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Floor Debate
April 11, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the sixty-third day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Senator Brewer. Please rise.

SENATOR BREWER: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Brewer. I call to order the sixty-third day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB137, LB180, LB180A, LB267, LB317, LB641A as correctly engrossed. That's all that I have. (Legislative Journal page 999.) [LB137 LB180 LB180A LB267 LB317 LB641A]

PRESIDENT FOLEY: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following five legislative resolutions: LR86, LR87, LR88, LR89, and LB90. Mr. Clerk, we'll now proceed to the first item on the agenda, General File, 2017 senator priority bill. Mr. Clerk. Actually, before we proceed, Mr. Clerk, the mints that were distributed on the floor today are in continuing celebration of the birth of the granddaughter for Senator Rob Clements. Congratulations, Senator Clements. Members, will please come to order. We'll go to the first bill. Mr. Clerk. [LR86 LR87 LR88 LR89 LR90]

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CLERK: Mr. President, LB44, a bill by Senator Watermeier. (Read title.) Introduced on January 5, referred to Revenue, advanced to General File. I have no amendments to the bill, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Watermeier, you're recognized to open on LB44. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska and members of the Legislature. Today I bring you LB44, which I have selected as my personal priority bill. LB44 proposes to adopt the Remote Seller Sales Tax Collection Act. The legislation provides that remote sellers, which are on-line retailers without a physical presence in our state, they are required to collect and remit sales taxes if their gross revenue in Nebraska exceeds \$100,000 or their sales in Nebraska consists of 200 or more separate transactions. If the remote seller opts not to collect Nebraska sales tax, the remote seller would have to notify the Nebraska purchasers that the sales or use tax is due and that the state of Nebraska requires the purchaser to file a sales or use tax return. The remote seller would be subject to a \$5 penalty for each failure to notify. Furthermore, the remote seller must send notification annually to Nebraska purchasers by January 31 reflecting the total amount of purchases made in the previous year. If available, the notification shall also include the dates of the purchases, the amount of each purchase, and the category of the purchase. Again, the notification shall tell purchasers that the state of Nebraska requires a sales or use tax return to be filed and paid on certain purchases from the remote seller. The notification is to be sent separately from other mailings and must include the words "Important Tax Document Enclosed" on the exterior of the mailing. Failure to send this notification would subject the remote seller to a \$10 penalty. Finally, the remote seller is required to file an annual statement for each purchaser by March 1 with the Department of Revenue showing the total amount paid in the previous year. Failure to file this annual statement would subject the remote seller to another penalty of \$10 for each purchaser that should have been included on the statement. Now let me give you a little history on the issue. Most states' laws, including our current law, require retailers to have a physical presence or a nexus in the state before they are required to collect the sales tax. These laws reflect the U.S. Supreme Court ruling. In 1992 when the Supreme Court upheld its original ruling from 1967 that prohibited states from requiring remote sellers to collect sales tax on sales shipped into their state, it said that the diverse state and local sales tax systems making collecting sales taxes an undue burden on out-of-state retailers. Keep in mind that was 1967, ruled in 1992. States responded by adopting a comprehensive interstate system to streamline and harmonize their complex maze of state...of sales tax rules and administrative requirements. Nebraska is 1 of 24 states that have taken the steps to change their laws to comply with the interstate Streamlined Sales and Use Tax Agreement. Legislation has been introduced on the federal level for years to grant the states that have complied with the agreement the authority to require remote sellers to collect sales and use taxes, but yet nothing has come to pass. More and more individual states are trying to pass laws

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due to the inaction of the federal level, but such laws are usually immediately challenged in court. This year at least 28 states, 28 other states have introduced over 50 bills in an attempt to recover this lost sales tax revenue. LB44 combines the collecting law, the collecting law from South Dakota, which is being contested, with the reporting law from Colorado. Colorado's law, passed in 2010, was affirmed in February of 2016 by the U.S. Court of Appeals for the Tenth Circuit. Since the U.S. Supreme Court refused to take up the dispute, the Tenth Court decision now stands. You may have heard that the South Dakota law was found unconstitutional recently. This was expected and this was planned as the circuit court judge was bound by existing U.S. Supreme Court precedent. This is part of the plan to take all the way to the U.S. Supreme Court in an effort to give the court the chance to revisit the 1992 ruling, 1992, over 25 years ago. In fact, in a 2015 Supreme Court decision in Direct Marketing Association v. Brohl, which only involved a procedural question, Justice Anthony Kennedy added a separate statement due to the seriousness of this issue that he described as a continuing injustice faced by Colorado and many other states. He noted that when the court decided Quill in 1992, which was a mail order, sales in the U.S. totaled \$100 (sic--\$180) billion, and the Internet was just in its infancy. By 2008, e-commerce sales alone totaled \$3.2 trillion per year in the United States. So we had gone from \$180 billion to \$3.2 trillion. He stated that the result of Quill and Bellas Hess in 1967 has been a startling revenue shortfall in many states, creating unfairness to local retailers and their customers who do pay taxes at the register. State services and infrastructure are weakened as a result. Justice Kennedy went on to say that although on-line businesses may not have a physical presence in some states, the Web has now in many ways brought the average American closer to most major retailers as they are just a click away from this result. A business may present in a state in a meaningful way without that presence being physical in the traditional sense of the term. He concluded that it is unwise to delay any longer a reconsideration of the court's holding in Quill. He urged the legal system to find an appropriate case for this court to reexamine Quill and Bellas Hess. Furthermore, in addition to Justice Kennedy's statements, Neil Gorsuch, the newest U.S. Supreme Court judge, previously served as a Tenth U.S. Court of Appeals judge. This is the court that affirmed the Colorado law. Under LB44, on-line retailers meeting the threshold for sales volume will have to either collect the sales tax or deal with more red tape, including additional paperwork and the requirement to remind Nebraskans that they owe the sales tax to the state. Therefore, LB44 avoids the constitutional argument because it does not require on-line retailers to collect and it gives them the choice, and that choice has been upheld in court. I have passed out information from the pages here. That sheet goes into more detail on the constitutional issues. I want to remind you that this is not...this is not a new tax. It has always been owed. Nebraskans are already required to keep track of on-line purchases and then report any owed sales tax on their income tax form. Several years ago a line was added to the Nebraska individual income tax return for individuals to report their use tax due on Internet purchases, but I don't believe many Nebraskans comply. The longer we wait before passing legislation like this, the harder it will be for the general public to understand that this is not a new tax. According to the National Conference of State Legislatures, this tax loophole cost states \$17.2 billion in lost

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sales taxes just last year, \$17.2 billion. Max Behlke, the director of the Budget and Tax Policy for NCSL, recently quoted saying: The way we are consuming things is so different today. Because of that, the states' sales tax revenue is not keeping pace. States have to modernize their sales taxes to the twenty-first century. If they can't collect sales taxes, it will mean higher state income taxes and/or property taxes. Furthermore, I don't believe it is fair to our main street businesses who must collect sales taxes but still compete with on-line retailers. Our current law places main street businesses at a disadvantage. But they are the ones that pay property taxes. They're willing to sponsor the local teams in softball or sports, whatever it is, and support the local community in many ways. If downtown businesses close, it hurts the entire community and the surrounding areas. In recent weeks, Gordmans, Payless, RadioShack have all filed bankruptcy, and JCPenney and Sears have announced store closures. A recent article predicted that more than 3,500 stores are expected to close in the next couple months in the United States. When anchor stores close, it also negatively affects the performance of the shopping mall. LB44 won't reverse this trend as shoppers are increasingly enjoying shopping on-line, but at least it eliminates unfair cost disadvantage. In addition to the state collecting additional revenue, LB44 will also generate additional revenue for local communities because local option sales taxes will be collected and remitted to the applicable city. It is difficult to estimate how much revenue that LB44 would collect. South Dakota, which only has the collection requirement, took in just over \$1 million during the first ten months of the law being in effect. If this figure is adjusted for Nebraska's population,... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR WATERMEIER: ...it would amount to \$2.3 million. Assuming federal law allows for the collection of sales taxes by remote sellers, the fiscal note indicated that Nebraska would collect \$30 (million) to \$40 million in additional sales tax revenue. This is on top of the estimated \$20 million from Amazon, who recently announced that it would begin collecting sales taxes on purchases made in Nebraska, but it was voluntary. Although this is most likely a conservative estimate, it is still a significant amount. LB44 advanced from the Revenue Committee on a 5-0 vote with no committee amendments. Three senators were present but did not vote. With the state currently experiencing a significant budget shortfall, there isn't a better time to pass this legislation. Although it won't solve all of our budget problems, it certainly helps. This is not a new tax. And it's an issue of fairness for our main street businesses. If Congress won't act, we must. I would urge your green vote on LB44. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Watermeier. (Visitors introduced.) Members, you've heard the opening on LB44. Senator Kuehn. [LB44]

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SENATOR KUEHN: Thank you, Mr. President. Good morning, members of the Legislature. I want to rise today in opposition to LB44, and I'm going to start my first time on the mike here this morning talking a little bit about some of the theory and a few things that I think we need to consider as a Legislature, especially on the heels of yesterday's important discussion on federalism and states' rights and the autonomy of the states, as well as moving into some of the practical aspects of LB44 that I think we need to consider. Certainly at a time when we're looking at a budget advancing to the floor and we're talking a lot about revenue and shortfalls, ways to capture more dollars for the state General Fund automatically seem like a great idea and we should proceed forward. Start throwing in things like fairness and talking about issues with our main street businesses and we immediately say, well, there can't be any opposition to this bill or to this concept. In practically, we need to make sure we understand who this bill is going to be affecting and, ultimately, in the big picture, what we're advocating for in large of some greater issues with tax policy. Now, Senator Watermeier talked a lot about the Quill decision. He discussed some of the decisions related to the Tenth Circuit and the issue with the Colorado law. I want to step back for a second and I want us to think as a body about why Quill was there, why the Commerce Clause is there in the first place, and what advocating for eroding our state's borders when it comes to tax collection may mean for Nebraska down the road. It's true when Quill decision was made in 1992, 25 years ago, the Internet was still in its infancy. None of us had really forecast or had any idea what Internet commerce, what e-commerce would mean. And right now we're thinking about e-commerce only in terms of the Amazons and the eBays and big behemoths that are taking away business from our storefronts in our communities. That's not necessarily the case. When we look at e-commerce and we talk about things like making Nebraska the Silicon Prairie and the development of e-commerce in our local communities, we're also talking about opportunities in rural Nebraska, in smaller communities, for individuals all across this nation to have home-based businesses. And I want you to look at this reporting requirement. So we're kind of giving it a two-step here. We're saying, well, we'll get around the Quill decision by not forcing collections but by giving businesses an option to report. And we have a \$100,000 limit on reporting or 200 transactions. So who would be affected by this reporting requirement? We're not just talking Walmart. We're not just talking Amazon. We're not just talking eBay. On Amazon and on eBay are a lot of mom-and-pop stores, people, working mothers, part-time jobs, who are also acting as small businesses and retailers and have become entrepreneurs in this new world of e-commerce. Seventy-four percent of the independent sellers on Amazon and 70 percent of the independent sellers on eBay have less than \$100,000 in revenue. So we're pretty much drawing in all of those mom-and-pop businesses that are selling a few things on eBay, selling things out of their garage. They would either have the choice to undergo the collection requirements, be a tax collector for the state, or undergo the reporting requirement. Nine percent of Amazon sellers and a third of those on eBay have less than \$10,000 in sales per year. A third of the individuals on eBay would be subjected then to either becoming a collector or a reporter. And we talk a lot on this floor about not imposing regulations on small

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business and this is who we're talking about. So when we think about this, this \$100,000 threshold, what does that mean? Well, the average retail... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR KUEHN: ...transaction on-line is approximately \$80. So if you're talking about 200 transactions, that means an individual, small business, e-commerce, retailer with about \$16,000 worth of revenue would be forced to comply under LB44. So we're not just talking about large business. We are talking about small. So let's step back for a second and talk about why the Commerce Clause was important with controlling states' borders. Obviously, the Internet and e-commerce has eroded states' borders. We don't have to have a physical presence, and that's an important discussion. And here in Nebraska, we're looking at estimates of somewhere between \$45 million or more, depending upon who you read and which study, about uncollected sales tax revenue. What happens then if we advocate for eroding states' borders and all 50 states say, we're not going to have...require that physical presence or are we going to define nexus... [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR KUEHN: ...with regard to tax policy. Thank you. [LB44]

PRESIDENT FOLEY: Thank you, Senator Kuehn. (Doctor of the day introduced.) Continuing debate, Senator Hilgers. [LB44]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise also in opposition to LB44 for two particular reasons. One, I think it's unconstitutional; and two, I think it's the wrong bill at the wrong time. Before I expound on that, I do want to thank Senator Watermeier for bringing this bill, for having this discussion. I do think it causes a significant problem for our retailers here in Nebraska. And frankly, I think Congress has abdicated its responsibility as the appropriate body to regulate interstate commerce to address this issue in a fair and equitable manner. With that being said, I do think that LB44, the mechanism proposed therein, is unconstitutional. So in our United States Constitution, in Article I, Section 8, there is the Commerce Clause, the Interstate Commerce Clause, and that provides Congress the power to regulate interstate commerce. Now, there's what's called a dormant Commerce Clause, and the dormant Commerce Clause actually isn't written in the constitution, but it's been recognized as an implied restriction on states' rights since the founding of this country. What it means is states cannot regulate interstate commerce. So if the constitution gives the power to regulate interstate commerce to Congress, that must mean we decided or when the framers decided to not give that power to the states. The states can't regulate interstate commerce. The Supreme Court, in the Quill decision, which has been mentioned by Senator Watermeier and Senator Kuehn so far this

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morning, directly dealt with the issue of out-of-state sellers who are selling goods into a particular state and that state's particular power to collect or have those out-of-state companies collect sales tax. And Quill said, no, under the dormant Commerce Clause, a state does not have the power to do that. Quill is binding law. It's the United States Supreme Court. It's a decision holding from that court, which is the highest court in our land, and it is binding. And in my view, LB44 under that decision is unconstitutional. Now,...so that's the first basis on which I oppose LB44. Now there is an argument, and there's been some discussion of the Colorado case that's in the Tenth Circuit Court of Appeals. And just so everyone is aware, the United States federal court system has 13 circuit courts of appeals. There are 11 numbered circuit courts of appeals. We are in the Eighth Circuit Court of Appeals. There's also a Federal Circuit as well as the D.C. Circuit. There are 13 circuits and they have the authority to issue binding precedent for their particular region. So in the Eighth Circuit, the circuit in which we reside, it's Nebraska, it's Arkansas, South Dakota, and other states, Iowa in this region. So we are not in the Tenth Circuit. So the Colorado decision in the Tenth Circuit does not control anything we do here today. Now this bill, as I understand it, has been modeled after the Colorado decision...or the Colorado bill. And I do not think it's the right bill at the right time. And that is because this bill, I think, will almost certainly be enjoined, be challenged and be enjoined by federal court. In other words, if we pass this bill, there will be a suit filed and a court will very likely, because of the existence of the Quill decision, will enjoin our ability to collect taxes on this particular bill. That's precisely what happened in the Colorado case. Colorado passed their bill in about 2011 and they didn't start...they didn't get resolution until last year. So they have not collected taxes for over five years on that particular bill. So if you think LB44 is going to provide a mechanism for us to solve our shortfall over the next biennium, I think that's mistaken. I don't think that's a premise that will turn out to be true. So then what are we doing? Well, we're putting forward a proposal that's based not on what's best for Nebraska but based on what we believe is our best chance at avoiding a constitutional issue. We're basing it on what Colorado did. So let's be clear. We're not necessarily basing this on what's best for Nebraska. We're basing it on what Colorado did because we think that's the best way to avoid a constitutional question. Well, so there's two scenarios. [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR HILGERS: If we pass it...thank you, Mr. President. If we pass it, we'll wait I think three, four, five years to get clarity. In the meantime, we won't be able to collect any taxes on this and maybe it will ultimately be found to be constitutional. In five years we'll have a system that's designed...that was designed for Colorado, here in Nebraska. If we don't pass something, we won't be able to collect taxes, which I think will be the world we'll be in if we actually do pass it. But then we'll have clarity either by the Eighth Circuit or the United States Supreme Court and understand what the rules of the game are and we'll be able to craft a proposal that actually fits Nebraskans' need. And the reason why I think we'll have clarity soon...or not soon, but in the

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next couple of years, is because South Dakota, which is in the Eighth Circuit, has passed a bill that is designed...has been designed as a direct challenge to Quill. It's been struck down as unconstitutional and enjoined. They can't collect taxes on it, just like Colorado couldn't. And they are ahead of us in the queue in the Eighth Circuit. And so I think that case will provide resolution before ours will and I think the wiser course and the... [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR HILGERS: ...second reason why I oppose LB44 is that I think... [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR HILGERS: ...we ought to...thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Baker. [LB44]

SENATOR BAKER: Thank you, Mr. President. I rise in support of LB44. I had planned to introduce legislation myself and I discovered that Senator Watermeier and Senator McCollister had both already done so. This is an issue that I hear a lot from my constituents and they're very much in support of collecting sales tax from remote sellers. Granted, there's a 1992 Supreme Court decision that stands. But, you know, I think what some of these states are hoping for, there will be another court case that might get to the Supreme Court. I'm going to read from a handout that Senator Watermeier gave us this morning. Questions and Answers: Courts ruled against South Dakota recently. Didn't that decide the issue? The answer, no. The recent court ruling on South Dakota's sales tax collection law is exactly what South Dakota was advocating for on behalf of their main street retailers. It was an expected and foreordained outcome because lower courts are bound by the existing Supreme Court precedent. The process of getting this to the U.S. Supreme Court requires losing and appealing all the way up. The existing Supreme Court ruling came over 25 years ago at a much different time, when no one imagined exponential growth in computerization and on-line capabilities that exist today. United States Supreme Court Justice Kennedy has openly invited this challenge. Clearly, the trends today indicate that people are not going to shopping malls anymore. Shopping malls across the country are closing in many locations. The preferred way for many people to shop is to go on-line. What's particularly disheartening to the main street shop owners, to have some come in, examine a TV, any other piece of merchandise, copy down the information, leave the store, and presumably go home and buy it on-line and avoid the sales tax. I know that there's some people apparently who are twitchy about this thing looking like it is a tax increase, but, as pointed out earlier, it really is not. We all have the opportunity, the obligation when we file our state income tax returns to report what we bought on-line and submit that additional amount that we would have paid had we

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bought the thing, bought the...whatever we did from a store within the state of Nebraska. So I stand in strong support of LB44. Thank you. [LB44]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator McCollister. [LB44]

SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I stand in strong support of LB44 by Senator Watermeier. In fact, as Senator Baker indicated, I also submitted a bill, LB564, which I call the Main Street Fairness Act, Main Street Fairness Act. Senator Watermeier's bill fully taxes Internet sales and so does mine. Mine does have a, instead of a \$100,000 rate or amount which would trigger sales tax, mine was only \$25,000. And I think I had a better mechanism to collect sales tax on the Nebraska 1040 income statements. It's more explicit. I wonder if Senator Hilgers would yield to a question. [LB44 LB564]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? Senator Hilgers. [LB44]

SENATOR HILGERS: Yes. [LB44]

SENATOR McCOLLISTER: Senator Hilgers, you indicated that Colorado instituted a sales tax, Internet sales tax in 2011. Is that correct? [LB44]

SENATOR HILGERS: I believe that's correct. [LB44]

SENATOR McCOLLISTER: Are they collecting tax now after all the court battles that you talked about? [LB44]

SENATOR HILGERS: I assume that they have started by now, although I do not know that for sure. [LB44]

SENATOR McCOLLISTER: So the court battles have been resolved? There's no longer any issues in Colorado with regard to legality? [LB44]

SENATOR HILGERS: Correct. The Supreme Court did not take up the Tenth Circuit Opinion, so I don't expect further court battles. If they haven't started, I think they will start soon. [LB44]

SENATOR McCOLLISTER: So Colorado is now receiving sales tax money on Internet sales, correct? [LB44]

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SENATOR HILGERS: Correct. [LB44]

SENATOR McCOLLISTER: Thank you, Senator Hilgers. My wife owned two toy stores in Omaha. And there's a phenomenon called showcasing. People would come into her...either one of her toy stores, take a look at the merchandise, get a good chance to look at it, look at the quality of the toys she was selling, and then they would go to the Internet and save 7.5 percent. That's an unfair advantage that retailers in Nebraska should not have to face. As Senator Watermeier indicated, people in Nebraska already owe this tax, so all we need to do is collect this tax and make it easier for people to pay this tax, because most Nebraskans are good, honest, hardworking folks and they'd like to pay this tax. And, colleagues, \$25 million, which is the money we would receive from this tax, is not small change. It's significant. Twenty-five million dollars is a lot of money. Colleagues, this money is low-hanging fruit and the folks of Nebraska deserve to have this instituted. Thank you, Senator Watermeier. And thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Krist. [LB44]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I don't see...is Senator Smith on the floor? While he's making his way to the mike, I'm going to ask him a question or two. But I just want to say from the git-go that I am firmly in support of LB44 and I'll go into a little detail here in a second. Would Senator Smith yield to a question? [LB44]

PRESIDENT FOLEY: Senator Smith, would you yield, please? [LB44]

SENATOR SMITH: Yes, I will. [LB44]

SENATOR KRIST: I see on the committee statement that there were three people that were present and not voting. Could you...and you were one. Could you tell me what you used in terms of making your decision to not vote this out of committee? [LB44]

SENATOR SMITH: Yes, Senator Krist. As a small business person myself and as a retailer myself, I certainly understand the burdens of our small businesses in the state and that how there is a difficulty with competing with Internet sales companies with our main street businesses, our brick-and-mortar companies. So I totally get that. But I simply did not see that this bill does anything to move that...move us away from that conflict today; that this does not guarantee another dollar that will come into our state from these Internet sales companies. What this simply does is to join in to a state effort to force national attention to this and to force the hand at

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the national level. But there is no assurance that LB44 is going to lead to another dollar of revenue for the state, in my opinion. [LB44]

SENATOR KRIST: Okay. Thank you, Senator Smith. I, too, am part of a small business operation. It happens to be the aviation industry, and we do have tax exemptions for parts in the state, particularly if you come to us from an out-of-state presence. So we have a bit of an advantage in that area. The reason why I'm supporting LB44 is that I believe that when you, as a sovereign state--and we had this discussion yesterday as a sovereign state--when you make a decision how people are affected inside your border and you're not restricting any sales, any interstate crossing in terms of sales, except for marijuana, which is a good one--not medical marijuana but recreational--I believe you're doing what's right for your citizens. I think it's interesting that when we talk about an unconstitutional issue we have kind of a dual standard. We had a conversation on one of my bills that said the "Supremes" can't tell the state what to do. And on this one Senator Hilgers would bet all of his money on the fact that the Supreme Court did say that this is the way things should happen. So, you know, we talk about unconstitutionality and we talk about the difference between states. Let me remind the body, we are a sovereign state. We can do what we think we need to do inside. Occasionally the court system will come across and say, you know what, what you did is not constitutional. That's not our job. Our job is trying to make sure, as much as possible, we don't cross that line. Let's not make this about constitutionality. Let's make this about the Revenue Committee actually has passed something out of committee that may help solve our short-term and long-term financial problems in the state. And I applaud them for bringing it out. Thank you, Senator Watermeier, for bringing it forward. And I've made my decision. I believe that whatever money comes in as a function of Internet sales will partially help the small business from... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR KRIST: ...a unjust disadvantage. I would remind you, in the city of Omaha, I can go to three Target stores in about a five-mile radius and I can pay less sales tax the further out I get, because that Target store or Kmart or whatever--I don't want to give an advantage to Target--but any store charges less tax if it's in the ETJ. And people do, they will drive, probably spending more on gas than they need to, but they will drive where the sales tax is less or drive to Council Bluffs. So I see that it is an advantage and a disadvantage that we need...a disadvantage for the businesses and an advantage for the those companies. One other thing: I understand that the Governor is not in support of this bill--we have affirmation of that this morning--but he would rather it be a voluntary basis. I would go to any of you and say, how many of you have bought something on-line and have claimed it on your taxes? [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

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SENATOR KRIST: Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen. [LB44]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I stand in support of LB44. When you have watched the news over the past year to two years, you keep hearing of store closings because of Internet sales, the way those revenues are picking up. You can't miss it. When Gordmans closed, the news was Internet sales have just cut sales dramatically from our local stores. And people don't do it intentionally sometimes to just avoid the sales tax. It's a convenience. You can order something while sitting on your living room couch after work and have it shipped and it's delivered to your door. It's convenience. The Internet sales are picking up in revenue each year and more and more, as young people come on-line to shop, they are doing it over the Internet. We can talk a lot about the unconstitutional thing. I've learned long ago in this body that it means nothing, so we won't address that. You know, we subject our small retailers here, no matter how much they sell, to this tax. So when we're exempting \$100,000 or 200 sales to those other small retailers, I guess I don't feel much sympathy there. We don't allow that for our own small retailers. We make all of them report no matter what their sales are. So I just look at it as something that needs to be done. We've talked about it, I think, over the years. When I talked to my constituents back home, all of them will admit that it's a fair thing to do. We had people come in to testify, a clothing store owner. People would walk into the store. He would fit them for a jacket. They would get the size and the model, the color, and they would turn and say, well, they're going to go order it on-line. This is the way business is done these days, and you can't expect retailers to be able to keep up with that. I think there's strong support in this body and I think it's time that we do something. Thank you, Mr. Lieutenant Governor. [LB44]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Kuehn. [LB44]

SENATOR KUEHN: Thank you, Mr. President. Again, just want to reiterate and just talk a little bit about one other philosophical issue I have with regard to LB44 and that is the issue of what this means with regard to state sovereignty. And I think we need to be careful about understanding why the Commerce Clause was put in place to begin with and what this means if we start assuming that the change of a physical presence and the nexus of a business, what this means in terms of Nebraska and Nebraska tax policy. I think Senator Hilgers said it best when he said, this is not the right bill and not the right time. We have multiple tracks, multiple states are currently in different levels of litigation. This is headed for the Supreme Court. I don't know that we gain anything in the short term. We really don't at this point, and have the potential to simply be caught up in costly litigation and doing something that makes people feel good but doesn't necessarily change either our revenue situation or enforcement of collection of the consumer use tax. What I do think is important is that we recognize that we have to make sure we, as we

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advance and we advocate this policy, that what's good for the goose is good for the gander. So if Nebraska is going to say we want to reach into businesses in other states without a physical presence and enforce our tax policy on them, we need to be prepared for other states then to similarly reach into our state with their tax policy. So the point of federal oversight on interstate commerce was actually about state sovereignty. It was about protecting borders of the states that ensured that they could control the tax policy and an extension of later tax policy but control what went on within their borders. If we eliminate borders with regard to e-commerce and collection of the sales and use tax, we then open up Nebraska businesses in the long term--not necessarily with LB44, but this is where we're going--if we say this is okay for Nebraska, if California, New York, Illinois, all those big states that we look at and say, look at their mess of tax policy, look at their bad budget authority, if they decide they want to have enforcement actions, they now have the ability, in this train of thought that we're rushing headlong into, to reach into our state and have audited enforcement actions of Nebraska businesses. So while it's not a direct extension of LB44, it is part of this philosophy that we're rushing toward as we assume that e-commerce, Internet sales, because we don't see the presence of the borders, that those borders should go away. So as we cast this vote, I want everyone to make sure that they understand the full implications. It's not just about collecting maybe another couple, \$10 (million), \$20 million of revenue in the next year or two to plug a hole or continue a program. It's not just about fairness and main street. I think we all know that Internet sales are not so much about avoiding sales tax but about convenience. I subscribe to Prime Pantry. I get a monthly series of boxes that are delivered to my house every month and I don't do it because of sales tax issues, I do it because it's convenient and I don't have to run into a constituent in Walmart with 18 rolls of toilet paper in my shopping cart. It is, however, a larger, broader issue we have to address as we see e-commerce continuing to take up a bigger issue and part of our economy, and understand what we're doing in terms of we're advocating for abdication of state sovereignty and states' rights. Federal court system has multiple cases working through in multiple circuits. The Supreme Court, as Senator Watermeier has indicated, has virtually asked for a suitable case that can give them firm ruling. But we need to be very careful about where we're heading towards in terms of where we define and describe the borders of our state in this brave new world of e-commerce. I have some significant concerns about what advocating for this kind of policy may mean. Consumers have to report this consumer use tax. They're required to do so by law. Yes, they are not at a very high rate at this point in time. But in compelling businesses to do one of two things, either collect it or turn over those purchase records to the state, we're going into a whole nother realm of where we're putting into state authority and interfering in the state within individual consumer activity. So with that, I continue my opposition to LB44, and hope we can continue to have a productive discussion about it this morning. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Smith. [LB44]

