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Floor Debate  
March 20, 2012

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[LB84 LB165 LB239 LB599A LB642 LB684 LB711 LB745 LB750 LB820 LB821 LB858  
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SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-seventh day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Pastor Jim Berry of Christ Church in Falls City, Senator Heidemann's district. Please rise.

PASTOR BERRY: (Prayer offered.)

SENATOR CARLSON: Thank you, Pastor Berry. I call to order the forty-seventh day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: Your Committee on Enrollment and Review reports they've examined and reviewed LB858 and report the same to Select File with Enrollment and Review amendments. That's all that I have, Mr. President. (Legislative Journal page 1015.) [LB858]

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

CLERK: Mr. President, LB711 is a bill by Senator Wightman. (Read title.) The bill was introduced on January 4 of this year, referred to the Executive Board for public hearing, advanced to General File. There are committee amendments. (AM2214, Legislative Journal page 834.) [LB711]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB711. [LB711]

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SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If I could, it's a relatively short bill and the amendment becomes the bill so I'd prefer to open on both at this time. With that, members, as you know, the membership of the Executive Board is set in statute, and the composition of that board is set by Section 50-401.01. In addition to the Chairperson, Vice Chairperson, Speaker, and Chairperson of the Appropriations Committee, the board membership includes six at-large members, two from each of the three caucuses. LB711 was drafted to change the caucus breakdown for the at-large membership on the Executive Board so that it takes into account the changes that occurred during the redistricting in 2011. And as originally drafted, LB711 mirrored the rule change that was introduced at the beginning of the session to change the membership on the Committee on Committee caucuses. The committee amendment changes this caucus breakdown, and I will go ahead and open on that. The committee amendment strikes the original provisions of the bill and divides the members of the Legislature into three Executive Board caucuses on the basis of which Congressional district has a majority of the population of a particular legislative district. I have handed out a sheet. I did one yesterday, but knowing that some probably took them with them and would not have them in front of them I've handed out a new sheet now. And that shows how the caucus breakdown would be if the committee amendment is adopted on the front side. On the back side of the sheet, you will see the population of each legislative district broken down by Congressional districts. District 1 would end up with 16 members; District 2 with 16 members; and District 3 with 17 members in it. With the committee amendment, the caucus breakdown is based strictly on population. It is a rational, simple, and fair way to create the Executive Board caucuses. There was a lot of discussion in committee with regard to where the 17th member was to be and also as to the history of the statutory Section 50-401.01. And the Clerk actually furnished us with most of the history that we had. There really was not a very good I guess definition as to why we had set the basis at the time that this was last amended or after the 2000 election. If you look...if any of you looked at the history on 50-401.01, on the annotations you will see that the section has been amended almost every year following the census. Sometimes in the first year...I see after 1990 census we amended it in 1992 and that was Section 1. After the 2000 election, it was amended both Section 1 amendments and in 2001 and 2003. So...and Section 1 is the section that we're dealing with here. So with that, I guess I might say that we tried to set a rule that could be applicable and be understood, particularly with considering term limits, that would be understood by new members in how we did the breakdown. We were unable to trace it, that has always been a consideration, and it's never matched up with the Congressional districts. But on this occasion it does and so I would urge your support for AM2214 and then LB711. Thank you, Mr. President. [LB711]

SENATOR CARLSON: Thank you, Senator Wightman. Members, you've heard the opening on LB711 as well as the opening on AM2214. The floor is now open for debate. Senators wishing to speak include Langemeier and Karpisek. Senator Langemeier, you're recognized. [LB711]

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SENATOR LANGEMEIER: Mr. President, members of the body, I don't know that there needs to be any more discussion from the opening by Senator Wightman. But if you look at that sheet that was handed out, Exec Board, as we look to make these caucuses or membership on the Exec Board, we've looked back in the history to find rhyme or reason of how they were divided up and so on and so forth. So if you flip that over to the back side where you see all the numbers, what we did is, as Chair of Redistricting, I went down and I had each district and your population divided out to the...wherever your population was. So if you look at the first one, Senator Heidemann of his population, 23,601, the majority of his population was in District 3. And so that is how these numbers were come up...we came up with these numbers. They were strictly by where the majority of population of your district was residing, whether it's in District 1, 2, or 3, and that's how we divided them up. It's just that simple. And so anyway, I just wanted to share that. That's how these divisions were derived at and that's the committee amendment. In the committee amendment you notice two districts were put in the wrong spot based on the numbers. We put everybody in their district 100 percent based on the majority of their population. So with that, we'd ask for the adoption of the committee amendment and LB711. [LB711]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Karpisek, you're recognized. [LB711]

SENATOR KARPISEK: Thank you, Mr. President. Good morning, members. I stand in support of the bill and the amendment from a legislative point of view. From my personal point of view, I don't like how it shook out because mainly it moves me from the 1st District to the 3rd District, which is maybe the way it should have been before, but the way that redistricting went and how the committee looked at where the majority of your voters are is the right way to do it. I think in ten years when they sit down to redo this at least we had a rhyme and a reason for how we did it. And I give the Clerk and the Chair of the committee a lot of credit for sitting down and working through this and finding a way that made sense. Again, personally I would have liked to have stayed in the 1st District. It's where I've been for six years. But we can't always get what we personally want but what's best for the body. So again I would just say personally I don't like how this shook out for me. But in the grand scheme of things, I guess it's the way to do it. I don't know how else we would have done it without cutting holes for certain senators, which would not have been the right way to do it. So again, thank you to the Clerk for his hard work and the committee. Thank you, Mr. President. [LB711]

SENATOR CARLSON: Thank you, Senator Karpisek. Are there other senators wishing to speak? Seeing none, Senator Wightman, you're recognized to close on AM2214. Senator Wightman waives closing. The question is, shall the committee amendments to LB711 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB711]

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CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB711]

SENATOR CARLSON: Committee amendments are adopted. We return to discussion of LB711. Are there senators wishing to speak? Seeing none, Senator Wightman, you're recognized to close. He waives closing. The question is, shall LB711 be advanced? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB711]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB711. [LB711]

SENATOR CARLSON: LB711 does advance. Mr. Clerk, next item. [LB711]

CLERK: Mr. President, LB1063 offered by Senator Cook. (Read title.) Introduced on January 18 of this year, referred to the Health and Human Services Committee for purposes of conducting a public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2044, Legislative Journal page 597.) [LB1063]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Cook, you're recognized to open on your bill. [LB1063]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I stand before the body this morning as the introducer of LB1063, the Children's Health and Treatment Act. LB1063 is my personal priority bill this legislative session. The is a bill that I introduced to end the longstanding practice of denying behavioral healthcare that is out of compliance with federal Medicaid requirements. The Children's Health and Treatment Act clearly and simply places the current federal requirements for children's healthcare into Nebraska statute. I have filed AM2540 which will address issues raised in committee and will replace the green copy of the bill. I want to first thank the Health and Human Services Committee for giving the due consideration of this legislation and for unanimously advancing LB1063 from committee. Let me make this clear. The legislation will not require the state to provide any services that they are not currently required to provide. Here is what the bill as amended will accomplish. The act defines medical necessity in a manner consistent with requirements that have been in place for 30 years. Medical necessity is the overarching standard for determining eligibility for prescribed treatment for a Medicaid-eligible child. Additionally, LB1063 will require the clinical guidelines which are factors and standards used to determine a Medicaid patient's eligibility for a given prescribed treatment be promulgated using the Administrative Procedure Act. Finally, the act, as amended with AM2540, will ask the Department of Health and Human Services to report to the Legislature details about denials of treatment for young Nebraskans. These three components are each important steps to ensure that the state is complying with the requirements of any state

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participating in the Medicaid program. Requiring guidelines for eligibility to be promulgated according to the Administrative Procedure Act will shed sunlight on an important government function, providing basic, preventive healthcare in our state's children or to our state's children. The reporting requirements contained in the legislation as amended will give the Legislature and a very concerned public an excellent gauge about how this critical care and the public policy supporting it is carried out. This Legislature has made a great amount of progress to reform Nebraska's child welfare system. The proposals we have advanced will go a long way to ensuring we build a system that provides data-based oversight as well as supportive structures for foster parents, caseworkers, and most importantly our state wards in crisis. I thank you for joining me in supporting these strong pieces of legislation that directly relate to the findings of LR37 conducted in a resolute fashion by the committee. That being said, I'd like to return to the discussion of my priority legislation. The Children's Health and Treatment Act adds a critical preventive component to the needed reforms to children's behavioral healthcare. Nebraska is shirking a major responsibility to our children by denying the behavioral health treatment prescribed by doctors. Federal law is clear. If a state participates in the Medicaid program, they must provide medically necessary treatment to children eligible for Medicaid. The LR37 study conducted by our committee made all of us aware that there are major problems with the delivery of behavioral health treatment to Nebraska's most vulnerable children. The members of this committee who participated in LR37 process heard from across the state that Medicaid is denying needed and prescribed behavioral health treatment. Here's what is happening. Medicaid-eligible children are denied behavioral health treatment by the state. As a result, parents are placed in the untenable position of making their child a ward of the state in order to get the treatment prescribed by that child's physician. In the LR37 report, it was noted that nearly one in four children in foster care are there because of their own behavior, not because they were abused or neglected. Given this fact, it should be no surprise that under the previous model that lead agency contract agencies were having to ask the state for amended contracts to meet expenses. The state is shifting the cost of providing this care from the Medicaid budget to the child welfare budget. With the passage of LB1063, Nebraska will provide the prescribed care before another crisis occurs. If we're serious about lowering the numbers of our children in the child welfare system, this is the solution. Passage of LB1063 will work toward preventing additional crisis and will provide the care that our children need. Please bear in mind that when Nebraska provides federally mandated services to Medicaid-eligible children the state receives a 60 percent match from the federal government. When the state denies federally mandated Medicaid services and the family places their child in the custody of the state to receive the needed care, the state pays 100 percent of the expense from the General Fund. Not only is defining medical necessity the right thing to do for Nebraska's Medicaid-eligible children and much-needed part of child welfare reforms, LB1063 will ensure that Nebraska is in compliance with the requirements for states participating in the Medicaid program. My sincere hope is that the Legislature will continue to be unified in making child welfare a priority and advance LB1063 to Select

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File. Even then with passage of these bills, our jobs will not be done. This is not the time to pass legislation, congratulate ourselves, and walk away. Reformation of Nebraska's child welfare system requires a long-term commitment. There are more than 8,000 children in out-of-home placements. What is more distressing is, as I previously stated, one in four of these children is placed in foster care because of the child's behavioral issues and not because of abuse or neglect. These brutal figures are a symptom. These figures are a symptom of a greater policy failing in our state that waits until a crisis occurs with a family and then splits that family. What are the solutions? What are the fundamental causes of this dismal situation? The fundamental cause of this situation is the failure of the state of Nebraska to provide basic, preventative healthcare to our Medicaid-eligible children. The state is systematically denying behavioral healthcare to our children and placing the burden on our child welfare system. [LB1063 LR37]

SENATOR CARLSON: One minute. [LB1063]

SENATOR COOK: Thank you, Mr. President. Adoption of LB1063 will make a sincere attempt and policy declaration to reduce the number of Nebraska children in foster care and create a culture of accountability and healing. Thank you for your thoughtful consideration of LB1063 as amended by AM2540 and for your vote in support of this legislation. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook. As the Clerk mentioned, there are committee amendments. Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on AM2044. [LB1063]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. As Senator Cook has indicated to you, the committee amendment that was brought forward has been further amended by her amendment that she will explain. I do want to make several points about the committee's amendment to sort of amplify on what Senator Cook talked about. The committee amendment provides for the Children's Health and Treatment Act. The purpose of the Children's Health and Treatment Act are to clarify the meaning of the term "medically necessary" for purposes of the medical assistance program for children under 19 years of age. And, colleagues, it's just like any other health insurance is that there has to be a determination. In your own health insurance, you would be looking at what is medically necessary and so it is with the Medicaid program. The committee's amendment requires the department as is required under federal Medicaid that children under 19 years of age who are eligible for coverage under the medical assistance program can provide early and periodic screening, diagnostic, and treatment services; necessary health diagnostic treatment screening and other measures to correct or ameliorate defects or physical or mental illness or conditions discovered by the screening process, regardless of whether such healthcare diagnostic and treatment, screening, and other measures described are covered and are covered by the federal plan. This is a federal Medicaid statute. It requires that children are

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provided Medicaid services under Medicaid even if they are normally optional Medicaid services for adults. And that's really been an emphasis of our children's Medicaid services. Federal Medicaid requires that they are covered, those services are covered by children. As I indicated, the intent of this is to restate what is federal law, not be an expansion of services outside of what is currently required under federal Medicaid for children. All such services and other measures shall be provided or authorized when they are determined to be medically necessary as defined in the act for EPSDT children. A medical necessary determination shall be determined on an individualized, case-by-case basis for each child, which is currently under our state statute. The Children's Health and Treatment Act does not limit the authority of the department or department contractors to limit coverage of treatment or services that are unsafe, experimental, or not generally accepted as treatment within the medical community. It also says that utilization controls or prior authorization for services and perform utilization reviews. The department can still do all of those items. This act provides that the department may not arbitrarily deny or reduce the amount, duration, or scope of a required service to an otherwise eligible recipient solely because of the diagnosis type of illness or condition. Colleagues, I think it is extremely important to understand that the department puts forward guidelines and criteria and rules and regulations that govern Medicaid. And what we are trying to clarify here is what we are doing in federal statute, and we're also trying very clearly to put into place a way to monitor and take a look at what is happening within that behavioral health. Senator Cook's amendment more narrowly defines and clarifies our intent of this bill, and I would encourage your support of that amendment. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Campbell. Mr. Clerk for an amendment to the committee amendments. [LB1063]

CLERK: Mr. President, Senator Cook would move to amend the committee amendments with AM2540. (Legislative Journal page 1009.) [LB1063]

SENATOR CARLSON: Senator Cook, you're recognized to open for any additional comments on AM2540. [LB1063]

SENATOR COOK: Thank you, Mr. President, and good morning again, colleagues. AM2540 is up on your machines because I know it was up there last night before we left. I'll just go through it point by point because there are some questions, some of which were brought out in communications from the agency. Those communications were based on information that is addressed in this amendment. AM2540 to the committee amendments, AM2044, to LB1063, the first section just names it the Children's Health and Treatment Act. The change in the second section is to require that the guidelines and criteria utilized to determine medical necessity for services under the assistance program, which we call Medicaid, shall be adopted and promulgated as rules and regs pursuant to the Administrative Procedure Act, which provides for notice

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and public comment. And that's the sunshine that I talked about in my opening remarks. Section 3 just clarifies because there were some questions about now are we taking it up to the person's 21st birthday, clarifies that this is for medical necessity for children under the age of 19, and that goes along with the federal statute. Going down to Section 4, again referencing the federal statute. Section 5, this is where we worked in the last few weeks to continue to get accountability to make better decisions in the future. The department will report to the Health and Human Services Committee of the Legislature on these utilization controls, including rates of initial service, authorizations, reauthorizations, and denials. And we're going to get our first report we hope in time to be able to look at it for the next legislative session and quarterly after that. Section 6 says that the agency may not arbitrarily deny or reduce the amount, duration, or scope of a required service to an otherwise eligible recipient. And then going down to Section 7, the change there, there's a change in the effective date of the act, on or after 1 January 2013. Section 2...part 2: The clinical criteria or guidelines, medical necessity criteria, or other similar criteria shall be consistent once again with the early, periodic screening, diagnostic, and treatment services, also known as EPSDT, which is in this federal statute, and then we renumber and those represent the primary changes to the committee's amendment, AM2044, with my amendment, AM2540. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook. Members, you've heard the opening on LB1063 as well as the committee amendment, AM2044, and Senator Cook's amendment to the committee amendment, AM2540. Floor is now open for debate. There are senators wishing to speak. (Doctor of the day and visitors introduced.) Senators wishing to speak include Nordquist, Krist, Dubas, Gloor, Loudon, and Nelson. Senator Nordquist, you're recognized. [LB1063]

SENATOR NORDQUIST: Thank you, Mr. President and members. I'd like to thank Senator Cook for bringing this issue forward and Senator Campbell and the Health Committee for advancing it. It's certainly an issue that we've been hearing about for a significant amount of time, a significant number of contacts over the last year on the LB603 Committee. We've had a number of discussions about access to services for these children who are falling through the cracks. And it really comes down as we look at our entire system that serves children, it comes down to prevention, making sure that they get the services they need at the time that they need them, and not creating barriers that we don't have to have in place. And unfortunately, that's what's happened with our system. And hopefully this bill I think will move us in the right direction and help address those barriers that don't need to be there. I know Senator Howard and I on the mike during the child welfare discussion talked about the need for prevention, and that's what this gets to is the prevention of getting the services to the kids when they need them. This simply clarifies, you know, what the federal obligation is, not to discriminate. It makes sure that we have timely access to the appropriate early interventions. And by investing in prevention and getting children the services they need, which are medically



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necessary, which allows us to pull down the federal funds, it will save us money. It will keep money in the Medicaid system where we get the federal match and not shift it to the child welfare system where we have seen costs continue to creep up, and those are General Fund dollars on that side. So this is an issue that we have to take head on, and I think this bill is the appropriate way to do that. I was reading through Director Chaumont's letter from last night, and I find it interesting. She says the section that...Section 4 which addresses the EPSDT benefits is unnecessary as it's already required for the department to provide those services. But then it says the purpose of this bill then appears to be to expand services paid for by Medicaid. I think those two sentences back to back like that indicate that the department is acknowledging that a restatement of what they're supposed to be doing is...they say it's an expansion. Well, it shouldn't be perceived that way. It shouldn't be that way if they are already told under statute to do that, they should be doing that. They should be providing those services. And it shouldn't be seen as an expansion. I was looking at some documents we pulled together, the guidelines on what constitutes medical necessity, and when services...levels of care, children can be excluded from levels of care, or what requirements are there to continue at a level of care. And it's pretty astounding at the hurdles that we have in place in our guidelines compared to guidelines in other states, even other states that use the same administrative service that we do under Magellan. We have five reasons, any one of which is grounds for exclusion. We have eight continuing state guidelines, all of which have to be met. If you look at other states of the numbers of exclusion reasons are not nearly as high. Florida, which also uses Magellan, has only three specific reasons for exclusions and not all eight of their continuing guidelines need to be met... [LB1063]

SENATOR CARLSON: One minute. [LB1063]

SENATOR NORDQUIST: ...for kids to continue. If you look at the state of Connecticut, theirs...they say, well, here's a couple of reasons or here's a couple criteria for continuing services. But if one of those aren't met, well, here's a couple more that might work for you. So all of these states have to fall under federal rules and regulations and laws when it comes to providing services that are deemed medically necessary to deem services medically necessary. But you can see there's a broad interpretation of where these states fall in the spectrum and we have thrown up a number of barriers, a number of hurdles, you have to meet every one. And if you don't, the child is not getting the services they need. And that's why we're in the predicament we are. That's why we have more kids out of state or out of home...in out-of-home placements than most other states. So this is a way to address it to remove those barriers and to get kids... [LB1063]

SENATOR CARLSON: Time. [LB1063]

SENATOR NORDQUIST: ...the services they need. Thank you. [LB1063]

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SENATOR CARLSON: Thank you, Senator Nordquist. Senator Krist, you're recognized. [LB1063]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. I don't often like to start off the day by getting my dander up. That's not usually a good way to spend the day. But I have to note that the Health and Human Services Committee has been working on this project, if you will, for over 18 months, culminating in LR37, culminating in specific pieces of legislation that will hold accountability in high regard so that we can have proper oversight over what we have appropriated to be executed. Fourteenth of February is when we heard this. And from now until then we've heard very, very little opposition as we worked through the process and tried to make it better. Yet the Director of Medicaid chooses to put out a letter yesterday telling us how useless this piece of legislation actually is because it actually is in federal guidelines and it's supposed to be accomplished. So why are we telling her what to do? Let me give you an example of why we're telling her what to do. I don't want to talk about specifics, but I want to tell you that there was a young female who by the criteria was judged to have needed therapy that we could not perform here in the state because we have no facility that could handle her issue. We sent her out of state. Under the guidelines, she was capable of being treated and then some issues happened. A doctor put on a form the wrong terminology and one of those criteria that Senator Nordquist just talked about resulted in her not receiving any continuance of treatment and sent back home. That doctor's recommendation was that this young woman should receive 24-hour-a-day supervision for at least the next two years. That was interpreted as she needs a babysitter. She came home and manifested severe issues doing harm to herself. She cut herself over and over again. She was taken to the emergency room where she beat up on one of Lincoln's finest police officers. Her mother continued to ask for help. But under the guidelines that we have established, her treatment was terminated. So I would say, Madam Director, that's a reason why we need to make sure that the definition which, absolutely correct, is very similar to other states, and the implementation guidelines result in quality care. That's just one story. If you followed us around the state over the last 18 months, you would hear so many stories that are anomalies? I don't think so. I think those are things that are happening to our young folks in the state because we are not paying the proper attention. I thank Senator Cook for bringing it forward, for bringing the bill forward. I thank her for her hard work trying to make sure that it's the best it can be, and I would urge you to support AM2540, AM2044, and LB1063. Thank you, colleagues. [LB1063 LR37]

SENATOR CARLSON: Thank you, Senator Krist. Senator Dubas, you're recognized. [LB1063]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB1063 and the underlying amendments. This is an issue that I've heard on a regular basis from providers out in my area who are continually frustrated by requesting

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services--these are professionals again. These are people who know and understand these issues who try to go through all the hoops that they're supposed to go to in providing documentation and everything to support their reasonings and their decision behind requesting certain services and continually run into the roadblock of medical necessity. So this is a very important bill in clarifying what that is, and I especially appreciate the transparency part of this. I think that will go a long way in helping us take some accountability back and really know what it is that we're trying to do with these programs. One of the providers that I hear from regularly is...deals with young children, children under the age of five. And I know it's hard for most of us to grasp how children under the age of five would need any type of mental health services. But unfortunately it is the truth. And it is very well documented that if we can get to these children as early as possible we can get the types of treatments that they need and hopefully get them back on the right track and into a healthier way of living. And, of course, you have to look at the family dynamics also. But I just received an e-mail from this provider just this last week where she talks about she's been denied counseling services to seven children under the age of four years and nine months in the last eight months. The pretreatment assessments have been approved. The mental status exam has been approved. But when it's time to implement the recommendations, she gets denied. A lot of what she does is play therapy and that is a recognized form of treatment for young children, but yet she continues to run into this medical necessity requirement. And again, following all the procedures, doing the status exams and everything, but then, you know, when Magellan is ready to say yea or nay, typically say nay. She's also, kind of on a side note, is also two months behind in receiving Medicaid payments, which puts her and her business in a little bit of a bind in being able to take care of their responsibilities. But again, that was a side note. But I think the e-mail that she sent to me, along with so many of the other providers who have contacted me over the years, really supports the fact why we need LB1063. We need to be able to...I think the earlier, again, the earlier we can get these kids the types of help that they need the better off we're going to all be, and it will ultimately be a money saver. So by really in on what that medical necessity definition means, how it's applied I think is going to be critical. And I think it fits in very well with the child welfare reform package that we've put together. So I do appreciate all of the work that Senator Cook and the Health Committee have put into this. They certainly have sat through and listened to people from one end of the state to the other. So if anybody...if any group of people have a good understanding of what needs to be done and how it needs to be done, it is certainly these people. And so I hope that we can support their efforts and support the work that they've done. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Dubas. (Visitors introduced.) Continuing with debate, Senator Gloor, you're recognized. [LB1063]

SENATOR GLOOR: Good morning, Mr. President. Good morning, members. I want to thank Senator Cook for introducing this bill. I also want to thank her for her patience with

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me because as she and other members of the committee know, I was resistant to LB1063 in committee. And my reasons for resistance had to do with concerns about the scope of utilization review and the use of clinical guidelines that I think are important for the state to use in making determinations as relates to eligibility and scope of services provided, continuation of those services. There isn't a health or human services provider that doesn't need to have nor can operate effectively without those important pieces of information being brought to them. And my concerns about this bill initially were that we were making it difficult, if not impossible, to bring those into play. But Senator Cook and her staff worked hard on this and I think have completely satisfied my concerns that I had initially that that's no longer going to be the case. But what we do have for our protection and those of Nebraskans seeking these services is the guidelines that are available go through the Administrative Procedure Act and that is important from a standpoint, as others have pointed out, of transparency and effectiveness in good government. The state has obligations. This bill and the amendments will make sure that we effectively fulfill those obligations. And this is a good bill. And the amendments have made sure that it's going to be a good bill and one that I went from being a hard sell to one that I can wholly support. With that, I wonder if Senator Campbell would yield to a question. [LB1063]

SENATOR CARLSON: Senator Campbell, would you yield? [LB1063]

SENATOR CAMPBELL: Yes, certainly. [LB1063]

SENATOR GLOOR: Senator Campbell, would you take a moment to respond to the letter that we would have gotten late yesterday from Director Chaumont of the Division of Medicaid and Long-Term Care Services? [LB1063]

SENATOR CAMPBELL: Yes. Thank you, Mr. President and Senator Gloor, for the question. I've had the question by several people and I want to be very clear to everyone that the letter that the director sent to all senators really had to deal with the committee's amendment, AM2044, if you look at the letter. And we've refined some of those concerns in AM2540, which Senator Cook has brought forward. And what I would say to the body is that we certainly will sit down with the director between General and Select to see if there's any other issues. We've tried to work pretty methodically through the issues that have been brought to us and concerns. So between General and Select we will try to do that. We will also continue to work with the budget and Fiscal Office to make sure that we don't have a fiscal impact here that we're not expecting. One of the questions that was asked is, is the money that would come from this under the child welfare package? And of the five bills, no, it's not in that money and it's not in the \$17 million. But I think the question we're trying to make absolutely sure of is that we don't have an additional fiscal impact and whether that the money that we allocate to Medicaid can cover the services that are required under federal law. So we will very clearly hone that down between General and Select. But it's not a part of the \$17 million

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that was requested by the Governor. [LB1063]

SENATOR CARLSON: One minute. [LB1063]

SENATOR CAMPBELL: Thank you, Mr. President. Sorry. [LB1063]

SENATOR GLOOR: And thank you, Senator Campbell, for your response. I shared the concerns of the department when we began the discussion on LB1063. I've explained those concerns and the fact that I've reconciled myself that the amendments address those concerns. The difficulty when you receive a letter obviously hours before it shows up in General File on the agenda is it doesn't give you appropriate time to respond. And I think as my concerns were addressed during the hearing and after the hearing I think my concerns, which I'm sure will mirror very much the department's again, can be dealt with between General and Select. I urge the body's advancement to General File and will continue to work with the department just as we have in the past to satisfy any concerns they have or that I have by the time it shows up on Select. Thank you. [LB1063]

SENATOR CARLSON: Thank you, Senator Gloor and Senator Campbell. Senator Louden, you're recognized. [LB1063]

SENATOR LOUDEN: Thank you, Mr. President and members of the Chamber. Would Senator Cook yield for questions? [LB1063]

SENATOR CARLSON: Senator Cook, would you yield? [LB1063]

SENATOR COOK: Yes. [LB1063]

SENATOR LOUDEN: Thank you, Senator Cook. And as I don't know very much about this Health and Human Services and some of the rules that go along with it and I usually rely on other people for information, but as I look...first of all, as I look at our amendment, the committee amendment is AM2044 and your amendment is AM2540. Now the way I read it, does your amendment actually strike the committee amendment? [LB1063]

SENATOR COOK: Yes, sir. This replaces the committee amendment and it replaces the green copy of the bill. [LB1063]

SENATOR LOUDEN: And it takes the place of the committee amendment. [LB1063]

SENATOR COOK: Yes, sir. As Senators Campbell and Gloor said, it addresses issues that have arisen as we've taken input from the agency and other interested groups along the last few weeks and over the session. [LB1063]

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SENATOR LOUDEN: And that was one of my other questions. As I look through it, I see many places where 42 U.S.C., which I suppose is U.S. Code, and 42 and I think maybe 39, now is primarily what your amendment is addressing is pointing out that Health and Human Services need to follow these issues that are already in the U.S. Codes. Is that...be correct to say that? [LB1063]

SENATOR COOK: Yes, sir, that is absolutely the main thrust of the proposal, along with reporting requirements so that we as a state and as a committee can make better decisions as we go forward about behavioral health treatment. [LB1063]

SENATOR LOUDEN: And now then I received this letter, I think we all did, from Director Chaumont. And she mentions that there would be an increase that she's wondering if this is going to set it up so some of these people would be I guess treated after they were 19 years of age. Is that correct to say or has that been addressed in your amendment then the letter that we got from Director Chaumont? [LB1063]

SENATOR COOK: Yes, sir. As you recall, we were here rather later than usual last night and AM2540 was filed, if I'm remembering correctly, after the director had forwarded her letter. Her letter is an analysis of the committee's amendment, AM2044. And as I mentioned earlier, my amendment, the committee's amendment to the committee's amendment, Section 3 in the third part of that it says medically necessary for children under 19 years of age. That's something that we wanted to clarify because that had been a concern brought up. [LB1063]

SENATOR LOUDEN: Okay. And now is the Health and Human Services doing that now? [LB1063]

SENATOR COOK: Pardon me? [LB1063]

SENATOR LOUDEN: Is the Health and Human Services doing that now, what's outlined in Section 3 of your amendment? [LB1063]

SENATOR COOK: In theory, yes. [LB1063]

SENATOR LOUDEN: Pardon? [LB1063]

SENATOR COOK: In theory, yes. In practice we found through testimony not necessarily. [LB1063]

SENATOR LOUDEN: Okay. Okay, that's what I was wondering. But anyway at that rate then if we vote in AM2540, that actually becomes the bill that will go into statutes. [LB1063]

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SENATOR COOK: Yes. AM2540 becomes the bill. We're going to continue dialogue between General and Select so AM2540 becomes the bill for right now. [LB1063]

SENATOR LOUDEN: Okay. Thank you, Senator Cook, and thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Louden and Senator Cook. Those still wishing to speak include Senators Nelson and Howard. Senator Nelson, you're recognized. [LB1063]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise not to necessarily in support or against this bill because there are a lot of things, a lot of question marks that I have here. I guess my primary concern would be that there's no fiscal note. According to the last line, they cannot be determined unless an in-depth analysis of the current conditions and limits with this service are taken. With that in mind, I'd like to ask Senator Cook some questions if she will yield. [LB1063]

SENATOR CARLSON: Senator Cook, would you yield? [LB1063]

SENATOR COOK: Yes. [LB1063]

SENATOR NELSON: Thank you, Senator Cook. Thank you for bringing this amendment, well, the bill and the amendment. As I said, there are some question marks raised here. I'm looking at...let me ask you this. Is autism supposed to be covered under your amendment under the bill? [LB1063]

SENATOR COOK: From my understanding of the definition of...as it's been defined, autistic spectrum is included. [LB1063]

SENATOR NELSON: All right. And that's... [LB1063]

SENATOR COOK: It doesn't specifically say. My bill is designed to ensure that the correct therapies are applied. In terms of a diagnosis, we didn't really explore in-depth specific diagnoses and their potential impact on the... [LB1063]

SENATOR NELSON: Well, thank you. [LB1063]

SENATOR COOK: ...execution of the bill. [LB1063]

SENATOR NELSON: Reading from the letter, it says the department does not cover applied behavioral analysis services as they are not considered behavioral health services and are not medical services provided. Should this bill be interpreted to require

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such coverage, they're estimated at \$42 million per year. [LB1063]

SENATOR COOK: Um-hum. [LB1063]

SENATOR NELSON: Do you have a response to that? [LB1063]

SENATOR COOK: That's their interpretation and certainly they are welcome to it. Their inclination has not been to cover things that have absolutely nothing to do with that therapy or that diagnosis. The birth of this bill is related to broad areas that were not covered by the state. Not having that letter in front of me, I'm not exactly certain what she was getting at. But I can also say that she sent that letter before this amendment, AM2540, was filed. [LB1063]

SENATOR NELSON: Well, if you can recall I think that we were going to try to provide outside of the scope of this services or money for treatment of autism and services and that didn't get anywhere. We never did come up with the money. Now on Section 6, will you tell me what this means? "the department may not arbitrarily" desire "deny or reduce the amount, duration, or scope of a required service to an otherwise eligible recipient solely because of the diagnosis, type of illness," and "condition." I'm not reading very well. But you know what that says because it appears in the committee amendment and also in yours. What other criteria would they use or why would they go beyond the diagnosis and what would the cost of that be because that would take it outside of Medicaid? [LB1063]

SENATOR COOK: Well, that's a very good question. In theory the agency is providing this care. So what I'm confused about is how the agency came up with a \$42 million fiscal note for something that in theory they're doing. What we found through testimony... [LB1063]

SENATOR CARLSON: One minute. [LB1063]

SENATOR COOK: ...and limited analysis is that the agency is not providing the services to children that they are eligible for and encouraging parents to put their children into the child welfare system as opposed to putting on the Medicaid rolls where there will be a 40-60 match. [LB1063]

SENATOR NELSON: Well, if Health and Human Services has a handle on what these projected costs might be, why don't we have a fiscal note? [LB1063]

SENATOR COOK: Well, this was filed...that's a very good question. Why isn't there a fiscal note? Because it's a zero is my estimation. It should be nothing because in theory they are doing this every day. That \$42 million from my understanding, and if you read carefully the narrative of the fiscal note, is based on including every single possible



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person who would be eligible all the way up to the age of 21, the full spectrum. So I disagree with the fiscal note, have from the beginning, and the committee amendment along with... [LB1063]

SENATOR CARLSON: Time. [LB1063]

SENATOR COOK: ...AM2540 addresses that. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook... [LB1063]

SENATOR NELSON: Thank you. [LB1063]

SENATOR CARLSON: ...and Senator Nelson. Senator Howard, you're recognized. [LB1063]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I, too, received this letter late and in going over it this morning find things that are very concerning to me. One of the things that just jumps out at me is that Medicaid...the statement from Vivianne Chaumont that Medicaid does not cover parental educational services for any age group. We estimate that allowing this for children under five would double expenditures for more than three...more than \$3 million. Should Nebraska be required to cover behavioral management services, the requests will not end at age five. The request for parental education will escalate into other childhood ages and could easily double the cost of these services. Well, I'm saying to you isn't this what we want--parental education, parental involvement as opposed to court involvement and state parenting? I just find this very incongruous. I have to ask you why does the department continually come to this body with a no attitude? They know the problems as well as we do. But what they choose to do is to come in and tell us why there is no answer, why they can't provide an answer, why there's no money for an answer. I have yet in eight years of service with this body and in the 34 years in my prior working for the Department of Health and Human Services heard the department offer to be a part of the solution. Too many kids in the system, too many kids in the system. How often have we heard that? Easy enough to say that, but you know what? When you want to look at the kids that wouldn't have to be in the system, nobody is really paying attention to this. This is a way to relieve the numbers safely. Put the parents back in charge, have the department willing to work with the department, work with the parents for the good of the child. Why does the child have to become a state ward to receive services? And then when the child is a state ward, why does the child have to fail in lower levels of services to become eligible for the services that could be effective? This has been a constant ongoing question that I have never been able to find the answer for. The child has to fail and fail and fail again before they receive the services that could have been effective. The child suffers unnecessarily due to the bureaucratic regulations and remains in the custody of the state for an indefinite period of time. This is simply not

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best practice. I saw countless families torn apart by the needs of their child and further decimated by the regulations imposed by the system. If you remember, and it was not that long ago, parents were driven to leave their children under the safe haven when they could not access services to meet the needs of their child. I'm going to offer the remainder of my time to Senator Cook so that she can continue to address the letter that we received. Senator Cook. [LB1063]

SENATOR CARLSON: Thank you, Senator Howard. Senator Cook, you're yielded a minute and a half. [LB1063]

SENATOR COOK: Thank you very much, Senator Howard. Thank you, Mr. President, and thank you, colleagues. I understand many of you are getting concerned about Director Chaumont's letter. I want to reiterate that that letter was crafted based on the amendment AM2044. The amendment that we're getting ready to vote on is AM2540. [LB1063]

SENATOR CARLSON: One minute. [LB1063]

SENATOR COOK: And it addresses the issues that are raised in that letter. I'd also like to take the opportunity to more clearly answer a question that Senator Nelson posed. While it's not something that I had necessarily contemplated in this proposal, this bill does not require any new services for autism. They just have to provide the ones that are current for Medicaid services. So the Medicaid-eligible services which per the U.S. Code, the law of the land, everybody who takes Medicaid dollars goes by these rules. It's pretty straightforward. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook. Senator Krist, you're recognized. [LB1063]

SENATOR KRIST: Thank you, Mr. President. Good morning again, Nebraska and colleagues. Let me just say again what needs to be said. This letter addresses the committee amendment. It does not address AM2540. In fact, AM2540 fixes many things that the letter identifies. Second, everything that's being asked to be provided to our children in Nebraska are exactly, let me say that word again, exactly what is in the federal codes. We're not asking for anything more or anything less. And as a matter of fact, we could find ourself in a lot of trouble if we were not administering the Medicaid program the way it should be administered. Senator Nordquist started out this conversation earlier saying that there are situations that need to be dealt with in terms of the implementation guidelines. The definition may be similar across the states, but how the money is being spent by the same...by each individual state is not the same. I was wondering if Senator Nelson would yield to a question. [LB1063]

SENATOR CARLSON: Senator Nelson, would you yield? [LB1063]

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SENATOR NELSON: I'll be happy to. [LB1063]

SENATOR KRIST: Okay. Senator Nelson, your comments or your question to Senator Cook would lead me to believe that you have some...you find some credibility in the fiscal note. And I would pose that if we're not going to do anything different than what the federal guidelines ask us to do, if there is no additional criteria or category of treatment being supplied, where is your information that this would cost us \$40 million-plus more? [LB1063]

SENATOR NELSON: In response to that, I'm only using the estimated figure from Vivianne Chaumont with the Health and Human Services that if...from the way she understands it or what criteria would have to be applied and if we're going to expand into the area of autism, that's going to...you and I both know autism is a very expensive endeavor. So that was my concern. If this is what the amendment or the amendments and the bill is going to do, then I think we need to have more financial information from a fiscal standpoint. Because if it's not covered by Medicaid, then it's going to come out of General Funds. That's what I'm a little concerned about. Maybe... [LB1063]

SENATOR KRIST: Okay. Senator Nelson, is it also a follow on or can we agree that that fiscal note was written on the original bill? [LB1063]

SENATOR NELSON: I would...yes, as far as I know, yes. [LB1063]

SENATOR KRIST: Absolutely. So now we can assume that the fiscal note is as invalid as the letter from Director Chaumont is in terms of addressing what the amendment to the committee amendment to the bill would do because the last amendment would replace all. [LB1063]

SENATOR NELSON: It didn't seem to me like that particular language changed. And what is it about the amendments that makes it any different from the original bill, Senator? [LB1063]

SENATOR KRIST: It calls for us to comply with the federal guidelines across the board, no more, no less. And I think...thank you, Senator Nelson, for your time on the mike. I think that if we spend the time between General and Select to educate folks about all the hard work that's gone into this and not the drama that's been presented by this letter from Director Chaumont we can find some middle ground and figure that all we're asking to do is exactly what the federal guidelines would ask us to do. And by the way, I will note the reason that we have an incredible Medicaid fund with a savings account that you're able to pull out of occasionally might be that we're not treating those kids that need to be treated. The reality of the situation may very well be the money should be spent on Medicaid on the kids in the state rather than being transferred into another

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account for other purposes. Thank you, colleagues. [LB1063]

SENATOR CARLSON: Thank you, Senator Krist and Senator Nelson. (Visitors introduced.) Continuing with debate, we have Senator Nelson and Senator Langemeier. Senator Nelson, you're recognized. [LB1063]

SENATOR NELSON: Thank you very much, Mr. President, members of the body. Let me continue my dialogue with Senator Krist if he will yield. [LB1063]

SENATOR CARLSON: Senator Krist, would you yield? [LB1063]

SENATOR KRIST: Absolutely. [LB1063]

SENATOR NELSON: I'm not sure whether it's your or my dialogue, Senator Krist. But you gave an example when you first testified here about 24-hour care. Would you just very briefly repeat that, what you said so we have our facts straight here? [LB1063]

SENATOR KRIST: Well, as Director Chaumont has said many times, I can't talk about the specifics of the case even though I've talked to the mother about the situation, but that child was put in out-of-state institutional care because we didn't have the capability of taking care of her here. So indeed she was a resident so it was 24-hour care that was deemed to be what was needed. And as a follow on to continue that person being in the facility, the doctor would have to continually update and make sure that that person should still be there. [LB1063]

SENATOR NELSON: Thank you. I asked Senator Cook about Section 6 where it says that you cannot deny an otherwise eligible recipient solely because of the diagnosis, type of illness, or condition. What other criteria then are you suggesting that we use here? [LB1063]

SENATOR KRIST: Well, I would suggest that for your information between now and Select that you pull up an example of the top ten states that deal with their definition of medical necessity and how their implementation guidelines establish how they would establish treatment and potential requalification. And I think you'll see that our state is vastly different and has very different...has more exclusionary clause than inclusion clause, if you will. [LB1063]

SENATOR NELSON: All right. Then it's your feeling that there's...that you want to look at this between General and Select and that there is no danger of any financial expansion here under these amendments. [LB1063]

SENATOR KRIST: It's my opinion, Senator, to be blunt now that you've asked the question, that starting in a track record back four years ago before Director Chaumont

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came here that there were more people being treated by Medicaid funds than after she implemented the changes in Medicaid. Whether that was an intentional viewpoint or intent to save money or whether it just was compliance with the federal regulations I don't know and I can't say for sure. If there is any increase, I think it would be exactly what the federal government guidelines and implementation of Medicaid would call for. And I'll remind you that those are matching funds. [LB1063]

SENATOR NELSON: All right. Thank you, Senator. Members of the body, I think we have a lot of questions here. If we don't have a fiscal note of any sort, I think we're treading on dangerous ground. We have a bill that may or may not be implemented in anyway. I'm not going to support this at this time at least. At least that's where I am but we'll see what happens. If it does move on, then I think there's still a lot of work to be done. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Krist. Senator Langemeier, you're recognized. [LB1063]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise not necessarily in support of LB1063 at this time, but I am in support of moving this forward. As you see, it's significant. I think Senator Loudon pointed it out to the committee or to the body very well that AM2540 becomes the bill. And so all the fiscal notes and all the data you've seen before are history. And so I'm going to support AM2540 as well as then the committee amendment and then the bill to move this on to Select File. And once it advances, we'll get a new fiscal note, and then we can take a new shot and reevaluate our positions on this and decide whether we want to continue forward with LB1063. So at this time I'd ask you all to support AM2540 and move forward. Thank you. [LB1063]

SENATOR CARLSON: Thank you, Senator Langemeier. Are there other senators wishing to speak? Seeing none, Senator Cook, you're recognized to close on AM2540. [LB1063]

SENATOR COOK: Thank you, Mr. President, and thank you, colleagues, for your input. I appreciate your engagement on this continuing dialogue of how we become more accountable and better service providers to the families and children in the state of Nebraska. I would like to close on AM2540, which becomes the bill, by simply reiterating what the bill provides for. The Children's Health and Treatment Act defines medical necessity in a manner consistent with requirements that have been in place for more than 30 years. Medical necessity is the overarching standard for determining eligibility for prescribed treatment for a Medicaid-eligible child. Additionally, LB1063 will require that clinical guidelines, which are factors and standards used to determine a Medicaid patient's eligibility for given prescribed treatment, be promulgated using the Administrative Procedure Act. And finally, the act will ask the Department of Health and Human Services to report to the Legislature details about denials of treatment for young

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Nebraskans. I thank you very much for your thoughtful consideration. And, Mr. Clerk, I would like to ask for a call of the house and a roll call vote in regular order. Thank you. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB1063]

CLERK: 27 ayes, 1 nay to place the house under call, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Heidemann, Cornett, Gloor, Burke Harr, Janssen, Larson, and Ashford, the house is under call. Senators Heidemann and Cornett, please return to the floor. The house is under call. All members are accounted for. Mr. Clerk, please proceed, roll call vote, regular order. [LB1063]

CLERK: (Roll call vote taken, Legislative Journal page 1016.) 35 ayes, 0 nays on the amendment to the amendment. [LB1063]

SENATOR CARLSON: The amendment is adopted. The call is raised. We return to discussion on AM2044 to LB1063. Are there senators wishing to speak? Seeing none, Senator Campbell, you are recognized to close. [LB1063]

SENATOR CAMPBELL: Thank you, Mr. President. Very briefly, colleagues, thank you very much for your vote on the amendment. And we will do everything possible to clarify the fiscal notes and the concerns that have been raised. And I particularly want to thank Senator Langemeier for succinctly putting into place what needs to be done between General and Select File. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Campbell. You've heard the closing on AM2044 to LB1063. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1063]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB1063]

SENATOR CARLSON: Committee amendments are adopted. We return to discussion of the underlying bill, LB1063. Are there senators wishing to speak? Seeing none, Senator Cook, you're recognized to close on LB1063. [LB1063]

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SENATOR COOK: Thank you, Mr. President. I would just like to thank the body for its support and reinforce our sincere desire and commitment to working on the bill to satisfy all the questions between now and Select File. Thank you, Mr. President. [LB1063]

SENATOR CARLSON: Thank you, Senator Cook. Members, you've heard the closing. The question is, shall LB1063 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1063]

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to advance LB1063. [LB1063]

SENATOR CARLSON: LB1063 does advance. Mr. Clerk, are there items for the record? [LB1063]

CLERK: There are, Mr. President. Thank you. Senator Cornett, an amendment to LB970 to be printed. Study resolutions: Senator Mello offers LR503 and Senator Ken Haar, LR504. Both will be referred to the board. And I have a proposed rules change by Speaker Flood. Pursuant to our rules, that will be referred to the Rules Committee for their consideration. That's all that I have, Mr. President. (Legislative Journal pages 1016-1018.) [LB970 LR503 LR504]

SENATOR CARLSON: Thank you, Mr. Clerk. The next item.

