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Floor Debate  
March 31, 2011

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[LB90A LB90 LB176 LB200 LB200A LB329 LB387 LB391 LB479 LB502 LB600 LB606  
LB641 LR40CA LR131 LR132 LR133 LR134 LR135 LR136 LR137 LR139 LR140  
LR145]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Hansen. Please rise.

SENATOR HANSEN: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Hansen. I call to order the fifty-sixth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. 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.

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

CLERK: Your Committee on Enrollment and Review reports LB90, LB90A, and LB329 as correctly engrossed. I have a lobby report for this week to be inserted in the Journal. And a series of reports received in the Clerk's Office: one from the Auditor of Public Accounts, the Coordinating Commissions for Postsecondary Education, and the Department of Health and Human Services. Those will be on file and available for member review. That's all that I have, Mr. President. (Legislative Journal pages 1031-1032.) [LB90 LB90A LB329]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, General File. Mr. Clerk.

CLERK: LB479, a bill by Senator Lathrop. [LB479]

SENATOR GLOOR: (Gavel)

CLERK: (Read title.) Introduced on January 18 of this year, referred to the Judiciary Committee for public hearing, advanced to General File. There are Judiciary Committee amendments pending, Mr. President. (AM335, Legislative Journal page 773.) [LB479]

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SENATOR GLOOR: Thank you, Mr. Clerk. Senator Lathrop, before we begin, let me commend you on that picturesque award that you're displaying on your desk at this point. (Laughter)

SENATOR LATHROP: You know, I got on Ag Committee...Mr. President, thank you, and colleagues, good morning, I got on the Ag Committee honestly because I wanted to go work on some issues other than urban affairs. And they had the ag award dinner last night which I missed because I had to get home and attend to some other things, and apparently in my absence...

SENATOR GLOOR: One minute.

SENATOR LATHROP: (Laughter) In my absence, I got an award last night. And Senator Carlson, the Chair of my committee, came over and explained the award to me and the fact that he accepted it with a speech that he thought was appropriate. And the award apparently was for the most questions ever asked in Ag Committee on the least consequential bill that had ever come through there, (laughter) and it was me just trying to figure out what "liming a field" is all about. So I'm going to set this next to some of my other great achievements (laughter) and I appreciate the recognition from the Chair.

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Lathrop, you're now recognized to open on LB479. [LB479]

SENATOR LATHROP: Okay. Are we ready to have me introduce LB479? [LB479]

SENATOR GLOOR: You are recognized to open on LB479. [LB479]

SENATOR LATHROP: All right. Thank you very much and good morning, colleagues. I am pleased to open this morning on LB479, which is a bill that is important to me. I'm the father of four daughters and...yeah. So before the session began, I was contacted by a coalition in Omaha led by the YWCA that has been focused on assisting young people who are victims of sexual assault or domestic violence. As a result of their work, they decided to seek a change in the law governing consent for healthcare treatment in order to allow 18-year-old patients to consent to their own treatment following in an act of domestic violence or sexual assault. LB479 amends current statute to allow healthcare professionals to collect forensic evidence with the consent of a victim of domestic violence without separate authorization by law enforcement agency. Currently, this only applies to victims of a sexual assault. The bill also provides the victims of these offenses who are 18 years of age do not need the consent or notification of their parent, guardian, or any other person having custody of the victim prior to having this evidence collected by the healthcare professional. Currently, the patient must be 19 years of age in order to consent to the collection of evidence. LB479 also establishes a new section that would allow for an 18-year-old domestic violence or sexual assault victim to be

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examined and treated by a physician for physical or mental injuries associated with the assault without the consent or notification of the parent or guardian. It has been found that adolescent female victims are more likely to delay seeking medical treatment after a rape or sexual assault and that there are many instances where those who seek care decline treatment when they find out that their parents need to be contacted. Colleagues, let me tell you what this is about. You have young girls who go off to college. Nebraska is one of the few places where the age of majority is still 19, so for them to get medical treatment, they have to be 19. If they want treatment for a sexually transmitted disease, we've already waived that in statute. But currently if a young lady is sexually assaulted at 18, a freshman in college typically, they have to have their parents consent, and their parents may be back in North Platte and they're in Lincoln or they might be in Hawaii and the child is at Creighton. As a freshman and a sexual assault happens and you think, what's the problem? A sexual assault happens, call mom or dad. Why wouldn't they understand? But the circumstances of these sexual assaults on young women on a college campus are oftentimes complicated. They're complicated because oftentimes it involves the young person doing something they've probably been told not to do in the first place. Mom drops them off at Creighton or at UNL or Kearney or someplace like that and they say, don't go to those beer parties or watch out for the boys or stay with your friends. And it's one of these things that they didn't do that their parents might object to or might have a problem with. And so instead of going to the hospital where they need their parents consent for care and treatment, they don't do anything because there's a certain amount of mixed feelings when this happens to a young lady, a certain amount of it's partly my fault, which it isn't, and so they don't get care. This will permit 18-year-olds, which is primarily freshmen in college, to consent to the collection of evidence and to the care and treatment, and it is critical that it be done early and that there be no impediments. And let me tell you what's going to happen when they get there. When they show up at the door of the University of Nebraska Medical Center or Methodist Hospital or an Alegent hospital or the hospital in your hometown with this complaint, they will generally be hooked up with somebody from the YWCA who will begin to provide counselling, who will begin to help them with the protection orders they may need, and who will begin to encourage them to involve their family. It just makes sure that the care and treatment and the collection of evidence happens in a timely manner. It is carving out an exception from our 19-year-old age of majority and letting these young women get the care and treatment and allowing law enforcement to collect the evidence it needs to establish the crime of a sexual assault. I would encourage your support of LB479. Thank you. [LB479]

SENATOR GLOOR: Thank you, Senator Lathrop. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of that committee, you're recognized to open on the committee amendments. [LB479]

SENATOR ASHFORD: Good morning. Thank you, Mr. President. Senator Lathrop has certainly adequately...more than adequately summarized the bill. The green copy on

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page 3, starting with the word "in" on line 1 through line 8, is language that deals with civil immunity for physicians who render service to these minors, and we are striking that in the amendment. There really is no particular relationship between the civil liability issue and the issues that Senator Lathrop has described. And we are suggesting in this amendment that that language be stricken and that we simply focus on the issues raised by Senator Lathrop in the bill. Thank you, Mr. President. [LB479]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you have heard the opening on LB479 and the committee amendment. We're now open for floor discussion. Senator Pahls, you are recognized. [LB479]

SENATOR PAHLS: Good morning, Mr. President, members of the body. Senator Lathrop really struck a cord with me on this because I also have a young daughter. Just to give you a little bit of a story about this. Last year...she graduated last year from a small, private school in Iowa, and she happened to be on every resident...you know, there's a person in charge of that and she happened to be one of those people in the leadership position. And it was her responsibility to listen to the problems that young ladies would bring to her, and she told me some of the stories. She didn't give me their names but some of the stories. And it was very evident that when any young woman had something going against her, there were many obstacles that young woman felt in her mind. It wasn't just what happened to her but all the ramifications that they had to deal with. And my daughter, thanks to what I call her common sense, she would...it would be her duty is to talk to these young girls if there was an issue and to try to seek help with them. But they were up against the wall because, number one, in many cases they were thoroughly embarrassed because they didn't want anybody to know, etcetera, etcetera, you know, the...what I'm talking about. So I think anytime that we can offer any help to those people who have something devastating happening to them in their life, I think it has very, very much merit. And I do thank you for bringing this forth, Senator Lathrop. [LB479]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Harms, you are recognized. [LB479]

SENATOR HARMS: Thank you, Mr. President, colleagues. I support AM335 and the underlying bill LB479. One of the things that I have had the opportunity to experience in my previous world is working with a lot of different young people. And I can tell you that when a...whether it's a young woman, teenager, or an older adult that is raped, what I have found is that the emotional issues that that woman goes through may last for a lifetime. And the quicker you can get the woman into a treatment, medically, and then even with the mind, to address the issue, the better off you'll be. But this will be a battle that that woman will have maybe for the rest of her life and trying to have a relationship then with a male companion, even maybe their husband, becomes even more difficult when they go through this process. And so I would...I support this. I applaud what

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Senator Lathrop is doing, and it's something that I don't think we can't tolerate. And I believe we've got to give our doctors and the medical profession the protection they need and the fact that a lot of times a woman who's 18 years old or younger really doesn't want to bring this forth to the parents. And I think we've got to be able to address that issue. This is a good piece of legislation. As I said, I've had this experience in working with parents and seeing this happen on a campus that I was the president of. It is important for us and it's important for us to understand what the ramifications are and what this woman goes through, and we need to prepare for that now and this is a good opportunity for us to do that. So thank you, Mr. President. [LB479]

SENATOR GLOOR: Thank you, Senator Harms. Senator Lathrop, you're recognized. [LB479]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm a little red-faced about this. LB479 went in with an immunity provision, believe it or not, and (laughter) so it happens to the best of us. And when I saw that it was in there, I looked at it and said, how did that get in there? I've talked to Doug. I'm going to blame Doug. Usually I compliment my staff, and now they're on the floor for the victory lap and I'm going to blame Doug and my staff for putting this one in front of me with an immunity provision. And, of course, I'm just kidding. I got the best staff in the building. This has to come out. It doesn't make any sense and I think it was put in there because it was sort of imported from somebody else's idea having to do with the treatment of people with sexually transmitted diseases and it makes no sense in this bill. I would encourage your support of AM335. Thank you. [LB479]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Bloomfield, you're recognized. [LB479]

SENATOR BLOOMFIELD: Thank you, Mr. President. My big question on this is why did we stop at age 18? I think this kind of thing happens to high school girls too. Why couldn't we go to 16, 15, back where it starts happening, if Mr. Lathrop would yield? [LB479]

SENATOR GLOOR: Senator Lathrop, would you yield to a question? [LB479]

SENATOR LATHROP: I'd be happy to. And, Senator Bloomfield, that was a great question and it was something that I spoke to the good people from the YWCA about when they brought me the bill the first time. And their target in this case was essentially the high school freshmen. The other concern was, is that if you're 15 or 16, you're probably living at home with your parents and that makes it a little bit of different dynamic. And I believe it was their judgment after testing the waters that 18 was something we could move; 17 started to get into children that lived at home, same with 15 and 14. The logic is the same, believe me. If it were entirely mine to write and my

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concern, I would make it at any age. But at some point we get to a parent's prerogative and certainly with the kids that are living at home, that's...it's a little bit of a different circumstance. [LB479]

SENATOR BLOOMFIELD: Okay. Thank you. I'll certainly support this bill. Thank you. [LB479]

SENATOR GLOOR: Thank you, Senator Bloomfield. Seeing no senators wishing to be recognized, Senator Ashford. Senator Ashford waives. Members, the question is, shall the committee amendments to LB479 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB479]

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB479]

SENATOR GLOOR: The amendment is adopted. Discussion on advancement of LB479 to E&R Initial continues. Mr. Clerk. [LB479]

ASSISTANT CLERK: Mr. President, Senator Lathrop would offer AM890 to the bill. (Legislative Journal page 917.) [LB479]

SENATOR GLOOR: Senator Lathrop, you're recognized to open on your amendment. [LB479]

SENATOR LATHROP: Thank you, Mr. President, colleagues. I am here now to open on AM890, which is an accommodation to the medical folks. And as you might expect that when you write these bills and put them in, people start coming to you and say, we'd like to see a little change in the language. So that's all we're doing in AM890. It was brought to me by the Nebraska Medical Association due to a concern about the way "physician" was defined in the original draft of LB479. AM890 strikes beginning with "For" on line 15 through the end of line 18 and inserts the following language in line 19, "his or her agent, or a mental health professional as defined in Section 71-906". This change clarifies the definition of "physicians" and improves the bill and I'd ask you for the support of this amendment. Thank you. [LB479]

SENATOR GLOOR: Thank you, Senator Lathrop. Are there senators wishing to be recognized? Seeing none, Senator Lathrop, you're recognized to close on your amendment. Senator Lathrop waives. Members, the question is, shall the amendment to LB479 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB479]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of Senator Lathrop's amendment. [LB479]

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SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB479. There are no senators wishing to be recognized. Senator Lathrop, you're recognized to close on LB479. [LB479]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I appreciate your support and maybe I'll take this opportunity to thank my staff for all their hard work, but also to recognize the great work that the folks do with the YWCA in Omaha. Our law firm has a pretty special relationship with the YWCA. They are doing incredible things for women in this state, for women who are victims of sexual assault, for women who are victims of domestic assault. They bring ladies in who have been assaulted, who are victimized in relationships. They counsel them. They care for them. They help them get the care and treatment they need and they receive, and they can move forward with their lives, and they help women with self-esteem issues as well. And I just can't say enough about this organization. It's really one of the examples of what the charitable world does well in our state and particularly the city of Omaha. So thanks to the folks at the Y and I would encourage your support, again, to advance LB479 to Select File. Thank you. [LB479]

SENATOR GLOOR: Thank you, Senator Lathrop. The question before us, members, is the advancement of LB479 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB479]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB479]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB479]

ASSISTANT CLERK: LB200. It was introduced by Senator Council and others. (Read title.) The bill was read for the first time on January 7 of this year. It was referred to the Committee on Agriculture. That committee placed the bill on General File with committee amendments. (AM645, Legislative Journal page 820.) [LB200]

SENATOR GLOOR: Senator Council, you're recognized to open on LB200. [LB200]

