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Floor Debate
March 28, 2007

[LB22 LB172 LB212 LB232 LB255 LB328A LB343A LB343 LB370 LB395 LB395A
LB502 LB562 LB587 LB629 LB658 LB665 LR64 LR65 LR66]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George Norris Legislative Chamber for the fifty-third day of the One Hundredth Legislature, First Session. Our chaplain of the day is Jack Sample, United Methodist Church, Wood River, Nebraska, guest of Senator Kruse. Please rise.

PASTOR SAMPLE: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the fifty-third day of the One Hundredth Legislative Session, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, at this time I have neither messages, reports, nor announcements.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, General File, LB328A. [LB328A]

CLERK: Mr. President, LB328A is by Senator Synowiecki. (Read title.) [LB328A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Synowiecki, you are recognized to open on LB328A. [LB328A]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. LB328A is the appropriations bill for a Retirement Committee bill that seeks to change provisions relating to county and state retirement plans. LB328A appropriates \$6,000 from the General Fund to the Retirement Systems to allow the Retirement Systems to conduct a survey and issue a report of local law enforcement retirement plans, under the direction of the Law Enforcement Officers Retirement Survey Act,

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

Floor Debate
March 28, 2007

originally introduced by...as LB370, by Senator Erdman. LB328A also appropriates \$6,000, of which \$4,260 is from the State Employees Retirement System Expense Fund, and \$1,740 from the County Employees Retirement Systems Expense Fund, to the Retirement Systems, to allow the Retirement Systems to notify defined contribution plan members of the cash balance election options and to process the responses from the plain election. This provision was introduced originally as LB665 by Senator Karpisek. There was actually a question during the General File debate on LB665 relative to whether state employees and county employees would be appropriately notified of the opportunity to engage in the Cash Balance Fund, and this appropriates funds to precisely do that. I want to thank you, members, for your consideration of LB328A. [LB328A LB665 LB370]

SENATOR LANGEMEIER: Thank you. Thank you, Senator Synowiecki. You've heard the opening on LB328A. The floor is now open for discussion. Is there anyone wishing to speak to the bill? Seeing no lights on, Senator Synowiecki, you are recognized to close. Senator Synowiecki waives closing. The question before the body is, shall LB328A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wished to? Record, Mr. Clerk. [LB328A]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB328A. [LB328A]

SENATOR LANGEMEIER: LB328A does advance. Mr. Clerk. [LB328A]

CLERK: LB395A, Mr. President, is a bill by Senator Johnson. (Read title.) [LB395A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Johnson, you are recognized to open on LB395A. [LB395A]

SENATOR JOHNSON: Mr. President, members of the body, this A bill actually is an A bill that is in limbo. And if you'll notice that this is on General File and not on Select File. There will be considerable discussion about LB395 immediately to follow this. The A bill associated with this is for education that is in one form of the bill, and it's \$58,000. It would be a cash fund expenditure, with the money coming from the tobacco settlement money. So I would ask at this time that we just advance this to Select File. And then if there is an A bill, and certainly there will be, but we will bring it up to date at that time, and rectify the changes that need to be made at that time. So at this time, I'd just ask for your indulgence and advance this to Select File, to catch it up with the other part of the bill. Thank you. [LB395A LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the opening on LB395A. The floor is open for discussion. Is there anyone wishing to speak to the bill? Seeing no lights on, Senator Johnson, you are recognized to close. He waives closing. The question before the body is, shall LB395A advance to E&R Initial? All those

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

Floor Debate
March 28, 2007

in favor vote yea; all those opposed vote nay. Have all those voted that wish to?
Record, Mr. Clerk. [LB395A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB395A. [LB395A]

SENATOR LANGEMEIER: LB395A does advance. Mr. Clerk. [LB395A]

CLERK: Mr. President, LB395, the principal bill, on Select File. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8041, Legislative Journal page 763.) [LB395]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB395]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB395]

SENATOR LANGEMEIER: The motion is the adoption of the E&R amendments to LB395. All those in favor say aye. All those opposed say nay. They are adopted. [LB395]

CLERK: Mr. President, I now have a series of amendments. However, I have a priority motion. Senator Mines would move to bracket LB395 until May 15, 2007. [LB395]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Mines, you are recognized to open on your bracket motion. [LB395]

SENATOR MINES: Thank you, Mr. President, colleagues. I think as everyone may be aware, this has been a very long and arduous process, with all parties working very hard to accommodate. This bracket motion was instituted...or, I dropped that in before we came to conclusion. And you'll hear more about that. So, Mr. President, I will withdraw the bracket motion. [LB395]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB395]

CLERK: Mr. President, the first amendment I have to the bill, Senator Johnson, AM585. (Legislative Journal page 754.) [LB395]

SENATOR LANGEMEIER: Senator Johnson, you are recognized to open on AM585. [LB395]

SENATOR JOHNSON: Mr. President and members of the body, the...let me first review very quickly where we're at. Regarding LB395, the Legislature adopted the amendment offered by Senator White on General File, and then this bill was advanced to Select File. We've been working since that time on the opt-out issue. This is the major area of

Floor Debate
March 28, 2007

disagreement. I have agreed to an amendment with Senator Mines to add an opt-out provision to my amendment, that is, AM585, which you'll hear about shortly. When I have an opportunity to read the opt-out amendment, which we will, we'll discuss, and then we will vote on it. If the amendment is adopted and the bill advanced to Final Reading, Senator Mines and I will be requesting an Attorney General's Opinion on the potential constitutional issues of this opt-out provision. The Speaker has indicated that he will not bring it back to the floor till we have this Attorney General's Opinion. We want to make sure, since this is somewhat new ground, that we proceed in that direction. Now to AM585. What this does is, in many terms, it has technical changes. It revises the definitions to make clear once again that private residences are exempt from the nonsmoking provisions. It retains the provision in the current law that prohibits smoking in in-home day-care facilities, and this type of measure. It removes languages relating to inspections, which were objected to on General File. It retains the provisions of Senator White's amendment relating to the ability of persons charged with violating the act to voluntarily participate in smoking cessation programs if they were to be cited. It contains a limited opt-out for cities and villages, which requires a popular vote to enact an ordinance that is less stringent than the bill but no less stringent than the Clean Air Act that is now in existence. The majority of the changes in AM585 are technical in nature, to clean up the original bill. I believe that Senator Mines and my two other sponsors of this bill, Senator Aguilar and Senator Stuthman, agree on this compromise for the opt-out provision, and a few other issues, as well. With that, I will yield the rest of my opening time to Senator Mines. [LB395]

SENATOR LANGEMEIER: Senator Mines, six minutes. [LB395]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Johnson. Just as a way of background for everyone, I think you understand, we all have our opinions and our hopes for either smoking or nonsmoking, and I'd like to acknowledge Senator Johnson for all the work he's done, as well as staff. At the end of this, I don't know that anyone will be particularly 100 percent happy. And maybe that's the best kind of legislation, when no one is happy. Let me identify again what the latest amendment does and where we have come. As you all know, Omaha has a nonsmoking ordinance in place. It lasts until 2011. There are clumsy parts in their ordinance. They allow smoking in bars that have keno, and Horsemen's Park. There are businesses that have committed money and time and effort to that 2011 end date. However, we have scaled that back, and their ordinance will remain in place until 2009. Our smoking ban will be a statewide smoking ban, effective June 1, 2008. This would allow time for cities and private business owners to decide what they want to do before the ban becomes effective. The local elected officials, both city, village, or county, can choose to opt out, in whole or in part. You can opt out the entire city or village or counties outside of metropolitan areas, or you could opt out individual businesses by a vote of the elected officials. Citizens could also petition to remove the smoking ban in whole or in part. The citizens, a population, could also institute a petition to repeal an ordinance or resolution

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

Floor Debate
March 28, 2007

that opts out either a city, village, or county. The technical part that Senator Johnson was talking about, cities, because they have ordinance authority, can...the citizens can offer a referendum to repeal an ordinance. There may be a question whether or not counties, because they don't have ordinance authority, their resolutions would be repealed by a vote of the people. And we'll work with the Attorney General on either new language that would authorize that on Final Reading, or if it's...if they can do it already, that would be a great thing, as well. Additionally, let's see, the ordinance or the resolution adopted by the governing body would take effect 90 days after its adoption, again, giving citizens ample time to petition to repeal the ordinance or resolution. A minor technicality: A copy of any ordinance or resolution adopted by a city, village, or county would be provided to the Department of Health and Human Services. There was a provision in...or, there is a provision in the amended bill, as it stands, that there would be "no smoking" signs placed on businesses that do not allow smoking. We don't have that provision in Lincoln or Omaha today, and frankly, we were looking at, if you are going to put up signs, let's put up signs in businesses that do allow smoking. But we've come to the conclusion that signage...without signage is working in our two metropolitan, largest cities, so there is no sign provision. And again, there's just language that helps clean things up. This is the best attempt that we've been able to come to. Again, I think both sides would like more. I also believe both sides have negotiated in good faith. I want to commend Senator Johnson for his persistence. This will get Nebraska about 90 percent to where perhaps all of us would like to be. But this is a good bill, this is worth your vote, and Mr. President, thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Mines and Senator Johnson. Mr. Clerk, for a motion. [LB395]

CLERK: Mr. President, I now have amendments to AM585. Senator Johnson, I have AM797, Senator, but I have a note you would like to withdraw that at this time and refile it later...for later discussion? [LB395]

SENATOR JOHNSON: Yes, Mr. Clerk. What I would request is unanimous consent that AM797 be withdrawn and then refiled after AM852, which will be discussed. [LB395]

CLERK: Mr. President, I then have pending Senator Johnson's AM852, as an amendment to AM585. (Legislative Journal pages 954-955.) [LB395]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. AM797 is withdrawn and refiled. Senator Johnson, you are recognized to open on AM852. [LB395]

SENATOR JOHNSON: Thank you, Mr. President. This is the controversial part of this measure. Senator Mines and our group, as well as others, and particularly with the help of our Speaker, have come to what we believe is a workable solution to this problem. I'm actually going to read this amendment. It is not very long. And then we'll ask Senator

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

Floor Debate
March 28, 2007

Mines to comment after that. What it says is this. We strike Section 16 and insert the following. In any city or metropolitan class has an ordinance in effect on January 1, 2007, prohibiting smoking in certain public areas, the provisions of such ordinance shall supersede the other provisions of the Nebraska Clean Indoor Air Act enacted by the Legislature in this bill until June 1, 2009, except that if the governing body of such a city, prior to such a date, repeal such ordinance and became subject to such act at an earlier time, or adopt a new ordinance pursuant to the sections in Section 17 of this act. In any other city or village, any ordinance with respect to smoking regulation which was not adopted under Section 17 of this act shall become invalid on June 1, 2008. On and after September 1, 2007, the governing body of any city, village, or county, or the voters of any city, village, or unincorporated area of a county as provided in this subsection, may adopt a nonsmoking ordinance or resolution that is less stringent than or more stringent than the Nebraska Clean Indoor Air Act enacted by this legislative bill, except that such ordinances or resolutions shall not be less stringent than sections now in existence. The proposed ordinance or resolution may be placed on the ballot for the voters of the city, village, or unincorporated area of the county by a majority vote of the governing body of such city, village, or county; by initiative under sections as listed--and you should all have copies of this, by the way--by petition meeting the requirements of and subject to Sections 32-628 through 30 and signed by at least 5 percent of the registered voters residing in the unincorporated area of such county on the day that such petitioners are filed for verification. The election shall be conducted as provided in Sections 32-556, etcetera. Any ordinance or resolution adopted by the governing body of a city, village, or county under subsection (1) of this section without being submitted to the voters under subsection (2) of this section shall take effect 90 days after the adoption, unless, unless, within such 90-day period, such governing body receives a petition signed by at least 5 percent of the registered voters residing in such city, village, or unincorporated area of the county on the date the ordinance or resolution was adopted requesting that such ordinance or resolution be repealed. Upon verification of the signatures of the petition, the ordinance or resolution shall be repealed. A copy of any ordinance or resolution adopted by the city, village, or county under this section shall be provided to the Department of Health and Human Services and to the local public health, as defined in Section 71-1626 of any such city, village, or county. What we have then is this, is that what we are attempting to do is provide that, yes, a village board, county board, could put in an ordinance that would lessen or make more stringent what we are proposing in this act, but with 5 percent of the voters that this action could stop these boards from implementing the action. And basically what we're trying to do here is respect the rights of local groups of people, but make it so that it is a secret ballot of the people affected. Can be instituted either by the people or by these boards that we've talked about. With that, Senator Mines, I would yield the rest of my time to Senator Mines. [LB395]

SENATOR LANGEMEIER: Senator Mines, three minutes. [LB395]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Johnson. I don't

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

Floor Debate
March 28, 2007

know what else I might add. Just one of the points that Senator Johnson had made, a petition that's received by a governing body could be at least 5 percent of the registered voters residing in the city, village, or county outside of a municipality. We looked at cities. Right now, I think it's 15 percent of the registered voters. Counties, for levy override, is 5 percent. That was one of the concessions that we all made, that let's keep this a low number and allow those that are interested in instituting a referendum, give them fewer signatures to obtain. So I think...again, this has been a process of compromise. I appreciate what Senator Johnson and others have done. And there's recognition to go around for everyone, but I believe that this amendment is, again, worth your vote, and I urge you to move this along to Final Reading. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Mines and Senator Johnson. You have heard the opening on AM852 to AM585. The floor is now open for discussion. Wishing to speak we have Schimek, Erdman, and Gay. Senator Schimek, you are recognized. [LB395]

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I am struggling to make certain that I understand both of these amendments, and I'm not sure that I do yet, so that I need to ask Senator Johnson, I think, a few questions, if I could. [LB395]

SENATOR LANGEMEIER: Senator Johnson, would you yield to questions? [LB395]

SENATOR JOHNSON: Yes. [LB395]

SENATOR SCHIMEK: Okay. Senator Johnson, I walked back out into the Rotunda a few minutes ago, and I was immediately, not accosted, but glommed onto by eight lobbyists out there who don't like the amendment, and they represent a whole bunch of different groups, different kinds of groups. And they raised some issues with me which I had already talked with you about a little bit. But could you tell me,...one of their concerns was that under the amendment, I believe, to the amendment, or else in the amendment itself, they were afraid that Lincoln's ordinance might be in jeopardy. Could you address that issue, please? [LB395]

SENATOR JOHNSON: Well, we don't think so. The...anyone could put in...I think it's adequately stated in what we're proposing that local groups still have the option of maintaining or putting in their more stringent ordinances. And certainly, Lincoln's is more stringent than what this one is proposed. So we're trying to make it so that the different segments of government--in this case, the city of Lincoln--that they would not be in jeopardy for this being the case. [LB395]

SENATOR SCHIMEK: So they wouldn't necessarily have to go back and redo their ordinance? [LB395]

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

Floor Debate
March 28, 2007

SENATOR JOHNSON: That's what...we so no reason why they would have to. I guess there would always be the chance, Senator Schimek, of there being minor conflicts between the Lincoln ordinance and this, but we don't see...and we've had Jeff Santema and others, as well, looking at that, trying to make sure that those kind of issues are not the case. [LB395]

SENATOR SCHIMEK: Well, I'm a little nervous about it, because you are not saying definitively. [LB395]

SENATOR JOHNSON: Well, you know, I'm saying as definitively... [LB395]

SENATOR SCHIMEK: As you can? [LB395]

SENATOR JOHNSON: ...as I can. And as you know, I'm not an attorney. But I can tell you this. Certainly the intent is for very strong, and I might add, very good ordinances, such as the city of Lincoln has passed. It is not our intent whatsoever to weaken these ordinances. [LB395]

SENATOR SCHIMEK: Well, I appreciate that, and I appreciate it being part of the record. The other concern that I have--and I shared this with you awhile ago--why do we, in this amendment, give the county...or, the city council or the board or whomever the ability to opt out, and then the citizens are either given a chance to say no to that by the board, or the citizens have to go out and circulate petitions? [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR SCHIMEK: Why couldn't it have been structured so that the county board or the city council...and incidentally, there are very few provisions in statute for county ordinances, and I'm sure you are aware of that, but that's another topic. Why couldn't this language have just said, if a subdivision thinks that they want to opt out, then they automatically put it on the ballot for people to vote on? Wouldn't that be a more speedy way to resolve this? [LB395]

SENATOR JOHNSON: Well, and if I were king, that's the way it would be. However, the group represented by Senator Mines chose the other alternative, that they would have the authority with just the boards to implement this,... [LB395]

SENATOR SCHIMEK: Okay. [LB395]