CLERK: LB1114 is a bill by Senator Flood. (Read title.) The bill was introduced on January 19, referred to the Revenue Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM2118, Legislative Journal page 732.) [LB1114]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Flood, you're recognized to open on LB1114. [LB1114]

SPEAKER FLOOD: Thank you, Mr. President and members. Last summer, and for the last couple of years in fact, I've been hearing more about the Municipal Equalization Funding formula. The Municipal Equalization formula was started in the '90s by Senator Jerry Warner, and let me tell you why it started. There was a guy by the name of Ed Jaksha who did a very good job of bootstrapping up an issue across the state to try and put some caps on property tax levies in Nebraska. And Senator Warner and the Legislature, in response to what the citizens felt was too high of property taxes, instituted a series of lids and levy caps on what cities could tax their citizens and counties and so forth. So for cities it's 45 cents. In some cities in 1995, '96, were at \$1.05, others were at 38 cents, others were at probably higher than \$1.05 or \$1.25. And so when the Legislature brought that down to 45 cents, Senator Warner said to make this equal to the extent it can be so that the citizens in Schuyler have the same opportunities as the citizens in Seward, we need to have kind of an equalization formula

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to make sure that works. And why would there be a difference between Schuyler and Seward? Well, Seward has very high per capita valuation for a town its size or for any town, and Schuyler did not have that same per capita valuation. And the thought was that people in Schuyler should have the access to the same level of police protection, fire protection, swimming pool, the things that a city does. So they put forward the Municipal Equalization formula. And basically, it's funded in two ways. One percent of the insurance premium tax goes into the fund and that comes to about \$8 million and then the other half of the fund is a little more complicated. Cities that have local option sales tax, the percent and a half that's available to cities, well, when the cities remit that...or actually it goes directly to the state, the state goes through the sales tax and remits back the local option portion except for a 3 percent administrative fee inside that local option. And that 3 percent administrative fee adds up to about \$9 million statewide. So, I'm using last year's numbers. You've got \$8 million from the insurance premium tax and the 3 percent administrative fee from the local option sales tax. Basically the green copy of this bill was my thought that we could take the 3 percent administrative fee and let cities keep that and there would be enough money left over to help the second-class cities. And from the start of this, I was very nervous about impacting second-class cities because in Burwell or in Battle Creek or in Wisner there aren't a lot of revenue-enhancing options. They've got to run the pool, they've got to have a police department, they've got to have that rural fire protection. I didn't want to hurt them in any way, shape, or form. So from the start of this my focus has been on not having a desperate impact on the smaller towns. Well, the reality was in the green copy it had a huge impact on the smaller towns. And here's the reality. Those smaller towns shop in the bigger towns. Omaha and Lincoln are what I call super hubs for the entire state. We all shop in those towns. They all shop in the larger first-class cities. So the underlying green copy of the bill is not worth voting for. But I did sit down with the city manager in Plattsmouth, Lexington, South Sioux City, Hastings, Papillion, Lexington, and Sidney, and a few others across the state. Obviously, Norfolk, O'Neill, Wayne, and we sat down and worked through a number of different scenarios. And I want to credit the Lexington city manager--his name is Joe--for coming up with what we felt was the best workable compromise that's represented in the committee amendment. Basically what Joe from Lexington said was, instead of the green copy, let's look at who would be entitled to MEF aid under the formula but doesn't get...don't get MEF aid because they haven't raised their property taxes. And there's a handful of communities out there. Norfolk's concern for a long time has been, we're entitled to \$341,000 of MEF aid because we have a below average per capita valuation. However, we don't get any MEF aid because our levy is too low. And I don't think a state formula should incentivize in this situation with municipalities. They call it the local effort rate. You see it in schools all the time. Should say to the Norfolks of the world, well, raise your property taxes 8 cents and you'll get \$341,000. There was a first-class city in Nebraska that in the newspaper said if we raise our property tax so many cents, we will qualify for \$250,000 in funding. And if we're about keeping property taxes low, and you can't blame them because that's the state law, if we're about keeping property taxes low, I think recognizing that cities that



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have a below average per capita valuation shouldn't be entitled to the entire amount that they would get under MEF for not having a local effort rate, but they should get at a base 20 percent of what that MEF aid would be, and that's what this does. It recognizes that there should be some money for the cities that have the below average per capita valuation and it lets them take advantage and they receive something under the MEF formula. What impact does this bill have? It's a 1 percent reduction for anybody that was getting MEF aid last year. The good news is there's \$2 million more dollars in the fund this year so there are no reductions. Everybody is going to see an increase that was receiving MEF aid as long as the formula...you know, they didn't get bounced out of the formula. Now Columbus had some changes. They don't get MEF aid under any scenario this next year. And I'm going to talk to Bill Lock a little bit about that. This is the product of a lot of conversation and it represents a compromise. The last thing I want to say, and I think the question may be, well, there should be a local effort rate. The difference between the local effort rate here and in K-12 TEEOSA, in TEEOSA the local effort rate is, what, \$1.03? And out of \$1.05 of authority; here the local effort rate is about 26 cents out of 45 cents which is not even apples-to-apples comparison. I think the idea with MEF was to try and find a way to help those communities that have a below average per capita valuation. And if they are unwilling to raise their property taxes and they're entitled to MEF aid otherwise, this is a small compromise to accommodate their interests. I'm sure there will be some questions. I'll be happy to answer them. Thank you, Mr. President. [LB1114]

SENATOR CARLSON: Thank you, Speaker Flood. You've heard the opening on LB1114. As the Clerk mentioned, there are committee amendments. Senator Cornett, as Chair of the Revenue Committee, you're recognized to open on AM2118. [LB1114]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. The bill offered by Speaker Flood has been modified with an amendment offered by the Speaker and adopted by the Revenue Committee. The committee amendment alters the minimum effort rate provisions of the Municipal Equalization aid formula making it possible for low valuation cities to receive some equalization aid despite having a levy that is lower than currently allowed by the law. Under the current law, a city may receive equalization aid under this formula but loses aid in increments of 20 percent as it drops below the statewide average levies for all cities. Under this amendment, the cities qualifying for equalization aid will always receive 20 percent of the equalization aid they're qualified for regardless of the tax levy. With the committee amendment, there are no increases in increased fiscal cost of the program although some cities, as Speaker Flood mentioned, will receive more and some will receive slightly less under the current law. Why I supported the bill and the...or the amendment and the underlying bill is, I believe the Speaker is correct in trying to provide aid without forcing cities to raise their levies. We are, under the current formula, punishing cities who try to keep their levies low. I urge the body to support the amendment and the underlying bill. Thank you. [LB1114]

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SENATOR CARLSON: Thank you, Senator Cornett. You've heard the opening on LB1114 and the underlying amendment, AM2118, and there are senators wishing to speak. (Visitors introduced.) Senators wishing to speak include Senators Hadley, Fischer, Schumacher, and Wightman. Senator Hadley, you're recognized. [LB1114]

SENATOR HADLEY: Mr. President and members of the body, thank you. I support AM2118 and the underlying bill, LB1114. I want to commend the Speaker for being willing to look at this issue and also to make compromise. It was an interesting hearing because we had a number of people coming in that were going to be opponents to the original bill. And by the time the Speaker had worked out the compromise and we had the amendment before us, most of those people who were going to come in as opposition came in in favor of the bill. So I would like to compliment the Speaker for that. One of the important things of this bill is that we do not want, I don't believe as a body, to incent cities to raise their property taxes. That just is not a good way to handle finances in the state of Nebraska and that potentially is what could have happened in the old MEF funding. And we did have a case of that where a city actually raised their property taxes in order to get more MEF funds. Now, I'm not saying that didn't help that city, but I'm just saying that isn't as a body what we want to do. We don't want to send the message that we're going to incentivize them to raise their property taxes. We want to try to keep them as low as possible. I think this is a good bill. I think it is a bill that basically shifts a little bit of the way we handle this. In closing I will say that Kearney originally was going to be a big winner under the first original green copy and the city came to me and said that they would oppose the original green copy. They felt that that would be an unfair situation. So I want to commend the city of Kearney for being willing to look at the entire picture. Thank you, Mr. President. [LB1114]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Fischer, you're recognized. [LB1114]

SENATOR FISCHER: Thank you, Mr. President and members of the body. If you look at your committee statement, you will see that I was the only no vote on this bill and I rise in opposition to the amendment and to the underlying bill. LB1114, as amended by the committee, will allow cities to qualify for 20 percent of their original equalization aid without complying with the minimum levy provisions of the current law. In the past in order to qualify for MEF dollars, a community would have to meet a local effort rate. With this bill, a city would automatically receive 20 percent of their contribution without meeting any local effort rate. This is a significant policy change in our state aid programs and you all need to be aware of that. Other state aid programs such as TEEOSA and the Highway Allocation Fund require a certain level of local effort. The Highway Allocation Fund according to 39-2509, half the amount will be allocated with no local effort but the second half is allocated on the basis of \$1 for each \$2 the municipality or county receives. There is always that local effort rate and that's what

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Senator Warner promoted. TEEOSA according to 79-1015.01, the local system formula resources shall include local effort rate yield. Formula varies for certified aid and final calculations of aid. And I will let Senator Adams go into the differences on those. Speaker Flood has argued that equalization formula should not require municipalities to raise taxes in order to receive aid. I agree with that. But if we make a change here, shouldn't we also be looking at changing other state aid formulas? Are we going to get into the process now of tweaking this fund so we can pick winners and losers? But, hey, it's just a little bit from these little cities, it doesn't matter. And, oh, yes, there will be \$2 million more in the fund this year so there really won't be a loss. And, oh, by the way, Columbus isn't going to receive anything so let's check on that. We're picking winners and losers. We are starting to tweak another formula. I don't believe that's the path we want to go down. With state aid to schools, are those districts that keep their property taxes low, are they rewarded? I believe in many cases it's just the opposite. So if we're going to go down this route, if we're going to make changes to this formula, then let's make a commitment that we will do so to other formulas as well. If we aren't going to require that local effort rate, then let's throw it out in everything. Let's change what equalization means so we can pick winners and losers. Philosophically, I do agree with Senator Flood, my good friend, Senator Flood, who I'm arguing with on this bill. We don't want communities to have to raise their property taxes in order to receive state aid. [LB1114]

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SENATOR LANGEMEIER: One minute. [LB1114]

SENATOR FISCHER: But we also need to be aware of the path we're going down with this. The state has long held a policy that some level of local contributions or that local effort should be made in order to receive state aid. If we are moving away from that policy, then we need to take a significant look at our other aid formulas. Thank you, Mr. President. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Schumacher, you're recognized. [LB1114]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I voted to advance this particular bill from Revenue Committee and the argument that I found persuasive was Senator Flood's argument and example of what we may see more and more of in the future. And that is, municipalities saying, look, we raise our property taxes and we get a bonus. And to that extent we are under the present mechanism incentivizing property tax increase. Now, this compromise that's been advanced by the Speaker seems to recognize both sides of the argument. You have to have some local contribution. We've got to be partners with the local communities in the generation of those funds. And so they've got to contribute. At the same time, it reduces

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the incentive that cities will have as they begin to approach through their normal process a point where, well, if we just push property taxes a little bit more, if we just go ahead with this project, if we just approve this deal, then we're going to get a bonus because we're going to dip into this fund. And once they cross the threshold and dip into this fund and become eligible, it's not just a 20 percent change, they get the whole thing. So at that particular point it depreciates or decreases the value of what some of the communities are receiving from the fund get and it does so rather dramatically. So I think this is a good compromise on the issue. I do, however, agree with Senator Fischer on the point that if we're going to begin to tweak formulas, if we're going to begin to examine the wisdom of our equalization systems, then we probably need to do it on a grander scale than just this particular bill. But for now, for today, this bill accomplishes the objective of disincentivizing the increase in property taxes without very adverse affects to anyone. And perhaps even by disincentivizing or at least not incentivizing people in some of the communities to go over the limit and then getting the full bite, they'll be satisfied with working to reduce and control property taxes for just a partial bite. Thank you, Mr. President. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Schumacher. Senator Wightman, you're recognized. [LB1114]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I rise in strong support of AM2118 and LB1114 as it would be amended by AM2118. I think the Speaker, once again, did an excellent job of bringing about reason and compromise. And I did want to stand and talk a little bit about Joe, the city manager in this case. The last presidential election we had Joe the plumber. It turned out Joe the plumber, as I recall, wasn't even named Joe, but this Joe, the city manager is, in fact, Joe Pepplitsch. And I think he came up with a formula that, as Senator Schumacher suggested, was a fair compromise to where there had to be a local effort maintained, but not the full local effort. And that they would be cut back in the funding they received if they didn't maintain the full effort, but they would still get a major portion of the funding. So, again, I think the Speaker took what at least my city believed would be a very unfair bill and through the compromise of AM2118 made it, I believe, a workable and fair and reasonable bill. So I would urge your support for AM2118 and the underlying bill, LB1114. Thank you, Mr. President. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Wightman. (Visitors introduced.) Returning to discussion on AM2118 offered to LB1114, those wishing to speak, we have Senator Carlson, Senator Adams, and Senator Cornett. Senator Carlson, you're recognized. [LB1114]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to address a couple of questions to Senator Flood, if he would yield. [LB1114]

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SENATOR LANGEMEIER: Senator Flood, would you yield? [LB1114]

SPEAKER FLOOD: Yes. [LB1114]

SENATOR CARLSON: Now, Senator Flood in your introduction of the bill you talked about that you didn't want to see cities have to raise their property taxes to qualify for MEF funds and I agree with you. How does...looking forward, how does the amount of MEF funds looking forward compare to those currently in that fund? Is it going to be an increase? [LB1114]

SPEAKER FLOOD: Well, I think it's very...it's been stable over the years. In fact this year, I believe, there's close to an \$2 million influx of money that's coming in based off the 1 percent premium tax and the local sales tax receipts. [LB1114]

SENATOR CARLSON: If that's \$2 million coming in, is that rather typical or is that an additional \$2 million? [LB1114]

SPEAKER FLOOD: Oh, oh, oh, I think that's more than what has been seen in the past. I mean the fund has been relatively stable. I think long term the conversation in the Legislature should be, where should that 3 percent administrative fee go and still meet our needs in an equalization formula to the smaller communities. I think that's the conversation that I encourage the Revenue Committee to have long term. But this year coming in and letting the cities keep that 3 percent administrative fee would have inflicted a lot of pain on a lot of smaller communities. [LB1114]

SENATOR CARLSON: Now going along with the thought that nobody wants to see cities have to raise property taxes to qualify for MEF funds. On the other hand, if cities that are receiving aid right now, if they have any kind of reduction, then chances are they'll be raising property taxes to bring it back up to current amounts. Now this may be taken care of in the amendment, I don't know. But is it your understanding that,... [LB1114]

SPEAKER FLOOD: Well, the... [LB1114]

SENATOR CARLSON: ...are there cities currently receiving funds that will see a decrease with the amendment? [LB1114]

SPEAKER FLOOD: Actually not next year because of, you know, the numbers I had in February were projections. Now we've got the actual numbers so everybody next year receiving MEF that doesn't have a change like Columbus is going to see an increase in MEF aid. So, no, that's not going to happen. What my amendment does it amounts to a 1 percent reduction of all of the \$17 million in the entire fund. But because there's more money coming in, that is not even going to be felt by the communities impacted. So this

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is a very, very modest change and it will help communities that have a below average per capita valuation that would otherwise be entitled to MEF aid. And I think what's important about that is, if the Norfolks of the world and the Yorks of the world and the Scottsbluffs and other towns that have below average per capita valuation wanted to, they could come in this summer and raise their property taxes 5 or 6 cents and suck easily \$1 million or \$2 million out of the formula. And that would have a much bigger impact on the entire MEF formula than anything. So this is...this measure, I think, respects the formula but at the same time makes an adjustment. The Norfolks of the world that are below average per capita valuation that would otherwise be entitled to \$341,000 only get to keep 20 percent of that amount. So I hope that answers your question. [LB1114]

SENATOR CARLSON: Well, it does partially. Now of the cities you mentioned, one of them wasn't Holdrege, but I'm in District 38, and I'm concerned with the Holdreges of the world. So it's your intent and understanding that a city like Holdrege will receive not any amount less under the amendment than they're currently receiving. [LB1114]

SPEAKER FLOOD: That's my understanding. Let me verify that and I'll come see you. [LB1114]

SENATOR CARLSON: Okay. I appreciate that. Thank you, Senator Flood. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Adams, you're recognized. [LB1114]

SENATOR ADAMS: Thank you, Mr. President and members. I did vote to move this bill out after the committee amendment and I will tell you personally because we, in my committee, deal with TEEOSA aid distribution equalization so much, I had grave concerns about the underlying bill, the green copy. And it was going the opposite direction that we ought to be going on policy. The committee amendment brings us 180 degrees back and, therefore, I'm supportive. On its face what it does is to say, let's look at the per capita value of a community as the base for determining how we're going to distribute this money. That, in and of itself, is good policy. It's good policy. Senator Fischer's remarks are valid. When we look at TEEOSA, her remarks are valid. And that, in this formula, that gives me a little bit of concern. But looking at the amount of valuation that a city has per capita for this distribution helps. Setting a base and then ratcheting down from that base is a way to at least begin to address the fact that if your taxes aren't up there, you know, we're not going to give you the full load. But at the same time, we're not going to completely sting you. Now, at the risk of glazing your eyes over, I suppose if we wanted to, we could start taking a lot of other factors into consideration on this. We could take sales tax basis into consideration. We could take all kinds of other resources on the resource side of a calculation into consideration if you really want to...I'm not going to use the word "complicate" now, if you really want to

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make this formula more complex. I don't think most of you want to go there, and I don't think that Senator Flood wants to go there. So now all of a sudden we come kind of ratcheting back to a balance point on this where maybe it doesn't take into consideration all the things that a formula ought to, but it's way better than where we were at the outset with LB1114. Thank you, Mr. President. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Adams. Senator Cornett, you're recognized. Senator Cornett waives her opportunity. Senator Schilz, you're recognized. [LB1114]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. I have to be honest with you, I've dealt with this issue basically since I've been in the Legislature these first four years. And this is a tough one. And I look at the underlying issues and I just can't help but say, you know what, when we're looking at how we do these formulas and what we're doing to them, there are times where it seems that we go against areas and places that are providing growth, that are providing sustainability for their communities and we punish them at the expense because they're successful, or so it would seem. I want to see the day when we have some formulas in place where we can help those that need the help and yet still incentivize those that are doing a good job to do even better and spread that wealth around our state. We've seen it for the last 30 or 40 years, the population decline that we've all had to witness and experience. The policies we have in place and the policies of the future need to start to address those situations. And it's not like we're starting to see the trend. The trend has been there for many years. I commend Senator Flood for bringing everyone together to try and find some solutions. And you know, when you do things on the state level through the Legislature in a cooperative, negotiating manner, sometimes it doesn't work out for everybody. That's the reality of the situation. I think we need to look at our formulas. I think we need to look at how we incentivize communities, counties, other political subdivisions, and I think we need to take a cold, hard look at finding policies that help to grow our economies in both rural and urban areas. And I'll continue to work on that for the next four years, if I can. Thank you very much. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Schilz. Seeing no other lights on, Senator Cornett, you're recognized to close on the committee amendments, AM2118. [LB1114]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Again, the amendment brings the bill more into alignment with what Speaker Flood wanted. He brought us this amendment. I believe it is a good one. This bill does move away, as Senator Fischer talked about, from our historic perspective on local effort rate. But I agree with Senator Flood that it is a good first step in recognizing and rewarding communities to keep their levies low. I urge the body to support AM2118 and the underlying bill. Thank you. [LB1114]

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SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on the committee amendment, AM2118, offered to LB1114. The question before the body is, shall the amendment be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1114]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB1114]

SENATOR LANGEMEIER: The amendment is adopted. We return now to discussion on LB1114, the bill itself. Seeing no lights on, Senator Flood, you're recognized to close on LB1114. [LB1114]

SPEAKER FLOOD: Thank you, Mr. President. Members, thank you for the discussion. I appreciate again the cities that raised opposition right after I put the bill in and the time that they took coming to Lincoln from across the state. Joe Pepplichtsch from Lexington for his work on what has now been adopted as the Revenue Committee amendment. I learned a lot. I also want to make a note that Senator Seiler worked very, very, very hard as a brand new member of the Legislature to make sure that I and other members of the Revenue Committee understood the situation in Hastings as it relates to some of the challenges they have in funding. And their city manager, the Hastings mayor, and their senator worked overtime to make known the concerns they had about the bill in its original form, LB1114. Although Senator Seiler is not here today, I feel comfortable in saying that he's very happy with this result and he would be voting for it right now if he was here. So this is the vote to advance. I would ask for your support. Thank you, Mr. President. [LB1114]

SENATOR LANGEMEIER: Thank you, Senator Flood. You've heard the closing on LB1114. The question before the body is, shall LB1114 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1114]

CLERK: 31 ayes, 2 nays, Mr. President, on the advancement of LB1114. [LB1114]

SENATOR LANGEMEIER: LB1114 does advance. Mr. Clerk. [LB1114]

CLERK: LB1053, Mr. President. It's a bill by Senator Loudon. (Read title.) The bill was introduced on January 18 of this year, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB1053]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Louden, you're recognized to open. [LB1053]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I bring before you today LB1053 which would amend the Nebraska Visitors Development Act to create the Nebraska Tourism Commission. The commission shall administer the Nebraska Visitors Development Act and perform other duties as outlined in Section 11 of the bill. The Nebraska Tourism Commission would provide promotional activity, solicitation, and an operating program to attract visitors to Nebraska and further the use of travel and tourism facilities in Nebraska. The reason that I introduced LB1053 is to grant the Travel and Tourism Division independence from the Department of Economic Development where it currently resides. It allows them to work closer with the tourism industry across Nebraska and better serve their purposes of promoting Nebraska. Travel and tourism plays an important role in Nebraska's economy and it deserves its own commission. It has a self-sustaining budget funded by the lodging tax. The Travel and Tourism Division should be allowed to operate independently of DED. The Travel and Tourism Division receives about \$3.9 millions from the 1 percent lodging tax in Nebraska. They also receive approximately \$900,000 from federal funds plus there are some appropriations from the General Fund, anywhere from some years it has been at \$500,000 and this last year it was \$250,000 in this year's budget. Therefore, they should be...they are a cash-funded agency. Tourism is the third largest source of outside revenue for Nebraska and an industry working on its own in many places. There are various organizations of county and city projects to promote tourism in Nebraska already outside of DED. For the most part the travel and tourism could be a cash-funded agency whose budget benefits greatly from their own successes. The lodging tax in Nebraska benefits both state tourism and the counties. It would work with the Travel and Tourism Commission in a positive feedback system. When their promotional activities are successful and bring people into the state, their revenue from the lodging tax increases expanding their budget and helping the counties out also. It's a win situation for both the tourists and the commission because with a larger budget, the tourism industry can increase the services provided to travelers. I believe it's time for the traveling tourism industry to have its own commission to help promote Nebraska and mainly to coordinate tourism projects of county, city, and private organizations statewide and on a national level. If anyone has watched television lately, you see where the Mrs. White lady, is her name, on talking about California, and it's always, come to California. I'm not yet ever seen anything on national TV that said come to Nebraska. But I think we can certainly remedy that. Sections 5 and 9 of the bill directs the duties that the Nebraska Tourism Commission is required to do. Sections 5 to 7 mostly donates where the revenue will come from to fund the Tourism Commission. Section 10 of LB1053 creates a Nebraska Tourism Commission and describes where and how the members will be appointed by the Governor with approval of a majority of the members of the Legislature. It also denotes how the members of the commission will be appointed. Section 11 identifies a job description that the commission will

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perform and the section also describes how to appoint an executive director to conduct the day-to-day operations of the commission. Section 12 deals with the transition of the employees of the Travel and Tourism Division of the Department of Economic Development and how they will be treated under the state personnel system. It also describes how any property, furniture, or fixtures of the Travel and Tourism Division of DED shall become the property of the Nebraska Tourism Commission. Mostly an in-house issue there to how they're going to move their furniture. Section 13 mostly revises language to become compatible with the new language and eliminates the advisory committee. The Nebraska Tourism Commission is outlined in Section 10 so the wording deleted in Section 13 is not needed. Section 14 is giving directions on how the proceeds are to be used and how available money will be invested. Sections 15 to 20 is mostly revisor language, and Section 20 and 25 outlines cooperation between agencies and rules for the Tax Commissioner to apply. Section 26 realigns the Department of Economic Development eliminating a DED commissioner from the travel and tourism industry. Section 27 takes out the wording of Travel and Tourism Division of DED. The Department of Economic Development will no longer attend to the duties of the Nebraska Tourism Commission, and Section 28 creates an administrative Cash Fund and how it is to be handled. Section 29 deals with the revisions of the Nebraska statutes. And I would ask that you would advance LB1053 to Select File. Also I want to thank the Government, Military and Veterans Affairs Committee for advancing this bill on to General File. With that, I'd be happy to answer any questions. Thank you, Mr. President. [LB1053]

SENATOR CARLSON: Thank you, Senator Louden. Members, you've heard the opening on LB1053. The floor is now open for debate. Senators wishing to speak include Lautenbaugh and Avery. Senator Lautenbaugh, you're recognized. [LB1053]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise in support of this bill because I understand exactly what Senator Louden is trying to accomplish here. I think it's important to note that it is self-funding as Senator Louden indicated. It's a very straightforward thing with very laudable goals which would be to create some independence in tourism and promote tourism to the greatest extent possible. I would just urge you to support it. I think it's a good bill, well-thought-out, and please push green. Thank you. [LB1053]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Avery, you're recognized. [LB1053]

SENATOR AVERY: Thank you, Mr. President. If you look at the committee statement you'll see that I supported this in committee. We were at the time...the committee was also considering the merger of Department of Economic Development and the Department of Labor. And we felt that this would be a good time to take up this issue of whether to create a separate commission. As Senator Louden has told you, we believe

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that an independent commission will allow more focus on tourism. It will allow a better coordination of promotion efforts. I would point out that there is a study underway right now, soon to be released, that will provide a great deal of advice and recommendations to this new commission, should you approve it, on what they can do to promote greater tourism in the state. Tourism, as Senator Louden has indicated, is the third largest earner of revenue from outside the state after agriculture and manufacturing. Travelers spent, in 2010, almost \$4 billion in Nebraska. Jobs that can be directly linked to travel spending in Nebraska totaled \$46,600 in 2010. For every dollar spent by tourists in Nebraska, it is respent in the state to produce an additional \$1.70 in business income which creates an overall economic impact of \$2.70. In addition to that, over 60 percent of the nonresidents visiting Nebraska during the summer stay in motels or hotels. The state has over 28,000 hotels, motels, and bed and breakfast rooms which have an average occupancy rate of 54 percent in 2010 and offered the nations eighth lowest average room cost. This is an important industry as indicated by these numbers. This commission, we believe, would promote this industry in a more coordinated and focused manner. I think this is an important bill and I urge you to support it. Thank you, Mr. President. [LB1053]

SENATOR CARLSON: Thank you, Senator Avery. Senators wishing to speak include Senator Sullivan and Schilz. Senator Sullivan, you're recognized. [LB1053]

SENATOR SULLIVAN: Thank you, Mr. President. I stand in support of LB1053 but wonder if Senator Louden would yield for some questions. [LB1053]

SENATOR CARLSON: Senator Louden, would you yield? [LB1053]

SENATOR LOUDEN: Yes, I would. [LB1053]

SENATOR SULLIVAN: Thank you, Senator. I noticed in the bill that the members of the commission will be based on tourism regions in the state. Now, how many different regions do we have? [LB1053]

SENATOR LOUDEN: Oh, let's see. I think there's five regions here. I'd have to look at it. We have commissioners...at the present time there's a commission but I'd have to look through this material to tell you for sure. [LB1053]

SENATOR SULLIVAN: But that will be the number of commissioners? [LB1053]

SENATOR LOUDEN: Yeah, it will be based on the same commissioners that we have now, only they would be worked with on that same region, similar to what our commissioners are that serve there now. [LB1053]

SENATOR SULLIVAN: Under this new arrangement, do you anticipate that there would

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be any staffing changes? [LB1053]

SENATOR LOUDEN: No, I don't think because the staff changes isn't that much. I think Mrs. McGuire...what's her name? McKillip, yeah, Kathy McKillip--her name escaped me right now--is the one that's been in charge of the tourism since, for the last, oh, couple of three years or whatever, and the way the bill is set up those people would just change. I think I mentioned in there which part of the sections identified where the people would go in there. I think Section 12 deals with the transition of employees of the travel and tourism industry. I think they have...I think it's 12 full-time employees at the present time and they intend to keep those. [LB1053]

SENATOR SULLIVAN: Okay, but it would be up to the new commission to name an executive director, is that correct? [LB1053]

SENATOR LOUDEN: Once that commission is in place and everything, yes, they would have the authority to name a new director. [LB1053]

SENATOR SULLIVAN: And what's the time line on this? [LB1053]

SENATOR LOUDEN: Well, it wouldn't take effect until 90 days after the session ends, is what it is. And that would probably give time for this study that comes out to be completed and I think that's supposed to be completed in June. And so 90 days afterwards would be, what, somewhere in August or so before this would begin to get started and implemented. [LB1053]

SENATOR SULLIVAN: Speaking of the plan, I know in the bill it indicates that that's one of the charges for the commission to develop a strategic plan, so how does that charge dovetail with the plan that's going to be coming out? [LB1053]

SENATOR LOUDEN: Well, that plan that's coming out probably isn't going to have anything to do with how your leadership is stacked, as I would say. That plan is probably going to come out to tell us what we should do to promote tourism in other parts of the nation. As I mentioned, you see on television they're talking about coming to California and things like that. Nebraska doesn't do anything like that probably because we have never put enough money into it. But my observation would be that that plan would tell us how to promote areas like that and what areas of the state to promote such as our State Fairs, and some of our Mahoney State Park and also the World Series baseball, and those things like that is what would probably be something that that strategic plan would come out to tell us to promote. I'm sure that if we would start advertising nationwide about the time that that College World Series was going on, I'm sure that would probably bring in a lot more people from across the... [LB1053]

SENATOR SULLIVAN: Okay. And lastly, speaking of money, do you anticipate under

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this change that this commission conceivably...I know, it operates on its own cash funds right now, but would they ever...would you anticipate see them coming... [LB1053]

SENATOR CARLSON: One minute. [LB1053]

SENATOR SULLIVAN: ...coming to the Legislature for additional funds? [LB1053]

SENATOR LOUDEN: Well, my short answer would be, yes. I mean, now they've been appropriated. A couple of years ago I think they was appropriated \$500,000. This last year they...if you look in here in our budget bill, they were appropriated \$250,000 but that money was appropriated so that it could be used to promote some what, Olympic Trials, I think it is, in Omaha. So that's how some of that money gets appropriated to the tourism commission now and it goes through the tourism commission then to promote some special event that's probably coming up. But I would think that at the present time the state of Nebraska literally doesn't spend any money on tourism. The money that the state of Nebraska spends on tourism comes from the occupation tax and so that's the tourists themselves that are paying that. [LB1053]

SENATOR SULLIVAN: All right. Thank you very much. Again, I stand in support of LB1053. [LB1053]

SENATOR CARLSON: Time. Thank you, Senator Sullivan and Senator Louden. Senator Schilz, you're recognized. [LB1053]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. As I stand here again and think about this bill, I'm in support of LB1053. I agree with what Senator Louden wants to do. I think it makes a lot of sense and I think the study that's coming up is the result of LB684, which I introduced, will help us exactly as Senator Louden has said to find those marketing opportunities for tourism in the state of Nebraska, how best to promote Nebraska tourism. As we found out over time, tourism has changed and evolved. It's not just about minimum wage jobs anymore. People pay for entertainment. People pay for the experience. And that's a kind of thing we need to take forward to understand, people want to come do things. We just have to show them where to go and provide them the opportunities, and then figure out how to extract the money that we can from them while they're having a great time here in the state of Nebraska. LB684 will help us find those opportunities and I believe if Senator Louden's bill becomes law, this commission will be best capable of carrying out those recommendations. So I see it as a logical extension of what we want to do. And hopefully we'll have people serving on that commission that understand how the new face of tourism works and what we need to do to not only sustain tourism in the state of Nebraska but to grow it. Because tourism means revenue, revenue for our smaller communities, revenue for those areas that I just talked about on the last bill where we've seen population decline. We can't just look at a problem and say, hey, this is the only

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solution to it. Well, if you can't get people to move back, then we need to find ways to bring revenue to sustain what we have with the folks that are there. Tourism gives us a huge opportunity to be able to do that. So I'm all in support of LB1053 and I want to thank Senator Louden for bringing the bill out and debating it on the floor. Thank you very much. [LB1053 LB684]

SENATOR CARLSON: Thank you, Senator Schilz. Senators wishing to speak include Hansen and Dubas. Senator Hansen, you're recognized. [LB1053]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I've been contacted by our tourism group in North Platte and they really appreciate what Senator Louden has brought here today, and they also appreciated last year when Senator Schilz brought the LB684 and I was certainly for that because tourism is important to our part of the state. We don't have that many travelers and we need to encourage them to stop and see what we have to offer. But our tourism group was also in favor of last year's LB684 and the strategic planning that was supposed to be done over this year. It won't be done until July. And according to them, that strategic plan was...would tell, was supposed to tell how the Department of Tourism would be formed or would be structured. They think that changing how the tourism division is structured right now is premature. They would rather wait and bring this bill back next year when the Legislature is in session after the study is done. For those reasons, I would probably...I'm going to vote against LB1053 just on their advice but they certainly are involved and anxious to get something done on tourism. Thank you, Mr. President. [LB1053 LB684]

SENATOR CARLSON: Thank you, Senator Hansen. Senator Dubas, you're recognized. [LB1053]

SENATOR DUBAS: Thank you, Mr. President and good morning, colleagues. I rise in support of LB1053 and thank Senator Louden for the work that he's done on this. I think this is a change that we can make without having any real cost fiscally to the state. I think it's a positive change. This commission will be able to be very focused in on how do we grow the tourism industry in the state of Nebraska. We have lots and lots of opportunities to grow this industry. We need to figure out ways to get people off of I-80 and out into some of the more beautiful parts of our state and experience what we have to offer whether it's through hunting and fishing or trails or biking. I just think that there are just any number of opportunities to grow this industry. And to have this commission be pretty much a stand-alone commission and with their sole objective being to support and grow the tourism industry in Nebraska, I think we'll see...I think those benefits will start to come in almost immediately. So again I thank...this has been an issue I know Senator Louden has been very interested in and I think for him to bring this in his final session is a great way for him to go out on a positive note with this particular bill. So I do support it and encourage my colleagues to do the same. Thank you. [LB1053]

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SENATOR CARLSON: Thank you, Senator Dubas. Senator Harms, you're recognized. [LB1053]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LB1053 and thank Senator Louden for introducing this particular piece of legislation. I think the last time I looked there was probably two or three states that spend less than we do on tourism. And the fact that we have as many people and the amount of number of people that Senator Louden indicated that actually visit our state is to me amazing since we don't really market very much to actually do that. And I think we have such great history in this state, but we've never sold it. Where I live, for example, you have the Mormon Trail, the Oregon Trail, you have Chimney Rock, you have Scottsbluff National Monument, and that list just goes on. You have the Wildcat Hills which just has some great discoveries there. In regard to a number of different areas, some of the trails we have today back in that country is just absolutely beautiful. You don't even realize that you're in Nebraska when you're in that particular area of the Wildcat Hills area. So I would really encourage us to support this. I think it's the right direction to go. In regard to this study that's being done, with the commission being appointed we're not going to have to wait a year to put this into place. When we get that report, we can start putting that together now so that we've got it moving and so that we can be much more competitive in a market that I think is here for us. We've just never tapped it. Thank you, Mr. President. [LB1053]