SENATOR COUNCIL: Thank you, Mr. President and good morning. Last year I introduced and this body adopted LR453. LR453 authorized an interim study to determine the existence and prevalence of food deserts or food insecure areas in Nebraska. Food deserts are fairly universally defined as areas that lack access to affordable fresh vegetables, fresh fruits, lean meats, whole grains, low-fat dairy products, and other foods that would make...provide for a wide range of healthy food choices. Now as you all might imagine, my motivation in introducing the interim study was my belief that food deserts or food insecure areas were prevalent or most prevalent

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in urban areas like the district that I represent. What may come as some surprise is the fact that the study not only confirmed my belief regarding food deserts in urban areas, it also revealed the fact that the greatest number of food deserts in Nebraska are found in rural areas. Food deserts exist in low-income urban areas primarily because such areas have fewer supermarkets and grocery stores. The stores that do exist in these urban areas, which are principally convenience stores, stock fewer healthy food items and lower-quality fresh produce. When fresh produce is available in these stores, they are cost prohibitive and public transportation is often lacking to access the major supermarkets and grocery stores that do exist. The reasons food deserts exist in rural communities are not dissimilar--few, if any, supermarkets and grocery stores in many of our rural communities. By way of example, Senator Schilz noted during the LR453 hearing that there are two counties in his district that have no grocery or convenience stores. In one of those counties, Arthur County, the high school students operate a grocery store to fill the void. Needless to say, distance to retail grocery outlets is a real issue in our rural communities as further evidenced by the distance that Banner County residents have to travel to a grocery store. Again according to Senator Schilz, on average residents of Banner County face a 40-mile round trip to access a full-service grocery store. For many in Banner County, the distance is far greater. A representative of the Center for Rural Affairs who participated in the interim study and testified at the hearing also provided an example of the challenges faced by the residents of the community of Cody, which lies about 30 miles west of Valentine. Cody does not have a grocery store so most of its residents are forced to make the 30-mile one-way trip to Valentine. This traveling distance presents issues of food safety relative to the need to keep certain food products cool and others warm. The LR453 study revealed numerous consequences of the existence of food deserts. National as well as Nebraska-specific research shows a direct correlation between the existence of food deserts and high rates of preventable, diet-related, chronic diseases. A study conducted in Douglas County revealed that the areas of highest incidence of obesity, Type 2 diabetes, and cardiovascular diseases corresponded with the areas identified as food deserts. Data provided by the Center for Rural Affairs showed that rural communities actually have higher incident rates than average of most of these diet-related diseases. What did the LR453 study reveal regarding the cost of these health disparities associated with food deserts? It is projected that if we continue down the current path with regard to the incidence of Type 2 diabetes, coronary heart disease, and other diet-related diseases we can expect to incur approximately \$1.7 billion in healthcare costs over the next ten years. In an effort to begin eliminating food deserts and reap the associated health and economic benefits identified by the LR453 study, I introduced LB200. I want to begin by expressing my appreciation for the support of LB200 evidenced by the Agriculture Committee's priority designation of this bill. LB200 establishes the Nebraska Healthy Food Financing Initiative Act. The Healthy Food Financing Initiative Act is designed to provide financial assistance for food desert intervention programs such as the establishment and expansion of farmers' markets, community gardening projects, food cooperatives, and mobile markets and delivery systems. The Healthy Food Financing

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Initiative Act is also designed to provide incentives for the construction of new retail grocery outlets and the renovation or expansion of existing facilities. The benefits from such food desert intervention programs are multifold. Bringing supermarkets to underserved areas and helping smaller grocery and convenience stores, for example, the students in Arthur, to expand their stock of healthy and affordable food items, we would create jobs, increase revenue, increase the potential for other commercial revitalization, and increase the capacity of community organizations and coalitions such as No More Empty Pots in Omaha and Second Harvest here in Lincoln. Increasing the number of farmers' markets not only serves to increase access to fresh food, it boosts the incomes of local farmers. Community gardens help residents in low-income areas supplement their meals with fresh produce. Additionally, they can provide a source of revenue to area residents. Indeed, a number of young people were actually employed last summer in Omaha through the Impact One program to tend the community gardens. Finally, increasing access to fresh, affordable produce will serve to decrease the incidence of diet-related diseases such as Type 2 diabetes and cardiovascular disease. As originally drafted, LB200 provided for the creation of the Healthy Food Financing Initiative Cash Fund into which \$150,000 would be transferred annually from the Agricultural Opportunities and Value-Added Cash Fund. The original draft of LB200 also provided that the first \$60,000 of the 2011 appropriation would be used to cover the cost of a study to be conducted by the Public Policy Center of the University of Nebraska. After the hearing on LB200, I received additional information from the proponents. When coupled with the information that was ably gathered by the Agriculture Committee staff, it essentially negated the need for the study and established that the program objectives would be far better served by making all of the appropriated funds available for distribution for food desert intervention programs. Accordingly AM645, which will be introduced, provides for the deletion of those sections from the original draft of the bill, which provided for the study. It was also subsequently determined that the Healthy Food Financing Initiative Act could and should be funded through a direct more non-General Fund appropriation rather than transferring funds from the Value-Added Fund. In fact, through discussions with the Department of Economic Development, it was determined that the appropriation for the Healthy Food Financing Initiative Act could be made by simply reducing the tax credits granted for eligible programs under the Community Development Assistance Act from \$350,000 to \$200,000 without adversely affecting that program's objectives because only \$200,000 of those tax credits are committed and the remaining \$150,000 is not sufficient to affect a program under that act. Thus, AM645, which will be introduced by the Agriculture Committee Chair, Senator Carlson, also provides that the amount of tax credit granted for any fiscal year under the Community Development Assistance Act shall not exceed \$200,000, which allows the appropriation of \$150,000 annually for the Nebraska Healthy Food Financing Initiative Act. [LB200]

SENATOR GLOOR: One minute, Senator. [LB200]

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SENATOR COUNCIL: As a result of these changes, there will be an A bill that appropriates \$150,000 from the General Fund, which is where the Community Development Assistance Act tax credits are found. LB200 is a small first step toward the elimination of food deserts in Nebraska. I would urge you to advance LB200 to Select File. Thank you very much. [LB200]

SENATOR GLOOR: Thank you, Senator Council. As the Clerk stated, there are amendments from the Agriculture Committee. Senator Carlson, as Chairman of the Ag Committee, you're recognized to open on the committee amendment. [LB200]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The committee amendment deals primarily with the funding for the Healthy Food Financing Initiative Act created by the bill. AM645 strikes the original Section 7 of the bill which provided for transfers from the Agricultural Opportunities and Value-Added Partnership Cash Fund in each fiscal year of the upcoming biennium. A corresponding internal reference to these transfers in Section 5 of the bill is also stricken. The new Section 6 inserted by AM645 states that legislative intent that \$150,000 annually be appropriated to the program. This General Fund appropriation is offset by a new Section 7 which would lower the annual tax credits expenditure allowed under the Community Development Assistance Act from the current \$350,000 annual allowance down to \$200,000. I'm assured by the Fiscal Office that the revised fiscal note for LB200 with adoption of this amendment would result in no net General Fund impact. Committee amendment also strikes Section 6 which provided for the engagement of the Public Policy Research Center of the University of Nebraska to prepare a research report. The bill as introduced allocated \$60,000 in contract with the Public Policy Research Center to prepare this report, and elimination of Section 6 would free up these funds for direct program activities. The topic addressed by LB200 is one that's gained national attention, and a number of states have taken initiatives similar to this one to improve food choices for areas that have more limited access to healthy foods. I think one thing that's been apparent is that more successful approaches are those that support local initiative by community leaders and entrepreneurs. The committee was impressed with the witnesses Senator Council worked with that appeared for the bill. I think there are a number of ideas that are taking root in her community and I applaud Senator Council for her interest and leadership and I would ask you to support AM645. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Carlson. Members, we now move to floor debate. Senator Nordquist, you are recognized. [LB200]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the amendment and the underlying bill. Ultimately, I have very real concerns about the growing epidemic that we see with childhood obesity in our state and around this nation. It's a serious medical issue that ultimately is going to cost state and local governments

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and our healthcare system significantly into the future, leading to diseases, heart diseases, diabetes, blood pressure, high blood pressure. Recent stats in Nebraska show over a quarter of our children are obese, over 21 percent of our teens are obese, and that number continues to grow and it's certainly targeted at areas of...with...targeted low-income areas is certainly a problem. And in those areas, the lack of full-service grocery stores and access to healthy foods is a crux of the problem. And this bill is a good step towards moving forward to addressing that. It'll ensure...take a step forward to help ensure our citizens have access to healthy food choices, that they don't have to travel, you know, great distances, that we can work to build that infrastructure in our state so that healthy foods are available. Senator Council said the Center for Rural Affairs testified and they did a study that came out towards the end of...it was in October of 2010. They cited nationally in the Midwest there are over 803 counties just in the Midwest alone that the populations have to drive great distances to reach full-service grocery stores. And as the Director said, it's pretty easy to get beer and donuts but you can't buy an apple in a lot of these communities whether they're in urban or rural settings. I do want to note, Senator Council certainly has been a leader on this. And last week I got a call from NCSL. They wanted me to reach out to Senator Council and for her to present this idea to the national meeting of NCSL in April. So certainly this effort is being recognized as a great collaboration in our state and I think it's something we should be proud of and I appreciate Senator Council moving this legislation forward. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Nordquist. Senator Hadley, you are recognized. [LB200]

SENATOR HADLEY: Mr. President, members of the body, would Senator Council yield to a question? [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR HADLEY: Just for the record, Senator Council, I noticed it was the Banking Association and the retail grocers that I believe came in, in opposition. Is that correct? [LB200]

SENATOR COUNCIL: No, they came in, in a neutral capacity. [LB200]

SENATOR HADLEY: Oh, they came in, in a neutral. Was there a reason that they came in neutral? [LB200]

SENATOR COUNCIL: Yes. And I had conversations with the representatives of both the Bankers Association and the retail grocers. And the concern from the bankers was

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that they didn't want it to appear that financing for a grocery store construction and expansion would not be available through our financial institutions currently. And I indicated to them...and after looking at it we're talking about an annual appropriation of \$150,000. We're not...while the bill speaks to grocery store and retail convenience store expansions, yeah, the likelihood that much of this money is going to go to those types of activities is minimal. And that I certainly appreciated hearing from the banking community their willingness to provide financing for grocery store construction and expansion because that hasn't been the experience, particularly in my district of seeing that level of financing. And they agreed to work collectively. And the grocery, the retail grocers really didn't state any real reason... [LB200]

SENATOR HADLEY: Okay. [LB200]

SENATOR COUNCIL: ...that...they basically supported the concept of LB200. [LB200]

SENATOR HADLEY: Okay. Thank you, Senator Council. Senator Carlson, you mentioned that there would...if I heard correctly, that there would not be an impact on the General Fund, but I notice we have an A bill that talks about \$150,000 impact on the General Fund. Could you run through that quickly again? [LB200]

SENATOR GLOOR: Senator Carlson, would you yield? [LB200]

SENATOR CARLSON: Yes. Yes, I would. Senator Hadley, the \$150,000 comes about as a result of balancing out tax expenditure credits not cash, and it takes the Community Development Assistance Act from current \$350,000 down to \$200,000, and that \$150,000 of credit is what's being used to fund this bill. And the Fiscal Office has assured us that that does not have an impact on the General Fund. [LB200]

SENATOR HADLEY: Okay. Thank you, Senator Carlson. I do stand in support of AM645 and LB200. I think that both the amendment and the bill are important and I think that in both urban and rural areas, the problem is an economic problem. It's trying to get grocery stores I know. In the rural areas it's a problem of financing and it's a problem of getting people willing to risk capital. And we need to have that because as someone said, you can get a donut and a cup of coffee at the local convenience store but you can't buy normal groceries in a lot of our areas. So I appreciate Senator Council bringing this bill. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Hadley. The Chair recognizes Senator Louden. [LB200]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill, I...and I should point out I probably live farther from a grocery store than anybody else here because I haven't been close...we haven't lived...it's been 30 miles to

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a grocery store since 1967 where I live and we since have learned to live like that I guess. We go to town, buy our groceries, and have the supplies. Anyway, as I look at this bill, I'm wondering what we're trying to do with it here. As I look at the committee statement, it lists there that concerns associated with lack of healthy food and articulated public welfare objectives and stimulating financing for retail groceries and other food sources in underserved communities. Now how are we going to do this? Is this money to be used to finance a grocery store? Is it to be used to finance a delivery service? Would Senator Council yield for questions? [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. And I'll answer your question, Senator Louden. The way the program is set up, it's a grant program that would be administered through the Rural Development Commission. An eligible organization would submit applications to Rural Development Commission for grants, for example, to establish a farmers market or to expand a community garden or take one of the convenience stores where you can get a cup of coffee and a donut but you can't get fresh produce or no-fat dairy products because they don't have the capital to invest in like a freezer or a cooler. They... [LB200]

SENATOR LOUDEN: Yeah, I understand that part. Now my next question is, have you heard of this Schwan distribution company that services these rural areas? Now would they be eligible to go in and get grant money to do what they're doing? Right now Schwan is an outfit that drives around these rural areas and they deliver frozen food to your door, whether it's fish or ice cream, different kinds of meats, meals, anything you want to buy there. But it's frozen and out of their trucks and they deliver it to your door. Now would they be eligible to go out and get this grant money to perhaps start a new route out through some of the rural areas? [LB200]

SENATOR COUNCIL: That does exist because the bill does speak to food delivery systems, but they'd have to meet the eligibility requirements and that is to be serving the needs of an underserved area and then meet the other eligibility requirements for... [LB200]

SENATOR LOUDEN: Do you have Schwan deliver food into your...in your district or where you live in town? [LB200]

SENATOR COUNCIL: No, sir. [LB200]