SENATOR JOHNSON: ...saying that they are elected officials, so this is our way of compromise (inaudible). [LB395]

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

Floor Debate
March 28, 2007

SENATOR SCHIMEK: Then I think I... [LB395]

SENATOR LANGEMEIER: Time. [LB395]

SENATOR SCHIMEK: I've got my light on again. I'll talk to Senator Mines. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Erdman, you are recognized. [LB395]

SENATOR ERDMAN: Mr. President and members of the Legislature, I hope you've read AM852. And I don't want to be the guy that throws cold water on the party here, but read it. Specifically, read on page 2, starting in line 15, through line 21: within such 90-day period, such governing board receives a petition signed by at least 5 percent of the registered voters residing in such city, village, or unincorporated area of such county on the date the ordinance or resolution was adopted requesting that such ordinance or resolution be repealed. Upon verification of the signatures on such petition, the ordinance or resolution shall be repealed. There is no vote of the people. You're going to allow 5 percent of the registered voters to tell the elected officials that they have to have a statewide smoking ban, or that they have to have what's in the state law. Are you kidding me? If we're going to put the bill on the agenda, put the bill on the agenda, put amendments up here that have been worked out. As I understand it, Senator Mines wasn't even aware of this provision this morning. There has to be a lot more work done on LB395 before this bill is ready for any final vote. Now, if the language is supposed to say that at that point, the 5 percent of the registered voters place it on the ballot, that's a different discussion. But here's the process that's outlined. Everybody in the state has a statewide smoking ban. You have until June 1 of 2008 to decide to opt out of that, and you'll have that option starting September 1 of 2007. Between that time period, the city council, the village board, or the county can opt out by elected...by a vote of the elected members, or put it on the ballot for a vote of the people. So what you are talking about in the section that I referenced is, they voted to opt out, and now you are going to give 5 percent of the registered voters the opportunity to tell 95 percent of them, without an election, that they want to have their way. I'm willing, as I have been as a member of the Health Committee for the last six years and going on my seventh year, to point out flaws in this process. I have done it in the committee this year, and I've done it on the floor, and I'm sharing it with Senator Johnson and others on their compromise here. It needs to be worked out. I fully understand that the fact that we have stalled this bill this long to try to get the votes--and it wasn't clear whether that was going to happen--that we've agreed to a compromise. I think that's appropriate. But put in the compromise sound public policy to accomplish it. I'm sure the point is well taken, and I apologize again for my passion this morning. But as you think about what you are trying to accomplish, don't let your fervor get in the way of the facts, and the facts are that this is not the right mechanism to accomplish the goal. And I hope--Senator Johnson is standing

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

Floor Debate
March 28, 2007

ready--and I hope that will be addressed as they further consider other issues. I'm going to have a hard time voting for this amendment knowing that. Again, I think it's a matter of practical process here that when amendments are brought before us, whether they're in haste or otherwise, in forming a compromise, that they have been read through, at least by the people that have agreed to the compromise, and that they can defend what's in them. I'm sure it's an oversight. I'm sure it is. Just like in the original drafting of LB395 the word "public" was spelled "pubic." I'm sure that was an oversight. But I want us to be cautious about what we're doing, because if we're going to make an error like this, I think we need to step back and think about what's in the underlying bill as a whole. Make sure you understand what... [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR ERDMAN: ...AM585 is, because it rewrites the bill, it incorporates some of the previous amendments that have been adopted on the floor, but now, with this proposal from Senator Mines and Senator Johnson, let's make sure we understand the process and that the process that we envisioned is what's written in law. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Wishing to speak we have Gay, Fulton, Avery, Schimek, and others. Senator Gay, you are recognized. [LB395]

SENATOR GAY: Thank you, Mr. President. I'd like to say, first of all, I support LB395, and have along the way, and I'm encouraged that we are working on a compromise. I would commend the parties that are involved in that, and very important. As this was just handed to us, Senator Erdman pointed out some flaws. I've got one question, and I guess I'm going to look for a little answers. When you talk about a county having some...through a resolution, to being able to adopt this, right now, the county resolutions are not binding in a county. So I guess I will be posing the question here in a minute. The reason I bring that up, there have been several bills introduced this year and in previous years to allow counties to have ordinance authority. I know LB212 and LB172 were heard just this year and indefinitely postponed. This is exactly the example--and I don't want to get off track--but this is exactly why we need something like that. In Sarpy County, which I'm going to have to contend with this, with our health board and the county board and as they look at the merits of this if we decide to do anything, would be...that encompasses, actually, in the county regions, more people than all the cities. There's more people outside in the county that would be affected than in Bellevue, than in Papillion, than in Springfield, and you can go on, La Vista. So we're talking about affecting quite a few people. And this probably...I'm not so sure it could do it. So I guess, if Senator Mines would yield to a question? [LB395 LB212 LB172]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question from Senator Gay? Senator Mines, would you yield to a question? [LB395]

Floor Debate
March 28, 2007

SENATOR MINES: I will, Mr. President. [LB395]

SENATOR GAY: Thank you, Senator Mines. Senator, the question is this. You've talked about, the Attorney General will be reviewing this. Will this be one of the things that he will review, the actual counties passing a resolution that can be enforceable? [LB395]

SENATOR MINES: Yeah, we have asked the Attorney General's Office for an informal opinion. That will be turned into a formal Opinion, since we'll have the time between now and Final. And that was the question we had. Can...because it's not a binding...resolutions are not binding, can we either in this bill allow a binding agreement and allow citizens to present a referendum to repeal a resolution, or do we need to specifically state that for this purpose? We're just not sure, and it will take an Attorney General's Opinion to give us clarification. [LB395]

SENATOR GAY: Thank you. With that, I agree with Senator Erdman on this. If we're going to work on this--and right now, we're moving along the path, whatever we do here--we need to pay attention throughout this debate, obviously, and start finding flaws and correcting them right now, right here. The only problem...like I say, I commend you for the compromise work...I wouldn't say "on the fly." That's the process, I guess. But I'm a little bit concerned. As we do this, we'll be getting input, as Senator Schimek mentioned. I'm sure we'll get a lot of input. But I'd had a lot of my constituents tell me, stick to the original bill, we don't want opt-outs, whatever. So I guess as we make that decision, the opt-out provision I do like, quite honestly. I think if you are going to opt out, it needs to be at least as strict as what we decided to go with, with the current law. And also, the opt-out, I think, is a good provision that does allow some local control, where you still have the counties, cities, and municipalities... [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR GAY: ...controlling their own destiny a little bit here. But I guess before we get too far, I do want to hear more about how this resolutions...how resolutions could be enforced in this measure. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Fulton, you are recognized. [LB395]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. Senator Schimek raised a concern about Lincoln's smoking ban, and I have some concern also. I'm going to read through what AM852, what...I'm going to read through that which causes my concern. Page 1, line 11, it begins: In any other city or village, any ordinance with respect to smoking regulation which was not adopted under Section 17 of this act shall become invalid on June 1, 2008. Section 17 follows immediately thereafter, and

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

Floor Debate
March 28, 2007

basically, you can read through Section 17, and it makes reference to statute 71-5707, 5708, and 5709. That was the existing statute by which we had smoking regulation. The city of Lincoln, as I understand, enacted a ban which went further than this statute. And so as I read this amendment, it seems, in lines 11, 12, and 13, that Lincoln's ban would become invalid on June 1. So that's my concern. I wonder if Senator Johnson would yield to a question. [LB395]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question from Senator Fulton? [LB395]

SENATOR JOHNSON: Yes, sir. [LB395]

SENATOR FULTON: Thank you, Senator Johnson. My concern...you might have been talking off-mike. My concern is that which Senator Schimek raises, and that's Lincoln's smoking ban. In lines 11, 12, and 13 of AM852, it appears to me that Lincoln's smoking ban would become invalid on June 1. Could you address that concern? [LB395]

SENATOR JOHNSON: Well, I don't have that right in front of me. Okay. In any other city or village, any ordinance with respect to smoking regulation which was not adopted under Section 17 of this act shall become invalid on June 1. Let me check on what the intent of that is, and I will get back to you. [LB395]

SENATOR FULTON: Okay. [LB395]

SENATOR JOHNSON: I see where your concern is, but let me check. [LB395]

SENATOR FULTON: Okay, thank you, Senator Johnson. With that, I will respectfully thank the President. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Avery, followed by Schimek, Mines, and others. Senator Avery, you are recognized. [LB395]

SENATOR AVERY: Thank you, Mr. President. I'm a strong supporter of the original bill in its original form. I do recognize, however, that sometimes we have to make compromises in order to move legislation forward. That means giving up something to get something. I value this legislation, and I hope that we can move it. Our job is to pass laws that promote the public good. Clean air is a public good. It promotes the public interest by promoting public health. Now, admittedly, one person's freedom to good health might require another person's freedom to smoke in public places to be restricted. Is this unreasonable? No, it is not. We're asking smokers to accept some losses in personal freedom in order to contribute to the long-term public gain. Strong democracy requires this. It is necessary to produce laws that contribute to the public good. Individual citizens must be willing to limit their actions and their choices, so that

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

Floor Debate
March 28, 2007

they do not harm others. Opponents to this bill present what I think is something of a free-rider problem. Let me explain what I mean by that. Opponents seem to want to enjoy the benefits of public health, but don't want to contribute toward the creation and maintenance of public health, which is a public good. In other words, they want a free ride. The public good requires individuals to contribute to the creation of that public good by agreeing to restrain the absolute exercise of free will. This is important legislation, and I hope that this amendment, once it's clarified to address the Lincoln issue, will make it possible for us to agree. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Schimek, you are recognized. [LB395]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I turned on my light so I could ask Senator Mines a couple of questions, but he's rather tied up right now, I think, working on some language. Senator Mines? [LB395]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB395]

SENATOR MINES: I will, Mr. President. [LB395]

SENATOR SCHIMEK: Senator Mines, first of all, I should have said in the very beginning what Senator Avery said. I recognize that sometimes there has to be compromise. And I, too, have had many constituents writing me to keep the bill the way it is and the way the green copy suggested. And I could vote for that easily. But first of all, my understanding of the language in here, from Senator Johnson, is that Lincoln's ordinances would be protected. Is that your take on this? Because I think Senator Fulton just raised the issue again and read some language that makes it sound a little bit questionable. [LB395]

SENATOR MINES: Senator, in an original draft, we kept Omaha and Lincoln...we did identify Lincoln. But then ultimately, they fall under one set of rules and regulations. In this latest draft, it was felt that Lincoln is going to...we're not necessarily changing much. So we identified Omaha because they have certain circumstances that Lincoln doesn't. We're trying to get a uniform provision for all cities in Nebraska, as opposed to identifying, Lincoln does this...by the end of 2009, all cities in Nebraska, and counties, would have the same rules and regulations. [LB395]

SENATOR SCHIMEK: But Lincoln's are possibly more stringent than this bill would be, as amended. Is that correct? [LB395]

SENATOR MINES: Lincoln...the only thing that would be less stringent, or different, in this bill as opposed to Lincoln's current ordinance, Lincoln does not have the opt-out provision. This bill does. [LB395]

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

Floor Debate
March 28, 2007

SENATOR SCHIMEK: And the language in here, and I've kind of forgotten what...it was lines 13 through...or, 11 through 13 on AM852. In any other city or village, any ordinance with respect to smoking regulation...well, no, that's not what I want to find. It made it sound as if Lincoln's ordinance that's already passed wouldn't be respected, and that they would have to go back to the drawing board and do it all over again? [LB395]

SENATOR MINES: Oh, absolutely not. [LB395]

SENATOR SCHIMEK: Okay. [LB395]

SENATOR MINES: No, that's not the intention, nor is it the language. [LB395]

SENATOR SCHIMEK: Well, that's what Senator Johnson said, too, but I just...I wanted to clarify that. Also, you served on Government Committee, and as I have for a number of years, and I was thinking that maybe we did allow some county ordinances for fire safety. But I just went back and talked to NACO, and found out that that isn't true. So the question here is, does this bill legitimately give that kind of authority to counties in this instance? [LB395]

SENATOR MINES: The bill...that is the question mark. The question is, how do we allow counties to opt out of any municipal area? And that's why we're going to ask the Attorney General for an Opinion, whether or not what we're doing in this bill would allow them that authority, or do we have to do something else? [LB395]

SENATOR SCHIMEK: That's right. [LB395]

SENATOR MINES: Right. [LB395]

SENATOR SCHIMEK: And...but the reasoning behind including counties in this, of course, is so that you don't get a city--and I hate to keep using Lincoln,... [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR SCHIMEK: ...but that's what I'm most familiar with--to get them isolated in a county that doesn't have any such ordinance. [LB395]

SENATOR MINES: Yeah, again, it institutes a smoking ban everywhere. [LB395]

SENATOR SCHIMEK: Everywhere. So they would have it; they just wouldn't be able to opt out... [LB395]

Floor Debate
March 28, 2007

SENATOR MINES: Yes, they would be able to opt out. [LB395]

SENATOR SCHIMEK: ...if we don't include them... [LB395]

SENATOR MINES: Right. Exactly right. [LB395]

SENATOR SCHIMEK: ...under that ordinance provision. Okay. [LB395]

SENATOR MINES: That's right. [LB395]

SENATOR SCHIMEK: I think I have that clear. Thank you very much. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Schimek. (Visitor and doctor of the day introduced.) We return to discussion on AM852. Wishing to speak we have Senators Mines, Johnson, Wallman, Fulton, and others. Senator Mines, you are recognized. [LB395]

SENATOR MINES: Thank you, Mr. President. I'd like to also thank Senator Erdman for his exuberance and enthusiasm in finding an error. And as I told him before his impassioned speech, the intention...he did have a good catch, and he's a good proofreader. I would like to let the body know that procedurally, with your accommodation, it would be the intention to advance AM852, and then, upon that advancement, another amendment will be offered that would say, such petition...excuse me, that would correct what Senator Erdman had discussed. Upon verification of signatures on such petition, the ordinance or resolution would then enable a vote of the people. And that's being crafted as we speak. So I just wanted to let you know that, good catch. The bill, with that, I think, is in fine form, as fine as it's going to be. Again, I said nobody is going to be really happy with it, neither side. There are going to be bumps in the road. We're almost there. Be patient. And again, the intention would be, advance AM852, and upon that advancement, Senator Johnson and I will offer another amendment that would clean up the concern that Senator Erdman had. With that, Mr. President, I would yield my time to Senator Johnson. [LB395]

SENATOR LANGEMEIER: Senator Johnson, 3, 20. [LB395]

SENATOR JOHNSON: Thank you. Thank you, Senator Mines. I think you can see from the tone of Senator Mines and myself, is that we are diligently trying to cover these different areas. One of the things that was brought up is the question--and I think this was from Senator Erdman--is about stopping...with the initiative petition, it invalidates what the county board or city board or etcetera wanted to do. What really was intended here--and I think that he...this is our "pubic" (laugh), as opposed to "public" episode of the day--is that how this came out...and we have been working literally night and day on this for the last day or two, is to come up with this compromise. Now, one of the things

Floor Debate
March 28, 2007

that is presently available, and that is that the city council, etcetera, that I think we all agree to, or county boards, village boards, can put this on the ballot. The inadvertent consequences or statement that was pointed out by Senator Erdman, we would be happy to work with Senator Erdman and others to correct this wordage. The other thing is, that Senator Fulton brought up, is the question of the technical nature when these things go into effect or not, as to its effect on the Lincoln city ordinance. I repeat, we think that the Lincoln city ordinance is wonderful. We wish that we had the votes to make the Lincoln city ordinance universal throughout the state of Nebraska. [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR JOHNSON: We do not have the votes to do that. That's why we are in a compromise situation, and each side, of course, trying to get the most out of this legislation that we can. We would...our original bill is the Lincoln city ordinance. It is not our intent to weaken that whatsoever. One of the things that we could do, Senator Fulton, is that as we work our way through this process, we would be happy to work with you and Senator Schimek for a floor amendment, to make sure that this is not the case, or some such vehicle. So let me assure you that this is not the intent, and also, for the rest of the members of the body that liked our original bill, we love our original bill, we wish that we... [LB395]

SENATOR LANGEMEIER: Time. [LB395]

SENATOR JOHNSON: ...could get the body to adopt it, but we cannot. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson and Senator Mines. And Senator Johnson, your light is next. You're recognized. [LB395]

SENATOR JOHNSON: I had really turned on my light at this point in time just to answer those questions, so I'll pass. [LB395]

SENATOR LANGEMEIER: Okay. Senator Johnson waives. Senator Wallman, you are recognized. [LB395]

