes, the BPO or CMA has to be issued by a real estate licensee. [LB931]

SENATOR DUBAS: Okay. And so your amendment to the...your amendment now that we're currently talking about, you took a lot of the concerns from the appraisers into consideration in crafting of your amendment. Am I correct to understand that? [LB931]



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SENATOR SULLIVAN: Yes, it was appraisers, realtors and bankers around the table trying to come...reach an agreement, which I think we did in the formation of this amendment. [LB931]

SENATOR DUBAS: So the appraisers, did I hear correctly, they're in a neutral position now on the bill? [LB931]

SENATOR SULLIVAN: They are, yes, yes, they are. [LB931]

SENATOR DUBAS: All right, thank you very much, Senator Sullivan. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Council, you're recognized. [LB931]

SENATOR COUNCIL: Thank you very much, Mr. President. Would Senator Sullivan yield to a few questions? [LB931]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Council? [LB931]

SENATOR SULLIVAN: Yes. [LB931]

SENATOR COUNCIL: Yes, and thank you, Senator Sullivan. My concerns if any with regard to this bill are the effect on the consumers themselves. And I know that there are many financial transactions involved in real estate where mortgages are involved that the initial, originating bank may transfer that mortgage in the secondary mortgage market. Is that involved in this in any way? Because I know a lot of times those transactions where the bank that originates the loan or the refinancing does not intend to keep and maintain that loan but rather to sell it on the market. Is that involved in this at all? [LB931]

SENATOR SULLIVAN: No, I don't believe so. [LB931]

SENATOR COUNCIL: And is there anything in this legislation that prevents the consumer if he or she disagrees with the internal valuation or the broker evaluation, broker valuation, anything that prevents them from nevertheless obtaining an appraisal and having the bank act on the appraisal that they obtain? [LB931]

SENATOR SULLIVAN: Well certainly there's nothing that would eliminate...and I would venture to guess that that happens quite often is that if a consumer wants an appraisal done on the property in question, yes, they can ask that that be done. [LB931]

SENATOR COUNCIL: All right. Now in terms of the amount that is extended to the consumer this bill has nothing to do with what amount the financial institution ultimately

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extends to the consumer on the loan request, does it? [LB931]

SENATOR SULLIVAN: No, we're just talking about the information used in arriving at the value of the real estate in question. [LB931]

SENATOR COUNCIL: All right. Well, and thank you, Senator Sullivan. In those instances where the CMA or the BPO provides a valuation that is fair and that both the consumer and the financial institution are comfortable with acting upon, this is certainly helpful legislation because, as has been mentioned by some, the cost of appraisals can add some significant amounts to the processing of the loan. And generally, that falls on the consumer. So if the appraisers are neutral on this legislation, I would suspect that we wouldn't be moving forward on it if they had really strong objections. If it had an effect on their earning potential or the number of appraisals that they would lose as a result of passage of this legislation I would expect for them to speak with a much stronger and louder voice. And I've only received, at least that I've seen, one e-mail on the subject. And I don't really think it related to what I now understand to be core of the substance of LB931. So I will be leaning in support of the bill as introduced and the committee amendments. Thank you. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Nelson, you're recognized. [LB931]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question or two to Senator Sullivan, if she will yield. [LB931]

PRESIDENT SHEEHY: Senator Sullivan, would you yield to Senator Nelson? [LB931]

SENATOR SULLIVAN: Yes, I will. [LB931]

SENATOR NELSON: Thank you, Senator Sullivan. Like Senator Council, I'm a little concerned about the average consumer that's going out and trying to buy a \$125,000, \$150,000 house and there are salesmen everywhere, real estate, everyone who wants to get out and do something for two or three days a week, perhaps, studying to get their real estate license and then they're off and selling. And I'm generally supportive of the bill, let me say this. But what standards are there right now for the BPOs and the CMAs to follow? [LB931]

SENATOR SULLIVAN: Well, first of all, the BPO or CMA needs to be issued by a licensed or a real estate licensee. Now you can call into question I suppose whether or not there has been enough education or experience being offered by that person. And I'm not here to judge that. I'm just saying and reminding you that the BPO and the CMA will be used not as the sole basis for making that decision on the value of the real estate in question. All we're saying is that that is one of many different steps and pieces of

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information that is required to be gathered in what we call the evaluation process, not the appraisal process, the evaluation process that is required by banks. So is it putting the consumer at risk? I don't believe so. I think it's just one piece of the information. And to say that a real estate licensee doesn't have enough education or experience to do that, I don't think I'm in a position to make that decision. [LB931]

SENATOR NELSON: Well, if it's part of the evaluation process and the bank chooses not to use an appraiser, what makes the BPO or the CMA worth the paper it's written on? [LB931]

SENATOR SULLIVAN: Well, let's back up just a minute. We're talking about only transactions, Senator Nelson, for which an appraisal is not currently required. So... [LB931]

SENATOR NELSON: But I think that we've heard that some of the banks will still go ahead and do an appraisal. So, I mean, I'm just saying here, suppose they don't have an appraisal? I don't want to throw a red herring in here. What makes the BPO or CMA worth anything unless we know that it was properly arrived at by proper evaluation by a broker who's just been out...who just got licensed two or three weeks ago. [LB931]

SENATOR SULLIVAN: Well, and I guess I'd have to toss the question back to you, we're first of all making the assumption that that person doesn't have a lot of experience. And we're also making the assumption that a lender might rely heavily on an individual that he or she may think doesn't have a lot of experience or background. Those are... [LB931]

SENATOR NELSON: And that might come in with a little higher opinion or a lower opinion that would be satisfactory to the bank? [LB931]

SENATOR SULLIVAN: Well, again I think we're making some assumptions that certainly are not the intent of this legislation. [LB931]

SENATOR NELSON: Let me ask you, this is going to be placed...these are real estate brokers, so it's going to be underneath the purview of the Real Estate Commission, would that be right? [LB931]

SENATOR SULLIVAN: Yes. [LB931]

SENATOR NELSON: Okay. All right. Do you feel that they will be developing some standards or some requirements that these new brokers or even seasoned brokers will have to follow? [LB931]

SENATOR SULLIVAN: I don't know. But I do know that real estate licensees have been

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able to issue BPOs or CMAs for sale or... [LB931]

PRESIDENT SHEEHY: One minute. [LB931]

SENATOR SULLIVAN: ...purchase requirements for the last 15 or 16 years. And I don't believe the Real Estate Commission has received any complaints thereto, if that is any indication that this is not going to be a problem. [LB931]

SENATOR NELSON: Are there any ethical guidelines out there to keep a broker who might be potentially involved in the sale of a home from giving a BPO to the bank that the buyer is going to want to use? [LB931]

SENATOR SULLIVAN: I don't know, Senator Nelson. [LB931]

SENATOR NELSON: All right. Okay, thank you very much. I'm just curious about some of these possibilities or drawbacks. But as I say, I'm generally supportive of the bill. Thank you, Senator Sullivan. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Are there additional members requesting to speak? Seeing none, Senator Sullivan, you're recognized to close on AM2248. [LB931]

SENATOR SULLIVAN: Thank you very much, Mr. President. Again just to very briefly summarize. This legislation is doing a clarification and improvement on something that, quite frankly, currently exists. We are not talking about appraisals here. We are talking about transactions that currently do not require an appraisal. We're talking about transactions that require an evaluation. And we are asking for that evaluation to be able to be used as part of the process, a BPO or CMA, just not the sole basis of it. Thank you very much. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. You have heard the closing. The question before the body is on the adoption of AM2248 to AM2047. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB931]

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of Senator Sullivan's amendment. [LB931]

PRESIDENT SHEEHY: AM2248 is adopted. Mr. Clerk, we'll move to the next amendment to committee amendment. [LB931]

CLERK: Senator Harms would move to amend, AM2411. (Legislative Journal pages 1152-1153.) [LB931]

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PRESIDENT SHEEHY: Senator Harms, you're recognized to open on AM2411. [LB931]

SENATOR HARMS: Thank you, Mr. President, colleagues. This is really just a clean up. One of the things the community colleges have tried to do over the years is wherever they see the term "junior college" they'd like to get that removed, it's an antiquated term, nationally it's "community college." And so this is simply just removing the term "junior college" and placing "community college" into it because that's what is normally used. And I think this may be one of the last statutes, hopefully, that's left that we'll discover this. They've made a real effort in trying to do that. So I would ask you to support this, it's pretty simple. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Harms. You've heard the opening of AM2411 to AM2047. Are there members requesting to speak? Seeing none, Senator Harms, you're recognized to close. Senator Harms waives closing. The question before the body is on the adoption of AM2411. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB931]

CLERK: 38 ayes, 0 nays on adoption of Senator Harms amendment to the committee amendments. [LB931]

PRESIDENT SHEEHY: AM2411 is adopted. We will now return to discussion of the Banking, Commerce and Insurance Committee amendment, AM2047. Senator Hansen, you're recognized. [LB931]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I'd like to ask Senator Langemeier a couple questions. [LB931]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to Senator Hansen? [LB931]

SENATOR LANGEMEIER: Yes. [LB931]

SENATOR HANSEN: Senator Langemeier, I'm beginning to need a flow chart where this came from. We passed two amendments on there now and we're back to the regular committee amendment. And then we're going to vote on the bill, LB931, that was formerly known as LB818. Is that correct? [LB931 LB818]

SENATOR LANGEMEIER: AM... [LB931]

SENATOR HANSEN: Like Prince, formerly known as Prince. But the flow chart is my hang up. I'm not sure where I can...where this is coming through. It's still called the rural appraisers act, yet it doesn't do very much for the appraisal act? [LB931]

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SENATOR LANGEMEIER: Yes. AM2047 is LB818 and then it strikes a component out of the original bill, LB931. So at the end of the day you're going to have the technical changes, the date changes of LB931 and LB818. [LB931 LB818]

SENATOR HANSEN: Okay. Just have one quick question for you. In the nonfederally regulated transactions that require no appraisal currently by law, they're limited to \$250,000. Is there any circumstances where that would be greater than \$250,000? [LB931]

SENATOR LANGEMEIER: Yes, commercial is \$1 million, and in farmland if you are the owner/operator and you were going to refinance it, that would be up to \$1 million. But if you're a farmer/landowner and you cash rent it out, you're not the owner/operator, then the \$250,000 would apply to everything else. [LB931]

SENATOR HANSEN: Okay. Are there any...well, I think Senator Sullivan answered that question. That's all I have other than to ask you, Senator Langemeier, are you satisfied with LB931 as amended? [LB931]

SENATOR LANGEMEIER: I sit here, I'm not going to vote for either one and mainly because I am a broker and I am an appraiser. So either way this goes I'll have work to do. [LB931]

SENATOR HANSEN: Is there an abundance of appraisers in the state of Nebraska? [LB931]

SENATOR LANGEMEIER: No. [LB931]

SENATOR HANSEN: Is that a problem that we need to address? And how would we address that? [LB931]

SENATOR LANGEMEIER: Well, I think what you've seen over time is the requirements to become an appraiser on the federal level get harder every year. And the reality is it's because there is more liability and there's more requirement that the appraisers have more accurate work. And so we're making that a profession. The appraiser world started back when you were a broker, you could get an appraiser's license for another 25 bucks. That's not the case today. To become an appraiser today you have to, number one, you have to be a...if you want to be a certified general, which I am, today you have to have a bachelor's degree and enough credit hours of study that I could have had a master's degree instead, would have been simpler. So the requirements are out there. They've made it a profession. You don't see so many people as you did 20 years ago. You saw a lot of people out there selling properties and then as an appraisal came up they did an appraisal on the side. In my business when I started, 19 years ago, I used to do sales and management. And as I became a certified general appraiser, every day we

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do more and more appraisal work than anything else. [LB931]

SENATOR HANSEN: Thank you for that background information. Thank you, Mr. President. [LB931]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Seeing no additional requests to speak, Senator Pirsch, you're recognized to close on the Banking, Commerce and Insurance amendment, AM2047. Senator Pirsch waives closing. The question before the body is on the adoption of AM2047 to LB931. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB931]

CLERK: 37 ayes, 2 nays, Mr. President, on adoption of committee amendments. [LB931]

PRESIDENT SHEEHY: AM2047 is adopted. We will now return to floor discussion on LB931. Seeing no requests to speak, Senator Sullivan, you're recognized to close. Senator Sullivan waives closing. The question before the body is on the advancement of LB931. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB931]

CLERK: 33 ayes, 1 nay, Mr. President, on the advancement of LB931. [LB931]

PRESIDENT SHEEHY: LB931 advances. Mr. Clerk, do you have items for the record? [LB931]

CLERK: I do, Mr. President. Study resolutions, LR501 through LR509, all will be referred to the Executive Board. Enrollment and Review reports LB1002A to Select File. And two amendments to be printed to LB999. That's all that I have, Mr. President. (Legislative Journal pages 1153-1159.) [LR501 LR502 LR503 LR504 LR505 LR506 LR507 LR508 LR509 LB1002A LB999]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB1072. [LB1072]

CLERK: LB1072 is a bill originally introduced by Senator Adams. (Read title.) The bill was introduced on January 21 of this year, at that time referred to the Education Committee. The bill was advanced to General File. There are Education Committee amendments pending, Mr. President. (AM2194, Legislative Journal page 935.) [LB1072]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB1072. [LB1072]

SENATOR ADAMS: Thank you, Mr. President, members of the body. We probably don't have enough time this afternoon nor do the rules allow me enough time here at the

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microphone to tell you of this long story that has led to this point. And we have a lot of other things to do today. So let me summarize, get to the committee amendment and hopefully gain your support. I've asked this question of many different groups, what's our next educational goal, our generational educational goal in this state? You know, there was a time when eighth grade was enough, there was a time when a high school education was an achievement. So if I ask you the question, what's the next educational goal, I think most of you can begin to articulate something and your tendency is to want to say probably college. Therein lies the issue. Have we ever really set down and clearly defined what the next generational goal is? Let me tell you we're trying and it involves education beyond a high school diploma. And it may come in a lot of different shapes. And if that's our goal, then I want you to stop and think about the importance of our community colleges. For many students in high school that are first generation college-going students, that don't have a lot of support from home, a lot of confidence, a lot of slapping on the back and say, you can do that, the community college becomes the bridge. It's that English course or that college algebra course that I can take at the community college. And hey, I did it. I can do college, I can keep going. In times of recession we find our community college enrollment growing because we have people seeking new jobs where the demand is at. The community colleges are critical to us achieving our next educational goal of education beyond high school. And because of that, the state supplies aid to our community colleges. And therein lies a great deal of our problem. We have a formula for the distribution of that aid. And the current formula tries to take in the differences that our community colleges have, physical and demographic differences. Much like our 253 K-12 schools from one end of this state to the other, they all look a little bit different. And the further to the east or to the further to the west we go the most dispirit they become. We developed a formula for the distribution of sales and income tax to our community colleges that tried to take into account those differences, those demographic differences, land value differences, the differences in demands that each community college area has on curriculum. What the citizens in the Western Community College area may be demanding can be considerably different than what citizens in the Metro Community College area are demanding of that community college. We tried to take all of those things into consideration and first and foremost we tried to be fair in the way in which we distribute that aid. The last 15 months, maybe more, have been nothing but, I could use a lot of different words, agonizing, aggravating, frustrating, not just for me, not just for members of the Education Committee and my staff, but six community college boards, six community college presidents and many of us as we followed what's been going on with community colleges. And over the course of time we have reached a point where a formula, where arguing, where differences simply led to a level of antagonism and personal hard feelings and fragmented colleges that, rather than worrying about education, we're worried more about the next fight, we're worried more about the next dollar. That had to come to an end. I think we've done that. I think that we have done that. With the support, and more than the support, of Senator Flood, Senator Ashford, a few weeks ago we asked the community college presidents and one board member to



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spend some time with us in Nebraska City. Though it wasn't a whole weekend, it might have felt like a whole weekend. It was an opportunity for all of those six community colleges to air their views, to say, here's what we don't like about the formula, here's how we're different than the next college on the other end of the state. And by the end of the day we had arrived at an agreement. And I want to tell you right up front, Senator Ashford, Senator Flood were critical in that, but so were six community college presidents and some board members that were there for the right reasons who were tired of the fighting and were looking for resolution of some kind. And at the end of a long day we came away with a tentative agreement. I say tentative, but all six community college boards have voted to support the agreement. The bill that you have in front of you, LB1072, in its original green copy form was my way of improving the formula, today with the committee amendment becomes reflective of the agreement that we have with the six community colleges. That's what it becomes. Not everything in the amendment is going to be also in the agreement. But we are at a point right now where the six community colleges are again working together, they are sitting down with one another, they are talking with one another. We're making headway. But we need this piece of legislation to push a little bit more towards where we need to be. With that, Mr. President, I'm going to conclude on the bill itself. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the opening to LB1072. As was noted, there is an Education Committee amendment. Senator Adams, you're recognized to open on AM2194. [LB1072]

SENATOR ADAMS: Thank you, Mr. President. The amendment becomes the bill. The amendment is a reflection of much of our agreement with the six community colleges, which by the way they have all unanimously agreed to, including their boards. The amendment, quite frankly, is simple. What it does is this. A year from now, June 30, 2011, our current aid formula for community colleges sunsets, it ends, there will be no formula as of that date. In the interim I would tell you, and this is not part of the bill, in the interim the six community college presidents will be meeting on a prescribed time line, they will be reporting to the Education Committee and I on a regular basis as to their progress in developing a new state aid formula for distribution. The ball has been pushed into their court and they have, in effect, a little over a year now to bring that to us. In light of that, what we will do this year, and this becomes part of the committee amendment, what we will do, and all six community colleges have agreed to this, we will distribute aid to them for the '10-11 school year in an amount already determined and agreed to by all of them. And that amount, by the way, reflects cuts in community college aid that have occurred this session and during the special session. And they've agreed to the actual amounts, so we don't necessarily even need to run a formula. Their budget authority will be 2.5 percent, like it has always been, that's spending authority. And we've put in some allowable growth for them. And their levy, their levy cap is at 10.25 cents, which is where it was this last year. We've not raised that. So, in effect, we have set their budget authority, we've left their levy cap alone, we have designated

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literally in the amendment, you can see it, the amount of aid that will be distributed to them in the next year. One of the other things that the amendment does, which you had to be in Nebraska City to really sense it, we have the Nebraska Community College Association created some time ago in statute. One of the schools left that association. It was surprising to me how many of them, in fact all of them, wanted to be back in. They want to work together. But there were barriers, formula barriers, legal barriers. What we have done in this agreement is to tear down those barriers so they can all start meeting again as an association. What the committee amendment will do is to also sunset the existing organization on June 30, 2011. And just like a new formula, the six community college presidents will work to reorganize the Nebraska Community College Association between now and a year from now. Mr. President, that in essence is the committee amendment which becomes the bill and sets us on a course, I believe, for six community college presidents to do a whole lot of work between now and in effect January of next year before we reconvene. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of the Education Committee amendment, AM2194. Mr. Clerk, do you have an amendment to committee amendment? [LB1072]

CLERK: Senator Adams would move to amend the committee amendments with AM2298. (Legislative Journal pages 1054.) [LB1072]

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on AM2298. [LB1072]

SENATOR ADAMS: Thank you, Mr. President. Members, this is extremely simple. In the committee amendment it states that the Department of Revenue will certify the numbers. There's no point in that. The numbers are already determined in the committee amendment, which will become the bill. There's no point in that. So all the amendment does is take the Department of Revenue out of the picture. Department of Administrative Services will see to it that the checks are issued at the appropriate times in the appropriate installments. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of AM2298, amendment to committee amendment. Members requesting to speak are Senator Harms followed by Senator Ashford and Senator Krist. Senator Harms, you're recognized. [LB1072]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of both amendments to the underlying bill. You know, I grew up in this system. Spent 33 years as a college president and then the rest of the remaining time of my career in the community college system. So I really understand it well. I watched this unfold from a distance. As Senator Adams will tell you, I never got involved in the discussion. And

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primarily I think that when you're in a system as long as I was I think you as an individual, or as a college president, now as a senator, you bring a certain amount of baggage with you. And so I've always tried to stay out of that aspect but I've always monitored it from a distance. And I can tell you from what I've been able to observe that this body is very fortunate that Senator Adams, Senator Flood and Senator Ashford, quite frankly, were able to work this out because if it would not have been...if they would not have been able to work it out I think on this floor we would have had a real battle to try to resolve the issue. I think what they have done is the right thing. They've got the community colleges back to the table. They're talking about their differences. You know when you're in a growth pattern like community colleges are it's always wise in time where you have to readjust your funding formulas to meet the kind of clientele that you have that each of the community colleges are having to deal with. And there are differences between urban and rural America, the kind of students you have, what some of the issues are. But the theme of the issues are basically the same. And Senator Adams is absolutely correct when we talk about the community colleges and the future for Nebraska, the opportunity for students to enroll in a community college and if you have an interest in getting a new skill so that you can be competitive in a new comprehensive community college environment, with the changing global environment Nebraska is a place that you need to go. And so I really feel very strongly that we're moving in the right direction. And what we will find now will be whether or not the community colleges can truly work together over the summer and into the fall and bring a comprehensive piece of legislation that would change the funding formula and the needs of each of their institutions. Community colleges have so many moving parts, colleagues. There are so many different issues that community colleges deal with in their areas, in their communities. They're truly in the bowels of their community. They're truly involved in what's happening with economic development. Plants lay off people, they are there training people, interviewing people, helping them get ready for another job market or trying to find a place in their own region for them to go back to work. They have a much larger number of students coming into their system who need foundation education. And that is a term they now use for developmental or remedial education today. Seventy percent of the students who enroll in community colleges are placed in foundation education somewhere along the line. So a lot of students who come to the institution have deficiencies. And so you look at that, you look at the academic transfer, you look at vocational technical education that they provide, you look at training for business and industry, a lot of moving parts, a lot of differences occur. [LB1072]