SENATOR LOUDEN: Now is that because the city of Omaha don't allow it or because they don't think it's worth their while because we have... [LB200]

SENATOR COUNCIL: Do we? [LB200]

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\_\_\_\_\_: Yes. [LB200]

SENATOR COUNCIL: Someone just...they may be in their neighborhoods, not in my neighborhood. [LB200]

SENATOR LOUDEN: Okay. That's what I'm wondering because we have them all over there and I'm wondering if that company... [LB200]

SENATOR COUNCIL: I can't even get a pizza. (Laughter) [LB200]

SENATOR LOUDEN: ...is already doing it, you know, why would we set something up just to pay them some money to do something that they already have because they have that set down? If it's a paying proposition, why they have people run those routes. And that's the reason I'm wondering what we were trying to improve on here. And as far as having these small grocery stores, I mean, Arthur did that and they called it their Wolf Den, and they do have some groceries there that people have. But if you're into buying these fresh fruits and vegetables and stuff, I can tell you some of the major towns don't do that good of a job with... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR LOUDEN: ...with some of those vegetables and grocery products. Is that one minute, sir? [LB200]

SENATOR GLOOR: Correct. One minute. Now 50 seconds. [LB200]

SENATOR LOUDEN: Okay. Anyway, I'm wondering, you know, if this is something that...whether it needs to be done I guess. I appreciate what you're trying to do and look out for these rural areas and areas that aren't well served, but there are corporations out there that do that now. And I will continue to look at this and listen to the dialogue. But at the present time I'm somewhat...I hate to say it, Senator Council, but I am somewhat dubious about this bill. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Louden. Members wishing to speak: Price, Karpisek, Sullivan, Ken Haar, Coash, and Council. Senator Price, you're recognized. [LB200]

SENATOR PRICE: Thank you, Mr. President and members of the body, good morning. I find LB200 and AM645 to be bills based in a fundamental need and a service that we should expect that citizens of Nebraska could find, that you could find food that was good for you and plentiful and with variety no matter where you lived in the state. Yet I do have some concern and would Senator Council yield to some conversation? [LB200]

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SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR PRICE: Thank you, Senator Council, and I appreciate you bringing the bill. I think I understand what you're trying to do here. I believe we heard about this in committee before when we were there in the Ag Committee. And my question then is, when we start to invest in developing companies or entities to do something and we give them this initial grant, what happens after the money runs out? I mean, do they only get one grant or can they continually come back for grants? [LB200]

SENATOR COUNCIL: The way the bill is written, Senator Price, they are one-time competitive grants. [LB200]

SENATOR PRICE: Okay. And I thought as much. But the reason I say this is, you know, as Senator Loudon said, if you're 30 miles away from a grocery store, you're 30 miles, my concern is that we'll start something and then it won't keep going. And then what's the next logical step because the economic viability of the business model? And I'd like to give you the rest of my time, Senator Council, to expound on how that business model continues and we continued this project if we're not going to give more grants and how we overcome that? Thank you. [LB200]

SENATOR GLOOR: Three minutes ten seconds. [LB200]

SENATOR COUNCIL: And I thank you, Senator Price, and I appreciate the question. There is merit to the question. But if you look at where the emphasis is in LB200, it's in assisting in the development and expansion of farmers markets, food cooperatives, community gardens. So, for example, a \$10,000 one-time grant to assist in developing...to establish a farmers market should enable that farmers market to continue to operate after the initial seed capital has been provided through LB200. The same...one of the testifiers at the hearing on LB200 operates a small food cooperative in the rural areas surrounding Douglas County. For her operation, it provides an opportunity for her to extend their current food cooperative further into the urban areas of Douglas County and open up more market for them. And everyone who testified in support of LB200 understood that that's what we are talking about, one-time competitive grants to provide the seed capital, if you'd like to say. One of the testifiers that was most impressive is a young man who's trying to develop a hydroponics system so that he can begin to grow products right in the rural...in the urban areas, looking for a small grant to help provide some leverage for him to obtain capital to go forward. So we're not talking about providing full funding sources for, you know, like a full-service grocery store, although it's in the bill. And as I explained to my colleague Senator Karpisek who was present and didn't vote on this because his concern I think was kind of similar to what I

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understand Senator Louden's concern to be... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...that these large companies who are already doing this are going to access or try to access the funds here. But I would submit to you that the reason we placed it with the Rural Development Commission is because of their understanding of what the needs of our underserved communities are. The eligibility requirements are they have to look at the degree to which the project requires an investment of public funding to go forward, so if it's a big private company, it should not need to rely on public funding for it to advance its business objectives; the degree to which the project will provide new markets for Nebraska-grown fruits and vegetables; the degree to which the project will have a positive economic impact on the underserved community; and any other criteria that the commission, the Rural Development Commission, deems to be appropriate. So we have circumscribed what it is that we want these... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR COUNCIL: Thank you. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council and Senator Price. (Visitors introduced.) Continuing with floor discussion, Senator Karpisek, you're recognized. [LB200]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Council yield, please? [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR KARPISEK: Thank you, Senator Council. I really like the idea behind this bill. I do have a couple of questions for you that I'm a little concerned about. On page 3, line 25 it states that this could be used for, "New construction of retail grocery structures," and then going on to page 4, "renovations, expansions," so forth. Then on line 11, it states, "Funding made available for projects included in subdivision (a) of this subsection may be used for: Site acquisition and preparation; Construction costs;" and then the rest I don't have an issue with. I'm a little concerned if a major...I don't want to say their name because they don't need any more advertising, would come in and be able to use this money to set up a grocery store that they're already thinking about doing. [LB200]

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SENATOR COUNCIL: May I respond? [LB200]

SENATOR KARPISEK: Yes, please do. [LB200]

SENATOR COUNCIL: And, Senator Karpisek, in anticipation of that concern, that's why the eligibility requirements for a grant are written the way they are written. If I could direct your attention to page 5 of the green copy, "Applicants shall be evaluated on the following criteria to determine the funding awarded." One is...I'd specifically direct your attention to (iii), "The degree to which the project requires an investment of public funding to move forward, create impact, or be competitive and the level of need in the area to be served." So the example you're giving, you know, a big major chain facility is not going to be able to demonstrate that they need public funds in order to carry out their program. So we tried in the bill to develop a criteria that laser focuses the money to the types of projects we're trying to encourage the development of. [LB200]

SENATOR KARPISEK: Okay. Thank you very much for that clarification. I read that. I guess I did not understand it to be that. That does take away a lot of my concern. A lot of my concern is these major stores coming in and being a very huge disadvantage to the locals that are trying to stay there, and we've seen it over and over, especially in rural Nebraska. And I think that there is more talk of them coming into even smaller communities and putting up a smaller store. That is not what I would like to see happen out of this. Again, I think it's a great idea. I love the farmers market idea, the community gardens idea, all of those sort of things. That was a concern of mine and I thank you for alleviating some of my apprehension on that. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Sullivan, you're recognized. [LB200]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I think I perhaps may have said this on the floor once before just how important a grocery store is to us in a small town. In fact, I've said if our grocery store closed in Cedar Rapids, I think I'd resign as a senator and go back and run that because it is so very important to me. And I thought it was interesting, too, that when Senator Council referred to the Nebraska Bankers Association, I know, in fact, there is one Nebraska...former-Nebraska banker who sold his institution in a small rural community. At about the same time, the grocery store closed, and he now is the grocer in that small town. So bankers do have and care a great deal about the grocery store that's on the main street of their community, but it's not without its problems and I'll get to that in a little bit. Because one of my pet peeves is, in some of these grocery stores in our small towns there are not near enough people that shop there that unfortunately do their business out of town and are enticed to go to the big conglomerates to buy their groceries. And if we all did shop at home, that would make a big difference in support of those local grocery stores. Also, gardening at home makes a big difference. I have a five-year-old grandson who lives in

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Omaha. And I've always been a big gardener but of late don't have time to do that, so I carved out probably a four-by-four spot just off my driveway this summer so our grandson could plant radishes and peas and lettuce and maybe a couple of other things. And I was amazed at how much produce we were able to take off that very tiny little plot and serve wonderful meals of fresh vegetables. So I'm concerned about this bill and I like the concept of it. But I wanted to ask Senator Council a couple of questions about the details of it, if she'll yield. [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Definitely. [LB200]

SENATOR SULLIVAN: I know that you've made a few comments about the kinds of programs that you see emanating from this, but can you expand on it a little bit more? You've talked about new delivery systems but what are some of your other visions of the kinds of things that would be developed? [LB200]

SENATOR COUNCIL: Okay. For example, if I could give you an example of an urban-based initiative. Several of Nebraskans were...had the opportunity to travel to Milwaukee to see an urban agriculture system, and that system is based upon a series of greenhouses located right in an urban area where the residents in the area are employed to handle the production of food products, and then they market it. The front of the greenhouse is a farmers market and they market the food so there's fresh fruit...there's fresh vegetables available to the residents. It provides employment for the residents. And, for example, to replicate that in my district, an organization like No More Empty Pots which is a coalition of organizations that deal with the entire food chain--they deal with production, distribution, consumption, recycling--could access a grant to develop that type of production system. [LB200]

SENATOR SULLIVAN: Well, that's encouraging to hear that because...and you explained why you're focusing on the Rural Development Commission to field these grant applications. But I think what you just said is I think probably really one of the focuses of your initiative in this legislation. But I will say that perhaps there is a missing part of the puzzle in all of this that currently exists in terms of... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR SULLIVAN: ...of a resource that needs to be utilized. And that's the Cooperative Extension Service, because what we're talking about here is not necessarily only making things available to people, it's the education of how they not only can capitalize on their own resources, but then use the things, resources, that are available to them whether it's fresh fruits or fruit...vegetables, growing their own. And I think the extension service has a network all across the state and into the inner city of

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Omaha that really could be capitalized on. So I hope they will...first of all, I know someone from the extension service testified at the hearing--I saw that in the committee statement--but I hope that they will hear this message because I think that not only can they use their own existing network, perhaps... [LB200]

SENATOR GLOOR: Time. [LB200]

SENATOR SULLIVAN: ...there is some applications... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR SULLIVAN: ...for grants that can be used. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Sullivan. Members wishing to be heard include: Ken Haar, Coash, Council, Loudon, Price, Howard, and others. Senator Ken Haar, you're recognized. [LB200]

SENATOR HAAR: Mr. President and members of the body. As I've said before with term limits and so on, we know a lot about a little--I guess it's the committees we're on really determines that--and then a little about a lot. So this is really the first time I've taken a look at this bill. And so I have a few questions for Senator Council if she... [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR HAAR: Okay. Well, I'm listening carefully and I like healthy food. It sounds good. Would you say this is mostly economic development or health improvement bill? [LB200]

SENATOR COUNCIL: I think it is a combination. I think the economic impact certainly can be identified, but we're talking about health and addressing access to healthy foods and to eliminate some of these chronic diet-related conditions that exist in communities across this state. [LB200]

SENATOR HAAR: Thank you. Also I was wondering, as you've looked around, does this new fund being set up make available matching funds? I mean, are there places that will match these kinds of monies? [LB200]

SENATOR COUNCIL: Yes, there are foundations and organizations that will provide for matching funds. And the way LB200 is drafted, the Healthy Foods Financing Initiative Act Fund that is created is able to accept donations and grant monies as well. [LB200]

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SENATOR HAAR: So part of this is that this provides a...I mean, like \$100,000 doesn't sound like a lot of money to do much, but you're saying that there is potential for matching money here, and so that \$100,000 could be multiplied by some factor? [LB200]

SENATOR COUNCIL: Absolutely, and it's \$150,000, but yes. [LB200]

SENATOR HAAR: I'm sorry. Yeah. [LB200]

SENATOR COUNCIL: The No More Empty Pots, for example, has been working with a number of foundations who have an interest in improving access to fresh produce, lean meats, low-fat dairy products. And so access to this fund could provide leverage for them to access other funds, including funds available directly from the USDA which, after LR453, did grant the Omaha area consortium what's called a listening session that was put on by SARE of USDA, and they're very excited about the prospects for expanding the types of initiatives that these dollars could assist in the initial start-up of. [LB200]

SENATOR HAAR: Good. I would give the rest of my time to Senator Council if she wishes. [LB200]

SENATOR GLOOR: Senator Council, 1 minute 55 seconds. [LB200]

SENATOR COUNCIL: Thank you. Just quickly, and in response to Senator Sullivan, I think that I was rather candid and I intended to be candid. My initial motivation when I requested the study under LR453 was to look at what I knew to be food deserts existing in urban areas. And as I indicated in my opening, to my surprise the study revealed that the overwhelming majority of food deserts in Nebraska exist in rural communities, and that there was a need to provide ways by which small-town facilities that may need to add a freezer or a cooler or somehow improve their delivery system so that they could provide full-service grocery types of products, that that's what LB200 is designed to facilitate. Like I say, I make no bones about it. I was initially looking at food deserts that I knew existed in urban areas. And I was flabbergasted, quite frankly, to find the number of food deserts existing... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...in rural areas. I was pleased to partner with the Center for Rural Affairs, members of the Rural Development Commission who have all participated in the development of LB200 since it was originally introduced but going back last year to LR453. And, in fact, it was the data provided by the Center for Rural Affairs that led me to conclude that we didn't need to appropriate any portion...allocate any portion of

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this appropriation to another study because the Center for Rural Affairs has already done that study. The data is available and can be used by the Rural Development Commission in administering this program. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Senator Coash, you are recognized. [LB200]

