

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
February 25, 2011

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[LB27 LB31 LB32 LB36 LB61 LB62 LB81 LB99 LB114 LB121 LB160 LB165 LB179  
LB190 LB197 LB221 LB225 LB243 LB274 LB284 LB307 LB308 LB333 LB335 LB383  
LB401 LB442 LB562 LB581 LB663 LR73 LR76 LR85]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fifth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Perry Gauthier, Capitol Ministries, here in Lincoln, Nebraska. He's a guest of Senator Christensen. Please rise.

PASTOR GAUTHIER: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Gauthier. I call to order the thirty-fifth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB36, LB61, LB62, LB114, LB160, LB179, LB197, LB225, LB243, LB274, LB308, LB335, and LB401, those bills reported correctly engrossed. Enrollment and Review also reports LB284, LB27, LB32, and LB31 to Select File, some having Enrollment and Review amendments. I have two appointment letters from the Governor, Mr. President: one, to the Board of Trustees for the State College System, and a second to the Board of Public Roads Classifications and Standards. Both will be referred to Reference. A report received from the Dairy Industry Licensing Board and the lobby report for this week to be inserted in the Journal, Mr. President. That's all that I have. (Legislative Journal pages 647-650.) [LB36 LB61 LB62 LB114 LB160 LB179 LB197 LB225 LB243 LB274 LB308 LB335 LB401 LB284 LB27 LB32 LB31]

SENATOR GLOOR: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, Mr. Clerk.

CLERK: Mr. President, Senator Haar would move to withdraw LB581. [LB581]

SENATOR GLOOR: Senator Ken Haar, you are recognized to open on the withdrawal of LB581. [LB581]

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SENATOR HAAR: Mr. President and members of the body, I ask for your support to withdraw LB581. The midwife organizations that are working on the bill would like more time to work out issues and make progress on consensus. And as such, I would ask that you support my motion to withdraw LB581 to give all the interested stakeholders on this issue time to work together and draft better legislation next year. Thank you. [LB581]

SENATOR GLOOR: Senator Haar, you are also the only name in the queue. Senator Haar, you may close. Senator Haar waives. Members, the question is, shall LB581 be withdrawn? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB581]

CLERK: 27 ayes, 0 nays, Mr. President, to withdraw LB581. [LB581]

SENATOR GLOOR: LB581 is withdrawn. Mr. Clerk. [LB581]

CLERK: Mr. President, the first bill on General File this morning, Senator Fischer offers LB165. (Read title.) The bill was discussed yesterday when Senator Fischer presented her bill. The committee amendments were presented by the Revenue Committee. When the Legislature left the issue, Senator Avery had pending as an amendment to the committee amendments AM485. (AM316, Legislative Journal page 528; AM485, Legislative Journal page 632.) [LB165]

SENATOR GLOOR: Senator Fischer, you are recognized to give us a review of LB165. [LB165]

SENATOR FISCHER: Thank you very much, Mr. President and members of the body. LB165 basically explains what an occupation tax on telecommunications is and what it should be with regards to the municipalities. It would define what the services are that telecommunications can...or that cities can tax with regards to those telecommunications services. One component of AM316 is that the occupation tax cannot be levied on telecommunications equipment or all fees and surcharges such as the E-911 charges, Universal Service Fund charges, and the telecommunications relay service charges. The telecommunications occupation tax could only be applied to telecommunication services as defined in 77-2703.04(7)(aa). The bill would also cap the telecommunications occupation tax at 6.25 percent. That is currently the highest tax that a municipality has in the state of Nebraska. Omaha has that tax at 6.25. If a municipality reaches that cap and they would like to increase their tax on their citizens for that telecommunications service, it would have to go to a vote of the people. And a municipality can only request an increase by a rate of .25 for every override. For example, if Omaha would want to increase above that 6.25 percent, they would have to put that question to go to 6.5 to the people. Thank you, Mr. President. [LB165]

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SENATOR GLOOR: Thank you, Senator Fischer. Senator Cornett or Senator Utter, you're recognized to give us a review of the committee amendment. [LB165]

SENATOR CORNETT: The committee amendment to LB165 is the amendment that I explained yesterday that we limit the...this definition reduces the tax base or activity subject to the tax that the city occupation tax may apply to under law. Senator Fischer did a good job of describing the amendment in regards to the fact that we cap it at the maximum rate that a municipality is at, and we also do not...we're taking away the taxing ability of the city of Lincoln to tax equipment on telecommunications. I heard yesterday that that was not our intent when we passed this bill out of committee. I wanted the body to know that we knew perfectly well as a committee what we were doing with the amendment. Thank you. [LB165]

SENATOR GLOOR: Thank you, Senator Cornett. Senator Avery, you are recognized to open on your amendment the committee amendment. [LB165]

SENATOR AVERY: Thank you, Mr. President. This amendment, AM485, inserts new language on page 2, lines 20 and 21. It strikes the words "from the sale of telecommunications service as defined in subdivision (7)(aa) of Section 77-2703.04," and it inserts new language that states, "that are subject to"...let me back up. The occupation tax shall be imposed only on the receipts "that are subject to the state sales tax from the sale of services and equipment of any telecommunications company." What this does is it says, look, the state imposes a sales tax on services and equipment. All Lincoln or any other city is asking for in this amendment is that the occupation tax be allowed on the same items, the same services that the state imposes a sales tax. The occupation tax has been accused of being a tax on a tax. I tried to answer that yesterday by pointing out that the occupation tax is a cost of doing business just like any other taxes that businesses have to pay--withholding taxing, for example; property taxes; income taxes. The sales tax that we are trying to create here...or not the sales tax but the occupation tax that we're trying to create here that would mirror the sales tax the state imposes is charged to the business. The income tax, the state charges is charged to the customer at the end transaction. We think this is a reasonable compromise and would allow Lincoln to have the tools it needs to deal with its budget problems that partly are our creation with the bill that we passed the other day, LB383. I'll have more to say about this as the debate goes on today. In the meantime, though, I would ask you to give serious consideration to this, AM485. Thank you. [LB165 LB383]

SENATOR GLOOR: Thank you, Senator Avery. (Doctor of the day introduced.) Members, you have heard the opening reviews. Those members wishing to speak are McGill, Campbell, Hadley, Loudon, and Schumacher. Senator McGill, you're recognized. [LB165]

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SENATOR MCGILL: Thank you, Mr. President, members of the body. Good morning. I'd like to spend my time talking a little bit about what we've been doing in terms of taxes in general this session and how that applies to my views on LB165 and my support of Senator Avery's amendment. I painfully voted to cut aid to our counties and our cities. We took away a source of funding for our cities, that they relied on, to balance our budget and I get that. In the city of Lincoln that money is used partially to go towards nonprofit agencies. I run one of those and I will negatively be impacted by that. I understand the importance of taking cuts where necessary, but for the second time this session we are taking away a city's ability to raise revenue. In this current fiscal year, Lincoln had budgeted from this point on through the end of the fiscal year \$660,000 based on this revenue. If we cut it out from under them, that puts them in a serious situation just for the rest of this fiscal year. Few people like paying taxes. Only a few people I've heard from actually want us to raise taxes, but we all know that taxes are needed to operate our government. We can argue until our faces turn blue about whether...the pros and cons of occupation tax or what the city of Lincoln did. We can sit here and debate the philosophy and taxes as much as we want to, but the bottom line is when we make cuts like this, when we take away funding to cities and governments, local governments, we're impacting them in a very real way. We've already taken away over a million dollars from Lincoln for next year, and this proposal without Senator Avery's amendment would take away another million dollars in future years. This isn't just about the city of Lincoln. As we're passing all of the various bills this year, we're impacting people across the state. We've already dealt with the wheel tax in Omaha. But I would argue that by lowering our Medicaid rates, our provider rates, we're going to be closing even more providers in western Nebraska. We're already hearing through the foster care process the changes that have been being made, that providers are going out of business. If we're not willing to look at other forms of revenue, including the cigarette tax that Senator Gloor has discussed, then that's going to mean that more providers go out of business in western Nebraska. Whether we're from Omaha or Lincoln or rural Nebraska, at a certain point enough is enough when it comes to cuts and telling cities what they can and cannot do to fund their programs and to keep businesses--providers aren't just providers, they're businesses--to keep them open. It's easy for us to sit and say that perhaps at the local level they should be...Lincoln should be raising property taxes, Omaha should raise that. We're not willing to look at our property tax credit program that we created for good times that was supposed to go away in bad times because we don't want to raise property taxes. Of course they don't want to raise property taxes. We live in a real world where cities need to be allowed to find revenue in a way that's amenable to people. So far since this occupation tax has gone into effect, they've gotten four complaints. Four. There was an open process to put it into place. We're asking them to be some sort of heroes and raise their property taxes, but we're not willing to look at revenue on our end. We need to put ourselves in their shoes and, heck, in the federal government's shoes, because pretty soon they're going to be dealing with their budget and they're going to be cutting money to us, and how's that going to feel on all of us as we're coming back trying to fill those holes that they

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pass along to us? [LB165]

SENATOR GLOOR: One minute, Senator. [LB165]

SENATOR MCGILL: We should be working with our other levels of government to find ways that we can all be funded and, yes, sometimes creative ways. Like I said, we can argue until our faces turn blue about the philosophy of whether this tax is good or not but we do need tax dollars to make our government function, and we're at a point where we're asking for too many cuts. I ask you to seriously consider either this amendment Senator Avery is offering or others, because the city of Lincoln knows that when we come out of this debate we're going to lose revenue, and we get that. Omaha understood that with the wheel tax issue. But we need to be looking at taking a moderate approach when we can, especially for cities like in this case that have already budgeted for it in this current fiscal year. And I look forward to the rest of the debate here today and however long this takes place. Thank you, Mr. President. [LB165]

SENATOR GLOOR: Thank you, Senator McGill. Senator Campbell, you are recognized. [LB165]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. I stand to support AM485 to the bill. And much like Senator McGill has indicated, I voted in favor of LB383. I spoke for the bill, however painful it was for any number of us in this body, and certainly with full knowledge of the fiscal fallout to cities, counties, and NRDs. But I am becoming increasingly concerned about the progression of bills dealing with the occupation tax. The occupation tax, as Senator Haar pointed out yesterday with his visual, is a tool used by the cities. In watching my own city of Lincoln, the occupation taxes over the years that have been proposed, discussed, debated and in full public hearing before the city council, article after article in the newspaper. When we talk about cities, it isn't just some amorphous group out there. These are citizens. These are people. They prepare. They argue. They debate. They have a chance to voice an opinion. We should not lose sight of the fact that there's a very public process that all cities go through before they can put an occupation tax in place. And I have to say that over the years through that public hearing process, not every occupation tax that has been proposed by a mayor has been accepted and put into place. The cities, thus, have used this tool as an addition to its property tax and its sales tax authority. For a number of years, cities with strong, and I indicate the word "strong," sales tax growth used it and kept their property tax low. But as the recession began to creep in and sales tax receipts declined, the cities were in a situation of saying, gee, do we go back and now raise the property tax? As Senator McGill indicated, the property tax is no less onerous to a city or to a county or to a school board than it is to us. We all walk neighborhoods in our cities and we hear, oh, the worst tax ever is the property tax. So it began to look more...cities began to look more and more earnestly about what other tools they had available to them just as we are looking at almost every tool that we can think of to deal

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with our own budget. I have to say that I thought that the Revenue Committee's cap was a fair compromise. And, colleagues, I think Senator Avery's amendment also is a fair compromise, to let the city of Lincoln tax what the state can tax. And therefore, I would urge you to vote green on AM485. Thank you, Mr. President. [LB165 LB383]

SENATOR GLOOR: Thank you, Senator Campbell. (Visitors introduced.) Senators in the queue include Hadley, Loudon, Schumacher, Wallman, Ken Haar, Karpisek, and others. Senator Hadley, you're recognized. [LB165]