SENATOR CARLSON: Thank you, Senator Harms. Are there other senators wishing to speak on LB1053? Seeing none, Senator Louden, you're recognized to close. [LB1053]

SENATOR LOUDEN: Thank you, Mr. President and members. And thank you, members, for your discussion on this bill. I think this is something that needs to come about as we were discussing this last spring when we first started the session on combining the DED and labor work force together and, of course, tourism was under DED and I thought it was time that we went ahead and set up tourism as it's own agency. I don't have a problem with the study that's coming out. I think by having that study come out and by having an agency of its own, we will actually hit the ground running because I think that study is going to come out and show us where we need to go to promote stuff. And I think by having a commission already in place, we will have someone's that can go ahead and begin the study, and the commissioners are people that are in the industry. So I would ask for your support for this amendment or for this bill LB1053. Thank you, Mr. President. [LB1053]

SENATOR CARLSON: Thank you, Senator Louden. Members, you've heard the closing. The question is, shall LB1053 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB1053]

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CLERK: 31 ayes, 1 nay, Mr. President, on the advancement. [LB1053]

SENATOR CARLSON: LB1053 does advance. Mr. Clerk, next item. [LB1053]

CLERK: LB1080 by Senator Cornett. (Read title.) Introduced on January 18, referred to Revenue, advanced to General File. [LB1080]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB1080. [LB1080]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I feel like a little deja vu here with datacenters. But LB1080 provides a tangible personal property tax exemption and sales and use tax exemption for a person operating a datacenter in Nebraska if certain conditions are met. As introduced, LB1080 defines datacenter to mean a group of computers supporting equipment and other organized assembly of hardware or software in one or more interrelated physical locations that is designed to centralize the storage, management, or dissemination of data and information. Sales and use tax would not be imposed on tangible personal properties such as computer component parts that is shipped to and assembled in Nebraska and subsequently shipped outside Nebraska for the use at a physical location outside this state. Such tangible personal property would also be exempt from Nebraska's depreciable tangible personal property tax. We often talk about the cost of tax incentive programs to the state, but sometimes we forget how fortunate this state is. Businesses are preparing to expand in Nebraska and are considering us as a place to bring their new operations due to our stable economy and our tax policy. Such opportunities will help Nebraska maintain a stable economy and will also help grow our tax base in the long run so we can fund important priorities including roads, education, child welfare reform, and tax relief. One such opportunity manifested itself in 2009 when Yahoo, one of the most trusted technology companies in the world, selected La Vista, Nebraska, as its site for its largest datacenter. Yahoo is so pleased with its Nebraska datacenter and its experience here that it would now like to bring its factory to our state. LB1080 will ensure that happens. There is more good news besides this. The new investment, new jobs, and new tax revenues can be attributed to our relationship with Yahoo. Nebraska is now in the spotlight and on the radar for other companies such as this looking for a strategic place to locate their datacenters. Yahoo's selection of Nebraska has rippled across the country. Now we have another opportunity to capitalize on the immense diversity of the ever-evolving technology sector. Let's please act on this bill. [LB1080]

SENATOR CARLSON: Thank you, Senator Cornett. You've heard the opening on LB1080. Mr. Clerk, for an amendment. [LB1080]

CLERK: Senator Cornett would move to amend with AM1826. (Legislative Journal page



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977.) [LB1080]

SENATOR CARLSON: Senator Cornett, you're recognized to open on your amendment. [LB1080]

SENATOR CORNETT: Thank you, Mr. President. AM1826 is a technical amendment. And I'm going to go into some detail on it. And I will be happy to answer questions from the body in regards to what exactly we are doing with this bill. People were a little confused at first. Section 1 clarifies tangible personal property tax exemption for persons operating a datacenter in Nebraska where the servers will actually be located, which is outside Nebraska. This is due to Yahoo beginning the depreciation on assembled servers sitting in storage. Remember, servers are placed into service in the La Vista...any server that is placed into service in Nebraska is taxable. What the bill is doing is basically saying the component parts involved in manufacturing are going to be tax exempt, just like they are in any other manufacturing. The difference here is that the finished product, instead of being for sale, is going to be used by the company in a different location. We currently exempt the inputs into manufacturing if the product is going to be for sale. What we're doing here is saying that they will be exempt if the company continues to use those products but not in our state. If they use them in our state, they will be taxable. Section 4, this section reconciles the definition of datacenter with the language that we used in LB1118, the datacenter bill that passed earlier this month. What that does is harmonizes the language between the large datacenter bill that we passed and this bill. Section 5, this section makes the same changes to where products will actually be located, which is physically outside of Nebraska. Sales and use tax will not be imposed on the gross receipts from sales, lease, or rental and storage use, or other consumption in this state of tangible personal property and services required by a person operating a datacenter located in this state that are assembled, engineered, processed, fabricated, manufactured into, and attached to, or incorporated to other tangible personal property for the purpose of subsequent use at a physical location outside this state. Such exemption keeps...extends to keeping, retaining, and exercising any right or power over such tangible personal property in this state for the purpose of subsequently transporting it to outside the state for use. This section also adds an emergency clause. This is a technical amendment that LB1080 needs for clarifying of and harmonizing with bills we have already passed. Thank you. [LB1080 LB1118]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the opening on LB1080 and AM1826. The floor is now open for debate. Senators wishing to speak include: Price, Hadley, Schilz, Krist, Schumacher, and Smith. Senator Price, you're recognized. [LB1080]

SENATOR PRICE: Thank you, Mr. President and members, Nebraska. This is my priority bill for this session, LB1080. And this fits in a sweet spot of my understanding

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both of the business and what I believe Nebraska needs. Yahoo has been an exceptionally good partner in Nebraska in bringing business to Sarpy County and to the whole of the state. And what I want to tell you here is something that's very fundamental. Right now Yahoo is doing this work in Oregon. When this bill moves forward, that work will be provided here in Nebraska. And it will provide 20 people with jobs that pay in the \$50,000 area. That's 20 people who do not have jobs right now. This will be new money. You know, oftentimes when I was in the service we would do bake sales to raise money for retirement gifts. And we soon learned that that was a product of diminishing returns, because what we were doing was we were buying the products, we were baking them, and then selling them to ourselves. It wasn't a lot of new money created here. This is an opportunity for new money. So let's talk about datacenters and what we've done in the past couple of years. We've decided as a state that we were going to leverage our technology and our blessings to be the digital crossroads of America. And because of that and because of other great things going on in the state, we have been able to attract datacenters. And there has been a lot of talk about that. But when we look at how these datacenters impact, what we need to understand is we bring the datacenter in, and now in LB1080 we begin to see if you want to call it secondary fruits, because now we're talking about an industry coming in to support datacenters. And these datacenter support activities are going to pay great wages to Nebraskans. These Nebraskans in turn are going to use those dollars and turn them over in our local communities. If you've had the opportunity to go to one of these datacenters, I did have the opportunity to go to the datacenter in La Vista, which is Yahoo's largest datacenter they own, what an impressive sight. I have been around super computing sites before. I have seen large computing centers. And this was just simply...just knocks your socks off. You know what? It's so big that they don't even measure it in megabytes or terabytes, they have to measure it in power consumption, in megawatts. This is a very large concern, it's growing, and we've begun to see now an added benefit. If you go to the World-Herald and the January 19 edition, it talks about datacenters multiplying and the Midlands standing to benefit. And it talks about the costs to do business in Nebraska. This is an opportunity, colleagues, for Nebraska to grab that brass ring and create more jobs for our Nebraskans coming out of this economic slump we've been in, and that these jobs and this opportunity will provide revenues. And what the company is asking for us to do is to make it more feasible for them. And that's the reason why I stand up. I've been involved. I've actually built racks for server farms. I've been involved in that part of the industry. As a matter of fact,... [LB1080]

SENATOR CARLSON: One minute. [LB1080]

SENATOR PRICE: ...I did that prior to coming here. Thank you, Mr. President. It's a demanding task and there is a very large impact for all that goes into that case. And with that, Mr. President, I will yield and ask that the members of the Legislature vote green on this amendment and the underlying bill. Thank you. [LB1080]

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SENATOR CARLSON: Thank you, Senator Price. Senator Hadley, you're recognized.  
[LB1080]

SENATOR HADLEY: Mr. President, members of the body, I stand in favor of the amendment and the underlying bill because I think it is good tax policy. Let me give you an example in another industry and it may sound a little far-fetched but I think it brings home what we're trying to do here. In Grand Island we have a New Holland plant. Let's just assume that they decide to take one of their combines and that they happen to own a farm someplace in Nebraska, and they want to use the combine on the farm. We would require them, basically, to pay a use tax on that property because they're using it on their farm. Well, let's say they had a farm in Illinois. We probably wouldn't want them paying a use tax on that combine that they produced in Grand Island, Nebraska, if they're going to ship it to a farm that they have in Illinois because they're going to use it in another state. That's exactly what this bill is about, the fact that if a datacenter manufactures something and uses it in the state of Nebraska, they will pay a use tax on it because they're using it here. That is the expectation and that is the law. But if they manufacture something and ship it to another state, that state would very much say our laws apply when they ship that piece of equipment into that state. And the other state would say, we would want you to pay a use tax in that state, because they're bringing in a piece of equipment to use in their facility. They manufactured it in one state and shipped it to another. This is good tax policy. It is an economic development bill. With that, I would yield the remainder of my time to Senator Cornett, if she would like to have it. [LB1080]

SENATOR CORNETT: Thank you, Senator Hadley. Senator Cornett, 3 minutes.  
[LB1080]

SENATOR CORNETT: Thank you, Senator Hadley. A couple of things that I want to stress is what a good partner Yahoo has been with the state of Nebraska. They came in under the Super Advantage and guaranteed a certain number of jobs, as required to the Advantage Act, and a certain wage. They have maintained that high wage for their employees and they've almost doubled the number of employees that they originally had to bring to the state of Nebraska. They have been a wonderful partner for La Vista. And they would very much like to relocate their operations from another state here. They already have 70,000 square feet available to expand into. The thing that I want to stress to everyone is we already exempt inputs into manufacturing. The only thing we're looking at differently here is this is for internal use of the company. Now if they leave what they manufacture here and they use it in this state, they will be paying taxes on it. Let me stress that again. Whatever they manufacture and use in this state they will pay taxes on. But what we are talking about is exempting them from the components into the manufacturing of a product that would be exempt if it was for sale or if they sold it, but instead of selling it, they are transporting it to another one of their locations for

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physical use at that plant. With that, I really urge the body to support this bill and support our growing industry of datacenters and particularly support our partner in the state, Yahoo. [LB1080]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Schilz, you're recognized. [LB1080]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Wow, three times in one morning. I don't know, somebody is going to have to beat me down maybe. Say, I'm all in support of this bill, in support of the amendment. It's an economic development bill that will bring in new business, grow the pie larger, and bring new revenue to the state of Nebraska where there is none now. I think that's hugely important. And I think, I can't remember which Senator said it before, but when we talk about new business and economic development coming to the state of Nebraska, it's extremely important to understand that successes feed upon themselves and create more successes. And I know this from my personal experience in economic development, companies put out feelers. If they like an area, if they like a state, they put a component of their business there. It may not be the bright, flashy business that you really want there, but they may come in and part of their business may be a call center, part of their business. So they come in and they say, hey, let's see how somebody feels about having a call center in Nebraska. What we all don't know is what sits behind that, ready to come in once those folks are successful in one of those types of businesses. You never know what's standing behind some of these companies. I see this as a huge opportunity. I think that when you see a company like Yahoo stepping up and saying, hey look, we really like Nebraska, we want to be there, I don't think we can go wrong with this. I think it only brings revenue to the state. And with that, I will be voting for both the amendment and LB1080. Thank you very much. [LB1080]

SENATOR CARLSON: Thank you, Senator Schilz. Senator Krist, you're recognized. [LB1080]

SENATOR KRIST: Thank you, Mr. President. Is Senator Cornett available for a couple of questions? [LB1080]

SENATOR CARLSON: Senator Cornett, would you yield? [LB1080]

SENATOR CORNETT: Yes, I would. [LB1080]

SENATOR KRIST: Thank you, Senator, for yielding. Can you just walk me through a couple of technical parts of this in pilot terms for me, just plain language. If parts are coming in from outside and they're being assembled here, they're in their final assembly and let's say they create a server. They put it in their warehouse, not for use in Nebraska, that piece of property is not taxed by Nebraska. Is that correct? [LB1080]

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SENATOR CORNETT: Correct. [LB1080]

SENATOR KRIST: Okay. Once they use that in Nebraska, now that becomes subject to the revenue tax code and they're paying taxes on that property as part of their business tax. [LB1080]

SENATOR CORNETT: Correct. [LB1080]

SENATOR KRIST: Are they allowed to amortize or depreciate those things that are sitting in their warehouse? I think you talked about that, but I couldn't catch that. [LB1080]

SENATOR CORNETT: I don't believe they are. That would be something I would have to check into. That was in the technical language referencing the component...the manufactured part. But I can get back to you on that. [LB1080]

SENATOR KRIST: Okay. Between now and Select would be great, and just the technical side. Thank you, Senator, for yielding. I really stand in strong support of AM1826 and LB1080. And I think that if anyone is listening outside of the Webcam in Nebraska, I think we should put a data processing centers welcome here, because I think what we've done over this session has really attracted that kind of business. And I agree with Senator Schilz, bring it on and create it. And I think, Senator Cornett, you did have an answer to the question? [LB1080]

SENATOR CORNETT: I did. And it is not...they are not able to amortize it unless they place it into service. So if they place it into service it becomes taxable, and then that's when they can depreciate it. [LB1080]

SENATOR KRIST: Yeah, I think that's consistent with other manufacturing within the state. And I was just concerned that we put that on the record. Thank you, Senator. Thank you, Mr. President. [LB1080]

SENATOR CARLSON: Thank you, Senator Krist and Senator Cornett. Senator Schumacher, you're recognized. [LB1080]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I voted against this particular measure coming out of Revenue Committee in order to have a discussion on some policy issues here regarding the desire for credits, for transfers, for bonuses, for conditions before a business will consider coming to this state. And I think it's a discussion we're going to have to increasingly have because the propensity of a business to say, whoa, before we do something in Nebraska we can get something out of the Legislature, is going to increase. It becomes a pattern. And in that nature there

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are several areas I'd like to look at. First of all, our constitution says we shouldn't do special legislation. And the Supreme Court has given us a lot of slack in that, as long as we can say somebody else can use it. And so this session we've addressed the issue of special electric rates for a datacenter, and we kind of know what datacenter we're talking about, special access to the tax credit or incentive system for that particular datacenter. This particular bill, we know what we're talking about. We're talking about an operation in...that Yahoo conducts in the La Vista area, that's who we're doing it for. So we're treading on do something special for me, Legislature, and then we'll bring some business or maybe we won't bring some business, but we'll at least consider bringing some business there. I want to point out that this is not a terribly big project. There's no new factory going to be built. They're going to do it in existing space and an existing warehouse. There is about \$1 million in payroll. A million dollars in payroll in comparison to a lot of small business in Nebraska is comparable, and those small businesses aren't coming in here wanting some special particular deal. It is an assembly situation. It's not high-end programming, it's not high-end electrical designing, it's not Silicon Valley, it's bringing computer boxes in here, putting them in a frame, putting them in a crate, putting an air conditioner or heater on, crating that up and sending them to New York or one of the other facilities that they have. So it's not like this is a terrific kind of thing that is going to be a make or break thing for the state. Although I will concede, it is 20 jobs we don't have and it is the revenue from 20 jobs we don't have. And I probably will even end up voting for this thing. But there's policy considerations when we're dealing with a tiny amount of payroll in comparison to even Yahoo's payroll. Their executive, Bloomberg, reports in 2010 had a compensation package of \$47 million. That executive is gone now, with a \$5 million golden parachute and a new one is there that gets \$1 million in salary, \$2 million in bonuses and a bunch of other perks. So even in Yahoo's world, this is a relatively tiny percentage of things. Next thing, the inequity in the business thing that concerns me. We tell our farmers no that you can't have a tax break on your parts for your equipment, but if you...even if you use that equipment and drive it across the border into Kansas to farm, can't have the tax break. Here, even though these computers are being used in New York in one sense, in that they're stationed there, my Yahoo e-mail could be on that computer and they could very well, in a very real sense be used here in Nebraska without particular tax. That's inequitable in the big picture of how we tax things. Nothing is required in this bill to be done. If they choose not to bring this here, we've got a piece of legislation on the books that's not used. [LB1080]

SENATOR CARLSON: One minute. [LB1080]

SENATOR SCHUMACHER: If they choose to reduce their commitment as far as keeping this here, again, we aren't requiring anything in this legislation to be done. So as a matter of policy, this legislation remains not a very good thing. As a matter of expediency, 20 jobs taken from the people of Oregon are probably a good thing for Nebraska. And I think these are the kind of issues that behind the scenes we ought to

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start thinking about because we're going to have to have a policy answer to this long list of people who are going to start showing up wanting a special deal before they do anything in Nebraska and they won't be guaranteeing us they'll do anything even. So this bothers me and I thought I'd articular that. Thank you, Mr. President. [LB1080]

SENATOR CARLSON: Thank you, Senator Schumacher. (Visitors introduced.) Senator Smith, you're recognized. [LB1080]

SENATOR SMITH: Thank you, Mr. President and colleagues. I am thankful to Senator Cornett for introducing this bill and particularly thankful to Senator Price for prioritizing this bill. But more so, I'm thankful to the businesses in this targeted industry group for investing in Nebraska. Their investments and their presence in our communities are hugely impactful to the local businesses in those areas, to the families in those areas, to schools, and to a multitude of organizations that they were involved in supporting. I strongly support AM1826 and the underlying bill, LB1080. This immediate company has a proven record of meeting and exceeding its economic projects. Moreover, this is a relatively small risk with a sizeable and a guaranteed upside for our communities. This opportunity, colleagues, is a very good deal for Nebraska. And I ask your support. Thank you. [LB1080]

SENATOR CARLSON: Thank you, Senator Smith. Mr. Clerk, are there announcements or items for the record? [LB1080]

CLERK: Mr. President, I do. Just one. New resolution, Senator Howard would offer a study resolution, LR505. That will be referred to the board. (Legislative Journal page 1019.) [LR505]

And Senator Coash would move to recess the body until 1:30 p.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. We are at recess until 1:30 p.m.

RECESS

SENATOR GLOOR PRESIDING

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

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

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

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CLERK: I have nothing at this time, Mr. President.

SENATOR GLOOR: (Gavel) Thank you, Mr. Clerk. We return to AM1826 to LB1080. Senators in the speaking queue are: Sullivan, Price, and Wallman. Senator Sullivan, you are recognized. Senator Price, you are recognized. [LB1080]

SENATOR PRICE: Thank you, Mr. President and members of the body. Again, as earlier, I do rise obviously in strong support of this amendment and the underlying bill, being that it is my priority bill. And part of the conversation I wanted to have with you in discussing this is understanding what we have here. When you look at this opportunity, what we see here is again new dollars and new opportunity. Sometimes the focus, when we look at the underlying, supporting documentation, you don't necessarily see that this is new that's coming into the state. This is not an existing business and where existing dollars will be taken away from something. And so when we fulfill this and move forward on this, we will be bringing new dollars into the state. And those dollars and revenue will be...you'll have payroll taxes on the payroll, you'll have various and sundry other taxes, of course, that are associated with that. Oftentimes in constructing the cost model for pursuing business we look at our Wrap Rates. And these are the costs that go beyond the wages, the costs of business money to insure a person, they have to have their education and their vacation. When you take a...for us in our model when you take a year and you put 2,000 hours of labor in a year, you could almost look at a 100 percent Wrap Rate, as we would call it, if you want to make sure you have some flexibility in your cost model. So there is much more that goes into this than just purely the wages that we're talking about for the workers. And again, in this particular instance where we can see it utilized for the first time, these jobs are technical in nature. I know that earlier we did hear Senator Schumacher, and I did appreciate his willingness to discuss this, it's more than schlepping a few boxes into a cabinet. What you're going to have, you're going to have technicians that when they put in these routers and the various connectors and the power supplies and the environmental controls, and then they're going to put in the actual hardware for switching and everything that goes...involved. Then there's testing, you have testing and evaluation because you want to make sure the product is properly sized and working according to the specifications that have been laid out. And these jobs are paying right now in the \$50,000 to \$60,000 area. And just like I said before in other bills when we talked about it, whether it was dealing with child welfare or other things, when we do things that help one person or other individuals, it matters to them. And Yahoo has been a very good partner. They have met or exceeded all the requirements levied against them. And I believe and know them to be an honorable and reputable company that will continue to do so in the future. So again, I do ask for your support in this amendment and the underlying bill as we move forward. Thank you very much. [LB1080]

SENATOR GLOOR: Thank you, Senator Price. Senator Wallman, you are recognized.



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[LB1080]

SENATOR WALLMAN: Thank you, Mr. President. Good afternoon, members of the body. I, too, will support this bill and this amendment. But I want the body to know, \$10 million for special ed would pay for some teachers and that's also economic development. And they wouldn't have got any special deals. As a farmer, I always hate these things because you're hurting somebody else with tax revenue. And I realize we don't have revenue until this comes in place. So welcome to Nebraska. Thank you, Mr. President. [LB1080]

SENATOR GLOOR: Thank you, Senator Wallman. (Visitors introduced.) Are there other senators wishing to be recognized? Seeing none, Senator Cornett, you're recognized to close on AM1826. [LB1080]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Again, AM1826 is a technical amendment that gives us clarifying language in regards to defining a datacenter and harmonizes it with provisions that we have passed in another bill earlier this year. I urge the body's support of AM1826. Thank you. [LB1080]

SENATOR GLOOR: Thank you, Senator Cornett. The question is, shall the amendment to LB1080 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1080]

CLERK: 26 ayes, 0 nays on the amendment. [LB1080]

SENATOR GLOOR: The amendment is adopted. We continue on with the discussion of LB1080 to E&R Initial. Seeing no senators wishing to speak, Senator Cornett, you're recognized to close on LB1080. [LB1080]

SENATOR CORNETT: Thank you, Mr. President, members of the body. LB1080 provides an exemption for Yahoo for the assembly and manufacturing of servers for their own internal use in other states. Yahoo has been an excellent partner for the state of Nebraska and for Sarpy County. They have more than exceeded their general obligations under the Super Advantage Act. They have almost doubled the number of jobs they have brought. This is a project that they will bring to Nebraska. We are not in competition with anyone else. They have the space. If they...we need to advance this bill to grow ourselves in this area of datacenters. Thank you very much. [LB1080]

SENATOR GLOOR: Thank you, Senator Cornett. Members, the question is the advancement of LB1080 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1080]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement. [LB1080]

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SENATOR GLOOR: The bill advances. We continue with General File. Mr. Clerk.  
[LB1080]

CLERK: LB1128 is a bill by Senator Schumacher. (Read title.) Bill was introduced on January 19, referred to the Revenue Committee, advanced to General File. I have no amendments at this time, Mr. President. [LB1128]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on LB1128.  
[LB1128]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Like to begin by thanking Senators Mello, Nordquist, Lautenbaugh for cosponsoring this, and Senator Council for making this her priority bill this year. The new markets credit program started as a federal program back in 2000. It was a bipartisan effort with Jack Kemp, Ted Kennedy, Bill Clinton, and it has proven to be one of the most successful programs for business development in low-income areas in history. It has been recognized multiple times by the Harvard University's innovation program as 1 of the top 25 new innovation programs in the country. It has also been extended five times by the Congress and in those states that have filed and adopted comparable complementary legislation, it has been repeatedly extended there. What it does, this particular bill adopts a New Markets Growth Investment Act. It's modeled after those national new markets tax credit programs administered by the Department of the Treasury of the U.S. government. The bill is intended to encourage and support the development of new investments in lower-income rural and urban areas which could be identified by the U.S. census figures. In order to receive income, the corporate and premium tax credits of the U.S. government and under this program, investors would first have to be certified as a certified community development entity by the Department of Economic Development. As we all know, small businesses are a critical part of our economy. According to the SBA, the small business program generated 65 percent of the net new jobs over the last 17 years. Access to capital, organizing that money that's sitting on the sidelines, now idly in many cases and not happy with...not drawing proper rates of return, is more important than ever. At the same time the small businesses' demand for lending is escalating, bank examiners have made it tougher than ever to obtain funding from conventional sources. LB1128 is intended to provide Nebraska's job-creating small businesses with increased access to growth capital. The Nebraska New Markets Investment Act will bring private capital to small businesses in Nebraska that are most in need of financing. The act is a state version of the federal version. The policy being considered today has widespread support at the national level. In 2000, through strongly bipartisan legislation, the new markets program was enacted as an incentive to investors to deploy their capital in small businesses and projects in economically distressed areas. In Nebraska, if you look at a map, roughly half of the state qualifies for such investment. The national program has been highly effective. Through 2010, 3,300

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investments have been made. A national study showed that 88 percent of the investors in this particular program would not have made the investments in the businesses located in the distressed communities without the incentive. The program is estimated to have created 500,000 jobs. Multiple presidential administrations and Congresses have supported the national version of the program. So why do we need it in Nebraska? Studies have shown that having a state-based level new markets program boost investment into low-income communities. Nationally respected economist Donald Phares, professor emeritus at the University of Missouri at St. Louis, performed comprehensive economic and fiscal impact studies of Missouri's new market development program. That study found \$5 of private capital are invested for every \$1 of state investment, producing an impressive 5-to-1 leveraging of private capital. Recognizing the effectiveness of the national program in attracting private capital investment, states have created new market programs to encourage this type of activity. Since 2007, nine states have adopted the new market programs based at the state level. Unfortunately, Nebraska, our state, is attracting far less share of the federal money than these other states. Through 2010, the most recent year for which data is available, Nebraska is currently ranked 39 in 50 in per capita investment, and 41 out of 50 in total new national market dollars invested. Here's how it works. Under the particular bill, LB1128, Nebraska will offer private investments a future tax credit in exchange for a current investment in the community development entity. The community development entity must make investments in qualified businesses and projects located in low-income communities throughout the state. Investors who put up the private capital to start the process rolling are able to claim a tax credit over the next seven years, either against income taxes or what they call premium taxes. The revenue impact is mitigated by requiring the private money to be invested in the businesses and projects prior to any credits being taken. A credit is a percentage of tax money that the investors inject into the program at the beginning. The community development entities invest the money into qualified businesses and projects. No business or project can receive more than \$10 million under the new markets program. The regulatory agency will oversee a selection of participating community development entities but most of the administration has a benefit of oversight already being provided through the federal program from the U.S. Treasury. Nebraska, like other states with new market programs, will be piggybacking on that existing infrastructure. The program would have zero fiscal impact until 2015. It would attract, it is believed, at least \$192 million of private capital investment in Nebraska, creating job opportunities all beginning within 12 months of the program's launch. That's under the statute. Credits can only be triggered for individual investments and the credit schedule for the individual investment does not begin until three years after the investment is made. Like other state programs, the program would be strictly governed by a number of controls. It would be capped in three ways. The first cap would limit the number of years in which credits can be claimed to seven years after the investment. The second cap would limit the aggregate maximum amount of the credits each year to \$15 million. The third cap would limit the max amount of investment in any business to \$10 million. It would be a nonrefundable, nontransferable credit. The

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proven economic development tool is market driven. It allows businesses sitting on cash to invest in projects which are designated as qualifying in areas of the community that need it. It assures that they do not pull their money out early. It must stay in the system for at least seven years. The managers have proven records and must qualify under the federal law in order to be able to administer these particular tax credits and set up the investment programs. I am told that no state has lost money on this program, that they've all benefited terrifically from it. You cannot find, and I've spent some time researching this, a story where this thing has went awry. And it's an opportunity for the state of Nebraska to couple with the federal government and now bring federal dollars into the system by also having a state program so it makes it really worthwhile for these community development organizations to invest in Nebraska. The probability of success is high; the risk is low. The cash flow should not be impacted. In fact, it should be enhanced if what they're telling me is true as the experience in other states. And I would strongly ask for your consideration in advancing LB1128 to E&R for initial. Thank you. [LB1128]

SENATOR GLOOR: Thank you, Senator Schumacher. Mr. Clerk for an announcement. [LB1128]

ASSISTANT CLERK: Thank you, Mr. President. Natural Resources Committee will hold an Executive Session at 2:00 p.m. in Room 2022. Thank you.

SENATOR GLOOR: Thank you, Mr. Clerk. Members, you've heard the opening on LB1128. There are members wishing to be recognized. Senator Mello, you are recognized. [LB1128]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I rise in strong support of LB1128 and I want to thank Senator Schumacher for introducing this bill, as well as Senator Council for prioritizing it. Without repeating a lot of what you just heard from Senator Schumacher, there are some points that should be reiterated in the sense of not only the success of the new market program at the federal level but ultimately why Nebraska could benefit from LB1128. In the handout that Senator Schumacher provided everyone, if you look on the first page, at the bottom, you'll notice that Nebraska has one of the lowest usage of these federal tax credits of our major...I would say similar population related neighboring states. And an example that if you continue to read through the handout in the book, the state of Missouri has seen tremendous success, both in urban and rural parts of their state, in regards to utilizing these tax credits, of trying to generate private capital investment to bring in new jobs, create new businesses that have been ultimately sustainable. And looking at just some of the numbers, you could see here from 2007 Nebraska has only received \$23 million in this federal tax credit, and our neighboring state, for an example, Missouri, has seen \$612 million. Colleagues, there's no reason that Nebraska can't qualify and utilize anywhere between \$150 million to \$200 million in additional private investment capital

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through the new markets program through the Department of Commerce. Something else to look at, if you look at the return on investment, whether you're in North Platte, whether you're in Columbus, whether you're in Scottsbluff, south Omaha, north Omaha, the model that is in LB1128 is similar to the model in Missouri, the state of Missouri, in their program. They've seen roughly closely to a 5-to-1 ratio in regards to private capital and private investment in regards to every \$1 of public dollars that goes into their new market tax credit program. If you look at some of the other aspects and some of the other numbers that come with it, the job creation component obviously is very critical. And Senator Council, I know is in the queue, can also talk about this need for areas of Nebraska that she represents, that I represent, that Senator Schumacher represents that can see this benefit, because it's not purely an urban program, it's not purely a rural program. It cuts across the entire state, which if you look at the maps that have been included you can see vast chunks of our state qualify for this program. I think it's the third to the last page there and you can see the purple sections that qualify for the new market program encompasses a vast majority of the state of Nebraska. If you look at population, you can also see that it incorporates a vast majority of the state of Nebraska as you look at the city of Lincoln and the city of Omaha breakdowns. Colleagues, this one, to some extent, has a fiscal note, so to speak, that ultimately doesn't come to fruition because the tax credits can't be utilized for the first two years of the program because there has to be the investment put forward before they can claim the tax credit. But the unique component is in the state of Missouri and other states have put forward that the dollars it generates ultimately is not a fiscal note; that ultimately it's not going to...the state will not lose money, so to speak, on putting these tax credits forward because of the significant amount of investment that's required to attain these tax credits. It's a similar perspective and it's a similar logic that's used on a variety of other tax credits and tax incentive programs that we passed not only in the... [LB1128]

SENATOR GLOOR: One minute. [LB1128]

SENATOR MELLO: ...last three years I've been here or four sessions now but years past in regards to the creation of the Nebraska Advantage Program. I'm interested if senators have questions, if there's concerns. Senator Schumacher, I thought, did a very eloquent job of explaining not only the creation of the federal program and how a state program closely interacts with that but ultimately the benefits that we want to see from this. The benefit is more private capital investment in distressed...economically distressed areas of our state to see the benefits, the job creation, the wage creation, the asset creation, the wealth creation that unfortunately certain parts of our state are not seeing and are currently being left behind. LB1128 will help rectify that. Thank you, Mr. President. [LB1128]

SENATOR GLOOR: Thank you, Senator Mello. (Visitors introduced.) Continuing with floor debate, Senator Council, you are recognized. [LB1128]

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SENATOR COUNCIL: Thank you, Mr. President. Good afternoon, colleagues. I proudly rise this afternoon in support of LB1128 and I must begin by expressing my appreciation to Senator Schumacher and the cosponsors for introducing LB1128 and Senator Schumacher in particular for allowing me to designate this bill as my personal priority. I designated LB1128 as my priority bill because this bill accomplishes one of the objectives I set upon becoming a member of this body. That objective is entrepreneurship and the resulting job creation, the creation of jobs in the 11th Legislative District and throughout the state of Nebraska. In talking to individuals in the district I represent and in other areas of the state of Nebraska, one of the impediments to entrepreneurship, small business development and the jobs that result from the creation of these businesses, is access to growth capital. Well, LB1128 addresses that issue and actually removes that barrier by providing a means for businesses located in low-income communities throughout the state of Nebraska to access growth capital. LB1128 accomplishes this by providing for a new markets tax credit program that mirrors the federal New Markets Tax Credit Program, and Senator Schumacher has done an excellent job of describing that program but I want to stress a couple of additional points regarding that program. The federal New Markets Tax Credit Program has to be periodically reauthorized, and I believe Senator Schumacher advised you of the fact that it's been reauthorized on five occasions, I believe, and that's because of the success of this program. And during the last reauthorization of the new markets tax credit, to ensure that these dollars would be invested both in rural and urban communities, the new authorization of the federal New Markets Tax Credit Program includes a requirement that no less than 20 percent of all dollars that are invested under this program are invested in nonmetropolitan areas. Now some will question, well, if that's the case, Senator Council, why doesn't LB1128 contain that same requirement? Well, there is no need to include that requirement because individuals who would be eligible to participate in the state new markets tax program under LB1128 must be approved under the federal program. So they are already required to ensure that their federal tax credits result in investments made in both rural and urban communities. And by virtue of the fact that these programs are linked, that same requirement flows through. I had the privilege of speaking to the former state senator of the great state of Missouri who was the sponsor of the Missouri new markets tax credit program bill, and Senator Mello has already directed your attention to a document in your packet that shows that since the Missouri new markets tax credit program was implemented in 2007 that the state of Missouri has had the opportunity to see a total of \$903 million invested in... [LB1128]

SENATOR GLOOR: One minute. [LB1128]

SENATOR COUNCIL: ...low-income communities and businesses located in low-income communities, \$612 million of that investment occurring since 2007. And what's significant about that is that prior to 2007 the investments under the...in Missouri under the federal New Markets Tax Credit Program were, by comparison, small. And

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one of the advantages of having a state new markets tax credit program is it distinguishes us from those states that do not and makes Nebraska far more attractive for these types of investments, because an approved investment under the federal New Markets Tax Credit Program, coupled with the Nebraska new markets tax credit program, would result in an investor receiving the 39 percent over the life of the... [LB1128]

SENATOR GLOOR: Time, Senator. [LB1128]

SENATOR COUNCIL: ...tax credit... [LB1128]

SENATOR GLOOR: Time, Senator. [LB1128]

SENATOR COUNCIL: ...at the federal level as well...was that time or 1 minute? [LB1128]

SENATOR GLOOR: Time. [LB1128]

SENATOR COUNCIL: Thank you, sir. [LB1128]

SENATOR GLOOR: Thank you, Senator Council. Senator Nelson, you are recognized. [LB1128]

SENATOR NELSON: Thank you, Mr. President. Members of the body, I have a few questions for Senator Schumacher, if he will yield. [LB1128]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB1128]

SENATOR SCHUMACHER: Yes. [LB1128]

SENATOR NELSON: Thank you, Senator. I'm standing in support of this bill and I've been listening with interest and it has a low fiscal impact and I think it can do a lot of good for the state of Nebraska, but just a question here on the tax credit. If I, as an individual investor, had \$10,000 that I wanted to put in this, and we'll just use some round dollar figures here, I realize I'm going to get a tax credit of some sort for that investment under this bill. It won't be effective for a couple of years, apparently, and it's limited, what, to the seventh year after or something. How...what kind of a tax credit am I going to get? What percentage? How does that work? Could you explain just in kind of plain dollars what I could expect, what kind of credit I would get for a \$10,000 investment as an individual? [LB1128]

SENATOR SCHUMACHER: The allotment is 39 percent, which is very similar to the angel investment allotment from last year, if you'll remember, and it starts...it's broken

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up into pretty much equal amounts starting the third year through the seventh. So there's five years that you can claim that 35 (sic) percent over. [LB1128]

SENATOR NELSON: So a credit, a total credit for a \$10,000 investment would be \$3,500 over a period of years. Do I understand... [LB1128]

SENATOR SCHUMACHER: \$3,900. That's correct. [LB1128]

SENATOR NELSON: \$3,900? [LB1128]

SENATOR SCHUMACHER: Right. [LB1128]

SENATOR NELSON: Thirty-nine hundred over a period of, what, seven years? [LB1128]

SENATOR SCHUMACHER: Right, five years because it's seven years into the future... [LB1128]

SENATOR NELSON: Oh, okay. [LB1128]

SENATOR SCHUMACHER: ...but you don't get to start till the third year, so it's over five years. [LB1128]

SENATOR NELSON: All right. And that of course, it's...each year is limited to your taxable income or the amount of tax that you would pay. If I owed... [LB1128]

SENATOR SCHUMACHER: It would be limited to your tax that is due that year. [LB1128]

SENATOR NELSON: Yeah. All right. Okay. Fine. I think that answers my question. I think that for a lot of individual investors, I don't know about the larger ones, but that might be attractive. One other question: How would you go about making this investment of \$10,000? Through what channels would you go? [LB1128]

SENATOR SCHUMACHER: Basically, they have these community development entities that pass requirements at the federal level. They are the ones that organize the individual or corporate investors who want to put money into a pool or this investment vehicle. That money, once it's in there, provides the starting equity for which these entities then go out and borrow money from banks to bring money that they then invest into a specific business. [LB1128]

SENATOR NELSON: And how, as an individual, would I find out about these pools or who to contact? [LB1128]



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SENATOR SCHUMACHER: I think that once this program is in operation there will be some...there are number of these pools, a large number of them, there will be probably competition just as a bank would compete for the investors' dollars. Because in the end they get a small fee on a large amount of money and they make their money that way. [LB1128]

SENATOR NELSON: All right. Thank you, Senator. I do stand, as I said, in support of LB1128. Thank you, Mr. President. [LB1128]

SENATOR GLOOR: Thank you, Senators Nelson and Schumacher. Chair recognizes Senator Lautenbaugh. [LB1128]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Members of the body, I do stand in support of this bill and I thank Senator Schumacher for bringing it. I thank Senator Council for prioritizing it so we have the chance to talk about it. And I think I'm one of the proud cosponsors of this. This is one of those things that's just a smart thing to do to help us be competitive and help us actually bring jobs to Nebraska, and I say Nebraska because this is not just an east Omaha thing, this is not a west Omaha thing, this is not a Lincoln thing. I'm sure you've all seen the map by now and this can have impacts statewide. And I'm not taking potshots at the fiscal note, far from it. What I'm saying is the revenue that we get will outweigh the revenue that is shown as lost on the fiscal note and I don't have to speculate. This is not a leap of faith. We have the Missouri experience and others that we can use as a guide on this. This is a way for us to make ourselves a little more competitive perhaps than some other states for new business development and get out in front of something. It's forward looking. It's proactive. It's exactly the kind of thing we should be doing for all Nebraskans. I would urge you to support this and I will yield the rest of my time to Senator Council if she'll have it. [LB1128]

SENATOR GLOOR: Senator Council, 3 minutes 40 seconds and you are the next speaker in the queue. [LB1128]

SENATOR COUNCIL: Thank you very much, Mr. President. Thank you, Senator Lautenbaugh, for yielding that time. And Senator Lautenbaugh started to touch on a point that I think is very important and that's how this would place the state of Nebraska in a highly competitive position in terms of attracting dollars of investment in businesses in our low-income communities throughout the state of Nebraska, and we must stress that. And one of the things upon the introduction of this bill and beginning to do the research, I reached out to colleagues or peers in other states that have utilized the state version of a new markets tax credit program. There's been a lot of focus on the state of Missouri so I had the opportunity to speak to the former state senator who was the sponsor of the Missouri new markets tax credit program bill in 2007, and that state