PRESIDENT SHEEHY: One minute. [LB1072]

SENATOR HARMS: Thank you, Mr. President. So I think the fact that we were able...that the senators were able to get the community colleges to this point is somewhat of a miracle. I didn't know for sure whether that was truly going to happen. And I'm glad it was not settled in the court system because you may not like what you get. And I think this gives us the opportunity to do it, gives them an opportunity to see

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whether they can work together. And I would urge you to support both amendments and the underlying bill. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Ashford, you're recognized. [LB1072]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. I want to just carry on a little bit with some of the comments that Senator Adams has made. I'd like to...the substance of the bill and the amendments are...have been adequately explained. But I just...to add a couple of comments to that. I wish every time we had a contentious group of people on the issues that they are working on that we could send them into a room and have them work their differences out and not have to make law on the floor or laws on the floor, amendments on the floor to address issues that should be worked out between the parties. We're very fortunate in so many ways on this issue. First of all, I'd like to acknowledge Senator Cook. We wouldn't be here at all period, had Senator Cook not put in a bill a couple years ago to say let's work this out. And she started the ball rolling, the community college, the Metropolitan Community College, I believe, is in her district or almost anyway. And her leadership in saying to everyone without question the most contentious time in this issue to say let's step back, let's have a study, let's look at all the issues. So Senator Cook was very integral and important and represented the needs of her constituencies quite well. As always, I have to thank Senator Harms because Senator Harms was a resource for me when I would bounce ideas off of him, what was possible or even remotely material actually. (Laugh) Some of the ideas that would come to my mind, I might as well have been talking about the space program or something. So, Senator Harms, thank you for your help. The college presidents, all six of them, I was amazed at the day and a half we spent together how incredibly compelling they really are and how...we are so fortunate in Nebraska to have these six people here. Each one of them brings so much to the table. I was...I had known and met all six. But to spend a day with them and to listen to them and to listen to their willingness to think together and to collaborate and to look for the common good in a state that is so diverse, a state that has...I'm not sure of the exact number, 45,000 or whatever students at Metro and 2,000 or 3,000 students at the Western Community College, to be able...and then in between...we are incredibly fortunate to have these six people in our state. And many of them are new. Several of them have just moved into Nebraska in the last few years, some like Randy Schmailzl and Lincoln...Huck, president Huck, and others have been here for a while. But it is to me amazing. And also the new members of the Education Committee: Senator Sullivan, Senator Giese and Senator Haar brought such a fresh perspective to this issue. Obviously, Senator Howard, Senator Avery and Senator Cornett had heard about this issue for some time and were significant problem solvers in getting this resolved. The Education Committee sits for hours and listened to nothing but contention for weeks and months. And their perspective, their willingness to forge ahead and not be discouraged and to bring fresh ideas to this problem is really commendable. And then lastly, to... [LB1072]

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PRESIDENT SHEEHY: One minute. [LB1072]

SENATOR ASHFORD: ...to Greg Adams and his leadership, Speaker Flood and his ability to write well on the whiteboard and to pull people together at the right time, but really Greg Adams is a commendable leader without question. He is passionate, he is forceful, he cares deeply about education, obviously we all know that. I was really just a witness to this. I was glad to be there. I was glad to play whatever role I could play. I was honored beyond anything to be asked to be there, quite frankly. But this is a team effort. This is...and, I guess, the last message again would be to those who are still fighting the lobby on other issues. You know, spend some time together to think about solutions because I think that's what the voters want us to do. Thank you, Mr. Lieutenant Governor. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Krist, you're recognized. [LB1072]

SENATOR KRIST: Thank you, Lieutenant Governor and colleagues. When I was first appointed here in September, I went to Senator Adams, and shortly after the lawsuit started, and asked what could be done. He told me that things were being done. I want to tell you, first of all on a negative side, this should not be a message to institutions that are funded by taxpayers' dollars that if you file a lawsuit somebody will come help you with your problem. I think that's the wrong message to send. I think the message to send here is that this Legislature, as talented as it is, and the individual senators that sit here want to solve problems before they become problems. I want to applaud Senator Adams, Senator Ashford, Senator Flood, Senator Cook for taking the steps that they took along the process. I know it's been a long road. I rise in favor of AM2194, AM2298, and LB1072, and most importantly I'd like to send a message also to those boards out there who are supposed to be representing the citizens, the tax base, the taxpayers to find those solutions before we go in to litigation, find the folks that you need to help you solve the problems, the whiteboard writers, the Senator Adams' and the Senator Ashfords of this world, and try to avoid that litigation because I think, in terms of where we could have been today, I agree with Senator Harms, it's amazing that this has come together. And again, I applaud their efforts, but I think we might have wasted some time to get here. In this litigious society, I don't think we should be investing taxpayers' dollars in the process. I think we should be trying to find solutions from the very beginning. Thank you. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on AM2298 to AM2194, we have Senator Gay, followed by Senator Avery, Senator Christensen, and Senator Cook. Senator Gay, you're recognized. [LB1072]

SENATOR GAY: Thank you, Mr. President. I was listening to Senator Adams, and I'd

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also like to thank Senator Adams, Flood, and Ashford, and the group that got together to try to find a solution to a difficult problem. I appreciate that. However, I do have some questions on the amendment, if Senator Adams would yield. [LB1072]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Gay? [LB1072]

SENATOR ADAMS: Yes, I will. [LB1072]

SENATOR GAY: Senator Adams, the question is this...and we've talked a little bit on this. I just want to kind of get to the bill a little bit because it is a difficult situation. What I want to know is it looks like we're having a lot of faith that something will get worked out, and we had talked, but who's...how is that monitored along the way? Between now and June 30 of 2011, when we do our next budget, who is going to be monitoring that, how does this work? Because there is no guarantee that this will get worked out. For our convenience, it would be good if it did, but I guess my first question, how would this be monitored along the way? [LB1072]

SENATOR ADAMS: It's a good question and the monitoring, Speaker Flood and I and the six community college presidents, we have designed a worksheet with time lines on it where the six college presidents will deliver to us certain work product. As a matter of fact, we already have a public hearing set, and I don't know what the date is, in October at 1:30 when they will come in and present to us their tentative structure for a formula. So we have literally outlined time lines and work product for them. [LB1072]

SENATOR GAY: Okay. And then...and I have no doubt that you would do that. You do an excellent job of getting into these difficult issues and following up. But not to be negative, I guess, but if for some reason along this time line it's not working out then...and the funding is going to go away, are we just going to craft all new funding? And the way I understood that amendment, does their levy authority go away as well? [LB1072]

SENATOR ADAMS: There...if on June 30, 2011, they haven't come up with something and, let's also throw in this scenario, the Education Committee has not come up with something in lieu of that, then there will be no mechanism for the distribution of aid or for property tax levy. [LB1072]

SENATOR GAY: Which then...and that's where...I'm sure something will get worked out. I just can't imagine. And June 30, let's face it, none of us would want that for our community colleges that we don't have funding. We all represent constituents that are using these resources and they're excellent. Senator Harms did a fine job explaining, and yourself as well, of why we need these. The idea is, along this time line, is there a checkpoint that says, you know, this isn't quite what I wanted, I better start doing this or the committee? Will that be sometime next year or when would this happen because...?

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[LB1072]

SENATOR ADAMS: I see that potentially happening in the early, early stages of our session next year. We will have to see from them a work product coming forward that could be put in the form of a bill that the Education Committee could find within its broad framework, and if we can't work that out the way we would normally work out any bill at that point before it reaches the floor, the Education Committee will have to find an alternative avenue. [LB1072]

SENATOR GAY: Okay. The competition, I can just imagine, at this point between K-12, the colleges, and now the community colleges, all trying to receive the same pool of funds or limited funds would be tremendous. So I just...I think for the rest of the members at some point faith, or what was the old saying, trust but verify. There's a certain point here I think everyone needs to know what those time lines are and how would you keep other members informed of what's happening. Do you have a... [LB1072]

PRESIDENT SHEEHY: One minute. [LB1072]

SENATOR GAY: ...would it be just through memos or anything or should we just stay in contact? [LB1072]

SENATOR ADAMS: We can...we can do whatever the body would like. There's certainly nothing that we wouldn't be willing to share with the group in terms of the work plan. [LB1072]

SENATOR GAY: Yeah. [LB1072]

SENATOR ADAMS: Sure. [LB1072]

SENATOR GAY: And I appreciate that. You've always been...we've talked about this several times and I kept my nose out of it this year and I appreciate your efforts on this. Thank you, Senator Adams. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Avery, you're recognized. [LB1072]

SENATOR AVERY: Thank you, Mr. President. I'd like to engage in a little discussion with Senator Adams, if he would yield. [LB1072]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Avery? [LB1072]

SENATOR ADAMS: Yes, I will. [LB1072]

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SENATOR AVERY: Senator, you know that I, as a member of the committee, have supported the committee's work in this area, but I have been looking at the fiscal note. If you turn to the fourth page of the fiscal note, where the Coordinating Commission has given information, numbers, as to what it would cost them to coordinate and provide oversight, I'm just wondering if this amendment that we're now discussing in any way changes this note and, if so, how. [LB1072]

SENATOR ADAMS: You've raised a good question and the amendment, Senator Avery, takes the Coordinating Commission completely out of it because we technically...well, literally will not be running a formula that they need to certify numbers on or gather data. [LB1072]

SENATOR AVERY: So this fiscal note is not current. [LB1072]

SENATOR ADAMS: It goes away. [LB1072]

SENATOR AVERY: Yeah. I was going to raise some interesting questions about it because we see some numbers here that eventually we're going to come back to this, I suspect. Don't you? [LB1072]

SENATOR ADAMS: When we get ourselves a new formula, there's going to have to be a gatekeeper of some kind. [LB1072]

SENATOR AVERY: Right. When we get to that point, I hope we look very, very carefully at the numbers the Coordinating Commission is giving us because I'm looking here at utility costs for one position they were planning to add of almost \$1,700 a year, and I just checked with my office, I think we spent \$260 in the last fiscal year for an office with four people in it. So I think that we'll have to look very carefully at the numbers they give us to make sure that they are verifiable and accurate. That would be a basis, I think, for some good questions about cost savings, because the way these fiscal notes are put together we're left at the mercy of the agency. The Postsecondary Coordinating Commission says it will cost \$145,000 for us to provide this oversight. We have no basis for challenging that so we're at their mercy. So when we get to that point, whether it be next year or the year after, I hope that we'll ask these questions and that we'll be taking a very close look at the accuracy of these estimates. Thank you, Senator Adams. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Christensen, you're recognized. [LB1072]

SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to stand and say thank you, Senator Adams, for the work you've done. I know Mid-Plains Community



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College in my area is very supportive. They're very appreciative of the work the whole committee has done and I just want to stand in strong support of what's been accomplished here. And if Senator Adams would like to have my time, I'd yield it to him. [LB1072]

PRESIDENT SHEEHY: Senator Adams, you're yielded 4 minutes 35 seconds. Senator Adams waives. Senator Cook, you're recognized. [LB1072]

SENATOR COOK: Thank you, Mr. President and members of the body. I would also like to stand in strong support of the amendments and the underlying bill. As you all recall, last year you were kind enough to offer, and with your districts' interests in mind I'm certain, a unanimous, that's all 49 of us, voting for a study and in that study were identified some of the factors that were put into this bill. So when we talk about studies as we go forward, here's an example of a study that was results-oriented and solution-oriented, and I think we can remember that and not perhaps be so wary of them. I'd also like to say that as we look toward our future we should remember that absolutely we are legislating in tough economic times but we should maintain that orientation toward our future, whether that means a student coming up in pre-K through the secondary education and going on to community college and then perhaps on to a four-year university and maybe beyond that, but also for people who are retraining or reentering the work force or maybe a single parent or a displaced homemaker who's entering the work force for the first time. So when we talk about the work of community colleges and remembering our investment of time in legislating how they are funded, that they are funded adequately with an orientation toward the future, that we not be shortsighted but be mindful that we are planning for our own futures. And with that, I would like to thank the body again for their support of that study last year and urge you to vote for the amendments and the underlying bill. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Haar, you're recognized. [LB1072]

SENATOR HAAR: Mr. President, members of the body, I rise in strong support of the amendments and LB1072 and I guess what I would say has already been said, except I need to say it again. Thank you so much to Senator and Chairman Adams of the Education Committee for the work that he's done on this and the work that he does in the rest of the Education Committee. Thank you very much. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Louden, you're recognized. [LB1072]

SENATOR LOUDEN: Thank you, members...Mr. President and members. Would Senator Adams yield for a question, please? [LB1072]

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PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Louden? [LB1072]

SENATOR ADAMS: Yes, I would. [LB1072]

SENATOR LOUDEN: I was looking on page 10 of this...of the AM2194 and I see where the community colleges can have a maximum levy of 10.25 cents. Now is that down from before, they were...they could go to 12, or why is this language in this bill? [LB1072]

SENATOR ADAMS: Because what we're doing is we're ending the formula. As of the enactment of this bill, we're ending the formula that we currently use for distribution. So in substitute of that, what we're doing are three things: (A) we are defining the amount of state aid that they will get; (B) we're telling them what their budget authority is going to be, their spending authority; and we're setting a levy cap for this next year of 10.25 cents. [LB1072]

SENATOR LOUDEN: Now, okay, and is that higher than what it is now or lower? [LB1072]

SENATOR ADAMS: It's the same number as what it was this last year for distribution. [LB1072]

SENATOR LOUDEN: Okay. Was it 12 cents, for awhile they could levy up to 12 cents? [LB1072]

SENATOR ADAMS: I don't know. There may be some capital in that as well,... [LB1072]

SENATOR LOUDEN: Yeah, but... [LB1072]

SENATOR ADAMS: ...but for property tax purposes it's 10.25. [LB1072]

SENATOR LOUDEN: Now, in other words, can I say whether our property tax then will go up or will it go down? Because many of these community colleges are down around 6 cents and I think ours out west was 8 or 9 this year. Now if you're putting it at a maximum of 10.25, what do I tell my constituents? Their tax is going to go up or down? [LB1072]

SENATOR ADAMS: That the levy is in...the levy limit is the same place it was last year. It's up to that board what it does. [LB1072]

SENATOR LOUDEN: Okay, but the levy limit is the same as it was last year. [LB1072]

SENATOR ADAMS: Same as it was. [LB1072]

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SENATOR LOUDEN: Okay. Well, then how come this is new language in there, mostly because you're...if it was already in statute last year? [LB1072]

SENATOR ADAMS: Because the levy limit was calculated through the distribution mechanism, through the formula, and would vary. This way we're just setting it for this next year because we're not running the formula. [LB1072]

SENATOR LOUDEN: Okay. Now will that be there from now on or will that change next year? [LB1072]

SENATOR ADAMS: June 30 next year this formula terminates and all of that language does, too, and we start anew. [LB1072]

SENATOR LOUDEN: Okay, then we have the same conversation next year? [LB1072]

SENATOR ADAMS: Yes, we will. [LB1072]

SENATOR LOUDEN: Okay. Thank you, Mr. President, and thank you, Senator Adams. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Louden. Seeing no additional requests to speak, Senator Adams, you're recognized to close on your amendment to committee amendment, AM2298. [LB1072]

SENATOR ADAMS: Thank you, Mr. President. Very quickly, AM2298, quite simply what it does is take the Department of Revenue out of the certification of aid numbers because there will be no formula run this next year. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the adoption of AM2298 to AM2194. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1072]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB1072]

PRESIDENT SHEEHY: AM2298 is adopted. We will now return to the Education Committee amendment, AM2194. Are there members requesting to speak? Senator Nelson, you're recognized. [LB1072]

SENATOR NELSON: Thank you, Mr. President. Just a quick question for Senator Adams, if he will yield. [LB1072]

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PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Nelson? [LB1072]

SENATOR ADAMS: I will. [LB1072]

SENATOR NELSON: Senator, I'm supportive of this amendment. I just...everything seems to be gauged in terms of June 30 of 2011. I'm just a little concerned. Is that a little late for the six presidents to be getting together and presenting something? Is there some reason why we don't get that agreement a little earlier along in the session? [LB1072]

SENATOR ADAMS: Senator, we have created a time line for the college presidents that they will report to the Education Committee, myself, and the Speaker, and that begins right away. And so what we're anticipating is incrementally they will be reporting to us at various stages of work product up until the beginning of the session in January. [LB1072]

SENATOR NELSON: All right. And you'll see where they are at that time and see what the need might be to start working on another formula. All right. Thank you, Senator Adams. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Adams, you're recognized to close on the Education Committee amendment, AM2194. [LB1072]

SENATOR ADAMS: Thank you, Mr. President. In summary, the committee amendment becomes the bill and, in effect, does two things. (A) It terminates on June 30, 2011, the current funding formula. Now, it's not in statute, it's not in bill form, it's not in amendment form, but realize that on the side we have a plan, a work order, we have dates, we have deadlines for the presidents and I'm confident that they'll fulfill those to bring us the information we need to develop a new funding formula between now and June 30 of 2011. The other thing that will happen is that on June 30, 2011, the current structure of the Nebraska Community College Association will sunset and terminate, and during this same interim period we will anticipate, we expect, that the community college presidents will be working together to reorganize that association. That, in effect, is the committee amendment which becomes the bill, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the adoption of the Education Committee amendment, AM2194, to LB1072. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1072]

CLERK: 42 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB1072]

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PRESIDENT SHEEHY: AM2194 is adopted. We will now return to floor discussion on LB1072. Seeing no requests to speak, Senator Adams, you're recognized to close. [LB1072]

SENATOR ADAMS: Thank you, Mr. President. I'll make this very short. Thanks to all of you for your support on the amendments and the kind words. Let me just quickly say in concluding that I don't think we would have gotten where we're at right now if it wasn't for six community college presidents and their boards wanting to resolve this. We don't have any guarantees what the final product will be, but we have put the responsibility with them and I think that they will produce, I really do. And if not, the Legislature a year from now will have to decide how we're going to distribute state aid. Thank you, Mr. President. [LB1072]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the advancement of LB1072. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1072]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB1072. [LB1072]

PRESIDENT SHEEHY: LB1072 advances. Mr. Clerk, do you have items for the record? [LB1072]

CLERK: I do, Mr. President. I have a series of amendments to LB999 to be printed. Pursuant to the rules change earlier adopted this session, a conflict of interest statement has been filed and available in the Clerk's Office. A new resolution: Senator Pirsch offers LR510 and LR511, study resolutions; both those will be laid over at this time, Mr. President. That's all that I have. (Legislative Journal pages 1159-1161.) [LB999 LR510 LR511]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB779. [LB779]

CLERK: LB779 is a bill by Senator Lathrop relating to political subdivisions. (Read title.) The bill was introduced on January 7 of this year, at that time referred to the Revenue Committee for public hearing. The bill was advanced to General File. I do have Revenue Committee amendments, Mr. President. (AM2038, Legislative Journal 725.) [LB779]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB779. [LB779]

SENATOR LATHROP: Thank you very much, Mr. President. And, colleagues, good afternoon. Today, I'm introducing LB779. This is what's known around here as the

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turnback bill. We have in this state passed two different bills to deal with turnback, one with the Qwest Center and one with the Lincoln arena, both of them larger projects. Both of them have their own set of circumstances, but because they are larger projects those terms and the circumstances under which those kind of facilities can be built and used and turnback can be employed are limited when it comes to smaller communities. LB779 addresses the concern and permits the use of turnback for smaller facilities and, therefore, it is most likely going to be used in cities of the first class. Qwest dealt with...and the turnback, the original turnback, which was the great vision and brainchild of Senator Ashford years ago, doesn't work for the smaller facilities, and what we have in LB779 is an approach, I think you will agree when I'm done, is a proper use of turnback as a funding mechanism. Let me tell you a little bit about what LB779 does or to talk about, rather, turnback generally. Generally, when you have a turnback project, you're building a public facility. It can be an arena of some kind. And the advantage to the state and to the community is that the building of that facility generates development. You don't just build the arena or build the convention center. You have as a consequence of that arena or convention center development that develops around it--hotels, different businesses. In the case of the convention center in downtown Omaha, it was the Hilton Hotel and some other related business; in Lincoln, a similar circumstance. That works well when you have things like 18,000-seat arenas but not so well when you're dealing with a smaller venue. The facility doesn't just generate the development. It creates jobs in the community and it also provides an improvement in the quality of life. If we want to keep younger people in this state, it's important that we provide innovative ways to entertain and to provide things for people to do so that they have every reason to stay in the state. The facilities that are built with turnback are paid for with dollars that never would have come to the state in the first place, and that probably is the hallmark and the genius of a turnback bill, and it's certainly true here. And let me say it again. The money that is turned back to help pay for the project is sales tax receipts that would not happen but for the development, but for the project itself. So the state is not out money because of the...because of the turnback dollars used to help pay for the financing. I would also mention this bill enjoys the support of the League of Municipalities that recognizes that LB779 will provide another tool in the toolbox of the cities across the state who do not have and cannot generate projects big enough to take advantage of turnback that was created to accommodate a project the size of the Qwest Center in Omaha. I want to give you a preview of the amendments. If you've looked on the computer screen at this, you'll see there are a number of amendments and I'd like to visit with you about those for a moment. Originally, I put the bill in, and I should thank Senator Ashford for a great deal of help, not with just the concepts but with the original bill. We worked on this at length during the interim to try to come up with not just...and as you may know, there is a proposed project in one of my communities, Ralston. But we didn't look at this and this bill is not unique to Ralston. We have gone out of our way and I would say the Revenue Committee has worked diligently on this, as did Senator Ashford and I, when we were working on the concept. We are trying to come up with something that can be used by other communities to