SENATOR COASH: Thank you, Mr. President. Good morning, members. I appreciate Senator Council's bill and the underlying amendment. And there's been a lot of talk about the access to food in the urban areas and the rural areas, good food, healthy food. This bill addresses another issue that this Legislature has attempted to address several times in my tenure, and that's the issue of childhood obesity. One of the things that this bill does is it addresses that in a scientific way. This isn't just a good idea. Science will tell us that access to healthy food will address the problems of childhood obesity and ultimately the cost of that as those children become adults. The most recent statistics in our state show that 31 percent of Nebraska children are obese or overweight--31 percent. Three out of every ten kids in our state is overweight. The increasing numbers of obese children has led many health experts to predict that the current generation of children will be the first in our nation's history to have a shorter life than their parents. That's a big deal. This is a small step but I think it's a good one. I'm going to give you another statistic here to illustrate the point. Eating a healthier diet that includes more fresh fruits and vegetables helps reduce the risk of childhood obesity and chronic disease. Unfortunately, though, many communities across the United States and Nebraska lack access to healthy food options. One study of white and black Americans found that adults living in areas with one or more supermarkets were likely to meet dietary recommendations for fruit and vegetables than adults in areas with no supermarkets. In addition, the research suggests that the greater access to supermarkets may be related to a reduced risk of obesity while greater access to convenience stores may be related to an increased risk of obesity. So our hearts don't just tell us this is a good idea, science tells us it's a good idea as well. As I was listening to the debate, I started to look up some statistics to see how this might actually affect some communities in our state. If you want to go buy a bag of carrots, it's going to cost you about \$2, somewhere between \$2 and \$3 for a bag of carrots. If you want to go buy a happy meal, it's going to cost you about the same amount of money. If you are of limited means and you have to feed your child and you got \$3 in your pocket, and the McDonalds...and this is not a slam on McDonalds, but the McDonalds is a block away, the supermarket is eight blocks away, which one are you going to choose? You're going to choose the option that cost just as much but is much closer because you're not going to feed your kid just a bag of carrots, you're going to have to get other things as well. So you got a complete meal, albeit unhealthy, versus part of a meal and it cost the same and convenience is a factor. What LB200 is attempting to do is to make that option of healthier food more accessible and this is important. This is important from a health perspective and health cost perspective and I do appreciate Senator Council's bill and I

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urge the members to support it. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Coash. Senator Council, you're recognized. [LB200]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I hit my light again because I also wanted to respond to Senator Sullivan's suggestion with regard to the county extension. And just to let Senator Sullivan and others know that I'm intimately familiar with the services provided by our county extensions, I am a former member of the board of the Douglas-Sarpy County extension service. The county extension has been an active participant in the coalition that has developed. And when I talked about metropolitan Omaha, this is a northeast Nebraska, southwest Iowa collaboration to develop a regional food system so that we can begin again to provide the bulk of the food...fresh food that our residents consume. It's amazing to look at the difference a half century makes and how much of the fresh produce that we consume used to be grown within our regional food system and how it has flipped where maybe 80 percent of it was grown locally and we had to import 20 percent; now it's 20 percent is grown locally and 80 percent of it's imported. And what we're hopeful that if we encourage more community gardening, if we encourage more farmers markets, if we encourage more food cooperatives, we expand the markets for local farmers and encourage more people to become involved in small farming. I'm not talking about the huge corporate farms but small farming and to see the value of being able to produce these foods locally. So the extension service is definitely involved. And I'll just tell you one of...a very interesting project that is occurring right now and it's because there's this consciousness-raising around community gardening and healthy foods and secure foods that one of the largest homeless shelters in Omaha, with the assistance of Douglas-Sarpy County extension, is developing their own garden. And the residents of that shelter are going to be taught to cultivate that garden. So we're going to be seeing a lot of benefits from increasing it. And I was most impressed. The trip that I had indicated to you that I was able to take in February of '09 to Milwaukee, I was also able to take a young man from north Omaha who had just been assisting City Sprouts, which is one of our larger community gardening not-for-profits. He had the opportunity to experience this urban gardening initiative in Milwaukee. And you're talking about lighting a fire under this young man so that now all he does is promote gardening and encourage some of his peers, many of whom were engaged in less-than-positive behavior, encouraging his peers to become involved in gardening. And, in fact, several of them were actually employed working in the City Sprouts gardening this past summer through a summer youth program. So we're getting young people engaged and excited about gardening and participating in gardening. So I think there's so many positive by-products from providing... [LB200]

SENATOR GLOOR: One minute. [LB200]

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SENATOR COUNCIL: ...the assistance, as small as it may be financially, to these organizations to expand their programs and initiatives and the benefit to us, direct and indirect, economically, and from a health perspective, I think are immeasurable. So for an investment of \$150,000, I think we'll see tens of thousands of return in terms of better health and economic development. And, again, I urge your advancement of AM645 and LB200. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Senator Louden, you are recognized. [LB200]

SENATOR LOUDEN: Thank you, Mr. President and members. Some of the people that are really impacted because of a long distance to their grocery stores are some of the elderly that get to where they aren't able to drive anymore, and those are the ones that are impacted in these rural areas. And there again is where we have to rely on these handy buses or this community bus system that will pick up those elderly once a week or so and they usually take them shopping, something like that. And those are one of the agencies that I...my understanding is, is going to be cut out some money. So this is real serious for elderly people to find ways to get to grocery stores. As I've looked at this and listened to the dialogue on this bill, I think of here a couple of years ago introducing legislation that had to do with the Department of Agriculture and their allowing people to start up some kind of a bakeries or cooking areas out in the rural areas, and their regulations hadn't been brought up-to-date for 15 or 20 years or so. And what they were doing was setting it up so that it was nearly impossible for someone to start some kind of a business to furnish food or do cooking or sell bakery goods or something like that in the area. So I'm wondering when we start allowing to try to get these grocery stores started in some of these areas, how is that going to be affected by the Department of Agriculture with their inspection system? At the present time, there's inspection system that run around and supposed to check in on your restaurants and that sort of thing, but I don't know how accurate they are. In fact, one of the restaurants is closed in Thedford now that had been there for years. They closed up. So part of it is a business venture and we also have to have some consideration from the Department of Agriculture with the regulations to help these people get something started. Now I don't know what the regulations are to start a grocery store. But if it's like some of the other ones I think it should probably be a point of interest to see what regulations they have and whether they've been brought up-to-date on starting some of these small grocers in some of these rural areas, because if the regulations are too severe, it won't happen anyway. And we have...this could be how our Schwans and these operations like that are able to sell in those areas. I don't know how they're regulated and, of course, the food they sell is all frozen, so maybe that makes a difference. So if you're starting a grocery store, what are the regulations if you have perishable food in there, and what do you have to have in order to start it up? What kind of facilities do you have to have? You get into these rural areas, you got to talk about the waste water. Where does that go? And that sort of thing. So there's a lot of things that enter into this that we've...what is it, it's a

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great idea but there's a lot of other issues there that I think have to be resolved before we can probably really have much success with something like this. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Loudon. (Visitors introduced.) Members in the queue wishing to be recognized: Price, Howard, Pahls, Wallman, Nelson, and others. Senator Price, you're recognized. [LB200]

SENATOR PRICE: Thank you, Mr. President and members of the body. I want to say right now so Senator Council understands I do rise in support of LB200 and the amendment. I want that to be clear. But as often is the case, we ask these questions to hopefully understand, make a record and, if possible if we need to, to improve on it. Here begins some of the questions I have. If we were going to make a grant process, a one-time grant and going to...let's say they're going to buy a capital item for their business, they're going to have to put together a business plan before they go to the bank. And part of this as we understand and I believe Senator Sullivan was telling me, you know, one of the great things about having the grant monies is that you're going to be able to leverage that. In buying this piece of equipment, you're buying an asset, therefore, you'll have the ability to finance this acquisition. But you're also going to have to show one of the things on that is how your cash flow is going to be. You know, it has to be a good business decision. And my question will be, how many grants will get accepted and be part of the funding and help a funding mechanism if the cash flow isn't there in the community? Therefore, I was hoping that what we would see is we'd see smaller projects, very small so the cash flow would always be there. One of the things that would concern me that there would be a sudden growth that's unsustainable. All right. So that was...that's one aspect there. Earlier we had heard talk about Schwan distribution. They're a very, very, very large company. I believe they're probably in all of the lower 48 states. So I don't know if they'd even qualify unless there was something put in the legislation that said if they're the best and the only and they want to serve an underserved area, maybe we don't limit them because they happen to be large. And then, finally, the question I have is...and we have to do this, we have to run down some of these traps and then rabbit holes to make sure we haven't left something untended, and that question is: If they don't qualify for enough of these grants in a given year, do they get another \$150,000 added on top of what was leftover from the year before or is it they only get whatever brings them up to \$150,000? You know, the last thing we want to see is another cash fund that can be raided somewhere. You know, that's problematic. So I'm not sure how that mechanism works. I'll be listening to understand that, and I would yield the balance of my time to Senator Carlson if he would like to use it. [LB200]

SENATOR GLOOR: Senator Carlson, 2 minutes 10 seconds. [LB200]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Price. We're

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talking about an entity in this bill that begins to provide some kind of food supply. We're talking about some kind of a food production enterprise. We might be talking about a pilot project, and there's been concern registered this morning on the floor about the use of public funds for such things. And I think back..let's talk about some other entities that gained their foothold in this country by use of public funds. Big oil. Big oil receives tax benefits now. Earlier, it goes on and on and on. Alternative energy receives tax credits. Renewable fuels--wind and solar. That's the way these entities get a foothold and get started and we find out whether or not they contribute to the energy needs of our country. The Nebraska College of Technical Agriculture has a program that students can eventually own 100-head cow herd. [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR CARLSON: Those opportunities are...come about as a result of a use of some public funds. That's okay. And I applaud Senator Council for bringing this idea forward. The amount of money that's going into it is not going to be used for any big food chain or big food franchise or big food cooperative, but it may help a few entrepreneurs get started in a business that can fulfill a need that we have in our state. And I fully support LB200 and the AM645. Thank you, Senator Price. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Carlson. Mr. Clerk for an announcement. [LB200]

CLERK: Mr. President, I have announcements, but if I may, a couple of items for the record.

SENATOR GLOOR: (Gavel.)

CLERK: Senator Karpisek has an amendment to LB641 to be printed and a new resolution, LR145 that's by Senator Bloomfield and that will be laid over. Mr. President, Education Committee will meet at 10:30 in Room 2022; Education at 2022 at 10:30. And Natural Resources will meet at 10:30 under the south balcony; Natural Resources, south balcony at 10:30. Thank you. (Legislative Journal pages 1032-1033.) [LB641 LR145]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with floor discussion, Senator Howard, you are recognized. [LB200]

SENATOR HOWARD: Thank you, Mr. President, members of the body. And since I'm on the Education Committee, I'll make this brief and get in Room 2022. Since I've started in this esteemed body in 2005, I've heard the word "sustainability", and I heard the word again this morning. My friend and colleague Senator Price brought it

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up--sustainability. The curious thing to me is that we always bring out the word sustainability when we're talking about a very minimal amount of funding that will help humans, people, kids. Always the problem is, can we sustain this? (Laugh) It's not maybe that it's a bad thing but can we sustain this. When we're talking about big-ticket items, and I could mention a few that come to mind but I'm sure that you all know them too, we don't worry so much about sustainability. Our money will always be there in the General Fund. It'll always go on. Well, I don't really understand this thought process. When my colleague Phil Erdman served on the floor and I was brand new, Phil Erdman was also on the Health Committee as was I, and every time I'd bring in a bill Phil Erdman would say: oh, but, Howard, it's not sustainable. We can't sustain anti-bullying. We can't help children indefinitely. (Laugh) Well, I say, who are we here to assist? We're here to assist the very people that elected us, that trust us, and want us to think about these issues. No, I'm not against roads. I'm not against water. I'm not against any of these things we need to fund. But I think we really should put some hard thought into using the issue of sustainability regarding the big-ticket items, the things that are very costly, and I think maybe we should look at feasibility regarding the things that help people, and eating and nutritious foods certainly is primary to helping people. I'm with Senator Carlson. I remember reading recently about GM, the big company that I'm sure has ways and means of using public funding, whose profits are way up even though this is a recession for every person. Their profits are up and they are not paying any federal income tax. That's amazing. And apparently they figured out a way to make that sustainable. But I'm saying to you this is a good bill, this helps people have access to nutritious healthy foods, and we should all be behind this. All the catch words really are not a good excuse not to vote for this. I urge you to look at this issue, to think of those people that you represent, and then to push the green button on this. Thank you.  
[LB200]

SENATOR GLOOR: Thank you, Senator Howard. (Visitors introduced.) Senator Pahls, you are recognized. [LB200]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I support the concept that Senator Council is seeking or striving for. But this has caused me to take a look more at the fiscal note, and I'm seeing we're looking at maybe \$100,000, \$150,000 and we can find supposedly the money. And there are some people having some issues with that. And then yesterday this \$600,000 just sort of seemed to pop up when you were talking about the environmental plan, and it didn't seem to be a major issue because they even heard that from the Chair of the Appropriations Committee. So that's causing me that we really need to be thinking not always just at the money because apparently if we look hard enough possibly we could find it or take it from someplace else. The thing that caught my attention and it goes to show you how you really can get caught up in the details, I did take a look at...on my gadget when I took a look at the fiscal note and they talked about the Agricultural Opportunity and Value-Added Program Cash Fund, and man alive, I woke up and I said, oh, heck, we just dealt with that out of