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SENATOR SMITH: Thank you, Mr. President. And Senator Krist had me on the mike here just a moment ago and I said much of what I had wanted to say in my remarks. But I thought it might just be worth repeating that I, too, as maybe some of the folks in here are, I'm a retail business and I certainly understand the difficulties for our main street businesses competing against sales from the Internet. So with that, I join with my other small business friends in the state and say that I do want to make a level playing field and I do believe that competition is good. I just don't think that this bill does what it has been promoted as doing. I do believe it creates a false hope of new revenue for our state. I do believe that it fails to guarantee revenues to our state, and that there's no path to force compliance with LB44. This bill is simply to trigger action at the national level, for which Senator Watermeier noted already has been triggered according to plan by similar actions of other states. It just simply does not guarantee the revenues that it's promoted as bringing into our state. But with that said, I, again, I stand shoulder to shoulder with other small businesses in the state. I understand what the concerns are. I understand the drain to our small businesses by not being able to be competitive with Internet sales. I simply do not believe that LB44 has the immediate...will have the immediate results that some are claiming that it will have. So with that, I continue to oppose LB44. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Blood. [LB44]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow senators, friends all, in five minutes I'm going to try and wear a couple different hats. The first hat I want to put on right now is my hat as a business consultant and previous employee at a chamber of commerce. And now I want to address some things that were said here on the floor wearing that hat. Senator Hilgers said that this is not the right bill at the right time. That is backwards thinking. One thing Nebraska has not been known for has to be we're not known to be forward-thinking, to be proactive. And that's why our budget is the way that it is. We need to do more long-term planning. So when I hear Senator Kuehn say things like this is just maybe going to plug a hole, that this is going to create undue burdens for small businesses that are participating in the Internet community, I hear words that I expected to hear 20 years ago. If we're going to address how business is today, we need to make sure that we address taxes as well. This is not a short-term solution. This is a long-term solution and, frankly, we don't have enough of these or our budget wouldn't be in the trouble that it's in now. So as we're closing brick-and-mortar stores and we lose that tax base, how do we collect those taxes? Do we do it by tightening our belts? Well, I guess, but that is plugging something up. That's not a long-term solution. Do we do it by cutting budgets? Well, yeah. Again, that's a short-term solution but not a long-term solution. Tax policy done well is a long-term solution. So let me put on my candidate hat now. When I went door to door, I was clear when I went door to door that one of the things that I would support when I got here to Lincoln was Internet sales tax. It's low-hanging fruit. It is long past due. And because until October 2015, which people keep forgetting to mention, there was a temporary moratorium and that was lifted, and that prohibited us from taxes on Internet sales. And so that's why right

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now everybody is rushing around to try and get things done. And so saying, well, let's wait and see what happens, then we're getting behind the eightball yet again. We are getting behind. And so I look at this. Is this a good tax policy? And so I go back to my student hat and I remember in government--and hopefully, Senator Crawford, I have this right--Adam Smith created something called The Wealth of Nations: equality, certainty, convenience of payment, economy of collection. This meets all of the criteria. But what about Nebraska? Well, apparently Nebraska in 1962 paid for the McClelland study, and guess what they said good tax policy was all about? Equity and fairness, economic neutrality, economy of administration, stability of yield, decentralization of government in decision making. This is a good bill. This is a good tax. I rise in support of LB44 and the businesses and people in my district support this. I didn't have one single person say, oh, no, that's a terrible idea. You know what they said? This is a just tax. This should be taxed. I'm sick of my mom-and-pop stores on main street closing down. And if the mom-and-pop stores on the Internet want to compete with me, then they dang well need to pay taxes, too. And we start talking about all these other issues with convention of states and paying less taxes, and I don't like being taxed either. But when I drive down that interstate... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR BLOOD: ...I sure am glad there's not a pothole there and that I can drive safely from Omaha to Lincoln. When I sent my children to school, I was glad I could give them a good education. When I see police and fire come down my street, I am thankful that I am protected every day. This is a big-picture bill. Quit referring to it in short-term terms and get behind this bill. And well done, Senator Watermeier. [LB44]

PRESIDENT FOLEY: Thank you, Senator Blood. (Visitors introduced.) Continuing debate, Senator Briese. [LB44]

SENATOR BRIESE: Thank you, Mr. President, and good morning, colleagues. I rise today in support of LB44 and I thank Senator Watermeier for bringing this. Many on-line sellers of items to Nebraska taxpayers do not collect sales tax, thereby imposing an obligation on Nebraska purchasers to pay use tax on those purchases. But unfortunately, many Nebraskans are unaware of this requirement and those use taxes go unpaid. LB44 is a common-sense effort to help enforce our sales and use tax laws by collecting taxes that are already legally owed. It's a common-sense effort to help level the playing field for our main street businesses across Nebraska. Ultimately, someday I'd like to see any revenue raised from this enhanced collection of on-line sales taxes go towards tax relief for hardworking Nebraskans, but that's a discussion for another day. I realize there are those that object to this proposal on constitutional grounds. The Commerce Clause to the U.S. Constitution prevents state action that discriminates against or unduly burdens interstate commerce. And some state taxation schemes have been found to

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impermissibly interfere with interstate commerce. But we have to remember that the Quill decision, often relied on by opponents of on-line sales taxes, is 25 years old. And as the Quill court noted, the nexus requirement is driven by, "Structural concerns about the effects of state regulation on interstate commerce." But a lot has changed since the Quill decision, in particular, technology and the proliferation of the Streamlined Sales Tax Agreement has alleviated much of the burden of collecting on-line sales tax as it drove that decision. But more importantly, LB44 does not simply require sales tax collection by on-line retailers. It gives them an option, in the event they don't collect, to instead notify Nebraska purchasers of their obligations, notify Nebraska purchasers of their total annual purchases, and file a statement with the Department of Revenue. And I believe that by giving remote sellers this option, there should be no constitutional concerns over LB44. This LB44 option given to sellers who choose not to collect the tax is very similar to Colorado's sales tax regime. In the Direct Marketing Association case out of the Tenth Circuit, a group of business and organizations that market products via catalogs, advertisement, broadcast media, and Internet challenged the Colorado statute as violating the Commerce Clause. The panel of the Tenth Circuit Court of Appeals found that the Colorado statute does not discriminate against nor does it unduly burden interstate commerce, and they upheld the law. And the U.S. Supreme Court refused to hear the appeal of the Tenth Circuit decision. In upholding the Colorado law, the Tenth Circuit found that Quill applies narrowly to sales and use tax collections and was not controlling. The court further noted that, "Quill does not establish that out-of-state retailers are free from all regulatory requirements." The Tenth Circuit also found that the Colorado law does not favor in-state economic interests and is not discriminatory in effect. In fact, as noted in a concurring Opinion, recent Supreme Court appointee Judge Neil Gorsuch, who sat on the Tenth Circuit when the Colorado case was heard, said, "Out-of-state mail order and Internet retailers opposing the law are seeking more favorable treatment--a competitive advantage." As I said earlier, the Tenth Circuit Court of Appeals upheld Colorado's law and the U.S. Supreme Court turned down a request to review the decision. And although the decision of the Tenth Circuit Court of Appeals is not controlling here, I do believe its rationale upholding the Colorado statute suggests the language of LB44... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR BRIESE: Thank you...would also pass constitutional challenge. Let's be clear here. It's not our job to determine constitutionality. Anything we pass can be challenged on constitutional grounds. What we pass is presumed constitutional until a court rules otherwise. I think LB44 is good law. It will help our main street retailers and it simply aids in the collection of use taxes already required to be paid. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Hilgers. [LB44]

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SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. Wanted to finish up some of the conversation from before regarding the constitutionality and how I really think that this will impact it. I think Senator Krist and Senator Briese both have made, I think, very sound points regarding our role in determining the constitutionality of a particular law, and I wholeheartedly agree with both points that they made. My point is slightly different, though, because my point is based on what I believe is going to be the likely outcome if we pass this particular law, based on recent history. So there are several outcomes I think that are possible here. One outcome, and I think the proponents of LB44, this would be their favorite outcome, is for LB44 to pass, it not to be challenged, or if it is challenged that a court, while maybe considering it, would allow the state of Nebraska to continue to collect taxes. So in other words, the beginning of next year we could...or this year we'd be able to start collecting taxes on LB44. I believe that is a very unlikely circumstance. I say that for two reasons: one, Quill is I believe on point; but two, the two most recent that I've seen, the most recent states that have passed bills, South Dakota and Colorado, both were challenged and both were enjoined. So there may be cogent arguments, and I think there are cogent arguments that have both been put forward on the floor today, as well as on the Tenth Circuit, as Senator Briese mentioned, that might ultimately win the day. But I don't think they'll win the day right away, even if they are found to be correct. So I think the unlikely scenario is that we'll be able to collect taxes on this right away. The next more likely scenario is that this will be enjoined and we'll either win or lose. Either the Eighth Circuit or the Supreme Court will determine, yes, Nebraska, you can do what Colorado did; or, no, Nebraska, you cannot. Now, I think what will happen before then is that South Dakota's law, which again is ahead of us in the queue in the Eighth Circuit, will be ruled upon. The question, I think, is what's most likely to happen is either way, pass it or don't pass it, the next several years we're not going to collect a dime in tax, in my view. So should we wait and see what the final legal parameters are given to us by the United States Supreme Court or the Eighth Circuit by virtue of the South Dakota challenge to Quill? Or do we plunge ahead with a law that we are, in my view, is being put forward not necessarily because it's the best policy for Nebraska. I'm not talking about the collection, per se. I'm talking about the mechanisms that we require, the options we give to out-of-state sellers. Those are modeled directly off the Colorado law and, in my view, they are done so not because they're best for Nebraska, although some may say that they are, but because they have the best chance of success at the end of the day in three or four or five years. In my view, my preferred course and the reason why I'm against LB44 is to wait until we have clarity. And it's not some wistful we'll wait in five to ten years, maybe we will, maybe we won't. There is a vehicle today, multiple vehicles around the country that have been designed to challenge Quill, and I believe there's a high likelihood that the Supreme Court will pick it up, not the least of which the newest justice of the Supreme Court, Judge Gorsuch, wrote a concurring Opinion in the Tenth Circuit case that Senator Briese cited, in which he joins Justice Kennedy in saying that this is a terrible law, Quill is a terrible law. And frankly, I don't disagree with them. But it is the law of the land. So we can either plow forward, and I think the likely result of that will be no tax collected in the next several years, or we could wait, have a legal...there's a legal

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vehicle that should give us clarity, and then we can craft the policy that works best for Nebraska. So I do think it's ultimately unconstitutional, but the reason I'm opposing LB44 is, in addition, I don't...I think what is likely to happen is we will not collect tax and it's the wiser course to wait. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Williams. [LB44]

SENATOR WILLIAMS: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I would remind all of us that we do have three separate branches of government. We have the executive branch that's in charge of carrying out the laws that we pass. We have the judicial branch that we're hearing a lot about today that has the requirement of taking those laws and being sure that they do pass constitutional muster in doing the interpretation of them. But it is our job to make public policy. And I would like to thank Senator Watermeier for bringing this bill. And I fully support LB44 for a lot of reasons, but mainly talking about the public policy portion and the fact that we have a situation that I have looked at for my entire life in business and that's trying to be sure that we have a level playing field and allow those people that pay taxes, hire employees to play on a field that's the same as those that don't do those same things in our state. I'm bothered by the fact that we have record closures happening right now of businesses, as evidenced by the Sunday Lincoln Journal Star article about year-to-date closings are running at a pace ahead of that after the 2008 recession. That's bothersome. It's also bothersome how we have changed our buying and shopping habits and how that does not support our main street businesses. Those main street businesses that Senator Watermeier talked about that we can look at them as businesses, in my case I look at them as people because I see those people. I have worked with those people. I have seen the struggles that they have. And, yes, they are taxpayers. They are employers. But they're also your Sunday school teachers, your baseball coaches, the people that do business at your business, the people that send their kids to your school, the people that participate in the Teammates Program, the people that supply the hot dogs for the concession stand. None of those happen from the remote sellers. We've talked about potentially the burden that may be placed on these sellers as you look forward. And I don't really think that that's much of a burden when you look at the statistics and you think of a shopper or a business that is selling things across the whole country. And the population base of Nebraska being what it is, the number of sales that it takes, the number of dollars that it takes to meet the requirements of Senator Watermeier's bill, the 200 transactions and the \$100,000 mark, I don't think are unduly burdensome. We've had some comments made about the new tax aspect of this. I would suggest you go to your Nebraska state return and look at line 38, because that's the line on your Nebraska state return that talks about use tax and the requirement that you list items on there that you... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

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SENATOR WILLIAMS: ...have purchased through the mail or on-line. I think it's imperative in particular in this group and it was suggested at our Legislative Council meeting back in December by former-Speaker Galen Hadley, each one of us better be putting some number on that line. And I certainly report on that line. I've talked to Senator Watermeier. He's reported for years on that line. So that's clearly not a new tax. When we get into these constitutional issues, I go back to the fact that we are the ones that create public policy. And even though some people on this floor would suggest that they would like to wear a judge's robe, none of us do. And I would remind you that the presumption is there that something is constitutional until it is later proven unconstitutional. [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR WILLIAMS: Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Watermeier. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. Just wanted to follow up on a couple comments that were made earlier in opposition to the bill and just give you an example. It was brought up that if a business had only 200 transactions, which my bill talks about--once you break 200 transactions for the year you're required to start reporting, and/or break \$100,000--I think the example that was used was a little misleading. Because, remember, if you've already got a business in Nebraska, if your nexus is in Nebraska, you're already required to collect that sales tax on the very first dollar that you receive in sales. If you're outside of the state of Nebraska, then we're going to put this exemption on there: 200 transactions, \$100,000. So let me just reiterate a little bit what the example was. Well, if you only had 200 transactions at \$80 a transaction, \$16,000 grossing business would be required to do it. Well, that's not going to be in a business that's in Nebraska. That's already going to be a business that's outside of Nebraska. And let's just use it and let's just say he's a mile into Kansas, one mile outside of Nebraska into Kansas. He's not looking to sell everything he's got in Nebraska. On average, if you looked at that same transaction rate nationwide, that would equate to 34,000 transactions. We're not talking about mom-and-pop businesses that we're excluding. On the nationwide average they would have to gross \$17 million and/or 34,000 transactions if they were outside of Nebraska and selling at the same rate that they were inside of Nebraska. So we're not talking about real small mom-and-pops. The second argument I heard about constitutional issues, as it's been stated several times on the floor, what we pass in this building is law until deemed unconstitutional. That's proven fact. What's going on in Colorado has been deemed constitutional, never been challenged since. So that's on the books for a year and they've been collecting for a while. What we are trying to get to is the issue in South Dakota about the collection part of it. My bill has two parts to it. Think of it as a collection bill and a reporting bill. The reporting bill has been proven

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constitutional. The day this things comes into law, it's going to be constitutional and they will be required to start sending reporting forms in. We know that they're not going to like doing that, so the easiest part of their job is just going to be to collect it. They're going to collect it just like Amazon has voluntarily done. Back in October or November of last fall, Amazon came forward and said it's just time to do it. It's the right time. It's morally, it's ethically the right thing to do. We need to pass this law this year to put everybody on a even playing field. The other thing about this bill to me is being proactive. We could wait until it's proven constitutional. But the way this body works on a 90- to 60-day session, we'd have to come in on the interim just to make sure that it's legal, that it is constitutional in Nebraska. By having this in place today will allow dollars to start flowing in to the state either two ways: through the reporting mechanism, but then people will still have to pay it through their sales tax because they'll be warned that they owe it. But we all know that once it's made the red tape for that, the companies, the on-line retailers are going to start collecting it. This is a little unknown about what we're actually going to generate, but it's certainly going to be a positive, it's going to be a net gain. If it's constitutional, it's going to be \$30 to \$40 million. And I really think it's going to be \$100 million. I think within the first couple of years, just using South Dakota as an example, it's going to be \$2 (million) to \$5 million immediately, immediately. And I just can't help but think about the argument about this is not a new tax. If you look on the Web site for the Department of Revenue, it states right in the department's Web site the definition of sales tax and use tax. Nebraska law requires that a sales tax is not collected by the seller on any taxable sale, the purchaser must remit the tax directly to the state. When remitted by the purchaser, the tax then becomes a use tax. That's the definition of a sales tax compared to a use tax. [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR WATERMEIER: A sales tax is collected by the seller; a use tax is remitted by the purchaser. This needs to happen. I sense we have an overwhelming support for this bill in the body and even more so support outside of this body and main street Nebraska. It's just unfair to tell your main street businesses, well, we really think you ought to be paying a tax, but the on-line retailers, they're off the hook. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Kolowski. [LB44]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. It's...I'm standing in support of LB44 and thank Senator Watermeier for bringing this forward. I appreciate his comments and the comments of others in support of this particular bill. I think it's long overdue and that we have to, need to have the courage to stand up and understand where we're heading and where this is going to go. Can we wait? Sure. Wait and wait and wait and get farther behind and keep falling behind in the tax collection situations that we find ourselves in. I would remind us of the sheet

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that Senator Speaker Hadley shared with us in November when we were down at Offutt, following the election campaigns. He had a listing on one page, front and back, of the tax exclusions that we have given away from this body from 2006 to the present time. The amount of money on that exclusion list equals the indebtedness that we are feeling at this particular time-- \$720 (million), \$730 million of exclusions that we were giving away to different groups and situations across the state that we had nothing to replace with as we looked at that whole situation. I don't hear a lot of discussion about those items on that list, going back over, looking at and relieving the exclusion from our list of taxed areas that we've had in the past. I hope we'll have a chance to build on that as time goes on to rectify some of the issues that are very prevalent on those, on that particular sheet that we might be able to turn the corner on. I want to take a moment of personal privilege here just to mention something that ties into this but it also is part of what took place last week. On Friday, April 7, a number of us, my wife and I and Senator Hilkemann, were present for the National Historic Landmark designation of Omaha's Union Station. It was a very nice ceremony carried out in the interior of the Union Station and a number of...a large number of Omahans were there to join in the celebration of this National Historic Landmark designation. Other areas in Omaha that have the same designation, the Joslyn Art Museum, and, of course, our State Capitol Building here in Lincoln, built in 1932. When I think of the preservation of those remarkable facilities, and the upkeep and continuation of this facility that we work in, I think in terms of price. We are working on finishing four garden areas on the exterior of the building that are contained within the design of the building itself and, fellow senators, it's been 85 years since 1932 when we opened this building. Eighty-five years we have not concluded the plans for this building until this present time. We're working on that now and even that took great discussion and deliberation a year ago when we... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR KOLOWSKI: ...passed the budget to help make that happen. I hope we don't have to find ourselves pinching pennies and debating the wholeness of completing something that was in the plans and on the books for 85 years, since 1932, when this building opened. I hope we can have the courage, have the fortitude to pass what is correct and right to get these things done. I hope we'll look at the larger picture of what we're doing, the directions we're going, and the difference that could make in our taxing situation in the state of Nebraska. Thank you very much. [LB44]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Bolz. [LB44]

SENATOR BOLZ: Thank you, Mr. President. I wanted to rise and add my voice of support to LB44 and to the good work that Senator Watermeier has done in putting together this piece of legislation. And one of the reasons that I think it's so positive is that it has such bipartisan

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support. It does connect to the Main Street Fairness Act, which had bipartisan support in the Senate and our own Senators, Johanns and Fischer, voted for that bill in the past. And today's bill also has a wide diversity of support. And I just wanted to, for the body's note, to read the list of supporters because I think the fact that there is such a representative sample of supporters is really important. Proponents included: Mayor Douglas Kindig of the city of La Vista, Jim Otto with the Nebraska Retail Federation, Thomas Wright with Wright's Jewelers, Alan Hirschfeld of Hirschfeld's, Kathy Siefken of the Nebraska Grocery Industry Association, Don Herz of the city of Lincoln, John Bonaiuto with the Nebraska Association of School Boards, Paul Briseno with the city of Kearney, Johnathan Hladik with the Center for Rural Affairs, Todd Reed with the Nebraska Farm Bureau, Mark Zimmerer with the Norfolk Area Chamber of Commerce, John Hansen with the Nebraska Farmers Union, Randy Gates with the city of Norfolk, Ron Sedlacek with the Nebraska Chamber of Commerce and the Lincoln Chamber of Commerce, Lynn Rex with the League of Nebraska Municipalities, Jessie Herrmann with the Nebraska Cattlemen, Renee Fry with the OpenSky Policy Institute, and Coby Mach with the Lincoln Independent Business Association. Colleagues, I think it's rare that we see a committee statement with such a diversity of supporters across the political spectrum, across the geographical spectrum, with all kinds of interests in this piece of legislation. And I think that's because they recognize that this is a common-sense strategy to address our sales tax situation. I also wanted to comment on something that I have heard some discussion about and, in fact, I've had some discussion with Senator Watermeier about this issue. There has been discussion about earmarking or tagging LB44's revenues to a specific purpose. And originally I thought that maybe that might be a good idea as well, and Senator Watermeier and I had some conversation about that in the Appropriations Committee. And the more that we have discussions about that, the more I recognize that Senator Watermeier's strategy is correct. Not only would it be really impractical for the Department of Revenue to earmark specific revenues to specific purposes, it would also be outside of the strategies that we currently use with sales tax. The only sales tax that we put directly to specific purposes has a clear connection. So one of the examples is we provide sales tax for leased vehicles to the Department of Roads for the specific purpose of continuing to build roads for those leased vehicles to drive on. But this is a much more general initiative and so it falls in line with the other sales tax revenues that we get and use for General Funds for the purposes of educating our children, of protecting our vulnerable Nebraskans, of making sure that labor has appropriate regulations, all of those core governmental services. So, colleagues, I stand again to voice my support for Senator Watermeier, not only for the bill but also for his work to bring bipartisan support and his wise decision to choose to put these revenues towards general purposes rather than to a specific earmark. I ask you to join me in your support for LB44. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Schumacher. [LB44]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It's said that the first three words in the economics book are "get the money." That's probably a good idea, particularly when we're in the pinch that we are and we're just really short on money and having to do all kinds of dumb things with our budgets and our tax policy and everything else. This particular bill probably both sides are right on. Senator Hilgers probably comes pretty close to having it figured out, what's going to happen, the odds of this not being challenged, the odds of this at least surviving a short-term court challenge probably reasonably limited. However, that doesn't stop us from being able to get the money. The bill itself has some issues that will probably have to be dealt with, technical issues. For example, if you buy on your on-line shopping cart ten items or if you buy it over a period of a year and you don't follow the law, are you arguably subject to a \$10 fine per item, per shopping cart, per year? It says that rules and regulations will be developed. But if the Governor is opposed to those rules and regulations or opposed to the bill, it may have some impact on the existence of those regulations. Nonetheless, the economics of the situation are such that these taxes will likely be collected in some amount simply because it is now the "in thing" for on-line retailers to be able to deliver fast. In order to deliver fast, they've got to deploy delivery centers in lots of places so that the truck doesn't have to go as far in order to deliver the product. And it becomes problematic for many of them to try to then sort out the states that they have warehouses in and delivery facilities from the states that they don't. And economics says, all right, why don't we just have one system that applies to everybody and let's voluntarily comply with collecting these taxes and honoring this law, whether or not it's technically enforceable or not, because it's just more efficient? And after all, it's not their money. They're collecting it from the consumer. And it's pretty hard for a Nebraska consumer to raise any stink about it, because if they raise a stink about it on the sales tax side, they owe it on the use tax side. So one way or the other, they use it and no attorney will take that case certainly for a contingent fee. It's simply not worth it to take. Your client is going to lose either way. So I think that the bill is something we should do because it will enable us to get some money. However, using that status or that check should clue us in to some things, because there is in Revenue Committee a bill with literally hundreds of millions of dollars of tax perks just laying there, some of which are unexplained. One, a subchapter S exclusion of income, too technical to get into right here, but supposedly there's \$84 million laying there, nobody can really explain why. I think that number may be high because there might be some other credits that might have to be applied against it, but I don't know that. I've also had accountants tell me that that number is extremely low. We're looking the other way on getting that money. Instead, we're nickel-and-diming programs, we're stalling out bills on Select File, creating... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR SCHUMACHER: ...a logjam there, and we're doing a lot of things that may not prove to be smart in the long run. Senator Kolowski alluded to the list of \$700 million in tax

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breaks, some of which have not worked out very well, and that's part of the debate we're going to be having. But for now, LB44 is a way to get the money. Thank you. [LB44]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Wayne. [LB44]

SENATOR WAYNE: Thank you. Would Senator Hilgers yield to some questions? [LB44]

PRESIDENT FOLEY: Senator Hilgers, would you yield, please? [LB44]

SENATOR WAYNE: While he's walking over there, Senator Hilgers, in his talk...in his, I want to say, testimony, mentioned "on point," the word "on point" a couple of times, and that has significant legal meaning, so I just wanted to clarify. How do you define what is "on point"? [LB44]

SENATOR HILGERS: When the legal holding applies to the facts at hand. [LB44]

SENATOR WAYNE: So it's the legal holding, not necessarily the facts of the case. [LB44]

SENATOR HILGERS: Well, in order to be "on point" or on all fours to your case, you need to understand the facts in your particular case. [LB44]

SENATOR WAYNE: And you would agree that the current bill proposed by Senator Watermeier is not directly on point or identical to the facts of Quill, wouldn't you? [LB44]

SENATOR HILGERS: I don't believe it's...I don't believe those particular facts are identical, no. [LB44]

SENATOR WAYNE: So then they, based on your definition, Quill is not on point. [LB44]

SENATOR HILGERS: That...no, "on point" doesn't mean identical. Does it apply to the facts of your case? I believe it does. [LB44]

SENATOR WAYNE: You believe the legal holding applies to the facts of the case, but the actual case itself is not factually on point, if you want to go there. [LB44]

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SENATOR HILGERS: I would say the facts are different. I don't think that there's a fact that is materially different to reach a different result. [LB44]

SENATOR WAYNE: But it is possible that, if this law were to go to the Supreme Court, that they could easily find this bill factually distinguishable, correct? [LB44]

SENATOR HILGERS: Absolutely. That's what the Tenth Circuit did. Yes. [LB44]

SENATOR WAYNE: And it's very common, instead of overruling precedence, they, Supreme Court and most courts, try to find a way to distinguish, because they don't like to overrule precedence, correct? [LB44]

SENATOR HILGERS: Well, an Eighth Circuit decision couldn't overrule the Supreme Court, but oftentimes you will see a distinguishing rather than overruling a precedent, correct. [LB44]

SENATOR WAYNE: So the real question here is not whether it's unconstitutional but, in your opinion, is there a constitutional question? [LB44]

SENATOR HILGERS: I'm not sure I see the distinction between the two. Could you rephrase? [LB44]

SENATOR WAYNE: Well, if you say the Eighth Circuit or any circuit wouldn't want to say something is unconstitutional and overrule a precedence, they kind of distinguish. And what I'm saying is we have a factual distinguished bill here, but at best it's an open question. Since the Colorado Supreme...Eleventh Circuit Supreme Court...or Eleventh Circuit Court of Appeals has said that it's distinguishable, you're relying on Quinn(sic--Quill). But the reality is we don't know what they hold because precedence oftentimes overturned, so it's an open question at this point, at best. [LB44]

SENATOR HILGERS: I would say...I'd phrase it differently. I'd say we have binding Supreme Court precedent. I think there's a very, very high likelihood a district court judge would enjoin this law. I do think, however, Senator Wayne, that an Eighth Circuit Court or ultimately the Supreme Court could agree with distinguishing factors as laid out by the Tenth Circuit. And so, yes, it is absolutely possible it could be distinguished. And my view is that would be down the road several years from now, if at all. [LB44]

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SENATOR WAYNE: And you mentioned South Dakota is first in the queue. But doesn't the court have its discretionary power to enjoin both cases at the Court of Appeals' level and hear both cases at the same time? [LB44]

SENATOR HILGERS: They could consolidate it. Absolutely, they could. [LB44]

SENATOR WAYNE: So it's not necessarily we have to wait. We could be on the front edge with South Dakota regarding this issue. [LB44]

SENATOR HILGERS: We would. If we pass LB44, we would not be waiting, correct. [LB44]

SENATOR WAYNE: And the last thing, the other argument you have regarding this bill or being against it is that we wouldn't collect anything necessarily now; that we would be enjoined. But on a philosophical level, isn't that why we pass most laws, to prepare for the future and do things for the future even though sometimes don't immediately take effect today? [LB44]

SENATOR HILGERS: I would say there are some, yes, there are some instances. I think the recent history establishes there's a very, very high likelihood that a court would enjoin this, given what's happened in other states. And in my view, it would be the wiser policy choice to wait to see what these courts rule so we understand where our guidelines are and not try to cabinet it into just what Colorado did because we think that's our best chance of success today. [LB44]

SENATOR WAYNE: And lastly, on a philosophical aside, don't you often agree that sometimes at the state level we are there to challenge the federal government to do better, to be better, and that's why we pass laws to push them in a direction to do better? [LB44]

SENATOR HILGERS: Absolutely. And I think South Dakota did precisely that, Senator Wayne. The argument that I hear for LB44 is not that argument. It is, we want to collect sales tax now. And my response is to that argument. [LB44]

SENATOR WAYNE: Right, and I'm making that argument. So are you willing to support it now? [LB44]

SENATOR HILGERS: No. [LB44]

SENATOR WAYNE: (Laugh) Thank you, Senator Hilgers. Thank you, Mr. President. [LB44]