SENATOR WALLMAN: Mr. President, members of the body, I heard lots of talk here about freedom and about personal choices. You know, I can go into a Burger King, McDonald's, Kentucky Fried Chicken, they don't allow smoking; and go into upscale restaurants, some of them allow smoking, some don't. But why not turn the...they can put "no smoking" signs up if you want them. All restaurants can. My small town has one no smoking and one that you can smoke. So it's personal freedom. And I know we might talk about personal freedom, you know, I don't want to go in a smoke environment. And we don't have to go in there. And so motels, hotels, they have

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

Floor Debate
March 28, 2007

nonsmoking rooms, they accommodate the smokers, which is a small segment of our society, but it's a segment, a lot of them are veterans, Vietnam, Korea, and a lot of my friends do still smoke. And do I want to limit where they can eat or have a nice meal with me? I'd hate to put that...put a law in that affects everybody because I don't like it. And I can see where the senator to the back of me feels, minority against the majority. And that's what we're doing here. We're picking on a minority population and telling them how to run their business and telling them what they should do and not do. We have health regulations about how the food should taste, how clean your building should be. We have all kinds of stipulations how it has to be clean for you to eat. But now all of a sudden, no smoking. And I can appreciate the people that don't smoke. But I also appreciate the rights of those who do. And I think I would hate to pass something that affects the rights of everybody, and especially a small segment. And I guess some people might call that bullying. And you know, if we want to pass something here, let it make it easier for towns to pass an ordinance. But let's not force them to do it. And thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Wishing to speak we have Erdman, Carlson, Mines. Senator Erdman, you are recognized. He waives his time. Senator Carlson, you are recognized. [LB395]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. LB395 has to be good public policy--and I'll keep stating this, and all of us, I believe, understand and believe this--in order to pass it. I also understand that smokers in Nebraska are in the minority. But I understand their opposition, and regardless of how good something is for public health, smokers want to have their say, they want to have their opportunity. And I'd like to address a question to Senator Mines. [LB395]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB395]

SENATOR MINES: I will, Mr. President. [LB395]

SENATOR CARLSON: Senator Mines, you said this, and I just need to make sure that I understand. Under these amendments, when would the Clean Air Act take effect? [LB395]

SENATOR MINES: Well, the...September 1, 2007. Excuse me, let me back off, no. Our amendment would say that the smoking ban goes into effect June 1 of 2008. [LB395]

SENATOR CARLSON: Okay. Under the original bill, the Clean Air Act would go into effect September 1 of '07? [LB395]

SENATOR MINES: That's correct. And there's a reason for that. Throughout the negotiations and discussion, there was a feeling that, let's give businesses and cities

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

Floor Debate
March 28, 2007

and counties time to understand what their process is going to be. So we're extending it from September to June. Additionally, you've got the May primary, which could be used by any of those parties as a vehicle to implement a repeal without having to spend money on a special election. [LB395]

SENATOR CARLSON: Okay. And regardless of how difficult this is for people to accept or digest, good public policy is good public policy, and we need to deal with it and be willing to make these decisions. However, I appreciate the intent of an amendment to allow communities or areas to opt out. I'd like to ask you to take the amendment and go to page 2, which is...and then line...starting in line 1. And I need clarification on this. [LB395]

SENATOR MINES: Well, it says, if...that an ordinance or... [LB395]

SENATOR CARLSON: Excuse me. Let me make (inaudible). [LB395]

SENATOR MINES: I'm sorry. Go ahead. [LB395]

SENATOR CARLSON: And I'll ask you if this is true. Because for people to voice opposition, for people to have the opportunity to opt out, I don't believe that the whole process should be terribly cumbersome. Now, in this section it appears to me that the...if the voters, if constituents in a county, a city, or a village, if in a city, they would go to the city council and convince them to put this on the ballot for repeal. That could be done without the petitioning. The village board, if they could convince the village board to do the same thing, that's another option. If they could convince the county commissioners or county board of supervisors to vote to put that on the ballot, that's another way, and that doesn't involve petitioning. Is this your understanding? [LB395]

SENATOR MINES: Absolutely. [LB395]

SENATOR CARLSON: Okay. [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR CARLSON: Now, with this being in place, then why wouldn't the law go into effect September 1 of 2007, so those counties, areas, cities, villages that haven't experienced this, experience it, and then decide they don't like it and have the opportunity to put it on the ballot to opt out? I don't understand why we have the delayed date. I'm not really asking a question. I'm making a statement there, Senator Mines. But thank you for your cooperation. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Mines, you are recognized. [LB395]

Floor Debate
March 28, 2007

SENATOR MINES: Thank you, Mr. President, colleagues. We...I think I may be one of the last lights on. Oh, there's more coming on line all the time. Again, the intent...and I appreciate your patience. This is part of what we do, this process. Here's what is intended, and I ask your consideration for this. The amendment, AM852, as drafted, is imperfect, and it would amend AM585. Our intent is to, with your concurrence, to advance AM852, and upon advancement, Senator Johnson and I will offer another amendment that will clean up and make it very clear that 5 percent petition will institute a vote of the people rather than repeal. And that's what we had talked about, and that's where we believe we're going to go with this. So I don't...thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Mines. Senator Schimek, you are recognized. [LB395]

SENATOR SCHIMEK: Thank you, Mr. President and members. I was just visiting off-floor with a few people, because there was another question raised by those who were out in the Rotunda regarding the dates on this. And the date for the bill to go into effect is September...or, no, June of 2008, I believe. And there is a provisions in AM852 that says, on or after September 1, 2007, the governing body may adopt a nonsmoking ordinance or resolution. The way it was presented to me at first was "may opt out," but that's not really what this language says. So (laugh) I probably just confused you, but I don't think it's...I don't think that language is a problem, unless somebody sees something else. I have been assured by Senator Johnson that there will be some language that we can propose at a later date to take care of the Lincoln problem, to make it a certainty. And I presume there is something that's happening regarding the language that Senator Erdman pointed out on lines 19 through 21, about, upon the signature of a petition, the ordinance is repealed. Well, you have to take a vote on it before it can be repealed. So I assume that's being taken care. So I think there is a genuine effort here to work on things. I guess the major question that still remains with me--and it's not something you can cure with an amendment--and that is, if you allow the opt-out, what kind of a checkerboard effect are you going to have in the end with that? And I...you can't cure that with language. So I guess that's what it will all boil down to with me, is whether that's a very viable way of doing this, recognizing that there may have to be compromises. And I think that's what some of the rest of you will have to deal with, too. I can just see, for instance, a Waverly opting out, because that will mean they will attract some business from Lincoln, which has this ordinance. Now, would that be radically different than it is now? No. But it won't really make this thing statewide like we'd like it to do. You might end up with a county with all kinds of different provisions, and that's worrisome to me. But maybe you have to take the first step. Senator Johnson, I've talked longer than I intended. I'll let you have whatever remains of my time. [LB395]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: Senator Johnson, two minutes. [LB395]

SENATOR JOHNSON: You bet. Thank you, Senator Schimek. And you know, obviously, these are major concerns of ours, as well. As I mentioned earlier, we would like to have our original bill. The fact of the matter is, the votes aren't here to get it. And so what we've had to make the decision is, is this. We have gotten our inspiration from what Lincoln and Omaha have done so far. I think we have every reason, with those very accurate polls, which showed the unbelievable numbers of 80 percent support, that there are going to be a lot of good people in Waverly that, with a secret ballot, will vote the way the polls show, and that they will want to be part of this effort, as well. So you know, the state of Nebraska does have this local control, where this is important to the people. [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR JOHNSON: And I guess what this does is recognize that local control as part of our compromise. In closing, let me pledge to you that if this bill is advanced, we will assist you in any way to make sure that it is brought back from Final Reading for an amendment that you and Senator Fulton and others are completely happy with. So let me pledge that to you, and also that we will make an amendment that will satisfy the concerns voiced by Senator Erdman. So as we move on here, if we do have other concerns as voiced by these three senators, please speak up now, so that we do find these potential errors, because let's... [LB395]

SENATOR LANGEMEIER: Time. [LB395]

SENATOR JOHNSON: ...pass a bill without errors if we can. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson, Senator Schimek. Senator Synowiecki, you are recognized. [LB395]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Senator Mines, would you yield? [LB395]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB395]

SENATOR MINES: Yes, Mr. President. [LB395]

SENATOR SYNOWIECKI: Senator Mines, I've been off the floor a bit, so I hope I'm not being overly redundant. But as I understand it, this permits the smoking ban as it's currently on the books in the city of Omaha to continue through when? [LB395]

SENATOR MINES: Through June 1 of 2009. [LB395]

Floor Debate
March 28, 2007

SENATOR SYNOWIECKI: And then the city can opt out of the provisions of the statewide ban, if they so choose to do so? [LB395]

SENATOR MINES: If they choose to, that's correct. [LB395]

SENATOR SYNOWIECKI: Senator Mines, a lot of the discussion has been surrounding the level playing field that a smoking ban throughout the state would kind of equate the playing field for the market, in terms of restaurants and bars and that sort of thing. One of my concerns is Horsemen's Park, which is, as you know, the horse race facility in Omaha; Grand Island, Fonner Park; Columbus. Those types of venues, Senator Mines, they're not in competition, I don't think, with local bars or taverns. I think those types of venues that allow horse race gambling are in direct competition with other forms of gambling perhaps in other states, like the casinos in Council Bluffs. What ramifications relative to those types of venues do you...is there any special attention given the special circumstance of those operations in the bill? [LB395]

SENATOR MINES: Senator, we...during our discussions, we did talk about horse racing and bowling alleys, and specific pickle card providers. But to offer one exemption over another, I think you just start digging yourself into a hole. So we've elected to keep everyone in the same context. We're going to allow only removal by local elected officials or by the citizens themselves. So I would suggest that if Horsemen's Park is...I don't know if that's in the city of Ralston? [LB395]

SENATOR SYNOWIECKI: No, it's Omaha. [LB395]

SENATOR MINES: That it could go to the council and ask for...ask to be opted out. The council could make it on the decision to put it on the ballot, whatever they want to do. [LB395]

SENATOR SYNOWIECKI: I just think...I appreciate that, Senator Mines. I think the uniqueness relative to that market,...you are talking about a gambling market, and not necessarily a restaurant and bar market. It's an entirely different market that they have to compete in. And I think that this might have some serious repercussions. As you know, Senator Mines, they are struggling now. And I would hate to have these negative repercussions, you know, increased with the smoking ban, because as you know, a trip to the horse races kind of goes hand in hand with a cigar or cigarette or something, in many instances, not always. Horsemen's Park in Omaha has a state-of-the-art--which they invested a lot of money in, by the way--a state-of-the-art clean air system in the facility, and it does remarkably well. You'd mentioned the bowling alley angle to this, Senator Mines. As I think you are aware, from our discussions previously, the city ordinance in Omaha characterized those establishments differently than... [LB395]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR SYNOWIECKI: ...a stand-alone bar. Do you know what the statutory authority under the city ordinance that differentiated a bowling alley that does not serve food, and how that might relate to a stand-alone bar, and why are they different? Do you know that, Senator Mines? [LB395]

SENATOR MINES: Senator Synowiecki, I don't, because that's an ordinance that was passed at the local level. Frankly, you know, as we've talked before, I believe the stand-alone bowling alleys might make some sense. But that's a local decision made by local elected officials. [LB395]

SENATOR SYNOWIECKI: Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Johnson, you are recognized. [LB395]

SENATOR JOHNSON: Mr. President, could I ask how many lights there are on? [LB395]

SENATOR LANGEMEIER: One after you. [LB395]

SENATOR JOHNSON: All right. I will wait, then, and I'll turn off my light and let that person speak. [LB395]

SENATOR LANGEMEIER: Okay. Thank you. Senator Nelson, you are recognized. [LB395]

SENATOR NELSON: Thank you, Mr. President. I would like to address a question to Senator Mines. [LB395]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB395]

SENATOR MINES: I will, Mr. President. [LB395]

SENATOR NELSON: Senator Mines, in light of Senator Synowiecki's question, I...we have a myriad of amendments here, they're difficult to read through. I just want to understand what will happen in the case of the city of Omaha. It's my understanding, from what you said, that Omaha's ordinance would stay in effect until June of 2009, and then smoking would be banned entirely? Is that correct? [LB395]

SENATOR MINES: That's correct, Senator Nelson. [LB395]

Floor Debate
March 28, 2007

SENATOR NELSON: So there would no longer be any exceptions? [LB395]

SENATOR MINES: That's correct. [LB395]

SENATOR NELSON: All right. And then either by a vote of the people, a petition, or by the city council itself, if they chose to do so, they could reinstate some of those exceptions? [LB395]

SENATOR MINES: Yes, Senator, if that's what they choose. [LB395]

SENATOR NELSON: Okay. And my question is, if that's the effect on Omaha, why would not that be the case on the city of Lincoln? Is there going to be...it sounds to me like their ordinance also is going to come to an end in 2009. Can you explain that? [LB395]

SENATOR MINES: Their ordinance would not be effective as it is today on June of 2008. They would fall under the same provisions as all other cities. We made an accommodation for Omaha because as you know, many businesses have invested, understanding that their ordinance would last until, I think it's 2011. So we're accommodating...we're cutting it in half. [LB395]

SENATOR NELSON: So Omaha's does go till 2011? And I think I said 2009. But... [LB395]

SENATOR MINES: Our provision would eliminate it on 2009. The Omaha ordinance extended to 2011. And part of the accommodation was, let's reduce that by two years to 2009, and then everyone falls under the same rules. [LB395]

SENATOR NELSON: All right. Thank you. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Is there anyone else wishing to speak to AM852? Seeing no lights on, Senator Johnson, you are recognized to close on AM852. [LB395]

SENATOR JOHNSON: Mr. Speaker, thank you. We've had really a very good discussion here this morning, and I particularly want to thank Senator Erdman, Senator Schimek, and Senator Fulton for finding problems with this amendment as it is written. I pledged to you earlier that we will work with these senators to satisfy their legitimate concerns. So I pledge to, in front of this body, that that will be accomplished. Now, here's the question that comes, basically, before all of us. And we've had to make this decision, and I hope that you'll make the same decision with us, and that's this, is, we took inspiration from what Lincoln and Omaha have done. We think Omaha's bill is imperfect, as well, and that there is a patchwork. We run the risk of at least some

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

Floor Debate
March 28, 2007

patchwork developing across the state. But if those numbers that we have are true, we don't think that that's going to occur very often. And so what we look at here is this, is that we get 90 to 95 percent of what the original intent of the bill is. We thought that this was very, very significant. I'm reminded of something that one of my fellow physicians mentioned to me when I came down here. And he says, isn't it interesting that there might be a bill down there that you sponsor that will do more good for the health of the citizens of Nebraska than what you've accomplished here in 30 years of practice? This is the time. Join me in advancing this bill. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the closing on AM852. The question before the body is, shall AM852 be adopted to AM585? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB395]

CLERK: 25 ayes, 4 nays, Mr. President, on the adoption of the amendment. [LB395]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The amendment is adopted. Mr. Clerk, items for the record? [LB395]

CLERK: I do, Mr. President. Thank you. New resolutions: Senator Howard offers LR64 and LR65. Both those will be laid over. Enrollment and Review reports they've examined and engrossed LB255, and find the same correctly engrossed. That's all that I had, Mr. President. (Legislative Journal pages 955-956.) [LR64 LR65 LB255]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk. [LB395]

CLERK: Mr. President, I now have other amendments pending to AM585. Senator Johnson. Senator, I am back to your AM797, as an amendment to AM585. [LB395]

SENATOR LANGEMEIER: Senator Johnson, you are recognized on AM797. [LB395]

SENATOR JOHNSON: I would ask that we withdraw that amendment. [LB395]

SENATOR LANGEMEIER: It is withdrawn. [LB395]

CLERK: Mr. President, Senator Mines would move to amend AM585 with AM858. (Legislative Journal page 957.) [LB395]

SENATOR LANGEMEIER: Senator Mines, you are recognized to open on AM858. [LB395]

SENATOR MINES: Thank you, Mr. President, colleagues. Sometimes process is very

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

Floor Debate
March 28, 2007

clumsy, isn't it? I appreciate your patience, appreciate your understanding. As we suggested, by advancing the amendment, Senator Johnson's amendment to AM585, we will now offer another amendment that would clean up the language that Senator Erdman had suggested. The amendment was handed to me--again, this all happens very quickly--and Senator White and I were looking at that, as drafted by Bill Drafters. It should be on your gadget, I think. What it says is that...page 2, line 16, after "petition,"...again, the intent was to put this to a vote of the people. It says that repeal of an ordinance or a resolution shall be placed on the ballot for the voters of such city, village, or unincorporated area of the county, and the ordinance or resolution shall not take effect unless and until the repeal is rejected by the voters. An election shall be conducted as provided in Sections 32-556 and 559. Bill Drafters have done a nice job of crafting, but it's not what we intended. And with that, I'm going to withdraw this amendment. That's not my amendment to...it is my amendment. Withdraw the amendment. [LB395]