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the Banking Committee when we pushed Senator Hadley's bill out on the floor. And...but come to find out there's a difference because this is a cash fund which really hasn't been used, the other is the General Fund which very similar name is what the money is appropriated for to help the Department of Economic Development. And I also thought it was interesting when I tried to bring up the issue that the monies that we are giving to the Department of Economic Development, I don't actually know how much accountability...yes, I know they're going to report back to us, but apparently as I've gone through the LR542 process, it seems like a lot of times we as a body are appropriating monies and somehow these agencies are giving a lot more discretion than I think maybe on the floor that we had sought or that was what we were directed to have them do. So this is going to make me think more when I do see the appropriations when they come with their program is really to start taking a detailed look at that because I...to be honest with you, I do hold the Appropriations Committee somewhat accountable to how that money is being given out to these different agencies because of the amount of time that they do spend on that. So I encourage us all to take a look at that information when it is available to us, I'm sure very soon. Again, I do support what the senator, Senator Council, is trying to accomplish here. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Wallman, you're recognized. [LB200]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Thank you, Senator Council. And I do support this amendment and the bill. And a small town in Iowa started something like this and they hired developmentally disabled children to pick tomatoes and it worked out very well for that small, it was a small community. And so it supplied their grocery store with tomatoes and things. So we can get this off the ground. It's going to be hard work, don't get me wrong. Nothing is easy in agriculture, as Senator Bloomfield knows, it's tough. But if we give somebody a little bit of hope here, all big organizations got started with some kind of government grant, the railroads, some of these people got huge amounts of land and they did well with it. We have one of the best transportation systems in the world done by government grants. So again, I will vote for the amendment and vote for the bill. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Nelson. [LB200]

SENATOR NELSON: Thank you, Mr. President, members of the body. I support the concept, too, of the bill. But I have some concerns, some questions both about the practicality of it and the implementation. And in that light, I'd like to ask a few questions of Senator Council, if she would yield. [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

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SENATOR COUNCIL: Yes. [LB200]

SENATOR NELSON: Thank you, Senator Council. If I can get some light on here. I'm looking at the bill itself. It's talking about healthy food for underserved communities. That means a geographic area that has limited access to healthy food retailers and is located in a lower-income or high-poverty area or an area that is otherwise determined to have serious healthy food access limitations. Are there districts in Omaha that would come in that category? Under...yes, would your district be one of them? [LB200]

SENATOR COUNCIL: It would be several places within my district. [LB200]

SENATOR NELSON: Several places within your district. [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR NELSON: And we're both familiar with Omaha and we know there are some great supermarkets, but probably not that many supermarkets that close in those areas that you refer to. Would that be correct? [LB200]

SENATOR COUNCIL: Correct. [LB200]

SENATOR NELSON: So what do we have? We have convenience stores. Is there more of a proliferation of service stations and convenience stores that are closer in those areas? [LB200]

SENATOR COUNCIL: Yes, there are fewer full service grocery stores and more convenience stores. [LB200]

SENATOR NELSON: Right. Well, in most grocery stores we see a fairly sizeable amount of area that's committed to fresh vegetables, tomatoes, potatoes, cucumbers, all of those things and fresh fruits. Now my question is this, how much room is there in the average convenience store to take on that additional space and offer those products? My impression is that they are jam-packed with candies and potato chips and all that sort of thing, fast food items that people are going to eat on the run. What do you envision here as far as what the convenience stores can do as far as stocking these articles that are healthy? [LB200]

SENATOR COUNCIL: Well, in many of the locations, hopefully, that would provide an incentive for them to substitute fresh produce, whole grain foods, low-fat dairy for the candies and the donuts and the potato chips by providing them with assistance to have those types of facilities like coolers or stands. If you look at the bill, it also provides for assistance if those facilities need to renovate or expand in order to be able to provide fresh produce and whole grains and low-fat dairy products. [LB200]

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SENATOR NELSON: Well, fine. If the owner of a convenience store is altruistic, they may do that. But my impression is that they're going to stock the items that are going to be the fast sellers and make them the most money, which affects their bottom line. And I just question, first of all, whether they're going to be interested in stocking those things? My second concern is the average person that's coming into a convenience store, are they going to actually buy this healthy food or are they going to go for the fast foods and the snacks and things? And we talk about obesity and Senator Coash mentioned that. And you know it's a great goal. But it depends on the individuals, the father and the mother and the kids and... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR NELSON: ...the concerns that they are addressing. And are we going to put some money in here that either is not going to be accessed or there's not going to be that much need for it in this area? My other concern is out in the western part of the deserts, as you describe them out in the western part of Nebraska, where are you going to set up a farmers market that is going to draw the number of people that are going to make it worthwhile for the gardeners and all the people that are going to come that distance? I mean, you've got a sparse population out there. So we already have a number of farmers markets in Omaha and they're well attended. But, I guess, my direct question is, what sort of funding are you going to give to establish a farmers market in some of the desert islands in your district and some of the other districts? And that's a question, if you... [LB200]

SENATOR GLOOR: Time, Senators. [LB200]

SENATOR NELSON: All right. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Heidemann, you're recognized. [LB200]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I'm probably going to be the bad guy a little bit here. I, at the present time, I'm not convinced that we need LB200 and the amendment to it. I can't say that I'm standing in opposition to the idea but the bill, and I have some concerns with the funding source. We are going to take a tax credit from \$350,000 to \$200,000 the way I understand it. And on the green sheet, on the financial status, according to the way it works we have to recognize, if there's a \$350,000 tax credit, we have to realize that it could all be used and we have to assume that. So if you look at it that way, yes, it's not going to cost any money, and that's what I call perception. But in reality if you look at, we got the records back from 1985 all the way to 2010, this program has really never been utilized up to the \$350,000 level, never over the \$300,000 level, I think only once over \$250,000. And

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in reality, in 2010 it was only utilized at \$24,000, 2009 \$145,000, 2008 \$218,000. And when you look at those numbers you're going to realize that the savings, going from \$350,000 to \$200,000, really isn't there. And if this bill and this program is important to you, that is fine. But I will tell you that when it comes down to reality this will cost the General Fund \$150,000 and that's in my opinion at least. The other thing I want to point out, it seems, as I was listening once again to Senator Nelson having a conversation with Senator Council about everything that might be able to be done under this bill. And if all those things are going to be done under this bill, I think this could get very, very, very expensive. The other thing I want to point out is, I really don't believe we need LB200 because we passed, or we're moving down the line LB387. And inside of LB387 we still keep intact the microenterprise program and inside of that there's a program called REAP. And up to this time, as least as far as I can tell, each and every thing that we're talking about doing here we have programs in the state of Nebraska that can accomplish this already, through the microenterprise program, through the REAP program, and if that isn't good enough, towns, villages, and metropolitan areas can apply for community development block grants that would be able to accomplish this same thing. There are programs out there that if this is a good program we can already accomplish this through programs that we have already established in the state of Nebraska and other places. I am not arguing against the concept. I am arguing whether this is even needed. And I just, as Chairman of Appropriations Committee, I think it's important to let you know that I do believe there will be a cost to the General Fund when it's all over, said, and done. Thank you. [LB200 LB387]

SENATOR GLOOR: Thank you, Senator Heidemann. Senator Schumacher, you're recognized. [LB200]

SENATOR SCHUMACHER: Thank you, Mr. President. Last week it was the genesis bill, this week it's fishes and loaves. This bill seemingly providing for an endless supply of fresh, wholesome bread and fish. Bring apples to Arthur, cures childhood obesity, takes care of the diabetes problem, it has gardens in urban areas, it has farmers not having to drive a long way to buy their food, even though they might have to drive a long way to buy their gas, kids less likely to go to the burger joint and they'll be eating fresh foods and nuts. You know, if this miracle bill does all of this, we should pull back some of the feathers from the angels and put it into this thing and we'd probably take care of starvation in Africa. I think we have a lot of exaggeration over a little amount of money this morning. The fact is in rural communities at least, I can't speak to the situation in Omaha because this has been represented as something in large part for rural communities, there used to be grocery stores and blacksmith shops and barbershops in the town of Cornlea and Tarnov and every little town out there. The market no longer sustains them because the population isn't there, because agriculture has become too darn efficient. And we're trying, apparently, to go in there with \$150,000 or so a year and turn around what the economy has set as trends. And we're not going to be terribly successful in it. If the market won't sustain these, if the cash cannot be gained through

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the normal capital markets, then what are we doing in the middle of this with this type of make believe legislation that we're going to make big changes with a tiny amount of money. I'm beginning to wonder whether we have faith in our capital markets and the capital system. We have to give incentives to angels. We have to create this giveaway program or that giveaway program and in doing so we ignore the fact that we need to look at the big economic picture and devise easy mechanisms for our folks with capital to invest in those things which are sustainable and which will cash flow instead of having them tied up in things they really don't want them tied up in, like no interest CDs and the market and overpriced farmland. I think that the point has been made that if there really is a genuine need for another state program that gives away money, we probably can find one someplace already in existence that will take care of whatever limited target needs this would serve. Good ideas, but in the context of where we got to go and the kind of problems we really face, not the kind of idea that probably should be furthered on when we are tight on money, even in small amounts, in other areas and really have much bigger fish to fry. Thank you, Mr. Chairman. [LB200]

SENATOR GLOOR: Thank you, Senator Schumacher. Mr. Clerk for announcements. [LB200]

CLERK: Two, Mr. President, thank you. Business and Labor will meet at 11:00 under the north balcony; Business and Labor Committee, 11:00 north balcony. And the Revenue Committee will meet at 11:00 in Room 2022; Revenue in 2022 at 11:00. Thank you. [LB200]

SENATOR GLOOR: Thank you, Mr. Clerk. Returning to discussion, senators remaining in the queue: Karpisek, Council, and Janssen. Senator Karpisek. [LB200]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I spoke earlier about worrying about bigger stores coming in. And in between that time a banker called from Lexington and had some concerns, the same concerns that I have, and reminded me of things like TIF financing, that these big companies still come in and use that that maybe don't need it or we wouldn't think would need it, other things that they can do, as Senator Heidemann pointed out, that there may be other avenues for them to get this money. Again, I really like the concept here. And my main issue is with the big stores coming in and taking away the money that could be used for the farmers markets, the community gardens and those sort of things. I guess, that's my main concern here. And I don't know if taking that part out would be acceptable to Senator Council or not or if she'd like to speak to it, but I would like to yield the rest of my time to Senator Council, if she would so desire. [LB200]

SENATOR GLOOR: Senator Council, 3 minutes and 35 seconds. [LB200]

SENATOR COUNCIL: Thank you, Mr. President. And thank you, Senator Karpisek. And

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first of all, I appreciate our dialogue here because you did express your concern with regard to that aspect of the bill before the bill was introduced. But again, I'm going to focus the attention to what the objectives are and the eligibility requirements are. I've sat here and listened to all the fears and horror that's presented by this. If you don't agree with the bill, fine. But don't create problems that don't exist. If a major grocery store is...doesn't need public funds, they are ineligible under the criteria as written. This is a small first step. I respectfully disagree with Senator Heidemann in terms of what the bill does financially and what opportunities otherwise may exist. For example, in terms of developing some of these markets in urban areas, value-added ag doesn't cover it. We limit...we have these silos for funding. If there's a concern about the tax credit issue then I think we need to go back and look at one of the earlier bills that has been advanced based upon the funds coming from a reduction in the tax credits assigned. I mean, those circumstances exist. Senator Nelson, if a convenience store won't put in fresh fruits and vegetables they're not eligible for a grant. So in terms of what the real issues are here are, do we really want to provide a mechanism for organizations, entities whose mission is to eliminate food deserts and food insecurity and provide avenues for people to access fresh produce... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR GLOOR: Was that time or one minute, sir? [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...then that's what this is, a small step. I didn't come in here and suggest that LB200 is the LB775 of food deserts but some may want to try to convert it into that. It is a small bill designed to address a small area of great concern, and that is eliminating food insecurity across the state. Certainly, the Center for Rural Affairs, who provided much of the data that formed the basis for developing LB200, I relied on their expertise. I don't pretend to be an expert, although I've learned a lot from my prior two years on the Ag Committee. But all LB200 is... [LB200]

SENATOR GLOOR: Senator Council,... [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR GLOOR: ...you're the next speaker in the queue, you may continue. [LB200]

SENATOR COUNCIL: Thank you. All LB200 is, is a small bill that establishes a small program that is designed to address food insecurity issues that do exist in this state, they do exist. And whether this is the ideal mechanism to address it I'm not suggesting that. I'm suggesting that it is a method of addressing it. We talk about the microenterprise funding. Somebody again, correct me if I'm wrong, but I think there is a

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bill that is before us that depletes that fund and transfers it into another fund that these types of programs would not be eligible for. Under the Innovation and Technology program that has been presented, these farmer markets development, community garden development, I assure you, would be ineligible for funding under those programs. But we're utilizing funds from microenterprise, which now I'm being told, well, maybe you need to look there. Well, look there and the money is already gone someplace else. This is a small investment that could reap immeasurable returns for this state including increasing the health and well-being of our children and families and providing some economic benefit. And, Mr. President, I don't know if there are others behind me in the queue, okay, then I will reserve and wait for my closing on LB200. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes the Speaker. [LB200]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, colleagues. We've had a good week. I appreciate everybody's work this week. It is my intention to adjourn right around noon today. Obviously, if we're on the cusp of passing a bill, that will make a difference. But I do anticipate a noon adjournment today. Next week, as I mentioned earlier, we are going to take up state aid to schools, that's going to be part of the process. That bill will come up on Wednesday at 1:30, that's Senator Adams' bill that concerns TEEOSA. We'll see more General File on Tuesday and we'll work our way through the week with some Final Reading at the end of next week. Again, next week we'll start with General File on Tuesday, we'll move to discussion of Senator Adams' and the Education Committee's TEEOSA bill on Wednesday at 1:30. And as we wind down the week next week we'll definitely be taking up some Final Reading next Friday. Thank you once again and have a good weekend but not until noon. Thank you.