SENATOR HADLEY: Mr. President, members of the body, good morning. I welcome you all a good day. One of the hardest things in life is to be consistent, to make consistent arguments on issues as we go through life and in the Legislature, that is always a difficult thing to handle. I find it interesting that we argued aid to cities and counties, and if I remember right there was a consistent argument by some that we can't raise property taxes. We can't raise taxes. The consumer just doesn't want to have increased taxes. Now we turn around and say, oh, but it's okay to raise taxes on certain things. I guess the criteria is, what will the consumer accept and not accept? If you buy a \$200 phone in Lincoln, you pay about 7 percent sales tax--I'll agree with Senator Avery, the sales tax is on the retail price--and you pay a 6 percent occupation tax. It's not a tax on a tax; it's the cost of doing business. Six percent of \$200 is \$12. If my math is right, you are now charging a citizen in Lincoln to buy a piece of telephone equipment 13 percent for the opportunity to buy that piece of equipment. You know why we don't get the screaming and gnashing of teeth that at times we do on property taxes? Because property taxes we take out, generally pay twice, once a year, and it's a large amount. Here we're just nickel-and-diming the people. It's interesting that businesses do not have to show this on their receipt. This is a cost of doing business. They don't put...you don't go out and buy something and they have the cost of the item to the business. They don't put that on the receipt. But they want you to know what they're having to pay. The comment was made: It's just not about the tax in Lincoln. Does this spread? I would ask the proponents of AM485, where do occupation taxes end? Maybe we need an occupation tax on every electrical appliance that's sold in the state of Nebraska. We could call it an occupation tax, right? If you read the law, we could. Specific type of business, specific product. You would stand up and say, oh, there's no rationale for it. But what's the rationale for taxing telecommunication items except to raise revenue? That's what this is about is to increase the amount of revenue a city gets. And I would say this is a new way. So is it our job, if cities, counties are innovative and find new ways to tax their citizens, that we just sit back and allow it? If that's the case, why don't we take the lid levy and the spending levy off the property and school taxes? Let it float. As I said the other day, there was a prime example in Minden, Nebraska, where the occupation tax was voted on and soundly defeated... [LB165]

SENATOR GLOOR: One minute. [LB165]

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SENATOR HADLEY: ...because the people are tired of increases in taxes. I would hope that you vote no to AM485. I think it's a good compromise, AM316. LB165 was to do away with...basically to sunset all occupation taxes. AM316 does three things. It caps it without a vote of the people; it excludes equipment; and it is a good way of handling the situation. I think we have reached a compromise. In summary, it was voted out of committee 7 votes for, 1 person not there, so it had basically the unanimous consent of the committee who heard the testimony on that. I, again, urge you to support AM316 and LB165 and vote against AM485. Thank you. [LB165]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Louden, you are recognized. [LB165]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I rise in support of AM316 and also the LB165. Voted for it in committee and we heard the testimony in committee. And as we looked at some of this through the committee and through the testimony that day, one of the questions I asked was, if I go over to Best Buy and buy a telephone, then they charge me 7 percent sales tax which I plan on paying and also there's a 6 percent, I think it was, occupation tax. So now as far as I'm looking at it, that's a 13 percent sales tax. If we let this go then, where's the next issue? Are we going to allow some towns...can Lincoln decide to do that, they want to do it on appliances. After all, those appliances use some of the utilities. They use electricity, they use the water. So when you want to go buy a washing machine now over at Schaefer's or someplace like that, then are you going to be paying your 7 percent sales tax plus 6 percent occupation tax? There's nothing...if you do away with these bills and have this amendment that we're discussing here, this could very well happen. So where do you start? This is a different policy. We're not talking about occupation tax that...with this amendment. You're talking about actually another sales tax. Is that money earmarked for something special? Is that supposed to be money that goes into building this sports arena? I don't know. But Lincoln is the only town around or city that came up with the idea to have this occupation taxes on equipment. Other towns around have occupation taxes but it's mostly on the services that are in that town. So I think we have an issue here and a policy that has to be adjusted. Now as AM316 was put on there, they did put some regulations in there that the voters could vote for that if they so desire, and I think that was a good compromise to go along with that. I think the AM485, all it does is put us right back to square one, and that wasn't where we wanted to go. I don't think we want to have a policy where a city is going to have another 6 percent sales tax to put on top of whatever they so desire. There's nothing in the books anyplace that if this is all defeated, that a city can't go out here and start putting it on television sets, they can put it on anything they want to. And that's what it is. We're leaving it wide open so that they can charge another 6 percent sales tax on anything and they can call it an occupation tax, they can call it anything they want to, mostly I would call it more closely to grand larceny. But, anyway, at the present time I think I support the amendment, AM316, and advance the bill, LB165. Thank you, Mr.

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President. [LB165]

SENATOR GLOOR: Thank you, Senator Loudon. Senator Schumacher, you are recognized. [LB165]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Clear up a couple of things initially. The reason for the occupation tax on telecommunications services is because a telecommunications company does not have to go out and buy right of way from private landowners in order to put its poles and its wires up. Its wires and its poles are in the public right of way to be moved around and hassled with and provided by the city. That's why the occupation tax is there. It's not there because of dishwashers or something. It's there because of the facilities used. I rise in support of Senator Avery's amendment. And in order for that to make sense, let's do a little history on telecommunications. Originally, some of us can remember this, telecommunications was done principally by Ma Bell. There were a few other companies but whoever did it provided the wire, the dial tone, and the black, heavy gizmo on the end that you couldn't break if you wanted to. That was telecommunication service. That telecommunications service was terribly expensive when it was coupled with long-distance service, also usually provided by Ma Bell. In the early 1980s, what ended up happening was the federal government decided and the courts decided that monopoly in telecommunications was not a good thing, broke off some of the long-distance services. That's why we got 2-cents-a-minute long-distance service instead of 50-cents-a-minute long-distance service today. And also said, you know what, the gizmo at the end can be bought at a Walmart or Best Buy and, therefore, you're not completely tied to the phone company to getting the heavy, black box; let's separate that off. Well, life goes on. And what ends up happening then is the phone company comes up with the idea of bundling. And when you call them for service, they not only try to sell you the dial tone; they try to sell you the Internet; if they offer TV, they try to sell you that; they try to sell you call forwarding and everything else and you get a bundle, and also the telephone comes with the bundle. Now that gives them an unfair economic advantage when it comes to buying the telephone at Best Buy. So all Senator...what Lincoln did is got carried away and included the Best Buy purchase of a telephone as telecommunications. It clearly wasn't. It was a purchase of a gizmo. But when that phone is tied to the end of a phone line provided by the same provider, billed to the same account, that is part of a telecommunications service, at least in the context of the way it used to be when initially occupation taxes were imposed way back when, when Ma Bell and the heavy, old, black telephone was the form of telephone. All Senator Avery is doing is saying let's include the cost of that telephone in on the occupation tax and let's...if it is purchased from the telephone company as part of its bundle where it's gotcha when you call in for telephone service. Doesn't tax doubly if you don't buy it from a telecom company, and Best Buy is not a telecom company and neither is Walmart or any of these other stores. This gives taxes just like it was originally intended to tax it. If you buy the service, you're buying it end to end because it's sold to you end to end by



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the phone company. Now it maybe is a good idea and maybe a subject for a future amendment on the issue of whether or not we should allow that occupation tax to be passed through to this consumer. It is, after all, a cost of doing business on the phone company who gets plenty of other subsidies from such things as the federal access charges which they get to keep in there on that phone bill, from the Nebraska Universal Service Fund which generates \$60 million of unaccounted for money, at least as far as our budget is concerned, but nevertheless is charged at our direction and a lot of other things. So telecom is a hot item and this thing should allow the phone company...or the telephone at the end of the... [LB165]

SENATOR GLOOR: One minute. [LB165]

SENATOR SCHUMACHER: ...wire to be taxed just as part of the service when it is sold as part of the service as part of a bundle in the gotcha mechanism of telecommunications. Thank you, Mr. President. [LB165]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Wallman, you are recognized. [LB165]

SENATOR WALLMAN: Thank you, Mr. President. Taxes. Nobody wants to pay taxes. Everybody wants the services. We like phones, Internet, TV, computers. It costs money. Are we going to kick the can in somebody else's court? LB383, we gave a little opportunity to keep things level here with the city budget. City budgets are made up. And we seem to want to control everything out of here. Why is that? Are we scared that local communities don't know what they're doing? That bothers me. So I think if we want local control, let's look at Senator Avery's amendment here. And I'd yield the rest of my time to Senator McGill. [LB165 LB383]

SENATOR GLOOR: Four minutes, five seconds, Senator McGill. [LB165]

SENATOR MCGILL: Thank you, Mr. President, and thank you, Senator Wallman. Once again, I ask us to look at the big picture here and what we are doing this session. We all came into this knowing that the budget would be the biggest issue we were dealing with and that we would have to make very tough decisions. Well, so far, folks, based on debate and how easily the majority of people that have been voting for many of these bills, it hasn't been that tough. I feel like we need to be putting more thought into these bills as a whole instead of just taking them one by one and saying: Okay, yeah, this is a good idea; okay, this occupation tax doesn't sound good; okay, we should take the money from the...our local municipalities. We've taken so much from them already that we have to start looking at them as a whole. None of us like to increase taxes. None of us really enjoy taxes, but we need them to exist and we can't just cut away every problem or push tough decisions upon someone else. We've already taken a bunch of money from our cities. Now we're looking at taking a bunch more, from Lincoln in

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particular, but we've heard other bills on other areas and we'll hear more that will impact other areas. But yet we're not willing to sit and really have a debate about the revenue side of things and what else we can be doing to make different decisions instead of, okay, here's a bill that one person introduced; let's just run with that. I think LR542 worked really well in terms of within our own committee, but it hasn't worked so well as we go to look at the whole of the picture here for all of the members of the Legislature to understand all the different bills coming through and not taking them on this one-by-one basis. You know, I'm sure there are people in here that are afraid of the backlash that may come with changing the property tax credit or voting for a cigarette tax. But I just went through a really tough reelection, and so did two other members in this Legislature that were reelected, and they were saying that I raised taxes even though we didn't raise taxes here at all and it almost sank me. Half of my district thinks I raised taxes and I didn't. And so if people in here are concerned about the repercussions in their district, people are going to think what they want to think, especially when they have people who are fighting against you who want to get you "unelected." Many of you have the luxury of not having to be in areas where you have someone challenging you in the way that some of us were. But you know what? I survived and so did Senator Wallman and so did Senator Conrad, even despite people thinking that I had raised taxes. We have a very popular mayor here in Lincoln who's worked very hard to cut Lincoln's budget. They've cut 120 jobs over the last four years. The directors of their agencies are now taking pay cuts. They're making tough decisions at their level too. In fact, I think maybe they're making tougher decisions than we are right now. [LB165]

SENATOR GLOOR: One minute. [LB165]

SENATOR MCGILL: They did choose to raise a tax to help balance their budget. They made a tough decision. And I ask that as we continue on in this session that we seriously consider things. I'm going to support Senator Gloor's...some sort of tax increase on the cigarettes because I want our providers to stay afloat. Are other people willing to make tough decisions to make sure that we're not shrinking government or passing along the buck to someone else? Because eventually we are all going to get a taste of our own medicine, if that's your philosophy, because the federal government is going to do it to us. I ask you to keep an open mind as we look at some of these amendments that Senator Avery has before us and really think about what we're doing to our local governments as we move forward this session. Thank you, Mr. President. [LB165]

SENATOR GLOOR: Thank you, Senator McGill. Senators wishing to be heard are Ken Haar, Karpisek, Conrad, Avery, McGill, Krist, Utter, and others. Senator Haar, you are recognized. [LB165]

SENATOR HAAR: Mr. President and members of the body, I'm going to talk some more about taxes today, starting out with a statement that was made at a meeting this