SENATOR LANGEMEIER: It is so withdrawn. Mr. Clerk. [LB395]

ASSISTANT CLERK: Mr. President, we have nothing further pending to AM585 at this time. [LB395]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return to discussion on AM585. The floor is now open. Senator Erdman, you are recognized to speak to AM585. [LB395]

SENATOR ERDMAN: Mr. President, members of the Legislature, would Senator Johnson yield to a question? [LB395]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB395]

SENATOR JOHNSON: Yes, sir. [LB395]

SENATOR ERDMAN: Senator Johnson, as I see Senator Mines and Senator White scribbling on the amendment that Senator Mines just withdrew, is it, the reason that that is being done, is because the language is not correct, and that will be offered at a later date? Or is that intended to be offered on Final Reading? I was trying to understand what the next plan was going to be... [LB395]

SENATOR JOHNSON: Senator Erdman, you'll have to ask them, because we didn't have a chance to go over that with them. So I'm sorry that I cannot give you an answer. Why don't you just ask them. [LB395]

SENATOR ERDMAN: I will ask them, Senator. Thank you. [LB395]

Floor Debate
March 28, 2007

SENATOR JOHNSON: You bet. Thank you. [LB395]

SENATOR ERDMAN: Appreciate it. Senator White, would you yield to a question? [LB395]

SENATOR LANGEMEIER: Senator White, would you yield to a question? [LB395]

SENATOR WHITE: I would. [LB395]

SENATOR ERDMAN: Musical microphones. Senator White, can you give me the plan of attack, if you will, on what's going to happen here? [LB395]

SENATOR WHITE: Yes. The Bill Drafters had put language in, and we're dealing with double negatives, so it gets confusing, but I'll give you a rundown on where we're at, as I understand it. Right now, smoking is permitted. If this bill is passed, smoking is forbidden. Then local governments have the option of allowing smoking in localized areas, how they would see fit. Therefore, they would pass an ordinance and saying smoking is forbidden, except in these areas. The language as drafted, however, said that those ordinances would have no effect--they could not take effect unless and or until the people had a vote on the issue. So in other words, we would have a complete smoking ban, even if an ordinance was passed, until the people voted on the bill. That isn't what was intended or what, certainly, I had understood was agreed upon. What we agreed upon is that there would be a statute that would prohibit smoking, give local city councils the ability to make exceptions. Those exceptions would be in effect immediately, unless or until the people of that city rejected it and said, no, we want a complete ban or something different. The difference is whether or not the ordinances come into operation right away. My...I think we've corrected the language, and it should be ready in a moment. Does that address your question, Senator? [LB395]

SENATOR ERDMAN: It does, Senator White, if you are operating after June 1, 2008, because prior to that--which, as I understand the language it starts in September 1, 2007--the city has the authority to adopt this ordinance, if this mechanism is used. In your example, they would have the ban...and so I'm just making sure. Because of the timing of the bill,...I think what you are saying is accurate. I think that applies June 1 and after. I think probably the reason that that was drafted that way is because the Bill Drafters recognized that there's an initial time line. And I guess, essentially what I'm trying to do, for those that haven't figured it out, I'm trying to give Senator Mines time to offer this amendment to this division, because if he doesn't offer it to this amendment, it will come in line with everything else, and if their intent is to fix AM585, that they should have that opportunity to do it in a timely manner, so that everybody understands that the accommodations that were agreed to as a provision of advancing AM852 or adopting AM852, are actually taken care of before we move on. And so I'm seeking the clarification from Senator White, to make sure that Senator Mines has the appropriate

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

Floor Debate
March 28, 2007

time to have the language drafted and presented to the body as an amendment to AM585. And if that's not the plan of attack,... [LB395]

SENATOR WHITE: That is my plan of attack. Absent language consistent with what I've described to the body, I will not support the bill, because it's not the deal that we had agreed upon. It is to my mind essential that the local governments have the right to still function as local governments until such time as the people of those cities or villages overrule their determination. [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR ERDMAN: I agree, and again, it's a matter of,...as I follow the activity on the floor here that Senator Mines is working on, and maybe I can get a nod from him if the amendment is appropriately drafted. (Laugh) Super. Thank you, Senator Mines. It's now been explained to me that this amendment will be adopted on Final Reading. Under that scenario, I'll be voting against LB395. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Is there anyone else wishing to speak to AM585? Seeing no lights on, Senator Johnson, you are recognized to close on AM585. [LB395]

SENATOR JOHNSON: Thank you, Mr. President. Again, a great discussion. Just want to reiterate that we have identified the problems that were put together, as we mentioned earlier, with great diligence, but also with exponential speed, and so that a few of these annoyances have popped up. However, I go back to what we said before: This is a chance to improve the health of all Nebraskans in a very, very dramatic way. I would ask for your support and advancement of AM585. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the closing on AM585 offered by Senator Johnson. The question before the body is, shall AM585 be adopted to LB395? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Johnson, for what purpose do you rise? [LB395]

SENATOR JOHNSON: I request a call of the house and a roll call vote. [LB395]

SENATOR LANGEMEIER: Thank you. 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 yea; all those opposed vote nay. Record, Mr. Clerk. [LB395]

CLERK: 33 ayes, 1 nay, Mr. President, to place the house under call. [LB395]

SENATOR LANGEMEIER: Thank you. The house is under call. Senators, please record your presence. All those senators outside the Chamber, please return to the Chamber.

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

Floor Debate
March 28, 2007

The house is under call. All unauthorized personnel please leave the floor. The house is under call. Senators Cornett, Hudkins, Raikes, Fulton, please return to the Chamber. The house is under call. Senator Hudkins and Senator Fulton, the house is under call. Please return to the Chamber. All senators are present or accounted for. Senator Johnson has...wishes to proceed without Senator Hudkins. The request has been for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB395]

CLERK: (Roll call vote taken, Legislative Journal pages 957-958.) 31 ayes, 5 nays, Mr. President, on the amendment. [LB395]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. AM585 is adopted. Mr. Clerk. With that, I raise the call. [LB395]

CLERK: Mr. President, the next amendment I have...Senator Johnson, I have AM321 in front of me, Senator. [LB395]

SENATOR LANGEMEIER: Senator Johnson. [LB395]

SENATOR JOHNSON: Mr. President, I'd request that you withdraw AM321. [LB395]

SENATOR LANGEMEIER: AM321 is withdrawn. Mr. Clerk. [LB395]

CLERK: Mr. President, the next amendment I have, Senator Fischer, FA23. [LB395]

SENATOR LANGEMEIER: Senator Fischer, you are recognized to open on FA23. [LB395]

SENATOR FISCHER: Thank you, Mr. President. I would withdraw that amendment. [LB395]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB395]

CLERK: Mr. President, the next amendment I have is Senator Erdman, AM366. [LB395]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM366. [LB395]

SENATOR ERDMAN: Mr. President, members of the body, after being prevailed upon by the Speaker, I will withdraw that amendment. (Laughter) [LB395]

SENATOR LANGEMEIER: Thank you. It is withdrawn. [LB395]

CLERK: I have nothing further on the bill, Mr. President. [LB395]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to discussion on LB395, the bill itself. Wishing to speak, Senator Preister. You are recognized. [LB395]

SENATOR PREISTER: Thank you, Honorable President, friends all. Senator Johnson, could I ask you a question, or possibly more? [LB395]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB395]

SENATOR JOHNSON: Certainly. Thank you. [LB395]

SENATOR PREISTER: Senator Johnson, I appreciate the spirit of compromise in finding a way to move the proposal forward. There are those in the lobby and those at home that are e-mailing me, who want clean air in Nebraska, who are saying we've essentially given away clean air with the adoption of this amendment, and that we've given away more than we should have, could have, or is in the best interests of the health and well-being of people in the state. They're saying not to advance the bill. I'm hearing it would be better to wait till next year, since the implementation isn't until next year anyway. Rather than moving speedily, before our 11:00 deadline, perhaps we could keep talking, keep going until 11. We just don't take the vote today. Give this time to settle in, give people a chance to understand what we did, and then come back for a vote tomorrow or whenever it comes back up again. We're not special-ordering it, we're not going anything else, but when there are these kinds of concerns that are still out there...and I'm not real certain of how all this plays out. We've been crafting amendments very quickly. We may not know what we have now, although I'm sure the opponents know what they've got, and they're pretty gleeful right now, which makes me a little nervous. Senator, would you care to respond about why, (1) we need to take this vote right away, when a little time to think about and assess what we did may be in order? [LB395]

SENATOR JOHNSON: Sure. Thank you very much, and a good question. And believe me, many of us, and particularly Senator Stuthman and Senator Aguilar, have agonized about this. But what it really comes down to is this, is yes, we are making it possible for these potential opt-out areas. But much like we have seen in Lincoln and Omaha, and drawn from knowledge from them, a bill like this has never made it through General File before. It's never made it through General File before. Here we have a chance to pass a bill that will, by all of our best estimates, improve the health of more than 90 percent of Nebraskans. Do we really want to wait another year or two? What makes you think that our chances are going to be better next year than they are this year? We're mobilized to do this, and we think that the time is ripe, and what says that we can't, in a year or two, make the bill stronger and improve this bill, just like we're trying to improve this from what we are at this time? So I think this is a chance to make a substantial improvement. No, I wish we had our original bill. So you have to make that choice of whether we take

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

Floor Debate
March 28, 2007

this giant step forward for the whole state of Nebraska, or twiddle our thumbs for another two years, and then try again. [LB395]

SENATOR PREISTER: You're saying it's better to get something, better to go forward with this, than to continue... [LB395]

SENATOR JOHNSON: I don't think this is just something,... [LB395]

SENATOR LANGEMEIER: One minute. [LB395]

SENATOR JOHNSON: ...I think this is a giant step. [LB395]

SENATOR PREISTER: Okay. Thank you, Senator Johnson. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Preister. Speaker Flood, you are recognized. [LB395]

SPEAKER FLOOD: Thank you, Mr. President and members. As you will note on your agenda, it states that at no later than 11:00 a.m., unless waived by the Speaker, we will go to General File, 2007 senator priority bills, beginning in the Raikes division. I thought maybe we would be at a point like this, with eight minutes until 11:00. I am exercising my privilege of waiving that 11:00 a.m. deadline, in hopes that we can vote on this, move this to the next stage of debate, and ask the parties to work very closely on crafting an amendment, if necessary, as we make our way towards Final Reading. I think we've made good progress on this bill, we've used time efficiently. I thank you for working diligently on this, and I also especially want to thank Senator Johnson and Senator Mines for all of their work. So we will not be adhering to the 11:00 a.m. deadline. I do, however, reserve the right to move on to the Raikes division at my discretion, following 11:00 a.m. Thank you. [LB395]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Returning back to discussion on LB395, Senator Hansen, you are recognized. [LB395]

SENATOR HANSEN: Thank you, Mr. President. Members of the body, I rise in support of LB395. I've always been a supporter of it. I want to thank...take this opportunity to thank Senator Johnson for bringing it, and many hours of debate we've had on it. I do believe that we should vote on it this morning. It's not a perfect bill. The amendment, we found out this morning, was certainly not perfect, either. So if we're going to have local option healthcare, I think this is a step in the right direction, if you like local option healthcare. I don't like it, but I went ahead and voted for the amendment anyway. We all, that are in favor of LB395, have some...will have some work to do at home, because there's been a lot of e-mails, letters, and calls about, don't let that option, that local option, stay in there. We need a strong bill. Well, we do, but I don't think we can pass it

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

Floor Debate
March 28, 2007

without it. I do recommend that everyone that considered the local option as a part of the...as an amendment to this bill, vote for the bill now and pass it on to Final Reading. I again thank Senator Johnson. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator White, you are recognized. [LB395]

SENATOR WHITE: Thank you, Mr. President. Again, I stand at this point to urge that we vote for this bill. Again, please remember that I was a smoker. Because of that smoking I developed bladder cancer. I do not like tobacco, I don't like smoking, and I am actually strongly supportive of this bill because it does move us forward. I agree completely with Senator Hansen. This is a bill that allows Senator Johnson to achieve what I didn't think he could achieve, at the beginning, as I counted the votes. This is going to make it illegal to smoke across the state of Nebraska unless a city council or a county board takes affirmative action, and even then the law encourages the voters to review that decision and determine whether they want to permit smoking going forward. I will believe that you are going to see substantially all of Nebraska indoor air be completely free from smoking, and on that level I congratulate Senator Johnson and the proponents of this bill. You have pushed the law very far. I didn't think you could get it done, and I support it because I think what you have agreed to is a compromise that allows some measure of local control, and allows you get anything. And in fact, you've probably gotten 95 percent of the cake, just from this one bill. Thank you, Senator Johnson, for your courtesy. I yield the remainder of my time to Senator Mines. [LB395]

SENATOR LANGEMEIER: Senator Mines, 3, 20. [LB395]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator White. Ditto, Senator Johnson and Senator Aguilar and Senator Stuthman, and many of you that wanted all or nothing have come a long way. Again, this bill is a long way toward the end game. We just can't go there. You don't have the votes to take it there, so this accommodation is, I think, good public policy. We do have several things to fix, and if Senator Johnson would yield, I'd like to ask him two questions, please. [LB395]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB395]

SENATOR JOHNSON: Certainly. [LB395]

SENATOR MINES: Thank you. Senator Johnson, off mike and on mike you have committed that there are two things we need to fix, and one was the amendment that I brought forward that would ensure that the citizens would vote on an opt-out provision, as it's written in our amendment today, and that...I believe you are going to work with Senator Schimek and others on perhaps a Lincoln fix, or work on some language with that. I just wanted to give you an opportunity to respond to that. [LB395]

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

Floor Debate
March 28, 2007

SENATOR JOHNSON: Thank you. The answer to your first question is yes, and the answer to the second question is we absolutely will work with Senator Schimek and other people interested to preserve the Lincoln ordinance, as is. It was our model from the start, and we don't want to hurt that in any way. [LB395]

SENATOR MINES: Thank you, Senator Johnson. Thanks to all of you for your patience. Thank you, Mr. President. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Mines. (Visitors introduced.) Returning to discussion on LB395, we have Senators Kopplin, Carlson, and Wallman. Senator Kopplin, you are recognized. [LB395]

SENATOR KOPPLIN: Thank you, Mr. President and members of the body. I haven't weighed in on this smoking issue the whole time. I haven't bought cigarettes in a long time. When I need the fix I go down to the little local establishments and just take a good whiff then. But that's beside the point. I don't mind saying I'm confused by what we're doing here. I don't understand the amendments; I don't understand all this talk--well, we're going to fix it. Well then, get it fixed and bring it back, because I have some real problems with supporting a bill, which I probably will, but I have some problems when we are sitting here saying, it's not ready but pass it along, and we're going to fix it. It's confusing. I don't know what you are going to tell your constituents to explain what's in this amendment we just passed. Suddenly, counties can make ordinances, when we just killed a bill that would give them some ordinance power. We have to be able to explain what it is we're voting on, and I'm confused. I think we should fix it and then vote. Thank you very much. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator Carlson. [LB395]

SENATOR CARLSON: Mr. President, I call for the question. [LB395]

SENATOR LANGEMEIER: There has been a call for the question. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Reocrd, Mr. Clerk. [LB395]

CLERK: 27 ayes, 4 nays, to cease debate, Mr. President. [LB395]

SENATOR LANGEMEIER: Debate does cease. Senator Johnson, you are recognized to close on LB395. [LB395]

SENATOR JOHNSON: Mr. President, I won't prolong the discussion any more other than to assure questions in the minds of what Senator Kopplin has raised, is that this

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

Floor Debate
March 28, 2007

will be brought back by us, with these additions, so that it removes all doubt as far as the vote of the people and to preserve the Lincoln ordinance as is. And that I will pledge to you, that we will do it. With that, the amendment that we just passed is the bill. I see no reason to stand here and exhort how wonderful it is any longer. I would ask that we have a call of the house and a roll call vote. [LB395]