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develop arenas and other qualifying projects. So while today we may be talking about turnback in the context of a community that I represent, this turnback bill will be available to the communities across the state, the Scottsbluffs and the North Plattes and the Hastings and the Yorks and Norfolks of the state. So I would encourage you to think of it in terms of a concept, in terms of a scheme that is put in place to allow cities to develop these kind of attractions to bring tourists into their cities, to improve the quality of life of those who are...live in the communities where these projects will be built. One other mention, when I talk about the concepts of the...concepts of the turnback, the turnback law, and this is true to this principle as well, it is a 70/30 split, which means of the money that is taken from the turnback, 70 percent goes to help finance the project, 30 percent goes into a fund and that fund is used across the state. I'll have a handout for you here momentarily. The fund goes to communities across the state to build community centers and you will see that your communities in greater Nebraska are taking advantage of this and it really is an exciting piece of the turnback law which is to say we take dollars we wouldn't have otherwise, we split them 70/30 with the rural communities, 70 percent to pay for a project that will blossom into development and blossom into tax dollars in time, and split 30 percent with the rural communities who can take this share as a grant and build community centers, improve their locales, and it's a win-win. And how much time do I have left, Mr. President? [LB779]

PRESIDENT SHEEHY: Two minutes thirty seconds. [LB779]

SENATOR LATHROP: Let me talk a little bit about the amendments. You will see there I have an amendment to the committee bill (sic). That was necessary, and I'll explain it in due time, to accommodate a lot of concerns that we heard, many concerns since we've been doing this in Omaha. Since we're coming upon a tight year or a tight biennium, there were concerns expressed: How long do these things go? Can they go forever? Does somebody have to spend the turnback money on these bonds? The committee amendment or the amendment to the committee amendment which I will offer addresses those concerns. There are safeguards in this bill. Those safeguards include a duration. They can't go longer than 20 years. A project must be approved by a board, which is established. The money must be used for a public purpose. There is a 70/30 split and if there are two projects that are in the same area, we address that in the amendment as well. Finally, and I want to be clear about this, one of the concerns that we heard and we've gone to great lengths to ensure that we have satisfied the concerns of those who wanted to make sure that we didn't use LB779 as a vehicle to change or to intercept existing streams of money in Omaha. We're not expanding anything that's going on at the Omaha Qwest Center. We're not changing the deal Lincoln arena has, nor are we allowing for any of this turnback to be used for either the baseball stadiums in Douglas or Sarpy County. Those were the concerns that were addressed. I'd be happy to talk about the particulars of the bill when I get to introduce my amendment. Thank you. [LB779]

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PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening to LB779. As was noted, there is a Revenue Committee amendment, AM2038. Senator Cornett, you're recognized to open. [LB779]

SENATOR CORNETT: Thank you very much, Lieutenant Governor and members of the body. When Senator Lathrop and Senator Ashford brought this idea to me, we looked very hard at how we currently were funding arenas in this state. We have, with the committee amendment, pared the bill down considerably and I know Senator Lathrop has amendments that further reduce that bill. The Revenue Committee advanced LB779 with 5 votes in support. The committee rewrote several provisions of the original bill. The committee amendments included adding a definition of amusement parks, deleted language making renovation of the Centennial Mall near the Capitol Building an eligible use for local convention center funds, limited the zone for new sales tax from 1,000 yards to 600, limited the size of the facility to be financed. And as I said earlier, Senator Lathrop has amendments that significantly rewrite the committee amendment also. It was our intent with the committee amendment that we did not expand what was already in place for the Qwest Center or for the Lincoln arena and that we also did not include anything on preexisting projects, such as either baseball stadium. What we are looking at here is simply new projects moving forward, limited in size and scope. Under the agreement, the sports facility would be defined as any indoor building primarily used for competitive sports that has a seating capacity of at least 3,000 seats, or any outdoor facility located in a county with a population less than 100,000 inhabitants. The new sports facilities will be able to use two different funding streams generated within 600 yards of the facility. The original bill had extended that zone to 1,000 yards. Any increase in sales tax revenue from retailers that existed 24 months prior to the completion of the facility would be used for the turnback provision. All state and sales tax revenue collected by retailers that began operating up to 24 months prior or 24 months after the completion of the facility would be used for the turnback provision. These are also things that Senator Lathrop has addressed in his following amendments. If Senator Lathrop would like, I will yield the remainder of my time. [LB779]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 7 minutes 25 seconds. [LB779]

SENATOR LATHROP: Thank you, Senator Cornett. And I have to make a confession. I had an amendment. I intended it to be an amendment to the Revenue Committee amendment. Unfortunately, when I filed it, I drafted it as an amendment to LB779, so we are making a change to that. Let me give you a preview about what it is and I can shorten that process when the amendment is here and offered. I'll try not to be redundant at that time. But let me lay out for you what this bill does in the particulars or what this amendment will do in the particulars after it's subject to my amendment. Ultimately, it's about what are the criteria. So let me talk to you about the criteria in this bill for a qualifying project, to start with, and this will be in the Lathrop amendment to follow. First, to qualify, it will be necessary that...or this will address those arenas that



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have seating of 3,000 to 7,000 seats. It will be necessary that the arena be a private arena and not a...pardon me, a public arena and not a private arena, so if there's a project that is to build some type of an arena that will be owned by a private corporation, this would not qualify for obvious reasons. Let me tell you what they are. We're not going to use state tax dollars and put the city's obligation to fund on the line to ensure the success of a private enterprise. So these projects will be 3,000 to 7,000 seats, they'll be indoor projects, and they will be projects that would be owned by a public political subdivision. The next piece that's important in the amendment to follow will be the turnback criteria. The criteria is different than you'd find in Omaha or in Lincoln because we have a smaller facility, and let me talk about that for a second. If you have a Qwest Center, you have an 18,000-seat facility. You will have a Hilton Hotel show up next door to an 18,000-seat facility because there's a lot of activity over there, a lot of people coming and going. This will be on a smaller scale so we had to develop a different process. Let me tell you what that is. Anyone within...we look at the retailers that are within 600 yards of the facility, 600 yards. Imagine an arena and with a big circle that's 600 yards around. Inside that circle there are two classes of businesses whose sales tax will be turned back. The first class are those who come in anticipation or immediately following the occupancy of the arena. People that are there two years before the arena is complete and ready for occupancy and those that come two years after, their state sales tax will be turned back. The second class of tax...sales tax that are turned back are those businesses inside the 600-yard circle who have been there before two years. In other words, they were there before. They're not there because...they didn't arrive there because of the facility. It just happened to be next door to them. For those businesses in that second class, we will establish a base. The year before occupancy is the base sales tax receipt. That will still go to the state. But for those increases in state sales tax that follow the occupancy of the arena, that will be part of the turnback. So let me say that again. Two classes inside the 600-yard circle. Those that come in anticipation of and immediately following the occupancy of the arena, so two years before, two years after, those businesses, their state tax dollars will be used in the turnback. For those that were there before two years, we'll just take the addition, okay? Let me give an example. Let's say that there is a bar that exists and it's inside the circle and it's been doing business for ten years and along comes the arena inside...and the...what we would do in that circumstance is look at the year before occupancy, what were their tax receipts. That becomes the base and the state will always get the base amount from those existing businesses. But because there will be more traffic generated by the arena, there will be increase in sales, in all likelihood, and it's the sales tax on the increase in sales. Pretty simple, pretty simple concepts. It really is that simple. Let me take a little bit of the time to talk about some concerns expressed by Senator Utter. Senator Utter serves on the Revenue Committee and is a very thoughtful person. I appreciate that he has some concerns and put an amendment in that we'll talk about in a little bit. His amendment would say that after ten years of turnback we're going to cut that in half. Okay? Let me say that again. His amendment would say that after ten years or for the second ten years, the turnback amount would

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be half. I appreciate his concern. Unfortunately, I believe that what he's suggesting makes these impractical. I have, though, to accommodate his concern, put an amendment in myself to kind of address the concern about what limitations are appropriate for turnback projects and for state sales tax revenue that will follow these kinds of developments, and I'll introduce that subsequent to Senator Utter and I'll probably talk about it before I introduce it, but I'll use Senator Utter's amendment as the proper occasion for that. [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR LATHROP: Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Thank you, Senator Cornett. You have heard the opening of the Revenue Committee amendment, AM2038, to LB779. Mr. Clerk, do you have an amendment to committee amendment? [LB779]

ASSISTANT CLERK: Mr. President, the first amendment to the committee amendments is offered by Senator Avery, AM2268. (Legislative Journal page 1066.) [LB779]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM2268. [LB779]

SENATOR AVERY: Thank you, Mr. President. This amendment was filed to an earlier amendment, I believe. I'll go ahead and talk about it anyway. The amendment that I'm suggesting here would change existing law so that cities of the metropolitan class and cities of the primary class could adopt biennial budgets in even numbered years. The way the law reads today, cities are allowed to have biennial budgets as long as they are approved by way of a city charter, and they are limited to having biennial budgets begin only on odd-numbered years. This amendment would add the language "or even-numbered years" and the occasion for this amendment is that the city of Lincoln is seeking a charter revision that would allow them to go to a biennial budget. Currently, the city can only submit an annual budget, but the administration does not want to have to submit a biennial budget in only in odd-numbered years. Because that is the year that new mayors are elected, it makes for a difficult process when a new mayor is elected and immediately has to go into a budget process. So this is simply an amendment to add even-numbered years to give these cities the flexibility to submit biennial budgets in either odd-numbered or even-numbered years. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have...Senator Avery, you're recognized. [LB779]

SENATOR AVERY: Mr. President, I was in error. I want to withdraw this amendment and I will go to AM2375 at the appropriate time. [LB779]

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PRESIDENT SHEEHY: Thank you, Senator Avery. AM2268 is withdrawn. You have heard the opening to AM2038 to LB779. Members requesting to speak are Senator Ashford, followed by Senator Cornett, Senator Pirsch, Senator Rogert, Senator Coash, and others. Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And I also...I would commend Senator Cornett and Bill Lock for their work on this. We met several times. Bill is an expert in this area and helped draft the original turnback bill. Let me just suggest a couple of reasons why this is such key legislation. As Senator Lathrop suggested, when we did the Qwest Center bill, when this Legislature did the Qwest Center bill originally, we were talking about a \$295 million project. The building itself was the project. It was so much larger than any project, by far the largest public works project in the history of the state. It was a project unto itself. After the...and the law was...the turnback was structured based on the projected revenues from that large building, including the construction costs. So there were numbers of dollars that were turned back to the project as a result of the sales tax generated from the construction. Subsequent to the development and opening of the Qwest Center, the law was changed a couple of years ago to reflect sort of the change in activity in the building from what was thought to be predominantly a convention center at the time it was built to an arena, and the arena, the arena part of the Qwest Center is what generates most of the sales tax. The hotel, which is connected across the street at the Hilton also generates a significant amount of sales tax. They're integrated buildings, they're connected to each other. It's one big project. Senator Lathrop is absolutely correct. And Senator Cornett, from the very beginning of discussing this issue, wanted to make it absolutely clear to me and to us certainly that if we were going to develop a new turnback sort of formula that it would address those communities and those projects that were smaller and, in some cases, significantly smaller than a Qwest Center, for example. The underlying reason to do turnback, and we are the only state in the United States that has turnback financing and we're the only state in the United States that turns back significant dollars to projects across the state, and I want to make...and at the beginning of the session I did hand out a book that had the pictures of all the projects and it is pretty cool. There are over 30 projects across the state. These are projects that are not necessarily Qwest Centers or mini-Qwest Centers. They don't necessarily bring in people from outside the state. But these are projects that in the communities that they are in are important to their area and projects that may not have been funded otherwise. So I think that the success of that 30 percent fund speaks for itself. But the fact of the matter is there are cities in this state, like Ralston, Steve talked about a project potentially in Ralston, Columbus, Grand Island with the State Fair, North Platte, wherever it is, these are communities that are not going to have a project of the size of the Lincoln project or the Qwest Center, but they would like to develop projects that the 30 percent fund would not help develop. The fund is too small. But there are...but these communities are invigorated and they have dreams of doing indoor arena type facilities. When we did the Qwest Center project at the very beginning and we developed the 30 percent fund, the

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vision was somebody is going to build a rodeo arena, an indoor rodeo arena somewhere in the center of the western part of the state. That was what we thought about at that time. That may still happen potentially in Grand Island, who knows, or North Platte, so... [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR ASHFORD: ...this concept of the turnback, at no time was it ever intended simply to be an Omaha bill. This is always intended to be a statewide...have statewide impact and to address really, at the time it started 10 or 12 years ago, the need for tourism funding. We really underfund...you know traditionally do not put a lot of General Fund dollars into tourism. This was an effort to kind of generate out of activity at the Qwest Center and now hopefully Lincoln and other cities. Senator Lathrop has got this right. Thanks. And Senator Cornett did a great job of narrowing the focus, as did Bill Lock. And I urge the adoption of the amendment and passage of the bill. Thank you, Mr. Lieutenant Governor. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Cornett, you're recognized. [LB779]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. Let me explain procedurally a little bit what we're doing and what the sidebar was. We have the committee amendment. Senator Lathrop has filed an amendment which essentially rewrites the committee amendment that we have been working on him with and adds the provisions that Senator Avery was talking about. Let me explain what Senator Avery was talking about a little bit better. The city of Lincoln came to us well after bill introduction and needed a fix in regards to their biennial budget. It's currently set on the odd-number years and they wanted to move it to an even-number year. And this does not put in any requirements that a municipality has to; it just gives them the option to. And why they need...why they felt this was necessary is, to give you an example, a new mayor gets elected. He's got to come in and immediately develop a budget and certify it or and get that budget passed, where if we did it on a different year, then he would have a year to work on his budget for the city. There were no objections on the Revenue Committee when we discussed it in Executive Session. We just did not have a bill at that time that we could attach it to. I have no objections to the amendment as part...of that concept as part of the amendment that Senator Lathrop has drafted. As to the bill, I think it is very important that we give our municipalities that are smaller and outside of Omaha and Lincoln the same opportunities as we have given Lincoln and Omaha, and with that objective in mind, we worked very hard with Senator Lathrop and Senator Ashford to narrow the focus of this bill to doing that. It was my goal and Senator Lathrop's goal with this that we did give...offer the same opportunities to our other communities in the state that we've given to our two largest communities on a scaled down version. With that, I urge the body to support the committee amendment, the

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amendments that Senator Lathrop will be offering, and the underlying bill. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator Rogert, you're recognized. Senator Rogert. Senator Coash, you're recognized. [LB779]

SENATOR COASH: Thank you, Mr. President, members of the body. Senator Rogert, I'll give you some time here at the end. I wanted to speak just for a moment about...echo some of the comments Senator Cornett talked about and with regard to Senator Avery's amendment that's going to give some flexibility to the budgetary process that Lincoln goes through, and use this as an opportunity to share with the body how important I think it is that we, as state government, remain as flexible as we can when we enact legislation that deals with cities and counties. When we can't give them more money, when we can't support our local municipalities and county governments, we need to do the next best thing, which is to be flexible with them and allow them some latitude so that they can make things work. Our state government is working with less money. We handle that, but we have to give our locals the ability to be flexible. As Senator Cornett stated, this is...LB779 is something that's important not just for small communities but this has an impact for the larger communities, so this is not a...it's not a rural bill, it's not an urban bill. This is a bill where the small communities get to do in proportion what the larger communities do. When they can do that, it helps the larger communities. So I envision things across the state, I envision things in the Sandhills, I envision things in the extreme southeast part of our state, I envision things out in the Panhandle, communities who can take advantage of the type of legislation that LB779 seeks to address. Because what that does is it brings...keep in mind, folks, we've got a lot of border on the east part of our state, but we've got a lot of states in the north and a lot of state in the west and a lot of state in the south and we could pull some of those folks in as well. We don't need to pull just Council Bluffs into our state. We could pull Wyoming residents and South Dakota residents and Kansas residents. And the only way we're going to do that is if we give some smaller communities the opportunity to do this kind of thing as well. So I do stand in support of LB779 and the upcoming amendments. I appreciate the body's consideration of it. And I will yield the balance of my time to Senator Rogert, if he so wishes. [LB779]

PRESIDENT SHEEHY: Senator Rogert, you're yielded 2 minutes 30 seconds. [LB779]

SENATOR ROGERT: Thank you, Mr. President. Thank you, Senator Coash. Apologize, members. I was in the other room. I want to direct your attention to the piece of paper that Senator Lathrop passed out just recently and it has the state of Nebraska with a bunch of arrows and lines and draws on it, some numbers on the bottom, and this is really what's pretty important to everybody in rural Nebraska why this is good, and this is currently what's being doled out to small towns in Nebraska for improvements on their communities and their public facilities. You look in my district, I have two grants, one for

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Bancroft, one for Tekamah, to help fix and repair and enhance those facilities that those local communities use. Take for example everywhere across the state of Nebraska, every little town some time post-World War II built a community center, a lot of them in maybe an old Quonset style or some sort of building they use as their auditorium. When the roof starts to leak or the wall starts to cave, they don't have the money to go in and spend tens of thousands of dollars to fix these things and, thus, they're in trouble because they aren't able to host local events in their towns anymore. The turnback bills have greatly helped to fix that issue. The Qwest Center, for example, generates a whole lot of extra sales tax from its existence. The Lincoln arena, if it passes, will do the same. The park in La Vista will also do the same. [LB779]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR ROBERT: Those dollars come back to the small towns to help reinvigorate those facilities and keep people using those small towns for their events. If you don't have a community center in there, you're not going to be able to have weddings, you're not going to be able to have graduation parties or whatever it is you do, and those dollars are lost to those communities. So take a look at this sheet. Almost everybody in the room has got some money that they're receiving from the Qwest Center in the turnback and that's a great thing, and I support what Senator Lathrop is doing today. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Rogert and Senator Coash. Senator Stuthman, you're recognized. [LB779]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask a question or two of Senator Lathrop. [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR STUTHMAN: Senator Lathrop, you know, I've been listening very close to this because I have a real interest in the turnback portion of it. Is this...the turnback portion, is this just the state sales tax or is that the community or the local city sales tax also? [LB779]

SENATOR LATHROP: It's the state sales tax that is the subject of this. Now, I don't think there's anything prohibiting somebody from taking advantage of a different financing mechanism, but these bills deal with the state sales tax. [LB779]

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SENATOR STUTHMAN: Okay. And let's just take, for example, this arena takes place and there's a turnback of the state sales tax that this arena generates. Will this continue on forever, a turnback forever? [LB779]

SENATOR LATHROP: No. Great question. This bill, in response to concerns expressed by Senator Utter and perhaps some others, puts a 20-year limitation on the financing and the turnback. [LB779]

SENATOR STUTHMAN: So that takes care of that portion of it, but in this other chart where all these communities got this money from turnback sales tax, is this really where all this money comes from, turnback of facilities? [LB779]

SENATOR LATHROP: This is it and this is how...this is, you know, Omaha is the only one right now that has generated nearly \$3 million into this, what we call the 30 percent pot. And to give you an idea, whatever we're talking about for turnback, Senator, 70 percent goes for financing the arena, which is the goose that's laying the golden eggs, 30 percent is going to go into a fund. These are projects that have been financed or grants that have been given from that 30 percent fund and you can see there are towns all across the state that have been able to improve. And I think it's a matching...a matching thing, so they put a little in, they take some out of the 30 percent pot, and in a place like Dannebrog they spend or took nearly \$70,000 to work on a community center. [LB779]

SENATOR STUTHMAN: So in other words, like in my community, Humphrey, where they put up a community center, an entertainment center, what they have, and according to this they've received \$100,000 in 2008. Those \$100,000, that was given to that community on matching dollars and that is never to be repaid. [LB779]

SENATOR LATHROP: I think that's right. And Senator Ashford held that book up. There's probably a picture of Humphrey's community center. There are many of them across the state. [LB779]

SENATOR STUTHMAN: Yes, and I know of that center right there and it is, it is a real asset to the community. I was just trying to figure out, you know, how it came to...came to be built and the fact there was a lot of contributions in the local community I'm sure in the amount of \$100,000 also that supported that. So it's probably a matching, matching type of a grant. And the main interest that I had in this is the fact that I was wondering when, you know, the state would start to generate revenue from like the arena here. And you stated in 20 years and then that will be over. Is that correct? [LB779]

SENATOR LATHROP: That's true. That would be when the turnback stops. They'll generate money long before that for people who are developing increasing sales outside the 600 yards because this additional traffic is going to generate, for people that

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come into business and set up a business and build a business inside that circle after two years, that's going to be money that will simply go back to the state. So downtown Omaha is a perfect example. They get the money... [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR LATHROP: ...off the Hilton but there's three hotels that have gone up down there that are not part of the turnback. And you're going to see development outside the circle and more revenue going to the state just because you have a project going in like this. [LB779]