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summer: We are such a rich country we shouldn't have to pay any taxes. That's ridiculous. So we have to charge taxes. Let's begin to look at taxes--and we're talking about occupation taxes. Now it's sort of been implied because the Revenue Committee has talked about something: it's all done, that's fine, that's exactly the way...we all have to understand what we're doing with taxes in this body. We can't depend on the Revenue Committee. We can't depend on any one committee to tell us about taxes. We have to all understand that because we have to collect taxes and we have to let local governments collect taxes. I want to go back to the occupation tax. And we started by saying...one of the first comments here was this is a tax on a tax. And according to the Revenue Department, they spent a whole section talking about why this is not considered a tax on a tax. And there were snickers. Well, I passed out something that I hope you'll spend the time with me to go through because it shows why that is so important to differentiate that this is not a tax on a tax--unless we want to hurt ourselves at the state level. I passed out a sheet. On the one side it says, "Nebraska Travel and Tourism Facts." And...I mean there's interesting stuff on here, but I used this as a source. "Over 60 percent of the nonresidents visiting Nebraska...stay at hotels or motels. The state has 28,000 hotel, motel, bed and breakfast rooms, with an average annual occupancy rate of 53 percent in 2009." And I give...if you want to go out and look at the Internet, I give you the source. Now please turn that over. Okay, line 1, we have 28,000 rooms, 53 percent occupancy, 365 days. And I just picked a number--this is maybe low--\$65 average room rent. And line 5: If you multiply those four things, that means that Nebraska charged \$352 million of room rate. Now again, using the model in the occupation tax document from the Department of Revenue, I used a 5.5 percent city occupation tax on motels and hotels--and that's going to be different in different areas, but that's my best source. Okay, if you calculate that in line 7, city occupation taxes on motel rooms, hotel rooms, and bed and breakfasts generated \$19 million for cities. According to the model provided by the Department of Revenue, if you include occupation tax as a gross receipt, it's \$371 million. Now if you don't--let's say we get rid of this occupation tax and say it's a tax on a tax, so we're not going to count that--then line 9, that's...gross receipts would be \$352 million. Now the interesting thing, again looking at the Department of Revenue's model, on line 10 there's a 5.5 percent sales tax and that's charged on the gross receipts. Line 11, \$20 million with the city occupation tax counted as a gross receipt--if we say, hey, it's a tax on a tax... [LB165]

SENATOR GLOOR: One minute. [LB165]

SENATOR HAAR: ...we're not going to count it--then the state sales tax is \$19 million. In other words, if we just say, hey, occupation tax is really a tax on a tax--let's get rid of that concept--line 13, the state loses over a million dollars when it comes simply to hotel and motel sales tax. In addition, then again going back to the Department of Revenue's model, you take the gross receipts and you--and the state applies a lodging tax of 1 percent. Okay. If city occupation tax is included, it's \$3.7 million. If it's not included--again if we say, hey, gross receipts doesn't include the occupation tax--then

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it's \$3.5 million; \$193,000 difference in what the state collects. So if we... [LB165]

SENATOR GLOOR: Time, Senator. [LB165]

SENATOR HAAR: Thank you. [LB165]

SENATOR GLOOR: Thank you, Senator Haar. Senator Karpisek, you are recognized. [LB165]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I realize that the cities and counties, although this isn't specific to the counties, are in tough shape, and I did not vote to cut the funding for the cities or the counties and I do think that they need other ways to try to find money. However, I do not think that occupation taxes have to be one of them or, if so, that there can't be a cap somewhere along the line. We've heard about, what else could they tax with an occupation tax? And I'll be honest with you, I don't understand what the difference is. I know Grand Island put an occupation tax on restaurants, those sort of things. We've got an occupation tax on cell phone-type things. I'm sure there's one on cable providers. What else? Why not food? Why not anything? Let's think of anything and put it on there and we can get right around the sales tax issues. I don't understand it. I think that this is something that really needs to be looked at as we move forward, because if we can just call occupation tax on anything, why not? Why wouldn't the cities? I see a great comparison here between the wheel tax. And I'll tell you, now that I'm looking at this, maybe I'm changing my mind on the wheel tax. This doesn't only affect Lincoln people. You can't buy a cell phone in Wilber or many of the small towns around. Where do you go? You go to Lincoln. That's where I buy all my things. I just bought my son a new case and a screen saver the other day. I didn't know I was paying 13 percent sales tax on it. I guess I did. What are you going to do about it? I'm glad I got the case, but it goes all around, so if we want to talk about taxation without representation, here we go. But I don't want to go there because I didn't like that on the wheel tax. I don't know where we can just let this go on and on and on. I think it has to stop somewhere. It can't be 100 percent tax. It can't be on everything. There are other ways to help the cities and counties out. Again, I'm not in favor of cutting their budgets or at least I'm not in favor of cutting it indefinitely. Maybe for two years I would be okay with that, but that's not the will of the body. So now we're trying to figure out other ways that they're going to raise money. One way they get it; one way they don't. It goes back on them. I couldn't agree more with Senator McGill on looking at the property tax credit but I couldn't agree with her less on the cigarette tax. If we're going to get specific on one group, a sin tax or something, let's try to tax something that everybody uses. How about we tax toilet paper? (Laughter) Everybody is going to use that; let's spread it out. One of my good friends brought that up to me. I wasn't quick enough to think that one up. But if we're going to be specific on one thing, let's spread it across everyone. If you want to say the cigarette tax is because it raises our health insurance premiums, fine, but now we're trying to say, well, that will keep our

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providers going. Well, I don't know what the correlation is there and I can't go with that one. But anyway, I'm getting off topic there. I don't know what...the occupation tax and the sales tax are different. They sure seem a lot alike to me. One they can raise; one they can't raise. I think that the occupation tax definitely gives the larger towns a big boost... [LB165]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR KARPISEK: ...because they have the services. Again, I think I need to go sit down and look back at the wheel tax and rethink it through in my mind. I may have been wrong on that one because these look an awful lot alike, and I'm going to be a little curious to see if other people draw that same conclusion and maybe rethink their stance on that also. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Those wishing to speak, we have Senators Conrad, Avery, McGill, Krist, Utter, Brasch, and others. Senator Conrad, you're recognized. [LB165]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I'm really thankful that thus far we are having an educational and informative debate about what can fairly be characterized and considered to be a, I think, fairly complex topic. And it's always helpful to educate ourselves and the public as a whole about the differences in terms of type, application and use of various taxes within our revenue structure, whether they be sales taxes or occupation taxes. And I think we actually had a lot of good dialogue about that thus far this morning, and I'm looking forward to hearing even more. A couple of points that I did want to note have already been carefully debated and entered into the record in relation to local control issues, in relation to issues surrounding the elimination of aid to cities and counties and how proposals like this would then, in essence, be a double whammy and really tie the hands of our partners in local government who I think have come to the realization that the elimination of aid is a reality and is going to happen and are making the appropriate plans to deal with that. But they need to be able to have all the tools available to them on the local level to do what is best for their citizenry on the local level. And what really bothers me about this proposal and the others related to the occupation tax and the ones that particularly impact our city, our community here in Lincoln is, colleagues, this is nothing more than forum shopping. These issues have been fairly and fully debated at the Lincoln City Council level. And in a bipartisan, nonpartisan manner, a majority of our local elected officials have made a decision to modernize and revolutionize our application and definition surrounding this occupation tax. There was public hearings, there were a lot of articles in the paper about it. This issue has been through public debate on that level. Keep in mind, the telecom companies maybe didn't like the result there. They're also

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embroiled in litigation with the city of Lincoln, which is ongoing. So if you don't like the result in one forum, find another. Keep shopping until you can fully meet your objectives. That's their right. They have every right to do that. But I pose to you a challenge: Is that indeed an appropriate use of the legislative forum? While this has been fully and fairly debated on the local level, and decided, and our community has moved on, there's also ongoing litigation which is costly and important and has yet to be decided. And now in the middle of that, before those issues have had their full day in court, we're rushing in with a legislative roadblock. These issues should be debated, have been debated and should be decided in the court system. We should not interfere with this ongoing litigation. We should wait and see what the results are from lengthy audits to get a better understanding of what the loss of revenue may or may not be, and none of those other outside factors really should impact what is moving forward here. We can't...we do have to be focused on consistency. And we talk about local control over and over and over again. And, colleagues, if you have issues with how this impacts Lincoln residents, then I suggest the better forum for you would be... [LB165]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR CONRAD: ...to establish residence and run for Lincoln City Council or run for mayor of Lincoln, because that's where these issues should be decided or in the courts where they're currently being litigated--not in a legislative forum. This is nothing but forum shopping and it's an inappropriate use of the legislative arena. Thank you. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Avery, you're recognized. [LB165]

SENATOR AVERY: Thank you, Mr. President. I want to address the issue of local control because I've heard a lot of talk about that in my four years here. What is wrong with letting the local leaders, the leaders of their own cities make their own decisions? And if we don't...if we're not willing to allow cities and local leaders to manage their own finances, then why do we keep talking about local control in this body? And where do we stop tying the hands of local governments? Do we only believe in the policy concept of local control when it's convenient for us? Those of you who are familiar with American history know that local control has been an important concept in American politics since the founding of this country and it's based upon the premise that decision-making powers should be as close to the people who are affected by the decisions as we can possibly make it. That's what local control is. So I would say to you that we should avoid making state policy that prescribes, in detail, what local governments ought to be doing and what they can and cannot do. When we passed LB383, we were saying--at least I was--that state aid was not a responsibility of the state government; that it was local responsibility to fund their own operations and that we were making a policy shift by moving away from state aid and then positing in the hands of local leaders the

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responsibility for managing their own budgets. This decision that we made cost the city of Lincoln \$1.8 million. Now we're talking about taking away an important local funding tool. We're talking about tying the hands and saying, okay, we're going to take this \$1.8 million away and, oh, by the way, we're also going to take away your ability to manage your own resources with the important policy tool of occupation taxes. That could cost the city up to another \$1.2 million. Now what happens when we do that? Well, Lincoln is probably going to have to go to the property tax. And if you go to the property tax, what have we been saying to local governments about that? We've been saying, hold the property taxes down; manage the property taxes so that you don't impose an unfair burden on your property owners. The truth is that Lincoln has held its property tax down. Instead of turning to the property tax, Lincoln looked at current sources of revenue and revenue tools, and they came up with the idea that the telecom occupation tax was reasonable and it was a way to avoid an increase in sales taxes. It has been said that Lincoln ought to look for ways to cut its spending. Well, I will tell you that Lincoln has cut its spending. In fact, they cut 120 jobs over the last four years. That's almost 8 percent of the nonpublic safety work force during a time when the city's population has grown by over 6 percent. [LB165 LB383]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR AVERY: Now that was not easy. In the meantime, we kept the property taxes low. Isn't that what we've been asking our communities to do? We've been saying, keep your property taxes low. Haven't we heard our constituents complain about property tax burden? I certainly have. Isn't that why we have the state property tax credit program now, that I think is worth about \$110 million or \$120 million a year in property tax relief to our citizens? So what are cities to do if every time they turn around we're tying their hands and what they can...how they can manage their own budgets? It seems to me that what we need to do is adopt AM485 that will allow cities like Lincoln to manage their own budget problems. [LB165]

SENATOR LANGEMEIER: Time. [LB165]

SENATOR AVERY: Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Avery. (Visitors introduced.) Continuing with discussion on AM485 offered to AM316, those wishing to speak, we have Senator McGill, Krist, Utter, Brasch, Coash, Christensen, and others. Senator McGill, you're recognized. [LB165]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'm not sure I can be any more eloquent than Senator Conrad and Senator Avery in making a lot of the points that they've made about how much our local governments really had been working to cut their budgets and to have an open process when they have made these

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changes. You know, Lincoln was very thorough in their adoption of this tax. As Senator Conrad said, the courts are trying to deal with that particular issue now. And I'd like to remind everybody that as this bill stands there's an emergency clause in here that would make it go into effect right away, again stripping Lincoln of money they've already budgeted for--over \$600,000--while there's still litigation going, while the budget year is going on. I think, at the end of the day, at the very least I hope that we would accept an amendment to take the emergency clause out of this bill. Right now, I'm actually slightly frustrated with maybe some of our Omaha colleagues that were fighting so hard against LB81, until there was a compromise, because this is very similar--in the philosophy of the issue anyway--in terms of the state government coming in and telling the local government how they should or should not be raising revenue for their city. I would hope that at some point we can start working together, whether we're from one area or another, and stand up and say that enough is enough, and we have to have a philosophy about how much we want to tie the hands of our local governments, especially in a time where we're all in a budget crisis. I mean is this the right time to be looking at taking away the control of our local governments? We have a lot of priorities here, including managing our own budget, which this bill has nothing to do with. We have the CIR which is a top issue of the Chamber and many of the folks out there, and something we'll be dealing with this session. We have foster care reform. We have a plethora of issues that are completely about what we can do at a state level to impact change. At some point we have to make priorities. We have to be realistic about what it takes to run government and how many cuts we've already made and what the outcome is going to be when we make cuts. You know, we're not looking at changing any business incentives or other things that are seen as more popular by chambers of commerce. In fact, actually on this issue, I haven't heard from my local chamber at all, remarkably. So I know there have been some arguments that, you know, this occupation tax is, you know, really bad for business. But I haven't heard from my own chamber. In fact, I think I've only heard from one constituent since this debate started. It has been a fair process here in Lincoln. Why we feel the need to, right now, with an emergency clause, come in and take some revenue away from a fair process is beyond me. Thank you, Mr. President. [LB165 LB81]