SENATOR LANGEMEIER: Thank you, Senator Johnson. There has been a request for a call of the house. The question is, shall the house go under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB395]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB395]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. All those senators outside the Chamber, please return to the Chamber. All unauthorized personnel please leave the floor. The house is under call. Senators Heidemann, Preister, and Fulton, the house is under call. Please return to the Chamber. The house is under call. Senators Fulton and Preister, please return to the Chamber. Senator Johnson, for what purpose do you rise? [LB395]

SENATOR JOHNSON: I would be happy with just a machine vote. Thank you. [LB395]

SENATOR LANGEMEIER: So noted. Senator Johnson has authorized us to proceed without Senator Fulton. The motion before the body is, shall LB395 advance to E&R for engrossing. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB395]

CLERK: 35 ayes, 4 nays, Mr. President, on the motion to advance the bill. [LB395]

SENATOR LANGEMEIER: LB395 does advance. With that, I raise the call. Mr. Clerk, next item on the agenda. [LB395]

CLERK: Mr. President, LB232 on General File, a bill originally introduced by Senator Dubas. (Read title.) The bill was introduced on January 9 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments pending by the Government Committee, Mr. President. (AM677, Legislative Journal page 841.) [LB232]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Dubas, you are recognized to open on LB232. [LB232]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. LB232 is the

Floor Debate
March 28, 2007

Building Entrepreneurial Communities Act, and this act was created in 2005 to make grants to communities to support entrepreneurship, leadership development, youth engagement, and local philanthropy. Communities must provide matching funds. We know that revitalization works best when communities invest their own resources, but outside resources are also an important part of this mix. LB232, which was sponsored by most of the members of the Government Committee, would refine the act to make match requirements more workable for small communities and provide small planning grants for low-resource communities that typically lack grant writers. There is a committee amendment to this. I do support that amendment. And with that, I will close my remarks and ask for your support. Thank you. [LB232]

SPEAKER FLOOD: Thank you, Senator Dubas. The Chair now recognizes Senator Aguilar, as Chair of the Government Committee, to open on the committee amendments, AM677. [LB232]

SENATOR AGUILAR: Thank you, Mr. Speaker, members. The committee amendment eliminates the dollar-for-dollar match for grant funds by grant recipients and replaces it with a 50-cent match in cash for each dollar of grant funds. In the original copy of the bill, the dollar-for-dollar match was still required, but it allowed some of the match to be in-kind instead of cash. The committee amendment eliminates the language allowing for any in-kind matches for grant funds and replaces it with a 50-cent match in cash for each dollar of grant funds. The committee amendment also clarifies that only local units of government are eligible to apply for these grant funds. Thank you, Mr. President. [LB232]

SPEAKER FLOOD: Thank you, Senator Aguilar, for your opening on AM677. There are no other lights on. Senator Fulton, you are recognized. [LB232]

SENATOR FULTON: Thank you, Mr. President. This...I had a question, and I don't know. It might be more appropriate to address this to the bill, but I'll ask...I'll do this on the amendment, just to get started on it. Would Senator Dubas yield to a question? [LB232]

SPEAKER FLOOD: Senator Dubas, will you yield to a question from Senator Fulton? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR FULTON: I read through the fiscal note. I'm just...I'm not clear how the...where will the money come from? Could you explain the procedure, the mechanism by which the money is appropriated? [LB232]

SENATOR DUBAS: This is a program that's already in place. It's been implemented. I

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

Floor Debate
March 28, 2007

believe it's \$500,000 that's been originally appropriated for this program, and this is just making some changes in the application process for that money. [LB232]

SENATOR FULTON: Okay, this was money previously appropriated. Is it money that needs to be reappropriated? [LB232]

SENATOR DUBAS: And since...we did take the in-kind matching out, that eliminated the fiscal note on that, because DED was saying with in-kind grants, that requires additional auditing. It's hard to audit those kinds of grants. So they took...we took the in-kind match out, so that removed that. [LB232]

SENATOR FULTON: Okay. Is...the money that was appropriated, is there a need to reappropriate the money, or it exists already and has been... [LB232]

SENATOR DUBAS: This program is...I believe has a sunset date of 2011, so that money has already been appropriated. [LB232]

SENATOR FULTON: Okay, with that language. [LB232]

SENATOR DUBAS: Right. [LB232]

SENATOR FULTON: Okay. That answers my question. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Synowiecki, you are recognized. [LB232]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Senator Dubas, would you yield to a question or two? [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR SYNOWIECKI: Do you have any data relative to the grants that have been issued through this program, say, for 2006? Grant recipients...what was the grant money used for, what was the mission of the grants in terms of the executive summary of each grant? You know, so that we can have some kind of background as to out...you know, do you have any outcome data relative to this program? [LB232]

SENATOR DUBAS: I do know programs that are in place. Some of the projects were

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

Floor Debate
March 28, 2007

E-commerce, Web site development. There have been leadership programs for youth, endowments. There's been technical and business planning assistance for small businesses and entrepreneurs. I know those are some of the projects that are already in place. Since it's a new program, I don't have readily available--I could try to get that for you--actual outcomes. [LB232]

SENATOR SYNOWIECKI: This is a new program? When was it brought? [LB232]

SENATOR DUBAS: This was placed...enacted in 2005. [LB232]

SENATOR SYNOWIECKI: Okay, I think I remember. Is this Senator Stuhr's program, or... [LB232]

SENATOR DUBAS: Cunningham. [LB232]

SENATOR SYNOWIECKI: Senator Cunningham. I remember this now. Your bill essentially amends what the funds can be used for and expands the scope of the program to include established community initiatives to attract new residents. What would that...can you give me an example of what, perhaps, that would entail? [LB232]

SENATOR DUBAS: There is a program in place--I don't believe that they have actually applied for this grant, but a program that this would work for is like the Norfolk Area Recruiters, where people form coalitions, form groups where they go out and actively recruit people to come back to their communities. I believe Ord might be doing something like this under the grant. Those are the types of things that we would look at in helping to recruit people back to... [LB232]

SENATOR SYNOWIECKI: They're doing that now,... [LB232]

SENATOR DUBAS: Yes, yes. [LB232]

SENATOR SYNOWIECKI: ...under grants, under this program? [LB232]

SENATOR DUBAS: I don't believe Norfolk is. Ord is. [LB232]

SENATOR SYNOWIECKI: So why do we need to amend the language within the program, if they're already doing this--establish initiatives to attract new residents? They're already doing it? [LB232]

SENATOR DUBAS: Yes, we're just putting that in there as something else...it's encouraging that type of use of this grant. [LB232]

SENATOR SYNOWIECKI: And what is the source of the funds within this program? Is it

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

Floor Debate
March 28, 2007

General Funds that's allocated? [LB232]

SENATOR DUBAS: Yes. [LB232]

SENATOR SYNOWIECKI: And...now will the Legislature need to appropriate funds for this biennium into the program? [LB232]

SENATOR DUBAS: My bill does not deal with that, although I know there is another bill out there that deals... [LB232]

SENATOR SYNOWIECKI: To reappropriate funds to this program? Because now that we're in a new biennium and we're creating and writing a new biennium budget, we'll need to add more funds. Does your bill, by expanding the scope of what can be done under the program, do we need to appropriate more funds to facilitate the expanded scope of the program? [LB232]

SENATOR DUBAS: Yes, I believe so. But there's already money that's been appropriated for this existing program. So if there's a request for additional appropriations, I believe that came before your committee. [LB232]

SENATOR SYNOWIECKI: Thank you, Senator Dubas. Senator Aguilar, would you yield? [LB232]

SENATOR LANGEMEIER: Senator Aguilar, would you yield to a question? [LB232]

SENATOR AGUILAR: I will. [LB232]

SENATOR SYNOWIECKI: The...decreasing the matching requirement, can you kind of cue me in on what the committee's thinking was on that? Doesn't the committee amendment reduce the matching requirements? [LB232]

SENATOR LANGEMEIER: One minute. [LB232]

SENATOR AGUILAR: Yeah, we wanted to eliminate the...first of all, eliminate the in-kind contributions, going to a smaller cash contribution, hopefully to make a more local units of governments available for this program. [LB232]

SENATOR SYNOWIECKI: Will we have to increase the amount of General Fund appropriations to the program to facilitate that lower matching rate? [LB232]

SENATOR AGUILAR: Not to my understanding. I'm sorry, not to my understanding, no. It is my understanding this has all been appropriated in the past, and that's where the funding will come in. [LB232]

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

Floor Debate
March 28, 2007

SENATOR SYNOWIECKI: Yeah, but we're in a new biennium budget. We're writing the budget. We can't appropriate funds from the last biennium budget that would be in a program for this year. Am I right? Don't we have to reappropriate funds? [LB232]

SENATOR AGUILAR: I'm going to refer that question to Senator Dubas because I'm not sure of the answer, Senator. [LB232]

SENATOR SYNOWIECKI: Senator Aguilar, did the committee look at the expansion of scope of the program and the possible ramifications to how much more funding will be needed in the program? [LB232]

SENATOR AGUILAR: We understood that more funding would not be needed when we looked at it. We also...like I said, expansion of the program would allow more and even smaller communities to take advantage of. [LB232]

SENATOR LANGEMEIER: Time. [LB232]

SENATOR SYNOWIECKI: Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Harms, you are recognized. [LB232]

SENATOR HARMS: Mr. President and colleagues, I rise to support this. Senator Synowiecki, I think, to maybe answer your question a little bit, why the need is for this, if you look at where these are being placed, particularly in rural America, one of the problems that we have is the fact that we are beginning to see some growth, for example, but we don't have enough people to fulfill that opportunity. And to encourage people to come back home, to encourage people to move back into our communities because there are job opportunities there, is very critical for us. And as you see what's happening, the change from rural to urban America is continuing to move forward, this is extremely important for us. It's important to be able to start new programs, it's important to start new businesses, and that's what this is about. And without that in our rural environment, we just can't seem to get to there. The other thing that we need to understand, that the fastest growing businesses in America are cottage industries, which is home businesses, and this is the group that we have to begin to focus on. In Nebraska and rural America, we have to grow our own in order to get here, and that's why it's important to have that avenue to attract people back home for jobs that are there. I can tell you, in Scottsbluff, Nebraska, we've had a lot of growth, and now we've got to find more people who are willing to come back home to fill those jobs. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Harms. (Visitors introduced.) Back to

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

Floor Debate
March 28, 2007

continuing discussion on AM677 to LB232. Senator Dubas, you are recognized, followed by White, Wallman, Gay, and others. Senator Dubas. [LB232]

SENATOR DUBAS: Thank you, Mr. President. I would just like to clarify that this is an existing program that has money already allocated to it. My bill--I'm not a part of the bill that's asking for any additional monies. The only thing this bill is trying to address is making it a little bit easier for limited-resource areas of the state to apply for this grant to expand the projects that this grant can be used for. I'm not asking for additional money. I'm simply asking for the money that's already been allocated for it, to be used. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Wightman. [LB232]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I also rise in support of this. I come from a rural county. I think some of the area will qualify under this act. I think it's a fairly modest amount. I do have a couple of questions for Dr. Dubas, if she would. Senator Dubas, I called you doctor--excuse me. If she would yield to a question. [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you yield? [LB232]

SENATOR WIGHTMAN: That may be a promotion--I'm not sure. (Laughter) [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR WIGHTMAN: And I was out part of the time while you've been presenting and introducing the bill. How many counties and cities--do you have a figure?--will qualify under your two...? You have two benchmarks to determine whether a city or county would qualify, is that correct? [LB232]

SENATOR DUBAS: Yes, I do. [LB232]

SENATOR WIGHTMAN: One had to do with it being 20 percent under the national average, as far as income, and the other one would be the loss of population? [LB232]

SENATOR DUBAS: Yes, that's correct. [LB232]

SENATOR WIGHTMAN: And do you know how many cities and counties would qualify? [LB232]

SENATOR DUBAS: I have a listing here. There are a lot. [LB232]

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

Floor Debate
March 28, 2007

SENATOR WIGHTMAN: A lot. [LB232]

SENATOR DUBAS: Does that count? I've four...let's see. I've got two, three, four...almost five pages of communities. [LB232]

SENATOR WIGHTMAN: Five pages. So there are a lot of outstate cities and counties that will qualify. [LB232]

SENATOR DUBAS: That's correct. [LB232]

SENATOR WIGHTMAN: And we're talking about an increase only to the \$1.5 million for funding; is that correct? [LB232]

SENATOR DUBAS: I'm not asking for any increase under this bill. I'm asking just for a continuation of the program. I do know that there's an appropriations bill out there, but that doesn't come from me. [LB232]

SENATOR WIGHTMAN: Okay. Well, it is something that is needed out in the less populated areas. Some of you may have seen the figures in the newspapers recently as to the loss of population in many of the counties in the state of Nebraska. If I'm right, I think there were 68 counties that had lost population, 25 that had gained, and of the ones that gained, most of them are right in the metropolitan area and along Interstate 80. And it is an important tool for continued, or really in an attempt to have any economic development in the area, and to start these incubator industries. And so I'm very much in support and would ask that the body support the bill, as well. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Wallman, you are recognized, followed by Gay, Carlson, McDonald, Chambers, and others. Senator Wallman. [LB232]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I too support this bill. Seeing empty storefronts and buildings that are empty, if we can get young entrepreneurs in these small towns to stay there and raise their families, support the school systems, pay taxes, and not leave to the metropolitan areas, keep them at home around with the grandparents and everything, I think that is really good stewardship on our part of the state. And it behooves us to vote for something to encourage that, to keep our people in this state, and I thank you for introducing the bill, Senator. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Gay, you are recognized. [LB232]

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

Floor Debate
March 28, 2007

SENATOR GAY: Thank you, Mr. Speaker. I rise in support of this bill, as well. The one question I would have--we talk about empty storefronts, and the Governor talks many times about the people of Nebraska are our best asset, and that's our best resource. I think we all wholeheartedly agree with that. Senator Wallman brings up a good point. I have the opportunity to travel quite a bit to some of the smaller communities, as well, and it's just...you see those sitting there, and I think just any great ideas that could come in and help fill those would be an opportunity. The part on here that I like is the grant recipients must match. So there's definitely a vested interest. The question I would have...or I guess...and Senator Dubas, if you'd yield to a question right here. [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR GAY: The question I would have--I think it's a great idea--on the follow-up of this, is there a mechanism to follow up to make sure that the money that is invested, that we keep them going, instead of...or other opportunities that we may help them? So let's say we have a good idea, they come up with the grant, we got a good idea. Other funding mechanisms that we can continue to support them along the way after we get them started? [LB232]

SENATOR DUBAS: I'm not...I couldn't give you specifics, but I do know that there are other programs available out there. I guess what this is looking at is giving that seed money, getting them off the ground, getting them moving forward. There is accountability built into this program as far as it's a reimbursement-type grant, so the money is paid out first, and then they come and bring their receipts showing what they've done, showing that they're hopefully being effective. But as far as follow up after the grant is expired, I'm not aware of any specifics, no. [LB232]

SENATOR GAY: Thank you, Senator. The point I make is, I think it's a good idea. I'm glad we're expanding it. If we find some positive results, I would even encourage that we expand this type of thing, possibly, down the line. However, prior to doing that, that we get some kind of picture of how our first initial money went. But I applaud you for bringing this to the body and look forward to supporting it. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Carlson, you are recognized. [LB232]

SENATOR CARLSON: Mr. President, members of the body, I also am in support of LB232, and I'm in support of anything that helps in economic development in the state of Nebraska. I would think this would be particularly a good idea if it...and I heard the

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

Floor Debate
March 28, 2007

term focus on encouraging people to move back, which generally speaking, if they move back, they're going to be moving back from out of state. And anything that we do that results in people moving into Nebraska from out of the state of Nebraska is as good for people in Lincoln and Omaha as it is for people in rural Nebraska, because it expands our tax base, and that's so vitally important as we move along. I would like to address a question to Senator Dubas. [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you accept a question? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR CARLSON: Senator Dubas, I'm looking at the bill, and you had mentioned a 2011 sunset provision? [LB232]

SENATOR DUBAS: Yes, I believe so. [LB232]

SENATOR CARLSON: Maybe you'll have to show me where that is. [LB232]

SENATOR DUBAS: It's not in the...it's in the original act. [LB232]

SENATOR CARLSON: Okay. [LB232]

SENATOR DUBAS: It's not in my bill. [LB232]

SENATOR CARLSON: Not in what we're looking at, but it's in the original act. [LB232]

SENATOR DUBAS: Right. [LB232]

SENATOR CARLSON: And I would simply encourage a good ongoing evaluation of results, and the more these results can be shared back with the body, the better off we all are. But I urge support of LB232. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Wishing to speak we have McDonald, Chambers, Synowiecki, and Adams. Senator McDonald, you are recognized. [LB232]