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PRESIDENT FOLEY: Thank you, Senators Wayne and Hilgers. Senator Howard, you're recognized. [LB44]

SENATOR HOWARD: Thank you, Mr. President. Dan Quick was just asking me if I was going to talk about him, and I thought about it and then I decided, no, not this time. So a couple of years ago, I got really into a financial system from a gentleman called Dave Ramsey. He's a radio personality and he encourages you to pay off your debt. And at the time, I was sitting on an alpine ski slope of debt from law school and so I was really overwhelmed and trying to figure out how to do it. And I took on about a billion odd jobs. If somebody was going to pay me to baby-sit their kids or their dogs or clean their yard, I was going to do it to pay off this debt. And one of the things that he tells you to do is to sell everything. Like if you don't need it and you don't have to have it, sell everything. Sell everything so much that the kids think they're next. And in my case, the cats I think were very concerned. My mom and I started doing a semiannual, a biannual garage sale, which didn't mean that we did it every other year. We actually did it twice a year. So we would have one in May and then we would have a follow-up in August that was usually based on all the other junk that the neighbors brought over so we would have to have a second garage sale. And so we tried to be creative about how were we going to have sort of a year-round garage sale. And my mom and I got really into eBay. And my mom has this very robust eBay business. She started by selling things she found in the basement, old dolls. She sold basically most of my childhood. Turns out, '80s toys are really popular on eBay. Punky Brewster boots be dammed, they are gone now. They belong to somebody in California. She also makes things by hand and sells them, so she'll make sweaters or baby outfits, and they're really beautiful. And it's really been...we call it the car fund. It's been a really good way for us to make a little money on the side and then have a little savings so that eventually we can buy a new car. But in that process, we learned you already pay a lot of fees. You pay an eBay seller fee. You pay a PayPal fee. And so I think I have a few questions for Senator Watermeier if he's here. Senator Watermeier? [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

SENATOR HOWARD: My questions predominantly revolve around how do I...how can I be sure that LB44 won't impact my dear mother, who does this as a side hustle out of her basement? And so if you could just tell me a little bit about the \$100,000 in gross revenue, which--spoiler alert--Gwen Howard is nowhere near that, but she is sometimes close to the 200 or more separate transactions. So if you could tell me a little bit about how this might impact her, that would be great. [LB44]

SENATOR WATERMEIER: Well, the dear Senator Howard from Omaha, your mother, already has a business in Nebraska, so her nexus is in Nebraska and I believe she's required today to

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collect and remit sales tax. So we're talking about businesses that are outside of the borders of Nebraska. [LB44]

SENATOR HOWARD: Okay. And so there's no possibility that this would impact other sort of women who are selling things out of their basement who maybe get close to 200 or more separate transactions? [LB44]

SENATOR WATERMEIER: If their nexus is already in Nebraska, they're under that Nebraska rules already and they're going to be required to collect it and remit it. [LB44]

SENATOR HOWARD: Okay. That's perfect. Thank you, Senator Watermeier. [LB44]

SENATOR WATERMEIER: You're welcome. [LB44]

SENATOR HOWARD: And for my mother, who is watching, I hope this satisfies all of your questions. I'm concerned because she just this year really started texting and so she's been texting it up during this whole debate. And so I hope that does address all of her concerns. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Howard and Senator Watermeier. Senator McCollister. [LB44]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Members of the body, Senator Bolz indicated that LB44 is broadly endorsed, and indeed it is. All the chambers of commerce that I'm familiar with, including Omaha, Lincoln, and the State Chamber, have endorsed LB44, and I think that there's a good reason for that. I've also talked to a number of small retailers and they all endorse LB44. So it's broadly accepted. Let's take a look at the mechanism. Let's say you're an Internet seller selling into Nebraska. With passage of this bill, you're obligated to send information to every taxpayer in Nebraska that purchased something from your company. They then would have to fill out a postcard or some kind of letter and send it out to all the buyers in Nebraska. What's more likely to occur is that Internet seller will remit the money directly to the state of Nebraska, which will eliminate the need for taxpayers in Nebraska to at least report that particular sale. So I think that is likely to occur, which will help taxpayers and certainly help the state of Nebraska. I've talked to some other retailers; indicate that there's software that exists that enables small retailers to make this law...to be compliant with this law, and that's likely to occur. Particularly as more states adopt this kind of bill, I think it's more likely that software will exist to make it easier to comply. Lastly, this is a matter of fairness. We need to take care of those small retailers. They are competing with Internet sellers

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that have an automatic, in the case of Omaha, 7.5 percent discount. It's not right and this bill needs to pass. Please vote green on LB44. [LB44]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Brasch. We'll come back to Senator Brasch. I don't see her. Senator Williams. [LB44]

SENATOR BRASCH: Here! [LB44]

PRESIDENT FOLEY: Senator Brasch is here. Thank you. [LB44]

SENATOR BRASCH: Thank you, Mr. President. And I apologize, colleagues. I was trying to discuss issues and concerns and benefits on other legislation. And on this one, I stand still perplexed on what is the right thing to do. I support our main street businesses. They are awesome places to me--the best service, wonderful people that run them. I understand the concerns they have on sales tax compared to on-line sales, but I do know and I have filed on my 1040 on-line sales. I look very carefully, if I purchase on-line, have they applied a sales tax, and most of them do now. It's very rare that I don't see a sales tax applied. So we are voluntarily paying it. Amazon is voluntarily collecting it. And the reason I did put my light on earlier and I just got the e-mail now, what concerns me, and as I talk with my constituents and the retailers, is that when we took our oath of office, if you remember, as we stood there with our hands up, we swore that we are constitutional officers. And if you've forgotten what you swore to, my office just e-mailed it to me from the Secretary of State. But just pulling it up generally, that we do solemnly swear that we will support the Constitution of the United States and the Constitution of Nebraska, and it continues. And as I'm hearing dialogue from Senator Watermeier the word "if," from Senator Wayne the word "if," and the debate going on about if it's constitutional, if it's not, and I do hesitate to vote for something that may be unconstitutional. I have sworn twice, you know, before the state of Nebraska and God and my country that I will uphold the constitution of our country and of our state. With that, it would be prudent, I believe, if we would have clarity of moving forward that this is truly constitutional or not before we gamble and take a risk that what we solemnly swore to may be an exception here. So it is with great difficulty and I guess a heavy heart that I can't support it at this time. In committee I was present, not voting. Perhaps that's going to be my solution now. But I don't think we pass legislation before the courts have ruled the constitutionality or not. Thank you, Mr. President. And thank you, colleagues. [LB44]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Wayne. Senator Wayne is not present. Senator Watermeier, you're last in the queue. You may speak to the bill or close. [LB44]

SENATOR WATERMEIER: I'd like to close, please. [LB44]

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PRESIDENT FOLEY: Please proceed. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. Once again, Nebraskans, we've heard all the arguments. It's been a really good discussion here in an hour and a half. I appreciate the conversation. But I don't see anything would prevent us from passing this bill today. It makes common sense for main street Nebraska. It makes common sense for us fiscally. It's constitutional. There's reasons to pass this that are going on outside of the state of Nebraska and I really believe this makes a lot of sense. With that, Mr. President, I would ask for a call of the house. I see a lot of members that are gone, so I'd ask for a call of the house. [LB44]

PRESIDENT FOLEY: Thank you, Senator Watermeier. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB44]

CLERK: 21 ayes, 2 nays to place the house under call. [LB44]

PRESIDENT FOLEY: 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. Waiting for Senators Hughes, Stinner, Morfeld, and Chambers. House is under call. Please return to the Chamber and record your presence. All unexcused members are now present. Members, you heard the debate on LB44. The question before the body is the advance of the bill to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB44]

CLERK: 28 ayes, 13 nays on the advancement of LB44. [LB44]

PRESIDENT FOLEY: LB44 advances. I raise the call. Do you have any items for the record, Mr. Clerk? [LB44]

CLERK: I do, Mr. President. Thank you. A hearing notice from the Business and Labor Committee, and then a series of Reference report referring gubernatorial appointee, a gift of land, and two resolutions. That's all that I have, Mr. President. Thank you. (Legislative Journal page 1000.)

PRESIDENT FOLEY: Thank you, Mr. Clerk. We'll now proceed to the next bill on General File, Mr. Clerk.

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CLERK: LB44A, by Senator Watermeier. (Read title.) [LB44A]

PRESIDENT FOLEY: Senator Watermeier, you're recognized to open on LB44A. [LB44A]

SENATOR WATERMEIER: Thank you, Mr. President. I just follow up with the A bill on LB44. I appreciate your green vote on this and I hope all the members stayed in the building here. We'll just go right to the vote if no one is in the queue. Thank you, Mr. President. [LB44A LB44]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Debate is now open on LB44A. No one is in the queue. Senator Watermeier waives closing and the question before the body is the advance of LB44A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB44A]

CLERK: 27 ayes, 9 nays, Mr. President, on the advancement of LB44A. [LB44A]

PRESIDENT FOLEY: LB44A advances. We'll now proceed on the agenda for the 1:30 item, General File appropriation bill. Mr. Clerk. [LB44A]

CLERK: LB225A is a bill by Senator Crawford. (Read title.) The bill was referred to the General File directly, Mr. President. I do have an amendment to the bill from Senator Crawford. (AM990, Legislative Journal page 1001.) [LB225A]

PRESIDENT FOLEY: Senator Crawford, you're recognized to open on LB225A. [LB225A]

SENATOR CRAWFORD: Thank you, Mr. President; good morning, colleagues. This A bill is for the portion of LB225 that was originally the Governor's budget bill AB336 which shifts our funding for checks on the central registry into cash funds. And so the A bill is required to make that change and so to allow us to use the cash funds for this purpose. Thank you, Mr. President. [LB225A LB225]

PRESIDENT FOLEY: Thank you, Senator Crawford. Mr. Clerk. [LB225A]

CLERK: Mr. President, Senator Crawford would move to amend with AM990. (AM990, Legislative Journal page 1001.) [LB225A]

PRESIDENT FOLEY: Senator Crawford, you're recognized to open on the AM990. []

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SENATOR CRAWFORD: Thank you, Mr. President. The amendment strikes lines 7 through 9 that were originally put in the A bill and those lines were put in to say that it could not be used for salaries or per diem for state employees, but this is actually cash funds for the purpose of processing these registry checks. So we wanted to strike that portion of the A bill and make sure that it is possible to use it if necessary for salaries. Thank you, Mr. President. [LB225A]

PRESIDENT FOLEY: Thank you, Senator Crawford. Debate is now open on the LB225A and the amendment. Seeing no members wishing to speak; Senator Crawford, you're recognized to close on your amendment. She waives closing. The question before the body is the adoption of AM990. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB225A]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Crawford's amendment. [LB225A]

PRESIDENT FOLEY: AM990 is adopted. Continuing debate on LB225A. Senator Crawford, you're recognized to close on the bill. She waives close. The question before the body is advance of LB225A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB225A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB225A. [LB225A]

PRESIDENT FOLEY: LB225A advances. Moving on the agenda, Select File 2017 Committee Priority Bills. Mr. Clerk. [LB225A]

CLERK: Mr. President, returning to LB263 considered yesterday. Enrollment and Review amendments were adopted, as was an amendment by Senator Smith. I have other amendments. First amendment this morning is Senator Bolz, AM670. (Legislative Journal 871.) [LB263]

PRESIDENT FOLEY: Senator Bolz, you're recognized to open on AM670. [LB263]

SENATOR BOLZ: Thank you, Mr. President. This amendment would create a license plate in honor of Native American history and culture here in Nebraska. A constituent of mine, Ross Smith, brought this idea to me during the interim. He wanted to do something for native youth in Nebraska. Ross was very ill, and unfortunately he passed away prior to the introduction of LB355, which is the substance of AM670. As you all know, we have a series of specialized license plates that raise awareness and funds for specific causes. AM670 would create license plates to honor indigenous people here in Nebraska and provide funding for scholarships and

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leadership growth in Nebraska through existing initiatives of the Commission on Indian Affairs. Over 10,000 indigenous people live in Nebraska, with four tribes recognized: the Omaha tribe, the Santee Sioux tribe, the Winnebago, and Ponca tribe. And the plate would be designed to broadly represent all native tribes in the state. The initial cost would come from the DMV cash fund. So I miss my friend Ross. I think this is a laudable approach for both recognizing our Native American history and providing additional funds for Native scholarships and leadership. And I ask for your support on AM670. Thank you, Mr. President. [LB263 LB355]

PRESIDENT FOLEY: Thank you, Senator Bolz. Debate is now open on the amendment. Senator Bolz, you're recognized to close on your amendment. She waives close. The question before the body is adoption of AM670. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB263]

CLERK: 28 ayes, 0 nays on adoption of the amendment. [LB263]

PRESIDENT FOLEY: AM670 is adopted. Mr. Clerk, next amendment. [LB263]

CLERK: Mr. President, Senator Wayne has AM909. Senator, I understand you wish to withdraw AM909 and offer as a substitute AM967. (Legislative Journal page 997.) [LB263]

PRESIDENT FOLEY: Senator Wayne, you're recognized to open on AM967. [LB263]

SENATOR WAYNE: Thank you. This is a simple amendment. As I read through the amendments and the bill itself, I thought about the auditor's report that was given out where, basically, DHHS has had a hard time just providing regulatory oversight when it comes to transportation and the issues in transportation. And it's really that simple. I'm striking that out and keeping the regulatory authority within PSC. The reason that is important is oftentimes the PSC doesn't hear about a complaint until it is somewhere around the rates. By removing rates from the PSC and putting it under DHHS, one, the consumer would think that it is who they would call if there was a complaint; and that's just not true. They should be calling the PSC. But two, it provides clear guidance to make sure the PSC still controls the complaint process of the common carriers. Why is that important? Because common carriers throughout Nebraska are all...the oversight is done by the PSC. So to carve out DHHS for certain people, I think, is not the best use of what DHHS should be doing for one; but two, I think it's consistent to keep it within the PSC. I have more to talk about, but that is the basic reasoning for this amendment is to make sure PSC still has the oversight that it has with whether it's Lyft, Happy Cab, or any carrier that it would have also with these individual carriers. Now I understand there are some rural issues and why they think this might help, but the reality is is contracts will still be negotiated by DHHS. But we need to provide clarity on the regulatory schemes and who oversees common carriers.

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And I think PSC is best. I also remember yesterday Senator Smith saying on the mike that the PSC provide a letter of support for AM...at the time AM777. It was my understanding, because I was CCed on one of the letters that they were only in the neutral capacity. So they weren't in support, they were in neutral. And because of the Auditor's report, and because of some of the ongoing issues that I think DHHS is addressing, to add them with another responsibility, I think, would burden some, and I think it's best that we leave it where it is at and let DHHS continue to focus on what they need to focus on which is cleaning up some of the things that they've already been doing and focus on Medicaid and Medicaid patients. And with that I conclude my opening. [LB263]

PRESIDENT FOLEY: Thank you Senator Wayne. (Visitors introduced.) Senator Friesen, you're recognized on AM967. [LB263]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I will be opposed to AM967. I think we've worked with all parties and we have reached a consensus on an agreement on how to proceed forward. So, therefore, I think there was mutual agreement amongst all parties. We move ahead with the bill the way it was originally written. Thank you, Mr. Lieutenant Governor. [LB263]

PRESIDENT FOLEY: Thank you Senator Friesen. Senator Smith. [LB263]

SENATOR SMITH: Thank you Mr. President. And I do have to rise in opposition to AM967. We had discussion yesterday on AM777 and that amendment, yesterday, that we did discuss at length is what Senator Friesen is referring to as having agreement. And for Senator Wayne, you are correct. That what I read yesterday was in neutral. I do take it that I said support. That was not intended to mean that they were endorsing, but that was a letter in neutral. And handing out...what we've handed out to you today is a letter from DHHS, as well as a letter from the Public Service Commission addressing some of the issues that we discussed yesterday. I wanted those in front of you so you can read for yourself the official position of the Public Service Commission and DHHS regarding what we have agreed to on the components of non-emergency transportation services that have been amended into LB263. Just some points I want to make is that the change that we adopted yesterday with AM777 was targeted at repairing and improving the brokerage of non-emergency transportation services that we've encountered and that many were identified yesterday on the floor, and in doing so, bringing any team management under Heritage Health or Managed Care. The concerns that we heard yesterday dealing with reimbursement, auditors report, etcetera, were aimed at current law and the current service framework. And those have been problematic and that's what we're seeking to address with what we have amended into LB263 which included, frankly, using Intelliride as a broker for non-emergency transportation services. LB263, as it has been amended without AM967, is a

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coordinated response between the Public Service Commission, DHHS, and NET Service providers to address concerns with the existing model. To amend this out is what AM967 would do, and to amend this out is to say that we prefer to keep the current system with the flaws that we discussed yesterday on the floor of the Legislature. What LB263 does, without this amendment, places NET Services under managed care and allows for DHHS to negotiate rates and pricing for common carriers above the rate and pricing set by the Public Service Commission for underserved areas. The alternative is to increase the regulatory, and again, I want to talk about the alternative. The alternative...you adopt AM967...let's go backwards, let's go back to where we are today. Everyone's happy with that. Let's leave it alone, let's adopt AM967. But then the alternative would be to increase the regulatory oversight of the Public Service Commission to perform brokerage services of non-emergency transportation. Now, who is more equipped to manage Medicaid services? I believe that it is DHHS. Who is more equipped to manage the need and necessity of common carriers in our state? I believe the Public Service Commission is. LB263 leaves that in place. It does not take away the authority of the Public Service Commission in regulating... [LB263]

PRESIDENT FOLEY: One minute. [LB263]

SENATOR SMITH: ...common carriers. There's a lot of misinformation taking place, but what we're seeking to do with LB263, as has been amended, is to try to address the problems that we've encountered with the brokerage of non-emergency transportation services which was Intelliride. Bringing that under the managed care, I think, is the best route to go. Leaving Public Service Commission with its appropriate authority to regulate common carriers, I think, is the appropriate approach to take. That's what brought us to the compromise. The bill in its original form went further than that. We amended it back with LB777 to focus primarily on the negotiating that contract and bringing it in under managed care. Not taking away the regulatory authority of the Public Service Commission with regards to common carriers. So I'm asking to vote down this amendment by Senator Wayne. I do know he believes he's doing the right thing, but in this particular case, it takes us backwards, it takes us back to where we found ourselves over the last couple of years with not providing the right service for these recipients. I don't believe the best path is backwards; I believe it's forward. I believe we have a compromise... [LB263]

PRESIDENT FOLEY: Time, Senator. [LB263]

SENATOR SMITH: ...as LB263 has been amended. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Howard. [LB263]

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SENATOR HOWARD: Thank you, Mr. Lieutenant Governor. I rise in support of AM967. I don't think that the Department of Health and Human Services is ready to take all of the oversight that we currently have and take it inside. And my concern revolves predominantly around fraud abuse and overbilling. And I appreciate Senator Smith's confidence in the Department of Health and Human Services. And so from my end, I'd like to just highlight a few of our Auditor's most recent findings about payment issues from a January (inaudible) audit with the department. And I'll just read the highlights, the agency...and mind you, this is not in relation to transportation, this is just overall. Because I think...I want us to understand that DHHS is not just this transportation issue, it's a lot of other issues. And when we have concerns about payments and oversight there, we should also have concerns about payments and oversight here. So the agency understated short-term payables by \$2 million, related to the indirect medical education. The state ward payable was overstated by \$1.4 million in Medicaid state disability and children's health insurance program, or CHIP; their payable was overstated by \$2.6 million. This is just a regular old audit that we're doing. The third party liability overstatement was \$6.9 million. The Medicaid drug rebate was overstated by \$7.6 million. Three million dollars for the overstatement of federal fund expenditures on DAS. And cash was overstated by \$1.2 million. An audit from January of 2017 tells me that we're not ready to allow the department to have full oversight over every issue. And so allowing us to have a separate set of eyes through the PSC gives me a little more confidence that the department will be doing what they're supposed to be doing. And so with that, I would encourage the body to adopt AM967. This is certainly an issue that we could look at over the interim and make sure that we're ready for a transition of oversight in this area, but given the remarkable number of challenges we've had with non-emergency transportation, this is just...what I've talked about is just the department overall. But in Intelliride we've had lawsuits. We've had several overbilling and payment issues. I think it's premature for us to even consider removing the oversight from the PSC for this issue. And with that I would urge you to support AM967. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Harr. [LB263]

SENATOR HARR: Thank you, Mr. President, members of the body. I want to say never ever, ever, ever, since I have been down here have I heard another senator say, you know what, let's give DHHS more responsibility; let's give them more oversight, because they've done such a great job. What I have heard is we need to separate HHS. We need to figure out...that is a big...I'll call it Titanic. And we can't afford for it to go down. And we...again, like I said yesterday, we got staff members hiding \$20 million; it might even be more than that, in a desk drawer worth of checks. And now we want to give them more responsibilities. My gosh. That's like giving an alcoholic more money, more drinks. You've done such a good job, we're going to...you can hold your liquor, we're going to give you another liquor, we're going to give you another shot of bourbon. It makes absolutely no sense. The PSC has done a good job, and they're doing a good job. And I haven't heard...I've heard the two sides agree to it. Apparently they're the

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policymakers, we aren't. I got to brush myself up on the constitution a little bit, I thought we were the policymakers. But I haven't...I've heard, oh, this is okay, both parties agree to it. What I haven't heard is why we're doing this. I've listened to Senator Smith this morning. I read the letter that he handed out. No one has told us why we're doing this. So I'm going to support AM967. Thank you. [LB263]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Wayne. [LB263]

SENATOR WAYNE: Again, thank you, colleagues; thank you, Mr. President. We heard a little bit from Senator Howard, some of the issues that DHHS has had. Again, I know they're working hard to fix some things over there. But over the last two years, I believe PSC has already approved all Medicaid transportation applications and their rates, so this doesn't surprise me. And what I find interesting is a letter in neutral that was submitted and handed out by Senator Smith. On this page 2 it says: information provided by DHHS for the first five months of 2016 show...and it tells you about the number of trips, and it says: there were 1,107 negative complaints filed with DHHS. One, I think they should be filed with the PSC for one. But it goes on to say that when complaints and billing issues are brought to our attention, the commission works cooperative already with DHHS. So I'm not sure if they're working together, how we're going to be going backwards if both sides are saying they can work together to solve these issues, but we still need to have the final say in the regulatory authority lie with the PSC. So when there's issues and there needs to be compliant and there's orders, currently the PSC is providing order saying: one, don't break the law; or two, you must comply with this area of the law. But, again, in their own letter of neutrality, the PSC is saying that they are...DHHS is getting complaints, and that is the problem. We already have an agency which is bound by our statutes to oversee common carriers, to oversee these precise things, and it's being muddied because DHHS oversees the contracts. We're still going to leave...with my amendment...leave the contract portion in place, but we want to make sure it's clear that PSC oversees these issues and these complaints, can open up investigations, and make sure that laws are complied with. Again, PSC and the state Auditor are the ones who found hundreds of thousands, if not millions of dollars of waste. And I would go as far to say maybe a little bit borderline fraud, and it is their job to make sure that they stop the abuse, stop the wasteful spending, but also more importantly, to protect the consumer. When things are happening, whereas people are getting rides and they're not actually being paid or people are getting rides and not actually getting medical treatment, somebody needs to oversee that. And again to Senator Howard's point, I'd rather, for at least the next couple years, DHHS continue to do what they're doing to make things better through them with their Medicaid and some other things they've been working on. And I have the full confidence that they're going to get better. But I think adding another oversight at this point is not needed. And maybe we can revisit this a little bit more over the next couple years to figure out how to make everybody in the sandbox play together a little better. But the reality is according to the commissioner and the letter of support, they're already playing well together, so

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I don't see this bill as being needed and that's why my amendment strikes it. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Riepe. [LB263]

SENATOR RIEPE: Thank you, Mr. President, and colleagues. I totally stand in opposition to Senator Howard and Senator Harr's opposition to DHHS. I'd like to remind this group that DHHS is the largest division and department within the state at \$3.8 billion. Obviously they're dealing with the aspects of human issues, and so they are going to have more complaints and concerns than many other departments. I stand in opposition of AM967 and in support of LB263. LB263, as amended by AM538, provides the division of Medicaid additional flexibility to manage reimbursement and carrier routes for non-emergency medical transportation. The bill will require a non-emergency medical transportation providers be remained regulated carriers under a Public Service Commission. Additionally, I believe this will enhance the department's ability to improve access to non-emergency medical transportation services in underserved rural areas. This will allow for the department in the future to move non-emergency medical transportation services within Heritage Health; that's the manage care organizations that function within the division. This will allow the continuum of care for its members. Additionally, I believe this will help improve outcomes for recipients of Medicaid that need non-emergency medical transportation services as they are able to better access healthcare. Please vote red on AM967 and green on LB263. Thank you, Mr. President and my fellow senators. [LB263]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Krist. [LB263]

SENATOR KRIST: Thank you, Mr. President; and good morning, again, colleagues, Nebraska. Yesterday, I asked Senator Smith and Senator Friesen on the mike to assure me and us that this was not going to take total oversight away from the PSC. And I believe the answer I received yesterday was that PSC still had oversight capability of the functions. So I'd ask Senator Friesen if he would yield so that I could confirm that today as well. [LB263]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB263]

SENATOR FRIESEN: Yes, I would. [LB263]

SENATOR KRIST: Yesterday when we engaged in a conversation, a question on the mike, Senator Friesen, my point of the question was to ask with LB263, as it stood at the time and is now trying to be amended, did not take oversight function away from PSC. And I think you said that that is correct, that you did not remove it from PSC. [LB263]

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SENATOR FRIESEN: That's the way I understand it. The PSC still has oversight. It just...it changes some of the things in the other portions of it, but the Public Service Commission will still maintain oversight. [LB263]

SENATOR KRIST: Okay. So in your opinion then, how is there a division or a lack of understanding here on the floor today that total oversight would go to HHS, no oversight would stay with PSC? [LB263]

SENATOR FRIESEN: I think it changes, probably, who negotiates prices. It opens it up to other carriers. Like in the rural areas, that was our biggest concern there is we've had trouble scheduling with the current providers. We have problems getting the doctors appointment and the patient there at the same time. So this to me, this was a rural issue that I was looking at and opened it up to other providers. [LB263]

SENATOR KRIST: Okay, very good. I also had a conversation with Medicaid, with the department yesterday, as many of you, I think, have. They're out again lobbying the position. And I'm...although I'm not willing to go on the mike and repeat what I was told, if I read the Auditor's report and I surmise what the issue actually is, I think we have, in this particular case, a questionable, if not a bad actor who has been complained about and complaints are still being issued against that provider, so I'm hoping that AM967 is not required in order for the department to do what the department needs to do. But I would put the department on notice in saying that if that bad actor is not taken out of the system, particularly as it applies to my district, there may have to be other action taken. And that, folks, comes down to our function in oversight. We have to trust the people who have the authority to make these decisions and apply their oversight, but then we also need to follow through. So I would hope that the department stays true to the promises that I heard yesterday, and with that I would yield back the rest of my time. [LB263]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Vargas, you're recognized. [LB263]

SENATOR VARGAS: Thank you very much, President. Colleagues, I rise in support of amendment AM967, and this is an issue that we're learning a lot more about. And I think I have similar concerns that are being raised regarding the capacity with which DHHS has to do an effective and efficient oversight over this. I can speak to what we've learned from DHHS is there's a lot of things that we're bringing in-house as a result of changes this year, and I think that's good. I caution us when we are bringing a lot of things in-house and making sure they have more oversight mechanisms, that we don't have more plans. To my knowledge so far I don't see a plan for how we plan on absorbing more of this oversight which is a concern to me and we don't have a plan for that transition. I'll seek out more information regarding what that plan looks like

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because I want to make sure that any time that we're providing some more oversight for an agency, especially something that we're seeing from this audit, that there is some...more monitoring and mismanagement that's happening, that's needed. Until then I'm in support of this amendment because I want more information to show us that this is needed right now, and also that the Public Service Commission is in support of it rather than neutral so that we can make sure that we do have some checks and balances between the Public Service Commission and DHHS in regard to something so important. So I rise in support of AM967 and hopefully I ask my colleagues to also rise in support of that with me. Thank you very much. [LB263]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Friesen. Senator Friesen, you're recognized. [LB263]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Here I have an OIG audit that was conducted, basically, through 2012 to 2014. And it was an audit of the non-emergency transport portion, which people referring to all the different complaints. The audit looked at a sample of a hundred claims from 2012 to 2014. And this was a previous contractor, it wouldn't be the current one. But the majority of claim errors found were because of the NET provider, the carrier, was unable to provide documentation that the recipient was actually transported in the vehicle or that it actually provided an NET service. So there's a number of reasons this could have happened, either the company had gone out of business. Several of the claims were identified that were bus tickets, which buses are not authorized, so there's no documentation. Additionally, NET providers were not traditional medical providers, so they're not used to keeping the documentation that met the standard of federal auditors. The second most common cause was because providers were unable to find a claim for a Medicaid-covered service on the date that the NET service was provided. So the state disagreed with that claim. There were originally 36 claims in this finding, and we provided documentation to support that these claim payments were appropriate. The auditor agreed with 21 of the claims, but maintained the findings for 15 of the claims. When we're talking about the number of claims here of mispayment or anything else like that, the number is extremely small, and most of those were documented for some reason, so I'm...we're not talking of a large funding issue here. It's a very small issue. Thank you, Mr. Lieutenant Governor. [LB263]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Chambers. [LB263]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is an issue which came to my attention recently, and the more I talked the muddier becomes the water...I mean, the more I listen, but when Senator Friesen talks about only 1,107 negative complaints, maybe out of 300,000, that diminishes in his mind the importance of it. But the 1,000-some odd complaints represent families, individuals, clients who are not being properly served. I think maybe I take a