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senator, former State Senator Maida Coleman, represented inner city St. Louis, oftentimes referred to as St. Louis City. And if any of you have been in St. Louis and the area closest to the river, that's the area that Senator Coleman represented. And Senator Coleman provided me with data and information that showed, as a result of the enactment of the new markets tax credit program at the state level in Missouri, the state of Missouri has experienced an increase in jobs of 6,000. So I asked her, I said, well, how did that impact the district that you represented, and she provided me with examples of four companies, four companies that were in existence in those communities and in her community but were on the brink of having to close because they were undercapitalized. And one of the problems that small businesses have identified to me as a barrier to their growth and in fact their existence is the ability to access loans at less than market rates. Well, one of the things that can be accomplished under a new markets tax credit program is that the investment, the new markets tax credit, can provide the cushion to enable financial institutions to grant those loans at lower than market rates but be assured of the return on their investment. And as a result, you've seen increases in what is commonly referred to as gap financing as a result of new market tax credit programs. I also want to advise you of the fact that because I wanted to ensure that my belief about the new markets tax credit program and how it benefits both rural and urban communities, I had the opportunity to speak to a current representative in the Mississippi house of representatives where they have a new markets tax program at the state level, and she represents an area of Mississippi commonly known as the delta, which is essentially a rural area. She proudly advised me of the positive impact that their state new markets tax credit program has had on the creation of jobs in that area by virtue of new businesses locating there but probably more the case in her instance was to allow existing business to stay in operation, maintain jobs, and in fact to expand their employment base. Now when... [LB1128]

SENATOR GLOOR: Senator Council, you are now on your time. [LB1128]

SENATOR COUNCIL: Thank you, Mr. President. Now when you look at how the advantage is gained by having a state program, it's gained because, using Senator Nelson's example, if we have a new...a state new markets tax credit program, Senator Nelson, not only will you be entitled to the 39 percent tax credit over seven years for your taxes to the state of Nebraska but you get that same benefit for 39 percent of your federal tax liability. So that enhances investment because if I can get basically two for one for my investment dollars, I'm going to be more inclined to invest my dollars with financial institutions that are going to invest their dollars in states where they have a state program that matches the federal program. Because if I have \$10 million and I have an opportunity to invest that \$10 million where I'm going to be subject to both state and federal taxes, I want to invest that where I can get a credit against both of those taxes, and that's what would occur with the enactment of LB1128, which is the reason why Nebraska would be placed in a more attractive position in terms of dollars being invested. You also asked about how do people find out about these investments, how

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do companies find out about this investment. This is a national program. There's a national emphasis. I want to advise you that today I received a communication from the vice president of entrepreneurship and business development of the National Urban League, and Mr. Terry Clark was writing to advise me that the National Urban League has been in partnership with one of the entities that's been approved under the federal New Markets Tax Credit Program. During the recent application, only 70 companies...entities were approved. Well, the National Urban League is associated with one of those companies. Another one of those companies has been active and testified in support of this bill here. But I was advised by Mr. Clark that as a result of the federal and state new market tax credit programs that they participated in, they received over \$440 million in new market tax credit allocations that have led to over 60 investments in businesses that have created more than 10,000 new jobs. And the final point is looking at the fiscal note and the impact of the tax credits. Again, I want to emphasize that during the first two years there are no tax credits. So if these businesses, assuming that the \$15 million cap is reached, then that means there's \$194 million being invested in the state of Nebraska, creating whatever number of jobs. But by comparison to what other states, you're talking about creating anywhere between 3,000 and 5,000 jobs, jobs that don't exist now, for people who are not paying income taxes now, for people who don't have the means to pay sales and use taxes. So if you factor in those first two years where the state is receiving the benefit of this \$194 million of capital investment, I'm confident that it would far... [LB1128]

SENATOR GLOOR: One minute, Senator. [LB1128]

SENATOR COUNCIL: ...offset any projected loss in revenue associated when...the time when the tax credits to kick in, which is three years out. So for those reasons, as my colleagues have stated, this is an opportunity for us to achieve a number of objectives that I've heard others of my colleagues voice during this session and previous sessions. Senator Schumacher talked about no business can receive more than \$10 million under the new markets federal tax credit program. The same would hold true here. So we're talking about small business development. Was that time, sir? One minute? [LB1128]

SENATOR GLOOR: Twenty seconds. [LB1128]

SENATOR COUNCIL: So we're talking about small business development. Those are the companies that create jobs in this country. Thank you. [LB1128]

SENATOR GLOOR: Thank you, Senator Council. Chair recognizes Senator Lautenbaugh. [LB1128]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Members of the body, just briefly, I won't second everything Senator Council just said but she's dead on, of course. There is some question, I guess. Someone had said, well, we heard Missouri got

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suspended under this program; what's that all about? Well, that means that it has been fully utilized. To be suspended means they've made full use of the credits and they aren't eligible for any more at that point. So this is one of those rare circumstances where being suspended is a good thing because that means that they have fully utilized the federal and local credits and they've had the job growth that comes with it. So I won't belabor the point but in case you've heard that there was some suspension in Missouri, that's what it means. It's a good thing, it's a success story, not a negative thing. And I'll yield the rest of my time to Senator Schumacher, if he'll take it. [LB1128]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Schumacher, 4 minutes and 5 seconds, but there are no more speakers in the queue. You could also use this for your close if you would like, Senator Schumacher. [LB1128]

SENATOR SCHUMACHER: Thank you very much, Mr. President, members of the body. On your desks you have or should have a picture of the state of Nebraska with the purple areas indicating the areas that are eligible for financing. A question has arisen as to why some of the towns, the cities that are in the yellow, are not purple and that is because this map could not be made big enough. Were we to blow up the area around many of those cities, you'll find the census tracts are reasonably small things and that there are tracts that are eligible within many of these cities throughout the state that could be seen if we blew it up like the Omaha section was blown up for everyone to see where the boundaries are. So even though a town is in the yellow section does not mean that it's ineligible, because if you look down on it and look at its individual census tracts within that community there may indeed be eligible sectors in most of those particular towns, particularly the farther west you go where some of the poverty issues are greater. This particular bill is a proven success story. It is a success story in Missouri to the extent that it has already run out of money and had to be suspended, a good thing, until next year's money comes around. It has been extended repeatedly in the states that have started to take advantage of the fact that by having a program of their own the federal money flows there, too, because the development corporations and entities can attract more investments, larger scale operations, and can do it very, very efficiently. Thirty-three billion federal dollars have gone into this program and the state of Nebraska thus far has gotten very, very little of that particular money. Just compare the allocation that a similar state, Maine, got \$95 million awarded in 2011 and Nebraska received \$0 in 2011. This is an opportunity for businesses and people who have money to invest in small businesses, less than \$10 million in investments, all across the state in areas that need jobs, that need to have their capital organized. It's an opportunity for our banks, who have endorsed this particular program through the Nebraska Bankers Association or endorsed the legislation to make loans because there is now some equity to justify the loan so they don't have to make a 100 percent loan so they can conform with the new banking standards and still have what the bank examiners consider to be safe loans. There is just not a downside to this... [LB1128]

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SENATOR GLOOR: One minute. [LB1128]

SENATOR SCHUMACHER: ...particular legislation. The money is tied up for seven years so there's no quick profit, run, drop it. The investments are highly competitive from the point of view that these administrative agencies all are in competition to prove to the federal government that they make good investments, that they are to be allotted these huge federal credits, and that they do a good job with them. And the federal government, in looking at who it awards its credits to, which development agencies it develops or awards credits to, is...feels good about having a state partner in it, too, so it's not oaring the boat all by itself. This is a good program. Very little bad can be said about it. It's had national awards. Congress, Republicans and Democrats come together to extend this program and I would encourage the advancement of this particular bill to E&R for initial and ask for your votes. Thank you. [LB1128]

SENATOR GLOOR: Thank you, Senator Schumacher. And was that your closing, Senator? Was that your closing, Senator? Members, you've heard the closing on LB1128. The question before the body is the advancement of LB1128 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1128]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB1128. [LB1128]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB1128]

CLERK: LB1128A, a bill by Senator Schumacher. (Read title.) [LB1128A]

SENATOR GLOOR: Senator Schumacher, you are recognized to open on LB1128A. [LB1128A]

SENATOR SCHUMACHER: Thank you, Mr. President. Members of the body, this is the appropriation bill that sets the program up and I ask for your advancement. Thank you. [LB1128A]

SENATOR GLOOR: Thank you, Senator Schumacher. Are there members wishing to be recognized? Seeing none, Senator Schumacher, you're recognized to close on LB1128A. Senator Schumacher waives. The question is the advancement of LB1128A to E&R Initial. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB1128A]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB1128A. [LB1128A]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB1128A]

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CLERK: Mr. President, a couple of items, if I may. Senator Sullivan offers LR506 and LR507, both calling for interim studies. Senator Burke Harr, an amendment to be printed to LB902. (Legislative Journal pages 1021-1022.) [LR506 LR507 LB902]

Mr. President, the next bill, LB750 by Senator Cornett. (Read title.) Introduced on January 4, referred to Revenue Committee, advanced to General File. There are committee amendments, Mr. President. (AM2183, Legislative Journal page 730.) [LB750]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB750. [LB750]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB750 is a bill intended to fix a problem involving valuation of a farm home site for the purpose of Nebraska's greenbelt valuation law. The problem came to light during a public hearing on interim study LR350, the focus of which included examining the comparable sales guidelines set forth in Statute Section 77-1371. Much testimony focused on a particular county assessor's determination that residential land located in a planted and zoned subdivision...platted, pardon me, and zoned subdivision that included a lake was comparable land for the purpose of determining the value of land beneath a farm home site. A farm home site is defined by statute to mean not more than one acre of land contiguous to a farm site, which includes an inhabitable residence and improvements used for residential purposes. Such improvements include utility connections, water and sewer system, and improved access to a public road. The question is whether those two home sites could reasonably be considered comparable properties for the purpose of real property taxation. As introduced, LB750 proposed a fix that...proposed to fix that problem by amending Section 77-1371 to clarify that residential land located within a platted and zoned residential subdivision is not land comparable to land that is part of a home...farm home site as defined in Section 77-1359. However, the Revenue Committee amendment, AM2183, rewrites the bill to address the home...farm home site issue and to address an issue involving the statute's comparable sales guidelines with respect to like-kind exchanges of agricultural land and horticultural land pursuant to Internal Revenue Code Section 1031. To let the body know, the amendment...we have a couple of amendments following on this. I would urge the body to support the following amendments. [LB750 LR350]

SENATOR GLOOR: Thank you, Senator Cornett. Members, you've heard the opening on LB750. As the Clerk stated, there are amendments from the Revenue Committee. Senator Cornett, as Chair of that committee, you're recognized to open on the amendment. [LB750]

SENATOR CORNETT: Thank you again, Mr. President and members of the body. The Revenue Committee amendment, AM2183, to LB750 rewrites the bill to address the

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farm home site issue and to address an issue involving the statute's comparable sales guidelines with respect to like-kind exchanges of agricultural land and horticultural land, pursuant to Internal Revenue Code Section 1031. AM2183 is the result of a collaboration between Nebraska Farm Bureau, NACO, and the Property Tax Administrator. AM2183 proposes to fix a farm...pardon me. This amendment only involves the Nebraska Farm Bureau and NACO. AM2183 proposes to fix the farm home site issue by adding the following sentence to Section 77-1371: Sales of land which do not include a farm home site as defined in Section 77-1359 shall not constitute a comparable sale when determining the actual value of a farm home site pursuant to Sections 77-1359 to 77-1363. AM2183 also amends Section 77-1371 by adding a new guideline for consideration when using the comparable sales approach to determine the actual valuation of the agricultural land or horticultural land, the exchange of which was structured as a like-kind exchange. The new guideline asks for consideration of whether a premium was paid because the sale was in conjunction with a like-kind exchange of property under Section 1031 of the Internal Revenue Code. Additionally, AM2183 requires the Department of Revenue to annually conduct an analysis of sales of agricultural land and horticultural land to determine whether sales of agricultural land and horticultural land involving Section 1031 like-kind exchanges reflect a market premium relative to sales of agricultural land and horticultural land not involving Section 1031 and like-kind exchanges. Again, I want to emphasize that AM2183 is the result of the collaboration between the Nebraska Farm Bureau and NACO. The following amendment, we have one more amendment coming up after this. Thank you. [LB750]

SENATOR GLOOR: Thank you, Senator Cornett. Mr. Clerk, there is an amendment to the committee amendments. [LB750]

CLERK: Senator Cornett would offer AM2573. (Legislative Journal pages 1023-1025.) [LB750]

SENATOR GLOOR: Senator Cornett, you're recognized to open on your amendment to the committee amendments. [LB750]

SENATOR CORNETT: Thank you, Mr. President and members of the body. AM2573 is an amendment that modifies the AM2183 with input from the Property Tax Administrator. We will probably on Select File have an additional technical amendment coming, but right now AM2573 rewrites the Revenue Committee amendment, AM2183, to address the farm home site issue and the issues involving the statute's comparable sales guidelines with respect to nearby property and like-kind exchanges of agricultural land and horticultural land under the Internal Revenue Section 1031. Significantly, AM2573 reflects a collaboration between NACO, the Nebraska Farm Bureau, Nebraska Property Tax Administrator, and Senator Lambert, who has prioritized the bill. AM2573 addresses the farm home site issue by doing two things. First, it redefines farm home site and makes clarifying and coordinating changes to the definition of farm site and

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agricultural land and horticultural land in Section 77-1359. Specifically, it defines the phrase farm home site or rural residential site to mean land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes which is located outside of urban areas or outside platted and zoned subdivisions. Second, AM2573 addresses the farm home site issue by adding a new comparable sales guideline which calls for consideration of whether sales or transfers of property are in a similar market area and have similar characteristics to the property being assessed. AM2573 addresses the like-kind exchange and nearby property issues by amending the comparable sales guideline so that the references to nearby property are eliminated, putting the focus on whether a premium was paid to acquire the agricultural land or horticultural land. In that regard, AM2573 provides that a premium may be paid when proximity or tax consequences cause the buyer to pay more than the actual land value of the actual value for agricultural land or horticultural land. The term "proximity" is less restrictive than the term "nearby property," because it's not limited to land within one mile of currently owned property. Likewise, the term "tax consequences" is less restrictive than referring to like-kind exchanges of property under the Internal Revenue Code Section 1031 because other types of tax consequences could be the motivating force for paying a premium to acquire the property. I'd like to thank Senator Lambert, the Farm Bureau, and the Property Tax Administrator, and NACO, specifically Larry Dix, for all of the work they have done on refining this language to resolve an issue that we were having with a county in regards to the farm site valuation and their asking for guidance on this issue. It has been a work in progress with a lot of wordsmithing to make sure that we had no adverse consequences to the other counties or to counties in general. With that, I urge the body to support AM2573 and the underlying bill. Thank you. [LB750]

SENATOR GLOOR: Thank you, Senator Cornett. Members, as a review, you've heard the opening on LB750, Revenue Committee amendment, AM2183, and amendment to the committee amendment, AM2573. We now move to floor debate. Senator Lambert, you are recognized. [LB750]

SENATOR LAMBERT: Thank you, Mr. President. Colleagues, I want to thank Senator Cornett for introducing LB750, and the Revenue Committee for their unanimous support to advance this bill out to General File. I chose LB750 as my personal priority bill because it would offer a solution to a problem that has existed in Legislative District 2 for almost four years. LB750 and AM2573 would redefine farm home site for assessment purposes. The method of assessing this particular...a particular parcel of land has been at the heart of this controversy and has existed in my district from 2000...beginning in 2008. The disagreement between rural landowners and the county assessor began four years ago when the assessor raised the value of the acre under a farm site from \$10,000 to \$64,000. The assessor explains this change was a matter of fairness, to update the valuation in the county that has increasingly become urban in characteristics. This was a raise from \$10,000 to \$64,000 valuation in an acre of land.



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The affected landowners have filed formal protests for the past three years. They have sought help from their county board of equalization, the state Tax Equalization and Review Commission, the state Department of Revenue, the legislative Revenue Committee, and District 2 legislative office. Last year the Legislature's Revenue Committee introduced LR350 to explore ways to fix the affected part of District 2 without automatically requiring similar changes in other parts of the state. When I was appointed to represent District 2 in the Legislature, I received a thorough briefing from my staff and former Senator Dave Pankonin on this issue. Last fall I attended a Revenue Committee public hearing on LR350 where I met and heard testimony from concerned District 2 constituents. After listening to testimony on LR350, Senator Cornett concluded that the situation in question appeared to be an unintended result of the 2008 change in the state's greenbelt laws. At that time, Senator Cornett said she would offer a solution to the problem in the current legislative session, and she's been true to her word. At a public hearing on LB750 this January, I appeared before the Revenue Committee to thank them for their willingness to consider this proposal and to stop the assessment problems in my legislative district. District 2 landowners testified that they were grateful and are looking for relief for this problem. I think the introduction of LB750 will help this problem, but they noted that their bill might need to be modified in order to produce the desired change in their county assessor's valuation practices. The Nebraska Farm Bureau, the Nebraska Association of County Officials, and the Department of Revenue worked with Senator Cornett's office and me to develop amendment language to make provisions in LB750 more effective. I look forward to the advancement of LB750 and AM2573. District 2 constituents have waited four years for this and they need to have this problem solved. I believe the passage of LB750 and AM2573 will provide a successful outcome that they deserve and I look forward and ask for, each one of you, green votes on these two issues. Thank you. [LB750 LR350]

SENATOR GLOOR: Thank you, Senator Lambert. Chair recognizes Senator Hadley. [LB750]

SENATOR HADLEY: Mr. President, members of the body, good afternoon. I do support both amendments and the underlying bill. Would Senator Cornett yield to a question? [LB750]

SENATOR GLOOR: Senator Cornett, would you yield? [LB750]

SENATOR CORNETT: Yes. [LB750]

SENATOR HADLEY: Senator Cornett, do you envision that the other 92 counties, that this bill will cause a lot of extra work for the assessors in the other 92 counties? [LB750]

SENATOR CORNETT: That is what we have made sure would not happen. Everything in this bill has been ran through Larry Dix and the NACO and that it had to have NACO's

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approval before we brought it to the floor. So Larry Dix, that's why I thanked him in my opening, has been a tremendous support on this and understands the underlying issue. [LB750]

SENATOR HADLEY: Thank you, Senator Cornett. I just wanted to make sure we had that point made because I had heard a comment that this was going to cause a lot of extra work for the assessors around the state and I don't believe it is. And again, I do want to thank Mr. Dix and NACO for supporting this and, you know, solving a problem. It may be a problem only in one county but it's the type of thing that could be a problem in anybody's county, so I do appreciate that and I do appreciate Senator Lambert for prioritizing this. Thank you, Mr. President. [LB750]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Wallman, you're recognized. [LB750]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, want to thank Senator Lambert and Senator Cornett. And I think this is a good policy. As we realize, if you live on a farm like I do, the valuations are skewed. I honestly believe that. So thank you, Senator Lambert, and thank you, Mr. President. [LB750]

SENATOR GLOOR: Thank you, Senator Wallman. Chair recognizes Senator Lathrop. [LB750]

SENATOR LATHROP: Thank you, Mr. President and colleagues. You know how you just sit there at your desk some days and you listen and you go, I just heard the Chair of Revenue speed-read a three-page explanation and I don't understand it? So I'm going to ask Senator Lambert questions, if he'll yield. [LB750]

SENATOR GLOOR: Senator Lambert, would you yield? [LB750]

SENATOR LAMBERT: Yes, I will. [LB750]

SENATOR LATHROP: Senator Lambert, I seem to remember reading in the newspaper, in the Omaha paper, something about difficulties with an approach taken to valuing land in Sarpy County. Is that what we're trying to get at? [LB750]

SENATOR LAMBERT: That is what we're working at, yes, sir. [LB750]

SENATOR LATHROP: Okay. Is this a problem that we're trying to fix that is unique to ag land? [LB750]

SENATOR LAMBERT: You could probably address it that way. The problem is comparing lakefront residential property and assessing farmland at that same value.

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[LB750]

SENATOR LATHROP: Okay. I can appreciate that difference. So what was your assessor doing that you found objectionable? Or the Sarpy County Assessor, I'm not going to say that's your guy, the Sarpy County Assessor, what was that individual doing in assessing property in Sarpy County that we're fixing with this? Just let's start with the problem. [LB750]

SENATOR LAMBERT: Okay. Let's say you buy 120 acres of land and your house is on it. You're going to live there. You're going to become a farmer, Senator. Your farmland is valued at five, seven, whatever you paid for it, thousand dollars an acre. That one acre that that house sits on, the assessor found the only thing close to an acre was...I think it was a 6.4-acre piece of...or, excuse me, .64 piece of property on a lake, so he extrapolated that price out to \$64,000 an acre. So at that you've paid...or you're appraised at \$5,000 to \$7,000, whatever, on your farmland but the acre that your house sits on, not your house, just the acre of land, is appraised at \$64,000. [LB750]

SENATOR LATHROP: Okay, so what our assessor was doing in Sarpy County was using lakefront property as a comparable for the homestead on ag land. [LB750]

SENATOR LAMBERT: Yes. He was using development property. Some of it was lakefront but property that had sewer, water, probably had a street in front of it and was for a subdivision. [LB750]

SENATOR LATHROP: Okay. Well, you just went from lakefront property to subdivisions. [LB750]

SENATOR LAMBERT: Subdivision property. [LB750]

SENATOR LATHROP: So that doesn't sound that far away from me, so I want to go back and talk about that. [LB750]

SENATOR LAMBERT: Okay. [LB750]

SENATOR LATHROP: If I have a...what's a quarter section, 40? Sixty. Okay, I have 60 acres and on the corner of the 60 acres is my homestead. [LB750]

SENATOR LAMBERT: Yes. [LB750]

SENATOR LATHROP: And I built it five years ago. It's a nice place. I'm a banker... [LB750]

SENATOR LAMBERT: Okay. [LB750]

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SENATOR LATHROP: ...and this is not a farmstead where I keep machinery equipment and all the things that may look like a working farm, but a house on the corner of 40 acres. How is that different than if I built that home on a subdivision in... [LB750]

SENATOR LAMBERT: Would not be any different. [LB750]

SENATOR LATHROP: Okay. Is that...so will this bill permit that kind of a comparable? [LB750]

SENATOR LAMBERT: That would be the assessor's job to identify what kind of property that is. Is it suburban? Is it a subdivision? What is it? Or is it rural? [LB750]

SENATOR LATHROP: Okay. Maybe I can ask this question differently. Are we moving the Sarpy County Assessor's practice towards something that is a recognized standard in appraisals? [LB750]

SENATOR GLOOR: One minute. [LB750]

SENATOR LAMBERT: I believe so, yes. [LB750]

SENATOR LATHROP: And was the Sarpy County Assessor, before we pass this law, if it gets passed, before we pass a law was he outside of accepted standards for appraisal in the approach he was taking? [LB750]

SENATOR LAMBERT: They use a manual which gives them a lot of leeway. I think that common practice, common sense enters into this... [LB750]

SENATOR LATHROP: Okay. [LB750]

SENATOR LAMBERT: ...and they use the manual and do that. I don't know that he was outside his rights. I know that it is not what is commonly practiced and it was not the intent of the appraiser's duties to operate that way. [LB750]

SENATOR LATHROP: Okay. I think I'll direct my...thank you, Senator Lambert. [LB750]

SENATOR LAMBERT: Sure. [LB750]

SENATOR LATHROP: I appreciate that. If I may, I'd like to ask Senator Cornett some questions. [LB750]

SENATOR GLOOR: Time, Senator Lathrop, but you are the next speaker so, yes, you may. [LB750]

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SENATOR LATHROP: Thank you. [LB750]

SENATOR GLOOR: Senator Cornett, would you yield? [LB750]

SENATOR LATHROP: Will Senator Cornett yield to a question? [LB750]

SENATOR CORNETT: Yes, Senator Lathrop. [LB750]

SENATOR LATHROP: Senator Cornett, you're moving so much stuff through here today, I just needed to jump in front of something so that I can better understand it, because it's whizzing by me and I'm not... [LB750]

SENATOR CORNETT: Trust me, it wasn't my choice today. [LB750]

SENATOR LATHROP: ...I am not a tax lawyer, as you probably know, nor am I real estate lawyer. And so what I'm trying to figure out is will you maybe put a little more information or provide a little more information with, first, the problem. What was going on? Was the...first of all, is it unique to Sarpy County? Do we have some kind of an assessor there that's doing things the way nobody else does? [LB750]

SENATOR CORNETT: Yes. [LB750]

SENATOR LATHROP: Okay. Describe the problem for me so that I understand it, please. [LB750]

SENATOR CORNETT: Okay. With ag land, as Senator Lambert described, it is whatever you buy your ag land at, that's it, but the first acre under the house is set aside from the ag land and is valued on its own. What the Sarpy County Assessor was doing was saying that one acre of ag land, whether it was improved or not improved...now when I mean improved I'm not talking about the house. We're talking about the land, not the structure, okay? May have well water, may not have a paved road, doesn't have lights, doesn't have the things that you see in a subdivision or in a lot of your approved lakeside estates. He was taking and using as a comparable sale your, oh, estate acreages where there are a hundred...million-dollar homes. But again, it's not the home we're talking about. It's the land under the home. And that land he was comparing in one case \$64,000 for an acre, okay, so he said that was his only comparable sale and so he valued the land under the agricultural home at \$64,000 an acre when all the land around it sold for significantly less. It was not worth that, the land itself, the ag land. We are talking about the acre of land the house sits on. [LB750]

SENATOR LATHROP: Okay. I got it. The next question I have is, going forward, is our Sarpy County Assessor, after we've passed a law to straighten this guy out, after we do

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that, is he going to value it like ag land because it sits on a farm? So if ag land in Sarpy County, and I want to grow corn or soybeans, if that's worth \$4,000 or \$5,000 an acre, is the homestead real estate going to be valued at some fraction of what the going rate of farm property is? [LB750]

SENATOR CORNETT: He cannot value it at what the price of the ag land is because it is where the house sits. We have it set aside under statute. You would violate the uniformity clause. What we are doing is saying he has to compare that first acre under a home site to a first acre under another home site for comparable sales. [LB750]

SENATOR LATHROP: Okay. [LB750]

SENATOR CORNETT: We're trying to provide structure. [LB750]

SENATOR LATHROP: That makes perfect sense to me, except how does that happen as a practical matter? If we're selling farmland in, let's say, 60 acres at a time or 40 acres at a time, whatever we're selling it, and some fraction of one acre is where the home sits, what does a sale tell us about what the value of the real estate is under the home? [LB750]

SENATOR CORNETT: We are comparing...we are trying to have the assessors compare that acre to another similar acre, because we look at comparable sales. So instead of reaching out and comparing that first acre to an acre that is improved, has sewers, lights, streets, they will compare it to another acre under a farm site. [LB750]

SENATOR LATHROP: Where are they going to get the comparable sales? When somebody sells a homestead on a farm? [LB750]

SENATOR CORNETT: We...they go to the comparable sales in the county for that every year. That's...and that was the argument that the Sarpy County Assessor made, was that he did not have enough comparable sales and he asked for direction on what to do, to do that. Well, in our research we found that the Sarpy County Assessor actually had more comparable sales than most of the other counties in the state for these types of sale or land transactions. [LB750]

SENATOR LATHROP: Okay. I'm going to go back to my example. I live on a...I'm a banker. I bought a big spread out in Sarpy County somewhere and I built a house on the corner. I have a gravel road leading up to my great big house and... [LB750]

SENATOR GLOOR: Senator Lathrop, your time has expired, but you are next in the queue. [LB750]

SENATOR LATHROP: Thank you. [LB750]

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SENATOR GLOOR: This is your third time, Senator Lathrop. [LB750]

SENATOR LATHROP: Thank you. I'll have to ask my questions faster. [LB750]

SENATOR CORNETT: I'll yield you time if you need it. [LB750]

SENATOR LATHROP: Okay. So is your assessor going forward going to try to find where the homestead only was sold for a comparable sale on the value of the real estate for the homestead that my house sits on? [LB750]

SENATOR CORNETT: What we have done in the language, working with NACO and with the Farm Bureau, is try and set guidelines on what would be considered a comparable sale and have said that a residential, like a...one of the properties like an estate acreage would not be a comparable sale. So they would... [LB750]

SENATOR LATHROP: Okay. That's where I get...maybe let me put this differently. If I'm buying 40 acres and there's a house on it, how can your assessor determine what the value of that acre is underneath the house because the consideration generally isn't broken down? I'm going to buy it. It's \$300,000. And it doesn't say so much is for the house site, so much is for the ag value. You get it... [LB750]

SENATOR CORNETT: Actually it does. The first acre on the land where the house sits is set aside currently in regards to sales. The farmland is valued at per acre. [LB750]

SENATOR LATHROP: Right. [LB750]

SENATOR CORNETT: The acre under the house is valued differently. If you're talking about the house itself, the structure on it, that is a separate evaluation or assessment. We're just talking about the land under the house. [LB750]

SENATOR LATHROP: What am I going...I have to tell you I don't know why you wouldn't use an estate property. If I buy a farm sitting up with a great view of the Platte River and I've just bought 100 acres or I live in the hills on an estate farm and a lot that I bought for \$100,000, how is that different? [LB750]

SENATOR CORNETT: We are...in the bill what we have done is still left the assessors the ability to compare those types of properties. But what we were finding and what was happening in Sarpy County, one farm particularly, that the...it's a dirt road leading up to a very unimproved home, no lights, no sewer system, a farm acre. And he evaluated it at the same as a multimillion-dollar property. [LB750]

SENATOR LATHROP: Oh, I get why that doesn't work. I'm just wondering how we do it

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going forward. I see Senator Langemeier has his light on and he is a certified appraiser... [LB750]

SENATOR CORNETT: And he works in this area, yes. [LB750]

SENATOR LATHROP: ...or something so maybe he'll help... [LB750]

SENATOR CORNETT: I would be happy to have Senator Langemeier help... [LB750]

SENATOR LATHROP: ...educate me. [LB750]

SENATOR CORNETT: We have worked very hard on giving the assessors the ability to compare the outliers in this. But what we heard from the assessor in Sarpy County was he needed direction on what was a comparable sale and what wasn't, what could be used and what couldn't be used. [LB750]

SENATOR LATHROP: Okay. I only have probably a fraction of a minute. [LB750]

SENATOR CORNETT: I will yield you time. [LB750]

SENATOR LATHROP: Okay. I'll just say this. I'm not standing or asking the questions because I oppose this. I just don't understand it and I hope you'll forgive me for interrupt...well, for debating (laugh). So I'll look forward to hearing what Senator Langemeier has to say. Okay? Thank you. [LB750]

SENATOR CORNETT: I'll yield you my time. [LB750]

SENATOR GLOOR: Thank you, Senator Lathrop and Senator Cornett. Senator Burke Harr, you're recognized. [LB750]

SENATOR HARR: Well, I think I have more questions now than I did ten minutes ago. So first of all, thank you, Mr. President and members of the Legislature. Would Senator Cornett yield to a question? [LB750]

SENATOR GLOOR: Senator Cornett, would you yield? [LB750]

SENATOR CORNETT: Yes. [LB750]

SENATOR HARR: Thank you, Senator Cornett. And I just want to follow up on the train of thought of Senator Lathrop a little bit. I have...I think I understand the problem. I have a better idea of what the problem is. Now what I need to know is (1) what is the remedy and why do we need to do this remedy? What is...well, let me start with this. Why is Sarpy County so unique compared to the other counties in the state that we have to do



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legislation for Sarpy County and Sarpy County only? [LB750]

SENATOR CORNETT: I'm trying to find a way to phrase this politely. We have worked for four years with the assessor in Sarpy County. None of the other counties are assessing in this manner. The way the statute is drafted currently gives him the latitude to do this. No amount of discussion has changed his mind in the fact that the statute allows him to do this, and he is correct that it does allow him to assess in this manner. What we are doing with our...when our conversation with him this fall was he said, let's get...he goes, you don't want me to do this? Then set policy, give me a way to do it. Show us...put the guidelines in place. This bill is a reflection of placing those guidelines in place that we have worked on with the Farm Bureau, who has been working on this issue for four years, with NACO to make sure that we are not putting any onerous duties on the other counties, and that we're giving them flexibility for sales because each property is unique. And we do not want to take away the assessor's ability to realize that uniqueness of a property when assessing. So we have set guidelines in place with the input from all parties. We will be looking at wordsmithing a portion from input right before the bill came up from the Property Tax Administrator because we are trying not to limit what assessors can use, but we're trying to set guidelines for what they can't use, if that makes sense. [LB750]

SENATOR HARR: It does. And I appreciate that. So if I could understand what's going on is what we have is an individual, in this case an elected official, not a...let's hypothetically throw out a instead of a department, who has interpreted a law differently than what you and I believe the law says and all the other assessors. And so what this language is, is mere clarification language. Is that correct? [LB750]

SENATOR CORNETT: Besides clarification, it's language giving the statute structure, yes. [LB750]

SENATOR HARR: Okay. But nothing would have prevented this individual from having done this before, is that correct? [LB750]

SENATOR CORNETT: Correct. [LB750]

SENATOR HARR: Okay. As a matter of fact, no other county does what this assessor does. [LB750]

SENATOR CORNETT: Not that we have heard from, no. [LB750]

SENATOR HARR: Okay. I appreciate that. Now explain to me what this remedy is and how it works, if you would, please. [LB750]

SENATOR CORNETT: What it does is it defines what a farm home site is. In language,

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it makes clarifying changes to what that is. And the "farm home site or rural residential site" is what it says... [LB750]

SENATOR GLOOR: One minute. [LB750]

SENATOR CORNETT: ...to mean "land contiguous to a farm site..." So you compare a home farm site to another farm home site, "which includes an inhabitable residence" so that means a home on it, "and improvements used for residential purposes and which is located outside" the urban area basically. [LB750]

SENATOR HARR: Okay. I appreciate that. This, again, sounds like a good idea. It sounds almost analogous to LB902 in which we're clarifying language to be more specific but it was always allowed. So thank you very much. [LB750 LB902]

SENATOR GLOOR: Thank you, Senator Harr. Senator Langemeier, you are finally recognized. [LB750]

SENATOR LANGEMEIER: (Laugh) Mr. President, members of the body, that was good. I want to talk a little bit about this, and I want to introduce some new vocabulary to you all. It's not official vocabulary, but I think it will help you get through this whole process. What we have out there in the real estate business right now is you'll have 160 acres out there and you'll have a farm place sits on it, 5 acres. I'm going to call that an acreage. Okay? So that's an acreage. But over here you've got 160 acres and somebody went in and bought, cut it into 5- or 6-acre tracts and made the whole thing a subdivision, but it's not really a subdivision because they're 5- or 6-acre tracts. I'm going to call those ranchettes. In our appraisal world we call them ranchettes because it is a planned set of acreages. It's not just the house in the corner of the pivot or the 160. What happened in Sarpy County is you have people going out and they're living in that house sitting on 5 acres within their 160-acre tract and the assessor went and said, you know, the ground that sits under it is the same as the value of the ranchette lot that just sold for \$125,000. It probably had city water. It probably had some gravel street or maybe some lights through it. They're not really a subdivision because they don't have curb and gutter and they don't have all those nice things. People want to live there because they want to have a horse. Okay? And so what they did is they went in and assessed the ground underneath that house at that high rate like a lot, which you're never going to get when you go to sell that property. And so that's where your confusion got in. And is the assessor wrong? No. The law currently gave them the discretion to use sales. And unfortunately, there's a lot more of these little ranchette sales going on out there than there are acreage sales because usually your little acreage within your 160 acres, it's the family farm. You never plan to sell your house out, but now you found out your little two-story, 1920-model home now sits on, in this case, about a \$65,000 lot. And land values are now coming up so that looks a little less onerous. But before that, here you had this little, what I call an acreage, that sits there, you've got a gravel lane

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and you've got a septic tank, you got a well--probably doesn't even meet today's standards of what you have to have for a well, whether it's 150 feet away from the septic and the well--so you've got issues. And so now they're getting this new assessment that came in and the land currently in Colfax County, that one acre for the house is worth \$10,000. They assess one acre under your house for 10,000 bucks everywhere in the county. So now that just jumped \$65,000 in this case, I don't know what they were at before, but they're comparing them to these ranchette lots. And so what she's trying to do, and Senator Lambert is, he's made a priority out of LB750, is to give the assessor more instructions that says you can compare an acreage to an acreage, not to a ranchette, unless it just so happens that that ranchette is sitting on the top of the bluff overlooking the Platte Valley or your house is sitting up on the top of the bluff overlooking the river and it has some other value that comes into it, that's not your lot value. That's not what you're comparing it to. That's other intrinsic value that your acreage or your property has that raises the quality of the acreage or the quality of the property and you have value in that quality of property. So the goal of this is to make sure that they are comparing that acreage to a similar acreage and not to a ranchette lot. And that's what the goal of this is to do is to give some instruction. Every other county in the state has got this figured out. Four years ago when Carol, Senator Hudkins at the time, was here we had the problem with Lancaster County was our problem child. [LB750]

SENATOR GLOOR: One minute. [LB750]

SENATOR LANGEMEIER: And so the law was changed for Lancaster County back then and Sarpy County's assessor read the law change and went over the deep end this far. And a matter of fact, I had offered an amendment. We had quite a heated debate about that bill on the floor. And as you see on many occasions, we worked something out and, as a neutral party, I introduced the amendment to try and fix it. And then the assessor went off the deep end so I got a lot of calls out of Sarpy County saying, your amendment caused me all this problem. Well, it wasn't. It was the interpretation of that particular assessor. And so that is the goal of this. I think it needs to be corrected. We need to give them some more vision as we do see acreages of different calibers out there and different uses and different marketabilities of it. An odd-shaped five-acre tract is, doesn't always, but typically has a little different appeal than a nice six-acre square piece with maybe a farm pond that they dug for the horses or the kids to go fishing at to make farm life. Thank you, Mr. President. [LB750]

SENATOR GLOOR: Thank you, Senator Langemeier. Are there other senators wishing to be recognized? Seeing none, Senator Cornett, you're recognized to close on your amendment to the committee amendment. [LB750]

SENATOR CORNETT: Thank you, Mr. President, and thank you, members of the body, for your tolerance on the number of bills that I've had up today and will have up. This is

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a bill that we have worked on for a number of months now. And because we are trying to do due diligence in regards to not putting any onerous statutes in here for assessors, we have been tweaking this back and forth. I urge the body to support AM2573 which are recommendations brought by the Property Tax Administrator. And I urge the body to support the underlying committee amendment and the bill. Thank you. [LB750]

SENATOR GLOOR: Thank you, Senator Cornett. Members, the question is, shall the amendment to the committee amendment to LB750 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB750]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB750]

SENATOR GLOOR: The amendment is adopted. We continue with debate. Seeing no senators wishing to speak, Senator Cornett, you're recognized to close on AM2183. Senator Cornett waives. The question is, shall the committee amendment to LB750 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB750]

CLERK: 32 ayes, 0 nays on adoption of committee amendments. [LB750]

SENATOR GLOOR: Committee amendment is adopted. Discussion continues on the advancement of LB750 to E&R Initial. Seeing no one wishing to speak, Senator Cornett, you're recognized to close on the advancement of LB750. [LB750]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I think that we've had a very good discussion on LB750. It is unfortunate that we've had to bring this bill, but we did to bring clarification and structure to this issue. I'd like to thank Senator Lambert for prioritizing this, the Revenue Committee for working on it over the last year, and Larry Dix, Farm Bureau, and the Property Tax Administrator for all of their input on this bill. Thank you. [LB750]

SENATOR GLOOR: Thank you, Senator Cornett. The question before the body is the advancement of LB750 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB750]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB750. [LB750]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB750]

CLERK: I have some items. Thank you, Mr. President. Amendments: Senator Langemeier to LB1161 to be printed. And that's all that I have at this time. (Legislative Journal pages 1025-1028.) [LB1161]

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SENATOR GLOOR: Thank you, Mr. Clerk. Members, we are now moving to the 3:30 agenda item: LB970. Mr. Clerk. [LB970]

CLERK: Mr. President, LB970 is a bill introduced by Senator Cornett at the request of the Governor. (Read title.) The bill was introduced in January, referred to the Revenue Committee, advanced to General File. I do have committee amendments pending, Mr. President. (AM2391, Legislative Journal page 903.) [LB970]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB970. [LB970]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I introduced LB970 on behalf of the Governor. The original intent of the bill--and we'll go over each section--was: eliminate the inheritance tax for beneficiaries of decedents who died on or after January 1, 2013; lower individual income taxes by changing income tax rates and taxable income brackets for all classes of income tax return filers, i.e., single, head of household, married/filing jointly, married/filing separate; and lower the highest corporate income tax rate for corporate taxable income over \$100,000 from 7.81 percent so that it is equal to the highest individual income tax rate set forth in Section 6 of LB970, which would have been 6.7 percent. Mr. President, there is a Revenue Committee amendment, AM2391, to the bill. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Cornett. As Senator Cornett and the Clerk stated, there are amendments from the Revenue Committee. Senator Cornett, you're recognized to open on your committee amendments to LB970. [LB970]

SENATOR CORNETT: Thank you, Mr. President and members of the body. The Revenue Committee AM2391 to LB970 rewrites the bill with respect to all three of the bill's main elements. AM2391 eliminates the provisions of LB970 Section 1 as introduced to repeal the inheritance tax on any property passing by will or intestate laws of Nebraska from any person dying on or after January 1, 2013, to any beneficiary of the decedent's probate estate. Second, AM2391 eliminates the provision of LB970 Section 10, which seeks to lower the top corporate income tax rate so that it would be equal to the highest individual income tax rate set forth in Section 6 of the bill, which means the top corporate income tax rate would be 6.7 percent for all corporate taxable income over \$100,000. Third, AM2391 rewrites the provisions of LB970 that proposes changing the individual income tax brackets and rates for all classes of individual income tax return filers to cut individual income tax rates for all individual taxpayers with respect to the individual income tax brackets and rates. The Revenue Committee amendment cut individual income tax for all individual income taxpayers, but the fiscal impact of the Revenue Committee amendment was not nearly as large as the fiscal impact of LB970 as introduced. A document has been distributed to you which will help

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you compare and contrast the changes made by AM2391 to LB970 as introduced. The green copy of the bill, page 2 of the document, shows the estimated fiscal impact of both proposals for fiscal year '11 and '12 and fiscal year '14 and '15. The changes to the individual income tax brackets and rates proposed by the Revenue Committee amendments are set forth in Section 5, AM2391. I will briefly summarize those changes. For tax year 2013, the individual income tax brackets are the same as under the law, but all individual income tax rates for tax year 2013 are lower than those provided under the current law. For tax years 2014 and each tax year thereafter, all individual income tax brackets are broader than those provided for under the current law for each filing status. For tax year 2014, the individual income tax rates for the first three taxable income brackets are the same as those for tax year 2013, whereas the highest tax rate for tax year 2014 is 6.8 percent, which is lower than the highest tax rate for tax year 2013. Two thousand fifteen, the individual income tax rates for all taxable income brackets are lower than those in 2014. Overall, the estimated fiscal impact for the committee amendment, Revenue Committee amendment, to the state's General Fund is significantly lower than the original bill as introduced. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Cornett. Mr. Clerk, there is an amendment to the committee amendments. [LB970]

CLERK: Mr. President, Senator Cornett had filed FA50. I have a note that she wishes to withdraw FA50 and offer as a substitute thereto AM2572. (Legislative Journal pages 1028-1029.) [LB970]

SENATOR GLOOR: Objections? So ordered. [LB970]

CLERK: AM2572. [LB970]

SENATOR GLOOR: Senator Cornett, you're recognized to open on your amendment to the committee amendments. [LB970]

SENATOR CORNETT: Thank you very much. Before I open on the committee amendment, I would like to thank a number of people that have given up their weekends and their time, particularly Senator Heidemann, Chair of the Appropriations Committee, for working with me on finding a number that he felt that the state could afford. I'd like to thank the Governor for working with us inside the numbers that the Appropriations Committee gave us moving forward. AM2572 to LB970 is an amendment that has been worked on for a number of weeks now. It represents a down payment on tax relief that the Governor and I promised to Nebraska taxpayers in January. It represents the compromise that has been brokered by Speaker Flood, Senator Mello, Senator Nordquist, Senator McCoy, Senator Heidemann in light of the concerns a number of you have regarding the fiscal uncertainty of the biennium. Specifically, AM2572 does two things. It reduces tax rates for all Nebraskans and broadens each income tax bracket.