SENATOR GLOOR: Thank you, Senator Flood. Senator Janssen, you are recognized. [LB200]

SENATOR JANSSEN: Thank you, Mr. President, members. In regards to LB200, I didn't plan to speak on this, this morning, but after reading through the bill and hearing some comments I felt compelled to say a few words. And I can also, like everybody else, appreciate Senator Council bringing it for the reasons she brought it. Every morning when I drive to work down here I stop at a country store in Mead. And it's, I think, the only store they have in Mead for this as a store, I guess, for produce or whatnot. And the only thing I can find in there is bananas on the counter. And I get one of those every morning, I get one banana. But then they get green, quite a bundle, but then three or four days later I see there's about three-quarters of a bundle that have rotted away. So there's probably not much of a demand there. I do get there about 8:30 in the morning, depending on what time we go into session. Usually all the donuts are gone by this time. So they're probably...I don't know if there's a need for produce or not. But it

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certainly doesn't appear to be a heavy seller in, at least in Mead at this point in time. And I'm not saying that's a reason to not support LB200. I just fear that it would be "unutilized." When Senator Heidemann was speaking it made me think back to when I was on the Northeast Nebraska Development Board, prior to serving in the Legislature, and we did have block grant funding available to stores. It wouldn't be solely for the purpose that LB200 seeks, but I do recall financing for coolers, refrigeration systems that would allow an expansion of this. In fact, it was directly a meat locker at one point in time, they expanded their coolers. I'm not certain what they stocked them with. I'm certain they stocked them with something that they thought they could turn a profit on and sell more quickly. And I just wanted to bring that up. I think there are tools out there. Could this be an added tool? I don't know. What I do fear is maybe...Senator Lautenbaugh was talking about it a couple of weeks ago. If we had light rail between Omaha and Lincoln it would be a much different world. We'd have empty cars traveling back and forth. I fear, and I hope I'm wrong, that if this bill passes we'll have coolers that have rotting produce and fruit in them because there's just not a demand for the attitude out there right now. And maybe this will help to change that demand. I wish it would, I don't think it will though. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Janssen. (Visitors introduced.) There are no additional senators wishing to be recognized. Senator Carlson, you're recognized to close on the Agriculture Committee amendments. [LB200]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And thank you for the discussion that we've had this morning. I believe that Senator Council had done her homework. I think we as an Ag Committee had done our homework. We looked into funding possibilities for this bill and were advised that the way it was written it would not have a fiscal impact. Senator Heidemann came over to me this morning, showed me the list over the last several years of how those tax credits were actually not used. And I can see his point that going forward then it, in fact, turns out to be a \$150,000 cost. I wish that information had been available sooner than what we got it. I support the idea of LB200. I still support the amendment. And I would ask that you support AM645 to move it to Select File, to give an opportunity to look into the other source of funding that Senator Heidemann has mentioned and I believe that Senator Council will do that and the Ag Committee will help as well. So I do ask for your support of AM645. And, Mr. President, I would ask for a call of the house. [LB200]

SENATOR GLOOR: Thank you, Senator Carlson. Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. The house is under call. Record, Mr. Clerk. [LB200]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB200]

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SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lautenbaugh, please return to the Chamber. Senator Carlson, all members are present and accounted for. How would you like to proceed? [LB200]

SENATOR CARLSON: Machine vote. [LB200]

SENATOR GLOOR: Members, the question is, shall the committee amendment to LB200 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB200]

CLERK: 37 ayes, 5 nays, Mr. President, on adoption of committee amendments. [LB200]

SENATOR GLOOR: The amendments are adopted. Seeing no senators wishing to further discuss the bill, Senator Council, you're recognized to close on LB200. Senator Council waives. Members, the question is the advancement of LB200 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB200]

CLERK: 34 ayes, 9 nays, Mr. President, on the advancement of LB200. [LB200]

SENATOR GLOOR: The bill advances. Raise the call. Continue with General File. [LB200]

CLERK: Mr. President, LB200A is by Senator Council. (Read title.) [LB200A]

SENATOR GLOOR: Senator Council, you're recognized to open on LB200A. [LB200A]

SENATOR COUNCIL: Yeah, thank you, Mr. President. There's already been some discussion of the A bill here. And I want the body to know that in looking at ways to fund LB200 the intent was not to have to rely upon General Funds particularly in view of the current budgetary situation that the state faces. So initially, as I stated in my opening, it was looking to transfer from one cash fund, an existing cash fund into this fund. Well, there are other bills that have been introduced that have, as a basis of their funding, looking at those same cash funds. And it was not my intent to cripple the programs that were in a position to have to rely on what remained in those cash funds. So I went to great lengths to sit with representatives from the Department of Economic Development to assist in identifying a funding source for LB200 that would not have any net affect on the General Fund. And I was directed to the Community Development Assistance Act and the information that I had and was provided from DED was that in terms of the tax credits that are allocated annually into the General Fund for the Community

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Development Assistance Act program that is on a level of \$350,000, and that that amount is rarely, completely utilized. And that to bring that down to \$200,000 and to free up the \$150,000 required for LB200 would not have any impact, any fiscal impact on the General Fund. And that is why LB200A has been offered as a means of financing the Healthy Food Financing Initiative Act. And I would ask your advancement of LB200A. Thank you. [LB200A LB200]

SENATOR GLOOR: Thank you, Senator Council. Seeing no members wishing to be recognized, Senator Council, you're recognized to close on LB200A. [LB200A]

SENATOR COUNCIL: I would waive closing. [LB200A]

SENATOR GLOOR: Thank you, Senator Council. Members, the question is the advancement of LB200A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB200A]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB200A. [LB200A]

SENATOR GLOOR: The bill advances. We continue with General File, LB176. [LB200A LB176]

CLERK: LB176 is a bill by Senator Avery. (Read title.) Introduced on January 7 of this year, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are Government Committee amendments, Mr. President. (AM622, Legislative Journal page 799.) [LB176]

SENATOR GLOOR: Senator Avery, you're recognized to open on LB176. [LB176]

SENATOR AVERY: Thank you, Mr. President. This bill is one of several bills that I introduced this year to increase the amount of revenue generated for the Accountability and Disclosure Commission in order to reduce their dependency on General Fund dollars. LB176 allows the commission to issue an order requiring a person who has been found to violate the Accountability and Disclosure Act to pay the costs of the hearing in a contested case. The funds received under this bill will be deposited in the Accountability and Disclosure Commission's cash fund. Some of the costs the commission may have as part of a contested case include the cost of preparing transcripts, mileage, fees for witnesses, costs of a hearing officer, and the court reporter. Under current law, if a person is found to have violated accountability and disclosure statutes, the commission pays the expense of the contested case. The amount of income that may be generated from this proposal would vary, of course, from year to year depending on the number of contested cases. The amendment from the committee was designed to meet some objections raised in the hearing. And I'd be happy to take that up. Thank you, Mr. President. [LB176]

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SENATOR GLOOR: Thank you, Senator Avery. As the Clerk and you mentioned and stated, there are amendments from the Government, Military and Veterans Affairs Committee. You're recognized to open on those amendments. [LB176]

SENATOR AVERY: Thank you, Mr. President. AM622 provides that only violators who do not appear at the hearing personally or are represented by counsel at the hearing will be subject to an order requiring them to pay the cost of the hearing. At the hearing on LB176 the committee heard testimony that raised concerns about allowing the commission to find all violators in contested cases. There was concern that the original copy of the bill might discourage people from actually having a contested case when accused of violating statutes. And the opponents at the hearing felt the bill would put an unfair pressure on people to settle their cases rather than paying to defend themselves out of their own pockets. So the committee amendment addresses these concerns by limiting the bill to only those people who do not personally appear at the hearing. Apparently, this is not an infrequent occurrence. According to the commission, the commission will...still has a process to go through, even if somebody does not appear or is not represented by counsel. So they still incur costs, even though the person doesn't appear. The bill with the committee amendment gives the commission the authority to order the violator who doesn't personally appear to pay the costs incurred by the commission. The fiscal note indicates that this might generate somewhat in excess of \$2,000. This bill as amended was advanced by the committee on a 7 to 0 vote with 1 member absent. Thank you, Mr. President. [LB176]

SENATOR GLOOR: Thank you, Senator Avery. Members, you've heard the opening on LB176 and the committee amendment. Are there senators wishing to be recognized? Senator Lautenbaugh, the Chair recognizes you. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Avery would yield to a question? [LB176]

SENATOR GLOOR: Senator Avery, would you yield? [LB176]

SENATOR AVERY: I will. [LB176]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. As I understand it, with the amendment, this is limited to the cases where people have a contested case and then don't show up for the hearing? [LB176]

SENATOR AVERY: That's correct. [LB176]

SENATOR LAUTENBAUGH: Do we have any information as to how often that occurs or has occurred in reality? [LB176]

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SENATOR AVERY: Surprisingly, it occurs more frequently than one might expect. I don't have an actual number but I probably can get it. [LB176]

SENATOR LAUTENBAUGH: Do we even know how many contested cases there are every year? [LB176]

SENATOR AVERY: We do. [LB176]

SENATOR LAUTENBAUGH: How many are those? [LB176]

SENATOR AVERY: I do not have that information at my fingertips. [LB176]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. I guess I would find that information helpful because I'm trying to determine how significant this is. If we have ten cases a year and on one of them someone doesn't show up, well, that person would be the only one paying costs. This might not make much of a change in the finances for Accountability and Disclosure. So I guess I'll listen to the debate and hopefully that information will come forward. [LB176]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Janssen, you are recognized. [LB176]

SENATOR JANSSEN: Thank you, Mr. President and members. Would Senator Avery yield? [LB176]

SENATOR GLOOR: Senator Avery, would you yield? [LB176]

SENATOR AVERY: Yes, I will. [LB176]

SENATOR JANSSEN: Thank you, Senator Avery. I had a question and I know this is kind of a moving number, but did you have an approximation of how much is in this fund right now? [LB176]

SENATOR AVERY: Somewhere between \$600 and...no, the cash fund you mean? [LB176]

SENATOR JANSSEN: Yeah, that we're talking about where this money would go. [LB176]

SENATOR AVERY: I do not. [LB176]

SENATOR JANSSEN: I was just...I'm trying to pull from the committee. I was... [LB176]

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SENATOR AVERY: This is apparently the morning for me not to have the answers. I'll get that for you, though. [LB176]

SENATOR JANSSEN: Well, we...hopefully, you keep up that track record at noon today (laughter) when we carry on some things. But I want to think it's around \$800,000 for some reason. [LB176]

SENATOR AVERY: No, that's in the CFLA fund. [LB176]

SENATOR JANSSEN: And what fund are we exactly... [LB176]

SENATOR AVERY: We're talking about the commissions cash fund. [LB176]

SENATOR JANSSEN: So their cash funded and then they can pull from that as another way to finance? [LB176]

SENATOR AVERY: Well, no, actually the fund...the cost of hearings come out of the general appropriations, General Fund appropriations to the commission. What we are talking about here though is taking these funds that they would collect from those who don't appear would go to the cash fund, not the CFLA. [LB176]

SENATOR JANSSEN: And at present it goes to the CFLA? [LB176]

SENATOR AVERY: No,... [LB176]

SENATOR JANSSEN: I'm trying to clarify this for... [LB176]

SENATOR AVERY: ...it does not. [LB176]

SENATOR JANSSEN: ...everybody and myself at the same time. So where is the major shift here? [LB176]

SENATOR AVERY: Well, there's no major shift. What you do is say if a person is found guilty of violating the statute and they do not appear and they do not have counsel to represent them, apparently they don't care about the process. They're thumbing their nose at the commission. We're saying that they would have to pay the cost of that hearing, then the money would go into the commissions cash fund, not the CFLA fund. [LB176]

SENATOR JANSSEN: So the commission in kind of a way, the more hearings they have they could probably increase the number of people that wouldn't show up. I guess, if you do an actuarial study on that it would probably mete out that way. So they could

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actually be having more hearings, not that our commission would do that, but the public could look at that as you're holding more hearings now because you directly benefit from holding these hearings? [LB176]

SENATOR AVERY: Well, you mean you're suggesting that the commission might have...find more violations and hold more hearings in order to collect more fees? [LB176]

SENATOR JANSSEN: Well, it could give a sour onion taste to somebody that...in the general public that's out there. Maybe... [LB176]

SENATOR AVERY: It's funny you should use the word "sour onion" (laugh) after yesterday. I understand your point. But I doubt that the commission would do that. They're honorable people. [LB176]

SENATOR JANSSEN: They certainly are. I'm just looking at the perception publicly of what could happen down the road. And these hearings, are they held, they're held in Lincoln or are they held remotely? How's that... [LB176]

SENATOR AVERY: I think they're held here and the hearing officer has to be brought in. The cost of the hearing officer is paid on an hourly basis. The cost of a court reporter also has to be incurred. And I am told that it may cost as much as \$700 per hearing. You might have about three or four a year. And that answers Senator Lautenbaugh's question. Thank you. [LB176]

SENATOR JANSSEN: Would you have to show up then in person at that or your counsel or could this be teleconferenced, say, oh, I don't know, there's a senator from Valentine who can't get here because the roads are all broken up in between here and Valentine. Is there a way to get this done via teleconference? [LB176]

SENATOR AVERY: I don't think so but they can be...the hearing can be postponed if you have an unusual circumstance like that. [LB176]