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different approach from most people on this floor because I atomize or break down into individuals these statistics, and I think about the family. I think about some of those people who have contacted me, where if they could go on a direct route from where they are picked up to the doctor's office, they would be able to make it on time with time to spare. Instead of that, they are driven around and other people are picked up along the way, and by the time this first person is dropped off, the doctor's appointment is long time over. Some of the others who were picked up in circuitous route, face the same kind of situation. I am going to support this amendment. I'm not pleased with what HHS has done. I was here when they did a lot of consolidating and creating that big entity. Governor Ben Nelson was going to run for the Senate, I believe, at that time, and there were some Democrats in the Legislature at that time. And I was, as always, an Independent. And I could see that it was going to be a very large, unwieldy consolidation, and you can check the transcripts if you want to go back that far, and I said, I'm listening to these Democrats and I wonder if they would be willing to do this consolidating if it was a "Repelican" governor wanting to run for the Senate. And this "Repelican" governor was of a mind to consolidate to show that government was being reduced. Would you all support that "Repelican" just like you're supporting this Democrat? I was opposed to DHHS becoming what it now is. I was here during that time. I fought against it. I've watched it careen out of control. It is so large that you can't tell the head from the tail. And if you're going to reach into it, it's like somebody giving you a basket full of writhing, slithering snakes, and they say reach halfway down and catch the snake right in the middle and make sure you catch him by the head because if you don't he's poisonous and he'll bit you if you grab him by the tail. So nobody oversees DHHS. DHHS is the watcher. Who watches that watcher? You can already see because of the way some aspects of it operate that under a governor everything is politicized. I don't know why DHHS wants to get PSC out of this circuit when there are so many problems. If you all don't get the complaints it doesn't make you any difference. You never see individuals. Senator Friesen, I think, is being very sincere in what he read to us, and I don't want him to think I'm attacking him, his integrity or anything else, but I'd venture to say I get more complaints than most of you all do. So I'm not looking at numbers on a piece of paper. I don't think I can stop this bill. I cannot force anybody to vote for this amendment, but I think I can take some time, and I haven't made up my mind that that's what I'm going to do. I've been talking to Senator Smith, and I think he is talking to me, and we're both dealing with each other in good faith. I cannot tell you what the ultimate solution is, so what I think ought to happen, my opinion, leave everything like it is. Take this amendment... [LB263]

PRESIDENT FOLEY: One minute. [LB263]

SENATOR CHAMBERS: ...leave status quo where it is. Complaints have been made. They'll continue to be made. PSC does play a role. Precisely, what that defined role is, I cannot tell you. But if the way the bill has been amended, it takes away some of the oversight that PSC had and gives more to DHHS, which left hundreds of thousands of dollars stacked in a safe...maybe

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millions because some guy quit and nobody else in DHHS was assigned that work so the money's just lying there, checks uncashed. Ordinarily this body is very concerned about the sloppy handling of money, but maybe because of those that the body perceives would be harmed by it, and they're not the kind of people the body cares about, stack up all that money, all those checks that haven't been cashed, let there be penalties imposed by the federal government because DHHS is not doing its job. I cannot do that. [LB263]

PRESIDENT FOLEY: Time, Senator. [LB263]

SENATOR CHAMBERS: So I'm supporting this amendment. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Smith. [LB263]

SENATOR SMITH: Thank you, Mr. President. And I'll just be very brief. I appreciate Senator Chambers' remarks on this. I do think we both are wanting the best...the same thing, and we're going to have the system that we currently have improved. We just have a different approach to this. What I've said to Senator Chambers is, you know, we'll get to a vote, we'll get a straight up and down vote here. And if...I'm hoping AM967 is defeated, AM967, then I will make certain to work with those that have sincere questions here about how this works and what the changes would bring from LB263 and reassure them that we're moving in the right direction. And if I cannot reassure them of that, then I'm more than happy to have further discussion next round. On the other side of this, if Senator Wayne is successful, I would like to work as well between here and Final on this bill to make certain that everyone understands that what we're trying to arrive at is a common goal of improving the Medicaid services that we're currently providing now through Intelliride. You've heard much about that. We are leaving the Public Service Commission regulatory authority in place for regulating common carriers. That's not changing. What we're trying to do here is to give some level of flexibility to DHHS in the way they negotiate pricing for non-emergency transportation services to make certain that we can successfully provide the necessary services to those areas that are underserved. So, again, with that I stand in opposition to Senator Wayne's amendment, AM967, and do ask for the advancement of the underlying bill without that amendment. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Wayne, you're recognized to close on AM967. He waives close. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? There's been a request to place the house under call. The question is shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB263]

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CLERK: 23 ayes, 3 nays to place the house under call. [LB263]

PRESIDENT FOLEY: 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 Watermeier, Bolz, Kuehn, Larson, Linehan, Brewer, the house is under call. Please return to the Chamber and record your presence. All unexcused members are now present. Senator Wayne, your option at this point is to accept call ins or a roll call vote. Roll call has been requested in reverse order. Mr. Clerk. [LB263]

CLERK: (Roll call vote taken, Legislative Journal pages 1001-1002.) 16 ayes, 26 nays, Mr. President, on the amendment. [LB263]

PRESIDENT FOLEY: AM967 is not adopted. I raise the call. Mr. Clerk. [LB263]

CLERK: Mr. President, Senator Friesen would move to amend the bill with AM867. (Legislative Journal page 925.) [LB263]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on your amendment. [LB263]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. This amendment is just technical in nature and removes three references to public power district trailers. Sections 52 of the committee amendment clarifies that a public power district trailer may be registered as appropriate to the class of trailers as defined under Section 60-3151. Current public power district trailer must be registered as a utility trailer or cable pole and reel trailer. With the adoption of AM867, public power district trailer may be registered as a commercial trailer, utility trailer, or cable pole trailer and reel trailer as appropriate as determined by the district, the county treasurer, and the Department of Motor Vehicles. Thank you, Mr. Lieutenant Governor. [LB263]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on the amendment. Senator Crawford. [LB263]

SENATOR CRAWFORD: Thank you, Mr. President. I just rise, I was out getting a little more information and didn't get a chance to make a comment on the previous amendment that failed. I just wanted to, for the record, indicate the fact that as...given that that amendment failed, LB263, as currently amended, does still have the PSC in charge of oversight in terms of new carriers and in terms of service and safety. And so the complaints, especially...I mean the complaints that I hear often about Intelliride, complaints about people not getting picked up or having to wait too

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long, those are still complaints...or complaints about someone not being adequately strapped in, those safety and service complaints are still complaints that the PSC has additional oversight over. If someone has a complaint, they can call the PSC with those concerns. I just talked to Director Calder Lynch, and it's the case that if someone calls the department with those kinds of complaints, their anticipation is that they allow...they tell them that they can take the complaint or also tell them that they can register that complaint with the Public Service Commission so there'll be a warm hand-off in terms of those complaints there as well. So the piece, the only piece that's being taken out for common carriers who do non-emergency Medicaid transportation is that rates component and that setting the rates. That gives them more flexibility in terms of allowing the managed-care companies to negotiate in terms of rates. And also that allows...what they expect with the ability of the managed-care entities to negotiate with those carriers, allow them to set quality standards as well. So it is the case that it's the rates component that we are allowing the Department of Health and Human Services to have more control over and they would be the ones in charge of that rates component for these common carriers that provide this specific Medicaid, non-emergency transportation. Now, as I said before when we were debating this before, I wanted to make sure that I felt we were...had still additional oversight in terms of safety and service, and I've spent considerable time talking to the director and other people who work in this issue, and I feel like those, the service complaints, the safety complaints, we still have the PSC as an additional oversight on those issues. And I think it is...there are appropriate reasons to have the Department of Health and Human Services have this rates ability and have the primary oversight in terms of rates on this kind of non-emergency medical transportation. But, colleagues, this does mean it's all the more important that we as a Legislature are engaged in oversight of Heritage Health and managed care. And the issues with non-emergency Medicaid transportation are going to be a key issue that we need to be asking and holding those managed-care companies to account for, to make sure that those rates are appropriate in our state, and to make sure that the department maintains its records as it must maintain those records in order to make sure that we're complaint with federal government... [LB263]

PRESIDENT FOLEY: One minute. [LB263]

SENATOR CRAWFORD: ...thank you...with the federal government requirements and also compliant in the sense that we as a state see that they have appropriate recordkeeping and billing. So I stand in support of LB263, but also with the caution that we need to maintain keen oversight of this transportation as we maintain our oversight of those managed-care companies and their work in Medicaid in our state. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Harr. [LB263]

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SENATOR HARR: Thank you, Mr. President. Would Senator Crawford yield to a question? [LB263]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB263]

SENATOR CRAWFORD: Yes. [LB263]

SENATOR HARR: You just stated you spoke with an individual named Calder Lynch? Is that correct? [LB263]

SENATOR CRAWFORD: Yes. [LB263]

SENATOR HARR: Okay. And what is his title? [LB263]

SENATOR CRAWFORD: Director of Medicaid Services. [LB263]

SENATOR HARR: Okay, And is he paid for by the government? [LB263]

SENATOR CRAWFORD: Yes. [LB263]

SENATOR HARR: Okay. The state government? [LB263]

SENATOR CRAWFORD: Yes. [LB263]

SENATOR HARR: Okay. Does he work for the legislative branch? [LB263]

SENATOR CRAWFORD: Yes. Well, he works for the state, and we have oversight to make sure that he's doing what we direct him to do. [LB263]

SENATOR HARR: Would you say he works for the legislative branch or the executive branch? [LB263]

SENATOR CRAWFORD: He works for the executive branch. [LB263]

SENATOR HARR: Okay, thank you. Folks, there was a bill earlier this year brought that said public entities...those who receive tax dollars cannot have a lobbyist. Senator Crawford just

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spoke to a public official, an executive branch member. They would be allowed to lobby under that bill that was introduced, however, other public entities, your public schools, your NRDs, all those entities would not be allowed to lobby, to inform you so that you can be better prepared to make good policy decisions, much like Senator Crawford just did right there. So think about that. I am tired of people saying us receiving information from people outside the glass is a bad idea. It's not always bad. They do come with information that we don't have, we are people, Jack of all, master of none. We don't have time for every bill to find out the pros and cons and all the minutia of those bills. So I know that bill was brought, is still stuck in committee. I hope it stays there, but I just wanted to plant a little seed in your head to say, hey, maybe those people outside the glass aren't all bad, and maybe they do something more than just provide checks, which is what others would have you believe. But they actually provide information for us. Yeah, they provide arguments for us, but they also provide information. And I think it's important that we...if we're going to be good policymakers who make sound policy decisions that we hear all sides of the argument. Thank you. [LB263]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Friesen, you're recognized to close on AM867. He waives close. The question for the body is the adoption of AM867. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB263]

CLERK: 31 ayes, 0 nays on the adoption of Senator Friesen's amendment. [LB263]

PRESIDENT FOLEY: AM867 is adopted. [LB263]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone the bill. [LB263]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your motion. [LB263]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Walz, they call me a dreamer. Well, maybe I am. I do not think I can kill this bill, but I think I can take enough time to take us to the noon hour. And if we come back to this bill at 1:30 or if we come back to it tomorrow, I will have the opportunity to get more information. I am extremely concerned about that last vote and the issues implicated in it. There was a staff member who was trying to give me a crash course in what we're dealing with, and I could pick up bits and pieces, but there was not enough time, so I intend to offer motions, do whatever I can to get us to the point where we will recess. I'm going to try to get more information, and since I voted on the losing side of Senator Wayne's amendment, I could not offer a reconsideration motion, but I could perhaps craft an amendment sufficiently different to allow it to be offered, and that subject matter could be renewed for discussion. I'm not satisfied with the assurances that I've been given. I'm not

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satisfied only because Senator Crawford's information came from the executive department; but I'm dissatisfied because of other things that have come from that department. I read an article written by a person, I guess you would say it's a column, a point of view, who has something to do with psychologists. And there was a great amount of angst expressed because the Catholic Conference wields such power over the activities of the executive branch. There are changes that ought to be made in rules and regulations relative to psychologists which cannot be implemented because the Catholic Conference is opposed. The Catholics are the only one...the Catholic Church, as such, is the only religious entity that has paid lobbyists. The Catholic Church has the benefit of lobbying by the Lieutenant Governor out in the corridor behind the glass. The Governor himself is a Catholic and pushes for Catholic positions. He crowed about the happiness he had that that antiabortion license plate had been passed, approved of by the Legislature, and he made it crystal clear that it was a part of the antiabortion movement. So when people on this floor were trying to make it something else, they were being disingenuous. I will not say they lied. I'm going to try to maintain a certain amount of decorum in what I say during this part of the discussion. But I've seen enough action by the Catholic Church as such, the Catholic Church's minions as such, having a profound, heavy-handed influence on what this Legislature does and doesn't do. Overwhelming influence on what an agency cannot do because the Governor's not going to allow it because it conflicts with what he thinks his duty is as one to carry out the will of the Catholic Church. I've been criticized, in fact, Senator Foley, when he was a senator, said that I said...what I said about the Catholic Church was some of the vilest, most hateful, bigoted things he had ever heard. But he wouldn't look at what the Catholic Church was doing then in the Legislature, what it is doing now. Can I say that this other issue involving the PSC and the Health and Human Services Department would partake of any of that? How do I know? How do I know that the person that Senator Crawford spoke to is speaking in an objective, impartial manner to give information, which is not tinged by any slanting, political, religious, or other inappropriate opinions. I cannot be sure that anything I hear from the Governor's Office is objective and impartial. I've watched the kinds of bills that some of his minions have brought on the floor. I've watched the manipulation of the referencing of bills. So I cannot blind my eyes to what I'm seeing, but I will make one thing clear about this issue that's before us now. What I'm seeking is information. I don't care who brings the information. It could be that little birdie who tells people things. And if the information is valid, then I would like to have it evaluated and then place a judgment. I'm not convinced that the bill right now in its present form is in the best interest of the people who would be affected by the program which is affected by the condition this bill is in. If I am persuaded that those people will not be harmed, if I'm persuaded there'll be adequate oversight in the area of my concern, then I will alter my opinion. I don't have any reason to be against this bill just because of the bill. I've spoken, before we came to this part of the discussion, to Senator Smith because I didn't want to ambush him. He was trying to give me his best information. I say "trying" as I was trying because we both were kind of at sea and adrift. Senator Friesen, flying by his coat tails, was trying to do the same thing, but there was not enough opportunity for any of us to take our time and really understand what

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the other one was saying because none of us had the final word. And let me say something about Senator Foley, you notice I said Senator Foley. Senator Foley, when he was on the other side for me, was one of the backward, recalcitrant persons I ever met in my life, but when we were on the other side, that means that he came over where I was, or I came over where he was, but in any case, we were working together. It was hard to beat us, very difficult. So I'm not saying that Senator Foley is a bad person. I want him to know that, and I want to say it on this floor because it was on this floor that I made other comments. I don't even say that he was a bad fellow because he was out there lobbying. What I was trying to show is that there are things people do when they're a part of one branch of the government. I was not surprised. I was just surprised that he wasn't more effective than he was. They had a very hard time still getting that license plate, but when it comes to something like this where we're not just expressing a point of view, but the day-to-day lives of people will be affected, then I'm in a different frame of mind. If we had a million people and only one person out of that million was treated unjustly, most people in this body would say, that's a pretty good batting average. Well, it is for everybody except that one. Now, going back to you all's religion. How important is it to save that one person? Does that one person have less value because there are 900...there are 999,999 others who are over here and they're saved already. Jesus said, it's the sick that have need of the physician... [LB263]

PRESIDENT FOLEY: One minute. [LB263]

SENATOR CHAMBERS: ...and if there's that one out of a million who is sick, that's the one who needs the administrations of that physician. And if the physician is really a healer, as that physician is supposed to be, that physician will not take comfort in the one million less this one who are in perfect health. The physician will say, my concern must be with that one. The last, the least, the lost, and I'll stop now because my light is on again. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene, you're recognized. [LB263]

SENATOR GROENE: Thank you, Mr. President. I don't understand the opposition to LB263. This is a win, win, win bill. This is a win for the Medicaid patient, especially in rural Nebraska whose lack of access to transportation exists. This is a win for the Medicaid patient so they can make their appointment on time because it broadens the access of more carriers. This is a win for the taxpayers because it's going to put more competition into the fees. I happen to know an individual who holds one of them taxi services and he feels guilty sometimes what he gets paid. We will put some more competition into the pricing. Competition works. That's why we have the best medical system in the world. We have the best transportation system in the world because of competition. This bill, the way I understand it, just trying to learn about it, allows HHS to negotiate some fees. They do not get to license the carrier, the PSC still does that. They still do

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that. Now, this is no different than these Uber, whatever you call it, coming into these monopolies of taxi services who eliminated taxi services for the poor because they couldn't understand it. This is the same thing. You are bringing those kind of competitive edges into this service that we as taxpayers pay. Twenty million dollars, around \$20 million in a state of 1.9 million people we spend on Medicaid to transport Medicaid patients to doctors, \$20 million. If we could save 5 percent or 10 percent, give better medical service because they show up on time for their appointments to head off medical problems, I'm trying to figure out what the opposition is to this. Who's the big, bad guy here that we're opposing? The Governor? Courtney Phillips? Who? The PSC Commission? Senator Smith? Senator Friesen? This thing makes so much sense, it's a win, win, win, win for everybody. So thank you, Mr. President, and I would appreciate it if you would vote no on MO75 and green on LB263. [LB263]

PRESIDENT FOLEY: Thank you, Senator Groene. Items for the record, Mr. Clerk. [LB263]

CLERK: Mr. President, new A bill: LB91A by Senator Hilkemann. (Read LB91A by title for the first time.) Senator Scheer would like to print an amendment to LB427. Senator Williams would like to add his name to LB578. (Legislative Journal pages 1002-1003.) [LB91A LB427 LB578]

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

PRESIDENT FOLEY: Members, you've heard the motion to recess until this afternoon. All those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

ASSISTANT CLERK: There is a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

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ASSISTANT CLERK: Mr. President, I have one item. An appointment letter from the Governor regarding two appointees to the Boiler Safety Code Advisory Board. That is all I have at this time. (Legislative Journal pages 1003-1004.)

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

ASSISTANT CLERK: Mr. President, going back to LB263, which was under consideration this morning. Senator Chambers had pending a motion to indefinitely postpone the bill. [LB263]

PRESIDENT FOLEY: Senator Chambers, you previously opened on your motion. You are recognized to continue if you care to. [LB263]

SENATOR CHAMBERS: Thank you. Mr. President, I had stated that I offered this motion to take us until the noon recess so that I could obtain some information, which I did obtain. And after the explanation from the very competent staff of the Transportation Committee, and with all due respect to the chairperson, the staff has been around a long time and these things he understands thoroughly. So I wasn't going over the Chairman's head, I wasn't going around him, but I talked to the staff member earlier and said that, when I got time, I would discuss the bill with him, which is what I did. After that explanation, I feel comfortable enough with the bill to leave it alone at this point. The only reason I leave my options open, there are things that could arise. But if everything remains on the terrain as it is situated now, then this bill doesn't exist as far as I'm concerned in terms of having any opposition. But I would like while I'm standing to ask Senator Briese a question if he would respond. [LB263]

PRESIDENT FOLEY: Senator Briese, would you yield please? [LB263]

SENATOR CHAMBERS: Senator briese, would you like to make a small wager? [LB263]

SENATOR BRIESE: No, to quote Senator Williams of a couple weeks ago when he responded to the same question, he said no. [LB263]

SENATOR CHAMBERS: You don't even want to know what the wager is? [LB263]

SENATOR BRIESE: That was a no. [LB263]

SENATOR CHAMBERS: Okay. [LB263]

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SENATOR BRIESE: Thanks anyway. [LB263]

SENATOR CHAMBERS: You're quite welcome. Members of the Legislature, the reason I am explaining in the way that I am the remarks that I made this morning, I meant every one of them at the time that I uttered them, but there was one that I didn't get to utter about Lieutenant Governor Foley. If anybody thinks that I don't like Lieutenant Governor Foley, and I don't like many people, I drew a picture of Senator Foley, and if he would show you that picture, you would see that it's not what would be drawn by somebody who has a dislike for him. I don't call myself an artist, I call myself a drawer. I draw pictures. But whether you're an artist or a drawer, you can make a mark, especially in the area of the eyes, an eyebrow, a little quirk, a little under the bottom of the eye and upward curve that makes it look like a squint, a very heavy line along the corner of one side of the mouth that can make it look like a smirk or a sneer. You will find none of those subtleties in the picture that I drew of Senator Foley. And as a matter of fact, he was so pleased with it he asked me could he have the original. My answer was the same as that of Senator Briese: no. I don't give away originals if they are originals that I drew for my purposes. But if I ever feel like doing a picture of somebody or for somebody, then I would readily let that go. And I'm taking just a little time right now and it might give more people a chance to get here, but I think I have paid to my devoir to virtue--d-e-v-o-i-r, just for transcribers, because it could sound like I was saying something other than what I am. That is all that I have to say on this bill. Thank you, Mr. President. [LB263]

PRESIDENT FOLEY: Thank you, Senator Chambers. Your motion is still pending, did you intend to... [LB263]

SENATOR CHAMBERS: I would withdraw that motion. [LB263]

PRESIDENT FOLEY: Without objection, MO75 is withdrawn. Senator Hansen. [LB263]

SENATOR HANSEN: Thank you, Mr. President. I move we advance LB263 to E&R for engrossing. [LB263]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB263 advances. Next bill, Mr. Clerk. [LB263]

ASSISTANT CLERK: Mr. President, LB276. There are E&R amendments. (ER44, Legislative Journal page 934.) [LB276]

PRESIDENT FOLEY: Senator Hansen. [LB276]

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PRESIDENT FOLEY: Thank you, Mr. President. I move we adopt the E&R amendments to LB276. [LB276]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB276]

ASSISTANT CLERK: Senator Brasch offers AM952. (Legislative Journal page 953.) [LB276]

PRESIDENT FOLEY: Senator Brasch, you are recognized to open on your amendment. [LB276]

SENATOR BRASCH: Thank you, Mr. President. Good afternoon, colleagues. Questions were raised during General File in respect to enforcement provisions of LB276. And this amendment, AM952, rewrites Section 3 to avoid any actual or implied infringement on prosecutorial discretion. As introduced, LB276 provides that, and I quote, it shall be the duty of the Attorney General or the county attorney...to pursue appropriate action without delay, end quote. When notified of violations by the Director of Agriculture, the amendment writes this provision to be more in line with what would actually occur that if the Director of Agriculture has reasonable cause to believe that the commission or continuance of any act is in violation, the Director of Agriculture may report that belief to the Attorney General or appropriate county attorney and that appropriate proceedings are initiated upon satisfactory information providing. An example, if in the prosecutor's judgment the evidence is sufficient to pursue criminal or injunctive remedies authorized. Simultaneously, the revisions avoid inference that the Director of Agriculture is required to make or arrives at conclusions of law in order to approach prosecutors or that a Director of Agriculture's conclusion of law compels prosecutors to initiate criminal or civil actions authorized under this section. Colleagues, I would ask that you move the adoption of AM952. [LB276]

PRESIDENT FOLEY: Thank you, Senator Brasch. Debate is now open on AM952. Senator Albrecht. [LB276]

SENATOR ALBRECHT: Thank you, President Foley. This is a friendly amendment. I want to thank the Agriculture Committee Chairwoman Brasch and her staff for working with our colleagues on this amendment. I want to thank Senator Harr and Senator Schumacher for their discussion as we had on this bill, and I am glad there have been acceptable solutions. Just ask for the passage of AM952. Thank you. [LB276]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Brasch, there is no one else in the queue. You are recognized to close on AM952. She waives closing and the question before the

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body is the adoption of AM952. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB276]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of the amendment. [LB276]

PRESIDENT FOLEY: AM952 is adopted. Mr. Clerk. [LB276]

ASSISTANT CLERK: Nothing further pending on the bill, Mr. President. [LB276]

PRESIDENT FOLEY: Senator Hansen. [LB276]

SENATOR HANSEN: Mr. President, I move we advance LB276 to E&R for engrossing. [LB276]

PRESIDENT FOLEY: Members, you heard the motion to advance LB276 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB276 advances. Next bill, Mr. Clerk. [LB276]

ASSISTANT CLERK: LB217 does have E&R amendments. (ER48, Legislative Journal page 934.) [LB217]

PRESIDENT FOLEY: Senator Hansen. [LB217]

SENATOR HANSEN: Mr. President, I move we adopt the E&R amendments to LB217. [LB217]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB217]

ASSISTANT CLERK: Senator Harr would offer AM993. (Legislative Journal pages 1004-1005.) [LB217]

PRESIDENT FOLEY: Senator Harr, you are recognized to open on AM993. [LB217]

SENATOR HARR: Thank you, Mr. President, members of the body. This bill is LB217. It is stated that it's my bill, but it's not really. This is the Revenue Committee priority bill. Their omnibus bill, if you will, that has all of our changes, our cleanup legislation in it. I wanted to

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thank Senator Smith for allowing me to add AM993 to this bill. This was brought to me by the Nebraska Bankers. What this does is clarify language for land that is used for agricultural or horticultural purposes, if the majority of it is used for that purpose it is treated that way, even if the land has been platted or subdivided. I would entertain any questions you have. It does not have a fiscal note. Thank you, Mr. President. [LB217]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on AM993. Senator Chambers. [LB217]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Williams a question, if he would respond. [LB217]

PRESIDENT FOLEY: Senator Williams, would you yield, please? [LB217]

SENATOR WILLIAMS: Certainly. [LB217]

SENATOR CHAMBERS: Senator Williams, are you in the profession which sometimes is maligned and sometimes praised, but is known as banking? [LB217]

SENATOR WILLIAMS: Yes. [LB217]

SENATOR CHAMBERS: Thank you. Is Senator Stinner in the house? [LB217]

PRESIDENT FOLEY: Senator Stinner, are you on the floor? [LB217]

SENATOR CHAMBERS: I would like to continue with Senator Williams then, if I may. [LB217]

PRESIDENT FOLEY: Senator Williams. [LB217]

SENATOR CHAMBERS: Senator Williams, you probably, since you are in the banking line, have an awareness of other members of the body who are also in that line of work, is that true? [LB217]

SENATOR WILLIAMS: Yes. [LB217]

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SENATOR CHAMBERS: Is Senator Stinner among that number? [LB217]

SENATOR WILLIAMS: Yes, he is, along with Rob Clements. Senator Clements. [LB217]

SENATOR CHAMBERS: So you decided to just go ahead and bring...cut the legs out from under my questioning. Thank you. I would like to ask Senator Harr a question if I may. [LB217]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB217]

SENATOR HARR: Yes, I will. [LB217]

SENATOR CHAMBERS: Senator Harr, it seems to me that I heard you say that the profession of which these three gentlemen and our colleagues are parts of requested that you bring this bill, is that true? [LB217]

SENATOR HARR: Well, the organization brought the bill, yes. [LB217]

SENATOR CHAMBERS: And they're bankers? [LB217]

SENATOR HARR: They are bankers. [LB217]

SENATOR CHAMBERS: Was that in any way...did that say anything about...did they explain why they asked you to bring it, rather than members of their own clique? I mean, their own profession? [LB217]

SENATOR HARR: Well, I have been working with the bankers quite a bit trying to figure out ways to encourage housing and ways of cutting property taxes in the state. And this is one of those that addresses that issue. [LB217]

SENATOR CHAMBERS: In the broad sense, could we say that Jesse James did a lot of work with bankers also? [LB217]

SENATOR HARR: I did not work with them in the same way, unfortunately. I have no money. [LB217]

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SENATOR CHAMBERS: If you would respond to the question, I would appreciate that greatly. Could it be said, speaking broadly, that Jesse James had a lot of work or did a lot of work with bankers also? [LB217]

SENATOR HARR: He had a relationship with them, yes. [LB217]

SENATOR CHAMBERS: Could it be said that he was in banking in a sense? [LB217]

SENATOR HARR: I would call that robbery. [LB217]

SENATOR CHAMBERS: Could it be said in a sense that he was in banking? [LB217]

SENATOR HARR: Anything can be said, yes, sir. [LB217]

SENATOR CHAMBERS: Did he have a brother? [LB217]

SENATOR HARR: I believe he did, yes. [LB217]

SENATOR CHAMBERS: Was his brother's name Frank? [LB217]

SENATOR HARR: Yes. [LB217]

SENATOR CHAMBERS: And could it be said that Frank worked on the railroad? [LB217]