SENATOR STUTHMAN: Senator Lathrop, do you feel that if there's any existing retailers that are just outside of that half a mile or 660 yards, will they lose as far as their business is concerned, and they will not be generating as many sales tax dollars for the state just for the fact that we have new...the possibility of new, you know, establishments starting within that 660 yards? [LB779]

SENATOR LATHROP: Yeah. Let me tell you, the amount is 600 yards. That's not a half a mile. And, no, just, if I can use Ralston as an example, I've looked at the...looked at how that's kind of laid out, they expect like there's a restaurant in downtown Ralston. This won't...600 yards won't get you to downtown Ralston... [LB779]

SENATOR LANGEMEIER: Time. [LB779]

SENATOR LATHROP: ...but those businesses will have increased business as well. [LB779]

SENATOR STUTHMAN: Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Those still wishing to speak, we have Senator Harms, Lathrop, and Cornett. Senator Harms, you're recognized. [LB779]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of the amendment as well as LB779, the underlying bill. Senator Lathrop, would you yield for a couple questions, please? [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR HARMS: Senator Lathrop, could you walk me through? How does rural Nebraska actually qualify for this and where do they make their application or request



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for funding for this? I'm not sure I understand. I see where Gering gets \$200,000 or got \$200,000 in 2008. Could you help me maybe better understand how this works? [LB779]

SENATOR LATHROP: It's my understanding that there is a fund which is referred to in the bill and...sports arena...I'm looking for the name of the fund but 30 percent of the turnback goes into this particular fund and then there are criteria that we're not tinkering with today that permit grants. You go to it. I think it requires a match by the...a 50 percent match by the local community. So if the town of Cairo wants to build a community center it's going to cost \$200,000. They're putting up \$100,000 of their own, getting \$100,000 out of this fund and whatever additional financing they require. [LB779]

SENATOR HARMS: When you talk about a community center, would a convention center be in that classification? [LB779]

SENATOR LATHROP: I think so. I believe the criteria would permit some kind of a facility like that. [LB779]

SENATOR HARMS: What I'm thinking about is that in Gering, Nebraska, they have a beautiful convention center, probably for us may seat 600-700 people, which for us is huge in that part of rural Nebraska. But one of the problems I see happening with so many of these facilities would be the fact that you can't keep up with technology and the kinds of things where people want to come in and give special PowerPoint presentations and other sorts of technology issues. Would these kinds of dollars, like that 30 percent, qualify for those sort of things? [LB779]

SENATOR LATHROP: I don't know that it would qualify for an upgrade to an existing convention center. I can look into that, Senator Harms, and get you an answer after I've read those particular provisions over. [LB779]

SENATOR HARMS: So really what we're talking about maybe about the 30 percent would be for new facilities? [LB779]

SENATOR LATHROP: Or a rehab of...a lot of those centers that Senator Ashford has there are the former bank building in a particular town and they go in, it's deteriorating, might have boards in the windows and they go in and turn it into a community center instead of a deteriorating former bank building. [LB779]

SENATOR HARMS: Well, thank you very much, Senator Lathrop. I do support this. I think it's a good opportunity for...particularly for people that are in rural Nebraska that just cannot quite finance something like this but yet need to have the opportunity to have a center. So I would urge you to support this. Thank you, Mr. President. [LB779]

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SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Lathrop, you're recognized. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. And, Senator Harms, I appreciate those questions and the opportunity to talk about that 30 percent fund. I want to tell you how this is going to work here in terms of procedurally. We have AM2038. Because it's a committee amendment, it can't be withdrawn so we're going to have to shortly vote on that. Understand that we'll vote on it to move it to keep this process going but it will be replaced with the Lathrop amendment, which will follow. After that amendment is in place, there will be amendments to the amendment or there will be offers of amendments to the amendment, and that will be the process. It is a bit confusing but it was necessary to make accommodations, as I said, to a number of concerns. And I want to take this opportunity to thank the folks over in Senator Cornett's office, because if you think about a project like this or legislation like this there are a lot of details. There is a lot of contribution by different senators on that committee, a lot of contributions and concerns expressed by senators here. And I understand the concern and the concern is we don't want to use money that would otherwise be going to the state, and I want to talk about that next. The real genius of turnback is this; that without the development, the state tax revenue wouldn't be generated in the first instance. And so what we are doing is taking money, state tax, sales tax revenue that is generated because of the existence of the very project we are using turnback for, to pay for the cost or a portion of the cost of the center. And understand, if this doesn't go through, if we don't build an arena here or in North Platte or wherever it is, we're not going to generate the state sales tax. Now it might look like some of this is...actually should be going to the state and how do you...how do you know for sure that some business wouldn't go in somewhere inside the circle but for this. You can't be sure. But one thing we do know looking at the Omaha experience is this; that whatever that circle looks like, in the case of small arenas it's 600 yards, the economic impact is way greater than that. The question I was answering a little bit ago for somebody about what...for Senator Stuthman was what about the guy who's outside the circle? Well, the entire downtown area proper of Ralston is outside the 600-yard circle. Those people, the cafes, the businesses in downtown Ralston will benefit. They will have more business and the state will get more sales tax just because this is going in. So it truly is a win-win and win because, as we allow for these projects, as we put law in place that facilitates these projects and, indeed, encourages them, we will grow that 30 percent pot that permits this additional catalyst in small communities working on these community centers in smaller cities and towns in Nebraska, and in that way these turnback bills become a win-win and a win. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Cornett, you're recognized. [LB779]

SENATOR CORNETT: Thank you, Mr. President, members of the body. One, I wanted

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to clarify a mistake that I made. The amendment that I was speaking to in regards to the biennial budget is actually the Avery amendment. He has pulled it and has refiled it after Senator Lathrop's amendment. But I just want to echo what Senator Lathrop has said and why we have worked so hard on this bill for him. This is not existing dollars. We're not giving away anything we currently have. We're trying to put another tool in the toolbox for the municipalities so they can work on growing and developing and attracting businesses. I wanted to just reiterate that fact and I cannot stress how important it is, particularly in our economic times, that this is not something that we currently have. This is not money that is in the General Fund. This is not money that is going to the state now. This is only money that will be turned back, new dollars, dollars we generate because we have these programs in place. With that, I urge the body to support the amendments and the underlying bill. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Howard, you're recognized. [LB779]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Lathrop would yield to a question... [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR HOWARD: Thank you. I've been reading through the amendment, which is quite long and detailed, and I thought if I just ask you a few questions I could better understand what some of the ramifications of this are. And then when I heard you say that your amendment is going to replace this amendment anyway, maybe you can help me understand the bigger picture on this. [LB779]

SENATOR LATHROP: I'd be happy to. [LB779]

SENATOR HOWARD: Thank you. I look at this and I see that Senator Gay in Papillion has an allocation down here that's...is that in any way pertaining to the ballpark that's going to be built? Is that something that would enter into this picture? [LB779]

SENATOR LATHROP: No. And one of the things Senator Cornett was very clear about is that we could work on this and she would put time into this and the time of her staff and the members of Revenue Committee, but these ballparks, the one in downtown Omaha, the one in Papillion as well as the Qwest Center and the Lincoln arena would not benefit from what we're trying to do for smaller communities. [LB779]

SENATOR HOWARD: They wouldn't benefit in terms of this amendment or your amendment or any of the...? [LB779]

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SENATOR LATHROP: No, nothing that you're going to see today far as...well, unless somebody drops something that I haven't seen yet, but LB779 in its...with the amendments that I've seen so far, none of it is intended to benefit those two baseball parks or any of the projects that are either the Qwest Center or the Lincoln arena. [LB779]

SENATOR HOWARD: Well, I appreciate that because when...I did...I always do an annual survey that I include in my newsletter and with that survey 88.5 percent of the people that responded were not in favor of state funding going to...in this case it was the Omaha ballpark. So thank you for the information. That was very helpful. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Cornett, your light is on but you've used your times. But there are no other lights on so you're recognized to close on the committee amendment. [LB779]

SENATOR CORNETT: Yes. Just to clarify what Senator Lathrop said for Senator Howard, it's not that I have any idealistic opposition to either of the ballparks, but with what we were looking at with his bill, we are looking at incentivizing new projects only. The Qwest Center has had its run. The Lincoln arena has its shot. The Omaha stadium has broken ground, as has the Sarpy County stadium. This is for the smaller communities to be able to utilize the same things that the larger communities have had and been able to develop with. With that, I urge the body to support the committee amendment and the amendments filed after this. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on the committee amendment, AM2038. Question before the body is, shall AM2038 be adopted to LB779? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB779]

CLERK: 29 ayes, 0 nays on adoption of committee amendments. [LB779]

SENATOR LANGEMEIER: The committee amendments are adopted. Mr. Clerk, next amendment. [LB779]

CLERK: Senator Lathrop, AM2316. (Legislative Journal page 1060.) [LB779]

SENATOR LANGEMEIER: Senator Lathrop, you are recognized to open on AM2316. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. As promised, we now get to the heart of the amendment process which is AM2316. This is essentially the third rewrite of LB779, with the committee amendment representing the second. This one

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addresses the great number of the concerns that we've had and listened to, other than Senator Utter's that we'll talk about briefly or momentarily. AM2316 sets the standards, and I spoke about those. We have two classes of businesses. The businesses would be those in existence before or two years before the project and those that come in within two years on either side of the project. We set the criteria, require that it be paid off in 20 years, that all the money go to a public purpose, that if there's any left over it can't be used for the cost of operations. We've clarified the criteria and made the bill tighter, addressing a number of concerns that others have expressed. I urge your adoption of AM2316. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on AM2316. The floor is now open for discussion. Mr. Clerk, for an amendment. [LB779]

CLERK: Mr. President, the first amendment to Senator Lathrop's amendment, Senator Utter, I have AM2345. Senator Utter, I have a note that you want to withdraw AM2345 and offer as a substitute AM2406. [LB779]

SENATOR LANGEMEIER: Seeing no objection, so ordered. Senator Utter, you are recognized to open on AM2406. Not seeing Senator Utter, we will move on to the next amendment. Mr. Clerk. [LB779]

CLERK: Mr. President, the next amendment to Senator Avery's amendment, Senator Avery, AM2375. (Legislative Journal pages 1161-1163.) [LB779]

SENATOR LANGEMEIER: Senator Avery, you are recognized to open on your amendment, AM2375. [LB779]

SENATOR AVERY: Thank you, Mr. President. Let me explain a little bit about what happened awhile ago. My previous amendment was filed to the committee amendment. We understood that the committee amendment would be substantially rewritten by an amendment to come later by Senator Lathrop. That amendment was just introduced. So the plan was, you'll see it, I had two amendments filed, each identical. The one that we really want to talk about is the one that is now filed to AM2316. I did take the opportunity, when recognized previously, to talk a little bit about it. What it does is authorize the cities of the metropolitan and primary classes to adopt biennial budgets in even-numbered years as well as odd-numbered years. The city of Lincoln particularly would like to have this flexibility. They're going to ask for a city charter alteration here in the next few months and they realize that in order to do a biennial budget they needed this charter change. Right now, they do annual budgets. But they discovered also that the state statute needed to be changed if they wanted to do these budgets in even-numbered years. Both Lincoln and Omaha elect their governors in odd-numbered years and when a new governor, excuse me, their mayors in odd-numbered years. When a new mayor comes in, he or she is met immediately with the task of drafting a

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new budget and that usually doesn't give them a whole lot of time. They're elected in May and the budget process starts immediately. So if we approve this amendment, then they'll be able to have these biennial budgets adopted in even-numbered years, which will give new mayors elected in odd-numbered years a year to prepare for a new budget. This makes sense. It gives them flexibility. It's not something that's very radical. The Revenue Committee approved this in their discussions and at one point we thought it had already been amended into Senator Lathrop's amendment but it had not. So I ask you to adopt this. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on AM2375 offered to AM2316. The floor is now open for discussion. Senator Sullivan, you're recognized. [LB779]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. Actually, I have a question of Senator Lathrop, if he would yield. [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR SULLIVAN: Thank you. It actually, Senator Lathrop, relates to AM2316. Just reading through it, a little...a couple questions about the makeup of the board that makes the determinations on these grants. Can you fill me in on the rationale or do you know the makeup of that board? [LB779]

SENATOR LATHROP: I'm trying to find the right section. I have notes in the margin and if you'll allow me just a moment, I'll try to put my hands on it. Do you have the...do you have the section number, Senator? [LB779]

SENATOR SULLIVAN: I'm trying to find it, too, as well, and we can maybe continue this as we look for that but...and then there's \$50,000 for the...that would be directed to the Department of Revenue for the startup of this, I assume for the services of the board. Is that correct? [LB779]

SENATOR LATHROP: No. No. [LB779]

SENATOR SULLIVAN: Or what would the \$50,000... [LB779]

SENATOR LATHROP: That's not what that is. Great question though. When we put this together, the Department of Revenue said, you know, if we're going to do these projects, we're going to need a new computer program. And if I understand it, and it's a little hazy to me because I'm not real clear on computer programs, but what it sounded like is that they want to code each taxpayer geographically so they can tell who's inside

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the circles that we create with turnback statutes. It is a one-time expenditure. It's going to be...as soon as there is a project, they spend that one time and then they're set and fixed and ready to go with however many projects. So it's more of a computer program for the Department of Revenue to properly administer these. [LB779]

SENATOR SULLIVAN: Okay. And I think I was on the wrong amendment when I was trying to find what section the board was mentioned in. But as I recall, the board is going to be made up of the Governor, the State Treasurer, somebody who is on a...who's an economics faculty person at an educational institution. I'm just trying to figure out what the makeup is of this board and what the reasoning was. [LB779]

SENATOR LATHROP: I think that's the same board that was...same composition that was in place for the other two projects. In other words, we're not plowing new ground here. It's just found in the bill because it is...we're trying to set out completely what we're requiring in the smaller projects. But I think we've borrowed that setup from the Qwest Center and from the Lincoln arena law. [LB779]

SENATOR SULLIVAN: But the bottom line is it would be this group that makes the decisions on the grants? [LB779]

SENATOR LATHROP: This...no, this is the group that makes the decisions about whether to permit the turnback project to go forward. [LB779]

SENATOR SULLIVAN: Oh. Oh. [LB779]

SENATOR LATHROP: So if I'm...if I'm the city of Ralston or the city of North Platte and I think I have a qualifying project, I don't just start building it and send a note over to the Revenue Department and ask them for money. What I have to do is go through this process that requires the project be reviewed. And if you think about it, what we want to do is make sure that we do not have projects that are not going to work, that somehow the community hasn't thought the project through, and so we run it past this particular board that, as you said, includes the Governor. [LB779]

SENATOR SULLIVAN: Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Senator Hadley, you're recognized. [LB779]

SENATOR HADLEY: Mr. President, members of the body, I'll...just real quickly, I stand in support of AM2375. I can't imagine how hard it would be for a mayor to come in and have to put together a budget in such a short time for such a large entity as Lincoln. So I stand in support of Senator Avery's AM2375 in order to change the...to the even-numbered years. Thank you, Mr. President. [LB779]

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SENATOR LANGEMEIER: Thank you, Senator Hadley. Seeing no additional lights on, Senator Avery, you're recognized to close on AM2375. Senator Avery waives closing. The question before the body is, shall AM2375 be adopted to AM2316? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB779]

CLERK: 28 ayes, 0 nays on adoption of Senator Avery's amendment to Senator Lathrop's amendment. [LB779]

SENATOR LANGEMEIER: AM2375 is adopted. Mr. Clerk, next amendment. [LB779]

CLERK: Senator Lathrop, AM2407 as an amendment to your AM2316, Senator. (Legislative Journal pages 1163-1164.) [LB779]

SENATOR LANGEMEIER: Senator Lathrop, you are recognized to open on AM2407. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I suggested to you earlier that I had filed an amendment in response to an amendment filed by my friend, Senator Utter, and I had. This is it. Unfortunately, when Senator Utter's turn came up, he wasn't here. So now I find myself in a position of offering an amendment to my amendment before we've had a chance to talk about Senator Utter's, but that's all right because I'm going to trump his argument. My friend Senator Utter has got this in mind with an amendment that will follow, and I hope perish, and I want to say that in the kindest way. Senator Utter, of course, has a concern that I hear when we talk about turnback projects: When is the state going to make anything on this? And turnback necessarily requires that a community be able to go get financing, have a predictable stream of financing, and pay it off typically over 20 years. Senator Utter will momentarily introduce an amendment that would say, after ten years we're going to knock that turnback down to half. Causes a problem. Causes a problem with the financing. But instead of simply saying, no, instead of simply saying, I'm not concerned about your concern, I put together AM2407 and let me explain it to you. It's really a simple, a simple device to try to get...to try to place another limitation on turnback, a fair limitation I believe, and this is the amendment. In the second 10 years, remember, we're talking about financing that goes over 20 years, in the second 10 years of the financing your turnback will never be more than the best year during the first 10. So we look in the first ten years and set the high watermark. In the second ten years, your turnback will never be greater than the high watermark. Pretty straightforward. It's pretty...it makes sense. As that development, as that state tax-generating development grows and grows in the second ten years now there's something in it for the state. It's not all being turned back, at least not...at least to the extent that in the second ten years you are doing better than your best year in the first ten. I think it...I think it is an accommodation to the concerns



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by Senator Utter and some others that have expressed a concern about when is the state going to make money off this project. I would encourage your adoption of AM2407 and I'd be happy to answer any questions you may have with respect to that amendment. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You've heard the opening on AM2407. The floor is now open for discussion. Senator Pirsch, you're recognized. [LB779]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I guess this is the first chance I've had to kind of weigh in and I do appreciate Senator Lathrop insofar as addressing economic development. I think we always need to be concerned with how we do that in the state. It's very important. I do have a number of questions with respect to how this would work, the moving parts of this bill, and there are many. And how this fits in...I guess my concern is or issue is, how...that we come out of today with...if we are going to advance this with a holistic approach and understanding of why we're doing what we're doing. How this fits into the larger picture, this particular bill and project here. And what...as we look at turnback concept and I believe this was, you know, Senator Ashford was here in 1999 when, you know, we began exploring it with respect to some of the larger projects, the Qwest Center. And at that time it was my understanding in looking at some of the committee statements that we were looking at for at least that project outside dollars bringing that to the state and so that was the original concept behind this turnback proposal. I don't think that as we're at this point and stage and, of course, the Qwest Center is done now and we're at this point, that the idea here is bringing in outside dollars to the pot. And so just making sure that we know what we're doing and we're doing it consciously and with respect to, you know, in instances where we're talking about small towns and we're not going to be talking about bringing in outside dollars. So, you know, what is the state's interest? How should this be structured in a fair manner, and understand that's what Senator Lathrop and some of the discourse now has turned to. And so I...just a few questions if Senator Lathrop would yield to a series. [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR PIRSCH: With respect to, now we're envisioning these type of enterprises may go because...but part of the feature of this bill says they could be applied to counties that are under 100,000 population, is that correct? [LB779]

SENATOR LATHROP: I think that was in the bill. I'm trying to remember, Senator Pirsch. I don't know if that's in the amendment. [LB779]

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SENATOR PIRSCH: Okay. [LB779]

SENATOR LATHROP: If we make any distinction between...I don't think in the end, the amendment makes any distinction between the cities of the first-class or primary or metropolitan or counties. I think we just say a political subdivision. [LB779]

SENATOR PIRSCH: Is it fair to say we're talking about projects of any sign. There's nothing in here that would limit it to...and I'm talking in population, those rural areas it must be a project that has, you know, 3,500 seats or anything like that. It would be generally applicable to all counties, right? I mean, there's nothing limiting it? [LB779]

SENATOR LATHROP: Yes. This is about the size of the facility and not the community that it ends up in. [LB779]

SENATOR PIRSCH: Oh, there is something to do with the size of the project? Is that...? [LB779]

SENATOR LATHROP: Yeah. It's 3,000 to 8,000 seats. [LB779]

SENATOR PIRSCH: Even in counties of less than 100,000 population? [LB779]

SENATOR LATHROP: Sure. And frankly, if you get much smaller than that, it's not going to be a turnback project. If you put something with 500 seats in it, you're not going to get buildings or retail to come in right next door or to, you know, hotel or whatever that might come that is related to that particular arena. [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR PIRSCH: Just with respect to, could you address the other, you know, is...would you agree that this is not necessarily about bringing outside dollars into the pot? When you're talking about projects that could be used in Broken Bow, are you really going to be attracting Colorado dollars or whatnot? [LB779]

SENATOR LATHROP: Well, I think it depends on the nature of the facility. But if you build something in Broken Bow, I'd be surprised if it's going to be large enough to qualify. I'm not...you know what, I'm not familiar enough with Broken Bow. But if you were building something in a place like North Platte, which is a pretty good sized city that fit within this criteria, yeah, I would expect that you would probably have...if it's a sports facility, you'll have Colorado teams coming there, Wyoming teams, Kansas, maybe some from South Dakota. [LB779]

SENATOR PIRSCH: Would that be the primary interest though, is outside dollars or is this reinvigorating a different purpose which is equally legitimate in your view? [LB779]

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SENATOR LANGEMEIER: Time. Thank you, Senator Pirsch. Time. [LB779]

SENATOR PIRSCH: Thank you. [LB779]