SENATOR LANGEMEIER: Thank you, Senator McGill. Senator Krist, you're recognized. [LB165]

SENATOR KRIST: Thank you, Mr. President, colleagues. If I rewind the tape and said again that I don't think we should be reforming tax policy one bill at a time, you would hear the same tape over and over again. I think Senator Haar said it a few days ago. Thank you for picking up the weight on continuing to keep you reminded of what we're doing. But are you kidding me? Really? This is all about Lincoln. Do you remember last session when we were talking about a sewer separation bill and we were saying that Omaha wanted your help because the \$80 million in tax revenue that was going to come off the backs of double taxation off the citizens in Omaha was going to go to the



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state level and \$40 million was going to go to the city level? And what did you do? It's all about Omaha. Now it's all about Lincoln, then it will be about Seward, then it will be about Scottsbluff. We are making tax policy reform in this state, one budget bill at a time, not keeping in mind at the end of this tunnel how many of the tools we're taking out of the toolbox, tool bucket, whatever you want to say. Think about this for a second. A municipality decides that it's going to tax in a certain way--one, I might add, that has the lowest tax, property taxes, one of the lowest property taxes in this state and they're proud of it. They've decided to tax in a certain way. We've decided, no, we don't want you to do that. Now I'm not speaking in favor of AM485, I'm not speaking in favor of AM316. I have a fundamental concern, but I'm speaking at this point in favor of LB165, I think. But think about what we are doing. You know, I'd like to make a priority motion that we bracket this session for about five days. All retreat someplace and talk about tax reform for about five days; get the Revenue and Appropriations and everybody together to talk about the issue. How about that? How about we take some time off and look at what we're really doing this session? Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Utter, you're recognized. [LB165]

SENATOR UTTER: Thank you, Mr. President. Good morning, colleagues. I rise this morning to tell you, as a member of the Revenue Committee, I am strongly in favor of LB365 (sic--LB165) as amended by AM316, and stand opposed certainly to what AM485 tries to do. I must admit I'm standing here trying to think how I can be diplomatically correct, and I've decided I'm just going to tell you what I think about it. And I must admit, when Senator Fischer first brought LB165, I looked at that and my phone started ringing and the folks in Hastings were getting heartburn, and they were causing me to have heartburn, because the complete elimination of the occupation tax was going to be a serious matter to them. And then as we looked into the bill and certainly as Senator Fischer then came with AM316, I thought it represented a great compromise. And well, by jingles, I'll tell you, I think that the implementation of an occupation tax on equipment, frankly, is an inappropriate extension of the sales tax. It's an extension of a city option sales tax without a vote of the people. Out in Hastings, we have to vote on that. In Lincoln, I think just the city council voted on it. And I admit, in hard times, why, we are continuing to look for ways to raise revenue. I, frankly, think this is an inappropriate way. And I think that the bill that Senator Fischer has introduced and the amendment that she has brought forth as a compromise is certainly more than generous and should be looked upon with favor by this body. I've run out of things to say, so I would like to yield the balance of my time to Senator Fischer. [LB165]

SENATOR LANGEMEIER: Senator Fischer, 2 minutes 20 seconds. [LB165]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Senator Utter. Senator Utter, I always appreciate your support on an issue. I think you crystallized the

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committee's position on this amendment and on the underlying bill, very well. I just want to clarify that I am voting against Senator Avery's amendment, AM485. I hope you will join me in voting against that amendment so we can move forward to the Revenue Committee amendment. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Utter. Senator Brasch, you're recognized. [LB165]

SENATOR BRASCH: I'd like to call question. [LB165]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM485? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Lautenbaugh, for what purpose do you rise? [LB165]

SENATOR LAUTENBAUGH: I'd request a call of the house. [LB165]

SENATOR LANGEMEIER: There has been a request to put the house under call. The question before the body is, should the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB165]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB165]

SENATOR LANGEMEIER: The house is under call. All unauthorized personnel, please leave the floor. Senators that are excused, please return to the Chamber. The house is under call. Senators Heidemann, Lathrop, Pirsch, and Ashford, the house is under call. Please return to the Chamber. Senator Lautenbaugh, for what purpose do you rise? [LB165]

SENATOR LAUTENBAUGH: (Inaudible) with those present. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. All the members are present and accounted for. Senator Brasch, how do you wish to proceed? Would you...call-ins or a roll call? [LB165]

SENATOR BRASCH: Roll call. [LB165]

SENATOR LANGEMEIER: Ask for a roll call? [LB165]

SENATOR BRASCH: Oh. Ask for a roll call. [LB165]

SENATOR LANGEMEIER: Thank you. The question before the body is, shall debate cease on AM485? Mr. Clerk, please call the roll. [LB165]

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CLERK: (Roll call vote taken, Legislative Journal page 651.) 30 ayes, 16 nays to cease debate. [LB165]

SENATOR LANGEMEIER: Debate does cease. Senator Avery, you are recognized to close on AM485. [LB165]

SENATOR AVERY: Thank you, Mr. President. What we're trying to achieve with AM485 is to allow the imposition of the occupation tax on the services of telecoms and on the equipment, just the same as the state imposes a sales tax on these. It seems to me that as I've said and others have also explained, this is an issue of fairness and it's also an issue of local control. If we are going to take away \$1.8 million from the city of Lincoln on the one hand, why are we also going to take away an important tool that Lincoln has to manage their own budget problems, part of which we're helping contribute to? I would point out that LB165 and AM316 do nothing to help reduce the state's budget gap. It does nothing to help reduce the state's budget gap. Instead, it creates a bigger problem for cities like Lincoln way beyond the \$1.8 million that we're being asked to absorb with LB383. This is simply a question of, what are...how far are we going to go in reaching down at the local level and saying...and telling cities what you can do and how you can do it to manage your own budget problems? If Lincoln is making the mistake with the occupation tax, let the voters of Lincoln decide that and throw them out. When these ordinances were passed, they passed with a 7 to 0 vote on the city council--and that city council has members of both parties. What Lincoln is trying to do here is hold down increases in the property tax. How can we say to them, we're going to take \$1.8 million away from you with LB383, and then we're going to tie your hands and not let you use the tools that are available to you to manage the problems we've helped contribute to? That's unfair and it violates that important principle of local control. So I would ask you to not restrict the ability of cities to deal with their own problems. Let them decide how they want to do that, and adopt this amendment, because all this amendment does is keep in place an important tool that Lincoln has available to it right now. If we pass this, Lincoln will not only lose the money, but they will lose an important instrument of management of their own budget problems. I think this is a fair way to go about it and I would urge you to support AM485. Thank you. [LB165 LB383]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the closing on AM485. The question before the body is, shall AM485 be adopted to AM316? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB165]

CLERK: 10 ayes, 29 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB165]

SENATOR LANGEMEIER: AM485 is not adopted. With that I raise the call. Mr. Clerk,

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items for the record. [LB165]

CLERK: Thank you, Mr. President. Your Committee on Natural Resources reports LB442 as indefinitely postponed, that signed by Senator Langemeier. Retirement Systems reports LB307 indefinitely postponed, signed by Senator Nordquist. Senator McGill, as Chair of Urban Affairs, reports LB121 to General File, and LB190 to General File with amendments attached. And, Mr. President, finally, an amendment, Senator Adams to LB333 to be printed. (Legislative Journal pages 651-652.) [LB442 LB307 LB121 LB190 LB333]

Mr. President, I do have other amendments to the committee amendment. Senator Pahls, you're next. Senator, AM520. [LB165]

SENATOR LANGEMEIER: Senator Pahls, you are recognized to open on AM520. [LB165]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I would like to pull AM520 and file it on Select. [LB165]

SENATOR LANGEMEIER: It is withdrawn and refiled on Select. Mr. Clerk, next amendment. [LB165]

CLERK: Mr. President, thank you. Senator Avery would move to amend the committee amendments, AM527. (Legislative Journal page 653.) [LB165]

SENATOR LANGEMEIER: Thank you. Senator Avery, you are recognized to open on AM527. [LB165]

SENATOR AVERY: Thank you, Mr. President. We heard a lot of discussion on AM485 about the occupation tax on equipment. I think Senator Utter probably made the best argument for not taxing equipment. I listened. And what this amendment does is take equipment out. Now I know that some of you will say, but AM316 already does that. Let me explain what AM316 does not do. AM316 does not include occupation tax on data processing and information services. It does not allow an occupation tax on the installation or maintenance of wiring or equipment on a customer's premises. It does not allow taxing on advertising including but not limited to directory advertising. It does not allow occupation tax on building and collection services provided to third parties. It does not allow occupation taxes on Internet access service, nor does it allow for taxing on radio, television, audio, and video program and services regardless of the medium. It does not allow taxing on ancillary services, digital products delivered electronically. So to say, well, AM316 already exempts equipment--yes, it does. But it also exempts a lot of other things that are certainly legitimate targets or objects of an occupation tax. So what this amendment would do would take out the occupation tax on equipment

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because we've heard a lot of opposition to that, but it would retain the ability of cities and communities around Nebraska to tax a lot of other services. So I would ask you to take a good look at AM316 and take a good look at what was passed out to you yesterday that was a table comparing AM316 to the sales tax model and comparing that also to Lincoln's ordinances, and you'll see that what we are trying to do here is at least keep our head above water so we don't drown. Give us a life jacket. Let us have at least the ability to survive this economic crisis without tying our hands to the point where we can't even swim our way out. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on AM527 offered to AM316. The floor is now open for discussion. Those wishing to speak, we have Senator Christensen, Loudon, K. Haar, Hadley, and others. Senator Christensen, you're recognized. [LB165]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, a lot of what this session has been about is we're looking for smaller government, but yet, yes, we've cut some funds from locals. But we need to have our locals looking at making smaller government too. And if we don't limit this, either by us putting caps on this, like this bill does or require it go to the vote of the people, most likely it's going to go on. This tax will go on. You know, yes, Omaha will be limited at 6.25, but no one else in the state is prohibited from raising. For me, I like the idea of the green copy because it was a...very much limited government because I don't like the process of adding all these fees, which are taxes but just in a hidden way. I would rather have the cities come in here and say we need to raise our local sales tax. Be up-front with it. I wouldn't like it either. But this is, to me, just getting to be a continual expansion of government instead of holding back. How often do we have complaints that our schools are still giving raises in tight times to administrators or to teachers or different ones? We have businesses that are holding and cutting but we don't have local governments cutting. I haven't read of any local governments that have held the wages to their top officials, to their people or cut them as we're looking at. That troubles me when someone can say we've got to have this money but yet they're giving raises, they're doing more, instead of looking at tightening the budget in tough times. We're all going through difficult times, whether you're a business owner, you're the state of Nebraska, you're a city, municipality, whatever you're operating. You know, I think we need to look at the policy and we need to have our locals look at the policy. I know there was discussion on this occupation tax of freezing everybody where they're at and having locals vote to increase it. I actually like that, because then they have to sell the idea to the local people. I know people say that ties their hands. I've heard the arguments it's unfair to those that have been frugal, haven't raised their taxes as high. But at the same time, I've heard a lot of talk of local control, local decisions, and that's where she really falls when you have that local vote. I appreciate the way the city of Lincoln done the arena. They went to a vote of the people. That's the way I believe it should be done. And I respect them for that and I believe they'll have a great arena. I know this is an income that they don't want to lose

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because they're using it for that. But when you take things to a vote of the people, you're down to the level it needs to be, and I appreciate that. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Senator Louden, you're recognized. [LB165]

SENATOR LOUDEN: Thank you, Mr. President and members. As I look at this new amendment, AM527, I would wonder if Senator Avery would yield for questions? [LB165]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB165]

SENATOR AVERY: I will. [LB165]