SENATOR McDONALD: Mr. President, members of the body, I also rise in support of Senator Dubas' bill, and I thank her for doing that. I have not seen the list of those communities, but I would guess that many or all of the communities that I represent would be affected by this. Ord has done a great job of bringing people back into the community, but they've had to work very, very hard to do that. They've basically been a role model for a lot of my other communities. But it takes a lot of money, time, and energy to do that, and if we can help those in any way, we certainly need to support

Floor Debate
March 28, 2007

that. Burwell also is in my district, and I remember several years ago they had a high school reunion. Three of the professional businesspeople had gone away to college, had established businesses. There was a dentist, a lawyer, and a doctor. And at that reunion they decided that within a certain period of time they were going to bring their families back to that community and establish businesses there--and they did. And that has prospered the city of Burwell with new energy and vitality, and so we continue to look at other opportunities. And so I support this, and I hope you do too. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Chambers, you are recognized. [LB232]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator McDonald supports this bill, E-I, I do, too (singing). Members of the Legislature--and I'm glad Senator Carlson is here because he'll understand these references--the big cities, Senator Carlson, have been swallowing the economic camel. The huge amounts in these giveaway programs, as I call them, have gone to the big city--primarily Omaha. Now we're giving the rural areas the gnat. If I'm not mistaken, this is a program which, last session, I tried to put more money into. I talked to some of my rural colleagues and pointed out how they are always there to support the city when their big corporations are like the dish that runs away with the spoon. And here the rural people are trying to get something, but the program is not putting enough money into it--the Legislature is not--to make it respectable and credible. I had badgered and bludgeoned the city slickers to the point where they recognized that it was a relatively piddling amount going into the program, but guess who came to me and said, uh-uh? The rural people. They said, kind of wringing their hands and shuffling their feet and looking down at the ground, well, we already made a deal. I said, what kind of deal? Well, we said if they give us this, we wouldn't ask for any more. I said, you are not asking for it, and I'm not asking for it--I'm demanding it; the money is there; let me give you this money. Well, I don't think so. I was so outraged, Senator Hansen, that I looked across the aisle at my friend, and I won't call her by name, but her last name is that of a museum out in the other parts of Nebraska, and said, if the rural people are not going to let me help them get money that's there, I'm not going to help you do anything. Get what you can for yourself. Beg for these little crumbs and then act like you are so grateful. But I haven't been able to stick by that, Senator Carlson. When you have children who don't understand things, we don't just throw our children away. Sometimes we speak in relatively angry tones at them to get their attention, and we talk beyond what we're going to do. I will not ever work against a community because they made the mistake of sending somebody here to represent them who was not able to do the job that needed to be done. So whenever a worthwhile program that will help the rural communities will come before the Legislature, I will support it, and I'm not going to examine it with a microscope or a magnifying glass. Hundreds of millions of dollars will be given away by this Legislature to big corporations. They were scrambling and falling over themselves

Floor Debate
March 28, 2007

last session to give Cabela's some money, and I killed that bill. I pointed out that when these operations that are successful all over the country will look at a piece of land and say they are considering building there, they intend to build there. It fits into their comprehensive plan, and they're going to make money. And they will build there without the little bits of change that you all are giving them compared to what they've got and what they're going to get. You don't need to bribe Cabela's to come here to Sarpy County. They're going to be there. And when they saw the bill wasn't going anywhere, they said yeah, we're going to come. We don't need the money. We were going to come anyway. The Legislature has to learn how to think in the lines of thought of those who are trying to get the Legislature to give them money. [LB232]

SENATOR LANGEMEIER: One minute. [LB232]

SENATOR CHAMBERS: I think there ought to be more money in this program. If there's a failure, so what? There are some businesses that get the giveaways and then they bug out. It seems like the Legislature and people at large can get their minds around little bitty things, but the big things slide right through. I think we should make the program accountable, we should examine it, but I don't think we ought to be overly harsh, because when people are starting out on a new course, we have to let them make some missteps and some misstarts. But overall, this is a step in the right direction, but it's only priming the pump. There's much more that needs to be done, and I'm glad Senator Dubas is here, and I hope this is just the start. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Synowiecki, you are recognized. [LB232]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier and members of the Legislature. And that's kind of what I was getting at as my original line of questioning, was an expansion of the scope of the grant parameters in terms of what we're going to be doing with this program to make sure it is funded to the point that we can account for that expansion. Senator Dubas, would you yield for a question? [LB232]

SENATOR LANGEMEIER: Senator Dubas, would you yield to a question? [LB232]

SENATOR DUBAS: Yes, I will. [LB232]

SENATOR SYNOWIECKI: Part of your bill removes one of the criterias for the grant application, and that is the unemployment rate which exceeds the statewide average unemployment rate. Can you fill me in on why that provision is being removed? [LB232]

SENATOR DUBAS: The amendment put it back in. [LB232]

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

Floor Debate
March 28, 2007

SENATOR SYNOWIECKI: Oh, the amendment put it back in. [LB232]

SENATOR DUBAS: Yes. [LB232]

SENATOR SYNOWIECKI: Okay. And then for the planning grants, for those to be received, there's no matching fund from the receiving...? And that's a new part of the bill that you bring us, right? [LB232]

SENATOR DUBAS: Correct. Yes, there is no match. [LB232]

SENATOR SYNOWIECKI: Do you have any concern relative to the expansion of scope, in terms of what these grant programs will be doing and the amount of funding? [LB232]

SENATOR DUBAS: No, I don't. I think...I'm not thinking that it's expanding the scope that much. We've just included a little bit of extra language as far as what types of projects would be eligible for these grants. [LB232]

SENATOR SYNOWIECKI: And probably the most important part of the bill then is to lower the matching rate, wouldn't that be the case? [LB232]

SENATOR DUBAS: Correct. [LB232]

SENATOR SYNOWIECKI: Okay, thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. We have Adams, Stuthman, Engel, and Pirsch. Senator Adams, you are recognized. [LB232]

SENATOR ADAMS: Thank you, Mr. President and members of the Legislative. I don't know that I can add a whole lot to what has already been said, but when I have an opportunity to advocate for communities, I'm going to do so, and this is an opportunity. There isn't a community in this state of any size, but particularly our smaller communities, who are not literally scratching out a living every day, and those communities create much of the social capital of this state. This bill is a small step that this body can take in helping those communities stay alive, and I think that one of the key things--and I don't mean to steal the fire from Senator Dubas--but one of the key features of this bill has nothing to do, really, with appropriation. It has to do with making the grant process, the application process, more accessible, particularly in those areas that most need to get their hands on the money. Thank you, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Adams. Senator Stuthman, you are recognized. [LB232]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I

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

Floor Debate
March 28, 2007

remember very vividly the discussion that we had on this bill in times before--I think it was last year. The thing that really concerns me--and I'm very much interested in this bill--but in my opinion I'll totally agree with Senator Chambers, the fact that we're just throwing a few crumbs out there for these communities. When we throw a few crumbs out there, they utilize the crumbs, but then in another year or two there's not enough people there to work, they get in a tough situation, they're a couple years older, things have fallen apart, and there isn't something to help them out again. I truly believe if we want to and are serious about these small communities in the rural areas--and I'm very serious about those, to try to build those communities--we should look very favorably at trying to expand the amount of money given to these communities, given to this program--making it better, making it easier for businesses to start, for people to be employed, for people to come back to those communities. I'm truly supportive of this, but I think we can do more. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Engel, you are recognized. [LB232]

SENATOR ENGEL: Mr. President and members of the body, this BECA program has been working very, very good up in my area, and I've discussed it with several of the people up there. And, of course, keeping this going and making it easier to qualify, I think, is very important. And the more of these...in our area, as far as the rate, as far as the deficiency rate, as far as not keeping up with their loans and so forth, that is not...it's minimal, much less than what the banks suffer normally, or any other lending agencies. So this is a very good program, and I think we should keep it going because it does help the rural areas, especially where there's a lot of minorities, because there's a...and in our area we have a lot of minorities up there, and I think it's very important to help them succeed. And this is one program--it's not costing a lot of money, but it does work, so I think we should keep it working. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Engel. Is there anyone else wishing to speak to the committee amendment, AM677? Seeing no lights on, Senator Aguilar, you are recognized to close on the Government, Military and Veterans Affairs Committee amendment. [LB232]

SENATOR AGUILAR: Thank you, Mr. President and members. I appreciate the conversation and the questions this morning, and I will respond a little bit to the comments about, these are only a few crumbs. And I agree that they are. But it's utilizing those crumbs to the best effect possible, and bringing back results to this body of what good can be accomplished with those crumbs justifies the reason for asking for a bigger slice down the road, so I'd just leave you with that thought. I ask you to support the committee amendments. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. The question before the body

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

Floor Debate
March 28, 2007

is, shall AM677, the committee amendments to LB232, be adopted? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB232]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB232]

SENATOR LANGEMEIER: The committee amendments are adopted. [LB232]

CLERK: Senator Hudkins, I had AM692. Senator, I had a note you wanted to withdraw. I have nothing further on the bill, Mr. President. [LB232]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to discussion on the advancement of LB232, the bill itself. Is there anyone wishing to...the floor is now open for discussion. Seeing no lights on, Senator Dubas, you are recognized to close on LB232. [LB232]

SENATOR DUBAS: Thank you, Mr. President and members of the body. I appreciate the discussion that we had this morning. I want to be very clear that the purpose of this bill was to create the definition for limited resource areas and to make this money more accessible to more areas of the state. We did a quick count on the pages that Senator Wightman asked me to. We would have over 300 communities who would have access to this money now with this limited resource definition; 300 communities that would have the chance to create some businesses in their town, that would have the chance to recruit some people back. One family in a town the size of Fullerton, my hometown, makes a major impact in the school, on the local main street, in the churches, in everything. So this program is a very straightforward program. It encourages rural economic development, and especially in the areas that need it most. I appreciate the support for the request for additional monies, and I think the fact that we have over 300 communities only reinforces that request and that commitment, that the need is there. We state over and over again on the floor that we support economic development, and I think this bill gives us an opportunity to put our money where our mouth is. And I appreciate the support of the body and hope that you will advance this on to Select File. I think it's a very much needed program in rural Nebraska. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You have heard the closing on LB232. The motion before the body is, shall LB232 advance to E&R Initial. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB232]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB232. [LB232]

SENATOR LANGEMEIER: LB232 does advance. Mr. Clerk, next item on the agenda.

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

Floor Debate
March 28, 2007

[LB232]

CLERK: Mr. President, LB502, a bill offered by Senator Mines. (Read title.) The bill was introduced on January 17 of this year, at that time referred to the Revenue Committee for public hearing. The bill was advanced to General File. I do have Revenue Committee amendments pending, Mr. President. (AM544, Legislative Journal page 726.) [LB502]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Mines, you are recognized to open on LB502. [LB502]

SENATOR MINES: Thank you, Mr. President, colleagues. LB502, as indicated by the Clerk, would change the inheritance tax rates in Nebraska. LB502 is intended to lessen the burden on average Nebraskans who inherit family assets left to them by a lineal descendant. Nebraskans leave our state upon retirement for a whole host of reasons, whether it's weather-related or family, but all too often they're leaving because of Nebraska's oppressive tax structure, inheritance tax being one of those. We all know that Nebraska's less than glowing national rankings are published in numerous publications, Tax Foundation, as well as MSN Money. A few of those: Nebraska is the sixth highest state and local tax burden--number six in the country. We are also 13th highest in our property tax burden, and our death taxes--estate and inheritance--place us among the most punitive states...among the states with the most punitive tax on death in the country. LB502 would change--not eliminate--but change Nebraska's inheritance tax rates by reducing the tax burden on decedent family members and increasing the rate of tax burden on nonfamily members. Let me acknowledge my appreciation for Senator Wightman as designating LB502 as his priority bill, and his help. I think, at the end of this debate, or I hope at the end of this debate, you'll understand exactly how punitive our inheritance tax is to average, everyday Nebraskans. By definition, inheritance tax is a tax levied on the right of an heir to receive a decedent's property. The rate charged the decedent is a percent of the value of that property. Only eight states--I'll repeat--only eight states in the country invoke the inheritance death tax. Nebraska, if you compile those eight states, we rank number two, folks. We're the second highest, most onerous death tax, inheritance tax, in the country. Sometimes inheritance tax is confused with estate tax, although Nebraska can probably claim that we have them both. Just so everyone watching understands the difference: estate tax is a tax levied on an estate of a decedent before it's distributed to individual. An inheritance tax is the tax levied on the right of those individuals to receive a decedent's property. In Nebraska, estate tax is collected by the state; inheritance is collected by the counties. Here's how that death tax works in Nebraska. Spouses are exempt, as they are in those other eight states that have the inheritance death tax. In some states, transfers to children and close relatives are also exempt, but not Nebraska. If you are not the spouse, we're going to get you. We have three classes of inheritance tax: Class 1, Class 2, and Class 3. And I've handed out a chart that I think

Floor Debate
March 28, 2007

will give you some help in understanding how those work, how our process works. That's the chart headed, Nebraska death "Tax Classification and Rates." As you can see, Class 1 is for immediate family members. These would include parents, grandparents, siblings, children, lineal descendants, legally adopted, any person to whom the deceased for not less than ten years prior to death stood in the acknowledged relationship of a parent, or a spouse or surviving spouse of any such person. The tax rate on Class 1 heirs was established in 1901--1901. It remains today, 1 percent on the clear market value of the property in excess of \$10,000. That just means the first \$10,000 of your property is exempted from inheritance tax. Class 2 is a 6 percent tax on the clear market value of property in excess of \$2,000 and less than \$60,000; and 9 percent on assets in excess of \$60,000 by remote family members. The Class 2 heirs would be uncles, aunts, nieces, nephews related to the deceased by blood or legal adoption, or other lineal descendant of the same, or the spouse or surviving spouse of any such persons. LB502, in my proposal, would increase to \$25,000 from \$2,000. And then Class 3 are on a...you can see the graduated scale for all other classes. Those are unrelated. These are folks that inherit someone's property or wealth just because--just because. They have no relationship other than friendship, perhaps, business relationship. As originally introduced, LB502 did three things. It retained the 1 percent tax for Class 1 heirs and increased the exemption from \$10,000 to \$100,000. The Revenue Committee reduced the exemption to \$50,000, and I believe Senator Janssen will discuss that amendment later in the debate. It also retained the 6 percent tax on Class 2 heirs, and increased that exemption from \$2,000 to \$25,000. And finally, Class 3: LB502 attempts to simplify a Class 3 tax into a single rate of 18 percent on the clear market value of anything in excess of \$25,000. As I mentioned earlier, the tax rate was established 106 years ago, in 1901. That was two years before the Wright Brothers flew at Kittyhawk. That was two years before Henry Ford introduced the Model-T. President William McKinley was shot to death in 1901. Nebraska and many of our cities have advanced since that, since then. Back then Omaha's population was 102,000 people. Today, as we heard in debate yesterday, it's 425,000 people. I attempted to go back and determine what the per capita income was in Nebraska in 1901, when the \$10,000 exemption was set. We don't have records that go back to 1901; the best that we could get from Research is 1929. And in 1929 the annual income...excuse me...the per capita annual income was \$586, and there was a \$10,000 exemption at that time. The per capita income today is about \$33,600. That's a 60-fold increase in per capita income, yet \$10,000 has remained the standard for inheritance tax. If we ran the numbers, \$10,000 in 1901 is worth about \$240,000 today. During the interim, the Nebraska Association of County Officials did a survey of inheritance tax in 14 Nebraska counties for year 2005. And what they found I think was surprising. It surprised me. Class 1...I would imagine the Class 1 beneficiaries, the total tax that is received by counties, would be the largest in the Class 1, immediate family members. In fact, it was...it ran about 42 percent in those 14 counties in that particular year. Class 2, the nieces, nephews, uncles, aunts, was 48 percent. And then the Class 3 is about 9 percent of the total tax that's collected on inheritance in Nebraska. What didn't happen,

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

Floor Debate
March 28, 2007

and what makes this whole process difficult, both NACO and "yours truly" are operating on assumptions of revenue in each class. We don't know. We don't know as a state where our income tax comes from, unless we go to court records every year and count them. We don't know what percent... [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR MINES: ...actually comes from Class 1, 2, and 3 in each county. Additionally...but we do know...NACO says that inheritance tax amounts to a total in Nebraska of \$30 million. And what we lack is the transparency to the public and to this body. We don't know where that revenue is coming from. We just know it's roughly \$30 million every year. LB502 was heard by the Revenue Committee, advanced on a vote of 7-0. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Mines. As the Clerk has stated, there are amendments from the Revenue Committee. Senator Janssen, as Chair of the Revenue Committee, you are recognized to open on the committee amendments. [LB502]