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The amendment will make these adjustments in 2013 and 2014. I've distributed a chart that highlights the changes in rates and brackets in comparison to the current rate and bracket structure. As a background, income is taxed at the rate designated for each bracket. For example, every married couple filing a joint return currently pays 2.56 percent on the first \$4,800 of income. The same couple pays 3.57 percent on income above \$4,800 and below \$35,000, and so on. AM2572 widens these brackets, which effectively taxes a greater percentage of income at the new, lower bracket. The changes to the rates and brackets will result in a modest tax relief for all Nebraska families and for Nebraska small businesses such as sole proprietors, partnerships, and S corporations, which are taxed as individuals. I've handed out a chart to everyone--if someone does not have one, please come over, I've got more to distribute--to see the fiscal impact of what the changes are. In conclusion, AM2572 specifically targets middle-income Nebraskans, providing them with a measured amount of tax relief while still offering modest tax relief to all Nebraskans. At the same time, AM2572 recognizes and responds to the legitimate concerns a number of you have expressed regarding the next biennium. I'm going to give you some comparisons to our surrounding states. Colorado in 2011 rates are 4.63 percent for a flat rate. Iowa is 0.36 percent to 8.98 percent for \$1,439 in income to \$64,000. And Kansas is 3.5 percent to 6.45 percent for \$15,000 to \$30,000. You will hear that South Dakota has no income tax, Wyoming has no income tax. What we have done with AM2572, have taken a first step forward for tax relief for all Nebraskans but particularly lower- and middle-class Nebraskans, and we have responded to the concerns of the Appropriations Committee. And I want to thank all of the members of my committee for all of their hard work on this. And I'd like to thank all of the members of the Appropriations Committee for their input and their concerns. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Cornett. Members, you have heard the opening on the amendment to the committee amendment, the committee amendment, and LB970. We now move to floor debate. Senators who wish to be recognized: McCoy, Hadley, Coash, Conrad, Burke Harr, and others. Senator McCoy, you are recognized. [LB970]

SENATOR McCOY: Thank you, Mr. President and members. I stand today in support of AM2572 and the underlying bill, LB970, which is my priority bill for this legislative session. And I, too, as Senator Cornett mentioned, want to add my thank you, very sincere thanks, to the Appropriations Committee that, among everything else that they've done this session, spent a great deal of time on this issue and to the Revenue Committee as well that dealt with this issue a great deal this session as well. You know, a lot went into this amendment. And Senator Cornett detailed a lot of that, and I won't elaborate beyond that, other than to say that a lot of work went into it. But I think at the end of the day the principle that's involved here is time-honored and true, that it's Nebraskans' money, and we're returning some of it to them with this amendment and this bill. And that's why I prioritized this bill. And I think the purpose of this tax cut is to

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leave more money where it belongs, in the hands of the people of Nebraska that earned it in the first place. And it's quite a bit different from where it started out. But it's here today. And I support it. And as Senator Cornett said, it's a down payment on tax relief for Nebraskans. And I'm sure we'll have a good discussion over it. I hope we do, because it's an important and serious topic. You know, there's a good number of us that didn't get to be here in...weren't here, I should say, weren't elected in 2007, when the largest tax cut package in our state's history was passed. That had a big hand in moving us from 45th to 29th in tax climate rankings. I'm excited to stand here today because this is really, in my mind at least, one of the first times that I can believe that as a legislator are able to weigh in on tax reduction in our state, at least in this way. Some of you were here in 2007 to take part in that. I think it's an important topic for Nebraskans, among everything else we've talked about this session. And we've dealt with a lot of really important issues, and we'll deal with some more important ones yet to come. But in my mind, this is a pretty important one. And I think AM2572 is a good spot for us to be in. I think it's prudent. I think it makes sense. And the work that went into it ought to tell folks what it's worth, in my mind, at least I hope so. Thank you, Mr. President.  
[LB970]

SENATOR GLOOR: Thank you, Senator McCoy. Chair recognizes Senator Hadley.  
[LB970]

SENATOR HADLEY: Mr. President, members of the body, you know, I stand in favor of the amendment and the underlying bill. Just to give you some idea of what happens in the Revenue Committee, over the last two years I was trying to count up the number of tax reduction bills that we've heard. And I would guess there are between 10 and 12 bills we've heard the last two years to reduce income taxes and/or property taxes in some way. Just this year alone we heard a bill for \$501,000,207; we heard a bill for \$10,592,000; we heard a bill for \$66,425,000; we heard a bill for \$7,600,000. Year before, we heard a bill for \$33,000,000. All of these are tax reduction bills that we heard before the Revenue Committee. We've heard tax reduction bills for people who are retired in the military; we've heard tax reduction bills, exemption bills, for retired teachers; we've heard tax reduction bills for all retired people; we've heard tax reduction bills for all Social Security; we've heard tax reduction bills for literally every class of taxpayer in Nebraska. So to pick out this bill as somehow being inappropriate seems strange to me. Because as I said, we've heard between 10 and 12, at least, in the last two years to try and reduce taxes in Nebraska. Some of them have been indirect because they have dealt with property taxes. But they have been bills to reduce the tax burden for Nebraskans. So to pick out this bill as somehow being unique I don't think is quite right. Secondly, I think this is a result of compromise. I think it's people getting together and working out the fine art of compromise. Now, some people will not agree with that, but I think it is. I think it is something that is important, the idea of working it out. Lastly I would like to say, all of those groups that came in and asked for tax relief, you're going to get some now. It may not be what you want; it may not be all of your



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state tax that's going to be eliminated. But you're going to get some tax relief. If you're a retired military in Nebraska, you're going to get some tax relief. If you're a retired schoolteacher in Nebraska, you're going to get some tax relief. If you're on Social Security, you're going to get some tax relief. If you're just retired, you're going to get some tax relief. If you're in ag and you feel you're paying a high price in property taxes, you are. But, hopefully, this will give you some tax relief. If you live in a city and you think your property taxes are high, here's some tax relief. It would be nice to have it a lot more; I agree with that. But we also have to be prudent in what we come up with. So I think this is a good compromise. I think it is something that gives something to a lot of different groups. And again, I want to reiterate that we heard a lot of tax reduction bills in...this is the fourth year I've served on the Revenue Committee, and we've heard them every year. So this is not a unique bill whatsoever. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Coash, you're recognized. [LB970]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. I appreciate the opportunity to at least bring this to the floor and debate it, because it's certainly been debated on my e-mail. At last count, I've had over 100 e-mails on various versions of this particular bill. But as I look at them, especially as we've gotten closer to this point, I can separate them into two different categories. Some of them say, this is not enough, as amended. We want some real reform. Others are saying, well, now it's too little, so why bother? If you're not going to make it large enough to be really meaningful, you might as well just let the government keep it. Should we give back whatever we can, whenever we can afford it? And I think that's what the Revenue Committee has brought us, is a proposal that says: This is what we can do, and this is when we can do it. We frame this debate as a tax cut debate. It was said that we should focus on priorities, and the tax cut should be a priority. And it's been a priority for many people. It was prioritized. Revenue Committee has put in enough hours that you would think it would be a priority. But it's not tax policy that, I believe, that we're making a priority here. It's the citizens that we're making a priority here. As I said before, I've received e-mails that stated this was too small to make a difference. But I have to disagree with those e-mails. As modest as this is, this means something to a lot of the working families in my district. This does represent some meaningful, yet modest, change for them. I've come to reevaluate my own view on taxes, both as a policymaker and as a person who pays them. And we can frame this debate as taxes being money, but I'm going to reframe it as taxes as time. Because every time we ask a citizen to pay in a tax, he or she has to work in order to earn the money to pay that tax. And when they're working, they're not with their families. And I think that's an important part of this debate. I do view this proposal as an investment not in tax policy but an investment in the citizens. It is small. But it is putting the money back where it came from. And it does mean something to a lot of people. And we're talking about fairly small amounts of money for some earners, \$100. I have families who I've worked with who \$100 means a

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lot. And when I have the opportunity--and I've told them this--when I have the opportunity to give it back to you and not jeopardize other things, I'm going to take a hard look at that opportunity. And when I can make the choice to give some of that money back and invest back in them so that they can then reinvest in their families, I'm going to take advantage of that opportunity. And for that I do rise in support of this initiative. And I would yield the balance of my time to Senator Adams. [LB970]

SENATOR GLOOR: Senator Adams, 1 minute 10 seconds. [LB970]

SENATOR ADAMS: How much time, Mr. President? [LB970]

SENATOR GLOOR: 1 minute 10 seconds. [LB970]

SENATOR ADAMS: You know, I--thank you, Senator Coash--I'm going to waive. And I have my name up in the queue. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Coash and Senator Adams. Chair recognizes Senator Conrad. [LB970]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to AM2572, AM2391, and LB970, and that's for a variety of reasons. My opposition stems from two very simple and straightforward principles that I've been very consistent about during this legislative session and during the course of my career. The first rises from the fact that this legislation, no matter how far whittled down, remains unaffordable. Nothing has changed in regard to our impending budget deficit and the forecast that we have in relation to the challenges on the horizon. The only thing that's changed is a political compromise that can generate enough votes to move forward. And let's just remember where we are. If you look at the Appropriations Committee budget recommendations, page 1, first page: While the current fiscal year '12-13 biennial budget is balanced at the present time, the prospectus for the following biennium financial status are, at best, pessimistic. The current financial status yields a projected balance that is \$461 million below the minimum reserve. Calculations that I have received in regards to what AM2572 to LB970 would do is would expand that deficit to look at a total budget shortfall of almost \$556 million in the next biennium. That's Washington-style deficit spending that we should say no to in Nebraska. And before we even start to talk about whether or not we can afford a tax cut, whether or not we can talk about who that tax cut will benefit or not benefit, we have to ask ourselves: Are we paying our bills; are we taking care of our state obligations? And I contend that we are not. And the facts are pretty clear in that regard. The budget that we have before us takes care of 20 percent of folks in Nebraska with developmental disabilities who remain on the waiting list. So we're saying to 80 percent of Nebraska families that have a family member with developmental disabilities: We don't have enough money to take care of you, but we do have enough money for a tax cut that drives our deficit \$556

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million higher. You know what else we're not taking care of? We're not taking care of affordable housing needs. Even with a \$1 million investment, we've got almost a \$4 million deficit in that program, affecting key building projects in every community across the state. You know what else we're not taking care of? Medicaid provider rates, which impacts healthcare access for the elderly, kids, the disabled, and those with significant and serious health needs. We're restoring half of the cuts that we instituted just last year. And we're patting ourselves on the back and saying we have room for tax cuts? When times were tough, in previous budgetary cycles, almost ten years ago, there were dramatic changes made to a childcare subsidy program that helps working families keep working and ensures that their children are in safe, quality childcare environments. Those cuts were made; they were painful; and they had real impacts. And it was promised: When times are better, we'll come back and we'll fix that. It's been ten years; that promise has never been fulfilled. And Nebraska remains last--last--in the country in terms of eligibility for that key program that supports working families. I've heard it said that we've made progress... [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR CONRAD: Thank you, Mr. President...in terms of where some Washington-based think tank ranks us on our tax policy. And that's good; we've made progress there. But let's not look at those rankings in a vacuum. Let's look at some other key state obligations and where we rank in that regard. Let's look at teacher pay, for example, which is critical to determining our success in education: we're ranked 43rd nationally. Let's look to support for public schools, which our constitution tells us should be our number one priority: Nebraska is ranked 50th. Let's look to the broken child welfare system we're attempting to reform this session. Where are we? Again, at the bottom of the pack. Rankings are interesting and helpful tools as policymakers, but they can't be looked at in a vacuum. And I believe a vision for Nebraska has to include a public policy that provides resources to ensure all Nebraskans have an opportunity to succeed, because that benefits all Nebraskans. [LB970]

SENATOR GLOOR: Time, Senator. [LB970]

SENATOR CONRAD: LB970 does not. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Conrad. Senators in the queue: Burke Harr, Nordquist, Karpisek, Janssen, Adams, Campbell, and others. Senator Burke Harr, you're recognized. [LB970]

SENATOR HARR: Thank you, Mr. President and members of the Legislature. I want to thank everybody who put a lot of hard work into this bill: the Revenue Committee, Appropriations, Fiscal Office, individual senators. This bill is up here because of a lot of hard work. And it has some good. It reduces tax rates for all Nebraskans, especially the

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hardworking middle class. It expands the tax brackets. For those who like the flat tax, that's not good news; but those who are fans of progressive taxation, this is good news. That's the good news. Here's the bad news. I'm going to have to play the part of the town crier for a little bit and say, the sky is falling. We are facing a large deficit we are looking down. Next January: \$460 million, we pass this, \$500 million, plus what we do here, I think we're up to around \$550 million. Could be wrong. But it's over \$500 million. Let me ask you this: Next January, for those of you who are still here, how is that \$55 million going to look? You're going to be begging and pleading and scratching and clawing for every dime, just like we were last year. When I have a bill that's coming up due, you know what I do? I save. I have a Christmas account; it saves for Christmas. This isn't that far after Christmas, ladies and gentlemen. I don't go out and spend what money I don't have and go further into debt. That's not the Nebraska way. That's the Washington way. It's time to bring Nebraska values home. Senator Hadley talked about this bill is not unique; he's seen 10 or 12 of these in committee. Well, let me tell you why this bill is unique. It made it out of committee. Ask yourself how many of those 10 to 12 Revenue bills made it out that gave tax cuts. Not many. And none with a...well, \$129 million price tag, now down to \$55 million. This bill is unique. We are spending money we don't have. Senator McCoy talked about he didn't have the privilege to be here in 2007 to give the largest tax cut ever. Do I wish I was here for that? Yes. Two thousand seven was a different time, ladies and gentlemen. Now we may have the privilege of giving the smallest tax cut in the state's history. But we don't have the money. We are growing, yes. No doubt about it. And I'm happy we're growing, that we're out of recession. But look in the Appropriations Committee's budget recommendations. Look at what the growth is for the next couple years: 3.6 percent. What's the average? Five percent. That tells you we're below the 20-year average. Ladies and gentlemen, we need to quit digging a hole deeper. We need to start filling that hole, paying our debts. Look, I would love--and I've said it before, and I'll say it again--I would love to give tax cuts. Who wouldn't? Politically, it's the best thing you can do. In the '90s... [LB970]

SENATOR GLOOR: One minute, Senator. [LB970]

SENATOR HARR: Thank you. In the '90s, it wasn't "either/or" but "and." You could give tax cuts and increase spending. Well, guess what. We have to be a little more fiscally sound than that now. I would love to give a...politically, I would love to give a tax break. Fiscally, I am a trustee of the state. I was brought down here to look after the taxpayers, and part of that is to look at not just the taxes we don't want to pay but what our commitments are to the citizens. And as a trustee, looking down the barrel of a \$500 million debt, I don't see how we can give this tax relief. Love to give it, yes. Can we afford it? I'll leave that up to you. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Harr. Senator Karpisek, you are recognized. [LB970]

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SENATOR KARPISEK: Thank you, Mr. President, members of the body. And I was here for that tax cut in 2007. And after what I heard from most of the people in my district, I said I'd probably never vote for another one, because what they said was: Wow, for that, you might as well have kept it and done something with it. I said: Well, then I guess we should have. I agree with Senator Coash that when we do have room to give a tax cut, we should do it. I don't think that this is the time. I asked Senator Heidemann yesterday about state aid to colleges. Why didn't we just put in the Appropriations Committee or the budget to give state colleges money? He said there wasn't room. Okay. If there's not room for the state colleges--and I heard what horrible shape they're in yesterday--then why do we have room for a tax cut? If we can give \$71 million to the university, which are all very good projects...but we don't have room for other things. We took almost \$1 billion out of the budget last year. And that hurt. And we've seen the repercussions of some of that. And we're going to see more. We have given some of that money back, restored some, in my opinion not near enough, not for every one of the things that we cut. Some of it maybe needed to be cut, but not all. Talk about the Medicaid cuts, the provider rates. I talked about that on this floor, about the nursing homes. How many of the people, do you think, in the nursing homes are on Medicaid? A lot. A lot of them are on Medicaid, and the nursing homes can't afford to do it on what they're paid now. So the private-pays have to go up. Insurance rates go up. Away it goes. What do we do with those people that didn't save enough money to be in the nursing home or have insurance or their insurance has run out because maybe they've bought a poor plan, which they wouldn't have known the difference 30 years ago when they bought it; what do we do with them? We take care of them; that's what we do. No matter what it costs. But then the private-pays again get it. And we talk about insurance companies not wanting unfunded mandates or mandates of any kind that they're going to have to pay. What do you think they pay in some of these things? Because they have to pay more for the people who can't pay. I know that this is where we came out, and there was a lot of work done. And I appreciate that. I don't think now is the time to do this. I always thought that we kind of threw out a number around here of a cash reserve of \$500 million, that that's what we're going to need. And, boy, we were sure happy a couple years ago that we had such a large cash reserve. [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR KARPISEK: What a great job we did of saving that money. Good thing, because what else would we do? We're so far ahead of other states. And we did do a good job. And we're also very lucky that the ag economy is where it's at. But now we think we're in good enough shape to give this money back? I'd rather give it to the people that need it, that won't run us further in debt. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Karpisek. Chair recognizes Senator Janssen. [LB970]

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SENATOR JANSSEN: Thank you, Mr. President, members. I'm proud to be standing here today talking about or debating and, in my case, supporting a tax cut for Nebraska taxpayers. I think most Nebraska taxpayers would be very supportive of this, even given the amount of the tax cut that we're proposing here today. I did receive some calls, I'm sure all you did, some robocalls, which we've been getting this year, that come in. They call people out there that are constituents, and then they connect them directly to our office. In this case it was in opposition to LB970. And we took two of those calls just right after lunch. And we got on the phone, and the gentleman said I'm calling you about LB970, and I oppose it. I said, so you oppose a tax cut? He said, well, no, I don't oppose a tax cut; I oppose LB970. I said, well, LB970 is a tax cut, and I...there's different stories to it, but it is a tax cut. He said, well, I support tax cuts. He goes, so I guess I'm at least neutral on this so far. He goes, I need to learn more about it. We had two of those in a row that weren't really getting all of the information on it. They were getting one side of the information. And this is why I appreciate the process we're going through debating this today. I appreciate Senator Conrad, Karpisek, and Burke Harr getting up and giving the other side of this story so it's not a two-, three-, four-hour, whatever, lovefest, so we can see both sides of this, of what this tax cut really means, and we can look into the depths of their knowledge on this. I don't like to leave money sitting around. I don't like to...if it sits around, a lot of times a program finds it, some senator finds it, we add it to something else. If we've got the money to give back...it's not our money. I always come back to that: it's not our money. It's the taxpayers' money as a whole. And if we've got some left over and we feel it's responsible--that's why I'm listening to both sides of this debate--we feel it's responsible, we give that money back. It's not our money to create a program or spend on a program. We have obligations we need to take care of; if we've done that, then we give it back. I've been asked--this is my fourth year here--I've been asked several times: What do you remember most about being in the Legislature; what's the thing you're most proud of doing in it? I always look back, I say: It's the LR542 process. And that's the truth. Going through the LR542 process and looking into each program and saying: You know, I know these cuts hurt, but we can make these cuts; can we do without here; can we do without there; or did we need this in the first place? And we cut those out. And there was a lot of: we didn't need this in the first place. A lot of spending happened in good times when we had the money. And I think that process has led us to where we're at today, where we can give a tax cut to the Nebraska taxpayers, and I'm proud to help with that. It may be a small tax cut, but it's not an inconsequential one. That money is real money that's going to Nebraska families, whatever the amount. I think the top amount that I've seen is \$145 annually. That might be a day with your children at an amusement park; that could be a month's groceries; I don't know, whatever you want to spend with it building memories. But it's their money, my money, your money. And the Nebraska taxpayers carry a heavy burden, and I'm proud to at least offer some tax relief to them in the form of LB970. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Adams, you are recognized.

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[LB970]

SENATOR ADAMS: Thank you, Mr. President and members. I'm struggling for all the right words, because my thoughts have not all come together yet. I didn't vote to move LB970 out of committee, and I made it very clear then, and I think I even said something on the floor, that I thought that the numbers were too high; it wasn't going to work, just wasn't going to work. And I've been asked by a multitude of sources: All right, Adams, where does the number need to be? And I've responded every time: I don't know. And I've been down to the Fiscal Office and toggled numbers. I think today was the fifth time; over the noonhour again today was the fifth time. And my concern is this. The way this bill came out of committee, the number was too high; it wouldn't work. So now, with the committee amendment, are we there? We're in a far better place, I will tell you that, a far better place. And the appreciation needs to go out to all the appropriate folks that helped get to these numbers. And I still look at the numbers, and I'm struggling a little bit yet, and maybe it's because I just haven't come to resolution in my own mind. You know, I looked at the number today over the noonhour, the out year projection. The first year, we can be that; second year looks way better. I'm more concerned about the second year of the next biennium. And maybe I shouldn't be. Revenue projection in October, maybe a revenue projection in February that takes us up a point, point and a half, over what we're looking at right now. And I'll be very parochial with you: I'm concerned about TEEOSA. We got the schools through with ARRA; we got the schools through with "EduJob." We grew slightly from where we were at last year onto what we're going to go in this next year. But I feel this responsibility to those schools, and I'm looking at how all of this is going to fit. And we're way closer, way closer. And I'm going to sit back and listen. I'm still asking questions of a member of the Appropriations Committee and the Fiscal Office to see how all of this can potentially fit. And I know I'm sounding redundant, but we're in a better place with these amendments than what we were when this came out of committee or, for that matter, 24 hours ago. I need to be sure in my own mind that TEEOSA can see the kind of growth...and I'm not asking for a lot. Schools are not asking for a lot, but something that will fit within this framework. And if so, then maybe this works. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Adams. Senator Campbell, you are recognized. [LB970]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I think it's fitting that Senator Adams and I are together in the order of speaking. And I want to indicate that, why would that be? Well, if you look at your last pages in your green appropriations booklet, you're going to see that the HHS system is \$1.354 billion of the \$3,618,000,000 budget. And TEEOSA, or all the education system, total is \$1,056,000,000. Senator Adams and I represent a huge part of that budget. And perhaps that is why we have talked in the last couple of days of: How do we look at this? My family must be like Senator Harr's family, because my kids always come and say: Mom, Mom, I got good

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news, and I got bad news; what do you want? In my family, everybody knows I'm always going to say: I want the bad news. I spent 16 years on a county board, and everybody knew that they had to tell me the bad news. The point that I want to make here is that we have a handout from the Revenue Committee, with a tremendous amount of work. But I said the other day: I want to know what's going to happen in those out years. And so I joined Senator Adams this noon, and we sat downstairs and went through a presentation very quickly. And our regular assumptions, if we add the tax plan here, would be...we would be in the hole at the end of the biennium, at \$594 million. But that's TEEOSA at 22 percent increase, which we know is not going to happen. So then we asked to kind of look at what those figures might be if TEEOSA was at 5 percent. And that figure was...would be down...we'd be the \$285 million. And if TEEOSA was at 3 percent...I should say, I think those figures are reversed. We'd be at \$235 million. In other words, I think the Appropriations Committee this morning began to look at real assumptions in the sense of what would this percentage be if provider rates...and so forth and so on. And so I began to look at scenarios in terms of risk and consequences. And I am exactly at the same point as Senator Adams. I am very conflicted. This is a tough, tough decision for me, because, on the one hand, we will bring those down if we look at a figure of 3 percent for this and 3 percent for that. And I also know that the tax plan, in terms of...our working low-income and our middle oftentimes do not get the break from our property tax plan, because they rent. And this might help them, where our property tax credit plan does not help them. But, colleagues, I want to say that part of the thing that I looked at is I have to see that everything has to fall into place here for all of this to work. [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR CAMPBELL: And so we...thank you, Mr. President...so we need to continue. I am being very clear with you, colleagues, that I've always believed, all along through these weeks, that we would get at a tax plan and that certainly we can deal with the first year and maybe the second. But if we run into trouble, all things are going to be on the table. And I'll be one of them to bring them. And that will be not only this tax plan, the property tax credit plan, and, unfortunately for me, LB84, because we have to make this work in the out years. And so, like Senator Adams, I am very conflicted as to what that risk may be and want to hear your thoughts. Thank you, Mr. President. [LB970 LB84]

SENATOR GLOOR: Thank you, Senator Campbell. Senators in the queue: Wallman, Krist, Fulton, Conrad, Nordquist, Mello, Bloomfield, and others. Senator Wallman, you are recognized. [LB970]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I have grave concerns. I, too, was in here when we gave a huge tax relief package. And a couple of former senators told me: Once it gets in this building, you're going to wish you had it back. More than one senator told me this, from both parties. They said you gave



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too much away. So now, he said, you're going to want that money back. So now we want to give a tax break. Should we give a tax break? Sure, we can give a tax break. Is it going to affect our bottom line two, three, four years from now? That's what you have to do when you run a business: you project your income; you project your expenses. And it's an inexact science. But you look at our childcare, how many children we have in childcare. We're at the top, right up there with Alaska. And Senator Campbell knows that as well. That's a cost to our society. That's not a cost, really; it's a benefit as well. We take care of our children. We take care of our elderly people. And that's revenue. People have these jobs; they do this and this. It could be considered economic development. Nursing home rates, like Senator Karpisek said, we cut them back severely, and we're going to give them some back. Do we want to cut them again? You know, it'll all be a...you know, it'll be a special session again; it could be. I hope not. I'm an optimist; I think our revenue will increase. But it has to increase a lot. So will it increase a lot? Depends on who we attract to this state, the businesses, if they do well, or they move out on us. You never know. We give a lot of incentives here to attract new business, and that's going to cost us some money. The people, the residents that are living here, are we going to take care of them? I'm deeply concerned why we even ask for a tax cut in this year, coming off a recession. And I remember on the radio some people in this...we were bragging about how much money we had in our bank account. But it left in a hurry. Can this leave in a hurry? Can this get better in a hurry? Sure, it can. But if everybody is involved in ag, they realize, like Senator Bloomfield and myself, we know corn prices aren't always going to stay up here, bean prices. So the farm machinery is getting so high priced, there definitely will be less sales. There will be less sales, there will be less income taxes, sale tax. So, folks, take heart here and make sure that you feel good about your vote when you leave here. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Wallman. Chair recognizes Senator Krist. [LB970]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska, members. I will only speak once this afternoon on this issue. I'm sure everybody is applauding that. But I have in my mind, and I have told you since the beginning of this session, that we as a legislative body must have a resolve, we must be resolute in what we believe are our priorities. Now, we were all in this Chamber when the Governor of this state stood up and said...he started out the State of the State talking about the subject, the first one out of the box, the child welfare/foster care program in this state. Somewhere down the line in that State of the State was: My number one priority is a tax cut. So he led off with what I think is the number one priority, and my resolve is to take care of that priority. And I recognize that I'm only 1 of 49 and he is 1 of 1, but the executive and the legislative branch are going to come to some agreements over what that budget will look like. It's no longer Senator Heidemann's baby; it is no longer Appropriations Committee's baby. It is ours. The commitment that we have and the resolve that we

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have to go forward...Senator Adams has talked about TEEOSA, one-third of this state's budget; Senator Campbell has talked about the Department of Health and Human Services and how we treat our people, another one-third of the budget. The largest areas of the budget around the state. I've called it, at least with the Health and Human Services budget, bigger than some South American countries' budgets. And I would hate to say that I would ever sell my vote, and I won't. But I want to put this in perspective for you, because my commitment--positively, negatively, voting for or against AM2572 and ultimately LB970--has to do with these priorities on this piece of paper. I want to see no veto, and I want to see no line-item vetoes on the things that are important to me before I will ultimately vote for that tax package. And I think that's a balance; 1 of 49 and 1 of 1 will have to come together and say what's important to you, Governor; what's important to me; what's important to my colleagues. LB985 is a transfer of money within the Department of Health and Human Services that they should not be arguing about, that will support the juvenile justice pilot programs in Douglas County, in North Platte, and in Scottsbluff. LB820: one of the foster care cornerstone bills. LB821: Nebraska Children's Commission, Department of Children's Services, very important and key in rebuilding what we have destroyed within that process. LB1160: the Department of Health and Human Services information system and the reporting system that allows us to execute oversight after we appropriate and they start executing. LB901: the DD waiting list has got to come down, and it has a price tag, and it cannot be touched. LB1072: the claims bill; we have got to restore services around the state. This is it. I'm saying it publicly; I've said it to the Governor's staff; I'm saying it right now. My vote, yes or no, ultimately, on LB970 depends upon whether these things do not get vetoed, do not get line-item vetoed, and the support for this is here. Remember... [LB970 LB985 LB820 LB821 LB1160 LB901 LB1072]

SENATOR GLOOR: One minute. [LB970]

SENATOR KRIST: ...in the State of the Judiciary... [LB970]

SENATOR GLOOR: (Gavel) [LB970]

SENATOR KRIST: ...the Chief Justice of this state stood up there and said his number one priority was one of these: it was the juvenile justice pilot program. So now we have 1 of 1, 1 of 1, and 1 of 49 coming together and saying, this is what it's going to take for my vote to go forward on a tax cut. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Krist. Senator Fulton, you are recognized. [LB970]

SENATOR FULTON: Thank you, Mr. President, members of the body. Not just to be redundant, but I don't...we'll see how much more we...I don't plan on talking anymore on this but I'm sure will talk some more. I'd like the record to reflect that I do also thank the

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senators who worked on this. Of course, Appropriations, a number of us were involved in one way, shape, or form numerically. But there are other senators, Senator Cornett, Senator McCoy, Senator Mello was involved, Senator Nordquist, Senator Heidemann, a number of senators who were involved with this, and I thank them. This is a great deal of work. I was reflecting on this last night, late, when I should have been sleeping. And there's something that, I think, that gets missed. We talk about how politically popular tax cuts are. And we talk about it with a negative connotation. And it just...and I ask why. Well, the only reason you're going to support these tax cuts, Senator Fulton, is because they're politically popular. And I take offense at that. I mean, Speaker Flood talked about that earlier. But think about that statement. We tend to act negatively to politically popular things. Well, that seems backwards to me. If the tax cut package is politically popular, it could only be because a majority of people or a good number of people see that in a positive light. Well, that's how our government is set up. We are elected by the people, and you have to get more votes than the other guy. So I suppose if someone is derisively saying, you only support this because it's politically popular, if they are saying that you really don't believe it, you're just doing it because you want to make other people believe it, well, I can see why that would be said derisively. But there are those of us who really do believe that allowing people to keep more of their own money is the best way forward for a state. I know that's rhetoric, and I know it gets overused. But there are those of us who really believe that. So a lot of us say it, but evidently, judging from the derisive tone of why one would be in favor of tax relief, not all of us really believe it. Well, I am telling you, and you can believe me or not believe me, I really believe this. When people are able to choose of their own free will how to use their own money, it is better than when we choose how to use their money for them. Now, obviously there's a lot to that; we do have obligations as a government. We make appropriations, and the very word means to choose the right number, because there are things that we are supposed to do as a government. But the reason why tax cuts are popular is because people want them. And if we can come up with a way to provide that, which I...whether...if you agree or disagree, there is a way forward on this, at least I believe there is, then we shouldn't...it just...the words I...it's like a type of psychological dyslexia: don't vote for this because everyone wants this. That's backwards. We should pay attention to what the people want and try to deliver. Now, Nebraska is in a lot better position than other states. The very fact that we're talking about whether to do a tax cut package is different than saying whether we will increase taxes. I mean, there are colleagues who will differ with me on LB970, and I respect that; this is a hard decision, there's no question. But we aren't talking about whether to raise taxes. And that has something to do with the fact of a certain prescience on the part...an ability to see into the future on the part of this Legislature when we passed previous budgets. So in that regard, you, we, should be congratulated, and, as an extension philosophically, the people should be congratulated. [LB970]

SENATOR GLOOR: One minute. [LB970]

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SENATOR FULTON: And we should bear in mind what the people want. There is...there's another thing that strikes me. We are talking about how much of an increase, last night and days before and weeks before, how much of an increase is appropriate for state aid, for state government, for what have you. When I came to this body and I hope when I leave this body to get more money in a year following the year previous is a thank you, because a lot of folks aren't getting more money in their businesses, in their families. There's this thing called the new normal. And that is, businesses are not to expect to grow at a certain rate. Economies shouldn't grow. Well, it should...the new normal should apply to government as well. And this is one expression of that. I have great respect for all of you here. I do support LB970. I do look forward to this debate. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Fulton. Chair recognizes Senator Conrad. [LB970]

SENATOR CONRAD: Thank you. I was hoping that Senator McCoy or Senator Cornett would please yield to some questions. [LB970]

SENATOR GLOOR: Senator McCoy, would you yield to a question? [LB970]

SENATOR CONRAD: Senator, I see you walking back, and I heard you mention in your opening comments that with our previous work in changing our revenue infrastructure over the last few years, we were able to move from 45th to 29th in the Tax Foundation rankings. Is that correct? [LB970]

SENATOR McCOY: It is. [LB970]

SENATOR CONRAD: Okay. And can you tell me what does AM2572 do? If it is passed, where will all rankings go then? [LB970]

SENATOR McCOY: I don't think we know the answer to that question, Senator Conrad. [LB970]

SENATOR CONRAD: Do you find that troubling, because it's my understanding that the premise of this tax cut was that, based on this ranking we have to do better, and we have no idea where these changes are going to take us? [LB970]

SENATOR McCOY: Well, my answer to that question would be, Senator Conrad, that in 2007 the tax cut package, which you are 1 of the 46 senators who voted for it,... [LB970]

SENATOR CONRAD: That's right. [LB970]

SENATOR McCOY: ...that was unknowable at that point, too, what it would do for

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rankings. And I would say that the Tax Foundation rankings are not meant to be sacrosanct. They are merely a guideline that's used across the entire United States in order to gauge where you're at comparatively with other states. The important thing, though, is in my mind that we're putting dollars back in the pockets of Nebraskans. [LB970]

SENATOR CONRAD: Okay. Thank you, Senator McCoy. I appreciate that. This tax cut was premised on the fact that we're apparently ranked too high by this Washington-based think tank, the Tax Foundation. The Governor was very clear about that in his State of the State Address. I don't think that that can be debated. So my question for members of the Revenue Committee is, if indeed besides providing tax relief to Nebraskans, which has its own philosophical merit, where are we going to end up on these rankings? What's the bang for our buck? We're going to drive Nebraska into a much, much deeper deficit to the tune of almost a half a billion dollars. How many spots are we going to move and what does that mean for our competitiveness? It's not a trick question. The Governor premised his tax cuts on that issue, on that idea, and I'm wondering what the changes are going to provide. Because when I look at the methodology provided by this Washington-based think tank, they don't give you a whole lot of bonus points for making your system more progressive and I'm not sure what they're going to do with something like this. I doubt that it will move us much if at all. And I do want to talk about the difference between politics and governing. Politics belong on the campaign trail. And I'm not naive enough to believe that in a political body full of political animals you're not going to have a political compromise or a political result. I appreciate that that's part of the process. But once elected we have a different role and we have a different obligation, and governing in many ways is much more difficult than the political side of things, than the campaigns and election side of things. It's easy to run around with a mail piece or a 30-second ad and say I did this or I did that or pander to whatever group you wish to. It's difficult to govern and to try and seek appropriate balance on all the important and competing state obligations that are before us. We're hearing don't worry about those projections down the road, they're not really going to have an impact on healthcare or education. Well, let me tell you about what we've had to battle right now, this year, when times were good, when we have some money available. We had to fight back proposed cuts by the Heineman administration in Medicaid; increases in copayments for nonemergency visits; a limit of 240 hours per year for home health services; the elimination, the elimination of private duty nursing services; an increase in the level of care required to receive personal assistant services; a limit on personal assistant services. And this is my personal favorite, this cut we had to fight back,... [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR CONRAD: ...that was meant to provide room for this unaffordable tax cut. We had to fight back the elimination of oral nutritional supplements provided through

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durable medical equipment programs. We had to fight back limits to behavioral health therapy visits. We had to fight back the elimination of dental services, chiropractic services, eye glasses, hearing aids, occupational therapy, physical therapy, speech therapy. The list goes on and on and on. I look at the same obligations that we have when it comes to K-12 funding and these numbers are headed in the wrong direction right now, when times are good. So what happens when we continue to eviscerate our revenue base, the projections for the deficit grow deeper, and you say don't worry about it, it's not going to impact real people, it's not going to impact Nebraskans, we'll be able to manage? Be skeptical. I'm skeptical. [LB970]

SENATOR GLOOR: Time, Senator. [LB970]

SENATOR CONRAD: Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Conrad. Chair recognizes Senator Nordquist. [LB970]

SENATOR NORDQUIST: Thank you, Mr. President and members. You know, we've...I think it's important for us as we engage in this debate to think about how far we've come in this discussion this year and also to think about, obviously, to think about the fiscal implications. And spending the last four years now on the Appropriations Committee, I'm not going to make a decision that's going to jeopardize the financial future of our state, the fiscal picture of our state. For me, when we work on our budgets, K-12 education and funding for vulnerable citizens is always my top priority. But I think, after working with the Fiscal Office, looking at projections in the next biennium, we can come forward with reasonable budgets that fit this tax cut in. And I wasn't at this number to begin with under the amendment, AM2572. I wasn't at \$50 million a year. I started at a lower number. But working together with Chairman Heidemann, Senator Mello, and others, I think we can do that and still come forward with a budget that meets our priorities in K-12 and meets our priorities for vulnerable Nebraskans. And the reason I came forward and decided to work on a package was to move the package in a direction that helps middle-income and low-income Nebraskans. And that's when I say we need to think about how far this package has come since the Governor proposed it on the first day of the legislative session is absolutely critical. That package was nearly a \$400 million package that included cuts for corporations, cuts for people who inherit large amounts. Under that package, the top 5 percent of Nebraskans got more than the bottom 60 percent of Nebraskans combined. The top 20 percent got 55 percent of the benefit under the tax plan that the Governor initially introduced. It's now almost only a quarter of the size that it was and the money is going to where it needs to go, and that's in the pockets of middle-income Nebraskans and low-income Nebraskans. I was working on some numbers. I know I talked to several of you about those after we got the breakdowns of the brackets. I ran some scenarios. And because of the way this is structured, because we're not lowering the top tax bracket, it stays at 6.84 percent.