SENATOR LOUDEN: Senator Avery, as I look at it now, then the wording would go, "The occupation tax shall not be imposed on the receipts from the sale of the...equipment." Now does that mean it would still be imposed on the sale of the equipment? When you say the receipts, just how does that work across...do we have any smoke and mirrors going on here? [LB165]

SENATOR AVERY: No. I'm not trying to trick you, Senator. This would...it would simply answer the criticism that many people raised that equipment ought not to be subject to the occupation tax. [LB165]

SENATOR LOUDEN: In other words, if I go to Best Buy and buy my telephone now, I won't be paying that extra 6 percent occupation tax on that phone? [LB165]

SENATOR AVERY: That is correct. [LB165]

SENATOR LOUDEN: Okay. That's what it was all about on this other one before. The only thing then that...the question is, is in the original bill, and some of that in AM316 I think they allowed the cities to have a vote to decide whether they wanted an occupation tax. And that would still be in place then? [LB165]

SENATOR AVERY: I think so. What this amendment does is just take out equipment and it would leave in some of the services that Lincoln now taxes by ordinance but would be excluded by AM316. [LB165]

SENATOR LOUDEN: But it would just be taken out, the sale of that equipment that's more or less sold through the stores. [LB165]

SENATOR AVERY: Yes. [LB165]

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SENATOR LOUDEN: Okay. Well, thank you, Senator Avery. With that, I'll listen to the discussion on this and look this over. I'm wondering if this was such a good idea, how come we spent all morning talking about the other one when this one was along here in the process. (Laugh) So with that, thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Ken Haar, you're recognized. [LB165]

SENATOR HAAR: Mr. President, members of the body. Senator Louden, I think the reason we've taken all morning talking is because we're talking about tax policy, and that's what I want to talk about. Thank you, Senator Krist, by the way, for your observations. We're such a rich country that we shouldn't have to pay any taxes at all. Well, we do have to have taxes. We do have to have taxes. I want to go back to my sheet, because we've heard in this body that occupation tax is simply a tax on a tax. And if you study my sheet it becomes very clear that if we carry that through and put our...you know, if we walk the walk in state government, it's going to cost us over a million dollars. If we say you can't tax the occupation tax, it's going to cost state government a million dollars in hotel and motel taxes. So this thing of dismantling one tax at a time, one city at a time, makes absolutely no sense to me. We have things called fees that are taxes. You go to...you know, you want to use the state parks, you pay a fee. That's a tax. Some people say that parking fines are taxes, and they are. They're money going to the government. We have sin taxes on alcohol and cigarettes and all those kinds of things. We do need to tax and we need to...we need to look at it carefully, and I think we're not doing that. I would like to address the local control because that's really starting to bother me. And my friend, Senator Hadley, I'd like to address some of the things you brought up, and I wish, by the way, you'd take me as your valet on some of the wonderful trips you take. That offer is open. But you said in Minden they had a great big meeting and a big community hoo-ha about occupation tax, and I can't remember what they did, but that's exactly what local control is about. You get the citizens involved. And if Minden decided they didn't want to go in a certain direction, that's exactly what local control is about. And I don't think the state ought to tell Minden how to deal with occupation tax. The citizens know how to do that. That's what local control is about. Some of this discussion almost sounds like, you know what? The voters in Lincoln or Omaha or Fremont or any of these cities--and I'll just take occupation tax because we passed this one out, the sheet that I passed out, occupation tax on telecommunications. A lot of cities do it. It sort of sounds like we're saying in this body, you know what? The citizens of Lincoln or Omaha or Plattsmouth or Ralston, whatever, are kind of stupid, and we're going to have to step in there; they don't know how to elect their local officials. But the point is, this issue has been very transparent in Lincoln. It got a 7 to 0 vote by the city council. And the people of Lincoln elect and they "unelect" the city council. I think the people of Lincoln are very well informed. This was very transparent. There were three or four articles in the Journal Star about this issue.

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And people came to the meetings and they debated, and the city council--we do have representative government. I don't think we want the people of Nebraska to vote on TEEOSA every year before we pass it. We have representative government. And I value that and I think we have to say, you know, the city council for the people of Lincoln is just as important as the Legislature is to the people of Nebraska. [LB165]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR HAAR: And as we go about talking about these issues, we have to be careful that we don't take the tools out of the tool bucket of those people who are locally elected. People in Lincoln actually know their city council members by name. I would suggest that most of us in here are unknown--I'm known in part of Lincoln because I served on the city council and the Legislature. Most of us in here don't know the people of the city of Lincoln. The people of Lincoln elect those officials to set their policy. That's local control, it's representative government. That's the way it should be. Thank you. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Hadley, you're recognized. [LB165]

SENATOR HADLEY: Mr. President and members of the body, I enjoyed Senator Haar's comments: the tools in the toolbox. I think we haven't given the cities and counties enough tools in the toolbox or the appropriate tools to the toolbox. Our taxing system in Nebraska has been based on a three-legged stool. It's been based on property taxes, sales taxes, and income taxes. That's a primary source of revenue for basically all of our taxing entities. So maybe it's time we start looking at using that three-legged stool not only for the state government but for local governments. We hear a lot about, for example, the problems with property taxes and the people not liking property taxes. But you look around, that's the only tool in the toolbox we basically give the counties. The cities, we give them a sales tax and a property tax, but they're loath to use the property tax. I was absolutely amazed in a previous life to find out how little the city of Kearney had in property tax. It got blamed a lot about property taxes, but they didn't...it wasn't a great amount. So sales tax became their primary source of revenue. But counties have one leg of the stool; cities have two legs of the stool; the state has three legs. So maybe it's time we look at changing that and giving cities and counties access to more tools using our three-legged stool and also the amount that we could use for those three-legged stools. What I am concerned with, with things like occupation tax, it's so easy to expand. I understand cities are trying to increase revenues, so they're looking at many different areas. The question we should be asking ourselves: Are those really appropriate tax policy questions about where they want to expand? Is that really a fair way to expand the tax revenue or should we go back to the days when we thought about one-third, one-third, one-third? A citizen of the state of Nebraska would pay one-third of their taxes in property taxes, one-third in sales taxes, and one-third in



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income taxes. And I think that's the tax policy issue we should be looking at now, not forcing cities and counties to look at extraneous ways outside of that three-legged stool to raise funds. We're forcing them to do that but I don't think that is good policy. So I hope in the future and maybe yet even this session we look at trying to help cities and counties meet their obligations, local control, but we give them more tools that are appropriate to them to raise that revenue that they need to operate. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Speaker Flood, you're recognized for an announcement. [LB165]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. A quick note: We are going to be taking up some Select File on Monday. On Tuesday, we will be taking up LB22 from Senator McCoy; it is a priority bill. Again, LB22 from Senator McCoy on Tuesday. But I do anticipate us starting Monday with some Select File. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Speaker Flood. Continuing on discussion on AM527, we have Senator Conrad, Council, Campbell, Wallman, Avery, and others. Senator Conrad, you're recognized. [LB165]

SENATOR CONRAD: Thank you, Mr. President. Just, I guess, a quick point for the record that I found kind of surprising as what I consider to be a helpful and productive debate was progressing through this morning and then the parliamentary procedure utilized to move forward. We called the question after no more than 80 minutes of debate on a serious and substantive amendment that has significant impact on one of Nebraska's largest communities. And obviously there are a variety of different principles involved in our rules and how we conduct ourselves, and there is, indeed, the rule of majority, but there's also minority rights. And particularly, in a deliberative body and in Nebraska's only deliberative body, why are we afraid of debate? Why are we afraid for...about additional information being brought forward? I challenge you, when it's an issue that's critically important to your community or your personal legislative agenda, if you think 80 minutes is enough to do it justice--and hold yourself to the same standard. I'm disappointed that this body is not allowing full and fair debate on important and substantive amendments that should have that time. They should have that time. There should be a full and fair debate. And we should generate the ability to bring the two opposing sides together and seek appropriate compromise in the middle like we've done on other pieces of legislation, like we should do on this piece of legislation. I'm disappointed that I imagine what's going to happen are additional motions to call the question and keep moving the dialogue and the votes farther and farther along, more quickly and more quickly as they come up, because the majority of senators don't want to deal with this issue or have already made up their minds. But people are making serious points. We're trying to build the record. We're trying to foster compromise. We're

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trying to educate the body. We're trying to pull the public dialogue to an appropriate place, and you're now trying to do it through parliamentary procedures to limit debate. And I challenge you, who go out and call the question, do you really think 80 minutes is full and fair debate on a critically important revenue issue affecting one of our largest communities in Nebraska that's been a good partner with this state all along the way? I'll leave it there, Mr. President. I'd be happy to yield the balance of my time to Senator Avery if he would so like. [LB165]

SENATOR LANGEMEIER: Senator Avery, 2 minutes. [LB165]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Conrad. What we're trying to do here is to offer to this body an amendment that will take out equipment, which is apparently an issue that has concerned many of you. It would, however, then confine the occupation tax to services. Now AM316 does exclude equipment from the occupation tax. I concede that. I lost that fight. I'm fine with it. Let us now restore as much as we can in the cities' ability to tax services. That's what this amendment does. It allows the cities to tax services. It's a fairly broad definition of services. It goes beyond what AM316 does, but it does take out the... [LB165]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR AVERY: ...rather contentious issue of taxing equipment. Now it's going to cost the city of Lincoln. We already have an ordinance in place and we've been collecting that tax now for about six months. It will cost us--I'm trying to find out exactly what that number would be--but Lincoln is willing to give up something, but we've got to get something. That's the nature of this business that we're in here, of politics and compromise and accommodation is you give up something to get something. Senator Lautenbaugh is shaking his head no. (Laugh) Well, I do, I believe in compromise. I believe in accommodation, and I believe in trying to see if we can't find some common ground. I believe this amendment allows those who are in support of AM316, I think it does allow you to see that we are saying, okay, we give up equipment, but we want to have... [LB165]

SENATOR LANGEMEIER: Time. [LB165]

SENATOR AVERY: ...the right to put the tax on services, as we are now doing, so I'm asking you... [LB165]

SENATOR LANGEMEIER: Time. [LB165]

SENATOR AVERY: ...to give us that. [LB165]

SENATOR LANGEMEIER: Time. [LB165]

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SENATOR AVERY: Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Avery and Senator Conrad. Senator Council, you're recognized. [LB165]

SENATOR COUNCIL: Thank you, Mr. President. I initially pressed my button when we were discussing the previous amendment, and I think it's fortuitous that my coming to the mike was delayed by the previous action, because I had an opportunity to listen to much of the debate that has occurred thus far. And the operative term in what I just said is "listen," because if this isn't *deja vu*, I don't know what is. When we were debating LB383 it is surprising that I'm now hearing the argument that I was trying to get this body to listen to and hear is now being made by those who I don't believe listened to or heard it. When we were discussing LB383, I admonished my colleagues to withhold movement of that piece of legislation because it was taking away funds that cities and counties have relied upon without knowing whether tools were going to be removed from our toolkit. I stated then that if we are talking about setting tax policy and, particularly, policy regarding assessment and imposition of occupation taxes by local subdivisions of government, that we needed to wait till that debate occurred. Here we are, debating LB165 and its amendments, and we still have LB562 that hasn't been heard that further defines and restricts and limits services that are subject to occupation taxes. I don't believe that we are appropriately addressing statewide tax policy on this incremental basis; that what ought to occur is that LB165, further debate of it, should be withheld until such time as we debate LB562. And am I the only person in the body who has wondered what happened to LB81? It hasn't come back. All of these bills need to be considered in context, and that context is what is going to be the state's policy in terms of how much authority local subdivisions of government are going to have in order to raise the revenue that they need for their operations, particularly in light of this body's advancement of LB383. And as I stated when we were debating LB383, the very legislative purpose being advanced when the bill that provided state aid to municipalities and counties was enacted 30 years ago was because the cities and counties, by action of the state, were losing revenue from sources that they had come to rely upon. That's exactly the issue and it hasn't changed. It hasn't changed since the debate on LB81. It hasn't changed since the debate on LB383, that we need to be looking at this in terms of establishing a well-reasoned and well-thought-out state policy on local subdivisions' taxing authority and ability. In fact, it should be the subject of a study of just such tax policy issues. [LB165 LB383 LB562 LB81]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR COUNCIL: But as I think I heard my colleague, Senator Krist, refer to what we're going through now is this piecemeal approach to purportedly setting tax policy. No, that's not what we're doing. We are addressing, from the outset, a state budget