SENATOR HARR: Anything can be said. [LB217]

SENATOR CHAMBERS: So then if Mrs. James was asked what her boys did, she could say I have one son in banking and the other one works on the railroad. Could she have said that and have been it telling the truth? [LB217]

SENATOR HARR: Yes. [LB217]

SENATOR CHAMBERS: Thank you. That's all that I have to ask of this gentleman. [LB217]

PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Harr. Senator Smith, you are recognized. [LB217]

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SENATOR SMITH: Thank you, Mr. President. And I just want to clarify that the amendment, AM993, originally came to the Revenue Committee as LB251, did have a hearing. And yes, Senator Harr and I did have a conversation, I have no problem with this amendment that he has brought before us to amend into LB217. And I would just like to finish by saying to Senator Harr how much I appreciate his work to reduce taxes. So thank you, Senator Harr. [LB217 LB251]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Harr, there is no one else in the queue. You are recognized to close on AM993. [LB217]

SENATOR HARR: Thank you, Mr. President. I'm supposed to waive, I am not sure to whom. I want to thank Senator Chambers for his questions and at least the brothers were not lawyers. So they had an honest profession. With that, I would ask for your support on AM993. Thank you. [LB217]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you have heard the debate on AM993. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB217]

ASSISTANT CLERK: 39 ayes, 0 nays, on the adoption of the amendment. [LB217]

PRESIDENT FOLEY: AM993 is adopted. Returning to the bill, Mr. Clerk. [LB217]

ASSISTANT CLERK: Nothing further on the bill. [LB217]

PRESIDENT FOLEY: Senator Hansen. [LB217]

SENATOR HANSEN: Mr. President, I move we advance LB217 to E&R for engrossing. [LB217]

PRESIDENT FOLEY: Members, you heard the motion to advance LB217 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB217 advances. Next bill, Mr. Clerk. [LB217]

ASSISTANT CLERK: LB487 does have E&R amendments. (ER47, Legislative Journal page 934.) [LB487]

PRESIDENT FOLEY: Senator Hansen. [LB487]

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SENATOR HANSEN: Mr. President, I move we adopt the E&R amendments to LB487. [LB487]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB487]

ASSISTANT CLERK: Nothing further on the bill, Mr. President. [LB487]

PRESIDENT FOLEY: Senator Hansen. [LB487]

SENATOR HANSEN: Mr. President, I move we advance LB487 to E&R for engrossing. [LB487]

PRESIDENT FOLEY: Members, you heard the motion to advance LB487. Those in favor say aye. Those opposed say nay. LB487 advances. Moving now to General File, 2017 Speaker priority bills. Mr. Clerk. [LB487]

ASSISTANT CLERK: Mr. President, LB605 was introduced by Senator Riepe. (Read title.) The bill was read for the first time on January 18, referred to the Health and Human Services Committee, placed on General File with no amendments. [LB605]

PRESIDENT FOLEY: Senator Riepe, you are recognized to open on LB605. [LB605]

SENATOR RIEPE: Mr. President, thank you, and colleagues. First, I would like to thank Senator Scheer for this Speaker priority. LB605 is an important bill to pass this session in compliance with federal regulations. LB605 came out of committee with a 7-0 vote, with no opposing testimony. LB605 revises the provisions of the Intermediate Care Facilities for persons with Developmental Disabilities, ICF/DD is what it's called, the Reimbursement Protection Fund, by allowing the state to fully maximize the federal matching grants available for the state's ICF/DD provider tax. LB605 will provide the division of Medicaid and long-term care the flexibility to modify provider rates as needed to comply with federal regulations. In Nebraska, the division of Medicaid and long-term care services collects a provider tax for ICF/DD facilities. The proceeds of the ICF/DD provider tax goes into the ICF/DD Reimbursement Protection Fund. The fund is used for a variety of purposes, including providing enhanced rates to ICF/DD providers by using the tax proceeds to match state funding with additional federal funding and the Medicaid match. Mosaic is the current provider of these facilities. Mosaic provides supportive services for Nebraskans with intellectual and developmental disabilities, including assisted residential service. These services include structured supervision, evaluation and training, independent living, and social recreational skills as prescribed by an individual program plan. Mosaic homes

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are located in residential neighborhoods where these individuals are active members of their neighborhoods and communities. Mosaic staff is available to provide 24-hour supervision and training if needed. The current law mandates the state change the provider rates for these skills based on the collection of the provider tax. Current law does not allow the department the ability to ensure the rates paid to ICF/DD facilities meet the strict parameters of federal regulations. Recently, the federal centers for Medicare and Medicaid services, CMS, has said that it is unable to fully match the state tax with federal funds as envisioned by the state law. Any funds paid above the federal limit will have to be returned to the CMS. LB605 will allow the ICF/DD providers to continue to receive enhanced rates, finding to provide services for its clients to the maximum extent allowed by the tax revenue and federal regulations. Thank you, Mr. President, and I urge all of my constituents to vote green on LB605. [LB605]

PRESIDENT FOLEY: Thank you, Senator Riepe. Members, you have heard the opening on LB605. Senator Riepe, there is no one in the queue to speak. You are welcome to waive closing. He waives closing. The question before the body is advance of LB605 to E&R initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB605]

ASSISTANT CLERK: 32 ayes, 0 nays, on the motion to advance the bill. [LB605]

PRESIDENT FOLEY: LB605 advances. Next bill, Mr. Clerk. [LB605]

ASSISTANT CLERK: Mr. President, LB481, introduced by Senator Kuehn. (Read title.) The bill was read for the first time on January 17 of this year, referred to the Health and Human Services Committee. That committee placed the bill on General File with no committee amendments. [LB481]

PRESIDENT FOLEY: Senator Kuehn, you are recognized to open on LB481. [LB481]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. It's my pleasure today to introduce LB481. I would like to thank Speaker Scheer for making this a Speaker priority bill. As stated, LB481 passed unanimously from the Health and Human Services Committee with no opposition testimony and no committee amendments. LB481 deals with biosimilars, which are a new development in therapeutics, and FDA guidance for the interchangeability of biologics is only recently become defined. LB481 is a critical piece of legislation for Nebraska to provide guidance for clinicians and dispensers as additional biosimilar products pass through the FDA approval process. Transparent communication between the patient, physician, and pharmacist is the hallmark of high-quality patient care, and LB481 at its core is to facilitate that communication. LB481 provides and facilitates communication among all members of the healthcare team when an approved interchangeable biosimilar product is substituted by the

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dispenser. Establishing the communication framework for the use of these interchangeable biologics is a commonsense step forward in promoting patient understanding of their own healthcare and communicating among members of the healthcare team. Twenty-eight states and Puerto Rico have adopted similar interchangeability legislation, and including Nebraska, 12 additional states are processing legislation. While FDA is ultimately responsible for the approval of biologic and biosimilar medicines and the interchangeability, state law governs the substitution by dispensers when a different biologic is dispensed than what was prescribed. To achieve the objectives of increased communication, LB481 contains the following provisions. It establishes definitions for "biologic" and "biologic products", delineates guidelines for communication between the dispenser and prescriber in the event of a substitution, instructs the Department of Health and Human Services to maintain a list of FDA interchangeable biologicals for reference, and brings Nebraska statutes up to date regarding the differences between a drug and a biologic. Biologics, including biosimilars and their interchangeables, are not identical to their reference products in the same way as generic drugs and current state law only allows pharmacists to substitute a drug that is both chemically equivalent and bioequivalent. With that, I encourage your green vote on LB481. Thank you, Mr. President. [LB481]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Debate is now open on LB481. Senator Kuehn, you are recognized to close on the bill. He waives close. The question before the body is advance of LB481 to E&R initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB481]

ASSISTANT CLERK: 35 ayes, 0 nays, on the motion to advance the bill. [LB481]

PRESIDENT FOLEY: Thank you, Mr. Clerk. LB41 advances. (Visitors introduced.) Moving on with the agenda, General File, 2017 senator priority bill. Mr. Clerk. [LB481]

ASSISTANT CLERK: LB358 was introduced by Senator McCollister. (Read title.) The bill was introduced on January 13, referred to the Health and Human Services Committee, which placed the bill on General File with committee amendments. (AM493, Legislative Journal page 730.) [LB358]

PRESIDENT FOLEY: Senator McCollister you are recognized to open on LB358. [LB358]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor and members of the body. LB358 is my personal priority bill this year. Overwhelmingly, the good people of Nebraska work hard to get ahead. In fact, they have the second-highest labor force participation rate in the United States. But despite the hard work, some in our state struggle to put food on the table. Thirteen percent of people in Nebraska are food-insecure, meaning they struggle to put food on

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the table. For these folks, the Supplemental Nutrition Assistance Program, SNAP, formerly called food stamps, has proven to be one of the most effective anti-hunger programs for children and families in the country. Former United States Senator Robert Dole of Kansas described the Food Stamp Program as the most important advance in the nation's social programs since the creation of Social Security. SNAP is a program that helps provide a basic nutrition benefit to low-income families, the elderly, and people with disabilities who cannot afford an adequate diet. In fact, 74 percent of SNAP recipients in Nebraska are families with children, 29 percent are recipients in a household with a senior or an individual with a disability. The average amount of SNAP support depends on the income and household size. The average SNAP benefit in Nebraska is about \$258 per household per month, with an average benefit per person per meal of \$1.27. More than 1.4 million veterans live in poverty, a number equal to number of Korean era veterans in the United States. Household with a disabled veteran are twice as likely to experience hunger as other households. A study of census data found that 1.7 million veterans across the United States received SNAP food assistance in the last year, including 7,000 from Nebraska. This number is likely higher because of low participation rates of homeless individuals, including veterans, in the U.S. Census. More often, the single greatest barrier to self-sufficiently for low-income individuals is what we commonly refer to as the cliff effect. Eligibility for work support programs such as SNAP is based on income. Eligibility standards for this program are based on federal poverty levels, with benefits phasing out as earnings increase. The unintended consequence of this design either creates a disincentive to work toward economic mobility or leads to a situation in which the parent or guardian is working harder but is financially worse off. For example, an increase of 25 cents an hour might put a family over the eligibility threshold for SNAP, causing them to lose that support. But 25 cents an hour is not enough to cover the cost of food the family needs unless they were able to purchase with the help of SNAP. Colleagues, the cliff effect is real. SNAP benefits are funded 100 percent by the federal government. Let me repeat that--100 percent of the cost of SNAP benefits are funded by the federal government and the state has to pay for just 50 percent, 50 percent of the administrative program. Few programs, federal or state, offer a more positive cost-benefit ratio. SNAP is a responsive program. Enrollment expands when the economy weakens and contracts when the economy recovers. As a result, SNAP responds immediately to help families and bridges temporary periods of unemployment. It can also help individual families weather a short-term crisis, such as a separation or a divorce. The SNAP benefit formula contains an important work incentive. For every additional dollar a SNAP recipient earns, the benefits decline by only 24 to 36 cents. Families that receive SNAP thus have a strong incentive to work longer hours or to search for better-paying employment. As you will soon see, you will see there is a committee amendment that will amend LB358. The amendment will increase the gross income to 158 percent of the federal poverty level, rather than the second higher level as originally proposed. This change will bring down the fiscal impact of the legislation significantly. In fact, I have been working with the staff at the Department of Health and Human Services who have been indicated that they expect

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the cost of the amendment to be significantly lower than the current fiscal note. Would Speaker Scheer yield to a question? [LB358]

PRESIDENT FOLEY: Speaker Scheer, would you yield, please? I don't see him at the moment, Senator. [LB358]

SENATOR McCOLLISTER: Fair enough. As we all know, this bill contains a fiscal note. And as such, it will probably be held on Select File, assuming it goes from General to Select. So Speaker Scheer had offered to make that comment, but with that, thank you, Mr. President. [LB358]

PRESIDENT FOLEY: Thank you, Senator McCollister. (Visitors introduced.) As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Riepe, you are recognized to open on AM493. [LB358]

SENATOR RIEPE: Thank you, Mr. President and colleagues. As Chair of the HHS Committee, LB358, as amended by AM493, came out of committee with 4 voting for, 2 voting against, and 1 present not voting. AM493 removes the second gross income increase from 185 percent of the federal poverty level, as Senator McCollister noted, and instead keeps the increased cost income limit to 158 percent of the federal poverty line. Thank you, Mr. President. [LB358]

PRESIDENT FOLEY: Thank you, Senator Riepe. Debate is now open on LB358 and committee amendment. Senator Baker. [LB358]

SENATOR BAKER: Thank you, Mr. Lieutenant Governor, members of the Legislature. There are a number of real Nebraska stories of people who are impacted by the cliff effect and so I am just going to read you one of those. Catherine is a 26-year-old single mom of two-year-old twins, she has a bachelor's degree in child, youth, and family studies from the University of Nebraska-Lincoln. She works full-time as a direct support specialist, making around \$20,000 per year. She wanted to apply for a management position, her concern was it was going to pay way too much to cut her off of the benefit cliff. She called a case worker and they said that she couldn't make over \$22,000 a year, and the position that she wanted to go to paid \$23,000. She talked about wanting to strive and achieve things and pursue a further career in order to support my family and on my own and not being able to do that, and having to turn down positions that I am more than qualified for, because, again, I can't do it. Thank you. [LB358]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Crawford. [LB358]

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SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And good afternoon, colleagues. I rise in support of LB358 and AM493 from the Health and Human Services Committee. This is a very important bill in terms of making sure that our Nebraskans who are working hard are rewarded for their hard work and able to stay working at their job and continue to build toward self-sufficiency. The bill keeps the same standard in terms of the net income requirement to be...to apply for food assistance. However, it recognizes that someone can earn more money and in some families have particularly high needs in terms of their housing or their healthcare and other costs. So what this bill does is it allows an increase in terms of your gross income, what you can make, and keeps the net income standard the same. But we allow people to make more money, particularly those families who have housing costs, medical costs, that are a significant cost to their family, and allows them to continue to receive this critical food assistance, which allows them to remain working and continue to take care of their family. So again, this is really aimed toward those folks who receive our food assistance who are working and working hard and are able to then gain promotions and allows them to continue to build their income and build toward self-sufficiency, but remain having the ability when their housing costs are high, their medical costs are high, to continue to receive food assistance. And let me just talk a little bit about one set of groups...one set of folks who would benefit from this bill, and that is our veterans. And we have several veterans in my district, and so I want to talk a little bit about how this might impact those individuals. Those who go into the military service may spend some of their prime earning years engaged in serving their country and sacrificing more lucrative career opportunities. Due to frequent moves and differences in licensing requirements from state to state, military spouses are more likely to be unemployed or underemployed than their civilian counterparts. Thankfully, we are working on that this year with LB88. Our men and women in uniform who risk life and limb to serve our country should not struggle to make ends meet or go hungry when they return to their communities. The Supplemental Nutrition Assistance Program is a critical tool to address food insecurity among those who have served our country. More than 1.4 million veterans live in poverty, a number equal to the number of Korean era veterans in the United States. Sadly, one in four veterans who served in Afghanistan and Iraq do not know where their next meal is coming from, compared to one in seven among the general population. Households with disabled veterans are twice as likely to experience hunger than other households. Half of children enrolled in military schools on bases across the United States are eligible for free or reduced-price school meals and one in four qualify for free meals. The Supplemental Nutrition Assistance Program has proven to be one of the most effective anti-hunger programs for Nebraska families, including our veterans. An analysis of the census data found that 1.7 veterans across the United States receive SNAP food assistance in the last year, including 7,000 from Nebraska. This number is...the number is likely higher because of low participation rates of homeless individuals, including veterans in the U.S. Census, so we had an analysis, again, showing that at least 7,000 veterans from Nebraska were receiving these SNAP benefits. A 2016 U.S. Government Accountability Office report found that active duty service members spent more than \$21 million in food stamp benefits at military commissaries. In

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addition, organizations such as the Army Emergency Relief provided millions more in food assistance for active duty military members and their families. Colleagues, the people this bill seeks to serve, again, are our hardworking Nebraskans who have food insecurity, and unfortunately, that includes some of our veterans and active duty military families. I urge your support for AM493 and LB358. Thank you, Mr. President. [LB358 LB88]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator McCollister. [LB358]

SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. I should comment that I support AM493, the amendment produced by the committee. Would Senator Riepe yield for some questions? [LB358]

PRESIDENT FOLEY: Senator Riepe, would you yield, please? [LB358]

SENATOR RIEPE: Yes, I will. [LB358]

SENATOR McCOLLISTER: Thank you, Senator. Middle of last week, you were handing out a document regarding LB358. Do you recall that time? [LB358]

SENATOR RIEPE: Yes, I do. [LB358]

SENATOR McCOLLISTER: Okay. Would you read number one, the statistics which starts "based on U.S. Census figure." Would you read that paragraph? [LB358]

SENATOR RIEPE: Which one was that again, Senator? [LB358]

SENATOR McCOLLISTER: "Based on U.S. Census figures increasing the FPL from 130 percent to 158 percent." Would you read those three bullets? [LB358]

SENATOR RIEPE: Certainly. And I quote, based on the U.S. Census figures, number one is increasing the federal poverty level from 130 percent to 158 percent would increase the potential client base by approximately 82,400 persons or 36,800 households. Point number two, increasing the federal poverty level from 158 percent to 185 percent would increase the potential client base by an additional 121,200 persons or 54,100 households. Point number three is the cumulative total of 203,600 persons or 90,900 households. [LB358]

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SENATOR McCOLLISTER: One listening to those statistics would conclude that that's going to be a huge fiscal statement, is that correct? [LB358]

SENATOR RIEPE: Well, it's based on your definition of huge. There is a fiscal note, there is a fiscal cost, and there is also an operational consequence. [LB358]

SENATOR McCOLLISTER: Fair enough. Now let's read AM493. What does that amendment do? And that's the second bullet on that sheet. [LB358]

SENATOR RIEPE: The second bullet on the sheet, the one that starts with "for example?" [LB358]

SENATOR McCOLLISTER: Yes, it starts "AM493." [LB358]

SENATOR RIEPE: Oh, "AM493." And it's in bold, "AM493 will eliminate the second" and I believe everyone received this, so you can read along with me if you like. "AM493 will eliminate the second increase from 158 percent of federal poverty level (\$38,000), to 185 percent of the federal poverty level which (\$45,952). [LB358]

SENATOR McCOLLISTER: Thank you, Senator. Now let's go to the next page, and this is the fiscal note for LB358, and I would be grateful if you would read the third paragraph, starting "Based on the U.S. Census." [LB358]

SENATOR RIEPE: And I quote, "Based on the U.S. Census, the potential pool of additional individuals and families would increase by 36,800 households in fiscal year 2017-2018." You want me to continue, sir? [LB358]

SENATOR McCOLLISTER: That would be great. [LB358]

SENATOR RIEPE: Okay. [LB358]

SENATOR McCOLLISTER: And this is the important part of this discussion. Go ahead, Senator. [LB358]

SENATOR RIEPE: I will try to read with great clarity. "It is estimated that approximately 5 percent would meet the net income limit after applying deductions for allowing expenses. Approximately 1,840 additional households would be eligible." [LB358]

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PRESIDENT FOLEY: One minute. [LB358]

SENATOR McCOLLISTER: Thank you. [LB358]

SENATOR RIEPE: "The aid costs are paid for from federal funds." [LB358]

SENATOR McCOLLISTER: Thank you. So we'll come back next time I come up on the mike. But now, Senator, if you would, go back to the first page and read the very bottom of the sheet. And there is a little inscription from HHS that I would appreciate you reading. [LB358]

SENATOR RIEPE: You don't want me to read the "helping people live better lives?" [LB358]

SENATOR McCOLLISTER: That would be great. [LB358]

SENATOR RIEPE: You want me to read how this will impact staffing? [LB358]

SENATOR McCOLLISTER: No, the last line on the page, Senator. [LB358]

SENATOR RIEPE: The allotment for SNAP... [LB358]

SENATOR McCOLLISTER: Nope, nope. [LB358]

SENATOR RIEPE: Are we on page one, sir? [LB358]

SENATOR McCOLLISTER: I'll read it for you. [LB358]

SENATOR RIEPE: Okay. [LB358]

SENATOR McCOLLISTER: "Helping people to live better lives." And that's from HHS on the bottom of that first page. Thank you, Senator, for your help. [LB358]

SENATOR RIEPE: Thank you. [LB358]

PRESIDENT FOLEY: Thank you, Senators McCollister and Riepe. Senator Schumacher, you are recognized. [LB358]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This vote and other votes we'll be taking and have taken tell us a lot about ourselves. When Senator McCollister said, well, this is probably going to be held up on Select File along with a lot of other things because of its fiscal note, I figured, gee, that fiscal note must be huge. Fantastic. Well, I looked at it, it's less than \$1 million. It looks like a whole bunch of people would get some benefit out of it. If I understood the numbers that we just talked about, it was in the thousands and thousands. And yet, we're going to hold it up. And the federal government is going to pick up really the expense of the program. We're already doing the federal government a big favor by not taking their money for Medicaid expansion, that's only about \$400 million a year. We have given up like five years worth or \$2 billion of that so far, so maybe we have helped the federal government out a lot already. But the federal government is offering to pick this up. Now, a few days ago we passed on a bill to give one company about \$1.8 million per year with option of 15 years in tax forgiveness. Didn't have any problem doing that. There is a bill sitting in Revenue Committee that looks at a couple of interesting things. A Subchapter S exclusion, maybe \$84 million a year. I think maybe it's a little less because I think you got to subtract some credits off of that, but the tax expenditure report said \$84 million a year. Of course, that benefits a lot of folks, too--85 percent of that is claimed by taxpayers with a federal AGI of at least \$1 million. That's based on 2014 returns. Similarly, taxpayers with a federal AGI of at least \$5 million a year claim 60 percent of the exclusion. That is 90 returns. And that professor from UNL testified that we are unique in that particular type of tax exclusion for Subchapter S income. And nobody really showed up to defend it at the hearing. I was hoping to flesh out who's actually getting that money, but I was unsuccessful in doing it, laying pretty low. We got another one laying over there called a special capital gains exclusion that is a mechanism by which if you acquire stock in the course of employment, you can exclude that income from your income taxes if it meets some minimum requirements, including five shareholders, which we made easier a few years ago. And now the Supreme Court ruled that you can even use a gimmick to beat that system and have fewer shareholders. That particular tax loophole, well, we're being generous there, too. Eighty percent of that exclusion, based again on 2014 things, went...or tax returns went to folks who had income in excess of \$500,000, and 80 percent had income in excess of \$1 million--740 returns all together. [LB358]

PRESIDENT FOLEY: One minute. [LB358]

SENATOR SCHUMACHER: So what is this telling about ourselves? What is it telling about our policy, what is it telling about our constituents that we believe in? It's something to contemplate. And we're going to contemplate it a whole lot more in the coming days as we delve into the world of tax policy and who really are we here to help? Thank you. [LB358]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Walz, you are recognized.
[LB358]

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SENATOR WALZ: Thank you, Mr. President. First of all, I want to thank Senator McCollister for bringing this bill. I think it's really important. I want to talk a little bit about my campaigning and knocking doors. One of the things that I heard probably more than any other issue when I was knocking doors was that people want to work. They want to go to work and they want to get off of government assistance. You know, I think that it is a sad misperception on the majority of people who think that people just want to live off the government. And I guess it's because they think it's so lucrative, that \$900 a month. Anyway, I had heard a lot of...again, more than anything, I heard that people want off government assistance. And I received a story that I want to share from Senator McCollister. And this is about Yanay (phonetic), she is a 32-year-old and she has a daughter who is five. Yanay is a single mom and works hard to provide for her five-year-old daughter, Elena (phonetic)...provide for her 5-year-old daughter, Elena. She was denied SNAP for being \$20 over the income limit for a household of two. Yanay is hardworking and doesn't want to ask for help. She works as many hours as possible, while still doing her best to be a good parent. However, the limited flexibility in her work schedule creates a challenge for her. She is often unable to get away long enough to access food resources in Crete. Since she does not have any money to spare, traveling to Lincoln to access food distributions is not possible. If she quit her job, she would be given more SNAP benefits, but that would do nothing for her self-worth or the example she wants to set for her daughter. LB358 encourages work and would allow Yanay to keep her job and feed her young family. You know, the other thing that I have been thinking of probably since the beginning of our start here in the Legislature is that our mode of thinking has been to balance the budget this year. And we are looking at cutting \$719 million to do that. Unfortunately, we are looking at cutting vital programs that affect people. And I feel that it's a temporary fix, it's just a number on a piece of paper that will balance the budget for this year. And to be honest with you, it's been a pretty uneasy feeling for me to be here and still have not heard of a long-term financial plan. I mean, what about five years? What about 10 years? What about 20 years? I feel that programs like SNAP will allow us to make changes in the future. We have already made cuts for this year. But allowing people to have the flexibility to have these programs, allowing people to work, allowing people to accept raises will only position them to succeed in the future. And it makes sense for us to put programs like this in place because it means people will get off government assistance programs that we spend money on and it also means that people will be participating in... [LB358]

PRESIDENT FOLEY: One minute. [LB358]

SENATOR WALZ: ...providing more tax revenue to our state. We need to make decisions that will eventually change not only the climate of Nebraska's budget, but also make decisions that will change individuals' and families' lives in the future. We need to think in the future and we need to take steps to help people get out of poverty. Thank you, Senator McCollister, for bringing this bill. [LB358]

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PRESIDENT FOLEY: Thank you, Senator Walz. Speaker Scheer. [LB358]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I apologize, colleagues, I was in my office and couldn't get away when the discussion started on LB358. As I had mentioned on a couple of other bills earlier, I am hoping that we'll have the discussion based on the policy issue. It does have a rather large financial impact. But having said that, it still deserves the discussion and the thoughtfulness that we give any bill that brings forward. This will be as well one that, because of that financial impact, we'll hold at Select File until the finances become more amenable to spending those dollars on other projects that we will have, like I said, there's a handful or a little more of bills that fall into that category. I am trying not to discourage those bills from moving forward. Please vote on them based on their merit, not necessarily just because of the financial impact. Because at this point they will not move forward for that, but they are not dead. They will still be on file if things do happen to change either later this session or perhaps next session, that we can utilize or do something with the bill. So thank you, Mr. Lieutenant Governor. [LB358]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator McCollister. [LB358]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Thank you, Speaker Scheer, for your comments. I would offer that maybe the fiscal note is small...very much smaller than what we think it is. In fact, I am going to read this, this particular paragraph. "The workload study referenced in the Department of Health and Human Services fiscal note is from 1992, which is before the automated N-FOCUS eligibility system was implemented, the ACCESS call centers were operating, and the option for online application was available and the resource limit was increased to \$25,000." Here is the important sentence. "The work process has substantially streamlined since 1992 and is not applicable to the current process." So the fiscal note is very much at issue. And Speaker Scheer's comments to move this bill from General File to Select File will fine-tune the fiscal note. And it could be as small as less than \$75,000 or it could be a couple hundred thousand dollars, but I offer that it's significantly smaller than what this fiscal note would indicate. I think this is a good bill, it's good legislation. We need to move forward on it. Have some other statistics that you probably should know. The economic impact of this bill is significant. The average SNAP benefit in Nebraska, as I mentioned, is \$258 per household. Multiplying \$258 by 1,840, the number of projected eligible households, equals \$474,720 in federal funds. That is a lot of money. The estimated federal aids per month of \$474,720 times 12 equals \$5,696,640. That's also a lot of money--\$5.6 million. Estimated total funds as indicated is \$5.6 million. Because SNAP is an economic multiplier, this federal aid, all food funding, would result in \$9.8 million to Nebraska grocery stores and farmers markets across the state. Moody's Analytics indicate that every dollar of SNAP benefits that comes to the state equals \$1.73, so you can see that it is a real economic boon to grocery stores and food markets across the state. We

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need this bill. The poor people in Nebraska, the food-challenged people in Nebraska need this bill. So I would hope that you would vote green on AM493 and LB358. [LB358]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Howard. [LB358]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB358 and AM493. And I just wanted to highlight for a minute how great this bill would be for Nebraska in particular. We are, and I am persistently reminded, that our number one economic driver is agriculture. And SNAP has a remarkable impact on agriculture across the country. And so just...and I rely on SNAP's benefit redemption annual report, the last one that I have is from 2010, so it's a little bit old. But in 2010, they noted that: while the primary goal of SNAP is to alleviate hunger, it generates a significant amount of economic activity and jobs. So in 2008, farmers received \$6 billion in revenue from the \$35 billion spent on SNAP benefits. And the remaining money goes to other industries, including food processors and retailers. And for every \$1 billion of SNAP spending nationally, it generates thousands of jobs, including a thousands new agricultural jobs every year. SNAP participants spent \$7.5 million in benefits at farmers' markets in 2010, and every dollar that's spent there goes directly back to the farmer. Food retailers, in particular grocery stores, earned more than \$60 billion of revenue from SNAP participants in 2010; and supermarkets and superstores received about 90 percent of that. So, it's grocery stores, it's Walmarts. And for every \$5 of SNAP spending, it creates \$9 of economic activity. And so it behooves us in the state of Nebraska to encourage folk who might be eligible, who might be in need of SNAP services, to be able to get access to this program because it is an economic driver, because the costs come back to us through our economy. And so I try to keep that in mind when we're thinking about, oh, you know, we're giving things away. These are people who are in a circumstance that they can't help. They lost their job, they're getting divorced. Their circumstances are some that we have all seen in our own lives and so the opportunity to help them in their time of need is something that's really important, at least to me. I would also like to read story as well. It's about a single mom of two kids, which sounds a little familiar because my mom was a single mom of two kids. This gal's name was Sheena and she makes about \$12.75 an hour working 40 hours per week. And just as a side note, I try to think about who this might be impacting. And just so we're all on the same page, in state of Nebraska, case aides who work for our child welfare division would be eligible for SNAP benefits. Okay? So people who are working for state full-time would be eligible for food stamps. So Sheena said with all the bills I have to pay, like day care, before and after school care for my daughter, so I can be at work at 8:00 in the morning, utilities and gas for my vehicle and rent, I don't have any money left over to buy groceries. And then she got a letter that she was off economic assistance because she was making too much money. And I can tell you what she...she says: I can tell you what I was wearing, where I was standing when I got that letter. And I broke down and cried, and I called my mom and I told her that I beat the odds. I was no longer on food stamps and I was really proud of myself. But I didn't quite realize that my family struggles weren't over. My son has