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We're just making the bracket up to \$58,000. Once you cross that \$58,000 threshold as a married couple, you're going to get the same tax cut as Warren Buffett. Under this plan, you're going to be capped at about \$144 or \$145 dollars. That's the most any married couple makes, whether you make \$58,000 a year or \$58 million a year. I think that's a good policy. I think it's a good policy to put the money back in the pockets of people who need it and who are going to spend it. That's how we're going to move this economy forward, that's how we're going to move our state forward, not a tax cut where the top 20 percent get 55 percent of the benefits or the top 5 percent get more of the benefit than the bottom 60 percent. That's why I decided to put some skin in the game and work on this, to move this package in a way that gets to working families. Is it enough? It's what I think, after looking at scenarios and our next budget. Senator Mello can speak to the ones he worked on. I think we can continue to move forward with responsible... [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR NORDQUIST: ...budgets with this size of tax plan. But I wouldn't support this tax plan if it was a tax plan that benefited only the wealthiest Nebraskans. This is a tax plan that actually puts money into the pockets of working families and keeps the focus on those families making under \$58,000 a year. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Nordquist. Senator Mello, you are recognized. [LB970]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And first off I rise to thank my colleagues, friends, friends of mine who I've worked with over the last three years--Senator Conrad from the Appropriations Committee, Senator Adams from the Education Committee, Senator Campbell from the Health and Human Services Committee--who no doubt I respect their opinions, I respect their perspectives. And this is a difficult issue and hearing from Senator Cornett, Senator McCoy, Senator Nordquist just relayed some of the issues I wanted to bring up because ultimately I look at LB970, as amended through AM2572, in two separate lenses: (1) the fiscal policy lens; and (2) the tax policy lens. Senator Nordquist just mentioned, as a member of Appropriations Committee myself, I believe my colleagues on that committee and those in this body can agree that Senator Nordquist, myself, and Senator Conrad advocated for three key priorities as members of that committee: public education funding, funding that affects low-income Nebraskans through Medicaid, those with disabilities, seniors, and children. Those priorities of mine doesn't change based on my opinion of supporting AM2572. And Senator Nordquist is right, I would hope that friends and colleagues of mine would agree that I wouldn't support something that would put the state at a financial risk, that would put at risk the Medicaid Program, put at risk the future of public education funding for something that I can't see an endgame to or I can't see the end of the fiscal road, not just one year, two years but five to six years from now. And ultimately the compromise

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that has been discussed, once again compromise usually means people don't get all of what they want, I would be willing to agree that there are some members of this body who supported the Governor's original proposal, even supported the Governor's proposal that was kicked out of the Revenue Committee that was, on Friday afternoon, at \$125 million a year. What we have in front of us now is at \$55 million a year. But I'd also say what Senator Nordquist just discussed is the change of what this tax plan is. I've been critical of the Tax Foundation because I don't ultimately believe in their rankings. It's an ultraconservative foundation that has a specific point of view. But I do believe in a progressive income tax system. I do believe in progressivity in our tax system, which was a compromise that those have made to my perspective and my point of view of what we have in AM2572, and is what Senator Nordquist just said looking at the numbers. A family of four making \$75,000, two public school teachers, are getting the same tax cut as someone who's making \$58 million a year. Prior to this compromise, they were making about one-thirtieth of the tax cut that we were giving originally under the original LB970. So tax policywise, I believe this is good tax policy. Fiscal policywise, I can respect colleagues and friends who we may just...we may have a disagreement, and that's fair to say and I can appreciate that. We've had disagreements before on whether or not to cut aid to municipalities. Good friends of mine in this body supported doing that while I and others advocated to the top of our lungs against that policy. It's okay. I respect that. We had a policy debate, a policy disagreement, we move forward. Ultimately, the issue in front of us is how do we move forward if we adopt LB970 as amended? I would say looking through... [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR MELLO: ...the green appropriations book, there's multiple things you can look at. One, we have put in our projected spending \$15 million in projected allocations for potential deficits over the next three years. We also, as a new policy that we've only adopted one year or one biennium, is talking to state agencies in regards to if they don't spend money they get to keep that money and it gets to be reappropriated. That's a policy that we adopted this current biennium budget, which my hope that the Appropriations Committee, whoever makes it up next year, will continue that policy which encourage state agencies in state government not to spend money at the end of the fiscal year simply to spend money. And there's one piece of legislation that we have not discussed that ultimately is part of this entire process, is a bill that this body passed last year, LB642, that encourages the Department of Revenue to enter into performance contracts to ensure that Nebraska companies... [LB970 LB642]

SENATOR GLOOR: Time, Senator. [LB970]

SENATOR MELLO: Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Mello. Senators in the queue: Bloomfield,



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Cornett, Council, Sullivan, Karpisek, Smith, and others. Senator Bloomfield, you're recognized. [LB970]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM2572, on down to and including LB970. I had hoped it would be a bigger cut. I appreciate the work everybody has done. I appreciate Senator Nordquist getting involved in it and not talking things to death. This is a small step in the right direction. It is not what I had hoped for. We as a body seem hellbent on giving ourselves an 85 percent pay raise, but we don't want to avoid taking out of the pockets of Nebraskans \$145. I don't understand it. I can't put together my thoughts that we're looking at taking \$10,500 a year and we don't want to leave an extra 140 bucks in the pockets of the working people of Nebraska. Say I will vote for this. I appreciate the work that has been done on it. And I will yield the rest of my time to Senator Cornett or Senator Coash. Senator Coash. [LB970]

SENATOR GLOOR: Senator Coash, 3 minutes 35 seconds. [LB970]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Bloomfield. One of the frequent questions that I've had, not just about this particular initiative but lots of initiatives, is how do you decide what you're going to fund? Who makes these decisions? How do these things come about? And the answer that I frequently give is we fund, in the Nebraska Legislature, what we find a priority. If it's a priority, we fund it. And we've seen that this year because we funded...we're going to fund some significant reform in child welfare. But we fund what we make a priority. And what we've got in front of us is funding another priority and that's working families. And I really appreciate the comments that Senator Mello and Senator Nordquist have made because that answers questions about where the priorities are for them. It answers questions for citizens who are wondering where are our priorities, and they've laid it out. In this amendment priorities are for families making \$58,000 or less a year, which is not a lot of money. And the small modest relief that they're getting does mean a lot to them. I tell constituents all the time that we have a great committee system, so when it comes to how we spend money we put a lot of trust in our Appropriations Committee. When it comes to how we generate money we put a lot of trust in our Revenue Committee. I want to echo something I heard Senator Nordquist say. He said this makes tax and fiscal sense; we can come back and we can have a responsible budget. And we will do that because we will continue to do what we're doing with this bill--we're funding the priorities that we put in front of us. And with 49 senators you might find 49 priorities, but what happens when we get in on this floor is we find our legislative priorities, and I think this initiative, LB970, all the amendments is a balance to those priorities. When Senator Mello mentioned we've laid some tracks over the past three years with regard to the save it and keep it... [LB970]

SENATOR GLOOR: One minute. [LB970]

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SENATOR COASH: ...instead of spend it mentality of a lot of our state agencies. So I don't see this as irresponsible. I see this as part of a larger package where we've put other things in place to make sure that the priorities that we have in state government continue to be funded. And if we had a crystal ball...and that's what these projections are. It's our crystal ball. What are we looking ahead at; what do we see? And I have to tell you, colleagues, it gives me...it's going to help me sleep better tonight knowing that Senator Mello and Senator Nordquist sitting on the Appropriations Committee are looking at their crystal ball and saying with this we can still put forward a responsible budget, and I appreciate their comments. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Coash. Senator Cornett, you are recognized. [LB970]

SENATOR CORNETT: Thank you, Mr. President. I really appreciate, for once, the order in the queue being such that I can respond directly to something or follow up on that. Senator Coash is exactly right. This is about priorities and what we have prioritized. I was in the lobby, working with the Department of Revenue on a handout that we may be handing out later but we are still working on, when Senator Conrad was asking Senator McCoy about what this did in our rankings. We under LB970 proposed an overall tax package that did improve our rankings. We addressed issues such as the corporate income tax which is higher than our individual highest rate, which we are downgraded for. We introduced the inheritance...repeal of the inheritance tax, which we are downgraded for, but I understand exactly the position our counties are in and I supported removing that from the original bill. We had a bill introduced in committee by myself for AMT. We did not include that. That would have improved our rankings. When it came down to looking at what we could afford, working with the Appropriations Committee, we went back to the basics of what we wanted to accomplish. The one side of it was improving our rankings and making us more competitive, and the other was middle and lower class income tax relief. We made a conscious decision to provide that relief. Yes, it's smaller than we originally intended, but it is targeted for those income brackets. We walked away from the concept of improving our rankings in the Tax Foundation at this time. I'm not saying we don't need to do that in the future. That's not what I'm implying. What I'm saying is we prioritized what we could do with the money that we had and we chose lower and middle income tax relief. I appreciate all the work that everyone has done and I appreciate Senator Conrad, particularly, for bringing those questions and so I could respond to that so people understood where we have evolved to on this. And I'll be frank, it was when I was Chair of Business and Labor that we first started talking about how we could do lower and middle income tax and how...relief and how we could improve our rankings. We could have done something called indexing the brackets. That would have improved our rankings, but that would have expanded the brackets for everyone. This is the path that over the past few weeks we have chosen, (1) as a committee, and (2) as members of the Appropriations Committee weighed in.

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And I've heard from a number of members of the committee...I mean of the legislative body, if we're going to do something, if we are going to do something, we need to focus in on the lower brackets. We don't need right now to be looking at corporate income tax rates. We don't need to be looking at all of the other things that improve our rankings. We need to give back to the people and that is what we're attempting to do with this amendment. Thank you very much. [LB970]

SENATOR GLOOR: Thank you, Senator Cornett. Senator Council, you are recognized. [LB970]

SENATOR COUNCIL: Thank you, Mr. President. And again good afternoon, colleagues. I think it's pretty good debate and I think it was probably fortuitous that I punched my light when I did and was so far down in the queue that I could listen to this debate. And it's a rather intriguing debate and one of the statements that was just recently made is what is most troubling to me about LB970 with any of the amendments, and that is the suggestion that any of these proposals represents what we can afford. Perhaps my definition of "afford" is different from the definition used by my colleagues who I respect for the work they put in on developing AM2572, but when I think of what I can afford, that means I have some excess revenue. This amendment adds to a projected deficit, and I chuckle, I chuckle because during this time, in this political season, all we hear about is deficit reduction, deficit reduction, deficit reduction, and nobody seems to be concerned that this proposal represents an addition to a projected budget deficit. I find myself in much the same place as two of my colleagues, my colleague, my friend, my row mate Senator Wallman. I trust you all were listening to him because I asked myself the same question, Senator Wallman. Why now? Maybe I'm the only one that remembers. I just got here in 2009 and we set a biennial budget and ten months later I was back here cutting it in special session. I hear people talk about what happened in 2007. I don't know what the out year budget projections looked like in 2007, but if it looked like it looks like now, the people...the 46 people who voted for that were acting a little irresponsibly, and perhaps they got lucky. I also find myself in very much the same place as my colleague, Senator Krist, who commented that he can't support this without knowing what's going to happen with appropriation items that have been advanced. He can't go forward with this without looking at what will occur with the budget proposals that have moved forward. We all are aware of veto potential, line-item veto potential; don't know. But I also must add to a statement that was made by my colleague, Senator Janssen, about these robocalls. Lest you be left with the impression that the robocalls are only working one way, my office has received a number of calls from constituents who have been receiving these robocalls and the robocalls are saying, contact your senator and ask them to support LB970. That's what the robocalls are saying. You know, maybe we ought to go back and revisit that robocall bill so we can figure out why the heck they're doing it and who's doing it and what they're paying for in doing it and what they're supposed to be saying to people, because we got several different versions of what's being said on these robocalls. Do I trust and

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respect the individuals who participated in this negotiation process? I do, but just like anything else in life, we differ in our approaches, we differ in our beliefs, we differ in our priorities. And when I look at what I understand to be the impact... [LB970]

SENATOR GLOOR: One minute. [LB970]

SENATOR COUNCIL: ...of AM2572, and I certainly appreciate the desire to address working families, but I'm also acutely aware of the fact that many of our working families in this state are Medicaid eligible, are SNAP eligible, have children with developmental disabilities. Senator Conrad made reference to the action taken ten years ago. I bet you if you asked these working families if they had a choice between the benefits they're going to receive under this tax break or getting some assistance with childcare, they'd pick the childcare. So as we move forward in developing what can be the budget, I just ask that you consider why we need to do this now. Next January we'll be preparing a biennial budget... [LB970]

SENATOR GLOOR: Time, Senator. [LB970]

SENATOR COUNCIL: Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Council. Senator Sullivan, you are recognized. [LB970]

SENATOR SULLIVAN: Thank you, Mr. President. Good afternoon, colleagues. There's some lessons to be learned in this process that we're dealing with right now, the process of managing the taxpayers' money. There's a lesson in perseverance on the part of many. There is a lesson of compromise on the part of a good many. And there's a lesson to be learned in...for all of us in prudent decision making, which we know is not that easy. You know, I'd like to support this process that we've arrived at today because I know that leading up to this has meant a lot of give and take, a lot of hard work, and I appreciate all of that on the part of so many that have done so much. And I think we probably can. But by the same token, even though we see the economy continuing to tick up little by little, and all signs are reasonably positive, you know, there's always that black cloud out there. We also see that gas prices are ticking up and what's going to happen if we, God forbid, reach \$5 gas and what that will do to our economy. It's been said that everything is on the table. There's a part of me that says, well, I think that's going to be the new normal in our budget deliberations going forward every single year. I wasn't here in 2007 for that large tax cut, but when I came here in 2009 and, as Senator Council said, after the general session coming back for the special session, every single session since I've been here we have cut the budget. I suspect that will be the new normal. And I suppose, whether I'm here or not next session and those of you or any of you who will be here, that's going to have to be the resolve, however this turns out with LB970. The new normal is, I'm afraid, we will always be asking the question

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whether or not we can afford this. And I, of course, join Senator Adams in the concern of what this does to such things as state aid to schools, because, quite frankly, we told them this year with the two bills that remain in the Education Committee, sorry, folks, sorry, schools, we can't afford this. What are we going to tell them next year? Will it come down to kids versus concrete? I suspect it might. What is the new normal? It's caused me to reflect even back to when we lived here in Lincoln 30-plus years ago and we had a little bungalow here and when we left Lincoln we doubled our money with that house so that we could invest in a business on main street in a town of 200. Now living in a town of 400...well, getting back to that, I suspect that wouldn't happen with housing transactions today. And the house that we live in, in Cedar Rapids right now, in the town of 400, we will never double our money if we were to sell that house. I suspect we'd never get our money out of it, and that's another reason that I work so hard for rural economic development. If for no other reason, I want to save the property value on my house. But maybe that is a new normal that we're struggling with and that we don't like to accept, that government needs to get smaller and this is one of the ways we do it. But we have so many things to provide for in government services, necessary things, and so we're going to have to have some hard decisions to make in the future, irrespective of what happens with LB970. Those decisions are not going to get any easier because we're dealing with a new normal. Thank you. [LB970]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Karpisek, you're recognized. [LB970]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. As usual, Senator Council stole a lot of my thunder, but we'll re-rumble some of it. (Laughter) The robocalls that Senator Janssen talked about and mass e-mails have come on both sides of this issue. They have also come on the pipeline. This summer we had a bunch of them. And I would have to say that number one on my list right now or this session has been LB239, so thank you for that, Senator Janssen. That has created quite a stir that I bet not everyone who sends something in is quite sure what that does. We talked about being what's politically popular. It's not easy to stand up and say I don't think that this is the right thing right now. It's not easy, but I find myself in that spot a lot of times, being on the wrong side of the vote but maybe the right side of what people at least that think the way I do. Senator Fulton thought that it's okay to be politically popular because that's what most people want, and I would have to agree with that, except that I bet you that if we told everyone that we were going to do no more state income taxes they'd agree. I bet a majority would. It is impossible to do that, just like I feel it isn't prudent to do this right now. I will say the amendment, the way it is drawn up, I couldn't ask for anything better if we're going to do this. I think it's thoughtful and the thought of middle class to lower class Nebraska families definitely came in and I appreciate that, but I still don't think that now is the time. And I do hope, as Senator Campbell said, if we do have to come back and visit this, and I really worry about the farm economy because, again, everybody can thump their chest, pat themselves on the back, but if the farm economy

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wasn't doing what it is today we certainly wouldn't be talking any tax cuts. But if something happens, I hope we're not here looking just at tax cuts again. I hope that we can have the resolve to actually stand up and say, look, we tried, we tried to cut when we could but now we've cut far enough; we're going to have to look at some raises. And I hope that everyone that can stand up and talk tax cuts can also stand up and talk about raising taxes, talk about politically unpopular. I'm going to be very happy if and when this goes through to get another \$100 in my pocket, but I think there's other places that this money could go. And 1.8 million people in the state times, I realize not everybody is going to get \$100, it's a lot of money when you put it all together. We've had to work at BSDC in Beatrice. The money that we didn't spend there ended up costing us a lot of money. The money that we weren't going to spend on childcare reform... [LB970 LB239]

SENATOR GLOOR: One minute. [LB970]

SENATOR KARPISEK: ...is costing us a lot of money. What else is going to cost us a lot of money to save money? That worries me. We talk that we think we have, we can still make a great budget this year. Probably, but I still think there's things that could be in this budget. We can't be everything to everyone and I realize that, but when we stand on the floor, when we talk about things that need to be done because we could be sued but we don't do it, we're talking out of both sides of our mouths. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Smith, you're recognized. [LB970]

SENATOR SMITH: Thank you, Mr. President. Colleagues, my comments will not be complicated. People do not work to pay taxes. Rather, they work to fulfill their needs, to achieve their personal desires and dreams, and to meet the needs of their families. Taxes strike at the heart of a person's incentive to work and to provide a better life for both themselves and their family. Taxes are a wedge. They're a wedge between what an employee earns from the sweat of their brow and the amount they are afforded to meet their own needs and their dreams. Taxes are a wedge and any reduction, any reduction in the size of that wedge is a very good thing. And this is particularly important for the wage earners that are targeted by this particular plan. Colleagues, I believe this is the ultimate example of local control. I will keep this simple and vote to give our citizens the ability to keep more of their hard-earned money. I support AM2572, AM2391, and the underlying bill of LB970, and I thank Senator Cornett for introducing this bill. Thank you, Mr. President. [LB970]

SENATOR GLOOR: Thank you, Senator Smith. Senator Dubas, you're recognized. [LB970]

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SENATOR DUBAS: Thank you very much, Mr. President. I do acknowledge that this legislation has come a long way and now we are each faced with a decision, a decision that we have to make, that we feel we can live with and support, and I think this is one of the more important decisions we make because we know it does absolutely directly impact our citizens and our constituents. So I don't stand and register my opposition to this bill and the underlying amendments lightly, but I've been very consistent in my message since even before the session started. I knew the idea to have tax cuts would probably be discussed and on the table. That came up even before session started. But my message has been we need to move forward cautiously. We're not out of the woods yet. The last Forecasting Board report reinforced that. You know, it said it's kind of steady as you go, nothing to do cartwheels over yet. Still, I felt that caution flag was being waved. At the beginning of the session, I went down and spent a considerable amount of time in the Fiscal Office. I asked questions. I wanted to really understand how things look today, how it plays out into the next biennium and the one following that. And what I took from that conversation with the Fiscal Office was caution and the need to build up our Cash Reserve. That Cash Reserve served us very, very well when we had to make cuts, and it's important that we get that Cash Reserve built back up. I was here when we passed that largest tax cut in 2007. I supported that bill and I was actually...had one of my bills included into that tax cut package which increased EITC, but that was done at the beginning of the budget cycle. That was done at the beginning of a biennium, not during deficit appropriations. That's what it comes down to for me today. It's not that I oppose tax cuts; it's timing. And if it's a good idea today it will be just as good if not better when we come back next year at the beginning of a biennial budget process and really be able to look comprehensively at what we need to do to move forward with our tax policy, address our citizens' concerns, and work it into the budget at the beginning, not at the end. We all know what the special session was like, the regular session. Those were very, very painful decisions to make. Some of them bore fruit. I mean we were able to really examine government closely and the services we provide and hopefully became more efficient and better in the way we deliver those services, but we've also had to deal with some very severe inefficiencies through our child welfare system, through what we're dealing with in ACCESSNebraska, through what we had to deal with, with Beatrice. Those are issues that have cost us money to try to get things back in line. So making those cuts across the board was painful for all of us. Nobody would disagree with that, I don't think. But I don't want to be in that position again, anytime soon anyway, if we can at all avoid it. So again I think for me and I respect where everybody is at in this process and we all have to come to our decisions in our own way and in our own time and figure out what it is that we can live with, but for me it's nothing more complicated than the timing. [LB970]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB970]

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SENATOR DUBAS: And to do this type of a tax cut at this point in time, even though it has come down significantly, I will admit that and appreciate all the work that everybody did on it, there's still, in my mind, too much concern, too much unknown, and we would be...we would, in my mind, would serve our constituency, the citizens of Nebraska, and the processes that we go through to establish a budget, we would do this much better at the beginning of the biennium, at the beginning of a budget cycle than in the middle of it. Thank you. [LB970]

SENATOR COASH: Thank you, Senator Dubas. Senator Adams, you're recognized. [LB970]

SENATOR ADAMS: Thank you, Mr. President. I'm going to put out the call for Senator Heidemann. He knew I had some questions for him and if he's not too far off I hope he could come back to the Chamber and answer some questions for me. [LB970]

SENATOR COASH: Senator Heidemann, if you're available, would you yield to some questions? [LB970]

SENATOR ADAMS: I guess, you know, as something of a prelude to him coming back in, and hopefully he does, some of the questions I'm going to ask of him, frankly, I already know the answers to. Here he comes. I'm hoping Senator Heidemann would yield to a question, Mr. President. [LB970]

SENATOR COASH: Senator Heidemann, would you yield? [LB970]

SENATOR HEIDEMANN: Yes. [LB970]

SENATOR ADAMS: Senator, I, like everyone else, I think today we've appreciated your efforts in arriving at this amendment up here because what we are looking at ahead of that was really causing some problems for many of us. As you look at the numbers--and I'm going to ask you revenue questions--as you look at the numbers, am I right in saying that when we do that five-year averaging that we are predicting, and I underlined predicting or estimating is a better word, in the out years what, is it 3.5, 3.8? [LB970]

SENATOR HEIDEMANN: Three point six I think. [LB970]

SENATOR ADAMS: Three point six, all right. And I don't mean to put you on the spot but I'm asking you because I know you know these numbers better than...as well if not better than anybody in here. What kind of a revenue increase in October, is October our next revenue forecast? [LB970]

SENATOR HEIDEMANN: October is. That's what you will build the budget on next year. [LB970]



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SENATOR ADAMS: All right. So am I correct in thinking that when we look at the out years right now we're using the Fiscal Office predictions and we're using Global Insight predictions; we're not using the February forecast as we look into the next biennium? [LB970]

SENATOR HEIDEMANN: The out biennium right now is LFO numbers, Legislative Fiscal Office numbers. [LB970]

SENATOR ADAMS: Right. Okay. So when we look into the out years, we are really, truly making an educated guess, is that correct, as educated a guess as we can make? [LB970]

SENATOR HEIDEMANN: You could say that. It has a pretty good track record. [LB970]

SENATOR ADAMS: Okay. Then let me ask you a far more pointed question. If we're looking at...and I think you said 3.6. [LB970]

SENATOR HEIDEMANN: Right. [LB970]

SENATOR ADAMS: If you could add some percentage points to that, that would really, really say we can do all of these things in the out years, year three, that's what I'm really focusing on, what kind of a percentage number might that be? [LB970]

SENATOR HEIDEMANN: If you could take it just from 3.6 to 4.6, you gain \$35 million the first year, \$70 million the out year, for a total of a little over \$100 million, which would, you know, would help without a doubt. That's 1 percentage point growth. [LB970]

SENATOR ADAMS: Now when you say...when you say "help" then what you're talking about...I mean obviously you and I both know what we all mean by help. Does that make...if that occurs then do we have a tolerable level of growth in TEEOSA? Do we have a tolerable level of growth in some of our other areas that make you feel more comfortable? [LB970]

SENATOR HEIDEMANN: The more revenue you get in, the more you're going to be able to do when it comes to TEEOSA provider rates and other things that we feel the need to fund. [LB970]

SENATOR ADAMS: And you and I know that, and I'll be the first to admit it on this floor, TEEOSA is not going to be 20.8 percent. It is just not. So let's say we take it down into the single digits. Let's use... [LB970]

SENATOR COASH: One minute. [LB970]

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SENATOR ADAMS: ...this 5 percent mark. Does that 1 percent more of revenue growth that we could potentially get, I'm assuming--I'm asking a rhetorical question now--that gives you a better level of comfort? [LB970]

SENATOR HEIDEMANN: Yes, you could take TEEOSA, you know, to 4 and 5 percent, hold provider rates above, you know, holding them flat, I would have to think. There's a lot of other factors that come into play with that but it would make the Appropriations Committee's life a lot easier if you would get just that 1 percent, which is...historical revenue growth right now is at 5 percent so it's not unheard of, but there's a lot of people that are uneasy with the economy right now. [LB970]

SENATOR ADAMS: And so that 1 percent that we're talking about, there's really no way for you or I or anybody else in this room to say it's not going to happen or that it is going to happen. There are just too many unknowns. [LB970]

SENATOR HEIDEMANN: I don't think we'd be in here if we knew that. [LB970]

SENATOR COASH: Time, Senators. [LB970]

SENATOR ADAMS: You're right. [LB970]

SENATOR COASH: Thank you, Senator Adams and Senator Heidemann. Those still wishing to speak: Senators Lathrop, Wallman, Ashford, and others. Senator Lathrop, you are recognized. [LB970]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good evening. I have waited a good long time to put my light on. I appreciate the progress we have made with the amendment that we are now considering, both in the dollar amount and in the manner in which these tax breaks would be distributed to Nebraskans. I have to tell you that, like Senator Adams, like Senator Campbell, something is gnawing at me. Something is gnawing at me and it's making me uncomfortable. I can tell you this isn't how I would manage my law firm and it's not how I would manage my personal finances. And when we began the early conversation about LB970, I suggested to you that we would be in a \$600 million hole when this was done, and that's been pared back and now we're looking at a \$550-some-million hole. It's over a half a billion dollars. And I have previously stood here and said I want to vote for this. I feel better about the fact that it is reduced and smaller. I feel okay about where it's going. The question that no one is answering today, the question that no one is answering today is how are we going to do it. And let me just offer this so that the people who come after me, maybe the folks in Revenue who put this bill out or the folks in Appropriations who run the numbers every day who speak after me, can address this question, how do we pay for it, because in the normal process there is a cooperation between Appropriations and

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Revenue. They speak, they communicate. And Appropriations takes the money that's available, maybe targets a number less than what's available, and they put a budget together in the give and take that happens in that room. And then we see, after we have applied our best efforts to be fiscally conservative, what do we have left that we can use to fund tax cuts. And what we're doing with this process, LB970, is essentially saying we're taking the money and you're going to deal with it next year. Okay? That's not the normal course, I don't believe. Maybe it will work, maybe we're spending money from next year's budget cycle and it will work. But what I would like to do, maybe continuing with what Senator Adams started, is let's talk about what that's going to be. Because you know what happens when bills come up. I've watched it. Everybody votes for spending, everybody votes for tax incentives, and it's not going to be that way next year. It's not going to be that way. So I would like to have a conversation about how we go from a half a billion in the hole to even next year. And Senator Adams started us out on TEEOSA. I've heard it's up around 20-some, the projection, so we discount all of the financial stuff because TEEOSA is at 20 percent and everybody knows it's not going to be there. Where is it going to be and are we okay with that? That's the process that we're skipping when we don't do this next year. And I'll be happy to vote for... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR LATHROP: ...this tax cut. I want to vote for it. I just want to know what decisions we're going to make about next year. Does it work? Does it work? Is it better than what the Revenue Committee put out earlier? Yes, it is. This is way more...much more scaled back. It is light-years away from what the Governor put in initially, which was pie in the sky. Now we have it scaled back and we have more people that are apparently on board, and I'm not being critical of anybody that is. But I'd like to have a dialogue this evening about what are the decisions we're going to make next year. Would Senator Adams yield to a question? [LB970]

SENATOR COASH: Senator Adams, will you yield? [LB970]

SENATOR ADAMS: Yes. [LB970]

SENATOR LATHROP: Senator Adams, as Chair of the... [LB970]

SENATOR COASH: Time, Senators. Senator Wallman, you are recognized. [LB970]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, I, too, have concerns as Senator Lathrop. Ever since I've been in here we've balanced the budget, healthcare, education. What does that tell us about this state? We get called in, Senator Adams calls in, this doesn't work, this doesn't work, we only got this much money to work from Appropriations, we got to cut back superintendents of schools. He's been biting the bullet. Special ed costs went up, all these costs went up. And some of these I

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voted against. I voted against the learning community but it passed. Did we fund this thing completely out of here? No, we did not. Senator Karpisek and I, we fought some of these issues because we knew it would cost money down the road. And did they work? Is it a good idea? Sure, some of these ideas are very, very good, but taxes are what people pay to live in a society. I've had people tell me in my district, what's the matter with you guys, our roads are going to pieces, put some money for roads. Never once did I hear income tax but I ever hear property tax. Senator White, my good friend Senator White, had a bill when we had all this money to give back. He says, Norm, you better vote for this property tax relief, but he wanted to use it to give property tax relief to homes, to lower-income homes, one-time tax relief, and they would have spent the money. He was right on the money. But I voted to give it back to the people because it is the people's money. But why should we be so concerned about tax relief, the miniscule amount it is, to put agencies at risk, our nursing homes, you know, our providers, our ICF/MRs, all these institutions? It takes some money to live in a society. It takes money. If you want to live in a society you can live cheap, go to Haiti, go to South America. You don't have to worry about taxes--cheap. You can live very, very cheap. It's going to cost money to live in a society such as ours. And Nebraska is pretty cheap. I look at this machine and see who supports this and who supports that, Americans for Prosperity some of these, NACO and them on the other side, some of these organizations, the so-called super PACs, they're just for themselves because they get big-dollar salaries. And so are they for our Nebraska? No. We don't even know where they're from. But you listen to the county organizations, some of these others, the nursing homes, the healthcare, AARP, they don't think we can afford this tax cut and it makes me very skeptical either, too, as Senator Adams said, when you deal with a budget deficit and think you're going to be able to spend out of it. You think people are going to spend out of it? I'm skeptical, folks. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Wallman. Senator Ashford, you are recognized. [LB970]

SENATOR ASHFORD: Thank you, Mr. President. I've been listening, and as we all have, to this discussion and I...let me just try to frame it in the way I look at how we do business here. And I was asking Senator Fulton and I can't recall. I believe the federal deficit is \$1.7 trillion, somewhere to that, the operating deficit is in that neighborhood. Both political parties, the Democrats and the Republicans, favor tax cuts and both political parties have sustained those tax cuts over a period of time and neither one, as far as I can tell, seems to want to get rid of those tax cuts. The difference here, the difference here is that we...and I appreciate what Senator Lathrop is saying because he thinks hard about these things and he's right, we are so conservative here that we, even with a balanced budget, not a deficit but a balanced budget, we are having difficulty, and I understand why, and I'm having difficulty, too, as we think through these things about giving a tax cut to...a minor, very minor tax cut to middle-class Nebraskans. The federal Congress has no problem giving a tax cut, has no problem not dealing with

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entitlements, has no problem not dealing with military spending at all, and they run a \$1.7 trillion deficit. We are having a very difficult time with a balanced budget giving a \$50 million tax cut to working families. I'm going to vote for this bill. I'm going to vote for this bill because we do have a balanced budget and part of our job is to find ways to return tax revenues back to taxpayers. I don't think it's our only job but I think it's one of the jobs. Let me just think through another thing that we...has been mentioned here, and actually Senator Janssen talked about it, and that was the LR542 process. Part of the reason that we can return albeit a minor amount of dollars back to the taxpayer is because we, for the first time in I think legislative history, we initiated and completed a process of examining state government. Not only did we make cuts of a billion dollars out of our budget, not only did we make cuts, but we initiated a process, which...a Performance Audit Committee, a LR542 process, so that we could look at and support the efficiencies in government that we had found. Senator Lathrop has asked a great question: How can you assure me that we will not be in deficit next year and that we won't have to make further cuts? I can't do that and nobody on this floor can do that. But I do know that we have a process. In our own Judiciary Committee, whether it's the Department of Corrections, whether it's the pilot...Senator Krist's pilot project bill that saves the state \$10,000 a day, that pilot project came out of the LR542 process, was initiated in parallel with HHS and Probation. That doesn't mean that we can just willy-nilly give money away like the federal government does and not deal with entitlements and not deal with a deficit. Both, shame on both parties. [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR ASHFORD: Shame on both parties for failing to address the federal deficit and to address the federal budget. We have a process in this state that's dynamic that we've all been a part of and we have the best information we can get from Appropriations on where we're going to be next year. We're not going to be at 5...as Senator Lathrop is right to be conservative in his questions, but we are not going to be at \$540 million deficit at the end of next year. The Appropriations Committee is not going to initiate that kind of budget and we're not going to pass that kind of budget. But it's the right question to ask. I think we are in a position where we can make this return of tax dollars and still do our job to help all the citizens of our state, which I believe we have tried to do and have done over the last several years. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Ashford. Senator Burke Harr, you are recognized. [LB970]

SENATOR HARR: Thank you, Mr. President. Earlier Senator Coash asked a question: Who makes the decision to fund? And that's a great question. We do, of course. That's obvious. Everyone gets that. Senator Nordquist followed up by saying, even with these cuts we can make a responsible budget. Seems like a great idea. We're on the right

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road. But the fact of the matter is, we have a deficit. We are looking down the barrel of a deficit, \$400 million, \$500 million. Who knows? But we all know we're facing a deficit. No one denies we're facing a deficit. So before we decide if we want to do this or not, I guess my question is can somebody show me the money, show me the way? It's easy to say we can be responsible. Words are cheap. It's actions that matter. How are we going to do this? Why are we doing this in a nonbudget year? Nothing prevents us from doing this next January or March or next year, nothing. We can make it backdated to January 1, perfectly constitutional, perfectly legal, and at that time we will have all our priorities and budgeting in front of us. We can make an informed decision. To pass a tax break now again is the Washington way. It's not the Nebraska way. We're looking for a way forward. I'm looking for a way forward. And this is one part of a way forward but it's not the whole piece. And we're not even looking at one-tenth of 1 percent of the whole piece because this is going to affect next year's budget. What we're doing right here today is we have started debate on next year's budget, what we can and can't do because, ladies and gentlemen, this isn't coming out of this year's budget; it's coming out of next year's. How are we going to fund this? I don't have an answer. How are we going to deal with the deficit? I hear we can do it responsibly. Okay, how? Why not have all the cards on the table at one time and look at how we can do this? I personally want to see more money for economic development. I think it's important for the future of our state to invest in the people in our state and the businesses in our state. We do this, that's less room for economic development. I believe in helping our kids. We do this, there's less money to help our kids, whether TEEOSA goes up 20 percent, 22 percent, 5 percent, 9 percent, it doesn't matter. At the end of the day we have a pot. The more we take out of it, the less we have for our kids, the less we have for our Medicare and Medicaid providers, which drives up our insurance costs. When they're losing money, ladies and gentlemen, they make it up on the private side. I don't think that's a big secret. That's what happens. Now you can call me a fancy pants for saying 72 bucks isn't a lot, less than 10 bucks a month for an individual max. For a family we're looking at \$144, which is more or less \$12 a month. Yes, that's a lot. But is it? I guarantee you the next time you go fill your tank with gas it's gone up more than \$12 since the beginning of the year a month. Would I like to see \$12 in my pocket? Yes. But the question is, what is the best use of our resources? [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR HARR: Thank you. And when I look at the best use of my resources, I want to look across the board and see what is available, meaning let's wait till next year. Nothing stops us from doing this next year, nothing. And maybe that's an appropriate time to do it because, coincidentally, it's a budget year. And so why don't we make a budget when it's time to make a budget and not pick off a little beforehand here and a little beforehand there? Let's do it the responsible way, the fiscally prudent way. Thank you. [LB970]

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SENATOR COASH: Thank you, Senator Harr. Those still wishing to speak: Senators Conrad, Mello, Brasch, Avery, and others. Senator Conrad, you are recognized and this is your third time. [LB970]

SENATOR CONRAD: Thank you, Mr. President. This is my third time and I don't foresee a protracted, extended debate strategy on this issue. I think the deal has been cut and that's part of the process and it is what it is. But LB970 remains unaffordable. LB970, even as amended, would create the second largest deficit this state has seen in the last 15 years. LB970 costs \$97 million through the next biennium, bringing the projected deficit to \$556.5 million. Sixty-four percent of those Nebraskans that make less than 20 percent, \$20,000, won't receive any tax cut. Collectively, the 60 percent of Nebraskans making less than \$57,000 will receive 24 percent of the tax cut. The average family will get a tax cut of about \$2 a month in year one and about \$4.30 in year two. Is it worth mortgaging our future and not paying the bills on our existing state obligations so that the average family in Nebraska gets a tax cut of \$2 a month? Approximately \$7 million to \$9 million in the next biennium would go to non-Nebraskans who file income taxes in Nebraska. Previous tax cuts have been implemented during a much stronger economy rather than the uncertain economic conditions that we currently operate under. And revenues today are still below prerecession levels and aren't expected to fully recover in the near future. I want to know more because we have yet, almost two hours into this debate, to hear a clear narrative about how we're going to pay for this and what the impacts are. I don't see Senator Adams on the floor. Maybe Senator Cornett could talk about it since I'm hoping this is part of the dialogue in the Revenue Committee. If Senator Cornett would yield to some questions, please. [LB970]

SENATOR COASH: Senator Cornett, will you yield? [LB970]

SENATOR CORNETT: I'd be happy to. [LB970]

SENATOR CONRAD: Senator Cornett, I think it's been well-established that, based on current projections that we utilized according to current state law and otherwise, if this goes as amended we're looking at a budget shortfall of \$556 million in the next session. So we've talked about that's nothing to worry about because it's never going to happen. It's been said, okay, TEEOSA is at 22 percent growth under that scenario. What does it have to be cut to from current state law, which projects it at that amount, to make this work? [LB970]

SENATOR CORNETT: We...actually myself, the Revenue Committee and the Governor, the Speaker, we've all sat down with the Appropriations Committee staff and with the Appropriations Committee--I don't believe you were there last night when we went back--and ran those numbers at between 3 and 5 percent. I believe everyone is looking at 5 percent. The last number though that I saw them run it at was at 3 but I believe it...I believe that we had ran it at 5. We ran them so many times I'd have to go

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back and see. We took the recommended amount that the Appropriations Committee suggested and made the tax package work inside of that number after they had sat with us and ran numbers. [LB970]

SENATOR CONRAD: Thank you. And it's fair to say some members of the Appropriations Committee made those assumptions that this would be affordable. It's not the entirety of the committee. I think that's clear, as a member thereof. So your scenarios said that it's going to...you're roughly going to cut current projections on state aid to education by anywhere from 19 to 21 percent, roughly,... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR CONRAD: ...and how much is that? So what's that take off the \$556 million and how much do we have left to go? [LB970]

SENATOR CORNETT: Honestly, Senator Conrad, I would have to go down to my office and get the notes on that. [LB970]

SENATOR CONRAD: Okay. [LB970]

SENATOR CORNETT: I don't remember. It was... [LB970]

SENATOR CONRAD: What other assumptions are at play in how we're going to get to zero from \$556 million? What have you taken into account in terms of employees' salaries and benefits that have yet to be negotiated? [LB970]

SENATOR CORNETT: We looked at the percentage increase in insurance. We looked at provider rates. We looked at cash fund...or the transfers. We went through pretty much line by line every item and I don't... [LB970]

SENATOR CONRAD: And is that available for members to look at, because I haven't seen any of those scenarios and I haven't heard anybody detail those on the floor? [LB970]