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shortfall. I said it when we talked about LB81; I reminded you of it when we talked about LB383; and here we are on LB165 and it's almost like it's the first time it's been heard. What we need to do as a body is to step back and look at the issue of local subdivisions' taxing authority and the revenue to be generated and what... [LB165 LB81 LB383]

SENATOR LANGEMEIER: Time. [LB165]

SENATOR COUNCIL: Thank you. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Campbell, you're recognized. [LB165]

SENATOR CAMPBELL: Thank you, Mr. President. My comments this time will be relatively short because I continue to be bothered by several issues and want to bring those up again. I want to say that I'm going to agree with my colleague, Senator Council, on one portion of what she talked to us about, but perhaps not with another. I felt that when we came into this session, and all summer long when we went to talk to people, we said this is going to be the session about budget, our budget, the state budget, and what we need to do to be ready for the next two years. I believe that in the discussion of LB383 it did affect our budget, and I felt that it was a legitimate issue to bring forward. But as I said earlier, my consternation and concern and disheartenment listening to the comments this morning is that now we are going to a point of saying let's look at the occupation tax, which has been a tool of the cities. This bill does not affect our budget, and therein is where I agree with Senator Council. We should, and I suspect, go back to our own local communities and think about how they use the occupation tax. There is no way that we would go back and say to Grand Island, ah, we don't want you to use your occupation tax to pay for the new State Fair; we gave you some money, the university gave you some money. That community chose to use that as a tool and I admire them for that, that they stepped forward and did that. Are we going to go to all the communities on the sheet that Senator Haar passed out, and say, ah, we're not sure we want you to use these anymore? The time, colleagues, in my estimation, and I suspect the time is now that we return to the discussion of our budget and the bills that affect our budget and spend less time trying to figure out how to deal with the occupation taxes of our local governments. Thank you, Mr. President. [LB165 LB383]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Those wishing to speak, we have Senator Wallman, Avery, Gloor, McGill, Coash, and others. Senator Wallman, you're recognized. [LB165]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Enjoyed watching...or hearing Senator Campbell and my colleague here speak about taxes and LB383. Senator Council hit it right on the head. I did not vote for LB383 because this

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was coming down the pike. And if you looked at your agenda, you knew this was going to be a contentious issue. But it shouldn't be. This is a local issue. Why do we want to be the big bully in the city here and tell everybody how they should tax? Tell Grand Island, Holdrege, no matter where it is, we tell them how to tax their communities, how to run their cities, their townships, their counties. I had a phone call...I was on the radio a half-hour this morning, and they said: What's the matter with local control? I don't think anything. These people are elected, and if you don't like it, they'll be out of office. The mayor, the city council of all--whether it be Omaha, Lincoln, Grand Island--you know, all these cities have mayors and city councils and county boards, and they set their budgets. Then we...when we come in here, we say, well, you can't do this, you can't do that. Why not, if we're for local control? There was only about ten votes against LB383 if I remember right. And I'm still a strong believer in local control. This government was founded on local control, and we as a state agency think, well, we ought to do this; we ought do that; they can't do this. Why is this? Thank you, Mr. President. [LB165 LB383]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Avery, you are recognized. [LB165]

SENATOR AVERY: Thank you, Mr. President. I've been having discussions with several senators about what, in fact, this amendment does. And I can tell you that we are working on trying to clarify in everybody's mind what it does. My own thinking here is that this is a compromise. We are saying if taxing equipment is a problem, then we will concede that. We'll give that up. But if what you want to do is allow the occupation tax to still be imposed on the services, then allow Lincoln to impose that tax on services that it already imposes the occupation tax on. And AM316, which we are trying to amend with AM527, eliminates a number of taxes that the Lincoln City Council passed 7 to 0, in October, and they have been collecting those taxes since that time. It's an important part of the overall budgeting strategy of the city of Lincoln. And with the passage of LB383 it's going to become even tougher for Lincoln to manage its budgetary problems. We have also said to cities, we want you to keep your property taxes down, and Lincoln has been doing that. So now let's not take away from Lincoln and any other city that might be in the same circumstance, not take away from them an important instrument to manage their budgetary problems. I mentioned on the microphone a few minutes ago that the amendment that we have before you here would take out tangible personal property--that would be the equipment. So that would not be taxed. It would, however, allow Lincoln to continue to tax according to its ordinances that are in place now, installation and maintenance. It would possibly allow the taxing of data processing service and information service. But we do not now tax that except to the extent a private line is involved, and there is a tax on the private lines. That's subject to the occupation tax. This is modest. We're not asking for a huge expansion of the occupation tax authority. We're saying, okay, you don't want us to tax equipment? Fine. You want us to limit the tax to services? We'll do that. But let's not so restrict the definition of services to the point where Lincoln is thrown into budgetary chaos because they have to

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go back and change about three or four different ordinances that are already on the books that were passed 7 to 0 by its own city council. So I'm asking you to, in the spirit of compromise, give us a break. We gave up something. Now it's time for others to come to the table and say, all right, we recognize, Lincoln, that you were willing to give up equipment. Now we'll let you take this definition of services and tax those. Now that's not going to make everybody happy, but that's the nature of a compromise. When you leave the table, everybody is a little bit unhappy but nobody is completely unhappy. That's the nature of compromise. So if the telecom industry is a little bit unhappy, that's okay. [LB165 LB383]

SENATOR LANGEMEIER: One minute. [LB165]

SENATOR AVERY: Are they going to be completely unhappy? No, because they got what they wanted on the equipment issue. So this seems to me to be fully in the spirit of what we do in this body all the time, and that is we get together, we try to find some common ground, we try to find some way that we can agree by giving up something to get something. So I'm asking you to do this. This is what I think is kind of a life jacket for Lincoln, and it's not...it's not going to allow us to stay out of the water but it will allow us to avoid drowning. Thank you. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Gloor, you're recognized. [LB165]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. Senator Campbell made mention to occupancy taxes, Grand Island, how those taxes are used. And I, like other members of this body, had challenging discussions with representatives of cities, counties, as relates to the elimination of our state funding to those particular entities--and NRDs, for that matter. I think they were very reasonable in their expectation of what was going to happen. I think it was a painful dialogue for both they and I, but I made the difficult decision to vote to, in fact, eliminate that funding. But in those discussions we got into further dialogue about occupancy tax. And their argument to me was, please, please don't overstep--their view--don't overstep and get into the arena of telling us what we feel is a responsibility we have at our local level to deal with this issue of occupancy tax. It's been an important issue for Grand Island, and it's been important enough so that people within the community have even made private contributions to make things happen--specifically, the State Fair--to go hand in hand with occupancy tax. Their issue was a difficult one for me to counter, and now I find myself here dealing with an issue that is not a Lincoln issue for me. It's not a Lincoln versus other communities issue for me. It is the extent to which we purport to tell people how and what they can tax. It's the reason that I was supportive of the previous amendment from Senator Avery--AM485, I believe it was. One of the benefits of being a presiding officer is that it forces you to pay attention to debate in spite of all the distractions. I listened to the back and forth that goes on, and Senator Schumacher hit a

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home run with me as he laid out the reality of changes in technology, changes in the provision of service, changes in how we pay for bundling with electronics, issues behind taxing because we allow access to the public right of way--a public right of way that the public has paid for, a public right of way that the public pays for to maintain. Whether it's maintaining an alley or trimming tree branches, there is a cost associated with that, and it is appropriate for that to find its way into a tax with the current technology we have out there. And it's the reason that I can feel comfortable voting and supporting AM527, even though it's not perfect. I know this issue has been discussed in Lincoln or other communities where it may apply, by elected officials. And I think if the same argument that Senator Schumacher made was put in front of most of the citizens of Lincoln or any other community in this state, they would come to the same conclusion that I did and that is this is fair. It's not an inappropriate or unreasonable tax. And that's the reason I will be supportive of not only LB165 and AM316, but also AM527. Thank you, members. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator McGill, you're recognized. [LB165]

SENATOR MCGILL: Thank you, Mr. President. Once again, that's hard to follow. I feel like Senator Gloor and Schumacher should just stand up and reiterate their arguments over and over. And you're right, when you preside over the body you do listen a little more closely and hear all the arguments, we're all so busy hustling around here otherwise, but you made some really fabulous points, as did Senator Avery before, about how modest this particular amendment truly is. Compromise is important at every step in the bill-making process. And, you know, I was glad to see a compromise made on LB81, because otherwise I would not have voted for that particular piece of legislation weeks ago. Senator Council also made some wonderful arguments about taking a look at the occupation tax as a whole, and in terms of our piecemeal approach, for her, in particular, about the occupation tax, but for me in terms of every decision we're making here that impacts our local governments. I am, at this point, now regretting my green vote on LB383. You know, I didn't participate in that debate but, you know, I felt that we were doing what we could and what we had to do to work on our budget and balance our budget. But now that I see how much we are willing to take away from our local governments, I hesitate, because it is just passing along the burden to them which will indeed eventually lead to tax increases on their part. And we will be that Legislature that really passed the buck on a variety of issues that we've yet to face, and I don't feel good about that. You know, we were elected to make the tough choices and to find compromise where possible. People didn't send us here to...because it's an easy job or because they would want to do it, because I don't think most of them want to do it either, but we were brought here to make tough choices. And I hope that we're all taking this vote, as well as others impacting revenue, very, very seriously. Thank you, Mr. President. [LB165 LB81 LB383]

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SENATOR LANGEMEIER: Thank you, Senator McGill. Senator Coash, you're recognized. [LB165]

SENATOR COASH: Thank you, Mr. President, members of the body. I wanted to respond to something I heard Senator Utter say earlier this morning. He said that the current occupation tax is an unfair extension of the sales tax. He laid out very good reasons for this. I can agree with him. And because I can agree with him I can support AM527. Let's take the tax off of equipment. It's already taxed. It's sales-taxed. This leaves everything else that Lincoln is already doing. And let's make no mistake about it, colleagues: This has turned into a Lincoln bill, just like the wheel tax was an Omaha bill, just like the sewer tax last year was an Omaha bill. Kind of going back in my mind and remembering how I voted on those bills to see if I stood with Omaha, because now I'm kind of second-guessing everything that we did because here I find myself in a similar position. Senator Krist talked about that. Occupation taxes, colleagues, can be pretty broad when you tax a lot of things as an occupation, because it's broad a cap makes sense. And the 6.25 percent that LB165, and AM316 as a cap, put on there, that makes sense, and it takes care, I believe, of the problem that we have with this bill. AM527, again colleagues, it takes the tax off of the equipment. That's going to lower the bills for my constituents and that's why I'm going to support it. I would urge the body to consider what kind of policy we have here, and we have two good things going on here. We've got a cap on the occupation tax, and I think we should support that. And we've got a removal of the occupation tax on equipment, and that maybe is a little far-reaching, so let's take it out--and that's what AM527 does. I urge the body to vote for AM527, AM316, and then LB165. Thank you, Mr. President. [LB165]

SENATOR LANGEMEIER: Thank you, Senator Coash. Senator Krist, you're recognized. [LB165]

SENATOR KRIST: Thank you, Mr. President. Would Senator Council yield to a question, please? [LB165]

SENATOR LANGEMEIER: Senator Council, would you yield? [LB165]

SENATOR COUNCIL: Yes, sir. [LB165]

SENATOR KRIST: Senator Council, I'm not sure how we disagreed, but could you tell me how we were in maybe opposite directions on speaking about taxation and how we are reforming tax policy, because I think you said that we disagreed on, fundamentally, so. [LB165]

SENATOR COUNCIL: Oh, no, sir. In fact, I said I concur with Senator Krist's characterization of the flaw in handling tax policy incrementally. So I don't think we're in disagreement at all. [LB165]



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SENATOR KRIST: Okay. [LB165]

SENATOR COUNCIL: In fact, my...the point that I've made, and made every time I had an opportunity to be on the mike on LB383, was that when we have these bills coming later for floor debate that had to do with cities' ability to raise revenue, that we shouldn't be taking action on moving forward on the elimination of state aid without knowing what tools we were going to leave cities and counties with. And particularly that...and I stated it repeatedly during my discussion of LB383, that we had at least two bills that had not been heard that impacted occupation taxes. And without a full discussion of LB562, it goes further than what AM527 and the previous amendment went in terms of what is and what is not appropriate for imposition of an occupation tax. And I think that is...that is a policy... [LB165 LB383 LB562]