SENATOR LANGEMEIER: Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: Thank you, Mr. President. And Senator Lathrop just asked me a couple of questions off the mike about the 30 percent fund and I think Senator Pirsch's questions might be leading into that a bit. The 30 percent fund which goes to smaller communities across the state have ranged from the Heartland Event Center in Grand Island, which is 500,000, down to \$20,000 in the community center in Blue Hill, Nebraska. Clearly these projects, except for the one in Grand Island, but many of these projects are local projects which are not necessarily designed to bring a significant amount of revenue in from outside the state but are designed for...to community betterment types of things. And it's a way of increasing tourism clearly, but also enhancing the quality of life in these smaller towns. But Senator Lathrop asked me about the 30 percent fund and how it was evaluated. The 30 percent fund is evaluated by the Department of Economic Development and they have four criteria to make an evaluation. One is the attraction impact. Two is the social economic impact. Three, the financial support, and four is readiness. So that's how these 30 percent projects are evaluated and as I indicated, there's a booklet you should have or I did send out earlier in the year that has the pictures of all the projects. They're very neat projects. What Senator Lathrop is trying to do, however, is something different. These are projects that the 30 percent fund that was designed for smaller communities would not...they're larger than what that 30 percent fund could, in fact, do. So, for example, if we had a rodeo arena, indoor rodeo arena in North Platte, clearly that would bring business from outside the state. That would aggressively do so. It would be an attraction. It would be a place for people to come both from within the state and outside the state. If Senator Lathrop's district, if Ralston were to develop an arena for hockey that would bring people from Iowa who are fans of this particular team, that's clearly bringing people from outside the state into the state. So it would have a dual purpose. One is to invigorate economic activity in the community that would otherwise not have occurred. If it was Ralston, for example, and they're thinking about building a hotel or two, those hotels would not be built if it weren't for the events facility. What we have found in looking at this over all these years, it's the event facility itself which creates the attraction, which creates the interest in coming to a town like Ralston or North Platte or Omaha or Lincoln. I mean, if the Lincoln arena is built, and I hope the voters approve it, it's going to be a massive draw to Lancaster County and to Lincoln. So these projects are unique. They don't happen without private investment. They have to be large enough and they have to have sufficient private and public investment to match with the state dollars. The state dollars are not building these projects. They're paying for approximately a third, 25 percent or a third of the overall cost. But these are...if one were to measure the sales

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tax dollars from the Qwest Center that we would not have had in the state that does not get turned back but that goes straight into the General Fund, it would be an enormous increase in sales tax. So yes, Omaha is a different kind of a project but it helps develop these smaller community projects. And if we do a couple more of these...we're not going to get a lot of them. If Ralston were to do one, that would be great. It would be super to see one in Kearney and North Platte. But we're not going to get that many of them. We're only going to get a few in the state. But they will be worthwhile. Something no other state has. It's...the proof is in being able to sell the project to the bonding companies. [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR ASHFORD: To be able to sell the projects to the private investors. These projects don't happen without that kind of support. A municipality or a county is not going to do one of these projects and issue bonds if it does not have the business plan to work. So, hopefully, that answers some of the questions that were raised earlier. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Those wishing to speak, we have Senator Pirsch, Cornett, Wightman, and Avery. Senator Pirsch, you're recognized. [LB779]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I appreciate the debate that...I guess it isn't really a debate but I guess a conversation that we're having. I think all would agree that we do need to be mindful about economic development and that that take place in all reaches of the state. With respect, I think Senator Ashford's point is that a lot of the benefit flows through the 30 percent and if Senator Lathrop would yield to a question, perhaps he can flush this out a little bit. [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR PIRSCH: And what I'm going from, Senator Ashford's comments, and you can just tell me if you came away with the same impression, is that small communities benefit from a 30 percent sort of their take or share of the sales tax turnback. Is that your view as well? [LB779]

SENATOR LATHROP: Yeah, very clearly as demonstrated by this map that I handed out. [LB779]

SENATOR PIRSCH: Very good. Thanks. With respect to the concern, if the

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focus...could you just address this idea. If we are talking about, though, not just the 30 percent but the idea of allowing turnback tax to...and you said, there's a limitation, you have to have a 3,500 seat arena or are there other types of things like amusement parks or other things like sports facility that would not require 3,500 seats, do you know? [LB779]

SENATOR LATHROP: We set the...I think it's 3,000 to 8,000 seats. And we... [LB779]

SENATOR PIRSCH: Okay. With respect to anything that would be eligible for this turnback financing would have to have 3,000 seats minimum whether that...no matter the form of the project? [LB779]

SENATOR LATHROP: Yes. [LB779]

SENATOR PIRSCH: Okay. Thanks for clarifying that. Is there a concern that we have if we do, as we do go forward then, that with some of these projects if you're not bringing in outside dollars that...but your arranging for things that will hold...that are tax preferred, that the government will own, not private enterprise, that you will essentially be cannibalizing the other businesses in the area in which they're located such as if you don't go to a stadium for a certain thing, would you not be at a movie theatre, local movie theatre, or bowling alley or that kind of a thing or...could you address that? [LB779]

SENATOR LATHROP: Sure. And it sort of goes back to the original concept of the Qwest Center and that was...and Senator Ashford would be more familiar with this but if I recall that there was some attempt to try to identify who is coming in from out of town. And immediately the unworkability of that whole concept became self-evident. You can't count people. You know, the folks from Iowa don't come into Nebraska and identify themselves as out-of-staters, which I think is what you're driving at. And that is, are all the tax dollars that are going to be generated at a project like this one, for example, in Ralston, are they all going to be out-of-staters or would they be people from in town that would be doing something else? [LB779]

SENATOR PIRSCH: Yeah. Or do we even have a vague notion. Is it going to be more like 50-50 or 80-20, one way or the other. I mean, is there... [LB779]

SENATOR LATHROP: Well, I expect that it would be 50-50 at least because what we're going to find is that when teams play, the opponents are going to come from out of town primarily. And so I would expect them to be folks from out of town. They are folks that won't be going to a different state or a different city or a different state, I guess, would be important to us for their entertainment. The Qwest Center, for example, is a great example. Sure, it may be somebody from west Omaha or midtown that's going to a concert at the Qwest but now they're not driving down to Kansas City to attend that

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concert so those dollars are staying here and the sales tax generated... [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR LATHROP: ...stays here in the state instead of moving down the Interstate to Kansas City. [LB779]

SENATOR PIRSCH: But that's the question. Is the entertainment of the caliber that people from Kansas City will be coming up as opposed to the Qwest Center which has a 18,000 seat venue? That's the question. [LB779]

SENATOR LATHROP: Well, everything about this bill is on a smaller scale so we're not going to get U2 over to Ralston after this gets built. But what we will have is we may have a competitive ice hockey where the opposing team comes from Sioux City, Iowa or Des Moines or Manitoba, places like that. And the folks that follow them come into the Ralston area... [LB779]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Time. [LB779]

SENATOR LATHROP: ...and attend the meets there. [LB779]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Lathrop. Senator Cornett is recognized. [LB779]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I just rise in support of this amendment. I feel that it is very important that we address the concerns of the body and the members, the other members of the committee. And this partially addresses some of Senator Utter's concerns. While I support this amendment, I do have problems with Senator Utter's that you'll be hearing in a little bit in regards to the fact that it will make bonding difficult. But again, I just rise in support of this amendment. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Cornett. Those still wishing to speak include Wightman, Avery, Heidemann, and Ashford. Senator Wightman, you're recognized. [LB779]

SENATOR WIGHTMAN: Thank you, Mr. President. I'd like to discuss a few of the issues brought up by Senator Pirsch because I think they are legitimate issues. Obviously, when we're talking about the 70 percent turnback where the facility is being built, I think there are substantial questions as to how many new dollars we're capturing. I know that that has been sold basically on the basis that, well, we aren't giving up any

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dollars that we already had. We're capturing new dollars and I think Senator Pirsch is right that frequently those are the same dollars that would be spent for recreation somewhere else in the state of Nebraska. Now, when we bring people in from out-of-state, that could be a different situation. The Qwest Center was large enough that I think we did, maybe to be competitive with other communities the size of Omaha, we had to look at doing that and I think it was probably a good addition. As we expanded, however, it seems to me we are competing for local dollars to a great extent. And the amusement parks is one of the things that would be included. Sports, smaller sports arenas, and as I understand it, those would still have to be built in larger communities. If Senator Lathrop would yield to some questions, I would ask him some questions. [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR WIGHTMAN: Thank you. Thank you, Senator Lathrop. With regard to the 70 percent, can you tell me how the bill and the committee amendment expands that? It obviously says that amusement parks would be included. That's new language, is that correct? [LB779]

SENATOR LATHROP: That's not in the Lathrop amendment. AM2316 does not include private facilities. We looked at amusement parks, considered amusement parks because there was somebody that expressed an interest in it. The difficulty with it is, is that it is a private project and, philosophically, the Revenue Committee had concerns about using turnback to finance a private project. And if you think it through, Senator Wightman, with a private project, essentially you would be using state sales tax revenue to pay the debt on a facility owned by a private enterprise. And then the city would guarantee the success of that private enterprise and that just seems to be beyond the role of government. [LB779]

SENATOR WIGHTMAN: So under AM2316, then, or are we talking AM2407, that the amusement park would no longer be included? [LB779]

SENATOR LATHROP: AM2316 does that. [LB779]

SENATOR WIGHTMAN: Okay. Then, tell me what we are expanding as far as the potential use of the turnback dollar? [LB779]

SENATOR LATHROP: We've created a sort of a sister process to what we've used for Omaha and Lincoln. And the process is for smaller venues, and we've set a different

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criteria. We've provided for a circle of 600 yards from the facility and basically said, the retail sales tax that's new on account of that project will come back to pay the debt...to retire the debt and that's, in its very simplest terms is what we've done with the bill. [LB779]

SENATOR WIGHTMAN: So the 70 percent turnback could be used by a first-class city to build a facility such as you're talking about, is that correct? [LB779]

SENATOR LATHROP: That's true. [LB779]

SENATOR WIGHTMAN: And the 30 percent could continue to go anywhere. [LB779]

SENATOR LATHROP: Except it can't go to somebody who is doing one of these turnback projects. So, for example, Omaha and Lincoln and anybody who takes advantage of LB779 or uses this tool... [LB779]

SENATOR CARLSON: One minute. [LB779]

SENATOR LATHROP: ...as a community financing mechanism, will not be able to access the 30 percent fund. [LB779]

SENATOR WIGHTMAN: Can you address the issue as far as it being actually new dollars, though, where many of those facilities would probably house whatever, performances or whatever it might be, that would probably be competing with other state recreational dollars. [LB779]

SENATOR LATHROP: Oh, I expect so. I think whether it's the community centers in the smaller communities or these turnback projects, they are competing with other states. And they're bringing tourism dollars then and I can tell you a good number of those folks behind the glass today who are here in support of LB779 are people in the tourism industry. [LB779]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator Wightman and Senator Lathrop. Senator Avery, you're recognized. [LB779]

SENATOR AVERY: Thank you, Mr. President. I'm going to tell you a story. I'm going to tell a story about how turnback authority came to the state of Nebraska. Senator Ashford is solely responsible for bringing this creative instrument to this state. He was a private citizen at the time and he was interested in helping Omaha build their convention center. And he heard about a creative instrument of economic development that was



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being used in Arkansas. So he went down there at his own expense and talked to the people who were building a project similar to the Qwest Center. And he asked them, how did you finance it? And they told him about this great idea called sales tax turnback. And he came back to Omaha and he began working on it. It became the instrument, a big part of what made the Qwest Center possible. It is also a big part of what made or is making the arena in Lincoln possible. This is a good, good instrument of economic development. It is creative. One of the most creative tools we have. I intend to support LB779. It doesn't do a whole lot for Lincoln except for that little amendment that we've got attached to it. What it does, it extends this creative instrument of economic development to another class of cities. It also has the potential to put additional funds into the 30 percent fund, the community development fund. This is good legislation, folks, and I think that Senator Ashford needs to be applauded for his foresight and efforts years ago to bring this instrument to the state of Nebraska. This is good legislation. I intend to support it and I hope you will too. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator Avery. (Visitors introduced.) Continuing with our discussion, Senator Heidemann, you're recognized. [LB779]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I've got involved in this bill just a little bit later on. There was a concern that I had. I think working with Senator Lathrop and Senator Cornett that concern might get alleviated. With that. I'll waive the rest of my time at this time. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Heidemann. Those still wishing to speak: Senators Ashford and Cornett. Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: Thank you, Mr. President. Senator Heidemann's concerns are met. I hardly have anything else I could possibly add to that except to thank Senator Avery for those kind words and they're not true really, but I appreciate it. They are partly true. But anyway, the point I would just make is this to Senator Wightman's questions which were good questions. When we originally came up with the concept of the turnback it was primarily designed to...and actually this was Dave Landis' idea, and Bill Lock's probably at the time, but came up with the idea that really only the sales tax captured from the convention center would be used. In those days, in '96, '97, obviously before September 11, the feeling was that Nebraska did not have a convention center at all. We didn't have a convention center independent of any hotel. The idea was if the private sector in Omaha would come up with \$75 million, which is unheard of for a convention center across the country, the state would put up to \$75 million and we would capture the money from the convention center, the sales tax, because it would bring people clearly from outside the state. And in fact at the very beginning, Senator Wightman, we actually counted the people as they came in and asked them where they were from. Then, September 11 happened and the convention center business stopped,

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basically. I mean, except for the Berkshire Hathaway meeting that was just about it. And at some point along the line this Legislature has abandoned the idea of counting people and with the arenas now being counted and the hotel. The...and now with the Lincoln project we'll have another larger arena project that will happen. It transforms a community. It has transformed Omaha. It will transform parts of Lincoln when it gets built, which I hope, I believe it will be. But it is not all about...and the question was asked, is it 50-50. That's probably a good question and my guess is that at the Qwest Center it's probably in the neighborhood of 50-50, probably 50 percent people do come from Kansas City, clearly they come from Iowa. If the Lincoln facility is built, you're going to get people from other states. But the point that Senator Lathrop makes is absolutely critical and that is that we're also...when we were getting scalded by Minneapolis and Kansas City, people were leaving our state to spend money for entertainment and events. That's why we did the Qwest Center in the first place. We wanted to keep that money here. So that is a very important reason for this turnback concept. Lastly, I would say this, when I was here before we did LB775. The concept of LB775, my goodness, was, all the...we were...this was...it was horrible. All the corporations were leaving, ConAgra, Enron. They should have stayed, obviously. Many others were leaving the state. So we enacted in 1987, we enacted LB775. And I was a cosponsor of that bill. That was a shot in the dark. That was a shot in the dark. We had no idea what it would do. We said to these companies, we will...if you will bring employees, if you will stay in the state and bring in new employees into the state, and you'll keep the employees you have here, you're not going to have to pay taxes. It's the same...the Advantage Act that we passed, amended, it's great legislation. But it's really, it's based on the underlying theory is private investment. Private investment, community investment results in more jobs. That quite frankly is the same thing we're doing with turnback. We're investing in community betterment. It creates a lot of jobs... [LB779]

SENATOR CARLSON: One minute. [LB779]

SENATOR ASHFORD: ...when these facilities are being constructed and it creates a number of jobs for the people who work there. It creates numbers of jobs for the people who work in the hospitality industry and the restaurants. This is like, very much like LB775 in concept. And I remember very well Senator Landis who was a supporter of LB775 who worked with us on this bill. The private sector has to invest to make this work. The community has to invest to make this work. How many people come from out state? You don't know. But a lot of people do and people will continue to do so. But this is an investment much like other business investments we have made in the Advantage Act and LB775. It's a little different. It's something the community owns and has. It's not a corporate thing and Senator Lathrop has made it clear that these are public facilities... [LB779]

SENATOR CARLSON: Time. [LB779]

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SENATOR ASHFORD: ...but result in private investment. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Cornett, you're recognized. [LB779]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Over the course of this session, questions have arisen both in the Revenue Committee, the body and outside the body in regards to bond payoff. Senator Heidemann and I have come to an agreement, which he referred to briefly on the mike, that all turnback monies can only be used for repayment of the bonded indebtedness. I think that that is a good policy stand and is something that I had mentioned earlier in the year that we were looking at as a Revenue Committee. I would appreciate...you will be seeing that amendment between now and Select File and I would appreciate the body's support of that at the time. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Wallman, you're recognized. [LB779]

SENATOR WALLMAN: Thank you. I think we need this legislation. It's good. It's good for cities, small and large. Why wouldn't you want to reinvest in your future? People go to events, look at March Madness. Other states invest money. You need turnback money? Sure, we do. We have to finance sporting events, water parks, all these stuff. It's good things to do. So vote for the bill. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Wallman. There are no other senators wishing to speak. Senator Lathrop, you're recognized to close on AM2407. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Just a reminder since we've had a lot of different topics come up while we were debating this amendment. This amendment very clearly says that in the second 10 years of your 20 years of financing you will not receive any more in a turnback than the best year you had in the first ten. Senator Cornett has discussed an amendment that will be forthcoming during Select File. I'm going to bring that up now because I think it addresses the concerns of a large number of people who share the concern you're about to hear from Senator Utter. The amendment will be that if you get turnback, whatever your turnback is, you can't stuff it into the city budget. It has to go to pay the debt. That amendment will be present in this bill on Select File. We'll put it in there rather than take your time up with it right now. But it will make it...again, we're making the bill lean. It is accomplishing the purpose. It does it with good limitations that are well-thought out and based on our experience. And I believe AM2407 is a good addition to this bill and would encourage your support. Thank you. [LB779]

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SENATOR CARLSON: Thank you, Senator Lathrop. Members, you've heard the closing on the amendment. The question is, shall the amendment to the committee amendment to LB779 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Have all voted who wish to vote? Record, Mr. Clerk. [LB779]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB779]

SENATOR CARLSON: The amendment is adopted. Items for the record, Mr. Clerk. [LB779]

CLERK: I do. Thank you, Mr. President. Enrollment and Review reports LB918A engrossed. A motion and an amendment from Senator Council to LB987; Senator Adams, amendment to LB1071; Senator Karpisek, LB999. And study resolutions LR512 through LR528. (Legislative Journal pages 1164-1175.) [LB918A LB987 LB1071 LB999 LR512 LR513 LR514 LR515 LR516 LR517 LR518 LR519 LR520 LR521 LR522 LR523 LR524 LR525 LR526 LR527 LR528]

The next amendment I have is Senator Utter, AM2406. (Legislative Journal page 1176.) [LB779]

SENATOR CARLSON: Senator Utter, you're recognized to open on AM2406. [LB779]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. First of all, my apologies for not being here when this amendment was called. I do want to extend my sincere thanks to Senator Lathrop for his introduction of my amendment and his prediction of its ultimate demise. I want you to know I appreciate that. I also want you to know that it's not fun being the grumpy old man in the back of the Chamber all the time. But I do have to express some concerns. And ladies and gentlemen, my concerns are with tax policy in this state and what we're doing particularly in this regard with the proliferation of the turnback tax. And I understand the Qwest Center in Omaha and the original turnback tax and if you build it, they will come. And it's my understanding they didn't quite come as good as we thought they should and so we expanded that. And in a sense, this is happening with the smaller turnbacks that Senator Lathrop is proposing. And what I'm afraid is happening here, is that we're not going to generate the new dollars in this state that indeed we have generated with the Qwest Center that is located close to the Nebraska-Iowa border or that we're going to generate with the arena project here in Lincoln that surely will attract a lot of people from other places besides Nebraska. But as we build these smaller arenas it's my real concern that we will be cannibalizing, if you will, the entertainment dollars that are available in these communities and the close proximity. That they're not going to be new monies. And, in fact, what we're going to be turning back to help pay for these facilities is going to be dollars that the state was formerly receiving from other entertainment venues. And so in the end it may, in fact, have a real impact on state revenues. Because of my concerns

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in this regard, and my concerns for the continued interest in this turnback as we look across this state, this amendment says that if these projects are really good, as good as we hope they are, and I have to admit folks, I see a lot of signs of overselling with regard to how good these projects are going to be. But if they're really good, then at the end of ten years, I think that part of that tax needs to revert back to the state. I'm suggesting half of it. Now I know that Senator Lathrop's bill, and I thank him, and I appreciate the fact that he has very much tried to work with my concerns with regard to this legislation. He's been a gentleman and a scholar in that regard and I haven't heard anybody else say that about you today, Senator Lathrop, but I truly mean that. And I want you to know that I'm not doing this to try and put a damper on the Ralston project but I'm doing this as an overview of our state tax policy and the impact that it may have on state tax revenues as we move along and continually expect to use state tax funds to finance local type facilities. And frankly, with the proliferation of turnback tax ideas and turnback tax projects, we could be...find ourselves in a position, because of the tax monies we have turned back to help finance local facilities, to having to increase taxes in order to generate sufficient income to support state projects, to support state government. As we look at the future, we don't know what that holds in term of revenues. But the one thing I think that we are very sure is going to happen, that the needs of state government will probably continue to grow as we finance the needs of state government and as we move along, some of the wants of the folks that are talking to state government about financing needs, and so we are going to have continued growth in state government. If we cap these revenues and a substantial amount of these revenues down through the years, I think that puts a damper on state taxes. That's the reason that I've introduced this amendment. I think it's worthy of discussion. And with that, why, I'll close and allow you folks to take shots at me. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Utter. Members, you've heard the opening on AM2406. The floor is now open for debate. Those wishing to speak: Senators Lathrop and Cornett. Senator Lathrop, you are recognized. [LB779]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. Senator Utter, I didn't predict the demise of your amendment. I think I suggested that I hoped it would die, which is kind of where I'm at now that the amendment has been introduced. And I have to tell you, candidly, that when you are trying to finance a structure over 20 years, and we are...and you're talking to people about financing, what they need is predictability, what they need is consistency in a stream of income and simply cutting that in half after 10 years when you have to finance it over 20 years, is problematic. I'll just say...I'll put it in those terms. One of the...this same concern which is making sure that there's some fair limitations on these turnback proposals, Senator Cornett talked about an accommodation to Senator Heidemann. And again, I want to share with you what that is. Senator Heidemann has a similar concern to what you've heard. What the amendment will be on Select File is, all of the money from this turnback has to go to service the debt. Now, what I would anticipate, what I would anticipate is that these