SENATOR JANSSEN: Okay. Thank you, Senator Avery. These are all questions that I had when we had this bill up before us in Government Affairs and I just kind of wanted to get them out. I did vote for the bill and will vote for this bill despite...I think I will drink the sour onion milk on this one as well. (Laughter) [LB176]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Avery, you are next in the queue. [LB176]

SENATOR AVERY: I want to address Senator Lautenbaugh's question about how often this occurs. Apparently we get about ten contested cases a year and anywhere from

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three to four, sometimes, will not show. And that's all that we're talking about here. It's a modest amount of money. It will not solve all of the financial woes of the commission but it does provide a little bit of relief in their dependency on the General Fund. This was discussed by the Government Committee during the LB542 process. I'm not sure if it was on our list of options, it might have been. But certainly, it seems to me that relieving the pressure on the General Fund, even if it's a small amount, is a good thing to do. Certainly, the more of these items that we can find that do relieve pressure on the General Fund the better we're going to be. Thank you, Mr. President. [LB176]

SENATOR GLOOR: Thank you, Senator Avery. Senator Fischer, you are recognized. [LB176]

SENATOR FISCHER: Thank you, Mr. President and members. Would Senator Avery yield to questions, please? [LB176]

SENATOR GLOOR: Senator Avery, would you yield to a question? [LB176]

SENATOR AVERY: I will. [LB176]

SENATOR FISCHER: Senator Avery, I notice on the committee statement that the League of Municipalities was opposed to this bill. Can you tell me why? [LB176]

SENATOR AVERY: Yes. They thought that there would be too many people who, in order to avoid paying the costs of the hearing, that they would just settle and admit guilt and that this would be an unacceptable burden on a lot of people. We took that into account in the amendment, AM622 addresses that. The League said that if we limited it to just those who don't show, they thought that would be acceptable to them. And that's what we did. [LB176]

SENATOR FISCHER: And can you...I see an individual was also opposed to the bill. Can you tell me why he was? [LB176]

SENATOR AVERY: I think his objection was largely the same. That was J.L. Spray, a local attorney, who apparently represents a lot of clients in cases before the commission. [LB176]

SENATOR FISCHER: And did you contact him to see if he was in favor of it now with the amendment? [LB176]

SENATOR AVERY: I did not. [LB176]

SENATOR FISCHER: Okay thank you. Thank you, Mr. President. [LB176]

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SENATOR GLOOR: Thank you, Senator Fischer. Senator Lautenbaugh, you are recognized. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And back by popular demand, I'd be remiss if I didn't ask some questions about LB606 again. So, Senator Avery, will you yield? [LB176 LB606]

SENATOR AVERY: To talk about a bill that's not on the floor? No. [LB176]

SENATOR LAUTENBAUGH: Okay, I'll just make my pitch here. Senator Harr, will you yield? Burke Harr. [LB176]

SENATOR GLOOR: Senator Burke Harr, will you yield? [LB176]

SENATOR HARR: Reluctantly. [LB176]

SENATOR LAUTENBAUGH: Thank you, Senator Harr. Senator Harr, I threw out a hypothetical yesterday dealing with Americans for Prosperity. Were you here for that? [LB176]

SENATOR HARR: I don't believe I was. [LB176]

SENATOR LAUTENBAUGH: Well, let me help. What I pointed out was that we've advanced a bill in this general area of law that deals with independent expenditure groups, I'm sorry, outside groups that currently don't have to file as independent expenditure groups, specifically for Americans for Prosperity as they participated in the last election. Do you recall that? [LB176]

SENATOR HARR: The hypothetical yesterday or the bill? [LB176]

SENATOR LAUTENBAUGH: That we debated LB606 dealing with that a week or two ago? [LB176 LB606]

SENATOR HARR: I don't know if it was specifically about, is it, Americans for...what's the last word? [LB176]

SENATOR LAUTENBAUGH: Prosperity. [LB176]

SENATOR HARR: Okay. I don't know if it was for that group or not. [LB176]

SENATOR LAUTENBAUGH: Well, I'll represent to you that that was the genesis of that particular bill. And I think that was conceded on floor debate. As I posited yesterday, if we try to make a national group subject to our independent expenditure rules, they'll

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have to report their contributors, just like independent committees do. Is that correct?  
[LB176]

SENATOR HARR: I'm not familiar. I'll go along with you for a little bit and say yes, but I'm not sure. [LB176]

SENATOR LAUTENBAUGH: So, I guess, my question is then, can you think of anything in the law, as you're an attorney, that would stop Americans for Prosperity from simply setting up their own local, independent expenditure group and giving them a check so the only contributor that local independent expenditure group would have to disclose would be Americans for Prosperity? [LB176]

SENATOR HARR: Now you're starting to sound like NCAA rules. It's very convoluted. I'd have to...I'd want to see it in writing before I'd say anything and have a little chance to research it. [LB176]

SENATOR LAUTENBAUGH: Okay. Well, we'll move on then. Senator Janssen, will you yield? [LB176]

SENATOR GLOOR: Senator Janssen, would you yield to a question? [LB176]

SENATOR JANSSEN: Happily. [LB176]

SENATOR LAUTENBAUGH: Now you were here for the debate on LB606, were you not? [LB176 LB606]

SENATOR JANSSEN: I was. [LB176]

SENATOR GLOOR: Senator Avery, for what reason do you rise? [LB176]

SENATOR AVERY: I rise to a point of order, Mr. President. This line of questioning and this discussion is completely nongermane to this bill and out of order. [LB176]

SENATOR GLOOR: I would remind members of the body that we have a bill in front of us with a certain line of questioning. Would ask members to, as best they are able, confine their questions and their discussion as is appropriate. Senator Lautenbaugh, you can continue. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President. So, Senator Janssen, do you see the bill before us as a very significant change? [LB176]

SENATOR JANSSEN: Yes. [LB176]

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SENATOR LAUTENBAUGH: How so? [LB176]

SENATOR JANSSEN: Well, it changes the way that we're levying fines and what funds we're taking it from as it deals with campaigns. [LB176]

SENATOR LAUTENBAUGH: And I think you heard the numbers where there is maybe ten contested cases a year? [LB176]

SENATOR JANSSEN: I believe that's what I heard, yes. [LB176]

SENATOR LAUTENBAUGH: Give or take. [LB176]

SENATOR JANSSEN: Excuse me? [LB176]

SENATOR LAUTENBAUGH: Give or take? [LB176]

SENATOR JANSSEN: Yes, give or take. [LB176]

SENATOR LAUTENBAUGH: And maybe a quarter of those to a third of those would be where the person may not show up for his own hearing? [LB176]

SENATOR JANSSEN: Basing that on what Senator Avery has just said on the mike, yes. [LB176]

SENATOR LAUTENBAUGH: So by the fiscal note, this will garner us \$2,100 a year? [LB176]

SENATOR JANSSEN: You could approximate that. [LB176]

SENATOR LAUTENBAUGH: Okay. Now do you feel like that's going to make a very significant difference to our bottom line here in Nebraska? [LB176]

SENATOR JANSSEN: Probably not, no. [LB176]

SENATOR LAUTENBAUGH: Then really, especially with the committee amendment, do you see this bill as having a very dramatic impact on our election laws? [LB176]

SENATOR GLOOR: One minute. [LB176]

SENATOR JANSSEN: I do see it impacting the election laws. I wouldn't rise to dramatic. [LB176]

SENATOR LAUTENBAUGH: Do you think it will really address a problem that's out

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there in any way? [LB176]

SENATOR JANSSEN: It will address it. I don't know that it will resolve it. [LB176]

SENATOR LAUTENBAUGH: Thank you, Senator Janssen. Members, I think we're seeing a pattern here on these particular types of bills dancing around the periphery of Accountability and Disclosure and what we really need to do regarding the CFLA. I think if you'll look at the fiscal note on this and you look at the number of cases we're dealing with, this plumbs the depths of triviality to be making this change right now. And I think what we're going to garner from this change in law if we do it does not even meet the cost of introducing the bill and debating it. So I don't think we're money ahead by making this change. Additionally, I think too often in this body we pass things and pretend... [LB176]

SENATOR GLOOR: Time, Senator. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB176]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President. We pass things and pretend we're doing something to make a difference. I would submit to you much like with LB606 this bill does nothing to address the perceived, perhaps existent underlying problem. In this instance we are limiting it to a couple cases a year at best where people don't show up and we're asking them to pay some trivial amount of money as a result. And we're spending floor time on this, we spent committee time on this, and we're going to have to publish it. We're going to have to do everything we can do to pass a law for something like this. The other bill regarding transparency manifestly decreases transparency, allows for people to setup an independent expenditure group under our existing law and hide who they really are unless you go look. I think we need to stop passing things just because they make it to the floor. There should at least be some kind of a test where we ask ourselves, are we doing something that actually makes a difference? Are we doing something that's actually going to address a problem? And it is very different to stand up here and say this strikes a blow for transparency when you're underlying bill actually hurts transparency. It's different in this case to say we're standing up here and doing this, I'm not even sure I heard why we're doing this on this bill yet. But somehow this will do something that might garner us \$2,100 a year. And I'm the first one to talk about incrementalism and how every little bit helps to the bottom line and how, you know, we've had other bills where, yeah, this would only save us \$100,000 a year and I stood up and said, great, if we had 10,000 more ideas like this we'd balance our budget. There's a point at which though if the cost of passing a bill doesn't even equal the cost of what you're going to get out of the bill, that there probably isn't a good reason to go forward. And I would submit to you if we knew the cost from introduction to passage of

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this bill and changing of the statutes and everything else, we aren't doing anything that puts us money ahead. We're actually spending more money to garner perhaps \$2,100 a year. I can't see how in good conscience we can pass bills like this. If we're trying to punish someone who doesn't show up for a hearing, that's fine. But I think Accountability and Disclosure can punish them anyway. We are dealing with the smallest of possible scales here for money. And we're debating it and were talking about, oh gee, we got to get these people who don't show up for their hearings, by gosh, they should pay the cost. But if it costs us more to get the costs paid, are we really money ahead here? Should we really be doing this? And like I said, I think this is the second in a series of bills that I've spoken on where we've stood up and said, we're doing this for this particular purpose, we're doing this to advance transparency, we're doing this to bring in money. And in either case, in neither case do we actually do what we stand up on the floor and say we're trying to do. This is a bill that will bring in so little money that it's not worth talking about to be honest. LB606 decreases transparency and in a very Orwellian way we stand up and say, we must do it in the interest of transparency. This doesn't make sense, folks. I ask you to look at these bills with a critical eye. And I understand we're going to have a lot of small bills, I'll call them, this year because we don't have any money. And so we're making legislation around the margins and waiting for the bigger issues on the budget and redistricting and everything else to come to the floor. I understand that. But that doesn't mean everything deserves a green, that doesn't mean every change is worth making simply because it made it to the floor,... [LB176 LB606]

SENATOR GLOOR: One minute. [LB176]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And that doesn't mean that we should support this bill either. Thank you, Mr. President. [LB176]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Seeing no senators waiting to be recognized, Senator Avery, you're recognized to close on the committee amendment. [LB176]

SENATOR AVERY: Thank you, Mr. President. I'm going to ask you to ignore what you just heard. Do not reward petulance, because that's what you are seeing. It was said that this is such a trivial amount we shouldn't be doing it. It's not a great amount of money, I know that. But any savings of any amount in these turbulent times is worth doing. I urge you to vote for this amendment and the underlying bill. Thank you. [LB176]

SENATOR GLOOR: Thank you, Senator Avery. The question is, shall the committee amendment to LB176 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB176]

CLERK: 29 ayes, 2 nays, Mr. President, on adoption of committee amendments.

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[LB176]

SENATOR GLOOR: The amendment is adopted. Discussion... [LB176]

CLERK: I have nothing further on the bill, Mr. President. Excuse me. [LB176]

SENATOR GLOOR: Discussion continues. There are no senators wishing to be recognized. Senator Avery, you are recognized to close on LB176. [LB176]

SENATOR AVERY: Mr. President, I will waive closing in the interest of getting to an early adjournment. Thank you. [LB176]

SENATOR GLOOR: Thank you, Senator Avery. The question is the advancement of LB176 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB176]

CLERK: 26 ayes, 3 nays, Mr. President, on the advancement of LB176. [LB176]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB176]

CLERK: Mr. President, LR40CA is a proposal by Senator Pirsch. It proposes an amendment to Article I, Section 25 by adding the new Section 25 to the Nebraska Constitution. The resolution was introduced in January, referred to Natural Resources Committee, the committee placed the resolution on General File. I have individual amendments filed to the bill, Mr. President. [LR40CA]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LR40CA. [LR40CA]

SENATOR PIRSCH: Thank you. Members of the body, LR40CA is relatively short and straightforward. LR40CA was passed out of the Natural Resources Committee. The committee designated it a committee priority. I thank the committee for that designation. I also want to thank Laurie Lage, legal counsel to the committee, for her great assistance and counsel. No one testified against this LR at the committee. No one testified even in a neutral capacity on the LR. Many key organizations testified in favor of the green copy of the LR at committee, including: the Nebraska Division of the Izaak Walton League of America, Nebraska Sportsmen's Foundation, Nebraska Council of Sportsmen's Clubs, Game and Parks Commission, Nebraska Chapter of American Fishery Society, Nebraska Farm Bureau Federation, and Ducks Unlimited. LR40CA passed the committee on a vote of 7 votes for it and 1 against it. LR40CA as amended, and I do have an amendment coming, would add language to our state constitution that protects our citizens' right to hunt, to fish, and to harvest wildlife, which includes trapping. The amendment language was modeled after a 2008 Oklahoma law. Such