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ongoing medical issues, and I think all of us have been impacted by medical concerns. And she had used her provider employer...her employer-provided insurance, but she still had to pay hundreds of dollars in copays and deductibles to meet her son's medical needs. And because of that, she didn't qualify because her income was too high. And she didn't qualify for the gross eligibility of SNAP. [LB358]

PRESIDENT FOLEY: One minute. [LB358]

SENATOR HOWARD: Thank you, Mr. President. They made due, but food was the only thing that was flexible in her budget and so that is where they cut. Her son had an extremely poor diet from a very young age. They never ate fresh fruits and vegetable, they had very little fresh food. And even as their circumstances got better, her son was introduced to those things so he never really adjusted to them. And at 19-years-old, he was diagnosed with high cholesterol. Can you imagine a 19-year-old boy being diagnosed with high cholesterol? And many times she considered quitting her job because it actually would have been better for her financially if she had. But she had some amazing mentors and encouragers that helped her look at the long-term. Sheena is a taxpayer just like the rest of us. She is a consumer, she gives to her church, but she also identifies herself as a former SNAP recipient. And she wanted everybody here to remember that they are not lazy, they're not bums, and they're just trying to meet the needs of their families. And so I hope you will keep that in mind when you vote on LB358. Thank you, Mr. President. [LB358]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Riepe. [LB358]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I rise in opposition to LB358 and expansion of entitlements for the SNAP program. LB358 is not a cliff effect bill, it is an expansion. LB358 adds additional recipients to SNAP, which is not, I repeat, not the definition of a cliff effect. The cliff effect occurs when a family begins to earn above the limit set by the state and becomes ineligible for subsidies for food, housing, childcare, and other benefits. LB358 does not do this. At the HHS hearing, Senator McCollister stated: this is similar to Senator Cook's LB81 from 2015, which addressed the cliff effect. That is not true. LB81 addressed the cliff effect by allowing current recipients to have transitional assistance. LB358 is not that situation. Unfortunately, LB358 does not do this. I suggest Senator McCollister consider bringing a new bill next year to truly address the cliff effect for SNAP. That way, we can look at the new fiscal note, with the current revenue, to determine the merits of the bill. I have talked to the Department of HHS and the department is against the bill. I repeat, against the bill. Senator McCollister, will you yield to a question? [LB358]

PRESIDENT FOLEY: Senator McCollister, would you yield, please? [LB358]

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SENATOR McCOLLISTER: Yes. [LB358]

SENATOR RIEPE: Senator, can you please tell me who you have worked with within the Department of HHS? [LB358]

SENATOR McCOLLISTER: We worked with PRO. And in fact, Senator, they indicated they would not oppose this bill if we eliminated the second step. We will fine-tune the fiscal note and get a better handle on what that amount is. So I think moving forward we will work with the department for sure. [LB358]

SENATOR RIEPE: I would challenge that position of neutrality from the department and from PRO. But for all the reasons, and I will be back on the mike, that I have stated, I oppose LB358. Vote red. Thank you. [LB358]

PRESIDENT FOLEY: Thank you, Senator Riepe and Senator McCollister. Senator Krist. I do not see Senator Krist at the moment. We will come back to him. Senator Wishart. [LB358]

SENATOR WISHART: Thank you, Mr. President. I rise today to share a story of somebody who would be affected by this legislation. This is Erica's story. When I was 16 years old...excuse me, when she was 16 years old she had a child. And it made her family situation very difficult, almost impossible. She says: by the time my son was two and I was 18 years old, I was living on my own, a high school dropout with no skills. I worked full-time but still qualified for all the economic assistance, including SNAP benefits. I never saw my life any other than I was at that moment. My parents were poor, my grandparents were poor. I never thought of any other way to live but be poor and use state assistance. And then my mother, who is a very courageous woman, went back to college and I saw that there really was another way to live. I took my GED test, I enrolled in college, and I also worked full-time the whole time I was doing this. And most of my days consisted of 12 to 15 hours, including studying, working 8 to 9 hours a day, and going to class. Many times I would leave my house at 5:00 a.m. in the morning to return at 11:30 at night with maybe two hours to spend with my son in the meantime. But I graduated magna cum laude with a double bachelor's degree, and very soon after, within weeks of graduating, I received a promotion and got a letter that I was off economic assistance at the same time. I can tell you where I was standing, I can tell you what I was wearing when I got that letter. And I broke down and cried. I called my mother, I told her I beat the odds. So I was really, really proud of myself, but I didn't quite realize that my family's struggles were not over. My son has ongoing medical issues and I used my employer-provided insurance, but I still have to pay hundreds of dollars in copays and deductibles to meet my son's medical needs. And I, because of that, I didn't qualify. I didn't qualify because my income was high enough and I didn't qualify for the gross eligibility of SNAP. We made do, but food was really the only thing that was flexible in my budget, so that's

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where we would cut. My son had an extremely poor diet from a very young age. We never ate fresh fruits and vegetables, we had very little fresh food. And even as my circumstances got better, my son never was introduced to those things at a young age, so he never really adjusted to them when I added them into his diet. At the age of 19, my son was diagnosed with high cholesterol and is currently on medication for high cholesterol. Many times I considered quitting by job because I actually would have been much better financially if I had. But I had some amazing mentors and encouragers that helped me look at the long-term. I'm a taxpayer, I am a consumer, I give to my church, I give to charitable organizations, but I also identify myself as a former SNAP recipient. We're not lazy, we're not bums. We are just trying to meet the needs of our family. Thank you. [LB358]

PRESIDENT FOLEY: Thank you, Senator Wishart. Unless Senator Krist has returned, we will move on. Senator Riepe, there is no one in the queue. You are recognized to close on the committee amendment AM493. He waives close. The question before the body is the adoption of the committee amendment, AM493. Those in favor vote aye; those opposed vote nay. There's been a request for a call of the house. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB358]

ASSISTANT CLERK: 26 ayes, 3 nays, to go under call. [LB358]

PRESIDENT FOLEY: The house is under call. Senator, 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 Hughes, Stinner, Krist, Wayne, Brewer, Groene, please return to the floor and check in. Looking for Senators Stinner and Groene. We have been authorized to proceed. Senator Riepe, did you want a roll call vote? We have already had the machine vote. [LB358]

SENATOR RIEPE: Let's do a roll call vote. [LB358]

PRESIDENT FOLEY: Roll call vote. Regular order, sir? [LB358]

SENATOR RIEPE: Yes, sir. Yes, Mr. President. [LB358]

PRESIDENT FOLEY: Mr. Clerk, please call the roll. [LB358]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1006.) Vote is 25 ayes, 12 nays on the adoption of the amendment. [LB358]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. The committee amendment is adopted. Returning now to debate on LB358. I raise the call. Senator Riepe. [LB358]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I rise in opposition to LB358 as an expansion of entitlements for SNAP programs. I have to object to Senator McCollister's handout stating the fiscal note will be \$57,000. An attempt to reduce beyond that legislative fiscal note has determined the fiscal note will hurt the progress of the ACCESSNebraska has made over the past few years. The fiscal note states there will be a potential pool of additional individuals and families that would increase by 36,800 households in fiscal year 2017-18. It is an estimated approximately 5 percent would meet the net income limit after deductions. I understand the department most likely used outdated numbers with the 1992 figures, but that does not make the legislative fiscal information incorrect. Regardless of how many individuals will meet the net income limit, the department will still have to process all of the applications, whether they are accepted or denied. This takes time and manpower. The fiscal note states there would be an additional seven full-time equivalents to accomplish this. I want to turn your attention to another reason why I think LB358 is wrong for Nebraska. In February last year, I stood on the floor of the Legislature and told the body about my experience with the Special Investigation Committee for ACCESSNebraska. I told the body that in 2016 ACCESSNebraska was meeting or exceeding federal requirements. For the last 12 consecutive months, ACCESSNebraska has processed SNAP applications above 98 percent. If we do not continue to meet or exceed federal requirements, the state will risk potential penalties from the federal government. These penalties could be \$17 million. We cannot risk the progress ACCESSNebraska has made these past few years. I ask you to vote red on LB358. [LB358]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Riepe. Senator Schumacher, you are recognized. [LB358]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. You know, I think when you have full employment in a state and when many of our communities, particularly in rural Nebraska, are claiming that they can't find enough people to work, there isn't enough employees out there. And we don't have to worry about this additional assistance going to folks who just are deadbeats. These people are working. But because we like business incentives more than we like people incentives, let's think of it that way. This is a business incentive program to keep people in the work force and to make so it that employers, in order to keep people showing up for work, don't have to pay so much wages. This is a tax-free business incentive and it's really hard to view it as anything but that in an environment of full employment. If we enable people to continue to work for the wage that our business owners can afford to pay in order to keep their

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doors open, particularly in some of the rural areas, then how is this anything other than a business incentive? And if it brings in federal money that is then spent through our economy starting at the local grocery store, ends up funneling up through the system to the farms, how is that not economic development? How can we ignore this business incentive? We're talking now apparently a lot less than \$800,000. And compare that to some of the other things that we're doing in the name of business incentives--\$2 million here, \$1.8 million times 15 years there, all those other things. So I'm going to ask you to consider this in the form of a business incentive. An incentive that enables our businesses to continue to operate without having to pay the full freight of the labor. Thank you. [LB358]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Chambers, you are recognized. [LB358]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I always, believe it or not, listen to the prayers every morning, hoping against hope that one of them might strike a responsive chord in my colleagues. And as the day goes on, there will not be a praying to God in the morning then doing the devil's work the rest of the day. Jesus said the poor you will have with you always. He was not saying that by way of advocating it, he was not declaring a moral imperative. He was making a sad commentary on the cruelty and hard-heartedness of people who had plenty but were too insensitive to see that their brothers and sisters had less than what they needed for themselves and their children. Ray Charles sang a song, I'm going to paraphrase it, "How can I free your doubtful mind and melt your cold, cold heart?" All of these appeals fall on deaf ears. Jesus always was able to look beyond himself and his circumstances. When his last days were coming and the word was out of what was going to happen to him, the women were weeping and Jesus said: don't cry for me, weep for yourselves. There were days coming that they did not realize would be there. Another description that the "Bible" gives of Jesus was that of a man of sorrows, acquainted with grief. You know what had to give him grief? He saw so many of his children being treated cruelly. Am I saying Senator Riepe is a cruel man? I won't answer the question because actions speak louder than words. It is easy for those who have to ignore those who have not, yet not one of them accumulated everything he or she has by his or her own efforts alone. I am in that unusual situation of being viewed as more or less a devil, if I'm accorded that much status, yet there are people I don't even know who bring their little children to me. I don't know the parents, I don't know the child, but they bring their children to me. And I will say without fear of contradiction, there is not another person on this floor who will walk through the halls and see people who are not known and they will say, will you hold my child? Will you take a picture with my child? I think I'll bring a picture of 10 young girls...well, eight young girls and a young guy from Sutherland, Nebraska, wherever that is, who were eager to take a photograph with me, but they were afraid to ask me, so the teacher made the request. How many of you had that happen to you? And you stand on this floor, you pontificate, you talk

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about...I don't want to seem like I am picking on Senator Riepe. There is one who will judge him, and it's not me, but if this conversation were about guns,... [LB358]

SPEAKER SCHEER: One minute. [LB358]

SENATOR CHAMBERS: ...the Chamber would be full. If we were talking about a Choose Life license plate, all these people would be talking about pro-life, anti-abortion, and I would be saying: you love fetuses, you love zygotes, you love embryos, but when it comes to children, all of that goes out the window and this proves it. Let your actions speak. This money isn't coming out of your pocket, Senator Riepe. You can still get votes from people without being Scrooge. Some of these hard-hearted words that I hear, if I were a weepy, teary man like Jesus, you would say, Ernie wept. But I wouldn't waste my tears in a place like this. [LB358]

SPEAKER SCHEER: Time, Senator. [LB358]

SENATOR CHAMBERS: Thank you, Mr. President. [LB358]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Krist, you are recognized. [LB358]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. I had to take a call in my office, so I wasn't here during my time on the mike before the amendment advanced. But, you know, I know you're tired of hearing this, but I have dealt with this issue and the federal poverty level the entire time I've been here. I started out on Health and Human...I actually started out on Government and then transferred after that first year to Health and Human Services and spent a lot of time on Health and Human Services serving with Kathy Campbell as the Chair. And I have to tell you that I have formed an opinion about what we do with people in the federal poverty level and how we restrict them from moving up within reason and still maintaining some of these SNAP benefits. And would I call it "political slavery." We are going to lock people into a mode at 138 when most states are at...most states are well above that number, towards 200 percent poverty level, that are still giving extended services and benefits to people who are working. So what are we doing? You have heard examples on the floor. Crystal, Nebraska mother and a focus group participant experienced the cliff effect firsthand. She takes a 50 cent raise, which before taxes means she is getting \$20 a month and she goes from \$170 dollars of her SNAP benefits to \$82. How does that make sense? So what is that going to result in? It is going to result in her actually saying no, you know what, I don't want anymore money, I'll continue to work for those wages and be a slave. I'll lock myself into it. Now, I don't care what your perspective is, at some point, these dependency on these social service programs can and should go away. We should be working to a position where those people who are hard-working, who are

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out there doing their job, will progress through the job. They will get those raises, they will move on through the company. But not if you don't vote for this bill, because everyone who is there is a slave, working for less money than they need to, which by the way is less taxes. It's kind of a round and round she goes and where she stops, nobody knows. Well, I know where it stops. It stops when that young mother has to make a choice in progressing in her lifestyle, in her business, and building something for her family, or continuing on these kinds of programs. I would hope that you would consider at some point in the future, it's not with this bill, but at some point in the future actually catching up in the twenty-first century and looking at that federal poverty level the way it should be looked at. And 200 percent of federal poverty level still is paupers wages when you really look at it. I think it falls on a par with us, \$12,000 a year and all you can eat. Only you can't eat, because you're not getting the proper benefits. I hope you can reach down inside yourself and say LB358 on General File moving to Select is the right thing to do for the people in my district, in your district, throughout the state of Nebraska. One hundred fifty percent of the poverty level is only a small increase in terms of where we are right now. This is not a give-away program. [LB358]

SPEAKER SCHEER: One minute. [LB358]

SENATOR KRIST: Thank you. This is a program that allows people, single mothers, and families who are in a situation that need to feed their families to do that and still progress. You have made your mind up on this one already one way or the other. I would hope that you would vote green on LB358 because it is going to be helping a group of people...a large group of people for not a lot of money. Maybe we can work it into the budget this year. Thank you, Mr. President. [LB358]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Riepe you are recognized. [LB358]

SENATOR RIEPE: Mr. President, thank you, and colleagues. I want to briefly revisit all of the points here. LB358 is not, I repeat, not a cliff effect bill. The bill adds additional people. The expansion of SNAP is an expansion of entitlement program, an entitlement program that clearly, in this fiscal budget environment, is not one that we are prepared for. I think also the idea that you can simply add more applications, if you will, to the existing ACCESSNebraska staff is a short perspective. Because in adding ACCESSNebraska, we are just coming out of the woods in terms of becoming operationally efficient, something that I think the department needs to be very proud of. To add more work to that group threatens their performance and it also threatens the \$17 million dollars that we currently receive in federal funds. I'm not hard-hearted. Like Senator Chambers, I am to be a grandfather, so I think that at least qualifies me for some kindness. And I would ask you to vote no on LB358. [LB358]

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SPEAKER SCHEER: Thank you, Senator Riepe. Senator Chambers, you are recognized.
[LB358]

SENATOR CHAMBERS: Mr. President, I have no heart, but I will tell you this--I will not beg or plead for anything from anybody for myself. But I'm unable to carry every poor person, every sick person, every hungry person on my back. So, on their behalf, I beg you, I beseech you, I implore you to reach down and see if there is any bit of humanity left in you, even though you are a politician and accept the notion that we are indeed our brothers' and our sisters' keepers. I often hear on television, hear politicians mouth the words that Nebraskans are a caring people, they are a kind-hearted people, they are a generous people, they are a welcoming people. And I would have to add from what I've observed in this Legislature all these decades, as long as all that we are dealing with are fine-sounding words. But when you have people who genuinely need help, this Legislature is not the place to come to find it. I look around this room and I don't see many sunken cheeks from not having enough to eat. I don't see anybody who, if you tore their shirt open, you would see the ribs, bones covered with skin because they have not had enough to eat. Because they eat and fair sumptuously, they cannot even envision people who are hungry. Not because they have to go from noon until 5:00 without eating, but because they haven't had any food today, they may not have any tomorrow. Their children may not have anything to eat. And I'm not making this up, I still live among ordinary people. Obviously, you all don't. You could not and be as cold, unfeeling, uncaring as so often you manifest yourselves to be. But what gets me is how you can offer those prayers every morning. Does it ever occur to you that you are hurling an insult into the face of the god you pretend that you care about? He tells you what you should do and how you should behave. Then you say these prayers and ask God for things that we can do. I don't have a heart, I have no religion. I don't know this Christ that you all say "walks with you." I don't know this God who talks to you. I can only know of those things and those entities based on what I hear from you and read in books. But from somewhere I have been fortunate enough not to be burdened with these notions of your God that will make me unfeeling. The myths of your Christ, which could let me walk away from little children who are hungry. But what does puzzle me, if the world is as you all said, I'm going to ask you again, why do not people come up to you Christians and sense some virtue coming from you to such an extent that they ask you, will you hold my child? Why would people come to a devil such as me and say, Senator Chambers, would you hold my child? [LB358]

SPEAKER SCHEER: One minute. [LB358]

SENATOR CHAMBERS: Why? I don't see that happening around here with any of you. They don't even know who you are. And yet, you act as though you are better than everybody else. But you kowtow to the lobbyists, you do the work of the special interest groups. But the last, the least, and the lost are not on your radar. You, if you had any shred of self-respect, would stop those pointless rituals and ceremonies that you go through here every morning. You know they

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don't mean anything. And I'm wasting my time if I were foolish enough to think that my words would have any impact on you. Fortunately there are people outside of this Chamber who have a chance to listen to our words, look at our actions... [LB358]

SPEAKER SCHEER: Time, Senator. [LB358]

SENATOR CHAMBERS: ...evaluate...thank you Mr. President [LB358]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Morfeld, you are recognized. [LB358]

SENATOR MORFELD: Thank you, Mr. Speaker. Colleagues, so far I have been silent on this bill. And I have heard a lot of different stories from individuals about other individuals and their family's stories, and I think they are compelling. But it is clear from the vote on the committee amendment that it had little impact on a lot of you. So I want to tell you my story. My mother was a single mother until I was 12 or 13. And we had three different kids, three different dads, two of which didn't always pay child support. My father did and it also taken out of his income on a monthly basis because he was in the military, and that's how they arranged those things, child support. And my mother worked usually on average 40 to 50 hours a week. Fortunately, she had a good employer, who allowed her to do work on a computer that they gave her at home, after she was able to bring my brothers and sisters back from school. We lived just three or four blocks from where I live now, so not far from...actually in my district. And we were in federally subsidized housing. She had stood stamps and WIC. And for a single mother with just a high school degree, she didn't do too bad in terms of working full-time. But she still needed some of these critical resources that we're talking about here today. She still needed food stamps to get by to make sure that we could have Christmas, to make sure that we could have birthday presents. She still needed federally subsidized housing to make sure that we had safe housing and affordable housing. And I think I want all of us to step back for a minute and realize that these are working Nebraskans. These are individuals, like my mother and my family, who was working hard, who through no fault of their own had a tough time getting by despite that hard work, who wanted to make sure that their family had food, and a nice home...and not even a nice home, but just a home that was safe, that they could afford. And I'll submit to you, colleagues, that this is not a lot of money in the scheme of things. And I know that we can say that about just about any bill and it all adds up in the end, particularly in the times that we're in now. But it means a great deal to families like mine, to mothers like mine, to children like me, who grew up in Nebraska, and was able to have a safe home and a good education and was able to be in this body today because of those supports and because there were legislators before me that stood up, maybe even during tough fiscal times, and protected these programs so that families like mine

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and children like me could have a future and an opportunity to sit here in the Chamber with individuals like you. I urge your support of LB358. Thank you, Mr. President. [LB358]

SPEAKER SCHEER: Thank you, Senator Morfeld. Senator Kolowski, you are recognized. [LB358]

SENATOR KOLOWSKI: Thank you, Mr. Speaker. I stand before you as a person who has worked with Senator Chambers over the last nine years, nine years straight, four in the Learning Community and now the fifth one here in the Legislature. Every one of those years have been a learning experience for me. The main one that has stuck with me this year from Senator Chambers has been something he just mentioned a few minutes ago in his last talk, dealing with the last, the least, and the lost. I urge your support for this bill, I urge you to vote green on this bill. I thank you for that in advance. And I hope that we will make a difference in the lives of all the children that you are hearing about as you have heard these stories on the floor today, and I know we'll hear more of these in the future by thankful parents. Thank you. [LB358]

SPEAKER SCHEER: Thank you, Senator Kolowski. Senator Quick, you are recognized. [LB358]

SENATOR QUICK: Thank you, Mr. President. You know, I ran for Legislature on the fact that I wanted to be a voice for working families, and that includes all working families, whether you come from poverty or whether you are a middle class working family. And I can tell you in my district, we have a lot of families who live in poverty. A lot of families that struggle to get by, that just barely make enough to make ends meet. And I'm sure that in your districts, if you look around, you are probably going to find them in your districts as well. And one of the things that we don't want to do, and I heard, I believe it was Senator Krist, talk about pushing people out of...you're going to push them over that limit, over that poverty level just enough that they can't support their families. They are not going to be able to feed their families and so they will maybe quit that job and go totally on to welfare. And we just can't have that. We need to let these people provide for themselves, let them move up in the world, and feel like they are accomplishing something. You know, we will vote for things to help businesses in this state and help promote business, help promote small business, help the farmers, but when it comes to helping the working poor, it seems like we want to stop it there. And I'm rising in support of LB358 and I really hope that you will consider this. I know you have people in your district that need this help and I look at it also as like we looked at the childcare bill, you know, we got to keep people working. And this is one of the ways we can do that. I know at one point in my life, my wife and I were never...were on any kind of program, but we struggled from time to time. I used to get laid off in the wintertime and we found it pretty hard to get by. And I think until you have

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walked a day in the shoes of someone who lives in poverty, I don't think you can totally understand it. And so I hope you all vote green on LB358. Thank you, Mr. President. [LB358]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Harr (sic). Senator Bolz. I'm sorry, Senator Harr, you're next. Sorry. [LB358]

SENATOR HARR: Thank you. Question. [LB358]

PRESIDENT FOLEY: Question has been called, do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Record, Mr. Clerk. [LB358]

ASSISTANT CLERK: 27 ayes, 7 ayes to cease debate, Mr. President. [LB358]

PRESIDENT FOLEY: Debate does cease. Senator McCollister, you are recognized to close on LB358. [LB358]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Colleagues, the cliff effect is real and it is evident in this bill. You will see from the bill that we move from 130 percent of gross income to 158 percent. So that in itself addresses the cliff effect. What's the mechanism? As you earn more money, you lose 24 to 36 cents of cliff benefits, of benefits from SNAP, so it should be obvious that the cliff effect is a factor in this bill. Finally, those of you voting no on this bill is like saying we don't want people to transition off SNAP. We don't want to incentivize work, we don't want to reward hard work and promote the ability of the people to get out of poverty and off government assistance. Voting no on this bill is a vote against work and a vote against helping people transition off of this program. Another call of the house please, Mr. President. [LB358]

PRESIDENT FOLEY: Thank you, Senator McCollister. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB358]

ASSISTANT CLERK: 28 ayes, 5 nays to go under call. [LB358]

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PRESIDENT FOLEY: 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 Craighead and Vargas. Senator McCollister, we are lacking Senator Craighead. We can wait, if you would prefer to wait. Proceed? Wait? Okay. Senator Craighead, the house is under call. Members, you have heard the debate on LB358. The question before the body is the advance of the bill to E&R initial. Those in favor vote aye...roll call vote has been requested. Mr. Clerk. [LB358]

ASSISTANT CLERK: (Roll call vote read, Legislative Journal page 1007.) Vote is 24 ayes, 19 nays on the motion to advance the bill. [LB358]

PRESIDENT FOLEY: LB358 does not advance. I raise the call. Proceeding on the agenda, General File, 2017 Speaker priority bill. Mr. Clerk, when you are ready. [LB358]

ASSISTANT CLERK: LB628 was introduced by Senator Larson. (Read title.) The bill was introduced on January 18. It was referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments. (AM405, Legislative Journal page 710.) [LB628]

PRESIDENT FOLEY: Senator Larson, you are recognized to open on LB628. [LB628]

SENATOR LARSON: Thank you, Mr. President, and good afternoon, colleagues. I stand before you today to present LB628, introduced with entities such as Airbnb and Homeaway in mind. LB628 would prohibit cities, villages, or counties from adopting an ordinance or resolution that expressly or effectively prohibits the use of residential property as a short-term rental. LB628 would not, however, restrict any political subdivision from adopting a related ordinance or resolution that protects the public's health, safety, or is in accordance with current law. Authorization of such items include regulation of fire and building codes, health and sanitation, traffic control, and solid or hazardous waste and pollution control and the designation of an emergency contact for the property. Additionally, LB628 stipulates that a political subdivision may limit or prohibit the use of short-term rental for the purposes of housing sex offenders, operating a structured sober living home or similar enterprises, selling drugs, selling alcohol, or another activity that requires a permit or license under the Nebraska Liquor Control Act or operating as a sexually oriented business. Short-term rentals, also known as home sharing, have been up and coming trend over the past decade and they have evolved into cities across the United States as well as other countries. It is an opportunity for both owners of residential property and for travelers of business or leisure. According to Airbnb, the typical host in Nebraska earned \$2,300 last year, turning one of their biggest expenses, their home, into a supplemental income. Additionally home sharing on Airbnb's platform alone brought in 22,000

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guests to our state in 2016. These guests often stay longer than those who stay in traditional accommodations and they stay in neighborhoods that typically don't benefit from tourism. As the home-sharing community grows in Nebraska, regulation is needed to provide the clarity for homeowners and communities. LB628 creates a streamlined framework for home sharing in Nebraska that protects personal property rights while still providing cities with the latitude to enact additional guidelines to protect health and safety. Testimony at the public hearing for LB628 recognized the need for a structured tax collection as it pertains to short-term rentals or home sharing. Committee amendment AM405, of which I will let Senator Brewer elaborate, addresses this concern by providing a mechanism for the collection of sales and lodging taxes through an agreement with the on-line hosting platform and the Tax Commissioner. In this day and age, we live in a new market economy and the world of individual entrepreneurs. I believe LB628 is an important piece of legislation for the continued growth of our state. I would like to thank Speaker Scheer for designating LB628 as a Speaker priority bill this legislative session. And I would respectfully encourage my colleagues to vote green on the committee amendment and the advancement of the legislation. Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Larson. As the Clerk indicated, there are amendments from the Government Committee. Senator Murante, as Chair of the committee, you're recognized to open on the committee amendments. I understand Senator Brewer will carry the amendment. Senator Brewer, you're recognized. [LB628]

SENATOR BREWER: Thank you, Mr. President. I would like to rise in support of LB628 and offer up AM405. AM405 does not change language in the original bill but adds the following provisions. First, it defines an on-line hosting platform as an on-line marketplace where individuals can rent lodgings. Second, it authorizes the Tax Commissioner to enter into a collective agreement with an on-line hosting platform by which the on-line hosting platform will collect the taxes associated with the lodging rental that occurs on that platform. Third, it requires an on-line hosting platform that has entered into such an agreement to provide the Tax Commissioner with certain information. And finally, it makes clear that an audit of taxes or transactions subject to such an agreement may only be conducted by the Tax Commissioner on the on-line hosting platform. The on-line hosting platform shall not be required to disclose any personal identifiable information related to any seller or purchaser that uses the platform. Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Brewer. Debate is now open on LB628 and the committee amendment. Senator Bolz. That was a prior bill, Senator. Senator Bolz waives the opportunity. Senator Hilkemann. He waives the opportunity. Senator Harr. [LB628]