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projects, if all of the money is going to service the debt, they can be paid off sooner than, sooner than 20 years. And that's certainly been the history of this community of Ralston with their TIF financing. But the idea that we could go in with an amendment and cut the stream of income by half is problematic. And in fact, it makes these impracticable. And what will happen is no one will be able to use it because it won't be there to provide for the stream of income necessary to make these projects work. I also want to take another minute and maybe I'm belaboring the point, but I think we have a tendency to look at the arena, whether it's the Qwest or a hypothetical arena in another community, look at it and say, what's it doing for our economy? What's it doing for the turnback? But, you know, if you look at the Qwest Center and just take a concert that sells out and it happens a couple of times a week, or once a week anyway. U2 comes into town. These people aren't all staying at the Hilton where the money gets turned back. They're scattered in hotels all across the city, all across the state of Nebraska. Well, mostly in the city for those kind of events but they're paying taxes. All of that tax is coming to the state. These are magnets, tourist magnets. And when they're spending money, they're spending money outside these circles that we create for turnback and the state is receiving some benefit. And I think it's unfair to characterize these as simply some drain on the state coffers. They are a stimulus. They are creating tax revenue for the state of Nebraska the minute the structure is built because they are drawing people who are spending money that's not subject to the turnback. A word about Senator Utter. We have had a lot of discussions about this as you might expect. They've been philosophical, some of them practical, some of them mechanical. We have, at Senator Utter's suggestion, placed a 20-year limitation on the financing of this or the turnback. When we got to the issue of turning half of the money back after ten years, we simply couldn't agree on it. I think we've made an accommodation for Senator Utter's concern in the last amendment... [LB779]

SENATOR CARLSON: One minute. [LB779]

SENATOR LATHROP: ...adopted by this body. Senator Utter, I believe feels differently and that's the reason for the discussion. I would encourage...while I've enjoyed working with Senator Utter and he's a gentleman and certainly a pleasure to have in this body, I would urge you to give a red light to his AM2406. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Cornett, you're recognized. [LB779]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. I rise in opposition to Senator Utter's amendment and like Senator Lathrop, I appreciate all of his input over the course of the last three months in regards to this bill. I understand his intent with the amendment and I agree with the sentiment behind that we need to find a way to guarantee that this money isn't misused or extended for any length...an exorbitant amount of time. Senator Lathrop and I have worked hard on that and I

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believe the amendments that we have filed and the one that we've agreed to with Senator Heidemann addressed those issues. We have heard back from bond council, we have heard from the League of Municipalities, we've heard from the cities that are looking at utilizing this, this will not be workable in regards to bonding. It does not create a stable funding stream for bonding. With that, I just want the body to understand the problems and difficulties with this amendment and I urge the body not to support the amendment. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Cornett. Those still wishing to speak: Senators Rogert, Utter, and Ashford. Senator Rogert, you're recognized. [LB779]

SENATOR ROBERT: Thank you, Mr. President and good afternoon, members. Senator Utter is the crabbiest old man in the room and I have to sit by him all day long, (laughter) so I've got it just as bad off as he does. But we love him and we understand what he is wanting to do here today. And I'll comment just a little bit about what he laid out as he opened on his amendment saying, well, we didn't quite get back as much money as we thought, we had to expand it. When we decided to build the Qwest Center and we started working on the turnback, we had some things happen between then and now. We had 9/11 and travel stopped. People stopped going places, just dipped down. And then we had a recession come into us a couple of years ago and we needed to expand what we were doing to make sure we paid those bonds off in a prolific time and it still turns a lot of money back to the cities. And we're talking about the Qwest Center on this point. But I believe that as we continue with this process and continue these discussions as it comes to this type of funding for projects in the state, that this will generate new money that has not been spent heretofore. Folks travel out of the state of Nebraska regularly to spend their money on, you name it. And it drives me crazy. I said when I came here that I would do everything in my power to make sure that the people and the money that they raise and spend stay here as much as possible. And I think this is one of those pieces of legislation that helps us do that further. And I agree with Senator Cornett and Senator Lathrop, when you're looking at financing these facilities through bonds, you got to sell the bonds. And if there's no 20 year guarantee of payment on the back side of it, it's going to be tough to sell them. If it only looks like there's going to be enough money to pay them back the first ten years, I don't know who is going to want to buy those bonds very well. So I do rise in opposition to AM2406, not in opposition to Senator Utter, of course, but I would urge your red vote on this one today. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator Rogert. Senator Utter, you're recognized. [LB779]

SENATOR UTTER: Thank you, Mr. President. And I'm wondering if I can just engage Senator Lathrop in little conversation, please. [LB779]

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SENATOR CARLSON: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR UTTER: Senator Lathrop, can you describe for the body what would happen if the turnback revenues were not sufficient to pay the principal and the interest on the bonds from day one? What happens then? [LB779]

SENATOR LATHROP: Then the city would be responsible for servicing the debt. The state would have no liability. [LB779]

SENATOR UTTER: Say that again. [LB779]

SENATOR LATHROP: The state would have no liability. [LB779]

SENATOR UTTER: And under no circumstance then would you be back to the state asking for an increase in the turnback area or some other accommodation that would help pay these bonds. Is that...would that be a fair statement? [LB779]

SENATOR LATHROP: That would be a fair statement. [LB779]

SENATOR UTTER: So then the city is going to have some skin in this game? [LB779]

SENATOR LATHROP: They will definitely have skin in the game. If they own this...and they will necessarily own it. Ultimately they are responsible for all of the debt and they're going to try to garner streams of revenue from the facility itself and from turnback. And if they aren't sufficient, the city is responsible for it. [LB779]

SENATOR UTTER: And so then, Senator Lathrop, is it true that the community of Ralston will vote on the issuance of these bonds? [LB779]

SENATOR LATHROP: I think the bill says if they are general obligation bonds, it requires a vote of the people. [LB779]

SENATOR UTTER: Okay. Thank you, Senator Lathrop. Appreciate that. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator Utter and Senator Lathrop. Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: And I'll try to be very brief, Mr. President. And Senator Utter asked great questions. The...at the time the Qwest Center was developed was pre-September 11. We've said that now three times. We, obviously, didn't know that



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was going to happen. At the time the bonds were issued, there was a \$75 million private payment into the project. The anticipation was there would be \$75 million of state dollars and the rest would be a city obligation. Obviously, September 11 was something...the tragedy no one ever thought would happen or foresaw, and we had to regroup. And it was at that time that we did expand, Senator Utter, some of the turnback for the Qwest Center. We now have the experience of 12 years or 10 years or whatever it is, and we realize that in what Senator Cornett was trying to do here, and I think she's successfully done with Senator Lathrop, is to develop a set of criteria that don't have to be changed. I mean, when we started at the beginning it was something new. It was something entirely new. The reason, I think, for this and the reason for some other business legislation that we passed here like LB775 and the Advantage Act, we don't know what it's going to do but what we believe it will do is enlarge the pie. It will expand business opportunity in the state. I put the turnback financing mechanism right in there with LB775 in the Advantage Act. I don't think it's any different. You're enlarging the pie, you're enlarging the opportunity for businesses to succeed. And especially, and what I think is very interesting, when we did LB775, we also did a bill called LB270 which was a small business advantage act kind of thing. And it happened to be my bill. It was part of the three bill triad in the LB775 package. Eventually, it was repealed. But for a period of time small businesses, even smaller businesses than the Advantage Act businesses were receiving some benefit from the state. What the turnback does, is it helps small businesses grow. It helps the restaurants and the retail operations that can expand and benefit from an events facility. It takes...it brings to...it increases benefits to those businesses who do not have the advantage of some of these more significant tax credit opportunities that the state so rightly offers to larger businesses. Lastly, had we not...the language that's being proposed Senator Utter, is a responsible idea. The problem is, certainly in the case of the Qwest Center, we never would have had a Qwest Center if we'd had these restrictions on the bonds. The...and quite frankly, you know, well...I think that has been said, and I'd say it again, we would not have been able to issue the bonds. There would not have been clarity on the state's obligation. But Senator Lathrop is absolutely right as is the case with Omaha and as is the case with Lincoln, the communities are coming up with other sources of income to guarantee those bonds. And the state portion of this is a function of it but it is not critical to the moving forward with the bonding. So with that, I would urge again that we adopt the...oppose this amendment and adopt Senator Lathrop's amendment and advance the bill. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Ashford. Senator White, you're recognized. [LB779]

SENATOR WHITE: Thank you, Mr. President. Would Senator Utter yield to a couple of questions. [LB779]

SENATOR CARLSON: Senator Utter, would you yield? [LB779]

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SENATOR UTTER: Yes, I will. [LB779]

SENATOR WHITE: Thank you, Senator. Senator, I read with interest your proposed amendment and one of the things that struck me as it wasn't perfectly clear to me is whether it is perspective only or would it apply to bonds that exist, for example, those on the Qwest Center going forward? [LB779]

SENATOR UTTER: I think...it's intended to be perspective only. I don't think we're trying to change anything that's going on with the Qwest Center. [LB779]

SENATOR WHITE: Thank you, Senator, for that answer. And then I have one other follow-up question. Senator, you've worked in finance obviously as a banker. If a town ends up doing a project under this provision and because of the prevailing interest rates has to pay a fairly high interest rate. For use of math, let's say 10 percent. And they get in just under this rule. Then they're going to issue a new bond. Would the new financing bond then come under...in other words, they issue on an existing project, they ask for a new bond on more favorable terms. Would that then bring them within the ambit of this amendment? [LB779]

SENATOR UTTER: Well, I'm certainly not an expert on the...I'm certainly not an expert on the...in the bond business, Senator White, but I would say that the 20-year limitation, at the end of 20 years when the turnback ceases, that regardless of whether they have refinanced during that period of time to lower the interest rate or not, at the end of 20 years after the project is completed, the turnback would cease. [LB779]

SENATOR WHITE: Senator, here is my concern. Doesn't it then at least potentially have a consequence of forcing municipalities to stay in bonds whose interest rates are no longer favorable? [LB779]

SENATOR UTTER: No, I don't believe that would be true, Senator White. [LB779]

SENATOR WHITE: Well, then, for example, if Qwest is paying 10 percent now and they're not, but if they were and they chose in this market right now to issue new bonds and retire the old bonds, would they be subject, if this amendment passes, to the restrictions of this amendment because it's a new bond but on an old facility? [LB779]

SENATOR UTTER: Well, they would still be subject if they were just refinancing the existing bonds, and not adding additional bonds, they would still be subject, in my opinion at least, and certainly you should pose that question to Senator Lathrop, but in my opinion they're still subject to the 20-year time period measured from the date the facility was completed. [LB779]

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SENATOR WHITE: I'm comfortable with Senator Lathrop's that it does not apply. Senator Utter, it's your provisions. For example, if I have a bond that is not subject to your provisions at this point in time, but market conditions exist such that it becomes advisable as a manner of fiscal prudence for a municipality to refinance at a lower rate or on better terms or they have to make improvements, they may lose the roof or whatever it is, that they then become subject to the language in your amendment even though the project preexisted it's passage. [LB779]

SENATOR UTTER: Well, I would just say to you, Senator White, that we didn't get into that with regard to...if you think that something is read into my amendment that would create the problem that you are talking about, why, obviously, we need to adjust the dialogue of the amendment if it passes. [LB779]

SENATOR WHITE: Thank you for those answers, Senator Utter. One of my concerns is, when we talk about uncertainty there is no area of the economy that are more wary... [LB779]

SENATOR CARLSON: One minute. [LB779]

SENATOR WHITE: ...than bond attorneys and borrowers under bonds. If there's doubt, if there's uncertainty, you either won't get the loan in the form of the bond or you'll pay a great premium for it. And while I appreciate what Senator Utter is aiming at in this matter, I think the actual effect will be to kill any such projects going forward because I don't think from what I can read of it, that you could get a bond issued under the terms and conditions outlined in Senator Utter's amendment. Therefore, if you like this bill, and I do and I support it, I urge you to vote no on Senator Utter's amendment because I don't think...you'll basically have a shovel that will not dig if this amendment is passed. Thank you, Mr. President. [LB779]

SENATOR CARLSON: Thank you, Senator White and Senator Utter. There are no other lights on. Senator Utter, you're recognized to close on AM2406. [LB779]

SENATOR UTTER: Thank you, Mr. President and I'll be very brief. I think we've had a good dialogue on tax policy and I think that we...this is something that we indeed need to be concerned about as we go down this road at what point do we actually put a dampening effect on the revenues of this state. And I am concerned about that with regard to the turnback legislation. And I will continue to be concerned about that as we continue to expand the areas and where we're going to do turnback. And we actually had a couple of suggestions this year. That was the Whiteclay issue, for example, originally started out as a turnback tax. Senator Christensen had proposed the idea of a turnback tax for the Republican River, a water situation. And so as we continue to move along this area of turnback taxes, we are going to have to be careful that we don't poke a hole in our tax base that we cannot fill. Thank you, Mr. President. [LB779]

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SENATOR CARLSON: Thank you, Senator Utter. Members, you've heard the closing on AM2406. The question is, shall AM2406 be adopted? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Senator Utter. [LB779]

SENATOR UTTER: I'd like to have a call of the house, please. [LB779]

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 aye; all opposed vote nay. Record, Mr. Clerk. [LB779]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB779]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those 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. Senators Conrad, Lautenbaugh, Cornett, Haar, McGill, the house is under call. Senator Lautenbaugh, the house is under call. Senator Lautenbaugh is on his way. How would you like to proceed, Senator Utter? [LB779]

SENATOR UTTER: (Microphone malfunction)...please. [LB779]

SENATOR CARLSON: Mr. Clerk, roll call vote in regular order has been requested. Please proceed. [LB779]

CLERK: (Roll call vote taken, Legislative Journal pages 1176-1177.) 6 ayes, 28 nays, Mr. President. [LB779]

SENATOR CARLSON: The amendment is not adopted. Thank you, Mr. Clerk. The call is raised. We return to discussion on AM2316. There are no lights. Senator Lathrop, your recognized to close. [LB779]

SENATOR LATHROP: Thank you, colleagues. We've had a good discussion. I think that the last vote probably gives us a pretty good preview of where we're going on AM2316. Just recall that this is for smaller venues that we have. In working with Revenue and trying to accommodate the concerns of those senators who have approached me since LB779 was put it, we've accommodated most of those concerns in AM2316. We will have an amendment for you on Select File to require that all of the turnback money be used to retire the debt. And with that, I would encourage your support of AM2316. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Lathrop. Members, you've heard the closing on the amendment. The question is, shall AM2316 to LB779 be adopted? All those in

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favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB779]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB779]

SENATOR CARLSON: AM2316 is adopted. [LB779]

CLERK: I have nothing further on the bill, Mr. President. [LB779]

SENATOR CARLSON: Thank you. We return to discussion on LB779. Seeing no lights, Senator Lathrop you're recognized to close. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I just...obviously, we essentially adopted the bill in the last vote. I do want to take this opportunity to express my appreciation for the work Senator Ashford's put into this subject matter for years, but in particular the work that he's put into LB779. He's worked and we attended a great number of meetings through the interim. I also want to acknowledge the significant work of the Revenue Committee, members of that committee and their staff for the work they put into LB779. It went from concept to reality in large measure through the work of Senator Cornett and her committee. I'm very appreciative for what they've done and would encourage your support of LB779. Thank you. [LB779]

SENATOR CARLSON: Thank you, Senator Lathrop. Members, you've heard the closing on LB779. The question is, shall LB779 be advanced? All those in favor vote aye; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB779]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB779]

SENATOR CARLSON: LB779 does advance. Mr. Clerk, items for the record. [LB779]

CLERK: I have some, Mr. President. Resolutions, LR529, LR530, LR531, and LR532 will be laid over. And additional study resolutions, LR533 through LR535. Amendments to be printed: Senator Hadley to LB420; Senator Ashford to LB800. That's all that I have, Mr. President. (Legislative Journal pages 1177-1185.) [LR529 LR530 LR531 LR532 LR533 LR534 LR535 LB420 LB800]

SENATOR CARLSON: Thank you. Next item, Mr. Clerk.

CLERK: Mr. President, on LB712. It was a bill originally introduced by Senator Rogert. (Read title.) Introduced on January 6. Referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending. (AM2288, Legislative Journal page 1028.) [LB712]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Rogert, you're recognized to open on LB712. [LB712]

SENATOR ROBERT: Thank you, Mr. President. Good evening, members, LB712. This is one of those bills that was four words long and is now 40 pages, thanks to Senator Ashford in our Judiciary Committee. We use this as a shell bill, but I'll open on the underlying bill and then let Senator Ashford take over. LB712 amends the Disposition of Personal Property Landlord and Tenant Act. What does that mean? If you own an apartment or a storage facility and somebody rents it and they leave some property on your...leaves some of their personal property in your apartment or their storage center when they abandon it, when they take off, if today it's valued to be over \$250 in value, you have to hold a public sale to get rid of it, including advertising in the paper for three weeks and go through the whole rigmarole of getting it out. Well, that's a pretty old statute. Two hundred and fifty dollars isn't very much. A couple pair of sunglasses can be over \$250. So what we're doing in the original bill is raising the threshold from \$250 to \$1,000. And say if you believe that the property left behind is less than \$1,000, you can take it down to a hock shop or throw it in the garbage, whatever you want to do. You can move on and rent your apartment out and not have to keep that stuff on board. That's basically all my bill does. There wasn't any opposition to it. Mr. President, if Senator Ashford is ready, I'll yield the rest of my time to him to begin his discussions of the multiple bill containing amendment. [LB712]

SENATOR CARLSON: Thank you, Senator Rogert. As the Clerk has indicated, there are committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you are recognized to open on AM2288. [LB712]

SENATOR ASHFORD: Thank you, Mr. President. This should clear the room. Each year the Judiciary Committee likes to give a name to its Christmas tree bill. This year it's the John Wightman Christmas tree bill. So with that, I will go through a number of really procedural additions to the law that this bill includes and it does include a number of bills that are procedural in nature that deal with the administration of civil law in our state. The first bill that is included is what was introduced as LB1026 by Senator Wightman. It would create a statutory process for transferring civil actions from one district to a district court in another county in the state. The current law provides for the transfer of such cases but does not provide statutory guidance on the procedure for the transfer. Senator Wightman brought an amendment to the committee to eliminate all opposition...that did eliminate all opposition to the bill. The amendment would clarify the transfer process and make it more timely by requiring the transfer of the action to occur within 10 days rather than 15 days after the entry of the transfer order. This is stimulating stuff, members, so. The amendment would provide that no additional court fees shall be required for the transfer. The bill as amended was advanced unanimously by the committee. LB1045, originally introduced by Senator Lautenbaugh, would amend

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Section 25-1625 to eliminate the provision for the clerk of the district court to perform the duties of the jury commissioner when a county has more than 150,000 inhabitants but not more than 200,000 inhabitants. The bill would also increase the population threshold from 150,000 to 200,000 for counties to have a separate jury commissioner or to have the duties performed by the election commissioner if authorized by the judges of the district court. This bill also advanced from the committee by an 8-0 vote. LB824 originally introduced by Senator Fischer would amend Section 25-1628(2) to reduce the frequency of the production of jury lists in counties with low population. Under LB824 only counties with 7,000 or more inhabitants must refresh the jury pool annually. Counties with a population between 3,000 and 7,000 inhabitants must refresh the jury list every two years instead of annually. Counties with less than 3,000 inhabitants, of which there obviously there are several in the state, must refresh at least every five years. This is actually very important legislation by Senator Fischer and did have...we had quite a bit of discussion about it. It was eventually advanced unanimously by the committee. The next portion of the bill was LB915, originally introduced by Senator McGill. This would amend Section 25-1628(1) to provide that driver's license numbers and state identification card numbers be included in the list of information given to the jury commissioner by the officer in charge of the election records and by the Department of Motor Vehicles. The jury commissioner shall use the information in reducing duplication and producing a master jury list. Again, this particular bill was advanced 7-0 from the committee. Senator Council's LB847 is the next measure in the amendment. It would amend statutory sections related to small claims court to restore provisions that were removed from law under LB1014 in 2008 which provided a method for a defendant to vacate a default judgment. The bill would also provide that parties may be represented by an attorney for the purpose of filing a motion for a new trial to set aside, vacate, or modify a default judgment. This bill was also advanced from the committee by an 8-0 vote. LB1046 is the next section in the amendment. Originally introduced by Senator Lautenbaugh would amend Section 29-1207 and 29-1208 to change speedy trial and indefinite continuance provisions. Under the bill a defendant who seeks and obtains an indefinite continuance has an affirmative duty to end the continuance by giving notice of a request for a trial date. The court may end such a continuance by setting a trial date in which case the excludable period ends on the date the trial commences. Also under the bill a defendant would be deemed to have waived his or her right to a speedy trial and would be excluded from asserting a right to a speedy trial when the period of delay resulted from a continuance granted at the request of or with the consent of the defendant or his or her counsel extending that period beyond the statutory six month period. The bill was attached to LB712 with the committee amendment which would provide that the defendant or his or her counsel must request a continuance, not merely consent to a continuance that extends beyond the statutory six month period, in order for the defendant to have waived his or her right. LB988 is the next section. Advanced from the Judiciary Committee by an 8-0 vote. Would simply increase the amount of credit for imprisonment for nonpayment of a fine from the current daily amount of \$60 to the new amount of \$90. Another...also a bill