SENATOR CORNETT: You know, we sat down in the Appropriations, I think they call it, the war room and went through that on computer screens a number of different times and all different scenarios. I do not know what numbers the Appropriations Committee ran yesterday. [LB970]

SENATOR COASH: Time, Senators. [LB970]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Cornett, appreciate it. [LB970]



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SENATOR COASH: Senator Mello, you are recognized. [LB970]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll try to provide a perspective to answer a few questions that have been asked or have been posed on the floor. First question, Senator Adams started to ask Senator Heidemann a question earlier. Right now if you read the Appropriations Committee projected, or our green book, so to speak, our budget recommendations with our General Fund financial status, you will see that General Fund revenues are at the smallest increase than they currently are this current biennium or the biennium before that, which I would remind, colleagues, we know through the Economic Forecasting Board model and the Tax Rate Review Committee model that revenue forecasts change on a...about a two- to three-month basis. So right now we see the projections at 3.6 percent each year and that is where we see a projected shortfall of \$460 million in the next biennial budget. That number will go through multiple meetings between now and next January. I for one can't say exactly whether or not that 3.6 percent will stay at 3.6 percent because I'm not on the Tax Rate Review Committee, as the Speaker, Chairman of the Appropriations Committee, Chairwoman of the Revenue Committee, as well as the Fiscal Office and Department of Revenue make up that committee, as well as I'm not on the Economic Forecasting Board that ultimately will meet again in November or, I'm sorry, October to go through revenue projections for the next biennial budget. But that's one point that I know Senator Adams was asking Senator Heidemann, that we could see and there is always the chance every time we have a Tax Rate Review Committee meeting or an Economic Forecasting Board meeting that the revenue projections will increase. Because right now, as you look through lines 32 through 35, primarily focusing on 34 and 35 of the General Fund status on page 5, it's unique to see that our projections are the lowest they've been and we have just gone through what some have said the great recession and some of the worst fiscal times of our state. So to try to answer a question that was asked earlier, I hope that provides a point of view that revenue projections more than likely will change because they always change. To some extent, there are components of the budget that is constantly moving and friends of mine and colleagues of mine on the floor have asked questions about that projected difference or projected budget deficit, so to speak, on line 30 of the General Fund financial status right now that's \$460 million that would change by adopting AM2572 as well as all of the other bills, revenue and spending bills, on Select and Final Reading. That will change, no doubt, colleagues. That number is based on projected historical spending increases. It's something that we learn in the Appropriations Committee. Now I'm giving some of the tricks of the trade, so to speak, that Senator Conrad, Nordquist, myself and others, Senator Fulton, Senator Heidemann know from our time being locked up in Room 1003 that the projections are based on historical spending growth projections. Senator Adams just discussed with Senator Conrad the only thing that is in state statute is the TEEOSA funding formula percentage; 22.6 percent is in state statute of what the projected growth would be in TEEOSA for the first year, 8.7 percent in the second year. That will take a

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statutory change, colleagues. But as I've been on mostly the losing end of those statutory changes in the last four years of urging this body not to reduce the percentage of TEEOSA spending, we know that will happen. That happens every year. It's taken me four years to realize that every time we pass a TEEOSA spending bill, just because we pass it for this two-year cycle doesn't mean that won't change the next two years... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR MELLO: ...and the two years after that, because it does every year. And it does that to try to fit within a balanced budget model in which the Nebraska Legislature and the Nebraska executive branch operates under. So to some extent, we know that the projected budget deficit next year is projected because it's based on historical spending projections with the exception of TEEOSA, which is the only statutory change right now that has to be made, which we know and Senator Adams has discussed this, we know that will change. It changes every year. So while I would say, yes, we have work to do next year, those who are going to be on the Appropriations Committee will have work to do to balance the budget, like they do and like we do every year. I think AM2572 can fit within that hard work over the next two years. [LB970]

SENATOR COASH: Time, Senator. [LB970]

SENATOR MELLO: Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Mello. Those wishing to speak: Senator Brasch, Avery, Council, and others. Senator Brasch, you're recognized. [LB970]

SENATOR BRASCH: Thank you, Mr. Speaker, and good evening, colleagues. We all seem to agree on one thing, is that we've had many e-mails and we've had many phone calls about LB970, proponents, opponents, some neutral. And in Revenue Committee we have heard the same. You know, many people came forward expressing concerns and others wanting relief. Over the last several recess days in our district, through several listening meetings, I have truly appreciated the opportunity to hear and learn from constituents, not by e-mail or phone but face to face, some heart to heart. We're talking about money here. Where does it start? You know, many have stood up here and said it starts with those who work. Money is what we use as an exchange for manufacturing, for products, for services. It is our economy and where does the state get its money? We get it from taxes. But it's not our money; it's the people's money. And, yes, we do agree, other people need our money. We have, you know, children, we have elderly, we have a variety of needs, but we also have to remember to be considerate of those who are earning the money because they are saying they need money. They need money to pay their bills, to help support their families. Many have expressed they have extended families. Some are members of the sandwich generation

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where they're raising children and they're helping their elderly parents. They're asking for a little relief as well. Revenue Department, federal and state, they want money. They want money because the money is used for services. It's used for regulations, for law enforcement, for safety, well-being, for our health, for our infrastructure, and the list grows. We don't take care of that by growing our taxes. We take care of that by growing our tax base so we have more money for all people, for government, and its services. That's what we've also been learning in our Revenue Committee, our different ways to keep and grow businesses here in Nebraska. Individuals...you know, our debate here is perpetual or so it seems. We probably could go on up until the midnight hour about taxes and money. Simple, there is not enough, not enough for the people who earn it and not enough for the people who have it, the children and people with disabilities, our elderly, our veterans, the list goes on. But the people who are earning the money with young families, working paycheck to paycheck, some relief seems like a good start. And the math is that we do need to create more jobs for more money. Our income tax is where we're taking this money and the people who are making the wages should have a voice, and that's what I'm expressing here this evening. Has the government, has the Revenue Department, IRS and both, have they been asking for too much? Our citizens are being heavily taxed by rising costs everywhere they turn, rising costs in fuel, food, their property, the cost of living. I am in support of LB970, AM2391, and AM2572 to AM2391 because it a... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR BRASCH: ...good start. The average citizen is also asking that perhaps we can give them some relief. Thank you, Mr. President, and thank you, colleagues. [LB970]

SENATOR COASH: Thank you, Senator Brasch. Senator Avery, you're recognized. [LB970]

SENATOR AVERY: Thank you, Mr. President. I haven't taken the microphone on this issue yet. I've been listening very carefully to the debate and I have decided that I am going to support the amendment, AM2572, and the reason I'm going to do this is not complicated. This amendment represents a great deal of give and take by a large number of people. It involves the two major committees, committees working together to reach agreement. It represents the best of what we do, and that is intense bargaining. It involves the executive branch and the legislative branches working together to come up with an agreement. Ultimately, it demonstrates the value of compromise in this process and compromise, we all know, is not fun and certainly not easy. Sometimes it's quite difficult and painful. But compromise is critical to getting things done in this body. It's critical to the way we do business. It's critical to the legislative process. As I have said here many times before, compromise means giving up something to get something. That's what this amendment represents. Everybody involved in this compromise, as

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reflected in this amendment, left the room a little bit unhappy last night, I suspect, but the important thing is that nobody left the room completely unhappy. Each side got something. All have something at stake in this proposal. This is the essence of what we do. This is the essence of the legislative process. If you can't compromise, you can't get there, folks, so we're all having to do that. I believe it deserves our support and it will certainly get mine. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Avery. Those still in the queue wishing to speak: Senators Council, Gloor, Schumacher, Wallman, and others. Senator Council, you're recognized. [LB970]

SENATOR COUNCIL: Thank you very much, Mr. President. And before I speak, I mean I want everyone to understand, I have the greatest respect for my colleagues and their opinions, whether I agree with them or not. And so I made that statement before I responded to the question of compromise. Who's compromising? I wasn't involved in the negotiations of AM2572, but is it represented that this represents my compromise? It does not. This represents a proposal that was arrived at by a group of our colleagues getting together and proposing it to us. Any compromise is the result of our votes on AM2572. And one of the problems that I have with LB970 and AM2572 is everybody has been talking about priorities and following through with addressing priorities. I didn't pick property tax, income tax cuts as a priority. I'm looking at school financing. I'm looking at child welfare reform. So when I'm asked to support LB970, I'm being asked to take the priorities that I set for this legislative session and set it aside for the sake of someone else's priority. And that happens, I understand that, I understand that, but we're being asked to make decisions about this priority, this priority that was set by the executive branch. We're being asked to make this, this body's priority, before we get a chance to look at and make decisions on bills that have revenue as well as General Fund implications, which passage of this before we get to that is a done deal. Remember last week, colleagues, we already voted to reduce the entirety of the Medicaid excess expenditure and it was represented that we did it in order to make room for this. Well, I didn't vote for it because why would I make room for something I don't know whether or not I'm going to support? No one knew, when we passed on to the next round that particular amendment to one of the budget bills, no one knew then what was going to come back on LB970. We didn't know. And now we know and many of us are I guess very willing to operate on a lot more faith than I guess I have, a lot more faith that the things that I believe are important for us to ensure that we adequately fund won't be harmed by this. I just heard, and maybe everybody else knew, that the numbers that are the result of AM2572 represents a growth in TEEOSA of 5 percent. Well, I'm a member of the Education Committee. As a member of the Education Committee, we have never stated that we don't want to see TEEOSA grow above 5 percent. [LB970]

SENATOR COASH: One minute. [LB970]

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SENATOR COUNCIL: We said we were going to have to slow the growth of TEEOSA, but we haven't said we don't want it to grow above 5 percent. And, quite frankly, I want to know what aspects of the formula would have to be adjusted to arrive at that 5 percent growth rate. A couple of years ago we had to fill a \$254 million funding gap with ARRA money. And then we had to come back later and figure out how we were going to fill that gap. And that was very disconcerting and everyone was concerned about that. But for some reason we're not concerned about that in the context of LB970. We see the cliff that...the cliff is greater, in fact, in many respects than the cliff we faced then. But it's not troubling to anyone today when I think it should be. I think... [LB970]

SENATOR COASH: Time, Senator. [LB970]

SENATOR COUNCIL: Thank you. [LB970]

SENATOR COASH: Thank you, Senator Council. Senator Gloor, you're recognized. [LB970]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. For most of this debate, I've been the presiding officer and that gives me the opportunity to and requires me to listen to the comments that are made and to focus in on this issue solely because I struggle with it. I could not have been supportive of LB970 as it came out of committee and made that decision. But I also understand and appreciate the work that has gone on into trying to find a bill that people feel is worthy bringing forward and that is enough of a tax cut to make a difference and be found acceptable all across the board. I came to...in fact, I wrote down a note here about the same time Senator Council and I believe another senator made mention of it, and that is what we can afford. What can we afford? This is a classic business decision. There are Nebraskans faced with this decision, put in another light, trying to make a decision about what they need to invest and what they can afford to invest based upon what they think is going to happen in the future. Should they buy and borrow to get more equipment because they think the demand for their product is going to be out there? Should they hire more employees to build an inventory because they think the demand is going to be out there? This is a decision made all the time by Nebraskans trying to make decisions about what the future holds and making business decisions accordingly. The city of Lincoln, for those of you who are Lincoln senators, seems to have made a strong commitment to build an arena based upon and predicated upon I think a better future and making a better future, and that's certainly a positive decision. There seems to be a more common theme across this state of people looking to buying equipment, farm equipment, buying farmland, looking to the future and pushing to the future. And so fighting this would seem to be swimming upstream against the overall attitudes most Nebraskans have out there. But there is one problem that unsettles me and that is I've had to make decisions like this, business decisions like this in the past. But I had some

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degree of control over the outcome. I had to make decisions about whether to entrench myself because tough times were ahead or invest because I felt good times were ahead or I could make good times. I don't feel like I have control over this. I don't think any of us do. It's not only a collaborative effort; in some cases it's a conflicting effort. And part of my unsettledness also comes from, as Senator Conrad appropriately pointed out, we have people who are waiting who have, in fact, fallen behind as a result of decisions we've made who are waiting to catch up. And we're making this more of a priority than getting back to where we were with some of those constituencies. That's unsettled. If we guess right on this, if the future is more positive, if being ranked better with the Tax Foundation helps promote business, retirees returning to this community, whatever may come of it, whether Nebraskans happily take that amount of money that comes back to them, predicated on this maybe going through--I went out and bought my monthly cup of coffee that this would get back to me today--if all that is true, we are creating a better tomorrow. What are the ramifications for us if we guess wrong? [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR GLOOR: In business, you run the risk of bankruptcy. You run the risk of driving your business into the ground. If you're in management, you run the risk of losing your job. We don't suffer from that, which part of the problem we have is that the direct ramifications for us are maybe a special session or even tougher decisions in the future. I will be supportive of the amendments and the bill. I do so with great reservation and after great, great thought about this. I think it is the only decision that we can probably make at this point in time with the information before us and the way the winds are blowing. We need a better future. We certainly need a better future, and I'm not sure 1 percent in revenue growth will do it. Thank you. [LB970]

SENATOR COASH: Thank you, Senator Gloor. Senator Schumacher, you're recognized. [LB970]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Gloor talked about uncertainty. There's one thing that we can be certain about: that this body is not going to raise taxes. We may cut taxes, but we're not going to raise them back up. That's a certainty as much as you can certainties in life. It has been said that people who do not learn from the mistakes of the past are apt to repeat them. In 2009, I spent some time in Harvard University breaking down and analyzing the systemic causes of the financial collapse and trying to figure out what went wrong in the decision-making process that led to that. Some of the brightest people in the world were leading that group. And it kind of broke down to this: a series of very innocent mistakes--buyers thinking that they could push their limit to the edge of their capacity to buy; real estate salesmen pushing their aggressiveness to the edge of what was reasonably limited or reasonably possible; mortgage brokers doing the same; bankers doing the same; ratings companies doing the same; investment bankers doing the

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same; pension fund purchasers doing the same; everybody at every little increment stretching things to the max of what was reasonable and still being able to call it reasonable. We know what happened. Phil Gramm was running around telling us the economics were fundamentally sound in May and by September we were in the middle of an economic free fall as "Hank" Paulson knelt on his knees before Speaker Pelosi and said I need \$700 billion and I need it now. We were collapsing. Today, I sat in the war room and we played with the computer again and we looked at revenues. And on each line we said, what's the best we reasonably can expect? And we plugged numbers in. And on just about every line on the expense side we said, what's the lowest we can reasonably guess this is going to be? Incrementally at each stage stretching the limit to want to come to the outcome that we could do this tax cut, which from an individual perspective does not really amount to much money, from a collective perspective amounts to almost the roads bill. We stretched the limits to get to a conclusion. Now what's the odds of all those things going to come out the way that we stretched them? Almost zero. And we didn't even begin to take into account things like the healthcare situation, with or without Obamacare--tens of millions, hundreds of millions of dollars perhaps. We didn't even begin to take into account how we were going to respond if the federal government cut back some major programs on which we depend and we may have to fund. And that probably is going to happen, either because the bankers are going to raise the interest rates or the Congress is going to cut spending. We didn't even begin to account the influence of the Chinese economy and the possibility that the yuan would become before this budget period is over a world currency exchange currency in competition with the dollar. [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR SCHUMACHER: We didn't even look at all those dangers. And it seems to me that right now, and I'm struggling with this because I don't like taxes--but it seems to me we must be prudent and we must say what should we do. And I can only think of the little rabbit in the pasture with the wolves or dogs running around. Until you can figure out what the right thing to do is, you better crouch down, slick your ears back and sit there and hope they don't smell you because, folks, we make the wrong move and we're lunch. And I may push my button again to talk about how this may really adversely affect our ability to get some of these datacenters and play with twenty-first century businesses. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Schumacher. Senator Wallman, you're recognized. [LB970]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I share the same concerns as Senator Schumacher. You know, this will be in statute. What do we do if this don't work out? Who is going to vote for a pay raise or I mean tax raise then? We found out with the property tax relief nobody wants to rescind it. That's what you got

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to think about and why you want to put these economic development incentives at risk. It seems like everybody wants a tax cut. Well, if people don't have a job, I guess they don't have to pay taxes. We talked about good paying jobs to pay taxes. Property taxes, income taxes, sales taxes, automobile taxes, taxes, taxes, taxes. We tax everything, folks. We change one little thing, it's not a savings. We're going to shift it to something else--school aid, TEEOSA funding. Senator Adams, I appreciate what he said. Ever since I've been in here we balance it on healthcare and children and we say we'll cut taxes. No, you won't cut taxes. You'll shift it to your local people to pay school taxes, who pay for cities, their streets, their sewers. We took away some city aid to municipalities to save to balance our budget. We did some things in here that I was definitely not proud of and neither should any of us be proud. You shifted taxes to balance our budget to stick it to the municipalities. Is that the way to do business as a state, as a state senator, as a representative of your districts? About everybody has a city or village in here and we economic development for grants, for community halls and all of that if we want to keep doing that stuff. It really concerns me that...I hate to talk about raising taxes. This isn't raising taxes. This is leaving it the same as it is. I never heard anybody complain about their income tax, but I definitely heard about their house taxes. If you lose your job, you can't pay your house tax, guess who comes at the door? The banker, the real estate agent repossess your house because you don't have a job. And I voted for these economic incentive bills because we do need jobs. We do need people live in our small communities in rural America. If we want to stay in rural America, if we actually want to do that, then we have to make sure where our income comes from. Income comes from everybody. We have a big bucket in this state and the small communities don't have that big bucket. They only have one or two means of revenue and we have a lot more income. What do we do with this income? It's not my money. It's the people's money. They expect me to do good things with their money. Do I always vote the right way with their money? No. Everybody has a different opinion. The banks have a different opinion, the insurance companies, the farmers. That's what's great about America, folks. Cattle feeders and the farmers don't always agree. Insurance agents and the farmers don't always agree. The farmers are an independent lot, but we know at the end of the day we have to figure where our income comes and how it's spent, not just year to year. We figure...our preacher told me once, it's amazing you guys have your crop plans figured for two, three, four years. That's where a fertilizer program works in. So, folks, watch out how you vote on this. Thank you, Mr. President.  
[LB970]

SENATOR COASH: Thank you, Senator Wallman. Senator Lathrop, you're recognized.  
[LB970]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am satisfied that I will not get answers today on how we pay for this. It's just not going to happen. There's too many variables. I hear Senator Schumacher say that he was down in the war room or wherever the money is on the screen and the assumptions are run through the



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process. And so I'm going to...I've tried to decide what I should do today because what I know I need to do is to get down to wherever this room is where the assumptions are run through a computer program or a process and we can see what this looks like. If we are not going to wait for the appropriations process in the next biennium, then we need to have some exercise that simulates that with certain assumptions so that we can talk about where the sacrifice is going to be and where it's coming. And that leaves me with this tonight: I think I'm going to vote to move LB970 out of respect for the work that has been done by the Appropriations Committee, who apparently went through this process. I will, however, between General and Select go down to wherever these...down to Fiscal's Office, wherever this happens and have them go through the scenarios with me as they've apparently done with Senator Schumacher. I would invite all of you to do that so that you can see is this doable or are we getting too far out ahead of ourselves. Is there too much risk associated with this? I want to acknowledge the work of the people over in Appropriations that they do every day and those who have brought this tax cut from where it started to where it's at, which is small. This is a small, small tax cut. It is a fraction of what was pitched to us early. And I appreciate the work of those who have got it to where it is today. I still need to see that when we run it through the process that it is something that is doable or at least that we can come to the floor and say, look, state aid to schools is down to 1 percent if that's what the number has to be. Are we okay with that? Because we should be talking about those things today, even if it is in some manner a simulation of what will happen over in Appropriations next year. Thank you. [LB970]

SENATOR COASH: Thank you, Senator Lathrop. Senator Mello, you are recognized. [LB970]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. It's my final time on the mike on this amendment, and there is one thing that I was unable to continue on the last time I spoke earlier on in regards to our revenue projections. One bill that was passed last year unanimously by the body, LB642, allowed our Department of Revenue to enter into contracts to be able to essentially data mine those Nebraska companies and taxpayers who ultimately are not providing or paying their fair share of taxes through whatever exemptions they may be trying to find that ultimately is helping them to skirt their ultimate tax liability. It was a bill that ultimately was put forward by Senator Cornett, adopted by this body, and put forward to the Department of Revenue and the Governor with the thoughts of generating revenue from those people who were not paying their fair share. Unfortunately, that bill still has not been fully implemented right now, which that bill is estimated anywhere between \$10 million to \$25 million in additional revenue that would be collected from corporate and individual income taxes from people who ultimately aren't paying their fair share right now. My hope is that not just with the adoption of AM2572 and LB970 that ultimately this Legislature can continue to push the executive branch to implement that piece of legislation to help bring in more revenue from those companies and individuals who are not paying their

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fair share of income taxes in our state, which ultimately covers part of the cost to provide a middle- and low-income tax cut that's put forward in AM2572. Earlier someone discussed the issue, the general issue of whether or not giving a tax cut that's progressive in nature to middle- and low-income taxpayers has real any benefit. I would argue in general macroeconomic policy based on a consumer spending economy, which the United States currently operates from, as well as the state of Nebraska, that providing direct income tax relief or direct tax relief, whether it's through a rebate or tax credit, ultimately gets recycled back into the economy by those individuals who are spending the money immediately day to day, paycheck to paycheck. Someone brought the issue up of whether or not providing a family who makes \$60,000 a year \$145 back in tax relief, whether or not it will have real any impact. I would argue with the increased cost of groceries, with the increased cost of gasoline, and the general economic principle that providing money back to those folks who are going to spend the money immediately recycles back into the economy in the same way we've seen recent tax relief proposals done at the federal level, both right after actually early 2009 when we passed...when the federal government passed the American Recovery and Reinvestment Act, which provided immediate tax relief to those middle-income earners as well as the payroll tax deduction that was recently reauthorized in Congress last month, which was a similar targeted proposal that provides tax relief back to those middle-income people who will spend the money immediately to generate money back into the economy. That's a...now granted there are some probably on this floor who generally disagree with that economic philosophy. That's debatable. That is ultimately what you're seeing, though, in AM2572 is that we are providing direct relief to those families who make under \$88,000 anywhere between \$145 to \$40 a year that gets spent immediately because they are not taking that money ultimately and investing that. They're not taking that money and saving it. They're spending it paycheck to paycheck on gasoline, on groceries, on day-to-day living expenses. That money gets recycled back into the economy... [LB970 LB642]

SENATOR COASH: One minute. [LB970]

SENATOR MELLO: ...that taxes gets recycled back into the economy, which is part of ultimately why this has an impact. You won't see that on the fiscal note, no doubt. And actually very few people have talked about it, with the exception of one of our colleagues who stood up and questioned whether or not this has an impact at all on everyday working people. I say it does in the sense that this is money that they will spend immediately. Whether it's \$5 a month, whether it's \$12 a month, that money will get spent. It will get spent on the day-to-day living expenses that we know people who fall in the middle class have to spend to get by. So to some extent I don't want to dig too deep into a philosophical economic policy debate in regards to AM2572. But there were questions raised on whether or not this will have an impact. Colleagues, I think it has an impact on those who live paycheck to paycheck, who will spend the money on their day-to-day living expenses... [LB970]

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SENATOR COASH: Time, Senator. [LB970]

SENATOR MELLO: ...and that money gets recycled back into the Nebraska economy. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Mello. Those wishing to speak: Senators Burke Harr, Schumacher, Cook. Senator Burke Harr, you're recognized. [LB970]

SENATOR HARR: Thank you, Mr. President, members of the body. Well, I resemble that last comment. I live paycheck to paycheck. The extra money would be nice. I'm not sure if it's noticeable, though. We are facing a problem, ladies and gentlemen. I can only say it so many times--\$400 million. I know that seems boring, seems like a broken record, but it's true. We know we have a deficit coming and we're digging. I'm going to use a football analogy. We need to hold the line. We know something is coming. There's a blitz coming, a \$400 million blitz right now. What are we going to do? We're going to make it \$550 million blitz; \$462 million, we're making it \$550 million. That's not the prudent thing to do because guess what happens? We give up yardage now, there's going to be another blitz down the road. This isn't going to stop. There is an old adage, liberals are called tax-and-spend liberals. I don't know if I agree with that, but it seems as though we're faced with the exact opposite--nontax-and-spend individuals. Nobody wants to pay taxes. I don't want to pay taxes. I would challenge you to find someone who does want to pay taxes. But sometimes you got to eat your vegetables. That's part of your duties and responsibilities as a citizen in this great state and this great country of ours. We don't know what's coming down the road. We got high gas prices. That could hurt our economy. We have potential of huge increases in Medicare and Medicaid. That would hurt us on the state level. How are we going to pay for these items? Not saying we can't. I'm saying how? I challenged last time I was up here for someone to tell me how we were going to do this. I haven't heard one person come back. Everyone is talking about no one wants to pay taxes. Great. Great, I agree, but how are we going to do this? This is one piece of a puzzle. This isn't a bill that can stand by itself. There is a reason, a process that this Legislature generally uses and there's a reason for that. And that is because we are looking at making a tax decision on a budget next year without having the whole picture, without having the whole puzzle. It's not the right time to do it. Again, nothing prevents us from doing LB970 and maybe it is the right thing to do next January, but nothing prevents us from doing it next January. There's something out there called dynamic scoring that was referenced earlier without using it and that's when you base future growth based on...or future revenue based on growth. That's what we're trying to do here. But we don't know what the score is going to be. We don't know how much money we're going to have. Four years ago I believe in something called hope. Twelve years ago I believed in a man from hope. The fact of the matter is didn't always turn out the way I wanted it to turn out. That's what hope is. It's just that. You want an outcome but you don't know. It's not based on logic. It's not based on reason. It's based

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on a dream. Again, we're going to have plenty of time to debate this. If someone wants to tell me how in the world we're going to pay for this, I am more than open to that. But until that happens, I'm going to have a tough time voting for this underlying bill, LB970. So I will challenge anyone... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR HARR: ...over the next level of debate to tell me--we're going to have plenty of time to debate this--how we're going to pay for this over the long term. Thank you very much. [LB970]

SENATOR COASH: Thank you, Senator Harr. Senator Schumacher, you're recognized. [LB970]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. The paradigm did change in September of 2008. What worked before doesn't work after. And those states, those corporations, those nonprofit organizations that are able to adapt to that fact and able to analyze the situation, realize that the old way of saying this is private enterprise, this is public function, and never the twain shall meet is gone as is the security of economic predictability. When we do economic development, we're still in the old paradigm it seems. Let's see what we can do to tantalize a corporation by the reduction of taxes, by the giving of perks, by the competition to the bottom with whoever we're competing with. And that model worked for a long time. But at some point you hit the bottom. And you have to ask yourself these big companies that have no real tangible things but instead are basically and substantially, in their billions and billions of dollars of net worth, relationships who have young and bright and well-educated founders who have learned to adapt, whether they will view this old paradigm that way. And as we debate this particular issue, I have to ask myself, does Mark Zuckerberg look at just the bottom line? Or when he's making a decision where to put a datacenter, does he look at the state in which he's putting it, that state's ability to act responsibly toward its citizens, responsibly in producing those social...necessary social programs that are necessary for a decent life and for his employees? Does he weigh that into the calculation? Does he weigh in to how we place our values on the future and the organization of capital for meaningful future development when he makes those decisions? Perhaps we will get a chance to learn because we're probably on the old paradigm about equal with our competitor. But we're demonstrating something about our character, about our conservative nature to protect the future and govern in prudence when we vote here today and when we analyze these matters. The course we may be heading down is imprudent, may not fit the new models, may not be the wise thing to do. The benefit of rushing to a conclusion for a minuscule tax decrease may cost us, not only in the fact that we will not be able to fund things because we won't raise taxes. If we don't have the guts to say no to this, how could we ever have the guts to raise taxes? That would be a bad idea because we've told the people, hey, we don't

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need the money. I think we are on dangerous territory and turbulent waters for no good reason, no good reason under these circumstances to act in anything but a prudent and wise manner, conserving our resources, building our public assets, meeting our social responsibilities... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR SCHUMACHER: ...and really realizing that the rules that were are no more and calling upon our creative energies to conserve spending, to build assets, and then when the time is right to give meaningful tax relief and maybe even a new tax paradigm that doesn't rely upon our structures at this point of sales, property, and income taxes, but a more creative design. We need to discuss a lot of things. But one thing we don't need to do is be constricted so we can't function as a state because we pledge not to increase taxes and we have no way of avoiding expenses. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senator Schumacher. Senator Cook, you're recognized. [LB970]

SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I rise in the same kind of consternation expressed by many of my colleagues this afternoon and evening. The idea that we as Nebraskans and as policymakers would choose to offer a tax cut at this juncture with families still on the behavioral disabilities or developmental disabilities waiting list, with Medicaid increases uncertain, and that was way before anybody in this room ever heard of Barack Obama, that piece of the pie was going up and up and up, and then uncertainty related to our funding for public education in the future. It's very interesting. I also did not have the opportunity to serve during 2007 in what were flush years, I think, for us as a state and for us individually. But here's what I've noticed after being on the planet from 2008 up through now, the way we approach our finances, personal and public finances, needs to change and it needs to err on the side of saving and conservatism and not on the side of the immediate, something more related to immediate gratification, if you will. With that, I will concede the rest of my time to the senator from the area of Beatrice, Senator Norm Wallman. [LB970]

SENATOR COASH: Senator Wallman, you're yielded 3 minutes 15 seconds. [LB970]

SENATOR WALLMAN: Thank you, Senator Cook, members of the body. I grew up in a conservative household. Folks had horses. Dad was one of the first ones to have a tractor, progressive. There's a difference between conservatism and progressive people. Progression, if you're very, very progressive, you're going to spend money. It takes money to make money. And one thing about it, employers that have high-end tech companies, what do they look at? The school system. You better have good education--community colleges, high schools, universities. That's what they look at. You

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know, whether it be Novartis here in town or anybody else, they look at high-end institutions and that costs tax money. So if we want to sustain our state and be a leader, I hear people say we want to be a leader, do we want to be a leader? I'd like to ask Senator Mello a question if he's here. [LB970]

SENATOR COASH: Senator Mello, will you yield? [LB970]

SENATOR MELLO: Yes. [LB970]

SENATOR WALLMAN: Thank you, Senator. Under this present tax proposal you have, if the revenues go south, what are you going to do? Change the formula, have a special session or what? [LB970]

SENATOR MELLO: Well, Senator Wallman, actually I was just explaining to Senator Council if for some reason we saw I would say a dramatic drop, which looking at our current legislative fiscal projections from Global Insight doesn't appear to happen, but if there was something that happened, if you notice the way the amendment is drafted, is in stairsteps. It happens over two different fiscal years so the first fiscal year it affects only the rates. And ultimately this Legislature will be back next year before the second year of implementation actually occurs. So if for some reason that the Legislature decided to advance AM2572... [LB970]

SENATOR COASH: One minute. [LB970]

SENATOR MELLO: ...and make that LB970 and next year revenues for some reason dropped off to the point where it caused grave concern for us to not be able to ultimately meet our priorities as we see as a Legislature, we could ultimately change the second year of the tax plan, so to speak, and not ultimately expand the brackets and just go with the existing rates if that was the will of the Legislature. [LB970]

SENATOR WALLMAN: Thank you, Senator. What would that rate be, what percentage point? [LB970]

SENATOR MELLO: Senator Wallman, looking at essentially...ballparking without having the fiscal note in front of me, it cuts it about half. So ultimately instead of \$7/33 million and \$55 million you'd probably see \$7/25 million or roughly \$7/33 million and it would stay at \$33 million, so to speak, if you don't enact the second year of the plan. [LB970]

SENATOR WALLMAN: Thank you, Senator. Thank you, Mr. President. [LB970]

SENATOR COASH: Thank you, Senators. Seeing no other members in the queue, Senator Cornett, you're recognized to close on AM2572. [LB970]

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SENATOR CORNETT: Thank you very much, Mr. President and members of the body. AM2572 is a compromise between myself, the Governor, and the members of the Appropriations Committee in regards to the amount we can afford, that they plugged in numbers and, again, it is not all members. I will make sure that I acknowledge Senator Conrad, that agreed on that number. But that is the number that we received from the...from Senator Heidemann that we needed to reach for. And within that number, we have eliminated everything except lower- and middle-class income tax relief. No, it's not everything we wanted, but it is a start and it is a step in the right direction and it helps our lower- and our middle-class income tax earners. With that, I urge the body to support AM2572. I request a call of the house and a roll call vote in normal order. [LB970]

SENATOR COASH: Thank you, Senator Cornett. There has been a request for a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB970]

CLERK: 29 ayes, 1 nay to place the house under call. [LB970]

SENATOR COASH: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Janssen, please return to the Chamber and record your presence. Mr. Clerk, there's been a request for a roll call vote in regular order. Please read the roll. [LB970]

CLERK: (Roll call vote taken, Legislative Journal page 1029.) 40 ayes, 3 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB970]

SENATOR COASH: The amendment is adopted. I raise the call. Speaker Flood for an announcement. [LB970]

SPEAKER FLOOD: Thank you, Mr. President and members. Good evening. Quick note, tomorrow we are going to start at 9:00 a.m. We are going to start tomorrow at 9:00 a.m. We are absolutely going to have the 8:00 a.m. start on Thursday and let me tell you why. We're going to take up consent calendar on Thursday, and there's a lot of bills that you're going to see in advance on the agenda for tomorrow. They're not coming up tomorrow, but we're posting them as per the rules. And we are going to start at 8:00 a.m. Thursday just a reminder, and we do have that tornado drill at 11:45 a.m. Thursday that we have to break for briefly, but we're going to take up consent. And it's going to require a lot of work and it's going to require you to be here for a while on Thursday given the number of bills that we do have. So thank you very much.

SENATOR LANGEMEIER PRESIDING

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SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, items for the record.

CLERK: I do, Mr. President, thank you. Senator Gloor offers LR508 and Senator Lautenbaugh LR509, both calling for interim studies. Senator Flood would like to print an amendment to LB1115. (Legislative Journal pages 1030-1031.) [LR508 LR509 LB1115]

Mr. President, with respect to LB970, Senator Wallman would move to amend the committee amendments. (AM2588, Legislative Journal page 1031.) [LB970]

SENATOR LANGEMEIER: Senator Wallman, you are recognized to open on your amendment. [LB970]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. This is a concern I have: Why do it so fast? This would just literally postpone it for a year and then they could still do the same thing because I do have concerns why we were in such a hurry to do something that put our General Fund at risk. Thank you, Mr. President. [LB970]

SENATOR LANGEMEIER: Thank you, Senator Wallman. You have heard the opening on AM2588 offered to the committee amendments. The floor is now open for discussion. Senator Cornett, you're recognized. [LB970]

SENATOR CORNETT: Thank you. Senator Wallman and I had a discussion off the mike on this. He knows that I'm in opposition to this amendment. We have worked this hard to get us to this point with implementation now. We did the budget cuts necessary for this year's implementation. I oppose AM2588 offered by...or pardon me, AM2391 (sic) offered by my friend, Senator Wallman. [LB970]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Seeing no other lights on, Senator Wallman, you're recognized to close on AM2588. Senator Wallman waives closing. The question before the body is, shall AM2588 be adopted to AM2391? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB970]

CLERK: 5 ayes, 23 nays, Mr. President, on the adoption of the amendment to the amendment. [LB970]

SENATOR LANGEMEIER: The amendment is not adopted. Mr. Clerk. [LB970]

CLERK: Mr. President, Senator Cornett, I had...I had an oversight. I had FA56, Senator. [LB970]



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SENATOR LANGEMEIER: It is withdrawn. [LB970]

CLERK: I have nothing further to committee amendments, Mr. President. [LB970]

SENATOR LANGEMEIER: We return now to discussion on AM2391, the committee amendment. Seeing no lights on, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question before the body is, shall AM2391 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB970]

CLERK: 35 ayes, 4 nays, Mr. President, on adoption of committee amendments. [LB970]

SENATOR LANGEMEIER: The committee amendments are adopted. [LB970]

CLERK: I have nothing further on the bill, Mr. President. [LB970]

SENATOR LANGEMEIER: We return now...thank you, Mr. Clerk. We will return to discussion on LB970, the bill itself. Seeing no lights on, Senator Cornett, you're recognized to close on LB790 (sic). [LB970]

SENATOR CORNETT: I think that was LB970, but... [LB970]

SENATOR LANGEMEIER: Excuse me. [LB970]

SENATOR CORNETT: Mr. President and members of the body, I want to thank everyone that has worked with me on this and I want to thank the body for their input. I don't think that there is a senator in here that I haven't spoken to in some regards to this bill and gotten input from them. I appreciate the support on the last vote, and I appreciate your vote on LB970. Thank you. [LB970]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on LB970. The question is, shall LB970 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB970]

CLERK: 36 ayes, 6 nays, Mr. President, on the advancement of the bill. [LB970]

SENATOR LANGEMEIER: LB970 does advance. Mr. Clerk, we return back to where we left off prior to the date certain, we return to LB745. [LB970 LB745]

CLERK: LB745, a bill by Senator Fischer. (Read title.) Introduced on January 4, referred to the Revenue Committee for a public hearing, advanced to General File. There are

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committee amendments. (AM2073, Legislative Journal page 638.) [LB745]

SENATOR LANGEMEIER: Senator Fischer, you are recognized to open on LB745. [LB745]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I thank you for the 36 votes for taxpayers on the previous bill, and I hope I will see that on this bill that is for taxpayers also. Last year, I introduced and this body passed LB165, which placed restrictions on telecommunications occupation taxes. Since the passage of that bill, I have been contacted by Nebraskans across this state who are concerned with occupation taxes levied by municipalities for purposes beyond telecommunications. For this reason I introduced LB745. The green copy of the bill would accomplish the following: It would require a city to put any proposed new occupation tax to a vote of the people. The tax revenue must have a specific purpose and the tax must have a sunset date. Any changes to the rate or termination date of an existing occupation tax would also need to be put to a vote of the people according to the green copy. The Revenue Committee did unanimously advance the bill with an amendment that makes some changes to the green copy, and Senator Cornett will address those. However, I would like to take some time to provide further background on why I did introduce this bill. Municipalities across this state levy occupation taxes on a variety of businesses, services, and products for a variety of reasons. State statutes provide a very broad definition of occupation taxes with very little restrictions. The Department of Revenue does not monitor these taxes and does not have a list of the various occupation taxes across the state. At the bill's hearing in January, representatives from city councils, mayors' offices, and the League of Municipalities, testified in opposition to the bill. Their claim was that this proposal would limit their opportunity to raise revenue. I disagree with that assertion. I want to be clear, this bill does not cap occupation taxes. The point I would like to make here that I made during the hearing is this: The state provides cities the ability to levy occupation taxes. I believe it is within our purview to provide limitations on these taxes as we do with sales taxes and other programs. In fact, I believe occupation taxes have become a sales tax and they need to be treated as a sales tax. Before a local sales tax can be increased, a city must put that proposed increase before the taxpayers, before the voters. Another example is the implementation of municipal economic development programs. Before adopting a program, the city must submit the question to a vote of the people setting out specific terms of the program. These terms include the program time line, the source of revenue, and the total amount of revenue that will be collected. I do not see this bill as a tool to restrict cities from raising revenue, but rather as a policy to provide more transparency and purpose to the process. There are many examples across this state where cities have put their occupation tax implementations to a vote of the people with successful results. In Norfolk, the community decided it wanted a water park and voted to fund that water park with an occupation tax. The city of Lincoln wanted a new arena; similarly, the people of Lincoln voted to impose an occupation tax on certain businesses to fund that project. I believe

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LB745 is necessary to control the use of these taxes and provide Nebraskans with a clear plan for the tax revenue. I look forward to a full debate on this issue and I will be happy to answer any questions. Thank you, Mr. President. [LB745 LB165]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Fischer. And as the Clerk mentioned, there are committee amendments. Senator Cornett, as Chair of the Revenue Committee, you are recognized to open on AM2073. [LB745]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB745 amendments adopted by the Revenue Committee make two modifications to Senator Fischer's original bill requiring elections to implement new occupation taxes. The first exception to the voting principle found in the committee amendment is the right to raise the rate on an existing occupation tax which was imposed for a specific purpose. The second exception allows for a termination of an occupation tax without a vote if the termination is prior to the date established at the time of implementation. The Revenue Committee voted this committee amendment out onto Senator Fischer's bill because we felt that it defined the bill a little bit more. In regards to occupation taxes in general, the Revenue Committee and some of you know that I had my own occupation tax bill that I had considerable difficulty working on. And so I appreciate Senator Fischer's bill on occupation tax, because, frankly, it was an eye-opening experience to delve into occupation tax. Occupation taxes in our state are the only tax that does not have some type of limit at the city or local level. Municipalities can pretty much implement an occupation tax on anything and for any rate. That is what brought us to the bill that Senator Fischer introduced last year in regards to occupation taxes on telecommunications, where because of this leeway we had become number one in the nation on telecommunication occupation tax for cell phone use. When we started looking into occupation tax--and a number of other issues brought it up, the conflict over the restaurant tax in Omaha, wheel tax issues--we learned that occupation taxes were initiated a long time ago, and they never had any structure on them. So I reached out to a number of the municipalities with my staff, asking, well, how much...well, first we asked the Department of Revenue, how much do each of the municipalities bring in, in occupation tax? The Department of Revenue didn't know because it's not reported. We reached out to the municipalities. A number of the municipalities refused to acknowledge or said that they would report that amount or did not have that data available. So I'm sitting there in committee, and I'm like, okay, we don't know how much is being collected, we don't know who it's being collected from, and it's not being reported to anyone. There's no cap on occupation taxes, there's no structure to occupation taxes, and this makes me uncomfortable. But how do you get your hands around that issue? My staff member, Bill Lock, when we really delved into it, was very pointed and he made an observation that I'm going to share with you: It's like horses that have gotten out of the barn; and not only are they in the field, they are four or five