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SENATOR HARR: Thank you, Mr. President, members of the body. I'm going to rise in opposition to this bill. This is...goes back to the argument we had on preemption and whether we want our local government, those closest to the people, who know the problems of the people, to be responsible for the people that they serve. Or do we want to say, hey, we in the state who have no idea what problems may or may not be coming, we'll go ahead and decide that we can make all these decisions? I have nothing against Airbnb. I used them. I'm using them again this summer. They do a good job. But, you know, for instance in Omaha, we have a requirement for insurance to make sure that there is proper insurance. That would go away, as I understand with this bill. In addition, we have concerns in Omaha that people in a small town may or may not have that have different concerns. So, I really wasn't prepared to speak quite yet. I thought we had another motion coming before this. And I will be a little more specific the next time I speak on some of my problems, but this comes down to preemption and where we are in preemption. Do we want to say that municipalities may prohibit what states allow, but municipalities may not allow what states prohibit? Or do we want to just say, hey, state, we are the only ones who get to decide? We are the arbitrators, arbiters of what is good and what is bad and we really don't care about what our counties think, what our cities think, we are just going to make a decision for everyone. I have a real problem what with that. I've talked about it before. So thank you very much. [LB628]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Blood. [LB628]

SENATOR BLOOD: Thank you, Lieutenant Governor. Fellow senators, friends all, I'm not sure if I stand in support or against right now, but I do know that there are some things that need to be said on the record. I was hoping that Senator Crawford was here. She is here. Would Senator Crawford yield to a question? [LB628]

PRESIDENT FOLEY: Senator Crawford, would you yield, please? [LB628]

SENATOR CRAWFORD: Yes. [LB628]

SENATOR BLOOD: Senator Crawford, what wonderful thing do we have in Twin Creek in Bellevue that welcomes hundreds of people to that area for a lovely celebrations every year? Begins with a "b." [LB628]

SENATOR CRAWFORD: (Laugh) [LB628]

SENATOR BLOOD: North Twin Creek by the Culver's. [LB628]

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SENATOR CRAWFORD: A bike trail. No? (Laugh) [LB628]

SENATOR BLOOD: Begins with the word Beardmore. [LB628]

SENATOR CRAWFORD: Oh, yes, a convention center (laugh). [LB628]

SENATOR BLOOD: All right. That took way too long. So in Bellevue, we have the wonderful Beardmore Event Center. [LB628]

SENATOR CRAWFORD: Yes. [LB628]

SENATOR BLOOD: And we are actually scheduled already to be on track to be making a profit next year. Did you know that? [LB628]

SENATOR CRAWFORD: That's great news. [LB628]

SENATOR BLOOD: And do you know one of the unique ways we pay for that? [LB628]

SENATOR CRAWFORD: I imagine through occupation tax. [LB628]

SENATOR BLOOD: We were able to use part of our hotel tax. It's a wonderful thing in Bellevue and that helps take the burden off of our citizens, but helps us keep a great amenity in Bellevue. Thank you, Senator Crawford. [LB628]

SENATOR CRAWFORD: You're welcome. [LB628]

SENATOR BLOOD: I would now ask that Senator Larson yield, please. [LB628]

PRESIDENT FOLEY: Senator Larson, will you yield, please? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR BLOOD: Senator Larson, can you repeat again how many people you said benefited from the Airbnb's last year? [LB628]

SENATOR LARSON: In the state total or Bellevue specifically? [LB628]

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SENATOR BLOOD: In Nebraska. In Nebraska. [LB628]

SENATOR LARSON: In Nebraska, I think it was close to 22,000 guests. [LB628]

SENATOR BLOOD: And can you tell me if those rentals have been paying sales tax or any kind...? [LB628]

SENATOR LARSON: No. They have not been paying any occupation taxes. [LB628]

SENATOR BLOOD: So as you know, I pushed for the committee amendment so there would be a mechanism for on-line hosting platform. But there is something about the bill that stuck in my craw. And upon research, I found 81-3716, 81-3717, 81-3707, 81-3715 and 77-2701 which gave great definition and reference to what is considered a taxable hotel or residence in that genre. And according to our existing state law, such rentals should have already been paying sales tax. What do you feel about that? [LB628]

SENATOR LARSON: Well, in essence, maybe they should have already been paying tax, but it would take a lot of legwork from the Department of Revenue to go after every on-line hosting platform. I'm sure there would be legal battles in terms of releasing the identity of who the hosts are, how those hosts are...how many nights those hosts are doing...hosting individuals. So you can say that they should already be paying these taxes, but without LB628, the reality of them paying taxes moving forward is probably very little. [LB628]

SENATOR BLOOD: But, you know, even if a seller is not using your platform, sales tax is still going to be due, right? [LB628]

SENATOR LARSON: Again, if the Department of Revenue wants to go and explicitly find each one of those people and prosecute and move through that process, they will be able to collect it at that point, which I'm not sure the Department of Revenue will take--how do I want to say this--I don't think the money collected would be worth the effort within the Department of Revenue. So even though, as you are right, they should be collecting occupation taxes as is, and sales taxes, they won't be collected without LB628. [LB628]

SENATOR BLOOD: I think municipalities may feel differently in reference to that. But... [LB628]

SENATOR LARSON: Well, the municipalities will still have to go and prosecute and collect... [LB628]

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PRESIDENT FOLEY: One minute. [LB628]

SENATOR LARSON: ...on these short-term rentals, figure out who the short-term rentals are. Probably have to, at some point, as I said, there would be...they would have to ask Airbnb or Homeaway or those other entities... [LB628]

SENATOR BLOOD: Thank you, Senator Larson. I got like 30 seconds left. I just want to say how important it is that we are always looking for money. Here is money being left on the table. To say that it is not worth people's effort to collect taxes that are due I think is bad business. [LB628]

PRESIDENT FOLEY: Thank you, Senator Blood. Mr. Clerk. [LB628]

ASSISTANT CLERK: Mr. President, priority motion: Senator Chambers would move to return the bill, LB628, to committee. [LB628]

PRESIDENT FOLEY: Senator Chambers, you are recognized to open on your motion. [LB628]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I perceive six hours of good debate on this atrocious bill. It is one of the worst drafted bills I have seen. But when I consider the committee that sent it out here, that partially explains it. I would like to ask the Chairperson, Senator Murante, a question. [LB628]

PRESIDENT FOLEY: He is excused at the moment, Senator. [LB628]

SENATOR CHAMBERS: Oh, this went to a different committee? [LB628]

PRESIDENT FOLEY: Senator Chambers, the bill went to Government Committee; but he is excused at the moment. [LB628]

SENATOR CHAMBERS: Excuse me? [LB628]

PRESIDENT FOLEY: Senator Murante is excused at the moment. [LB628]

SENATOR CHAMBERS: Oh. Is there a cochair or Vice Chair? [LB628]

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PRESIDENT FOLEY: Senator Brewer I believe is Vice Chair. [LB628]

SENATOR CHAMBERS: I'd like to ask Senator Brewer... [LB628]

PRESIDENT FOLEY: Senator Brewer, would you yield to a question if you are on the floor? [LB628]

SENATOR CHAMBERS: AWOL. Members of the Legislature, I would like to ask Senator Larson a question. [LB628]

PRESIDENT FOLEY: Senator Larson, would you yield, please? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR CHAMBERS: Senator Larson, did you attend the hearing on this bill? [LB628]

SENATOR LARSON: I did. [LB628]

SENATOR CHAMBERS: Were you there from the time the hearing started till the time the hearing ended? [LB628]

SENATOR LARSON: I don't remember if I closed on this bill or not. I would have to go back and look. I don't... [LB628]

SENATOR CHAMBERS: Do you think you were there long enough to hear the people who did testify for and against the bill? [LB628]

SENATOR CHAMBERS: I believe I heard the opponents, yes. [LB628]

SENATOR CHAMBERS: Tell me one proponent for this bill, if you will. [LB628]

SENATOR LARSON: I'm not sure the bill had any proponents. [LB628]

SENATOR CHAMBERS: Were there any opponents? [LB628]

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SENATOR LARSON: I think a number of people, maybe two or three opponents, and most of them were there for LB68 so they piped up on this one as well. [LB628 LB68]

SENATOR CHAMBERS: Are we on the LB628? [LB628]

SENATOR LARSON: It was the same day as LB628. LB68 and LB628 were the same day. [LB628 LB68]

SENATOR CHAMBERS: Okay. I'm looking at what is called the committee statement on LB628 and opponents, I see, from the League of Nebraska Municipalities, the city of Lincoln, Nebraska Hotel and Lodging, and one individual who testified herself. So I count four opponents. Was this amendment that purports to be a committee amendment heard during the committee hearing? [LB628]

SENATOR LARSON: It was drafted after the committee hearing. Senator Blood, if I remember, raised concerns about taxes being collected in the committee hearing. But the committee amendment was not offered to the committee before the hearing. It was due to Senator Blood's questions that taxes needed to be collected. [LB628]

SENATOR CHAMBERS: Here's what I'm getting to. The amendment had no hearing, did it? [LB628]

SENATOR LARSON: I don't think this amendment needs a hearing, Senator Chambers. [LB628]

SENATOR CHAMBERS: No, that's not what I'm asking you. Did the amendment have a hearing? [LB628]

SENATOR LARSON: AM405 did not have a specific hearing from the Government Committee, no. [LB628]

SENATOR CHAMBERS: Mr. President, I challenge the germaneness of this amendment. [LB628]

PRESIDENT FOLEY: Thank you, Senator Chambers. Let me confer with the Clerk and with the rules. Senator Chambers, I am advised that committee amendments are always ruled germane. [LB628]

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SENATOR CHAMBERS: I'll accept it. Should I continue then on my motion? [LB628]

PRESIDENT FOLEY: Yes, you may continue, Senator. [LB628]

SENATOR CHAMBERS: Members of the Legislature, this bill is a hodgepodge. The idea of the Legislature prohibiting cities, counties, and villages from exercising their authority to enact ordinances or resolutions is, I think, preposterous. It is a pernicious activity. And when you look at the subject matter of this bill, there certainly is no basis for it. But I'm going to look on page 2 of the bill. It starts by saying in line 5, "A city, village, or county may not adopt or enforce an ordinance or resolution that expressly or effectively prohibits the use of a property as a short-term rental." On page 3 in line 4 it starts by saying, "A city, village, or county shall apply an ordinance or a resolution regulating land use to a short-term rental in the same manner as another similar property." Now this seems to be mandating that the city enact an ordinance. It "shall." The first provision that I read prohibits. Since the Chairperson is not here, I would ask the Vice Chair, Senator Brewer, I see he is here now, a question. [LB628]

PRESIDENT FOLEY: Senator Brewer, would you yield, please? [LB628]

SENATOR BREWER: I would be honored. [LB628]

SENATOR CHAMBERS: Senator Brewer, would you turn to LB628 because I have a specific question. [LB628]

SENATOR BREWER: All right. Give me a moment to find here. [LB628]

SENATOR CHAMBERS: Sure. [LB628]

SENATOR BREWER: All right. Go ahead. [LB628]

SENATOR CHAMBERS: On page 3 in line 4 it starts and says, "A city, village, or county shall apply an ordinance or a resolution regulating land use to a short-term rental in the same manner as another similar property." That language mandates that an ordinance be enacted to do this. Isn't that what the language says? [LB628]

SENATOR BREWER: You have read it verbatim. That is correct. [LB628]

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SENATOR CHAMBERS: Thank you and that's all I want to ask. Members of the Legislature, I'm unaware of anything in the constitution that authorizes the Legislature to mandate what kind of ordinance a city should enact. We are not talking about a general area in which a city may act. It mandates that an ordinance be enacted and it should include these things: residential use and other zoning matters, noise and other nuisance, and property maintenance. This section may not be construed to affect regulations of a private entity and so forth. I'd like to ask Senator Larson a question now since he is the introducer of the bill. [LB628]

PRESIDENT FOLEY: Senator Larson, would you yield, please? [LB628]

SENATOR LARSON: I'll yield to a question. [LB628]

SENATOR CHAMBERS: Senator Larson, are you looking at page 3 of the bill? [LB628]

SENATOR LARSON: Are we on the bill or the committee amendment? [LB628]

SENATOR CHAMBERS: Say it again. [LB628]

SENATOR LARSON: The bill or the committee amendment? [LB628]

SENATOR CHAMBERS: Oh, the green...the bill. [LB628]

SENATOR LARSON: The bill. Okay. Page 3, what line? [LB628]

SENATOR CHAMBERS: Starting in line 4. Is this mandating that the city, village, or county shall enact this ordinance or this resolution? [LB628]

SENATOR LARSON: I think it's...if there is an ordinance, a city or...a city, village, or county shall apply an ordinance or a resolution regulating the land use to a short-term rental in the same manner as any other similar property. An ordinance or resolution described by this subsection includes regulations governing. So I think it is more of if there is an ordinance. They don't have to. But if there is an ordinance already regulating those things listed in (a), (b), and (c), then the city shall apply those ordinances. [LB628]

SENATOR CHAMBERS: If it is not mandatory in statutory language, isn't it true that the word "may" is used and that "shall" is always mandatory? [LB628]

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SENATOR LARSON: That is my understanding: "shall" is mandatory. That's why it says if there is already an ordinance, they shall apply those ordinances. [LB628]

SENATOR CHAMBERS: It doesn't say "if there is an ordinance." [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR LARSON: Shall apply an ordinance or...did you say time? [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR LARSON: Oh, excuse me. [LB628]

SENATOR CHAMBERS: That's all I will ask you. And I don't want anybody to feel in a hurry when I ask questions because we are going to be on this bill a long, long time. So if I inartfully ask a question and a person has difficulty being sure what I'm asking, I'm prepared to ask it and re-ask it and re-ask it until there is a meeting of our minds; that the person understands what I, as the interlocutor, am posing, then perhaps an answer can be given. Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Chambers. Debate continues on LB628, the committee amendment and the motion to recommit to committee. Senator Morfeld. [LB628]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in support of LB628, AM405, and I also have an amendment to the bill that I think will address some of the concerns that have already been brought up today in regard to preemption. If you open up your computer, you can look at the amendment that I filed. I don't have the number right offhand, but it is right on the bill. And what that amendment will do is address some of the language that Senator Chambers, in particular, has a concern with and some others as well. What it will do is on page 2, line 7, it will strike "Except as provided by this section, a city, village or county may not adopt or enforce an ordinance or a resolution that restricts the use of or otherwise regulates a short-term rental based on the short-term rental's classification, use, or occupancy." So it strikes that language out. I cosponsored the bill for a few different reasons which I'll get to in a minute. But as I read the bill a little bit closer, I thought that this preemption went a little too far. So for instance, cities can currently--cities, towns, and other entities--can currently regulate the use of long-term rentals. But what this would do is take away any regulation of short-term rentals, which to me doesn't make any sense. And it particularly doesn't make sense to me based on our discussion of preemption and local control on some other issues that you are all well aware of.

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So what this will do is it will take out that language. So it doesn't go, in my opinion, too far. But what it will do is make sure that the portion starting on line 5 which says "A city, village, or county may not adopt or enforce an ordinance or resolution that expressly or effectively prohibits the use of a property as a short-term rental." And I think that's an important part. For me, this is much like the so-called Uber bill that we passed two years ago. I believe Senator Mello brought it, and what that did was make sure that, number one, the state of Nebraska is staying with the times in terms of the advancement of technology and the way that people, number one, reserve certain services such as ride sharing or short-term rental of their house in the case of services like Airbnb. One of the reasons why I supported the bill is because I believe that it is important that we have a regulatory framework to not only make sure that there is regulations behind these services, but then also to ensure that we are not getting in the way of technology and some of the increasing demands for that technology among our citizens. And the other thing that I think is important to note is that...well, let me step back for a minute. If there are concerns about the specific language or the preemption, even after my amendment, taking away the express exemption, then I think that that's a discussion that we can have and I think that we can have further amendments. I don't think that we should oppose the bill and kill the bill simply because we don't like the idea of any preemption whatsoever. I do think that it is important to provide a framework for individuals to be able to use these new services, both for those that want to rent out a space in their home, or for those who want to actually rent a space in the state of Nebraska. I think that we need to make sure that we have a framework that supports those types of services because those are the types of things that particularly young people, but I know a lot of older people too, that use these types of services. But these are the types of services that particularly young people when they are coming and visiting Nebraska, whether it is for a football game or some other sporting event, these are the types of services they want to have available to them. And so I think it is important that we have some kind of framework in place that supports that and ensures that that is available to people both from the perspective of somebody coming into our state, but also from the perspective of... [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR MORFELD: ...thank you, Mr. President. If I own a property I should be able to rent out a room or so short term if I want. And I think that that's a right that I want to avail myself of in the marketplace. As long as I'm following the rules; as long as I'm paying my taxes, such as with the committee amendment; and following the other rules that other short-term rentals such as hotels have to follow as well. So with that being said, I will oppose the motion to recommit to committee. I hope that you will adopt my amendment which will come after the Government Committee amendment, and I urge you to support LB628 once we have amended it. Thank you. [LB628]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Larson. [LB628]

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SENATOR LARSON: Thank you, Mr. President. I rise against Senator Chambers' recommit motion. LB628, regardless of what Senator Chambers says, is a good bill. It is good for Nebraska entrepreneurs in the new market economy. We've heard it compared to the Uber bill that Senator Mello passed last year that Senator Chambers was very much in support of, as was most of the members of this body. I think it might have passed unanimously in terms of we do not want certain entities to put undue regulations on entrepreneurs participating in these new market economies. I will have another article that I will pass out soon that discuss Warren Buffett's adamant support of Airbnb and these types of sharing platforms. We have seen across the nation where cities and counties have instituted certain ordinances or regulations that have essentially run organizations like Airbnb and Uber out of their cities and creating a massive vacuum in the new market economy, causing undue harm to not only its citizens but tourism in that city. Nebraska is uniquely placed, Omaha and Lincoln specifically, but also other communities have the ability to use Airbnb, and thanks to AM405 and Senator Blood's insistence that they work with the hosting platform to collect the taxes--we know the taxes will be paid--but think of all the events. Omaha: You have the College World Series. You have Berkshire Hathaway. You have how many events at the CenturyLink Center? Here in Lincoln all the events at Pinnacle Bank Arena; Husker football games. Grand Island, this could be a huge benefit for Grand Island and anybody that wants to do sharing, home sharing, in terms of the State Fair or with Heartland Events Center. Senator Erdman's district with Lake McConaughy, this would be another huge benefit. The new market economy, sharing platforms are the future; and we have seen across the nation certain entities shut down these platforms and they leave, therefore, costing any of the citizens they had in those economies not only business, but also costing the sharing economy in that area. So I rise against Senator Chambers' recommit motion and I would urge the body to support LB628, AM405 and we can move forward. Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Chambers, you are recognized. [LB628]

SENATOR CHAMBERS: Thank you. Mr. President, I hear people talking about this bill in connection with the committee amendment as though it has to do with home sharing. But I would start by taking the words of the amendment itself, looking at the committee amendment, in line 2. And I wish that Senator Morfeld would pay attention. "For purposes of this section, online hosting platform means a marketplace connected" and so forth, but for whom...what does it apply? In line 5, "a seller or hotel operator." That's what this platform is addressing. A seller or hotel operator, it's talking about hotel rooms, hotels, motels, inns. It doesn't say "private dwelling." What you are talking about is not mentioned in this bill. It doesn't say when it mentions in the bill itself page 2, line 2, "a residential property...a single-family dwelling or a unit in a condominium, cooperative, or time-share." Now time-share might get close to what you are talking about. But these things that are listed here, do not even indicate that the facility is

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occupied. It is not an owner-occupied dwelling. It is not a renter-occupied dwelling. It doesn't talk about it being occupied at all. So you think it is well crafted. I don't. When we get down to line 25, "A city, village, or county may adopt or enforce an ordinance or a resolution that limits or prohibits the use of a short-term rental only if the law limits or prohibits the use of a short-term rental for the purpose of:" then I would ask Senator Morfeld to go to page 3, line 3, "Operating as a sexually oriented business." Would a strip joint be sexually oriented? I would like to ask Senator Morfeld a question or two. He is a lawyer. [LB628]

PRESIDENT FOLEY: Senator Morfeld, will you yield, please? [LB628]

SENATOR CHAMBERS: Senator Morfeld, on page 3 of the bill in line 3, is a sexually oriented business inclusive of a strip joint? [LB628]

SENATOR MORFELD: Certainly could be depending on the interpretation of a court. [LB628]

SENATOR CHAMBERS: Sexually...sexual has to deal with what? Sex, doesn't it? [LB628]

SENATOR MORFELD: Yes. [LB628]

SENATOR CHAMBERS: Do people go to strip joints to get saved? [LB628]

SENATOR MORFELD: Probably not. [LB628]

SENATOR CHAMBERS: It's a sexual stimulating kind of activity, isn't it? [LB628]

SENATOR MORFELD: I would assume so, yes. [LB628]

SENATOR CHAMBERS: Well, that can be prohibited. That can be regulated. Why even put that in it? Because I think they're sensing some of the things that go on that maybe they ought to leave alone, but I don't think that's what they had in mind at all. I just wanted to bring that to your attention of the kind of things that remain in this bill. [LB628]

SENATOR MORFELD: Thank you, Senator. [LB628]

SENATOR CHAMBERS: And I'm going to just talk. And as Alexander Pope said in his essay on man, "Expatriate free o'er all this scene of man; A mighty maze! Yet not without a plan."

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There is a plan behind everything that's in this universe that we see, this existential universe of which we are a part. And even that intellectual universe occupied by philosophers,... [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR CHAMBERS: ...psychologists, and others who deal with things of the mind. All such things have a reality, have an existence, although their reality and existence will be on a plane different from that which is material or existential or physical. And I think that this bill implicates all of those matters so I'm going to need time to discuss them. Maybe we'll go from metaphysics to Taoism to Stoicism to cynicism. We'll talk about Orestes, Socrates, Euripides, Eumenides, Sophocles, "spectaclese," all of the "clese" and the "cleses" if you please. [LB628]

PRESIDENT FOLEY: Time, Senator. [LB628]

SENATOR CHAMBERS: Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford. [LB628]

SENATOR CRAWFORD: Thank you, Mr. Speaker, excuse me, Mr. Lieutenant Governor. And good afternoon, colleagues. I rise in support of the recommit to committee motion and opposed to LB628. Colleagues, this bill is a preemption bill. It tell...the state saying that local governments cannot pass ordinances to prohibit short-term rentals. Now Senator Morfeld's amendment does help some by removing some of the language that is limiting how much they can regulate these entities. But, colleagues, if you look at the committee statement, it is not the case that there were any supporters that were coming saying that their city or county was passing ordinances or resolutions forbidding short-term rentals or even discriminating against short-term rentals. And so it does not look like a prohibition or a concern that we even need to have. But in general, anytime there's a bill that is a preemption taking away the right of local subdivisions to make rules that they think are appropriate for their own communities, I'm going to have to look at the bill very, very closely. And we have to ask, what is the ultimate state purpose or concern that we're trying to protect? And I hear Senator Morfeld saying this is an important new way that people are doing commerce, and we want to make sure that people are able to have access to these kinds of facilities, traveling in our state, and that families in our state are able to engage in this kind of activity. But I think that it's very fair that the families in a community that would like to have Airbnb in their home are able to talk to their city council or county if they are concerned that there are any restrictions that are being placed on their ability to do so. I also just want to point out a concern, just in the structure of the bill, it seems inconsistent to me. So the bill talks about the kinds of times when a city, village, or county may adopt or enforce an ordinance. And we have two sections that lay those out and that's Section (3) and Section (4). And in both cases,

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in Section (3) and Section (4), it clearly states that this section is laying out the only instances in which a city, village, or county can adopt or enforce an ordinance. And that seems very inconsistent. Three lays out some of these instances that they can only adopt or enforce an ordinance in cases when it's dealing with fire and building codes, health and sanitation, traffic control, solid or hazardous waste, pollution control, requiring the designation of an emergency contact for a property. We're saying ahead of time, these are the only things that you as a city or county can determine that you can decide there may be a reason to have some regulation or ordinance concerning short-term rentals. But then when you turn to number...Section (4), it says, now it says you can only adopt or enforce an ordinance or resolution that limits or prohibits the use of short-term rental only if the law limits or prohibits the use of short-term rentals for the purpose of housing sex offenders; operating a structured sober living home or similar enterprise; selling illegal drugs; selling alcohol or other activity, etcetera; operating as a sexually oriented business. So those two, in each case, saying those are the only reasons that you can adopt or enforce an ordinance and those two sections are contradictory, so I think that is a major concern in the law and as people try to read this law and interpret it and apply it. Finally the last section, I think, does raise an interesting question, the Section (5), and that is...that part of the law says...basically is indicating that local... [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR CRAWFORD: Thank you...cities, counties, should not discriminate against short-term rentals. So it's saying that if they're applying an ordinance or resolution regulating land use, they should treat short-term rentals the same as other properties. I think that's an interesting conversation for us to have. I would still be skeptical because I still think there might be reasons why, appropriate reasons why a city, village, or county may want to have some different rules for short-term rentals versus other property. But that's, I think, a worthwhile conversation for us to have. I still think it would be unduly restrictive of the state to preempt that. But if there's any part that's deserving more conversation, I think it's the Section (5). Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Harr. [LB628]

SENATOR HARR: Thank you, Mr. President. You know, I find this bill interesting, so I was reading AM405 and it said "The Tax Commissioner may enter into an agreement", not shall. You're a hotel, a motel, a bed and breakfast, you don't have that option. You have to pay your taxes. But if you're an Internet-based bed and breakfast, guess what? Meh, maybe; maybe not. If you are a hotel, a motel, you have to pay a different rate for your water. If you are an Airbnb, meh, not so much, doesn't apply to you. If you are a hotel, a motel, or a bed and breakfast, you have to go through a licensure agreement...a process, excuse me. You have to make certain reps

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and warranties. If you're a bed and breakfast, excuse me, an Airbnb, you don't have to. Why? I haven't heard a reason why other than they're hip, young, and cool. I get it. But we have protections out there. Yeah, it can be cumbersome, but that's to protect people's lives. In Omaha, we have boardinghouses. We weren't too strict on them. We had rules and regs and you know what happened? We had a fire. People died. That's not young, hip, or cool. I've stayed at Airbnbs. I said I'm staying in one this summer. They're not bad. The hosts aren't bad. I guarantee you if I spoke to most of them, they wouldn't have a problem with many of these regulations. Matter of fact, they'd probably welcome them because it makes them more competitive. It makes them better and it gets rid of those people who are the bad apples. So ask yourself, why do we say if you're an Internet platform-based bed and breakfast, you're okay? If you're a regular bed and breakfast, not okay. We got two sets of books. What's the difference? Well, how you book your reservation. Doesn't make any sense. I don't understand this bill. And I think the reason...what I do understand about this bill, though, is that the industry that was affected by this didn't bother to show up. Doesn't that tell you something right there? They don't even come and say, we want this bill. We think it's a good bill. We think it's a good idea. Didn't show up. So I understand what Senator Larson is trying to do, and I applaud him for some of what he's trying to do. I applaud Senator Blood for her attempt to at least collect some of the money, but this doesn't work. This needs to be recommitted to committee. May collect taxes, let's go to that. If you are a hotel or a motel in Omaha, you have to pay an occupation tax. That helps promote tourism in Omaha. Airbnb doesn't have to. They don't help promote tourism in Omaha. So I hear, say, hey, all these young, hip, cool, young guys or gals are staying at these places. Well, guess how they found out about Omaha? Advertising, tourism dollars at work. But these people don't have to contribute back to it. Is that fair? [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR HARR: Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: That was one minute, Senator Harr. Thank you, Senator Harr. Senator Chambers. [LB628]

SENATOR CHAMBERS: Thank you. Mr. President, somebody might ask me, are we having fun yet? I'd say, I don't know about we, but I sure am. Members of the Legislature, you know how somebody can get out from under all of this? Instead of the short term that you use being 30 days, make it 31 days. Then none of this applies. One day for want of a nail a shoe was lost. For want of a shoe, the horse was crippled. Because the horse was crippled, a kingdom was lost. My kingdom for a horse. One day, and all of this goes out the window, and it is confused. Senator Larson heard me say the other day, if he was around, that he doesn't get things right. He said that I greatly supported that Uber bill. I didn't even talk about it. That was something they were