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introduced originally by Senator Council. LB687 originally introduced by Senator Wightman. Advanced from the committee by an 8-0 vote. It would change the amount of money exempted from an estate that is provided to the spouse and/or child of a decedent leaving an estate beginning January 1, 2011, in the following instances. First, a surviving spouse of a Nebraska resident would be entitled to a homestead allowance of \$20,000 beginning January 1, 2011, upon the resident's death, an increase from the current amount of \$7,500. If the Nebraska resident dies leaving no surviving spouse, each minor child and each dependent child of the deceased resident is entitled to a share of the \$20,000 that was available to the surviving spouse if such spouse existed with the amount...I'm sorry. Was available to the surviving spouse, if such spouse existed with the amount being divided by the number of minor independent children. The surviving spouse of a Nebraska resident would be entitled to exempt personal property valued up to \$5,000 from the estate for a Nebraska resident who dies before January 1, 2011, and \$12,000 for a resident who dies after that date. The personal representative of an estate may provide a family allowance in a lump sum not to exceed \$9,000 to the family of a decedent who dies on or before January 1, 2011, and \$20,000 for a decedent who dies on or after January 1, 2011. The amount provided for the family allowance can be divided into a monthly amount not greater than the \$9,000 and \$20,000 totals. LB703 is the next section of the amendment introduced by Senator Wightman. Advanced on an 8-0 vote. It would amend the following acts and sections of law: the Uniform Durable Power of Attorney Act, Section 30-2664 to 30-2672; the Nebraska Short Form Act, 49-1501 to 49-1561; and the general powers available under a power of attorney by providing that an agent or attorney in fact acting under a power of attorney may create or change rights of survivorship and/or a beneficiary designation as long as the power of attorney expressly grants the authority to do so. [LB712 LB1026 LB1045 LB824 LB915 LB847 LB1046 LB988 LB687 LB703]

SENATOR CARLSON: One minute. [LB712]

SENATOR ASHFORD: Okay. LB757, Senator Wightman introduced this bill as well. It would amend Section 30-2715 and add provisions to statute allowing a motor vehicle governed by a certificate of title to be titled upon transfer...or to be titled upon transfer on death. A person who owns a motor vehicle may provide for the transfer of such vehicle upon his or her death or the death of the last survivor of a joint tenancy with right of survivorship by including in the certificate of title a designation of a beneficiary or beneficiaries to whom the vehicle will be transferred on death. Again, this would...is a significant efficiency measure to avoid the opening of a probate file to transfer an automobile. [LB712 LB757]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Time, Senator. Thank you, Senator Ashford. There is an amendment to the committee amendment. Mr. Clerk. [LB712]



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CLERK: Mr. President, Senator Karpisek would move to amend the committee amendments, AM2355. (AM2355, Legislative Journal page 1115.) [LB712]

SPEAKER FLOOD: Senator Karpisek, you're recognized to open on AM2355. [LB712]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. AM2355 was actually LB1084 when introduced. LB1084 provides a court procedure for a county to obtain regular payments for the maintenance, care, and disposition of any pet animals or equine seized by a sheriff while the case is pending against the defendant for the mistreatment of such animals. Under current law, if a defendant is found guilty of any offense against an animal, the sentencing court may order the defendant to reimburse a public or private agency for the expenses incurred with the care, impoundment, or disposal of an animal involved in the original offense. However, the cost for maintaining and caring for pet animals and equine while the case is pending can become a financial burden to a county. LB1084, now the amendment, relieves this burden by providing the county with the means for obtaining financial support from a defendant for taking care of such animals until which time the case becomes final. In the last couple of years Nebraska has experienced what seems to be a rash of horse neglect cases. In Fillmore County the sheriff seized as many as 38 horses. In Dixon County the sheriff seized close to 50 horses and in Morrill County the sheriff seized more than 200 mustangs and burros. Unfortunately, every time counties are forced to take custody of horses the result is that the local taxpayers are responsible for paying for the care and maintenance of these animals. Long-term care of these animals, especially horses, can be in the tens of thousands of dollars. And in the case of the 200 or more horses the costs could be in the hundreds of thousands of dollars. It is true that current law permits a sentencing court to order a defendant to reimburse a public or private agency for the expenses incurred with the care and maintenance of an animal. However, this language is permissible and assumes that the case will even go to sentencing. For example, in the Fillmore County case the defendant was ruled to be incompetent to stand trial, which means that it may take years before the county would be reimbursed the cost for caring for the horses, if at all. All we're trying to do with this amendment is to put in place a hearing process before the court that immediately places the burden on the defendant for financially supporting the care of these animals rather than on the local taxpayer. This bill was reported out of the Judiciary Committee with a 8-0 vote and I would appreciate your support. Thank you, Mr. President. [LB712 LB1084]

SPEAKER FLOOD: Thank you, Senator Karpisek. Members, you've heard the opening on AM2355 to AM2288. We turn now to discussion. Senator Ashford, you are recognized. [LB712]

SENATOR ASHFORD: Thank you, Mr. Speaker. And we certainly support Senator

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Karpisek's amendment. And I might just continue on with Senator Stuthman's LB939. It would amend statutory sections related to child support enforcement to allow the Department of Health and Human Services to effectively collect child support and remain in compliance with federal regulations. To comply with federal law, the bill would allow DHHS to modify a child support order in healthcare coverage cases within three years of entry of the order. The bill would also provide that DHHS may review child support orders within the three-year period after the obligation is ordered when a substantial change in circumstances is demonstrated, has lasted at least three months, and is expected to last for an additional six months. The bill also would authorize DHHS to utilize income withholding to collect other monetary judgments related to the support of the child that the obligor has been ordered to pay and owes to a federal or state government unit in cases when services are being provided under Title IV-D and the support obligation is current. The bill also would require financial institutions to include the account balance with the information provided to DHHS for each obligor that is matched to an account within the financial institution's system. That bill was advanced 8-0 by the committee. Finally, Senator Rogert's LB712 has been adequately, I think, explained by Senator Rogert. And that would, with Senator Karpisek's amendment, that would include all of the various sections in the committee amendment. Thank you, Mr. Speaker. [LB712 LB939]

SPEAKER FLOOD: Thank you, Senator Ashford. There are no other lights on. Senator Ashford...or Senator Karpisek, you're recognized to close on AM2355 to AM2288. Members, the question before the body is, shall AM2355 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB712]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the amendment to committee amendments. [LB712]

SPEAKER FLOOD: AM2355 is adopted. We now return to discussion on AM2288. Seeing no lights on, Senator Ashford, you're recognized to close on AM2288. [LB712]

SENATOR ASHFORD: Thank you, Mr. Speaker, and I promise that there is no new judge in this legislation anywhere, in any section, any place. With that, I would urge the adoption of AM2288 and the advancement of LB712. Thank you, Mr. Speaker. [LB712]

SPEAKER FLOOD: Thank you, Senator Ashford. Members, you've heard the closing on AM2288. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB712]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of the committee amendments. [LB712]

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SPEAKER FLOOD: The committee amendments are adopted. [LB712]

CLERK: I have nothing further on the bill, Mr. President. [LB712]

SPEAKER FLOOD: There are no lights on as we return to discussion on LB712. Senator Rogert, you're recognized to close. Senator Rogert waives his opportunity. The question before the body is, shall LB712 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB712]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB712. [LB712]

SPEAKER FLOOD: LB712 advances to E&R Initial. Mr. Clerk, we now proceed to LB1014. [LB712 LB1014]

CLERK: Mr. President, LB1014 is a bill on General File, originally introduced by Senator Haar. (Read title.) The bill was introduced on January 20, referred to Education. The bill was discussed on the floor on March 10 and 11. At that time the committee amendments were adopted to the bill, Mr. President. There was also an amendment to the committee amendments from Senator Adams that was adopted. I do have additional amendments to the bill, Mr. President. (AM2237 and AM2342, Legislative Journal pages 993 and 1060.) [LB1014]

SPEAKER FLOOD: Senator Haar, since the Legislature previously had taken up LB1014, I am going to give you 5 minutes to refresh the body's recollection as to the contents of your bill. [LB1014]

SENATOR HAAR: Thank you very much. I'd like you to look at the handouts I gave to you. Things have changed. We've been negotiating. So I'd like you to take the one that says "Wind for Teachers" and it's got scribbles all over it. First of all, LB1014 is what I call "Wind for Teachers." It would take point 3 on this 3(a), the income from solar and wind energy leases on school lands, and it would put it into a special account. Now if you notice at the bottom of the page, when this is all said and done there will be no special performance pay fund; instead, the dollars will be segregated into a separate account. And just for this discussion I'm going to call it the "TPPA," the teacher performance pay account. So income from wind and solar. It would be distributed, point 3(c), to Nebraska public schools to the same apportionment formula as all funds held in the Educational Trust Fund; 3(d), the distribution of money from the TPPA to public schools shall only support the performance pay components provided in local collective bargaining agreements; 3(e), once we've reached a threshold--and I'll talk about that in a minute--then schools would either have to use it or lose it; and finally, 3(f), there would be a sunset. Now if you turn to the second page, we've been negotiating back and forth on the floor, and I would like to make these points then. Line 6 on page 2: It does not

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create a separate fund; it uses an accounting mechanism and no more than \$100 million could be distributed per year; there is no accumulation. And these points will come in an amendment to Senator Fischer's amendment which she's going to submit. Number 9, line 9, and this is really the way it would work: Starting in 2015, if 75 percent of the districts have a plan, a teacher performance pay plan, then the money would be distributed beginning in 2016; if not, the money is returned to the temporary school fund and then in 2016 the check to see if you have the 75 percent. In other words, we have to get to the 75 percent of school districts having a plan before this money is expended. And then line 19: This continues until 2018, and if by 2018 there is not 75 percent of the districts with a plan, then this statute sunsets and all the money is distributed through the temporary school funds. And I'm sorry. I said...apparently I said \$100 million; it's \$10 million as it says on this sheet. So this is sort of the bill where it started and the way it will be finally amended to give you an overall view. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Haar. Mr. Clerk. [LB1014]

CLERK: Mr. President, then I have a series of amendments. The first, Senator Haar, I have AM2237, but I do have a note, Senator, you want to withdraw AM2237. [LB1014]

SPEAKER FLOOD: AM2237 is withdrawn. [LB1014]

CLERK: Mr. President, the next amendment I have is...Senator Haar, I now have AM2342, Senator. [LB1014]

SENATOR HAAR: I would like to withdraw that as well. [LB1014]

SPEAKER FLOOD: AM2342 is withdrawn. [LB1014]

CLERK: The next amendment, Senator Fischer, AM2417. (Legislative Journal pages 1186-1190.) [LB1014]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on AM2417. [LB1014]

SENATOR FISCHER: Thank you, Mr. President and members of the body. First of all, I would like to thank Senator Haar and I would like to thank NSEA for working on this bill. As you remember, when we first discussed it, it's been a few days ago, on General File, I had quite a few questions on the bill and on the process. And I know many of you in here had those same questions. So we've been trying to work on this since that time. Many of the items that you find in the amendments that Senator Haar pulled and that are included in this amendment of mine were reached with NSEA. And I again thank them for their willingness to work on it. I asked them: I said, are you just interested in setting up a fund; is that the purpose for this bill? And they said no, their purpose was to move forward and move toward a teacher performance pay. And I thank them for

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sticking to that purpose and being willing to work to delete some of the items in the original legislation that were of concern to many of us here in the body. Once again, I do thank Senator Haar for that too. Specifically, under this amendment it removes the teacher performance pay fund. It removes that idea of having a separate trust fund, as it were. The money that will be collected from the wind and solar leases, it will be passed through the Board of Educational Lands and Funds. It will be passed through their accounting system. They can keep that separate from the temporary school fund. And that's the way the money will be handled on that. As Senator Haar said, the performance pay shall be included in the collective bargaining agreements that districts reach with their staff. Senator Haar and I have been working on this with Senator Heidemann on the idea of the 75 percent of school districts have to reach an agreement with their teachers with that collective bargaining unit or the bill sunsets. Now on Select File we're going to hopefully advance the bill with my amendment. We'll advance that to Select File. And then on Select File Senator Haar and I will have another amendment that deals with kind of a rolling issue here that will get us to a certain date on that 75 percent of the districts that have to be in that collective bargaining unit. We do have a \$10 million cap on the apportionment in this fund instead of no cap, as in the original bill, and I think Senator Adams is very comfortable with that. I think it's important that our school districts do reach an agreement with their teachers and that they have that agreement in place before we start distributing the funds in a different way. Because, in effect, we are distributing that school land lease instead of just going to each district by the number of students they have--this is apportioned by the number of students--instead of going out that way for the districts to do...or to use that money as they decide in their individual districts, under this teacher performance pay there will be that certain allocation for those wind and solar leases that will be itemized and will go for teacher performance pay. Once again, I appreciate the work done on the bill. And am I excited about the bill? Probably not. I think it...you know, we've been working really hard the last two weeks on trying to work out some what I saw as flaws and what many of you saw as flaws in the bill. But I think the way we have it set up under this amendment and under the amendment that will be offered on Select File, we will have time to see if this is going to work. We're giving districts time. We're giving teachers time to see if they can reach agreements through their negotiations to see if they truly want to participate in teacher performance pay. I talked to a number of teachers in my legislative district. They weren't real excited about teacher performance pay. I talked to a number of superintendents in my legislative district and they had a number of questions on it too. So I think the way we've negotiated on this it does give those people that are out there and dealing with this every day, school boards, superintendents, and staff, time to work on it. And if they decide that they do not want to enter into those agreements, if we can't get 75 percent of the districts in this state to enter into those agreements, then that's a local decision and this whole idea goes away. That's what the amendment on Select will be. So if the people at the local level who make the local decisions, who basically are spending local money--we all know property taxes finance schools--if they decide that this isn't the way they want to go and if we can't get 75 percent of the school districts in

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the state to have that in place with their teachers in their negotiated agreement how that performance pay would be determined, this goes away. You know, what we think is a good idea today, maybe it won't work on the ground. And I think that's a good thing. I think that's a good idea because what we're doing can be viewed as a state mandate. But we're still giving some leeway there for local people to reach those agreements and make those decisions. So I hope you will support this amendment. As I said, we've put a lot of work in it, with Senator Heidemann and Senator Haar. I've had discussions with Senator Adams also. So with that, I hope you will advance the amendment. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening to AM2417. We now turn to discussion on AM2417. We begin with Senator Hadley, followed by Senators Harms, Adams, Haar, Carlson, Loudon, and Utter. Senator Hadley, you're recognized. [LB1014]

SENATOR HADLEY: Mr. President and members of the body. I realize the hour is getting late, but would Senator Haar yield to a couple of questions? [LB1014]

SPEAKER FLOOD: Senator Haar, will you yield to a question from Senator Hadley? [LB1014]

SENATOR HAAR: Certainly. [LB1014]

SENATOR HADLEY: Senator Haar, just so I completely understand this, this would not be put into a teacher's base salary. This would be treated more as a bonus than an increase in base salary that would be carried forward from year to year? [LB1014]

SENATOR HAAR: Yes. That's correct. [LB1014]

SENATOR HADLEY: Okay. Another question, Senator Haar. I have your handout Q&A on floor debate. Could you explain to me: NSEA opposes merit pay but supports performance pay. Can you explain to me the difference between merit pay and performance pay? [LB1014]

SENATOR HAAR: Yes. What they consider merit pay would be the sort of thing just based on, like student test scores or merit pay being the favorite, you know, of the principal, that sort of thing. So I'm not sure that I see a whole lot of difference either in those two. We're talking about performance pay and we hope it won't be just based on student test scores or how the principal feels about them. [LB1014]

SENATOR HADLEY: Okay. I'm like you. I'm having a little trouble with the semantics because I would hope that we're not going to give performance pay to somebody who doesn't merit the performance pay. The last thing...and this is a comment I would like to

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raise just in passing. I'm going to support Senator Fischer and LB1014, but I hope as time goes on that we use this same concept, because we have in our university systems and college systems some opposition to either merit or performance pay also. So if we're going to start developing it for K through 12, then I hope we can move that model later into the university and college level also. Thank you, Mr. President.  
[LB1014]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Harms, you are recognized.  
[LB1014]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, would you yield? [LB1014]

SPEAKER FLOOD: Senator Fischer, will you yield to a question from Senator Harms?  
[LB1014]

SENATOR FISCHER: Yes, I will. [LB1014]

SENATOR HARMS: Senator Fischer, as you view performance pay, are you thinking about all schools basically having the same criteria that would be maybe designed as a model to follow through NSEA? Or are they open to have 300 different performance pay programs for each of the schools because they've done it through collective bargaining? What are your thoughts about that? [LB1014]

SENATOR FISCHER: I think each individual district has to negotiate with their teachers and determine what that performance pay will be. That being said, I, in my conversations with Senator Adams, I have learned that Westside currently has performance pay in place. And Senator Adams, as a former teacher, as Chair of the Education Committee feels that it's an excellent system, so I would hope that that could be a model. As I said, I haven't seen it but I think it needs to be done on the local level between each bargaining unit and between each board of education with that bargaining unit. [LB1014]

SENATOR HARMS: Thank you, Senator. I rise in support of the amendment as well as the underlying bill. I've not been very happy with NSEA over the years and have already told them this when they visited with me. This is the first time that I've seen that NSEA has stepped forward that says that we are willing to address the issue of instruction; we are interested now in helping teachers perform better; we're willing to reward people who are better teachers who go beyond the normal call of duty. Because the only thing NSEA has done in the past from my experience has been is that they've dealt with collective bargaining; they've dealt with money. And so for me to see the fact that they are involved in the discussion of making this a better place for our children and teenagers to go to school, and we're going to reward those teachers who are better

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teachers or who do go beyond the normal call of duty, I think this is good. I think we'll find that we'll encourage some of the teachers who, once they become tenured, have a tendency to sit back and do very little. And I have never appreciated that nor have I ever enjoyed watching that happen. I think, quite frankly, tenure has been the worst thing that's ever happened to education, period. It just is. And the fact that we're going to now reward people for working hard and getting involved in whatever it might be to do a better job in the classroom, I applaud NSEA for stepping up. I think this is really important and I think in the long run we will find this will improve instruction. To me this is encouraging, because up till now I've never been a strong supporter of NSEA because of the position they've taken historically. And so, Senator Fischer, I don't disagree with what you're doing here. I think it's important. I think you are going to put the right parameters around this issue. I worry a little bit about boards of education not truly understanding what performance pay is about. And that's why Senator Fischer, I asked about the question, will there be any guidelines established as to at least give local boards some idea about the criteria that you want to incorporate in this process because I think we could go astray really quickly and it may be not...it may not be designed the way that we hope that it will be designed, and that's to reward good instruction. And how do you measure that? What's the process that you use? [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR HARMS: Thank you, Mr. President. So I hope that we can have this discussion when we move this bill from General to Select. I think those are questions that I have a high interest in. And I think it's important for us to focus on that because the idea here is to make the classroom better--better for our children, better for our teenagers. So I do support this and I'll wait to see the rest of the discussion that takes place. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Adams, you are recognized. [LB1014]

SENATOR ADAMS: Thank you, Mr. President. Members, I want to talk about two different things: first of all, my interpretation of the difference between merit and performance pay. Kids in a classroom are not widgets. They don't all look alike. They don't act alike. They don't learn alike. They don't come with all the same baggage. So for us to apply a business metaphor to kids like they're products running off an assembly line, and say, kick them back and do it over and make sure they got that quality assurance stamp on them, is huge. That's why I believe that historically teachers have opposed merit pay in its purest sense in terms of like, it's done in the private sector where "I like you" or "you say yes when I ask you to do things so I'm going to reward you with merit pay." We have a pay schedule, a pay schedule that came about because it needed to. The pay schedule is blind. It's blind to male and female. It's blind to you're an elementary teacher, you're a high school teacher. It objectifies the pay process which



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has been essential. I don't see that going away. What I see performance pay as doing is supplementing the pay schedule and maybe some day becoming a new generation of pay methodology or by 2018 it is no more in the state of Nebraska. What this bill does is to create an incentive to try to look at performance pay. Now I agree with Senator Fischer's amendment for a couple of reasons, (a) because she's been very forthright with Senator Haar in working with him and putting this thing together, several people have, Senator Heidemann and others, to try to make this workable. My point in supporting the bill in the first place was it was pushing the NSEA into a territory that they historically have felt very uncomfortable going into: the area of performance pay. I don't look at this as suddenly in the next few years we will have thrown out the pay schedule and started all over. I don't see that happening. Frankly, I'm not quite sure that when this is all over with that we'll even have any performance mechanisms. The other thing I like about the amendment is this, and I've told this to Senator Haar since the first day we started working on this. One of my biggest concerns about this bill was that accumulating the money was keeping money out of the apportionment formula, and therefore, out of schools. And I don't want to do that. And that's why I've always kind of drug my feet on this bill. This amendment doesn't accumulate the money. It goes into the schools just through the same formula we're using now, but it sets a target out there for schools. If they want to try to create a performance mechanism, we are, in effect, incenting them to some degree. And there's a sunset. If it hasn't happened by a certain date, I believe it's 2018--I don't mean to steal Senator Haar or Senator Fischer's fire here--then we say it didn't work. It goes away. But in the meantime, we've not kept that money from running through the formula and helping us to fund schools. I think this is a workable way to deal with this. It's an experiment and it's a leap in faith for us and, believe me, it is for teachers, as well, and for school boards. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator. Senator Haar, you are recognized. [LB1014]