SENATOR JANSSEN: Thank you, Senator Langemeier and members of the Legislature. Senator Mines did touch on the committee amendments, but the committee amendments reduce the proposed increase in the exemption amount for siblings and lineal descendants from \$100,000 to \$50,000. We just cut it in half. That's the extent of the committee amendments. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the opening on LB502 and the opening on AM544. Mr. Clerk, for a motion. The floor is now open for discussion on AM544. Senator White, you are recognized. [LB502]

SENATOR WHITE: Thank you, Mr. President. I support this bill. I voted it out of committee. I think that Senator Mines and Senator Wightman, who had a very similar bill, made excellent points. Inflation alone has made this a very necessary bill. I do have one concern, and that is that it be revenue neutral with the counties. We're struggling toward that. I'm under the impression, and I think other senators are, that if it isn't revenue neutral it should be close at these levels. I want the body to know that if numbers are refined further that show we might have to drop the amount somewhat to make it near or at revenue neutrality, I would support that. But other than this, I think this is a well-needed bill that is long overdue, and I fully support it. I return the rest of my time. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Carlson. [LB502]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to direct a

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

Floor Debate
March 28, 2007

question to Senator Mines. [LB502]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB502]

SENATOR MINES: I will, Mr. President. [LB502]

SENATOR CARLSON: Senator Mines, on this table that we've got, in general this is a tax reduction bill, isn't it? [LB502]

SENATOR MINES: In which table? I'm sorry, Senator Carlson. Yes. What it does, what it is intended to do is increase primarily the Class 1 exemption from \$10,000 to \$50,000, and that will, in fact, reduce the amount of taxes the counties can collect. So if that's your question, that's what it will do. [LB502]

SENATOR CARLSON: Okay, and we're both looking at this now. So in Class 1, that does represent a tax reduction, but I don't think Class 2 does. [LB502]

SENATOR MINES: Class 2 is...it would result in a reduction in tax collected on the--I can't find it. Class 2 is intended to help make this revenue neutral, although we didn't...we're not quite there. Thanks. [LB502]

SENATOR CARLSON: Okay, I think it's important to be revenue neutral, too, but I guess you don't want to be an aunt, an uncle, or a niece or a nephew, or you are going to get nailed. But I wanted to make that clear, that that is a tax increase in Class 2. But I also think that the revenue neutral is important. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Wightman, you are recognized, followed by Senator Mines. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. The reason that this is my priority bill is that I introduced a bill very much like this, which was killed by the Revenue Committee. It was LB22. It actually had the \$50,000 exemption. Senator Mines' bill, LB502, had a \$100,000 exemption for Class 1 beneficiaries. The Revenue Committee saw fit to change his bill and amend it to the \$50,000 threshold for Class 1 beneficiaries, so with regard to Class 1 beneficiaries, it now reads like my original bill, LB22. My bill, however, LB22, had lower thresholds than the \$25,000 that is currently provided in...for Class 2 and Class 3 beneficiaries. I don't have it in front of me right now, but I think mine started at \$10,000 for Class 2 beneficiaries, and \$5,000 for Class 3, and then had a sliding scale, an escalating amount, as those bracket amounts went up. As Senator Mines told you, this is a bill that was last passed in 1901, or at least the exemption amounts were set in 1901, just 106 years ago, and has never been changed, as far as those bracket amounts, since 1901. So we've done a very poor job in keeping pace with inflation, and Senator Mines gave you some of those figures as to

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

Floor Debate
March 28, 2007

exactly how much that would amount to today. Our figures show that the Consumer Price Index from 1913 on, which I think was the earliest year that they had that. A Consumer Price Index would be the equivalent...\$10,000 would be the equivalent of \$106,000--\$207,000, excuse me. So it would have gone up 20 times. But in the meantime, because of the lobby of the county officials, because they did not want to see their revenues shrink, they have opposed every attempt to change this, and I think there haven't been any real recent attempts in which this bill has been out of committee. One of my objections to the current law is that it is not enforced. I don't know if any of you know how this tax is determined. I'm sure some of you do because some of you practice law in this area. But this tax is not determined by your sending in a tax return to the Department of Revenue. It's determined by the county court of the county that the person lived in at the time of his death. For example, if your father died and he was a resident of, let's say, Buffalo County, you would have to go in to have this tax determined. Contact a lawyer. The lawyer would file a petition with the county court, and that would be after some discussion with the lawyer, because he would have to file a complete inventory of everything that might be subject to the county inheritance tax. They would file that. Then there would have to be a discussion with the county attorney, and the county attorney would have to either agree to the values or waive any objection to the values, and then finally the county judge would determine it. I know we do some determinations of inheritance tax that might...we may have been as low as \$250 to \$300, but I would suggest to you that there are very few people representing estates that would do that for less than \$400 or \$500. Now to show you the threshold of when that would... [LB502 LB22]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR WIGHTMAN: ...when that might have an inheritance tax--actually if somebody died and they owned a CD with their son that was jointly owned, they don't have to probate it. It's going to pass automatically. If they owned a CD with their son or daughter that was \$11,000 in value, they would have to go through a proceeding, technically, legally--now they don't enforce it--and they'd end up owing a \$10 inheritance tax, and it would have cost them a minimum of \$300 to have had that tax determined. All we're doing is trying to bring some rationality to this legislation and this law, that would gear it a little bit to inflation, and it would not affect somebody with as small an estate as \$11,000. Actually, it could a \$300 on Class 3 beneficiaries. I think our noon hour is about here. I have a lot more to say on the subject and a lot more response, but... [LB502]

SENATOR LANGEMEIER: Time. Thank you, Senator Wightman. (Visitors introduced.) Mr. Clerk, for a motion. [LB502]

CLERK: Mr. President, Senator Erdman would move to recess until 1:30 p.m.

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: You have heard the motion to recess until 1:30 p.m. today. All those in favor say aye. All those opposed say nay. We are recessed till 1:30.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no items at this time, Mr. President.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. At this time we will return to the discussion on AM544 which is the Revenue Committee amendment to LB502. The floor is now open for discussion. We had a number of lights on when we left the discussion for the lunch recess. Senator Mines, you are recognized. Your light is first; you are recognized. [LB502]

SENATOR MINES: Thank you, Mr. President. Perhaps just a little refresher on where we were before we left this noon. I introduced LB502 and you heard all the reason that I believe LB502 is a good idea. In essence, it would increase the exemption amount on Class 1 inheritance tax from \$10,000, that was established in 1901, to \$50,000. We are the...there will be a graph passed out to show that there are only eight states in the country that have an inheritance tax, and only Pennsylvania exceeds us in the onerousness of our inheritance tax to our citizens. There are three classes, so Class 1 from \$10,000 to \$50,000, Class 2 would actually increase the amount of taxes, death taxes that counties would collect, as would Class 3. The amendment that you see before you, the Revenue Committee amendment, I had asked for an exemption of \$100,000, and the Revenue Committee reduced that amount to \$50,000. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Mines. Senator Gay, you are recognized. [LB502]

SENATOR GAY: Thank you, Mr. President. I rise in support of this bill. I think it's time that we did address this situation. I had followed this as a county official, and we had always used the inheritance taxes in the budget. But I just wanted to explain a little bit

Floor Debate
March 28, 2007

how this is budgeted. When we...the bill, as presented, is very logical. As I say, 106 years, this hasn't been changed. What this does is increase an opportunity for some lower-income individuals. I wouldn't say lower income but they're getting an estate...now, Senator Wightman talked about how you go about, you would have to get the lawyer and how the process works, but what we're really doing is giving an opportunity for some people who are going to inherit something under \$50,000. Make no mistake, there would still be an inheritance tax over this amount, and counties will still continue to collect revenue. I wanted to talk about this because it is probably odd, being a former county commissioner, that I would support a bill like this because they will tell you we're going to lose money, and they probably will. But I like the idea that the increases are going on the Class 2 and Class 3 parts of this bill. It will make it somewhat more revenue neutral; who knows how much. One thing that was handed out by Senator Mines shows an estimate of what the counties collect. I highlighted in our own county of Sarpy County was \$1.1 million of this \$3.6 million, and yet I still rise in support of this bill. Counties don't...at least our county when we were doing budgeting, we never took that money. We looked and saw how much was coming in this year, and, sure, we would spend it, but we never counted on it because you can't count on who is going to be passing away. You may get a windfall one year; you may not get some the next year. So you never really want to plan on that. Counties that are doing that, and I hope they aren't but maybe they are, I think they are mostly pretty fiscally prudent people that they don't do that. So I do think counties could adjust to this and I think there's other ways if you are looking, getting some pressure from your county officials, that we can help counties out. There are many other ways. Senator Stuthman, year after year, brings a jail reimbursement bill. We've done some things on some road funding. So I do think if you support this, you are not...they won't like it, but as an individual and they're going to deal with this, I think they would like it because when you look at your individual circumstances, I think this is a good bill for a lot of Nebraskans. And again I want to reiterate, this will not affect many higher-income larger estates. Those will still be taxed. Senator Mines and Senator Wightman reminded us, we are one of only eight states in this country that have this tax. Do not confuse this tax with the estate tax, which is the federal tax, which really doesn't even take effect until you are over this year, would be \$2 million, and that's raising to \$3.5 million in 2009, repealed in 2010, and then coming back in 2011. That has nothing to do with an inheritance tax. So this is a tax on average Nebraskans that I think is imposed in a tough manner. Senator Wightman, again, discussed how this is done. It's complex. You need a lawyer, you've got to go through all these hoops. So I do rise in support of this bill, and I hope you will listen intently and support it along with me. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Wightman, you are recognized, followed by Senator Mines. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I appreciate the words from Senator Gay. I think they were well-spoken. Obviously you

Floor Debate
March 28, 2007

always think they're well-spoken when they support your bill, but I think he had good reasons at this time. One of the things that keeps coming up and has been mentioned by a number of the senators is, is it revenue neutral? I suggest to you that we will never know if it's revenue neutral. Let me explain some of the problems that arise with regard to an inheritance tax. It varies a tremendous amount from year to year, and that happens because frequently within a county someone will die, have no children, no descendents, and all of a sudden they are faced, if it passes to the nephews and nieces, which would be the most common relative to which they would pass, and it's 6 percent, right now any amount in excess of \$2,000. So that obviously skews the figures. And we see figures...we have 200...we looked, and we vary from about \$260,000 to \$370,000 over the last five years in Dawson County. Well, some of those years we've had a single estate that has paid, one year at least \$101,000; another year one that paid \$88,000 and \$59,000, I think the same year. I can almost assure you that that would be almost no effect on those estates if we make this change that we're considering under LB502. The other problem that I have is that there is no enforcement of the current law, and I think you could check with your county attorneys and I think you would find that in most counties, and I'm speaking from experience because I do a lot of this type of work, I've probably handled 500 inheritance tax cases of maybe between \$500 and \$1,000 over my 43 years of practice in Lexington, Nebraska. Dawson County, in which Lexington is located, is a county of about 25,000 people. I think you could check with the county attorney and you will find that they have never brought an action in 43 years to require somebody to pay an inheritance tax that did not pay it voluntarily. Now, there are certain instances that you almost have to do it, have to have that inheritance tax determined, and that is when there is real estate involved. If there is real estate involved, then it has to be done as a title clearing measure. And with all of the people that end up in assisted living and sell their homes, there is a relatively small percentage of people that still own their homes by the time they die. Now, it was discussed--and there's been a handout as to what other states do--there are only eight other states out of the 50...I think we're one of eight, by the way, that have an inheritance tax at all. And of these, only one would tax at the brackets that we are seeking to have be the effective amount, the bracket amount, under LB502, and that's the state of Pennsylvania. We did do some checking this morning, and there are, I think, seven different proposals to change the inheritance tax law this term in the state of Pennsylvania, but as of yet it has not been changed. So, understand, we're out here in Nebraska being, even with the change, only one of two states who would tax this. I know it's nice to talk about revenue neutral but you tell me another tax that has an exemption amount that has not changed...and I'll address the homestead exemption. We've had a homestead exemption in Nebraska since 1971. It makes a part of every home for people within a certain income bracket exempt. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR WIGHTMAN: And I think I've passed out something, at least I gave it to the

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

Floor Debate
March 28, 2007

pages to be passed out, that will show what that has done from 1971 to the present day. And by the way, the state subsidizes all of that to the county. And if you'll look, you'll see that in most years the amount of state reimbursement to the counties (inaudible) to the entire amount that we're talking about in this instance. We're talking about, about \$4.5 million across the entire state of Nebraska that would be lost, and we've offered some amendments that if they're accepted would make it very close to revenue neutral. I don't think anybody can give you that figure. So I'll sit down now and let somebody else address you, but I'll visit with you again. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Wightman. At this time I would like to make an announcement. The State Patrol has notified me that there is going to be a helicopter flying around the Capitol to take some photos at 2:00 p.m., so as you hear that noise in their proximity to the building, they are just taking photos. We'll continue discussion on AM544. (Visitors introduced.) We'll return to the discussion on AM544, the Revenue Committee amendment to LB502. Wishing to speak, we have Mines, Avery, and Loudon. Senator Mines, you are recognized. [LB502]

SENATOR MINES: Thank you, Mr. President. I was reminded by Senator Janssen that we are on the amendment, AM544, and it's probably a good amendment that we ought to adopt whether we agree or disagree with LB502. We had time so that another sheet was passed out that showed the eight states that have the inheritance death tax. And as you can see, four of those states, half of the states in the column on the right, the tax rate and exemption category, not only are spouses exempt, but so are immediate family members, which would be our Class 1. So, in effect, there are only four states that penalize you for being related to a decedent. Pennsylvania is the worst. They do 4.5 percent in excess of \$3,000. We do 1 percent in excess of \$10,000. And then you can see that Indiana is 1 to 10 percent in excess of \$100,000, so they have a \$100,000 exemption. Tennessee, the fourth that has a Class 1 tax, they are at \$1 million. So, you know, if we keep this up another 106 years, by golly we'll be to number one and we'll pass Pennsylvania. I have no doubt that any compromise we choose to...as Senator Wightman and I might decide to work with the counties. Counties don't want any change at all. In fact, it was in the World-Herald a couple days ago that Larry Dix of NACO said that counties don't support any change in the inheritance tax because it would hurt county government and property tax payers. So we've talked about changing rates a bit, but, you know, frankly, I don't think it's going to matter a spit, because counties oppose this at all costs--have for 106 years. That's enough. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Mines. Senator Avery, you are recognized. [LB502]

SENATOR AVERY: Thank you, Mr. President. I'm going to support this bill as a reasonable measure to bring Nebraska's law into the twenty-first century. I do this with the full understanding that I might feel some heat from my own county. They are talking

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

Floor Debate
March 28, 2007

about a loss of upwards of \$500,000. Of course, that would require them to be able to predict who is going to die, or at least how many and what kind of income they might leave behind and what kind of estate they might leave behind, which of course they cannot do. But what I do know from talking to Senator Wightman and Senator Mines and Senator Gay is that these taxes are very unevenly collected and badly out of date. I believe Senator Gay is right that these changes are unlikely to have the dire consequences that some believe they might have. What we might find out is that, with these changes, counties will find that collections are improved. In fact, maybe even revenue is increased and maybe not have the consequences that many people are expecting. So I'm going to support this, and I would ask my colleagues to join with me in that. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Louden, followed by Wightman, then Nelson. Senator Louden. [LB502]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As the way this bill has been brought forward, I certainly intend to support it. The \$10,000 deduction right now is not nearly enough. In your rural areas, the counties have benefited from a manyfold increase in valuations of land. At the present time where most of your rural areas, if there is an farmground or agricultural land involved, \$10,000 wouldn't even buy you the homestead that the house or buildings sat on. So I think that needs to be increased and I certainly support that. I really would rather see it in the bill at \$100,000 instead of this amendment where it cuts it down to, I think, \$50,000 or whatever this amendment does. I think this is something that we need to go forwards. And I would like to ask Senator Mines a question if he would yield, please? [LB502]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB502]

SENATOR MINES: I will, Mr. President. [LB502]