SENATOR KRIST: Absolutely. [LB165]

SENATOR COUNCIL: ...that needs to be developed. And it shouldn't be developed piecemeal. [LB165]

SENATOR KRIST: Thank you so much for your answer. Thanks for yielding to the question. I'd like to address, and in concurrence, a few issues that have been brought up lately, and define where we are in terms of those of you that regret your vote for LB383. What did LB383 do? It cut part of our budget that we needed to cut to balance our books. What did...what is LB81 in the process of doing? The same thing that LB165 is in the process of doing, and that is limiting a city's capability to use current tax policy. We are amending tax policy, so let's keep it clear. There are things we are doing to cut our own budget. There are things we are doing to cut the cities' ability to balance their budget. And I think you need to define those two in terms of tax reform as we continue to go through this. On that Saturday morning that I talked about when I looked at these bills coming up, I had made my mind up that this one was okay, this one was not, this one...if this one went through, then this might not be a problem; but if this didn't happen and this didn't happen...so it was a matrix of a decision tree of if we do this, then we do this, then we do this, and we get to this point. We all need to do that because this is what's going on. Make it about Omaha, make it about Lincoln, make it about Grand Island, make it about Scottsbluff, make it about anything you want to, but...and when we get done, all this mosaic needs to come together in terms of changing tax reform and balancing the budget, because the two of these things need to happen concurrently. I'm interested in history because I think if you know history you don't tend to repeat the things that you don't want to repeat. I can't be as eloquent as... [LB165 LB383 LB81]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: One minute. [LB165]

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SENATOR KRIST: Thank you. I can't be as eloquent on this particular issue as Senator Schumacher was on the history of telecommunications, but I'll tell you this: Go back two decades and look at what the tax base looked like for this state. Sixty percent of the funds that we needed as a state came from property tax--60 percent. There was a conscious decision in this state to reduce that to 40 percent. Where do you think the other 20 percent came from? Occupation tax, wheel tax, tax on tax, tax on this, sales tax. You see, it's still 60 percent that's required. It's just who is paying into that. Take a look. I think you'll find it interesting because that's essentially what we're talking about when we start taking bits and pieces away from that tax policy. Thank you, Mr. President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Krist. Those senators wishing to speak are Brasch, Schumacher, Ken Haar, Conrad, Karpisek, and Senator Wallman. Senator Brasch. [LB165]

SENATOR BRASCH: Thank you, President. Thank you, body. I rise today in support of LB165. And I'm speaking today because I did get a call from a constituent--Senator McGill indicated not one person has called her--and Dale, he says he's on a fixed income, and he lives in Stanton County and he's paying taxes. And he did his diligence. He called several...his service provider. He called others. He found out percentage of taxes paid, not just in the Norfolk one of 3 percent, but Omaha, Lincoln. And he's very concerned. And he argues...and he agrees. He said a tax is a tax, and he believes the occupation tax is nothing but taxing a tax. And unfortunately, cities do work very hard, but they are working hard from a well that is running dry. This makes me think about and remember my mother who has passed away. And on her eighty-fifth birthday she looked at me and she said: How old am I? And I said: Mom, you're 85. And she said: No wonder I'm so tired. And I'm thinking, after tax and tax and tax, no wonder we're so tired. No wonder we're...we are in a situation here where we need to look carefully, and I do think our people are very resourceful. I...in Lincoln, you know, I had to drive around the block several times to attend a meeting. I wait in line at a restaurant. Same with Omaha, same with...you know, I think we are recovering, we will recover in this economy, but we need to look at people on fixed incomes. We need to look at people who do not have the wherewithal. And they look at this little bit of relief at helping them make it at the end of the week, the end of the month. So I am asking that, you know, we are for our whole state surviving, our economy recovering, but we need to be prudent on, you know, where can we save a little money. And I think in Lincoln, and I'm so happy to see, you know, the streets are full, the restaurants are full, the grocery store is full. It would be great to see that in Bancroft or West Point or Stanton--you know, see that likewise economy thriving. Thank you so much. [LB165]

SENATOR SULLIVAN: Thank you, Senator Brasch. The Chair recognizes Senator Schumacher. [LB165]

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SENATOR SCHUMACHER: Thank you, Madam President and members of the body. I would like to divide my time over two issues: first, specifically addressing this issue, and then the larger issue on which we have had much valuable discussion, much more of which needs to occur before this Legislature does its job with regard to the crisis that we are in. And the first with regard to this particular matter of today: Why are we here to begin with? What brought this about? Was this a proposition about Lincoln taxes? No. It was supposedly, as the initial bill says, that there was a statewide concern for reason that such taxes, one, affect the affordability of telecommunication service, which is essential service for all Nebraska's customers. Did we hear anybody say any testimony anywhere that anybody didn't afford a phone because of this tax option for some local communities? Two, cause telecommunication service providers to reduce or refrain from investing in advanced telecommunication infrastructure in Nebraska. What advanced telecommunication structure is not being invested in, in Nebraska, because of these occupation taxes? They pass them through. It doesn't affect their budget. What are we...what's not being done because of this tax? What telecommunications service are we doing without because of this ability to tax? Three, when imposed by municipalities on fees, taxes, and regulatory surcharges the telecommunications service providers are required to collect from customers, create unfair burdens on both customers and telecommunications service providers. What unfair burden might that be? If we are concerned about unfair burdens, then let's look at surcharges. Let's look at a bigger burden than any of these: a 6.95 percent Nebraska Universal Service Fund assessment on every phone bill in the state, \$15 million of which is contributed by the people of Omaha, \$10 million or better contributed by the people of Lincoln that they don't get one hoot's worth of good out of. If we were really concerned about burden, we'd be looking there and we would be looking at the \$60 million a year that we are not tapping into while we cut teachers and everyone else. Now let's look at the bigger picture. The bigger picture is we are in a financial crisis that anyone who has studied realizes is not going to go away in two years. We're are going to be in an equally big pickle then. We are not going to have a quarter of a billion dollar slush fund to dip in, and we're going to be near bouncing checks. We need to back up, as Senator Krist suggested, and take a big look at the big picture. We need to figure out what's easy to say but hard to do: How do we reinvent government? How do we rearrange tax and finance of needed public services? What organization and roles do cities, counties, and the state have? Is there a way that we can create an intermediate level of government to provide services in a more efficient way than the state or the cities and counties have? And we can't have it all ways. We can't put these cities and counties in a pickle by taking their revenue toolboxes away and then yet expect them to follow nice, but maybe not necessary, regulations and mandates enforced by state bureaucracies here in Lincoln, just because. We've got a big job...and I just think Senator Krist is overly optimistic if he thinks we can get it done in five days, but I'm all for trying. Folks, we need to deal with the big picture, not a piecemeal picture. And we need to get down to reality. It's great fun to tear the...swing the wrecking ball and start tearing the old

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structure down, but it's high time we got some mechanism here in order to start thinking about what structure we're going to put up in its place, else, a lot of folks will be left in the cold when these roosters and chickens come home to roost in two years and we don't have that slush fund. Thank you, Madam President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Schumacher. The Chair now recognizes Senator Ken Haar. [LB165]

SENATOR HAAR: Thank you, Madam President, members of the body. I have a question for Senator Schumacher. [LB165]

SENATOR SULLIVAN: Senator Schumacher, will you yield? [LB165]

SENATOR SCHUMACHER: Yes. [LB165]

SENATOR HAAR: Sorry if I'm mispronouncing that. It's the German way. Okay. The universal service tax is used for what, that we get charged? [LB165]

SENATOR SCHUMACHER: The universal service assessment... [LB165]

SENATOR HAAR: Assessment. [LB165]

SENATOR SCHUMACHER: ...is a 6.95 percent assessment on every phone bill in the state. That creates a \$60 million-a-year fund that is distributed--and there's no limit on what the Public Service Commission can set that rate at--that is distributed to rural phone companies in a very, very nontransparent way and is supposed to bring local phone service in the hinterlands way up to par. We need to take a real look at that, but that's what it is. It's a \$60 million fund. Omaha and Lincoln get very little, if any, benefit out of it other than a theoretical spin-off that maybe they can call somebody who doesn't have a phone in western Nebraska or wouldn't have a phone but for this fund. This is a whole interesting other topic and discussion. But there's a big pile of money there. [LB165]

SENATOR HAAR: To continue with my question: So is...do we pay sales tax on that universal service assessment? [LB165]

SENATOR SCHUMACHER: I think we do but I don't want to say for sure, but I'm pretty sure that the sales tax is computed on that assessment. Incidentally, the states and the cities and the school districts pay that assessment to the phone companies too. [LB165]

SENATOR HAAR: Okay. Thank you very much. That's a whole nother issue that I'm not familiar with but I'd like to learn more about. We'll talk, off mike, more. I want to go to the sheet that I handed out--the source: the League of Nebraska Municipalities--about all of

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the communities that use this tax. And for some reason, Lincoln and Omaha aren't on here, and I don't know why. I asked them for this list; they gave me this list. I'll get you that information to add to the list. But so there's 29 Nebraska communities that are using the occupation tax as a source of revenue. So I agree that this came up around Lincoln, but this affects a lot of communities. Just look at that list. Twenty-nine communities. Probably the large communities...the larger communities in the state, I would agree. Although Minden, as was pointed out, voted not to use this tax. Good--local control. But many communities have. So I strongly support AM527 to LB165. It's a compromise that clarifies the issue and it allows local control by 29 communities across this state who elected their representatives to make decisions. Now if we really want...you know, we're such a rich country, we shouldn't have to pay any taxes. Okay. So let's put every time, every budget of every...every elected body in this state before the people for a vote. What chaos that would be. You know, now we have computers, why not just let everybody vote? Whenever it comes to any money issue, let every citizen vote. That would be chaos. We have a representative form of government. Each of these cities that has...that uses the occupation tax on telecommunications, and I would also guess that many of these also use the occupation tax on hotels and motels and that kind of thing, but, you know, by the way, most of that comes from out of state, so we don't care about that. [LB165]

SENATOR SULLIVAN: One minute. [LB165]

SENATOR HAAR: Thank you. This affects our many significant communities in Nebraska. There's local control. These communities have elected bodies who have made the decision to use this tax. In some communities, they voted not to use the tax. I think that AM527 is a compromise that we ought to be able to support and get on with this, as Senator Campbell pointed out, the business of the state budget. This doesn't affect the state budget at all, although I'm rather interested to see that the universal service assessment probably does. We need to talk about that. We need to talk about how the occupation tax is used by the state to generate revenue, as well. Thank you very much. [LB165]

SENATOR SULLIVAN: Thank you, Senator. The Chair recognizes Senator Conrad. [LB165]

SENATOR CONRAD: Thank you, Madam President. Good morning, colleagues. A couple points here that I think may have been lost in the debate thus far, and to reiterate others. One, I think what happened on the local level in Lincoln is a natural progression about applying revenue issues to new technologies. And some common sense I think needs to be injected as well. I remember for many, many years where we all had land lines and nobody had the luxury of a cell phone, and then now, today, it's almost the other way around, where we all have cell phones, we all have a variety of different accessories to make them more user friendly or make them more workable or best meet