SENATOR HAAR: Mr. President and members of the body, I've been putting together a list of new beatitudes for state legislators, and the first one is: Blessed are those who can compromise, for they shall get home before dark. (Laugh) So maybe tonight we'll see. I'd like to thank Senator Fischer for working hard with me this afternoon; and Senator Heidemann, in getting some agreements on how we go forward with this; and, of course, Senator Adams has been consulting with me all the way along, so I wanted to make sure that I mentioned that. Again, a really important part of this is in terms of performance pay. And in the bill itself, in AM2342 which I withdrew, but it says teacher performance pay is a systematic approach for measuring teachers' performance and linking the measurement to changes in teacher pay. Indicators of teacher performance may include but are not limited to improving professional skills and knowledge, classroom performance, or instructional behavior and instructional outcomes. And then on page...the third page of this neatly typed Q&A you'll see some of the illustrations of teacher performance pay systems. And some of the leaders of this, for example, have

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been in Denver. It lists them at the top of the page, and they're looking at more than just test scores. And I'm sure you found the same thing when you go door to door and talk to teachers: They hate No Child Left Behind, the part that bases their performance on student test scores. And so that hopefully will not be a part of this. But all of these folks are looking at creative ways to keep teachers and encourage them to be excellent teachers. And you'll notice the components on there. Knowledge and skills, plus base pay: completed professional development units, national board certification, and so on. Some other ones as they have it here might be market incentives: hard-to-serve schools, hard-to-staff assignments. And then at the bottom...and if anyone, frankly, I didn't get copies of all these, but if anyone wants to see a copy of Millard or Ralston or Omaha or Lincoln, whatever, Dundy County-Stratton Public Schools, they all have some kinds of performance pay for teachers. And especially if you look at Omaha Public Schools there, this is in some ways the Denver model where teachers get rewarded for assisting new teachers, where they actually mentor new teachers, where they do curriculum writing, where they serve as a counselor, where they become leaders in their subject area, their building, or their mentorship. And so really we're talking about taking teaching to a new level, certainly improving the classroom teaching, but also recognizing that as teachers get more and more experience, they can become valuable helping new teachers, those kinds of things. So again I want to thank those who have worked with me on this. And it may or may not work, but I think it puts...I know, for example, this is going to put some pressure on the Nebraska State Education Association to start working with their members so that they can work on collective bargaining agreements with the school boards. I'm very hopeful. I was a teacher for 15 years and would have liked to have been rewarded for some of the curriculum development I did and those kinds of things, because I think it made me a better teacher. So with that, I appreciate it. [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR HAAR: Thank you. [LB1014]

SPEAKER FLOOD: Thank you, Senator Haar. Senator Carlson, you're recognized. [LB1014]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. LB1014 and AM2417 are all about improving what we deliver to our students and rewarding good teaching, and it comes about because of Senator Haar's efforts in wind energy. I hope wind energy is very, very successful. I hope we as a state are going to encourage private developers to come in, develop wind energy, export that energy, and make a lot of money. But it's a question mark at this point because we've got to have some time to see how this all works out. And we also need some time with this bill to allow districts to determine their degree of participation in developing a program that would allow them to access what could come out of LB1014 for the benefit of their

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teachers. Education is the most important element of the services we provide in the state of Nebraska. And performance of our teachers in Nebraska is very enviable. There are many other states that would celebrate if their systems produced the results that the schools of Nebraska produce. A part of this is because of good school systems, good teachers, and good family support. Now a concern is that our teacher salaries rank 43rd out of 50 states. In performance of our students, we're in the top 5. We need to close the salary gap and LB1014 is a start in this direction. Members, as long as I'm in the Legislature I'll look for ways to improve teacher salaries without raising taxes. I felt this was an effort in that direction that offers good potential, so I do stand in support of Senator Fischer's AM2417 and Senator Haar's LB1014. Thank you, Mr. President.  
[LB1014]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Louden, you are recognized.  
[LB1014]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I think we're getting, what do you call, it's a bait and switch situation here. We're talking about teacher incentive pay and all that, and I'm not one to be against that. I think there needs to be room for that and I think something like that is being done. But what we're doing here is raiding an educational trust fund that shouldn't be raided. There's where you need to be thinking about what we're doing here. This has never been raided, as such, before. The money that goes into that fund is divided up amongst all the students in the state of Nebraska between 5 and 18 years of age and the districts get that, whether or not they have a parochial school or what, they get that money anyway. Part of the problem I see and it's fine, if you...if these districts want to take that money and use it as a teacher incentive pay, they can do it the way it is here, just there will be more money added in if this solar energy comes about and the school districts do...or the school lands do have land to lease for that. But I don't see where we're going to gain anything. You're not generating any more dollars. You're using the money that's there that goes into that fund, you can use the money anyway, and it's divided up on a per pupil basis so I question whether there's actually any need for this. All it is, is you talk about a feel-good bill. There's always all kinds of ways to have teacher incentive. I've been around in school board years ago and we did that, and sometimes it works and sometimes it don't. Now the increase in teacher pay, and I'd certainly be one to vote for something like that as the relatives that I have that are teachers, and I'd always said the entry levels teachers were the ones that weren't paid enough because whenever these labor works with the collective bargaining situation, they usually work on the people that have been there for several years. So consequently, those with the higher degrees are the ones that get the higher pay and the incentives for being there, and the entry level teachers are kind of on their own. But with this bill, and the amendment, I admit that this is probably a help. It puts some kind of a sunset thing on the bottom end of it. But I still think it's not a good idea to be raiding that educational lands and trusts like we are, like that. That school lands was set aside for the education and money to be set aside for all

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the students from 5 to 18 years in the state of Nebraska. And the way this is set up now, now you're raiding it. We'd just as well start pushing to have them sell all the school lands and get them out of there and put it in cash someplace, so as Senator Carlson said, you can go in there every year and take some of that money out and raise the teachers salary, and I guess it won't raise taxes. There's what we'll end up doing with the school land trust. I hate to see this school land trust raided in such a way as this. And with that, I certainly don't support LB1014. I think it was a bad bill from the start. I don't think it was anything that needed to be done because we're not gaining anything. You're not generating any more money. You're just taking the same amount of money and kind of dividing it up different. In my observation, whenever that happens, usually rural schools in western Nebraska come up on the short end of the stick, and that's the problem I have with this when we start dividing it up. Do we divide it up on an equal per pupil basis? And if you do, then how do you figure out teacher incentive when Omaha has, what, 35,000 or 40,000 students, and someplace in Hyannis... [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR LOUDEN: ...probably has 100 and some students. So we know whose going to get the most state from the state Board of Educational Lands and Funds money to be divided up. Sure, they have more teachers, but on the other hand I question whether there's going to be any fairness in there such as the way it's set up now where the money is divided up equally among all the students in the state. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Hansen, you are recognized. [LB1014]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I rise, too, in support of AM2417 and the underlying bill of Senator Haar's, as amended, if we can pass the amendment from Senator Fischer. I just hold in my hands the Board of Educational Lands and Funds report to the Legislature as of 2009, about a year ago. And it lists...has quite a list in here of disbursements from the board, from the trust fund that Senator Louden was talking about. They total...the total disbursement just for the apportionment process is \$39,100,000. So we're not talking about a small amount. And also in this report it tells how much real estate tax payments in each county. It's all done by county. And that amounts to over about \$6.5 million. So there is some good money involved in this. It is a trust fund and we need to keep that in mind. The question I would have is that every time I go to a school that my granddaughters are in, not necessarily the ones that my sons went to, but now that my granddaughters are in school I talk to their teachers, and they say they can tell the first two weeks of school this is going to be a good year. It's the students that make the teachers look good, and that varies from year to year. So whoever is making this decision on teacher performance pay has got a lot of work ahead of them. I don't know how they could perform one year, have a new

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set of kids the next year, and be expected to improve or have an increase in performance pay. My question, I guess I'll ask Senator...um, I think I'll ask Senator Fischer to yield...oh, there's Senator Adams. Yes, Senator Adams, would you yield, please? [LB1014]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Hansen? [LB1014]

SENATOR ADAMS: Yes, I will. [LB1014]

SENATOR HANSEN: Senator Adams, is the teacher pay incentive that we're...the performance pay that we're talking about, is that based anything to do with education? The more education the teacher gets, would he or she be more likely to have performance pay? [LB1014]

SENATOR ADAMS: I'm going to try to answer your question in this way. You may not recall, but when this bill was up earlier there was an amendment that I put in which took language out of here that would have said that if the teacher went back to school and got more hours, they could be rewarded. That's already rewarded in the pay schedule. That shouldn't be. This is something different. And does that answer your question? [LB1014]

SENATOR HANSEN: Well, it answers my question, but why do they go to school if they can't be a better teacher? Why do they continue that education? Just to get that higher up on the pay scale? Isn't the idea to become a better teacher if you go to summer school and take those classes? [LB1014]

SENATOR ADAMS: Both, Senator Hansen. Believe me, both. [LB1014]

SENATOR HANSEN: That's what my wife goes to summer schools for. Mr. President, I yield the rest of my time to Senator Pirsch. [LB1014]

SPEAKER FLOOD: Senator Pirsch, 1 minute 47 seconds. [LB1014]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would just like to thank Senator Haar for coming forward with a creative and innovative idea, and it addresses two of his passions, those being renewable energy and education as well. And so I think this is a very interesting and unique idea and I am supportive. There is a cap on the amount. I think that will allow us to have time to assess the effect that these funds are going to start to flow for the purpose identified in the bill. [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

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SENATOR PIRSCH: And so we'll get a good chance to see of the effect and future Legislatures will then have an ability to build on that. But I do think that it is, with respect to education, you know, we always have to be innovative and creative in looking for ways to better our results, and so I thank Senator Haar for that. Thank you. [LB1014]

SPEAKER FLOOD: Thank you, Senator Pirsch. Mr. Clerk, before we continue, items for the record. [LB1014]

CLERK: Thank you, Mr. President. LR536 and LR537 are study resolutions...or LR536 is a study resolution. LR537 is a regular resolution offered by Senator Council. That will be laid over. And a new A bill. (Read LB987A by title for the first time.) Thank you, Mr. President. (Legislative Journal pages 1191-1192.) [LR536 LR537 LB987A]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Pirsch...oh, I'm sorry. Senator Harms, you are recognized. [LB1014]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Adams, would you yield? [LB1014]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Harms? [LB1014]

SENATOR ADAMS: Yes, I will. [LB1014]

SENATOR HARMS: Senator Adams, let's talk a little bit about performance pay and talk a little bit about guidelines and what do you think should be included in this process. If we're going to have performance pay across Nebraska in our public schools, what should we be looking at and what's really in your thoughts the definition of performance pay? [LB1014]

SENATOR ADAMS: Well, it might be easier to define by what it is not. I don't think it ought to be based on who sponsors what. I don't think it ought to be based on win-loss records. Most certainly it should not be based on a single snapshot of its students' test scores. It shouldn't be based on how many hours of graduate school I've got. It's already compensated for in the pay schedule. I think there are other things that could be looked at, and one of the key things could be teachers who are curriculum leaders and mentors within their faculties to help faculty be better. That could be one right there. [LB1014]

SENATOR HARMS: Senator, as we look at the creation of performance pay and we want to do this basically through collective bargaining, is that correct as we look at that? [LB1014]

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SENATOR ADAMS: That's correct. [LB1014]

SENATOR HARMS: How do we prepare our boards of education to understand what is the guidelines and the criteria that you should have in a good performance pay program? And primarily what I'm thinking about is not so much about urban America because you have access to lots of different people, university folks and people who can help you look at that sort of thing, but the further you go into rural Nebraska the more concern I might have about this. And that's what I'm really wanting to know, is how are we going to get to that issue to help prepare boards to understand how important performance pay is and what kind of criteria they ought to have in that. [LB1014]

SENATOR ADAMS: I am going to speculate that one of the things that has to happen, I think probably the very people who might oppose this the most, the teachers, need to be the ones to have that dialogue with their school boards and to see if they can arrive at it. I also think that administrators, there are models out there available that could be tapped into. [LB1014]

SENATOR HARMS: Well, I support this as you said. I just have questions about what we're going to find with performance pay and the criteria that we might very well use for faculty. I think that faculty who go way beyond the normal call of teaching should qualify for performance. And what criteria is that? I mean, is that creating special help classes for kids? Is that involved in curriculum development? Would that be involved in being willing to mentor new teachers? I don't know, there's a whole combination of things you could use. But what I'm most concerned about is that even though we do this through collective bargaining, I have fears about what might come out of this. I remember when we developed reduction in force, and we were asked to then, here are the options you can look at. But those options helped all of us focus in the right direction. [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR HARMS: And even though it wasn't...pardon me, Mr. President? [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR HARMS: Okay. Thank you. What it did help us do in the administrative side of the house was to look at the guidelines and the criteria that said, you know, within this bounds you can do whatever the heck you would like, but just be careful if you get beyond this because you might be in an area that might not be very helpful to you. And so that's what I'm really looking at is making sure that we have the right help in developing this. And the object is to reward teachers who do a great job and in hopes that we will encourage better instruction, leading instruction in the area of technology, using the new whiteboards, using nanotechnology in some form or manner to make it a better classroom. And I hope that's what we look at, because I think if we don't do that

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we will not encourage it. We will encourage an average performance, and this is not where we want to be. Is that...what are you thoughts? Am I looking at this wrong, Senator Adams? [LB1014]

SENATOR ADAMS: Well, I... [LB1014]

SPEAKER FLOOD: Time, Senators. Thank you, gentlemen. Senator Stuthman, you're recognized. [LB1014]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I went back into some of the history of, you know, how it was established on the school lands, and it was originally stated, you know, in when Nebraska got its statehood, the amount of acres that were given to the state of Nebraska in support of common schools. And that has been the real issue, in my opinion, all the time. And the current board, you know, recognizes that it holds the school land in a sacred trust. You know, the income from this school land to the school trust, you know, comes from agriculture, subservice leases, and bonuses, and other miscellaneous sources, temporary investment, interest, and royalties. So I think that's, you know, it comes from that school land and it is money from leases. In the original bill, you know, it more or less stated that this was a new stream of revenue. I don't think it's a new stream of revenue. I feel it is a current stream of revenue with an increased amount of revenue generated from that school land. I feel that the teacher performance pay fund should be a bill in its own so it could be heard, could be debated, and would have to find funding for that bill. I'm not against, you know, teacher performance rewards if it's done right. I just think that we're trying to tap into a revenue source just because it's rented out for something else. It's still leased out. It's leased out to the wind turbines, the wind farms. But I will agree with Senator Carlson, we don't know how this is going to work out and how many dollars this is going to generate. You know, a lot of times, you know, perception is when something starts out and it's a real thing, might not be the real thing in four or five years. So I think we should walk cautiously on this and I think the amendment that Senator Fischer has I can possibly support, but I have never been in trying to take money away from the original school trust fund. So with that, I would like to yield the balance of my time to Senator Krist. [LB1014]

SPEAKER FLOOD: Senator Krist, 2 minutes 30 seconds. [LB1014]

SENATOR KRIST: Thank you, Mr. President, and thank you, Senator Stuthman. Colleagues, I just very briefly want to make two critical points: one, I have an incredible, incredible amount of trust and respect for the teachers in this state, and the administrators. And they will find a way to make this incentive program work, and work effectively. So I don't think we need to solve that problem for them here today. We just need to enable them to have this adjustment. I'd also like to say that when we look at ACT scores, and off mike I confirmed this with the professor himself, with Senator



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Adams. When you look at ACT scores, a lot of our kids take it and we do really well. That should be a measurement of what the education system is in this state. So we do really well. Our students are doing very well. Now let me give you a statistic, and I don't know whether it's been brought up yet but you need to think about this as we go to the vote. Nebraska averages salary for teachers 42nd in the United States. Forty-second out of 50. That's something that this bill goes a long way to try to adjust. Let's enable them. Let's give them the trust that they need to go forward and let's let them use a portion, and let's see how it works out. And I think Senator Fischer's bill does exactly that, so I stand in support of AM2417... [LB1014]

SPEAKER FLOOD: One minute. [LB1014]

SENATOR KRIST: ...and the underlying LB1014. Thank you. [LB1014]

SPEAKER FLOOD: Thank you, Senator Krist. Senator Wallman, you're recognized. [LB1014]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Yes, our teachers do a good job. I used to be on the school board and we did ACT tests and the teachers that did the best job got the lowest score children and never got reimbursed. They spent, by far, the most time in the classroom, because my wife is a teacher, and they got those kids up to speed. And she taught kids after school. She taught kids in the summer. She taught teachers' kids. Teachers go the extra mile, folks. Most teachers go the extra mile. And we're getting children in our schools that probably are not as well prepared to go to school as we used to be. You know, the parents or parent. So they're doing some of that too. So early childhood development is very, very, very important, and we struggle to pay for that. So Omaha has a magnet school, I think the Susie Buffett school. My wife visited that; was very impressed. I'm about childhood education, folks. And if you drop the ball here and if we leave the teachers go to other states...and we might call this new money or existing money, but it enhances money coming off our state lands. It's extra money, I feel. And you're going to lose a little lease payments probably on account of the land being taken out of production. I don't know, but I think that would be very small. So renewable energy, recharge our teachers, I think it's a win-win situation, and thank Senator Fischer and Senator Haar for this bill. And please support both the amendment and the bill. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Wightman, you're recognized. [LB1014]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. I do stand in support of Senator Fischer's amendment, AM2417, and the underlying bill. I'm not sure I would have supported LB1014 without some substantial amendments. One of the things that I would like to point out, \$10 million may seem like a lot of money, but Senator

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Adams has told us on several occasions that we have approximately 21,000 teachers in the state of Nebraska. Say, if half of them were entitled to merit pay, that's 10,000 or 10,500. Divide that into \$10 million and I think we have about \$1,000 apiece. So it's not going to be a real large additional compensation to teachers, but it's a start. And I think we do have good teachers in Nebraska. I think that that is indicated at least in part by the ACT scores, the SAT scores of those that take it. I think we have about as many students percentagewise of our total student population who take the ACT as any state in the nation. So the further down or the larger percentage you have, usually the percentage...or the scores drop, so I think that where we rank, I think third or fourth or fifth maybe in the nation, that speaks well for our teachers, for our students. And I have always supported performance pay. Figuring out how to in any way evaluate the teachers and have a workable plan for that performance pay is always a problem, but I think Senator Fischer's amendment addresses that, as does Senator Haar's bill. I think we...that they do have to come up with a plan. And so I have faith in the school boards across the country and the bargaining units of the teachers' groups that they will be able to come up with a plan that is workable. So with that, I do urge your support for AM2417 and the underlying bill. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Wightman. There are no other lights on. Senator Fischer, you're recognized to close on AM2417. [LB1014]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you for the good discussion on this bill. From the discussion, you can see that there are a variety of opinions, a variety of suggestions, and a variety of concerns when it comes to performance pay for teachers. Hopefully, this amendment and then the bill will address many of those issues, and we can see if this experiment will work in the future and we'll put it at the local level with school boards, with their teachers so that they can make those decisions to decide if this is going to work. I did want to hit the high points of this amendment so you know what you're voting for. It removes the Teacher Performance Pay Fund that is in the original bill. Performance pay will be included in collective bargaining. According to this amendment, if 75 percent of school districts do not have a system for performance pay within their collective bargaining agreements by 2014, the apportionment does not commence. That will be changed on Select File, so please keep that in mind. The Board of Educational Lands and Funds will supply the State Treasurer with information to pay the apportionment, and there will be a \$10 million cap on that apportionment. Remember, the funds for this with that \$10 million cap, the funds for this come from wind and solar leases. With that, I would ask you to please advance the amendment and then the bill. Thank you, Mr. President. [LB1014]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the closing on AM2417. The question before the body is, shall AM2417 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1014]

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CLERK: 36 ayes, 1 nay on the adoption of Senator Fischer's amendment. [LB1014]

SPEAKER FLOOD: AM2417 is adopted. [LB1014]

CLERK: I have nothing further on the bill, Mr. President. [LB1014]

SPEAKER FLOOD: Returning to discussion on LB1014, there are no lights on. Senator Haar, you're recognized to close on LB1014. [LB1014]

SENATOR HAAR: Mr. President and members of the body, I'm very optimistic of the outcome of this bill. What was very neat in the committee hearing is that all the...when the lobbyists for the school boards got up, he smiled. When the administrators got up, they smiled. And when the teachers got up, they smiled. So they all know they're going to be challenged to make this work, and I think that's good. Thank you so much. [LB1014]

SPEAKER FLOOD: Thank you, Senator Haar. Members, you've heard the closing on LB1014. The question before the body is, shall LB1014 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB1014]

CLERK: 35 ayes, 2 nays, Mr. President, on the advancement of LB1014. [LB1014]

SPEAKER FLOOD: LB1014 advances to E&R Initial. Mr. Clerk, items for the record. [LB1014]

CLERK: One resolution, Mr. President, LR538 offered by Senator Pirsch. That will be laid over. Name adds: Senator Giese would like to add his name to LR510. (Legislative Journal pages 1192-1194.) [LR538 LR510]

A priority motion. Senator Schilz would move to adjourn the body until Tuesday morning, March 30, at 9:00 a.m.

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