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fields away--because each municipality has an occupation tax on something different, each one has them structured differently, each one has different rates. Everybody is doing it differently. How do you put structure around something that is that far gone? And that's what I was wrestling with. Now Senator Fischer knows that LB745 is not necessarily the way I would have done an occupation tax bill, but I was comfortable enough and thought that we needed to have a discussion about occupation tax as a whole on the floor of the Legislature, and to discuss do we put limits on occupation tax, and if we do, how do we do that, that I felt comfortable with the committee amendment, voting this bill out of committee. I urge the body to support the committee amendment and listen carefully to the debate on occupation taxes, because I guarantee you they affect you all in some way. They affect all of your citizens in some way, and they affect everyone differently. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the opening on LB745 and AM2073. The floor is now open for debate. Senators wishing to speak include Senators Cornett, Fischer, and Avery. Senator Cornett, you're recognized. [LB745]

SENATOR CORNETT: I will take this opportunity simply to state something that I did not mention in my opening on the committee amendment. One of the other interesting facts about an occupation tax is it sits outside the spending limit levy for the cities. This is money that they do not have to put in as part of their lid levy or their spending levy. So not only does it have...are they different than every other tax in the ways that I've mentioned before; there is no limit on the amount that you can tax and not have it included in your levy...your budget limit. With that, I will yield my remainder of my time to Senator Fischer. [LB745]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Fischer, 4 minutes 20 seconds. [LB745]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Chairman Cornett. I do appreciate the committee amendment. We had a long discussion in committee. As you can see, the bill with the amendment came out 8-0. These occupation taxes are interesting little devils. But I also realize that cities need revenue and decisions need to be made at the local level. That's one of the reasons for the amendment. With the amendment, a current occupation tax will not require a vote of the people if any changes are made to that unless the money goes for General Fund purposes. That's because we do elect our local officials to make budgeting decisions. If they have put in place, if there's currently an occupation tax, say, for a water park, and it's bringing in too much revenue or it's bringing in not enough revenue to meet their obligations, to meet those bonds, then it's within that city council process where they can make an adjustment. I think that's important and I think it recognizes the role that the city needs to have in that in making those decisions within that process. But I also believe we need

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to remember what our policy is going to be on occupation taxes. As I said earlier, I believe there's sales tax. There's sales tax, though, that doesn't have a limit. You know, we have a bill on Select File that would allow a city to increase their sales tax. We don't have any limit on occupation tax. I can tell you a story about a community where they had a 2 percent tax, occupation tax on lodging. The city council decided to raise it to 6 percent. That's a big increase. But then they waived their three public readings. The public doesn't have much to say in cases like that. And I can tell you that the public, the taxpayers, are up in arms over taxes. We all know it. That's why 36 of us just voted for tax relief. The public wants a say. I don't know what the fear is, because if you have a good project and you've worked with your community and you have the buy-in on the need and the necessity of that project, then it should be voted on. But we have occupation taxes, but they are a sales tax in my view, with no limit, no vote. I said earlier in my opening that sales tax...if a city wants to implement a sales tax, it requires a vote of the people. If a city wants to implement a sales tax for economic development purposes, it requires a vote of the people, it requires a specific purpose, and it requires a sunset date. [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR FISCHER: That's what this bill is doing. It's saying any new occupation tax by a city needs a vote of the people, needs a specific purpose, and it needs a sunset date. Taxpayers wants transparency. Taxpayers want a voice. I served on a school board for many years. If you have a bond issue on a school board, it takes a vote of the people. Citizens are granted this vote, this opportunity, to help makes these decisions in many other cases. But occupation taxes seem to be an entity unto themselves, and I don't believe that that makes any sense. [LB745]

SENATOR CARLSON: Time. And now Senator Fischer, you're on your time. [LB745]

SENATOR FISCHER: Thank you, Mr. President. When we look at occupation taxes, they serve a purpose, but we need to get some control over what's happening. We're not asking in this bill to put a cap on them. We're not asking to have them put within the lid, which Senator Cornett told you earlier that she's looked at doing. What we're asking for is transparency for voters, accountability to voters. I know a lot of you have gotten called out by lobbyists behind the glass. Those lobbyists are representing cities. They're representing city councils. I work with a number of city councils in my legislative district and I appreciate their hard work, and I know all of you work for city councils and you appreciate their hard work too. But I hope you remember that we're in here and we're working for taxpayers. We're working for taxpayers who are fed up with the way things are going. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Avery, you're recognized. [LB745]

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SENATOR AVERY: Thank you, Mr. President. I think this is not a good idea. Let me tell you why. We seem to be determined to put our cities and our towns in a straitjacket and force them to go to the property tax in order to fund their needs. You recall, last session, that we ended state aid to cities, which by the way, cost, I think, the city of Lincoln about \$1.8 million. And it required the cutting of about 5 percent of the entire work force in the city of Lincoln. That choice by the state, the one that we made in this body, and I supported--it came out of my committee, in fact--forced the city of Lincoln to add a penny to the property tax and the city's levy. If we want to raise property taxes, the most unpopular tax in this state, if we want to do that then we need to keep doing the same kind of things we're doing right now, because that's exactly what will happen. We also passed LB165, which Senator Fischer referred to, that restricted the communities of Lincoln and Omaha and all throughout the state our ability to apply the telecommunications tax. The result of that was that the city of Lincoln is now having to rely more heavily on the property tax. When I ran for office in 2006, nobody complained to me about the sales tax. Nobody complained to me about the income tax. Everybody, almost everybody complained about the property tax. And we talk about tax relief in here, and we spent about six hours on it today, and we almost never get around to doing anything about the property tax. And this bill will do exactly the opposite, and I'm afraid we cannot afford to do that. It is detrimental to the self-government of our cities. Our cities have to have the flexibility to meet their needs, and this seems to me restricts that. If you don't want to pay higher property taxes for police protection and fire protection, for roads and parks and other services that are so important to our local governments, if you don't want to do that then you've got to give the cities the ability to take care of their needs as best they can. Now there's another problem with this. Since at least the late 1800s, the municipalities in the state of Nebraska have had the constitutional and statutory authority to impose occupational taxes without a vote of the people, and that seems to me to be reasonable. And what I am suggesting to you is that we do not have to be the nanny to our cities. Give the cities some authority to deal with their own problems. We cannot have government by referendum. Government by referendum means that every time you turn around you've got to take something to the voters in order to get the authority to do what you need to do. We were told in the last comments that Senator Fischer made that we need accountability to the voters. Well, we already have accountability to voters, and that accountability... [LB745 LB165]

SENATOR CARLSON: One minute. [LB745]

SENATOR AVERY: ...is elections. We have...the leaders of our towns and our cities, if they want to impose an occupation tax and the voters don't like it, they'll take care of those leaders at the next election. That's where the accountability is. If we try to submit every unpopular action that government might take, if we try to submit that to a referendum, we are abdicating our responsibility to be responsible leaders. And I think that this is not a good idea and I urge you to vote against it. Thank you. [LB745]

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SENATOR CARLSON: Thank you, Senator Avery. Senators still wishing to speak are Senators Smith, Krist, Schumacher, Karpisek, and others. Senator Smith, you're recognized. [LB745]

SENATOR SMITH: Thank you, Mr. President, and good evening, colleagues. Senator Fischer, while this is a really sticky situation that you've brought to us, and while I absolutely truly, truly do appreciate what you're attempting to do here, I have some grave concerns. Local control is a very, very good thing. Government closest to the people is best. But overuse of voter participation is also a concern. Voters I believe do expect their elected officials to represent them. And when they elect us into office, they expect us to make some of the tough decisions. Some of the concerns that I have with this, and this is just from my own involvement in working within the city on planning commissions, the cost of the elections are a concern. If you have special elections, you're going to have additional costs to these communities. The turnout for special elections or elections where there are few items to generate voter turnout, you're going to have decisions being made by a small voter turnout. And then there's the city planning needs, and we do need to make certain our cities are equipped to be able to make decisions among those leaders that are elected by their voters to be able to make decisions to in the best way for their cities to operate. I would like to see a cap placed on occupation taxes, but I think you pointed out as well, Senator Fischer, that just due to the varying methods of assessment I'm just not certain how you would be able to get there with caps being placed on occupation taxes. And while I like the bill in concept, I'm just not sold that this represents the interests of the people at the local level in the very best possible way. Taxpayers, I do believe taxpayers want transparency, but they also want representatives that make decisions in their best interests. So at this particular point I'm just not certain I'm going to be able to support this amendment and this underlying bill. Once again, I agree with Senator Fischer in concept. I do believe our citizens are taxed too much, but when it comes to pushing this back to the voters to make decisions where city planning is important and the voters have already made decisions on the leaders in those communities to make these decisions, I'm just concerned. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Smith. Senator Krist, you're recognized. [LB745]

SENATOR KRIST: Thank you, Mr. President, and good evening, Nebraska and members. I understand Senator Fischer's intent and I understand the Revenue Committee's amendment. And sitting next to Senator Hadley has been a real education throughout this session for a bunch of different reasons. But to tell you the truth, my worry is that...and this is just from my own Douglas County, my own Omaha base. And I understand that it's a different situation there than in many small towns and cities around the state of Nebraska. But if I look at what we've done in my short time here in

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the Legislature, and mine starts well beyond these statistics, but if you go back, 2002-03, we took aid to municipalities down 25 percent; 14 percent in '03; '04, 14 percent; and then we know what we did here. The MIRF cuts, the MEF rollover, total program cuts through 2009. You know these statistics better than I do. You know from the Revenue Committee what we've done and what we've limited our cities and municipalities to. So I'm not going to try to baffle you with statistics. I'm just going to say that in talking with the Douglas County commissioners and talking with the city of Omaha, it truly is to a point where you can just tighten your belt so much and you have to have a revenue stream. So if we continue to eliminate the possibilities of revenue streams or sources of revenue within alternative modes, one of those being occupational tax, they are left with property tax increases. Now I don't think it's a last resort that has to get you to that point, but just as a statistic our own Douglas County health program is losing a million dollars a month and some of that money was coming from some of these revenue sources. So in Douglas County the health system that is a last resort and a godsend for many people who can't afford to go any other place, that's one of the places that they look to cut as we did in years past when money got tight. I'm just not sure that leaving the cities with no tools--and I hate the trite overused "tools in the box" or "extra tools in the bag," but it is true. If you start to eliminate all of the opportunities for cities to create revenue or fund programs, then they will be left with the ultimate, which is, of course, raising the property tax in order to make ends meet. Now if that was just my decision sitting in this chair as one of 49, I would say we have to make some decisions and we have to try to save the world. But I'm going back to local control and saying, you know, as Senator Avery pointed out, if you don't like your mayor, he's not going to be there next session, next term. If you don't like your city councilmen, get rid of them. And I think there's a lot of that happening across the state of Nebraska today or will happen. So I'm not 100 percent decided on either the amendment or the bill, but as Senator Cornett suggested earlier in her comments, it's time to start focusing on what these kinds of restrictions or eliminations of these programs or these tax,... [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR KRIST: ...occupational tax programs, will do to your individual municipality, your city. And in my case I have some reservations. And again I will listen intently, but I just don't want to be part of a decision process that makes an increase of property taxes an eventuality. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Krist. Senator Schumacher, you're recognized. [LB745]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I rise in support of letting the people vote, because when this all comes down, the people are the ones that are going to have to make tough decisions between whether they want a



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project or a service or they don't. You see, the game is about to come to an end. It's only a matter of time before some of the federal programs upon which we rely for free money are going to go away. And they're going to go away either because one side wins and cuts spending, slashes it, or because the other side wins and the international bankers say you're not getting by with paying no interest and your discretionary funds go away. So when that happens, the federal government is going to pass the buck here to this room, and we're going to have a tough decision. We're going to have to say we're going to raise taxes, which I think we will not and because we have already constrained ourselves even tighter. Or we're going to have to say, you know, we can't provide that service, the cities or the counties have got to, at which time the rubber is going to hit the road and the people are going to have to make a decision. And the people are going to have to ultimately do that because those are going to be tough decisions and their city governments are probably going to run for cover just like other legislative bodies run for cover in these tough times. And as a consequence of that, I think the issues should be fair and before the voters, and not only on sales tax but also on this. And the voters are going to have to know that the project is there, it's going to terminate, and that it will be they that make the choices between this, that, or the other thing, rather than an elected body that no longer can function without the consent of the voters because there's just too much to do--and the proper place for that choice is with the voters. So I'm supportive of this measure not because I dislike city governments. Up to now, they functioned in one way. They soon will have to function in another alongside of the counties and the interlocal bodies that they might form to try to put together a governance package and meet minimum public services. The paradigm has changed, and maybe if there's any bright side or lining to this cloud, it is that the people are going to have to get involved with the government again. They're going to have to decide when they want to use taxation as a mechanism for organizing their capital, when they want to do without services, and when they want to invest in the future or not. So I support this but maybe for different reasons than some. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Karpisek, you're recognized. [LB745]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Occupation taxes make me wonder sometimes if it's a way to get around a sales tax increase. What I really don't like about them is having to pay them, from a rural city coming to Lincoln or Omaha, and having to pay them because that's where you buy the product, which is also my argument with raising sales tax. But aside from that I do like the idea of a vote of the people, but I think that if it's just a small amount that it's going to bring in, I don't know that it's worth putting on the ballot. Would Senator Fischer yield, please? [LB745]

SENATOR CARLSON: Senator Fischer, would you yield? [LB745]

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SENATOR FISCHER: Certainly. [LB745]

SENATOR KARPISEK: Thank you, Senator Fischer. Would you be willing to look at something of a percentage of the total budget or a number that maybe if it's below wouldn't need to be a vote of the people? [LB745]

SENATOR FISCHER: I would, Senator Karpisek. And, in fact, Senator Schumacher and I have bounced that idea around in trying to figure out how we can do it, and we were hoping between General and Select we could maybe come up with an idea. So, yeah, I would like to look at that. I know there's been some concern by cities saying, well, it costs...I had an Omaha senator tell me it cost \$300,000 to have an election in Omaha. And let me clarify, if I may speak on your time, that we aren't requiring a special election here. This can be held at a general election. With that being said, if it does cost \$300,000 for an election and if the project is only \$500,000, that's not a good use of money. So, of course, I'd be willing to look at having some reasonable parameters put out there. [LB745]

SENATOR KARPISEK: Thank you, Senator Fischer. I appreciate that. I think that gets me a long way down the road. I don't know if it gets many others. But to go back a little bit, I've had a very hard time letting cities raise their own money. I don't think we should be in this situation because I didn't agree with cutting their state aid. But we did. And now they're trying to scramble to find a different way to make some money. What I don't understand either is someone who took away their state aid and still doesn't want them to find a way to do that. They need money. We just said earlier today that we don't want them to raise property taxes because it was a...to make it a disincentive to do that. But how are they going to do that? They cannot pass the buck down. We cut cities' and counties' budgets so we have extra money. What do they do? Services. They cut services, they cut employees. We talk about jobs all the time, but then we want cities and counties to cut jobs because they have too many people working. So what did we just do? We got rid of some jobs. It seems like the wrong way of going around things to me. I am very glad Senator Fischer talked about maybe a threshold for a vote of the people because, going back to my keno bill, I'll say that I think that the people who are elected... [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR KARPISEK: ...to those bodies can make their decision. Now I do want to warn you to think back how you voted on that. Let's not cast our ideas away now, now that, oh, well wait, this is something different; I think maybe the body can or cannot. Let's be consistent. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Fischer. Those still wishing to speak include Senators Hadley, Council, Hansen, Wallman, and others.

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Senator Hadley, you're recognized. [LB745]

SENATOR HADLEY: Mr. President and members of the body, I rise with really not sure exactly where I'm going to go on this, but I want to use the city of Kearney as an example. Right now, the city of Kearney has four occupation taxes. They raise about \$1.814 million annually. And that makes up about 11 percent of all the municipal tax revenues. If they were to do away with this, they say it would be about...if they didn't have these, they would have had to have raised property taxes 71 percent. Yet, on the other hand, recently Kearney had a proposal for an occupation tax, basically a restaurant tax, and the city council voted to put it to a vote of the people, actually voted 4 to 1 to put the tax to a vote of the people, where it was soundly defeated by the people. So I kind of rise with mixed feeling. I do think we have to do something to help the cities. Right now, property taxes and sales taxes and occupation taxes are their only sources of revenue. I feel that we're going to have a bill later where we talk about the half-cent sales tax and the increase. I think that has some real potential later on. I would suggest that we might want to look, if we're going to look at occupation taxes, maybe an alternative...and I haven't really broached this much with Senator Fischer but I would just throw it out, maybe the alternative to a vote of the people would be a supermajority of the council. Because I do believe that just being able to implement a significant occupation tax by a simple majority of the council, the same type of vote we would have for any local ordinance, probably strains a little bit. So I wonder if maybe a compromise might be reached by looking at some type of supermajority vote of the council in doing this or a vote of the people. I just throw that out as something maybe to discuss later. I will certainly listen to this. I do know that there has been, if Kearney is an example, taking these to a vote of the people does not always mean that the citizens are going to approve an increase in occupation tax. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Council, you're recognized. [LB745]

SENATOR COUNCIL: Thank you very much, Mr. President. Good evening, colleagues. And Senator Hadley, I think you raise a very reasonable and viable alternative for us to be giving some consideration to. When I hit my light, I hit it to get up and reiterate what a number of you have already stated, and that is that cities are confined to three basic sources of revenue: property tax, sales tax, occupation tax. And I certainly appreciate the concern that gives rise to Senator Fischer's introduction of LB745, but I also think that, you know, this body needs to take some responsibility for the situation that may have presented itself that gave rise to LB745. And let me place that in context. I find it ironic that when we talk about occupation tax increases or imposing new occupation tax increases, that the way for that to occur and to arrive at the determination of whether the community impacted by that believes that's the best direction for their governing body to pursue, we don't believe that, at least in the past, at least up until this point in time, that that same body politic is capable of deciding whether or not to increase the

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sales tax in that community. There have been bills introduced with the express objective of enabling municipalities to take to a vote of the people whether or not to increase the sales tax. And up until this point, that proposition has been soundly defeated. Yet, in the occupation tax setting, we think that's the...apparently we think that's the appropriate way to go, that we believe that the body politic is capable of deciding whether or not an occupation tax should either be imposed or increased. Senator Krist made reference to Douglas County. Well, I'm going to make reference to Omaha, and Senator Hadley, it's rather comparable. In the city of Omaha, 16 percent of its budget comes from occupation tax. And like I said, up until now, the city of Omaha has sought this body's authority to take to a vote of the people whether to increase the sales tax. When that was denied, denied, denied, I can tell you that Omaha resorted to the position of an occupation tax on restaurants. So in terms of how did we get to the point where we are, we need to look at some of the actions that this body has taken that has impacted cities and their ability to fund their operations. I'm also reminded of the fact that, as everyone has stated, we removed and withdrew state aid to municipalities. I'm also reminded of the fact that this body voted to deny the city of Omaha the opportunity to try to cover the cost of repairing and maintaining its roads by imposing the wheel tax on the people who use them. This body went so far as to say not only can you not impose the wheel tax on nonresidents, you can't impose it on people who are within your three-mile zoning jurisdiction. And that cost the city of Omaha... [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR COUNCIL: ...about \$3 million. State aid--we lost about \$3.4 million. But in this instance for our occupation tax, we're saying, okay voters, you're capable of making this decision but when it comes to sales tax we, the Legislature, are going to say, no, we don't think you're capable of making that decision or we're not going to allow you to make that decision. That's the problem that I have with LB745 and AM2073. And if you look, upcoming is an amendment that I have filed that does address the issue of at what amount do you trigger the need to have an election. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Council. Senator Hansen, you're recognized. [LB745]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I wanted to weigh in on this just a little bit. And Senator Cornett said that everybody is doing it differently. Well, that's one...that's okay, because that's local control, and it depends on what they need and how they're going to use it. So everybody should be doing it differently. I think there must be a difference between small-town Nebraska and large-town Nebraska in that it seems like it's the larger municipalities that are trying to avoid this vote of the people. Maybe the cost of the election is high but still when you start taking away the opportunity of the general public to vote on a tax increase, something that is if it's used to create money for some project that the community

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needs, I think that you need a vote of the people. I don't think that...the people will learn the facts. I don't think they have to rely on a city council or a village board. They can learn the facts. They can learn the ins and outs of it, the good and the bad of it, and vote on it. I don't think that's bad at all. That's the American way and it certainly should be the Nebraska way too. I know the Lincoln arena had a vote of the people to have their occupation tax to be collected in restaurants. My whole family was down here a week ago and we donated to the arena voluntarily. We went out for several different meals, and I saw that on the bill that the occupation tax was written on that too. Did notice in the Lincoln Journal a couple weeks ago that the city of Lincoln sales tax, city sales tax, was increased. Their revenue had been increased by 5 percent last year, total of \$60 million, and they still have an occupation tax that was voted on by the people. And I'm sure that they will be back up for Senator Ashford's bill when we talk about an increase in city sales tax. But I think that was also to be voted on by the people. That may be wrong but I think that you just cannot overstate the need for the citizens to vote. I agree with Senator Schumacher. He stood up and said, "I stand to support the vote of the people,"--and I couldn't agree more. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Hansen. Senator Wallman, you're recognized. [LB745]

SENATOR WALLMAN: Good evening, everybody. Members of the body, this is a night for taxes: occupation, revenue. The bill we just passed, LB970--should we put that to a vote of the people? I'm not so sure they would have voted the way we did. But, you know, local control, local issues, whether it be occupation or whether it be sales tax. I used to be a chairman of a township board. And so we had enough money in our fund to buy a new motor grader, and one of our township board members was against this buying a new motor grader and he loaded up the city hall, voted against that motor grader. We still have that old motor grader today. It's shot, but we don't have any money because we turned very, very conservative on our taxes issue. So whether it be occupation tax or whether it be everything, I hate to put a limit on local governments, because if we're for local control then let the locals run it. You know, we say we're for that, but look what we've done in here. We've put limits on this, we've put limits on that. Like Senator Council said, we really change the parameters of how we run our state. Ever since I've been in here, we've controlled more things. I feel our government has gotten bigger and I don't like that. Thank you, Mr. President. [LB745 LB970]

SENATOR CARLSON: Thank you, Senator Wallman. Senators wishing to speak include Fischer, Janssen, Ken Haar, Lathrop, and others. Senator Fischer, you're recognized. [LB745]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate the discussion on this because it is a very important issue. It's an important issue for our citizens and our taxpayers, and it's an important policy discussion that we're having

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here. I'd like to clarify. I believe Senator Krist, I don't see him in here right now, but he was speaking and I thought he was acting like there was going to, through this bill, be some cuts. This bill doesn't cut any occupation tax. This bill doesn't deal with the existing occupation taxes except to allow the city council or the city governing body to make adjustments in their budget if the occupation tax rate needs to be increased or decreased for a specific project. So it doesn't affect that. It also...this bill does not affect counties, and I think he made a reference to that. You know, I've heard a number of senators say that this bill would increase property taxes. Well, I can tell you that I would never intentionally introduce a bill that would increase property taxes, coming from my area of the state and what we hear all across the Nebraska. I don't understand the reasoning on why you feel a bill that would require a vote of the people on any new occupation tax would raise property taxes. Do you believe the vote wouldn't pass? Is that why? Do you believe the only other recourse would be for the city to raise property taxes to build a water park or fix a bridge or build a new park? If the voters turned it down on the occupation tax, I wouldn't imagine a city council would move ahead with a project that the voters had turned down and then move ahead with it and put it on property taxes. I refer now to an article in the Lincoln Journal Star, after Senator Avery's comments about this bill would cause property taxes to increase in Lincoln. I don't believe they would. On February 28, 2012, Nancy Hicks wrote an article about the "City sales tax receipts rise, and they're heading for a record year." "Record sales tax year with a net sales tax receipts 5.21 percent over the same six-month period last year." I don't buy in to the argument that cities are going to run willy-nilly and increase property taxes if this bill passes. If this bill passes, cities will need to have a conversation with their constituents about how taxes will be used. Voters will be able to have a say in it. This all goes back to my basic premise. I believe occupation taxes are sales taxes. I believe this is a very mild bill in its current form in dealing with occupation taxes. We are not putting a limit on them. Sales taxes have a limit but we are going to require... [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR FISCHER: ...a vote of the people because that's what this is: It's a sales tax. Senator Adams brought over an idea for an amendment, too, that we're discussing here on looking at putting some parameters in before the vote of the people would kick in. And as I am telling Senator Adams and as I told Senator Karpisek, and even Senator Hadley when he's throwing things at me over there, those are good ideas and I think we can get something worked out. I don't know if we'll be able to do it on General File because occupation taxes are very complex, as Senator Cornett can tell you after her eight years on Revenue Committee, but hopefully we can move this to Select and have that ready to go then. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Janssen, you're recognized. [LB745]

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SENATOR JANSSEN: Thank you, Mr. President and members. Good evening. I don't like occupation taxes. I understand we have them. I think they're sneaky taxes. I've always said if you want sweeping tax reform, don't tax anybody anything all year; just keep track of it and pay them their full amount, and then at the end of the year they have to write that check back and show them where it came from. Then you would see true, true tax reform. You would see a tax revolt not only in this state; across the United States, I believe. I can give 655,000 reasons why I don't like the occupation tax. Last year, the community that I live in decided to pass two occupation taxes when I was on the city council. We never broached this subject of the occupation tax but it seemed to become a good idea last year. The state aid to cities to Fremont wasn't \$655,000. That's what the telecommunication and the hotel tax did raise last year. I would have been fine with that if we had Senator Fischer's LB745 in place at the time. I would have had a chance to vote on that. I would have had a chance to go to the meeting, which I did, but the city council did vote on it and they voted 6-2 to move forward with this occupation tax. From that meeting, I could say that the voices of the citizens by and large were not listened to that evening. Now it's tough to gauge from one meeting, a couple meetings, you talk about a new tax. But had they had time, sufficient time to see both sides of it, why did the city want this? What was the reasoning behind it? Did they want a...did they need more police officers, were they losing police officers, where was the city budget at? To gain a better understanding, they may have, as a citizenry, said yes, this is something that we should have; we do need this. I recall a comment from an individual in Fremont, an elected official, that said on the hotel tax: We don't want to commit what that money is going to go for; we think it will be somewhere along the same lines as the hotel and lodging and the tourism that we're using now. I can tell you, I lived there. I haven't seen an uptick in tourism or pushing tourism toward my hometown of Fremont. I somewhat would think that that money is being thrown into general funds to finance the city, which is fine if the people know that ahead of time, but they wouldn't even commit to what exactly it was going to be spent for. I think being hashed out through a process of a public election would have allowed for that and possibly got people on board. I got calls from constituents from Fremont asking me to vote against the occupation tax, obviously not knowing that I wasn't on the city council at the time, but we did have some spirited conversations about it in talking about why they didn't get an opportunity to speak out or why they were not being listened to. And the thing is, we're in an election year now I believe, and the city councilmembers are up, and that issue is gone. The horse is out of the barn. Is it the voters' fault that they don't remember that? The elections in Fremont usually aren't all that cantankerous. There's not fliers going out saying City Councilman Smith--we really don't have one, Senator Smith--that says he voted or didn't vote for this or that. We don't have that there. It's very small elections, door-to-door elections, and people don't really realize. Maybe shame on them, but we all have a lot of obligations in our daily lives, and that's where the sneaky tax comes in that we don't know about. They generally will know if they voted for a new Splash Station, which you'll see on the eastern side of Fremont. That

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was a city election. We had an opportunity to vote on that. I believe it was close to 60-40 in the election. The 40 percent weren't happy, but I believe at the end of the day they realized that it did pass, it did go through the process, and they had to live with it, and they have. And it's been a great... [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR JANSSEN: Thank you, Mr. President. It's been great for our community. I don't buy the property taxes will raise if we have this to a vote of the people. Property taxes are a great concern for me, and all of us I would imagine here, and our constituents. If we were to weigh an occupation tax versus a property tax raise, first off, city hall would be filled before that got put on the ballot. And once it was on the ballot, you would have property tax owners out there trying to decide, well, do we need this occupation tax? And I would imagine in certain situations they would be advocating for this occupation tax for whatever purposes it is, as long as it's the purpose that is a common cause. I've always said, I think you know this, we tax people for roads, infrastructure, and to help the people that truly can't help themselves. And if there's an occupation tax that can do that, I think the voters would vote for it, and I support Senator Fischer's LB745. [LB745]

SENATOR CARLSON: Thank you, Senator Janssen. Senator Ken Haar, you're recognized. [LB745]

SENATOR HAAR: Mr. President and members of the body, I rise in opposition to LB745. Somebody said that the American way is voting. Also the American way is representative democracy. We elect elected officials for a purpose and that's because some people have to take up that burden or opportunity really, to really know the issues, to go talk to all the voters, and so on. It's almost the idea that once people are elected to office, whether it's a school board or a city council or whatever, that all of a sudden they are incompetent and uncaring and unhearing and crooked. And that's just not true. Now I don't know much about Kearney. I've been there numerous times but I don't know about the internal workings of Kearney and the citizenry, all those sorts of things that go on there. But Kearney has a city council and that's for a reason, because it's close to the people. It's responsive to the people. And if the city council is not responsive, then they are unelected. I was on the Lincoln City Council for eight years, and I guarantee there's nothing more personal and up close than being on a city council. Everybody knows where you live. They have your phone number, it's in the phone book, and they're your neighbors and they call you. I just think that this bill is overreaching. In some ways, over the years I've been in the Legislature now, we've tied the hands of city officials, saying you can't do this and you can't do that, and then we tie the other hand. And I think eventually we're going to wind up with city officials having very little authority. I mean, why not just have the Legislature be the city council for the whole state? Why not have just one school board for the whole state of Nebraska? Well, it's because local



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control is really important. People who run for city councils and school boards, and get elected, have the history of knowing the people, knowing the town. They usually have some longevity in that community. And I really believe, in this case we have to trust local officials. Representative democracy closest to the people is the American way, and I stand in opposition to LB745. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Haar. Senator Lathrop, you're recognized. [LB745]

SENATOR LATHROP: Good evening, Mr. President and colleagues. I was sitting here listening to the discussion today, actually kind of watching as things have gone by in this body for the last couple of years, and I thought back to something we did here. You guys probably don't even remember it. Senator Janssen used to be Chair of a committee that was called, like, the Intergovernmental Cooperation Committee. I might not have that name exactly right. But the job or the purpose of that committee, it didn't even meet, but I think they were supposed to sort of be a committee where legislators and city officials or county officials talked about their common concerns or the cities had a chance to talk to their senators about their concerns. We killed it with the emergency clause about three years ago. And I kind of chuckled to myself when we did it, not appreciating that it signaled or it was a precursor to a lot of stuff that we've done to the cities in the last three or four years. I remember standing on this floor while we took away state aid to cities. We did it because we created a financial crisis or had one, and we said we've got to find a way to shore up our budget so we're going to cut off aid to the cities. It was intended, ironically, when it started, as a tax relief measure. Then we barked--wait, not we...the Governor--barked at Sarpy County about their practices and the way they were running the railroad. We have not been good partners to our cities in this state. We certainly haven't been good partners to them over the last few years. When we took away their aid to balance our budget, we were not a good partner. We forced them to raise their property taxes and then give them lectures from Lincoln about fiscal responsibility. Now we are considering whether we should tell them how to run their railroad as it relates to occupation taxes. And I'm amused when I listen to this because over here I hear people say we should let the people vote because, by gosh, they should be in charge and they're smart; and then over here I hear them say, well, letting them vote in the next election doesn't work because they don't pay attention. I don't know really what your philosophy is on the voters. I think that they vote for their city councilperson or whatever, whoever is imposing these kinds of taxes, and those people are accountable to their constituents. That's the way the system works. And where do you stop, where do you stop if you're going to put things to an election of the people? Certainly constitutional amendments ought to be there. Electing their officials ought to be there. But you know what? For us to be...for us to treat the cities the way this body has treated the cities, to take away their aid and then to tell them how they should tax and the way they should tax and when they should tax, I don't think we ought to be giving them a lecture on that, not in LB745, not from this body that took away their

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aid. They're trying to meet the needs of their constituents. They're trying to meet the needs of their constituents. [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR LATHROP: They have come to this body, to this Revenue Committee, and to this Legislature for relief, and they've been turned away. And tonight we are going to or we have an opportunity to make their lives more difficult with LB745. You know what? They can get rid of their city councilmembers if they don't like this and they can get a different mayor if they don't like this, but sending everything that won't pass, presumably, to the people, isn't the approach that ought to be coming from Lincoln. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Lathrop. Those still wishing to speak include Senators Avery, Dubas, Cornett, Wightman, and others. Senator Avery, you're recognized. [LB745]

SENATOR AVERY: Thank you, Mr. President. I'm pleased to hear that there is some opposition in this body to government by referendum. We are a government that is based on representation. Every difficult issue must not and need not go to the voters. We govern by electing people to do the difficult job and make the difficult decisions, decisions that are important to governance, and for us to try to take a difficult decision like an occupation tax and say, well, we can't do that, we have to let the people decide. We have been asking--and I think this was another point that was made by Senator Lathrop--we've been asking our cities to do more with less. We've been putting them in a straitjacket and making it difficult if not impossible for them to meet their own needs based upon their own perception of those needs, their own calculation of how best to deal with those needs, by taking away municipal aid, which I supported by the way, last year, by restricting their ability to use the occupation tax on telecommunications, which I did not support last year. I had to swallow that bitter pill. Let me give you some examples of what the city of Lincoln has been doing, trying to cope with the decisions this body has made that further restrict their ability to deal with their own problems. As I indicated when I was on the microphone last time, the city of Lincoln lost \$1.8 million in state aid. I thought philosophically that the city should not expect that the state would provide that kind of aid, but the state ought not to tie their hands and prevent them from tackling their own problems. When we reduce their resources, we ought to at least allow them the opportunity to fill the needs that they have, meet those needs in their own way. The city of Lincoln engaged in some very, very difficult belt-tightening decisions. At least over the last five budgets, 132 full-time equivalent positions have been cut. That's 5.9 percent of the entire work force, saved about \$5.5 million a year. Police officers were taken out of the middle schools where they were there to help provide security. Bus routes that help get people to work have been forced to reduce service, and we've cut two routes out altogether. We eliminated the Women's Commission and the affirmative

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action position. We have been participating in the Aging Partners program, a city/county partnership with seven other counties in our region, and over the past several budgets the city has reduced funding for this cooperative effort by almost \$800,000. That's led to the elimination of city funding for the Lifetime Health Program. It's closed and reduced hours to senior centers all across the city. We've reduced funding by 57 percent of supportive services. That's a program that provides modest shared cost assistance to low-income seniors who live just above the poverty line. Now what this means is you move more people into qualifying for Medicaid services, which puts a strain on the state. We eliminated the Retired Senior Volunteer Program. And probably the agency or department that took the biggest hit were Parks and Recreation. [LB745]

SENATOR CARLSON: One minute. [LB745]

SENATOR AVERY: Now you're getting into areas where you are talking about the amenities of city governments. These...obviously we don't have to have parks; we don't have to have recreation. These are desirable things, but they add to the quality of life in any city. We ended the youth sports programs. The Parks and Rec department discontinued the youth sports division because of funding constraints. The result is that more and more kids are on the streets and fewer and fewer are involved in organized sports. We ended before- and after-school programs. Seven of our programs were ended, and this was, of course, to reduce costs. We closed some of the public swimming pools, and we not only closed a couple of them but we reduced or eliminated evening hours in five others. Numerous other reductions were made in park maintenance. We went on a reduced mowing schedule. [LB745]

SENATOR CARLSON: Time. [LB745]

SENATOR AVERY: Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Avery. Senator Dubas, you're recognized. [LB745]

SENATOR DUBAS: Thank you, Mr. President. This has been a really good discussion tonight. I kind of had mixed emotions about this bill and wasn't quite sure which direction I wanted to go, and I'm still not quite sure on that either, but I think the point that I'm stuck on the most is about local control. And these people are elected officials just like we are and they respond to the same constituency that we do, and so by us injecting ourselves into that process I have some concerns with that. And there was an article that was...an editorial, excuse me, that was in the Grand Island paper here awhile back, and I thought that they raised some very legitimate points. They talk about, "We think that the city council can assume the responsibility of voting on a tax. They are the designated representatives of their wards and they should be able to determine if the tax is warranted." They go on to talk about, the "Legislature and the Governor, in their

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quest to reduce the state budget, have stopped much state funding of city government. Many programs that received state funding have been pushed back to local governments, including cities and counties. The Legislature's intrusion on local government..." they're feeling that it's just I think someone referenced tonight an overreach. And I guess that's where I come to my quandary is, how much do we interject ourselves into local government and take away local officials' ability to respond to their constituents? So I'll continue to listen and see what things continue to rise to the surface and if there's any amendments or compromises that might come out of this. But again I think it's been a good discussion and some very legitimate points have been raised. Thank you. [LB745]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Wightman, you're recognized. [LB745]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I guess the question is...and we've had a great debate here. The question is, do we have representative government or don't we? It seems to me that this country long ago decided that it would be represented in a representative democracy by people voted for by the public. And so here in the state of Nebraska we have limited ourselves to 49 legislators. We each represent about 37,000 people. I really kind of like what Senator Haar said though I don't always find myself on the same page as he is, but we're kind of on the same page today. I served on a city council in Lexington for 20 years, a few years as its mayor. And I think when we get right down to it, in setting all of these limits that we try to set, that in effect what we are doing is trying to function as a super school board, a super city council, whatever you have, for these like they're not smart enough to make these decisions for themselves. And I think we are all about local government. But how should this local government be run? I think that it's fair that it be somewhat the same as the state of Nebraska. Each councilman is not going to represent 37,000 people. There's a real question of how far you can go as far as number of legislators even in the Legislature. New Hampshire, for instance, I think has about a million people, maybe a little over. I don't remember now, but they have close to 500 representatives, maybe more than that--470 sticks in my mind. That's about 2,000 constituents that each one represents. Does that make them closer to the constituents? Perhaps it does. It kind of goes away from representative government if you get them down. Ideally, I guess, if we're going to submit everything to the vote, maybe we get them down to where each one represents one and we will have true democracy. We can have a town hall meeting, and I'm afraid that might be about what New Hampshire does. At any rate, we have taken a lot of opportunity to dry up sources of revenue. We set the property levy lid for cities. We set it for schools. We take away their sources of income, frequently. Over their opposition, frequently. It seems to me we get down to, at what level do we want representative democracy? And, quite frankly, it seems a bit unfair that we sit here, take away sources of revenues from the city, and then sit here almost as a super council or a super school board for everyone in the state of Nebraska. I don't think

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that's what we are elected to do and, as a result, I very much oppose LB745 and AM2073. Thank you, Mr. President. [LB745]

SENATOR CARLSON: Thank you, Senator Wightman. Mr. Clerk, do you have announcements or items for the record? [LB745]

CLERK: I do, Mr. President. Thank you. A new A bill. Senator Harms would offer LB949A; Senator Campbell, LB599A. (Read LB949A and LB599A by title for the first time.) New resolution, Senator Nordquist, study resolution to be referred to the Executive Board (Re LR510). I have amendments: Senator Council to LB745 and Senator Adams to LB745. Name adds, Mr. President. Senator Price and Janssen to LB750...okay, excuse me. Senator Price adding his name to LB750, and Senator Pirsch to LB970. (Legislative Journal pages 1032-1035.) [LB949A LB599A LR510 LB745 LB750 LB970]

Mr. President, a priority motion. Senator Flood, Speaker Flood, would move to adjourn the body until Wednesday morning, March 21, at 9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion to adjourn. All in favor say aye. Opposed, nay. We are adjourned until 9:00 tomorrow morning.