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talking about up here, and the reason I remember is because I was down in my office thinking what a waste of time it was and how they were going around in a circle like a dog chasing its tail. So when he says that, he doesn't remember. He just says things as they pop into his head. If you go into certain stores and you self-checkout, you reach the point where it says, pay up. So you can pay by cash, check, or these other things. And if you have a coupon, you hit that button. But when you hit cash, then it will tell you, put coins in first if you're going to use them, then bills. Then you put the bill in and then it makes little noises and it says, machine processing. A machine processes before it spits something out. Senator Larson needs to go and sit by one of those machines and learn something about processing before he lets whatever is in his head come out. And he should go slow in saying what I greatly supported. I did not, and he can get the record and see whether what he said is true or not, but truth is not anything that is involved with much of what he says, not only on this but other bills too. But I don't think it is invincible ignorance on his part, I think it's vincible. Invincible ignorance is an ethical, philosophical, or sometimes even moral term. If it's invincible, that means it cannot be overcome by any means whatsoever. Presenting facts, presenting evidence, presenting argument will not disturb that ignorance. It is invincible. It cannot be "vined." If ignorance is vincible, it can be overcome by or corrected with evidence, information, and argument. I'm afraid my colleague, Senator Larson, sometimes is afflicted with or by invincible ignorance. And maybe ignorance is bliss because you can adopt any attitude you choose with reference to whatever is being discussed; and if it's funny, then you laugh. That kind of ignorance is bliss. Sometimes if you're willfully blind, then you avert your eyes from a harsh reality and you do not deal with it. You deny reality. You become delusional. You're diluted. You're disconnected from reality. Those are the kind of things that a bill like this would encourage because it makes no sense. It does not hang together. If Senator Larson is in the house, I'd like to ask him a question. [LB628]

PRESIDENT FOLEY: Senator Larson, would you yield, please? One minute. [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR CHAMBERS: Senator Larson, is this a piece of model legislation? [LB628]

SENATOR LARSON: What's your definition of model? [LB628]

SENATOR CHAMBERS: Did it come from someplace else? This is a paradigm or a template for anybody trying to do whatever it is you're trying to do. Let me ask it a different way. [LB628]

SENATOR LARSON: We looked at a few other states across the country--I think Texas, North Carolina, a few others--and combined them to try to create one that was a little more comprehensive, but it's not modeled from NCSL or CSG or ALEC or any of those. [LB628]

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SENATOR CHAMBERS: So was here a little, there a little, everywhere a little little and then it was combined and gave us what we have here. Is that more or less correct? [LB628]

SENATOR LARSON: We took what we liked from each one of the states and, yes, put it together. [LB628]

SENATOR CHAMBERS: Okay, thank you. If I were to draw a picture, and I told you all I'm not an artist, I'm a drawer. [LB628]

PRESIDENT FOLEY: Time, Senator, but you may continue as to your closing motions, your closing speech. [LB628]

SENATOR CHAMBERS: Thank you. And there's nobody, no others who want to speak? [LB628]

PRESIDENT FOLEY: Correct. [LB628]

SENATOR CHAMBERS: Then I will close. Members of the Legislature, you know I'm going to offer a reconsideration motion, don't you? Well, if you didn't know, I'm going to do that. But if I were going to make a drawing of this bill, I'm not sure whether I would draw a tube-like image and have it lying down horizontally or standing up perpendicularly. But in any case, I would put...let's make it perpendicular. I would have a foot coming out of the left side of the perpendicular column, but it would be shaped in such a way as to look like a right foot. I would put the big toe where the little toe should be if it were going to be anatomically correct. So I put a right foot on the left side of the perpendicular tube at the very bottom. I would put the left foot on the right side at the very top. Then I'd have an arm coming out of the front midway up. Then I'd have another arm coming out of the back midway up. Then I'd have an arm between the top and that middle arm at the top half. Then I'd have an arm coming between the arm and the bottom half, and I'd do that in front and back. Then I think I'd do it on both sides. I would draw a head. It would have an eye in the middle like the cyclops. Now I can be corrected on this, Mr. Chairman, but I think the cyclops was named Polyphemus. I'm not familiar with the names of all of these characters, but the cyclops was a giant. Goliath was a giant. And I've always wondered whether each was a giant objectively speaking or was he a giant compared to those around him? If Goliath was surrounded by large people, then he would have been a larger giant than the cyclops if the cyclops were surrounded by smaller people and was a giant only because he was much larger than the smaller people he was around. Now when you come to that kind of a consideration, you understand Einstein's theory of relativity. That's pi r squared minus 10 and it's rooted only when the solar system and one light-year will make the Hayden Planetarium disappear. And if Mount Everest does not move, I'm positive that it will prove that Polyphemus

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could have been taller than Goliath or he could have been shorter. Now that at least makes more sense than what this bill does. But whether it makes more sense or not, I'm going to deal with this bill in the same fashion that the bill was created in by those who brought it. They say too many cooks spoil the broth. When you take a pitch from here and a patch from there and make a quilt, it's called a patchwork quilt. That works for quilts. It doesn't work for legislation. But since that's what we were brought today, I'm going to deal with the hand that I was dealt; and I said I was going to take time on this bill. I'm going to take time. And on this one, I'm going to show you all what a filibuster is. When there is a bill that is at least... [LB628]

PRESIDENT FOLEY: One minute. [LB628]

SENATOR CHAMBERS: ...rational, logical, and somewhat feasible in what it attempts to do, then I would give arguments geared to that. But when there's something as nonsensical, as contradictory, as unintelligible as this, then I'm going to deal with it based on what it deserves to have. What does the committee amendment have to do with anything in this green copy of the bill? Senator Morfeld doesn't run a hotel. Senator Morfeld is not selling his house. That's what the committee amendment deals with. The bill doesn't deal with a room in his house. There's nothing in this bill that talks about an owner of a house renting out a room or any portion of that dwelling. So what he's talking about... [LB628]

PRESIDENT FOLEY: Time, Senator. [LB628]

SENATOR CHAMBERS: ...is not envisioned by the bill. Thank you, Mr. President. [LB628]

PRESIDENT FOLEY: Thank you, Senator Chambers. Members, you've heard the debate on MO77, the motion to recommit to committee. Senator Chambers. [LB628]

SENATOR CHAMBERS: I would ask for a call of the house and a roll call vote in reverse order. [LB628]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB628]

ASSISTANT CLERK: 20 ayes, 1 nay to go under call, Mr. President. [LB628]

PRESIDENT FOLEY: 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.

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All unauthorized personnel please leave the floor. The house is under call. Senator Craighead, check in. Senators Hughes, Wayne, Hilkemann, house is under call. Senator Hilkemann, please return to the Chamber. Senator Chambers, we're lacking Senator Hilkemann. We can either wait or proceed. We'll proceed. There's been a request for a roll call vote in reverse order. The question before the body is the adoption of the motion to recommit the bill to committee. Mr. Clerk, please call the roll. [LB628]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1008.) Vote is 2 ayes, 36 nays, Mr. President. [LB628]

PRESIDENT FOLEY: The motion to recommit is not adopted. I raise the call. Items for the record, Mr. Clerk. [LB628]

ASSISTANT CLERK: Mr. President, thank you. Enrollment and Review reports LB91, LB444, and LB535 all placed on Final Reading. New bill. (Read LB263A by title for the first time.) New resolutions: LR99 by Senator Pansing Brooks, LR100 by Senator Linehan. Those will be laid over. (Legislative Journal pages 1008-1010.) [LB91 LB444 LB535 LB263A LR99 LR100]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Mr. Clerk. [LB628]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Chambers would move to reconsider the vote on the motion to recommit to committee. [LB628]

SPEAKER SCHEER: Senator Chambers, you're welcome to open. [LB628]

SENATOR CHAMBERS: Mr. President, thank you. Members of the Legislature, I can look around this Chamber and we are having fun now. This reminds me of the "Hotel California." You can check in, you can check out any time you want, but you can never leave. Welcome to the Hotel California, it's a lovely place. And they mentioned my name in there. It talks about "master chambers." So next time you listen to that song you will hear my name and you'll hate it from then on. Members of the Legislature, what I'm doing here is on a trifling, nonsensical bill. If this bill is not passed, nothing will be harmed. Nobody will be diminished as a result. If it's passed, it will do a great disservice to all of these political subdivisions. Now any other time the Groenes of the Chamber, the Lowes of the Chamber, the Brasches of the Chamber, and certainly the Kuehns of the Chamber would have said this first of all: Why am I being asked to support a bill when it was opposed by the League of Nebraska Municipalities, opposed by the city of Lincoln,

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opposed by Nebraska Hotel and Lodging, opposed by an individual and supported by nobody? Now this supposedly is dealing with some aspect of what those entities do, and maybe that's why they all spoke against it. I would like to ask Senator Ebke a question. [LB628]

SPEAKER SCHEER: Senator Ebke, would you yield, please? [LB628]

SENATOR EBKE: Yes. [LB628]

SENATOR CHAMBERS: Senator Ebke, is it true that you are a Libertarian by party choice? [LB628]

SENATOR EBKE: It is. [LB628]

SENATOR CHAMBERS: Does your party believe in preventing political subdivisions from enacting ordinances in the way that this bill would? I'm talking about this bill. [LB628]

SENATOR EBKE: I'm not sure that my party has a stand on that. [LB628]

SENATOR CHAMBERS: So now I will speak to you as an individual. [LB628]

SENATOR EBKE: Okay. [LB628]

SENATOR CHAMBERS: Do you believe that the state should prohibit these various political subdivisions from regulating this kind of property? [LB628]

SENATOR EBKE: I think that the state should...well, I think that localities, municipalities should exhibit as little regulation on business as is possible. [LB628]

SENATOR CHAMBERS: What business would this put on? What regulation would a municipality put on business that is prohibited by this bill and you agree with that prohibition? [LB628]

SENATOR EBKE: Well, the taxation of those smaller entities, I mean, it will...anytime you tax a small business, and these are sort of micro businesses as I understand them. We don't have them in Crete. [LB628]

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SENATOR CHAMBERS: But not to cut you off... [LB628]

SENATOR EBKE: Sure. [LB628]

SENATOR CHAMBERS: I'm talking about the green copy, the bill itself. [LB628]

SENATOR EBKE: No, I don't have that in front of me. [LB628]

SENATOR CHAMBERS: There's nothing in the bill that talks about taxing. They put that on, they offered it as a committee (inaudible) hearing. [LB628]

SENATOR EBKE: Okay. I don't have the green copy in front of me. [LB628]

SENATOR CHAMBERS: Okay, then I won't ask you any other questions, and you're saving yourself a lot of grief by not reading it. Members of the Legislature, I'm going to go ahead and read into the record this bill, I may as well, so people will know what I'm talking about. And I'm going to read it without digressing. And I defy people out there listening to understand and make sense out of it. "Section 1. (1) For purposes of this section, short-term rental means a residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time-share, that is rented wholly or partly for a fee for a period not longer than thirty consecutive days. (2) A city, village, or county may not adopt or enforce an ordinance or resolution that expressly or effectively prohibits the use of a property as a short-term rental. Except as provided by this section, a city, village, or county may not adopt or enforce an ordinance or a resolution that restricts the use of or otherwise regulates a short-term rental based on the short-term rental's classification, use, or occupancy. (3) A city, village, or county may adopt or enforce an ordinance or a resolution that specifically regulates property used as a short-term rental only if the city, village, or county demonstrates that the primary purpose of the ordinance or resolution is to protect the public's health and safety. An ordinance or resolution authorized by this subsection includes regulation: (a) Addressing: "I'm reading it the way it's written. "(i) Fire and building codes; (ii) Health and sanitation; (iii) Traffic control; and (iv) Solid or hazardous waste and pollution control; and (b) Requiring the designation of an emergency contact for the property. (4) A city, village, or county may adopt or enforce an ordinance or a resolution that limits or prohibits the use of a short-term rental only if the law limits or prohibits the use of a short-term rental for the purpose of: (a) Housing sex offenders; (b) Operating a structured sober living home or similar enterprise;" I don't know if there's such a thing as an intoxicated living home, but anyway a sober living home. (c) Selling illegal drugs; (d) Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or (e) Operating as a sexually oriented business. (5) A city, village, or county shall apply an ordinance or a resolution regulating land use to a short-term rental in the same manner as another similar property. An

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ordinance or a resolution described by this subsection includes regulations governing: (a) Residential use and other zoning matters; (b) Noise and other nuisances; and (c) Property maintenance. (6) This section may not be construed to affect regulations of a private entity,"... [LB628]

SPEAKER SCHEER: One minute. [LB628]

SENATOR CHAMBERS: ..."including a homeowners association organized under the Condominium Property Act or the Nebraska Condominium Act." So I guess there's a Condominium Property Act and a Nebraska Condominium Act. That is the bill. Now it's in the record and you have two places where, as Senator Crawford pointed out, regulation can occur only if, well, if in the first "only if" is to be taken seriously, then you cannot have a second "only if" because each is mutually exclusive of the other. There cannot be two "only ifs." [LB628]

SPEAKER SCHEER: Time, Senator. [LB628]

SENATOR CHAMBERS: That reminds me of a...did you say time? [LB628]

SPEAKER SCHEER: Yes, Senator. Thank you, Senator Chambers. Senator Harr, you're recognized. [LB628]

SENATOR HARR: Thank you, Mr. Speaker, members of the body. Would Senator Larson yield to a question? [LB628]

SPEAKER SCHEER: Senator Larson, would you please yield? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR CHAMBERS: Thank you. Senator Larson, earlier you made reference to a bill that we passed regarding Uber. Do you recall that? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR HARR: Okay. And you recall the bill? [LB628]

SENATOR LARSON: I recall the bill. [LB628]

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SENATOR HARR: Okay. And were you involved with that bill very often or very much?
[LB628]

SENATOR LARSON: I think I was a cosigner. [LB628]

SENATOR HARR: Okay. Do you know, was there any negotiations that occurred on that bill?
[LB628]

SENATOR LARSON: There were significant negotiations. [LB628]

SENATOR HARR: Okay. And was there... [LB628]

SENATOR LARSON: Mainly with the insurance companies and it had to deal a lot with when Uber needed...when the Uber driver needed to have car insurance... [LB628]

SENATOR HARR: Okay, so there was insurance. [LB628]

SENATOR LARSON: Was it in the first phase or the second phase of the call ride? [LB628]

SENATOR HARR: Okay. And do you recall if maybe banks were involved as well as far as for car loans because it might null and void car loans? [LB628]

SENATOR LARSON: Well, if you're asking the question as such they must have been. [LB628]

SENATOR HARR: Okay. And do you recall that the PSC was involved, meaning the Public Service Commission? [LB628]

SENATOR LARSON: As a taxi...because we were viewing it on whether or not it was a taxi service, the Public Service Commission would have been involved in the negotiations, yes.
[LB628]

SENATOR HARR: Okay. Thank you. Do you recall, was Uber involved? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR HARR: Okay. Do you recall was Lyft involved? [LB628]

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SENATOR LARSON: I'm not sure if they had a lobbyist or not. [LB628]

SENATOR HARR: Okay. They did. [LB628]

SENATOR LARSON: To be honest. I know Uber was. I don't know about Lyft. [LB628]

SENATOR HARR: Lyft did. If you'd like, I can give you their lobbyist. Do you recall... [LB628]

SENATOR LARSON: Who is their lobbyist? [LB628]

SENATOR HARR: I believe it was, well, Mueller Robak. Do you recall, were the taxi companies involved in the negotiations? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR HARR: Okay, thank you. Now you have your bill LB628 that you have compared to the Uber bill. Have you negotiated with the Motel and Hotel Association? [LB628]

SENATOR LARSON: Their state lobbyist talked to me and discussed the point that you brought up, the "may" and "shall." [LB628]

SENATOR HARR: Okay. Did you negotiate with the League of Municipalities? [LB628]

SENATOR LARSON: Again, they brought up the points of their opposition to the bill. [LB628]

SENATOR HARR: Okay. Because it may or may not null and void some home mortgages, did you talk to the Bankers Association. [LB628]

SENATOR LARSON: No. They have not expressed any interest in the bill. [LB628]

SENATOR HARR: Okay. And have you worked with Airbnb and on this bill? [LB628]

SENATOR LARSON: Airbnb has contacted me and expressed their interest in it and provided language that they feel is...that they'd like. We agreed to some of it. [LB628]

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SENATOR HARR: Okay. Did you contact any of the other Internet-based bed and breakfast-type facilities, companies? [LB628]

SENATOR LARSON: No. None of them have...I didn't contact any of those and none of them have contacted me. [LB628]

SENATOR HARR: Okay, thank you very much. I appreciate the questions. Folks, this is nothing like Uber. There's been no discussion. There's been no debate. There's been no talk. There's been no compromise. Senator Larson, would you yield to another question? [LB628]

SPEAKER SCHEER: Senator Larson, would you please yield? [LB628]

SENATOR LARSON: Yes. [LB628]

SENATOR HARR: Thank you. Do you know...would you be willing to negotiate on LB628 or is it... [LB628]

SENATOR LARSON: With who? [LB628]

SENATOR HARR: Great question. First question is, would you be willing to negotiate? Then we can negotiate... [LB628]

SENATOR LARSON: I'm always open to listening to individuals. I would have to understand what is being negotiated and with whom. [LB628]

SENATOR HARR: Okay, thank you. Folks, we don't even know who to negotiate with, right? This is crazy. This bill has a huge effect on large sections of our economy. Tourism is our number one industry in this state. We got to be careful and we got to make sure we do...our actions promote tourism and continue to promote tourism. At this point, we're cutting the legs out from our tourism industry because what's used to support them right now are occupation taxes and state sales tax, which we will not collect under this bill, no requirement to. If you're a hotel, you bet you got to pay. If you're a bed and breakfast, you bet. And by the way, that's a small industry. You got to pay. This bill doesn't do that. This bill has, just like Uber, potential. [LB628]

SPEAKER SCHEER: Time, Senator. [LB628]

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SENATOR HARR: Thank you. [LB628]

SPEAKER SCHEER: Thank you, Senator Harr and Senator Larson. Senator Chambers, you're recognized. [LB628]

SENATOR CHAMBERS: Thank you, Mr. President. As Fats Domino say, yes, it's me but he was in love again. In a way I am. But to take up where I left off, first of all, Senator Harr is trying to have a reasoned and reasonable discussion about a bill which is unintelligible. In philosophy, the word unintelligible means lacking in reason, lacking in knowledge, lacking in logic, not understandable. Senator Larson doesn't understand this bill because it is unintelligible. The parts do not hang together. But as I was going to say, I was reminded of something, there cannot be two "only ifs" in the same proposition. "Only if" means this to the exclusion of everything else, so you have only if on the left side of the spectrum. It excludes everything to the right of it. Aha, but you have an "only if" on the right side of this spectrum which excludes everything to the left of it. So if you exclude everything to the right of the left side, exclude everything to the left of the right side, everything is excluded and you have nothing. That is what is meant in philosophy by unintelligible. And when you have people who cannot think logically, they come up with illogical mess and tripe and claptrap such as this bill. You all have heard the example, what would happen if an irresistible force met an immovable object? And people say an explosion. No, the two terms are mutually exclusive. If a force is irresistible, nothing can withstand it. So if the force is irresistible, there cannot be something which is immovable. If you have something that is immovable, you have no force which is irresistible because that which is immovable can resist it. So you can have either an immovable object or you can have an irresistible force. You cannot logically have both. People don't think, and that's the problem, not just here but other places. But when it comes to legislation, we have an obligation to the public to not put jackass kind of stuff out there on the public. Why would all these political subdivisions be opposed to this and the hotel industry opposed to it if it's doing so much good for them? Do you know why if you're going to talk about the concept of God as an all-powerful being, and you know what the term is for all-powerful--omnipotent; one that is everywhere--that is omnipresent, everywhere at the same time; all knowing--omniscient. Why could you not have more than one god? If you have a god which is everywhere at the same time, that god occupies everything that is to be occupied. So if you said you had two gods, you would have two of them occupying the same space at exactly the same time and they would be merged into one. There could not be two. In order to have more than one object, each one has to be limited. It has to have boundaries so that one is distinguished from the other. Even if I put my two hands together, I still have two hands because each is distinct and discrete. They cannot occupy the same place, the same space at the same time. They cannot merge. But if they did merge, they would become one. There would no longer be two hands. That's why you could only have one god. So when the Christians talk about a three god, godhead, they're out in left field. [LB628]

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SPEAKER SCHEER: One minute. [LB628]

SENATOR CHAMBERS: If the Greeks and Romans talk about three gods, they're smarter than Christians, maybe they figured a way to do it. And you know the Egyptians could figure it out because they built the pyramids. And you know how the Egyptians built the pyramids, brothers and sisters? They started at the top and worked down from the top. Who else could do that? Do you think the greatest construction company in the world or the greatest architect could design a building which you would build from the chimney down? You know that's an impossibility. This bill is worse than that. Thank you, Mr. President. [LB628]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Larson, you're recognized. [LB628]

SENATOR LARSON: Thank you, Mr. President. Just real quick for the record, AM405, you know, Senator Harr discusses the Department of Revenue may enter into an agreement because it puts it on the Tax Commissioner to enter into an agreement. On page 1 of the amendment, line 11: The Tax Commissioner may enter into an agreement with an online hosting platform to permit the online hosting platform to collect and pay any applicable sales taxes under the Local Option Revenue Act, etcetera. So the reason that...and I can't speak for Senator Murante and the Government Committee in terms of as this was drafted and moving forward. But it does put the onerous (sic--onus) on the Nebraska Department of Revenue and the Tax Commissioner. I highly doubt that any of these online hosting platforms are...how do I want to say this...they really won't have an option to enter into an agreement because it's very clear, based on the online hosting platform that they are doing business here in the state of Nebraska. So if that's a "may" to "shall" if that's what appeases Senator Harr to ensure that those taxes are being collected, you know what, that's something that I'm happy to discuss, because, again, I have no doubt that our Governor and our Tax Commissioner will enter into these agreements regardless moving forward. So I do think that AM405 does ensure that the taxes will be collected. And to those that are also concerned about added, you know, added taxes, that's not what AM405 does. Because what essentially will happen is when I go to stay at an Airbnb, I'll see that it costs \$100 a night and the...and I'll still get...as a host I'll still get that \$100. But Airbnb or Homeaway will just put the taxes on top of it just like a normal hotel does, and the hosting platform will collect those and remit them. This isn't a...the host has to do that. Right now as the law is written or as Senator Blood brought up the number of sales taxes and local occupation taxes that these hosts are supposed to be paying right now, they are responsible themselves to pay those taxes out of the owned portion of what they've been collecting. So this actually helps the host significantly more and takes that out of their hands and ensures that they're not going to get in trouble. This is what I would say a big benefit for the host in AM405. It's a big benefit for local government. It is their intention to ensure that these are getting collected. And so I think LB628 and AM405 makes that happen. But if it's a "may" to "shall" that the Tax Commissioner shall do it, then that's not

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necessarily anything I'm opposed to because I think the Tax Commissioner was going to do it anyway. Thank you, Mr. President. [LB628]

SPEAKER SCHEER: Thank you, Senator Larson. Senator Harr, you're recognized. [LB628]

SENATOR HARR: Thank you. And thank you, Senator Larson. That's closer to what we need, right? I don't know any other industry or any other company out there where the onus for paying taxes is on the Tax Commissioner. We're coming up on April 15. You think it's my responsibility to pay the taxes or you think it's the responsibility of the Tax Commissioner to search me out and say, hey, by the way, when you get a chance when the session's over, no rush, can you pay the taxes? That's not how it works. The onus needs to be on that business to collect that tax. And then on top of the sales tax if you're a business in Omaha, there are the additional taxes that I talked about--the occupation tax. Does an Airbnb, a platform-based service, mind you, they do not consider themselves a bed and breakfast. Bnb stands for something else. I don't know what it means. They don't consider themselves...they're a platform-based company that links people together. So does the occupation tax that hotels and motels normally have to pay, do they have to pay that? No. That's a problem. That's...you know, just this morning we were talking about Internet companies that got a 7.5 percent break because they don't pay taxes in Nebraska. We got the same problem here. They're doing the exact same thing, providing the exact same service, but they don't have to pay the occupation tax in Omaha. Is that fair? These are the things we need to talk through. These are the type of issues we need to negotiate. I don't know right now where the bankers are, if there's...like they were with Uber when you have a car loan, it null and voids your car loan if you use it for commercial purpose. I don't know. I can tell you commercial loans on a home are more expensive than a residential loan. I don't know if all of a sudden the terms of NIFA, which is for first-time homeowners, allows for commercial use. My assumption is it isn't. If it is, we should probably change that because that's intended to put people into their homes for the first time, not to start a business, and that's what this is, a microenterprise. It's a business. Does that null and void those mortgages? I don't know. Do you? Insurance--does my house insurance allow my home to be used for commercial purposes? Do they have to carry their own insurance? Should we require them to carry their own insurance? Think about that. If you rent out your condo unit to somebody else, it null and voids your insurance policy, and that person comes to your home and has too much to drink, passes out smoking a cigarette, lights your condo on fire, not only are you out what your...you caused your destruction of your condo, but what about the whole unit? Are you responsible for the whole unit? Should they be required to carry insurance? I don't know. These are questions we don't have answers to that this is why it's good to debate legislation, to ask these questions, to inform ourselves before we pass a bill without realizing what it does. Down in the south, Airbnb has become very popular for spring break partyers. They're passing ordinances that say you can't rent out during spring break. Why is that? Because those young people don't respect not just those homes, and they take it upon themselves, but the area around them. [LB628]

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SPEAKER SCHEER: One minute. [LB628]

SENATOR HARR: Maybe we want to allow the local areas to say, hey, during this period, during this time we don't want to allow that. I don't know. We aren't having that conversation. These are...this is serious legislation. These are serious questions that we need to have. I look forward...we're not going to get a vote on it today. I look forward to working with Senator Larson, hopefully with some people from the industry, from the League, and maybe a representative from Airbnb, bankers, insurance to find out where are the holes in this and what do we need to be careful about and what are the consequences of this? So thank you, Mr. President, and I look forward to talking about this some more. [LB628]

SPEAKER SCHEER: Thank you, Senator Harr. Senator Chambers, you're recognized. [LB628]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I say again, Senator Harr is raising very important questions, but he's going to try to bring a clean thing out of an unclean thing. He's going to try to make a silk purse out of a sow's ear. What you would have to do with this is scrap the entire thing, lay out a blueprint of what it is you want to achieve, then start roughing out a plan that will let you get from point A to point B. This thing, if I would ask Senator Larson questions, would fall apart and he knows it. He can't answer questions that are in this bill, but the one he answered that I think was the most telling is when he said, they went to several different states and took a bit that they liked from several states, combined them all into this that you have, which has two sections, each of which says "only if," which would nullify that which is in the second section that says "only if" or vice versa. I don't think he's even thought of what the two words "only if" would mean. Nobody other than myself has asked why all of these different entities spoke against the bill, and yet it's of no concern to people in this Legislature. I'm surprised that Senator Halloran hasn't said anything. I think Halloran should be hollering. Erdman's gone, but wasn't he the one talking about how something impacted on his county when he said if you're going to require this then the state ought to pay for it? Well, this is saying his county cannot even enact resolutions when you're talking about a wide range of property and where is Senator Erdman? If he's within the sound of my voice, I would say, Senator Erdman, come out, come out wherever you are. Now that didn't work when I put it in my lawsuit against God and was trying to roust him. But I mentioned that I had tried that method to get him, and I couldn't get a response. How can you talk rationally about something like this? What Senator Harr is doing by means of his questioning, giving an idea of how legislation of this kind could be crafted without saying that it's wise, that it's desirable, that it's going to benefit any of the industries that are touched, but mentioning the kind of issues that ought to be given consideration, and they have not been. Senator Larson did not get a single cosponsor to this. Which of you would read it and say you'll sign on to it? But you won't vote to get rid of it. Would you be proud as a member of the Legislature to enact something like this into law, and you don't even know what it says, you don't know what it means? This is one of those times

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when the Governor would probably veto it. Now Senator Larson talked about the Tax Commissioner and the Governor's Office. Did he talk to anybody in the Governor's Office about this? Did he talk to anybody in the Tax Commissioner's office about how something like this could be administered, if at all, especially in light of the fact that it touches areas of the statutes where law already exists? [LB628]

SPEAKER SCHEER: One minute. [LB628]

SENATOR CHAMBERS: They're not plugging this into anything. I'm surprised that it got on the priority list. My death penalty should have been there then because at least it is coherent, at least it deals with a very important issue. But this? This should not have been on anybody's priority list unless it was that of the individual senator, and maybe I'm making a mistake here. Maybe it is the...oops. This is a Speaker's priority. I guess he's sitting up there so he doesn't have to answer questions out here. Because if he's not in the chair tomorrow when we take this bill up, I'm going to question him closely about this bill because I was given the impression that certain criteria had to be met to qualify as a Speaker's priority bill. But I guess he's like Einstein, relativity, relative to the capability of the one bringing the bill. [LB628]

SPEAKER SCHEER: Time, Senator (laugh). [LB628]

SENATOR CHAMBERS: Did you see the (laugh)...thank you, Mr. Speaker. [LB628]

SPEAKER SCHEER: Thank you, Senator Chambers. Mr. Clerk, any announcements? [LB628]

ASSISTANT CLERK: Thank you, Mr. President. Amendments to be printed to LB628 as well as a motion to LB628. New resolution: LR101 by Senator Kolterman. That will be laid over. Name adds: Senator Brewer to LB578; Senator Kolowski to LR95. (Legislative Journal pages 1011-1012.) [LB628 LR101 LB578 LR95]

Finally, a priority motion: Senator Wishart would move to adjourn until Wednesday, April 12, 2017, at 9:00 a.m.

SPEAKER SCHEER: You've all heard the motion. All those in favor say aye. All those that say no, nay. Oh, the ayes have it by a landslide today. We are adjourned.