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our needs or for purely cosmetic purposes as well. You can pick a cover with your favorite color or team or express yourself however you wish to. And so I think it's important to remember, when Lincoln looked at this issue it set out to really modernize its tax structure to keep pace with how society and technology has changed. And that's really what prompted this issue and how they found resolution. So I think that that's one thing that it's important to remember as we move forward. And as technology changes and as society changes, the application of our taxes is going to change as well. And we can't sit here and draw a line in the sand and say any change is a bad change, because that leaves our tax policy far, far behind where society and technology may be. And that's not the right place to be. I want to talk a little bit about the distinctions, if there are any, between the elimination of aid to local governments and what's happening with LB81, which has significant impacts for the Omaha community, and what's happening with LB165, which has obviously significant impacts for our community here in Lincoln. While not palatable or enjoyable from I think any of our perspectives, coming to a realistic posture in terms of meeting our budgetary obligations, I agreed to support the elimination of aid to local governments because I believed that it was the right thing to do to help us meet our budget obligations, to help redefine and reinvent government on the state level, and because it applied equally. It applied equally to all NRDs. It applied equally to all cities and counties. Yes, certain cities and counties got more aid than others based on their population, but there is equity involved in that distribution system. What I dislike about LB81 and what I dislike about LB165 is it targets communities. It targets the largest communities in our state which are the economic engines of our state. And that's unfair. That's not equitable. And if we can't find some room for compromise on these important issues, which I'm hopeful that we will be able to find, I think we may have to reconsider LB383 before it's passed through on Final Reading, because we simply...we simply cannot tie the hands of our partners in local governments on a variety of fronts. I just don't think that's fair. It doesn't allow them time to plan. It doesn't allow them time to make decisions that are best for them on the local level. And when you couple... [LB165 LB81 LB383]

SENATOR SULLIVAN: One minute. [LB165]

SENATOR CONRAD: ...these decisions on top of each other, it is just that: a piling on. I think everybody does need to have skin in the game. I think everybody is cognizant of the challenges that are before us. We've done our work as such with LB383, and we have a lot more work to do on LB165 and LB81 before we can move forward with any sort of satisfaction or resolution. Thank you, Madam President. [LB165 LB383 LB81]

SENATOR SULLIVAN: Thank you, Senator Conrad. Those senators wishing to speak are Karpisek, Wallman, Ken Haar, and Avery. The Chair recognizes Senator Karpisek. [LB165]

SENATOR KARPISEK: Thank you, Madam President, members of the body. We've

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heard about compromise today. And I agree, we need to compromise. However, I look at AM316 as a compromise. It's a lot different than the underlying bill was. That, to me, looks like a lot of a compromise. My question is: What other occupation taxes does Lincoln have? We're hung up on this one. Okay. This is going to...if we cap this, right now, and take out some of what they can tax, that it's going to be crippling. There's also a restaurant tax, a hotel tax, car rental tax. And I just got on a Web site that shows how you can pay your occupation tax. I haven't gotten to see what all there are yet on there. I think there's plenty of other tools. This isn't taking it out completely like we did to the state aid on cities and counties. It's just...it's capping it and taking some of the things out that they can do. Again, I don't support taking away the state aid for cities and counties, and I do support giving them other ways to make some money. I have bills that I have presented to do so. But I don't see this as crippling. This doesn't only affect the people of Lincoln. It affects the surrounding people. All communities--I'm not sure if all, but most--probably have some forms of occupation tax. But a good share of them do not have anything on cell phones. Maybe they do on land lines, I'm not sure. I kind of doubt it. So how do those communities balance their budgets? They don't have even these. So we talk about being fair. The smaller ones don't even have an occupation tax on this, but somehow they get by. Now you can say, well, Lincoln has a lot more things, and so does Omaha. Sure they do, and they've got a lot more places to get the money. So I don't...I don't see that as fairness. Again, the more we get into this, the more I'm really looking at these occupation taxes and wondering what they are and how this works. I think we need to really look at that over the interim and see. Now that doesn't mean that I think we should just forget about this one, but I'm really curious to see what kind of money this brings in, who it hits, and how. Again, I...my good friend, Senator Conrad, said, well, if you don't want a phone, you don't have to pay for it. And I agree. I agree with that 100 percent, and that's why I said I think a lot of these taxes need to be spread out so everybody can share some of the pain and probably not as much pain as the ones who do use the services. And I'm probably going to sound a little bit like Senator Pahls here, but if we look at some of the things that we exempt, we could probably, a lot of us, feel a lot less pain. So I don't see this as crippling. I do see that it...it does...I don't know if it even ties anyone's hands, but it just says, all right, you can do it, but you can only do it about so far. If I had my way I would probably take it further yet. But maybe that's my compromise, is, no, I won't try to take it further, I'll just leave it where it's at. I know it is a serious issue... [LB165]

SENATOR SULLIVAN: One minute. [LB165]

SENATOR KARPISEK: ...and it's troublesome to try to pay the things that the cities have to pay. I understand that. We understand that in this body. But I think that we're really into a big fight here that I don't know that we need to be in. We're not trying to go after the other occupation taxes. I know we've talked about some of the communities wanting to be able to raise their sales tax above the 1.5 percent. Why? I don't see why they would have to, if you can just put on occupation taxes. I guess, again, that's

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something that needs to be looked at over the interim. Senator Avery's amendment here does get closer, but I don't think it still gets me to where I need to be. It's still taxing services which, as I understand, we don't normally do. [LB165]

SENATOR SULLIVAN: Time, Senator. [LB165]

SENATOR KARPISEK: Thank you, Madam President. [LB165]

SENATOR SULLIVAN: The Chair recognizes Senator Wallman. [LB165]

SENATOR WALLMAN: Thank you, Madam President. Members of the body, I do not like to tax services, but this is the middle of a budget cycle for a city and we're trying to tell a city what to do. I've always lived next to, in Lancaster County, lived in Gage, next...Lancaster County has been a good, good neighbor. Whether it be schools, whether it be roads, they've been a very good neighbor, and that costs money. And this city has lots and lots of government buildings, whether it be federal or state, and churches. They're off the tax rolls, but yet they have services. So somebody pays for that. And I would have voted for the arena. I was asked about that many times, on taxes, because I think you've got to pay for something to get something back. And we've become a nation to cut, cut, and not willing to pay. And I'm probably in that same boat. I hate property taxes. I think property taxes are the most onerous thing on citizens there is because small businesses, homeowners, farmers, they all have to pay a huge amount of money to property. And God bless Senator...I mean Governor Tiemann, years ago, it was brought up he put this present tax structure into place. And it cost him the election because he changed tax policy. It...make no bones about it, it cost him the election, because people hammered on him for taxing more. Unless we're willing to do with a lot less services, potholes in the streets, less police, less firemen, go right down the line, cut, cut, cut, then we better be very careful what we're telling our cities what to do. They can limit themselves, like I said before, with city council and the mayors. They can take the heat. And we're going to take the heat. Senator Campbell brought up a very good point: We better (inaudible) be better prepared to pay attention to what we're doing in our budget for ourselves. So...and Senator Schumacher, with this tax. Nobody seems to complain about that tax, and I appreciate what he's brought out. I always look at that on my telephone bill also. And so why is that not changed, not giving more back to Lincoln or Omaha or Grand Island? It's for rural America, which I'm for. So I appreciate all the dialogue here. I think with Senator McGill, Senator Conrad bringing out when you change cities' policies, we ought to be very careful what we do. Thank you, Madam President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Wallman. The Chair recognizes Senator Ken Haar. And, Senator, this is your third time to speak. [LB165]

SENATOR HAAR: Madam Chair and members of the body. Senator Karpisek, could I



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ask you a question? [LB165]

SENATOR SULLIVAN: Senator Karpisek, will you yield? [LB165]

SENATOR KARPISEK: Yes, I will. [LB165]

SENATOR HAAR: Does Wilber use the occupation tax in any way? [LB165]

SENATOR KARPISEK: Yes. They've got cable and...I'm trying to think. I think maybe...gosh, I just...I just texted my...not my, but the treasurer. I don't remember what she told me. [LB165]

SENATOR HAAR: Okay. [LB165]

SENATOR KARPISEK: But yes. [LB165]

SENATOR HAAR: Okay. So Wilber decided...and by the way, I didn't think I saw their name on that list. I'm going to have to check that out--on the one from the League of Municipalities. But, so Wilber chose...who chose to use the occupation tax? Do you know? Was it the city council? Was it the mayor? Was it a vote of the people? [LB165]

SENATOR KARPISEK: I do not know. They were in place before I took office. [LB165]

SENATOR HAAR: Okay. So you got to use it. [LB165]

SENATOR KARPISEK: Yep. [LB165]

SENATOR HAAR: And Minden, on the other hand, is one community that decided not to use the occupation tax because a lot of people showed up at the city council meetings, and the city council decided not to use it. And that's local control. And I really feel strongly about this, because if we really think that Lincoln citizens really can't control their own destiny of their city through the city council, then maybe we ought to just take over the whole structure and raise their taxes, tell them how to do it. But Lincoln voters are pretty smart. I think they're really smart. The Lincoln Journal Star keeps everything transparent. The city council doesn't always vote with the Lincoln Journal Star, which is okay. Actually, the Lincoln Journal Star came out in opposition to some of this occupation tax, but that's okay. There were three or four other articles that it was being considered by the city council. People came up and talked about it, and then the city council, the elected body by the people of Lincoln, voted, and they voted to use the occupation tax in a totally legal way. One of the nice, very nice things about Lincoln is it has a relatively low property tax rate, and that happened under...well, I served with Mayor...with Mike Johanns, and now Senator Johanns, in the city council, and then he became mayor and I served under him when he was the mayor, and we

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actually cut property tax rates. And so Lincoln has relatively low property tax rates. So I just don't think that we can say that every city ought to behave the same. So the argument that's saying, well, let's give every city the chance to use this--well, they can. They can. But that needs to be up to the elected bodies in those cities. You know, it's unlike education, which we're wrestling now, where our goal is to equalize opportunity for every child in Nebraska. Not all of you agree with TEEOSA, I understand. But we don't have any such charge with cities and towns and counties. And there's nothing in the constitution that talks about equalizing the opportunity for every city and county, for all the residents in every city and county in Nebraska. That's up to the local boards. That's up to the elected boards. And so if we're going to put a cap on it, that's fine. We can live with that. If we're going to say not for equipment, we can live with that. But I really believe that AM527 is an amendment to an amendment that we could live with. And again, it recognizes local control; that the people of the city of Lincoln get to elect a mayor, they get to elect city council members to make those decisions. Elections are coming up, so there's going to be debate on all these issues in the city of Lincoln, and then the people of Lincoln can either decide to reelect a mayor or "unelect" a mayor, reelect certain city council members, "unelect" certain city council members. There's a couple districts, at least one, where there is no incumbent running. So it's going to be a great debate for the people of the city of Lincoln on what they want for their quality of life and how they're willing to pay for it. That's what budget is about. That's what local control is about. [LB165]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Time. Thank you, Senator Haar. Senator Avery, you are recognized. [LB165]

SENATOR AVERY: Thank you, Mr. President. I can't say this has been a fun morning. It has been tiring, but the whole process of making laws is fun, ultimately, when you stand back and you look at what you've done and you realize that, well, you didn't get everything you wanted but you got something and you moved public policy a little bit farther toward reaching that point where we can all be happy with it. As I said in my last turn on the mike, compromise is difficult and it requires giving up something to get something. I also mentioned that when the final product is agreed to, if you have done the job right it means that everybody involved in the negotiations will be a little bit unhappy. But nobody is going to be completely unhappy because, if somebody leaves the table completely unhappy, they have no interest in preserving the deal. So what we are trying to do is to work out a compromise where all of us will have a stake in it, all of us will be committed to preserving the deal. Nobody will be completely unhappy but nobody will be entirely satisfied. I have asked only, with this amendment, only asking that if Lincoln gives up the taxing on equipment, allow us to retain those services that we now submit to the occupation tax, by ordinance--just let us retain what we have currently in our law, let us retain that, and we will be content. We are in the process of

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negotiating that now. We only have a few minutes before the noonhour, and I would hope that we can avoid taking a vote now and give the parties plenty of time over the weekend to iron out the fine points of the compromise that is in the works. These are honorable people, people who are not only honorable but, in the case of Senator Fischer, lovable, and (laughter)...I hope that helps. And I would ask that we not move forward yet and do this on Monday. And with that, Mr. Speaker, I will end my comments. Thank you. [LB165]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Senator Avery. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR73 and LR76. Mr. Clerk, items for the record. [LR73 LR76]

CLERK: Mr. President, the Health and Human Services Committee, chaired by Senator Campbell, reports LB663 to General File. And I have a Reference report referring gubernatorial appointees to standing committee for confirmation hearing. Senator McCoy would like to add his name to LR85; Senator Cook to LB99 and to LB284; and Senator Karpisek to LB221. (Legislative Journal page 654.) [LB663 LR85 LB99 LB284 LB221]

Priority motion, Mr. President. Senator Langemeier would move to adjourn until Monday morning, February 28, at 10:00 a.m.

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