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language is in place in approximately 14 other states already and the numbers are growing. LR40CA would submit the protective language to Nebraska voters on the November 2012 general election ballot for their consideration. Since this proposal would be placed on an existing ballot, costs would be negligible. Since the founding of our state and, for that matter, for as long as humans have been here, hunting, fishing, and harvesting wildlife have been fundamental freedoms that people have engaged in. These activities, I should point out, are critical to our state's economy. Nebraska has 280,000 sportsmen that spend about half a billion dollars annually. This spending supports 8,500 jobs, \$238 million in salaries, and \$54 million in state and local tax revenues. Such spending results in a \$746 million ripple effect on the economy. In recent years, some fringe groups have expressed a commitment to eliminating all hunting and all fishing and harvesting of wildlife. These fringe groups, who believe humans essentially should be vegetarians, have deep pockets. I'm talking about hundreds of millions of dollars annually. And the demonstrated capacity to misportray actual practices occurring in the state all to further their aims. My premise is simple. In looking at what has occurred in other states, there is a clear and realistic concern...reason for concern. If a freedom, I would put to you, is fundamental, then protect it. And that is the basis of this bill...I'm sorry, this legislative resolution. Thank you. [LR40CA]

SENATOR GLOOR: Thank you, Senator Pirsch. (Visitors introduced.) As the Clerk stated, there are individual amendments. Mr. Clerk. [LR40CA]

ASSISTANT CLERK: Mr. President, the first amendment is offered by Senator Pirsch is AM886. (Legislative Journal page 995.) [LR40CA]

SENATOR GLOOR: Senator Pirsch, you're recognized to open on AM886. [LR40CA]

SENATOR PIRSCH: Thank you. The amendment itself is, as I mentioned, very short. It is merely three sentences. I will read it for you now: The citizens of Nebraska have the right to hunt, to fish, and to harvest wildlife, including by the use of traditional methods, subject only to the laws, rules, and regulations that promote wildlife conservation and management and that preserve the future of hunting and fishing. Public hunting and fishing shall be a preferred means of managing and controlling wildlife. This section shall not be construed to modify any provision of law relating to trespass or property rights. A very short and to the point, and on that basis, I would ask for your approval of both the amendment and the underlying LR. Thank you. [LR40CA]

SENATOR GLOOR: Thank you, Senator Pirsch. Mr. Clerk. [LR40CA]

CLERK: Mr. President, Senator McGill would move to amend Senator Pirsch's amendment with AM1069. (Legislative Journal page 1034.) [LR40CA]

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SENATOR GLOOR: Senator McGill, you're recognized to open on your amendment.  
[LR40CA]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I rise today and introduce this amendment to ask a few questions. What rises to the level of being in our state constitution? What are the circumstances that should lead to changes in the constitution, particularly to Article XV? Let me read what amendments and what types of amendments are currently in this article of the Nebraska Constitution. The first section deals with our oath of office, actually the first couple do. Several sections then discuss the water rights, the public necessity, and use of water dedicated to people. These were amended in 1920. Much of Section (sic) XV is about water rights before getting into some issues with minimum wage, and controversies between employers and employees, meaning that we're a right-to-work state, and that amended in 1920. More labor relations-related amendments. Retirement and pension funds in 1966. Governmental powers and functions, intergovernmental cooperation. Legislature may limit merger consolidated counties or other local governments with that authority. There are only a handful of things that have actually risen to the level of being put into our constitution. It's my belief that constitutional amendments are for a threat to an issue in Nebraska or would make a change in how we do business in our state that's substantial. I believe that LR40CA does not rise to the level of needing a constitutional amendment because there is no threat to hunting, fishing in the state of Nebraska. I've decided to channel my inner Ernie today by resurrecting some of his arguments, deliberations, and bills that he introduced on this very issue during his time in the Legislature, including while some of us were here in 2008, I believe, he introduced an amendment to ban hunting and fishing just to make the point that a constitutional amendment isn't necessary because there is no support in Nebraska. I don't think there are even fringe groups within Nebraska who want to get rid of hunting and fishing, therefore, this amendment is not needed. I know back in 2004 when Senator Schrock initially introduced this legislation, I believe it was the green copy language from this bill, he said: While there's no immediate threat, there are animal rights groups that would like to see hunting, fishing, and trapping outlawed. I think we should probably get out ahead of this. Again, I submit why. It's clear that if...not just for the lobby being very supportive of hunting and fishing but our constituents. I'm a city girl born and raised in the city. I've fished. I've gone hunting. I haven't actually carried a firearm while hunting but I've gone along on pheasant hunting and had a great time. I don't think anyone in this body wants to get rid of hunting and fishing. And so does this really rise to the level of needing a constitutional amendment to protect it? So I've offered my amendment, AM1069, to look at other things that we like to do in Nebraska and that we see as part of our everyday lives that perhaps should also be protected if we're going to protect hunting and fishing. My amendment also says: "to swim, to farm, to ranch, to drive, to boat, to tube," because we like tubing on the Niobrara, "to golf, to nap, to parent, to learn, to camp, to pioneer, to innovate, and to watch Husker football," (laughter) all things that are important to us here in Nebraska and largely are part of our heritage here. Senator

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Karpisek recommended that I put "to gamble" in there. I chose against that. I think we'll debate that probably next year with a possible constitutional amendment. And so I hope for those who just say, oh, let's just put this to a vote of the people, well, I hope you keep that in mind if we come to a point of putting a vote to the people on gambling. I also realize I neglected to put in "to karaoke," which is one of my favorite hobbies. So really I ask for us here today to think about why we really need this. Yes, hunting and fishing are a tremendous part of our economy and our lifestyle in Nebraska. I am not at all trying to demean how important those activities are here. But does this rise to the level of needing a constitutional amendment? I'm not going to filibuster this resolution, but I do want to point out many of the amendments that Senator Chambers brought to this bill in the past to show how frivolous this amendment really is, including: an amendment to give us the right to hunt for Osama bin Laden; our right to hunt for the Holy Grail; our right to hunt for Martians; our right...and a third one or a final one that would protect the right to hunt for a way to protect the constitution from frivolous amendments. And that's what this is, ladies and gentlemen, a frivolous amendment that is not necessary, that doesn't rise to the level of need that we should be putting an amendment to the people to vote on to put in our constitution which is a sacred document. Please, members, at least consider this, ponder it, get up and talk to your other members about how...what criteria we should really be using when bringing a constitutional amendment to the vote of the people. Thank you, Mr. President.

[LR40CA]

SENATOR GLOOR: Thank you, Senator McGill. Members, you've heard the opening on LR40CA, AM886, and the amendment AM1069 to AM886. We now move to discussion. Senator Fulton, you are recognized. [LR40CA]

SENATOR FULTON: Thank you, Mr. President and members of the body. I detect a mischievous smile on the face of my esteemed colleague from Lincoln Senator McGill, and I'm pleased she's able to make her point. When I first came into this body, I agreed to chair an informal group called the Legislature's sportsmen's forum of which many of you are members, and we don't do a whole lot but it provides a conduit for sportsmen to be able to access their senators and we are able to access sportsmen also. One of the things that I was asked when I first took this over, I took the responsibility over from Senator Schrock who Senator McGill did reference earlier, one of the things I was asked to consider was to bring this proposal, a constitutional amendment to enshrine within our constitution these traditions that we have from the beginning held in Nebraska. My response at that time was, you know, I don't see the urgency, I don't see a need for that, and I chose not to introduce it. And, incidentally, I actually got into an argument with Senator Chambers on this very issue without introducing anything because there was a media article indicating that I was going to introduce it, but I did not and I chose not to consciously for the reasons that have been elucidated by Senator McGill. Did not believe that it rose to that level of urgency or that it did not merit the attention of our constitution, the voters anyway. I have changed since then and let me

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tell you why. I grew up in a small town. Nemaha County. When people in Nemaha County said I'm going into the city, they meant they were going into Auburn, Nebraska, population about 3,500. That's my hometown. We went fishing, we went hunting, and it was just normal. It happened regularly. In fact, I remember one summer when I was in junior high we went to our fishing...we went there everyday for the summer. Stringers full of bullhead, channel cat, and what have you. That was not so long ago. Then I attended college, came to the university to become a Husker or a Cornhusker, and I settled down here in Lincoln. Now I don't hunt and fish as often as I used to. In fact, I haven't hunted since I was probably in college. I was deer hunting with my dad. I've gone fishing a few times but it does not happen as frequently. I'm here in the city. Pace of life. Not as many places to go. And my children do not hunt and fish because their dad no longer hunts and fishes. Now we're getting ready to go through redistricting here in this state. Why? Because the census was done. And what have we learned in that census? That the populations, the rural population in Nebraska is migrating to the urban areas of Nebraska. And I'd be willing to bet that the story that I just shared with you--small-town kid comes to the University of Nebraska, settles down in Lincoln, and adopts more of an urban culture and lifestyle--I'd be willing to bet that's the story of an awful lot of people. Indeed, when I was going door to door in my district, I knocked on a lot of doors and recognized a person as someone that I'd play basketball against or baseball... [LR40CA]

SENATOR GLOOR: One minute. [LR40CA]

SENATOR FULTON: ...or track or what have you from another small town. And so now you can see in one generation, my children have lost touch with the traditions that my dad and his dad and his dad before him experienced. And we've quantified that in a census. And we're getting ready to put forward redistricting that will reflect that reality. And in another ten years, it will only become more pronounced. Now is the time to put this into our constitution. Our constitution is our makeup, what we are. And so I have changed my mind because I have recognized that which happened to me is happening all across this state and, indeed, an entire generation is now removed from the traditions that so many of us before took for granted. I stand in support of AM886 and LR40CA therefore. Thank you, Mr. President. [LR40CA]

SENATOR GLOOR: Thank you, Senator Fulton. (Visitors introduced.) [LR40CA]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions. They include: LR131, LR132, LR133, LR134, LR135, LR136, LR137, LR139, and LR140. Senator Lautenbaugh, you are recognized. [LR40CA LR131 LR132 LR133 LR134 LR135 LR136 LR137 LR139 LR140]

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SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this proposed constitutional amendment as amended. And I think it's important, and let me say why. While it is true I don't think that there is a current move to do away with hunting in Nebraska, nothing is forever. And I believe it is important that we make it clear that this is important to us. And, you know, some would say, well, does this rise to the level of a constitutional amendment. I believe so. I think it's worth doing. I think this is something we need to protect. And so to say it's not under assault here yet, just, you know, make sure you add the "yet" because it'll come, it'll surely come. And I think in some ways it may have started already in little bits and pieces. And this is worth doing and this is worth protecting and I think it's part of who we are. And I would urge you to vote green on the amendment and vote green on the underlying resolution and I would yield the rest of my time to Senator Pirsch, if he would like it. [LR40CA]

SPEAKER FLOOD: Senator Pirsch, 3 minutes 50 seconds. [LR40CA]

SENATOR PIRSCH: Thank you. I appreciate that. And this sentiment of...we've heard before, a solution doesn't rise to the level of a constitutional amendment, a solution in search of a problem. We've heard it before. Actually the head of a very large organization that has raised and spends every year to the tunes of hundreds of millions of dollars said exactly that, that it's a solution in search of a problem. That's how he refers to these amendments. And yet at that same time this organization goes out and spends hundreds of millions of dollars. And let me just talk about some of the things that are happening right now in other states. Mountain lion hunting was banned by initiative in California state that was once a stronghold of such hunting. Now as a result, overpopulation of lions exists and now because of the ban in hunting it's the government that pays government employees to go out and hunt these animals to try to control their numbers and hunters are not allowed to do that. And there have been deaths, actual deaths that have been associated with these lions in recent years. Their bear hunting in New Jersey, activists...this organization shut down the bear hunting season in that state. They became so overpopulated that they, again, posed a threat to public safety. Activists worked in the Legislatures and courts to stop the hunting of pheasants and doves in states like New York, Rhode Island, Wisconsin, Illinois, and Minnesota. More than \$1.6 million in Michigan was spent by these groups on a successful 2006 effort to ban the hunting of doves, the most effectively hunted game bird in America. At the time, Michigan had more licensed hunters than any other state. And so these are just some of the situations that have occurred in other states and there's a lot more. This particular organization has in recent months for the first time hired a state director here in the state of Nebraska. I don't know why you can claim we don't have any intents or designs on the state of Nebraska. We just start to hire employees for the state for no reason. [LR40CA]

SPEAKER FLOOD: One minute. [LR40CA]

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SENATOR PIRSCH: So it seems disingenuous at best. And, again, they have hundreds of millions of dollars at their access. Here's a quote from the Nebraska Farm Bureau: When our members discussed this issue, no one believed there would ever be a time that there would be an actual threat of anyone taking away the right to hunt, fish or trap. In looking at the way attitudes have changed about animals all across the world, however, we now realize this is realistic and possible. And that's the Nebraska State Farm Bureau in recent days. So I would posit it is a clear-and-present danger and, again, when we talk about the...I'll talk about in future instances address the idea of the constitution more in depth. Thank you. [LR40CA]

SPEAKER FLOOD: Thank you, Senator Pirsch. Mr. Clerk, items for the record. [LR40CA]

CLERK: Thank you, Mr. President. Hearing notices from the Natural Resources Committee and Health and Human Services, signed by the respective Chairs. The Natural Resources Committee, chaired by Senator Langemeier, reports LB391 to General File with amendments. Business and Labor, chaired by Senator Lathrop, reports LB502 to General File. I have name adds, Mr. President: Senator Janssen to LB600, and Senator Pankonin and Harms to LB600. (Legislative Journal pages 1035-1036.) [LB391 LB502 LB600]

And, Mr. President, I have a priority motion. Senator Dubas would move to adjourn the body until Tuesday morning, April 5, at 10:00 a.m.

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