SENATOR LOUDEN: Senator Mines, as I looked this over with this handout that you sent around comparing what the tax is now and what it was before, and when you get down here to that 6 percent of \$2,000 for uncles and aunts and that sort of thing, and you've actually raised that to 10 percent in excess of \$25,000. Well, as you look at that, \$2,000 wasn't very much. It was more apt to be 10 percent. And then as you go to the next deal which is 18 percent, which was about the same as it was before, only it was \$50,000. Is this bill actually nearly revenue neutral for the most part? [LB502]

SENATOR MINES: Senator Louden, it's an attempt to become revenue neutral. And because the figures provided by counties on the death tax that they collect are suspect, we just don't know for sure where those revenues are coming from. We've attempted to make it revenue neutral, but I think there's still a shortfall. I don't think we can get there, Senator, with any reasonable amount. [LB502]

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

Floor Debate
March 28, 2007

SENATOR LOUDEN: I agree, and I think that's the reason I would still support the original bill. It had \$100,000 in there for the beginning part where the inheritance tax would start with. I think \$50,000 is still probably considerably low, since it's been 100 years since we've done anything with this bill. I've settled some estates here in the last few years with county estates, and I know what it is. Whether you have people that are related or whether it's people that are friends, whether you increase it, and you have to have a pretty good sharp attorney in order to get around some of this percentage. So the 1 percent is no problem. In the first \$50,000 there wasn't that much money made on that. Where the counties got their money was when you got into the 6 percent and also the 18 percent. So I think it's time that we give the lower estates a little bit more of a break and also the fact that there can be a larger percent of the value of the estate go with a little bit less taxes. They are still going to be 1 percent. That's the same as it always was before. The difference is, is when you get into the higher brackets, and that to my observation hasn't changed. In fact it's actually went up some. And so I think when you get into the uncles and aunts there and you have a \$25,000 exemption, you are still going to be paying 10 percent which is not quite double of what you wouldn't ordinarily would, so I don't see where this should be that much of a problem for the counties and I've also told them so,... [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR LOUDEN: ...that I think this isn't that big of a deal and I would like to see the thing go forwards. Now whether I'll vote for this amendment or not, I really question whether we need to do that. I would rather see it go with \$100,000 on that first percentage at 100 percent because that's a very small piece of agricultural property, \$100,000 worth nowadays. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Louden. Wishing to speak we have Wightman, Nelson, Hudkins, and Kopplin. Senator Wightman, you are recognized. [LB502]

SENATOR WIGHTMAN: Thank you, again, Mr. President and members of the Legislature. Again, I really question that a lot of the senators know exactly what a problem it is to have this tax determined. I know that Senator Stuthman is considering an amendment and indicated that he probably cannot support this bill. I would like to ask him some questions. I see he is on the telephone right now so maybe... [LB502]

SENATOR LANGEMEIER: Senator Stuthman, would you yield to a question? [LB502]

SENATOR STUTHMAN: Yes. [LB502]

SENATOR WIGHTMAN: And Senator Stuthman, I'm sure you have been contacted by

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

Floor Debate
March 28, 2007

county officials within your district and they have indicated that they are not in favor of this. [LB502]

SENATOR STUTHMAN: That is what they have indicated to me. [LB502]

SENATOR WIGHTMAN: Now, Senator Stuthman, have you had any experience with inheritance taxes through either family members or...? [LB502]

SENATOR STUTHMAN: No, I haven't. The only experience that I have with the inheritance tax is my eight years of service on the county board. [LB502]

SENATOR WIGHTMAN: And are you aware of what levels a county inheritance tax might be incurred? [LB502]

SENATOR STUTHMAN: As far as how many dollars comes to the county from the inheritance tax? [LB502]

SENATOR WIGHTMAN: Yes, in part. [LB502]

SENATOR STUTHMAN: Yes. [LB502]

SENATOR WIGHTMAN: And what is that figure? [LB502]

SENATOR STUTHMAN: As far as the total amount that comes to a county, to all of the counties in Nebraska or to my county? [LB502]

SENATOR WIGHTMAN: Well, no, what I'm referring to is the level at which you might incur a tax; not how much the counties would collect from it. [LB502]

SENATOR STUTHMAN: No, I do not. I'm not aware of that. [LB502]

SENATOR WIGHTMAN: Do you know what all assets are included in determining whether you owe a tax? [LB502]

SENATOR STUTHMAN: That is determined by the inheritance portion of it, the ag land, whether it's transferred down to the kids as far as the will is concerned? [LB502]

SENATOR WIGHTMAN: Are you aware that under current exemptions and if a person had one child if there was \$10,000 in one jointly owned CD with one child...or \$11,000, that they technically owe an inheritance tax? [LB502]

SENATOR STUTHMAN: No. [LB502]

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

Floor Debate
March 28, 2007

SENATOR WIGHTMAN: Well, they would, I can assure you of that. [LB502]

SENATOR STUTHMAN: Okay. [LB502]

SENATOR WIGHTMAN: Are you aware that if a parent left a retirement that had \$15,000 left in the retirement to one of their children, that that would be subject to Nebraska inheritance taxes? [LB502]

SENATOR STUTHMAN: Yes, I am aware of that. [LB502]

SENATOR WIGHTMAN: Would you be also aware...? Do you know at what level it starts for Class 3 beneficiaries? [LB502]

SENATOR STUTHMAN: No, I'm not familiar with that. [LB502]

SENATOR WIGHTMAN: It's \$200 at the present time. Do you think that it would be proper if somebody had \$210 in a checking account, say with maybe in today's age, a live-in person, and there was \$210 in a joint checking account, that that person owes an inheritance tax? [LB502]

SENATOR STUTHMAN: I think that's the way the current law is, and I think he rightfully owes some inheritance tax. [LB502]

SENATOR WIGHTMAN: And you think that ought to be the proper level? [LB502]

SENATOR STUTHMAN: I will comment on that a little later when I have more time. [LB502]

SENATOR WIGHTMAN: Okay. Senator Nelson, I know you are up pretty quick, but I'll...since you have more experience in this I will ask if I could ask Senator Nelson a question. [LB502]

SENATOR LANGEMEIER: Senator Nelson, would you yield to a question? [LB502]

SENATOR NELSON: Yes. [LB502]

SENATOR WIGHTMAN: Now, Senator Nelson, you are a practicing attorney, is that correct? [LB502]

SENATOR NELSON: That's correct. [LB502]

SENATOR WIGHTMAN: And you do some probate work, is that correct? [LB502]

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

Floor Debate
March 28, 2007

SENATOR NELSON: I do quite a bit of that. [LB502]

SENATOR WIGHTMAN: Is it correct that if property passes to somebody whose considered a Class 3 beneficiary, that the threshold level is \$200? [LB502]

SENATOR NELSON: It is \$200? [LB502]

SENATOR WIGHTMAN: \$200. [LB502]

SENATOR NELSON: Frankly, I'm not aware of that. I did not know that that was the level right there. [LB502]

SENATOR WIGHTMAN: You probably haven't practiced law in that small an estate. [LB502]

SENATOR WIGHTMAN: Probably not. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR WIGHTMAN: I guess I'm asking, do you feel that some of those levels need to be increased? [LB502]

SENATOR NELSON: Well, I'm going to speak to this, Senator Wightman. With all due respect, I don't feel we should make any changes at all here and so I'm just going to have to broaden the category to everything that I've heard before, and I will speak on my own time. Thank you. [LB502]

SENATOR WIGHTMAN: Okay. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Wightman. (Visitors introduced.) Returning to the discussion, Senator Nelson, you are recognized, followed by Hudkins. [LB502]

SENATOR NELSON: Thank you, Mr. President. I rise in opposition to this bill. I know we have an amendment before us which I think reduces the \$100,000 down to \$50,000, and I would certainly support that. And I think we have another amendment after that, that would call for better enforcement. And I agree with Senator Wightman: We need to have better enforcement. There is just a lot of money that goes by the board because there is no follow-up on the part of county attorneys and other officials to see that this tax is paid. The only time it really gets paid is if there is some real estate involved and you have to remove a lien from that real estate by paying the inheritance tax. I've practiced law for 35 years now. I've done a lot of probate work, a lot of inheritance tax returns--I suppose maybe 15 to 20 returns a year, and that would be conservative. And I

Floor Debate
March 28, 2007

feel that I have a sense about inheritance tax and I'm just going to make a statement: Why are we trying to fix something that doesn't need fixing? Nobody really is complaining about this tax, at least not on the Class 1 level, and that's where we're really affecting things here. Let me assure you, this is not a revenue neutral bill. It amounts to a loss for the counties, and Senator Wightman is a mathematician, but let me give you some simple figures. We're going to go from a \$10,000...let me say, so we've had a \$10,000 exemption since 1901 or whatever it is. What difference does that make? We're involved in the revenue that we're going to get and a tax that is not unfair; that is broad and general, something in the area of a sales tax. If we're going to go from \$10,000 to \$50,000, that means there is \$40,000 that is not being taxed in Class 1 at 1 percent. At 1 percent, that's \$400. If...I can only speak from our experience in Douglas County, and I talked with a county attorney who deals with this quite a bit, and they probably deal with anywhere an average of 7-10 returns a day. But let's go with 6 a day at 5 days a week. That's 30 returns at a loss of \$400. There is \$12,000 a week. And if you want to multiply that out by the weeks, then there is a loss of \$600,000 to Douglas County. And that may not seem like a significant amount, but according to a chart that we have here, if you take Class 1 and Class 2 and 3, you are talking about, let's just estimate it as a 16 percent loss, a little over a million dollars of loss. And if it's detrimental to Douglas County, it certainly is detrimental to a lot of the counties in the western and central part of the state where they don't deal with figures like that. And I can appreciate what Senator Loudon says, that there may be some large estates where it does make an effect, but I just want to remind you that probably 80 percent of our inheritance tax returns are dealing with small estates, and probably anywhere from two to five children, and every one of those children gets a \$10,000 exemption. So I don't think we really collect that much from most estates. And let's take an example: If I were to inherit \$100,000, which would probably be comparable, and I had some siblings, I get a \$10,000 exemption on that. That's \$90,000 that's going to be subject to tax at 1 percent. That's \$900 that I would have to pay. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR NELSON: If you get into the other categories, in Class 2 and 3, yes, the tax is higher, and that's fine because they are remote relatives. There are nephews and nieces. And in the third class there are friends that it's a windfall for. I had an estate where a lady got \$900,000. She paid \$90,000 in tax and she didn't say one word about it because she was walking away with over \$800,000. It was a gift to her. According to my figures in Classes 2 and 3, even though they have raised the rates in this bill, it's not going to bring in...that may be revenue neutral but it didn't work out that way for me. It was even less there in Classes 2 and 3, and certainly a loss of revenue in Class 1. So I really feel we can leave things alone here. If we don't support the counties with this revenue, they're going to have to look to property tax, and I think we'll have a lot to answer to if our actions here cause those counties to increase their property tax. Thank you, Mr. President. [LB502]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: Thank you, Senator Nelson. Wishing to speak we have Hudkins, Kopplin, Lathrop, Dubas, and others. Senator Hudkins, you are recognized. [LB502]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. Is Senator Mines available? Senator Mines,... [LB502]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB502]

SENATOR HUDKINS: ...I have two questions for you. [LB502]

SENATOR MINES: I will, Mr. President. [LB502]

SENATOR HUDKINS: Thank you. Two questions. You had said early on, or someone did, that there were eight states that had inheritance taxes. Do you know where they use their money? What do they use that inheritance tax money for? [LB502]

SENATOR MINES: I do not know where...if the state or the counties collect inheritance tax. I don't know that. [LB502]

SENATOR HUDKINS: Okay. And then my second question is, this bill is retroactive to January 1 of this year, 2007, and it doesn't have the emergency clause on it. Now, what happens if this bill passes the way it is, how will counties repay those who were required, because the law went into effect in January, they paid the county the inheritance taxes and at the old rate, and now the rate is different. How are they going to be, the people going to be repaid? [LB502]

SENATOR MINES: I'm sorry, Senator. I didn't follow that. How will heirs be repaid? [LB502]

SENATOR HUDKINS: Let me try... [LB502]

SENATOR MINES: Oh, I see what you mean. Yes, I do. Yes, I do. [LB502]

SENATOR HUDKINS: If you have a date effective on this, wouldn't it be better to not have it retroactive and to have it effective on January 1, 2008, rather than being retroactive? [LB502]

SENATOR MINES: I think you make a very good point, Senator. [LB502]

SENATOR HUDKINS: Thank you. I will continue then. Thank you, Senator Mines. I at this...the way that the bill is written now, I cannot support it. But I have heard that there

Floor Debate
March 28, 2007

is a group of people that are working on an amendment to make this revenue neutral for the counties. If that can be done, then I would be supportive, but right now I cannot. The Nebraska Association of County Officials, and I'm sure some of you had heard this before but you always need to hear something three times before it sinks in, NACO did a study and they took the inheritance taxes of 14 selected counties. They were done east, west, urban, rural, all over the state, so it wasn't just a chunk of counties in one part of the state. And they said that LB502, as introduced with the \$100,000 limit, there would be a loss to the counties of 27 percent. Now, of course we know that the amendment lowered that to \$50,000, and so now they're saying that there would be a 16 percent loss. Even 16 percent is a bunch. Douglas County did their own analysis, and they said that their calculations indicate that they would lose over 15 percent. So it's not just one group of people trying to find a set of numbers that supports their position. What does the inheritance tax go for? Where is it used? Well, Nemaha County, they transferred \$480,000 to the general fund so that the levy could remain the same as it was last year. If they hadn't, the levy would have raised from .3549 to .4574. Inheritance taxes...no, never mind that. Let's go to Buffalo County. I think the theme this year is, we want tax reductions, not tax shifts. Well, if this bill would go through as it is right now, there would definitely be a tax shift. The counties would not be getting the money that they had formerly received from inheritance taxes, and they never know how much money they're going to get. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR HUDKINS: You don't know how many people are going to die. You don't know how much money they're going to die with. So what did Clay County use their money for?--\$125,000, almost \$126,000. They used this to pay for CASA, Mid-Nebraska Area Agency on Aging, and Region III behavioral services. Without this inheritance taxes, they either couldn't have done those services or they would have had to raise their property taxes. There are several others here, but the one that I felt was most interesting came out of the Dawson County paper, the Clipper-Herald, on March 14 of this year. They used their inheritance tax fund to pay this March's payroll. If they hadn't had that money, they could not have met payroll. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. We have Senators Kopplin, Lathrop, Dubas, Stuthman, and others. Senator Kopplin, you are recognized. [LB502]

SENATOR KOPPLIN: Thank you, Mr. President, members of the Legislature. I've been trying to understand this bill. I've had some conversations with Senator Gay and I listened carefully, actually Senator Nelson helped me a lot. But, you see, I worked so long in public service I've never really thought about inheritance tax before. And when I came down here for my second career, I finally convinced my wife it's okay if I don't break even. So inheritance tax has never really been high in my mind, but then we call it the death tax and it gets pretty high on my mind all of a sudden. But I'm trying to

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

Floor Debate
March 28, 2007

understand this. I think Senator Nelson is out. Senator, I would like to ask Senator Wightman a question. [LB502]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB502]

SENATOR WIGHTMAN: Yes, I will. [LB502]

SENATOR KOPPLIN: I think I heard you say that not all inheritance taxes are collected anyway. Did I hear you say something like that? [LB502]

SENATOR WIGHTMAN: That is very true, and the reason is if there is not real estate involved, probably, and anybody's answer is going to be speculative, but I would guess that it's more than 60 percent of the cases are never filed. [LB502]

SENATOR KOPPLIN: And that would be mostly people with a little money in the bank or something like that? [LB502]

SENATOR WIGHTMAN: Right. And what some people fail to realize is that you don't have to own property in your own name. You can own it jointly and it's still subject to taxes if the person who died was a major contributor or the contributor to that money. So if they held a \$15,000 CD, that's subject to taxes in joint tenancy. [LB502]

SENATOR KOPPLIN: What if I had a \$25,000 CD that I just put in one of my kid's name? Will that ever end up being taxed? [LB502]

SENATOR WIGHTMAN: They would end up owing, under current law, about \$150. But the bad part of it is, if they saw fit to comply with the law, which they might well not, it would cost them about \$300 to \$400 to get that determined by the county court, so they would not only owe the \$150 but they would probably incur a \$300 or \$400 bill just to find out how much they owed. [LB502]

SENATOR KOPPLIN: And if they just spent it? [LB502]

SENATOR WIGHTMAN: And if they just spent it then they haven't complied with the law, and we are proposing an amendment to this bill that hasn't come up yet, that would give the counties some additional enforcement provisions. [LB502]

SENATOR KOPPLIN: Okay, but...thank you, Senator Wightman. But may I ask Senator Nelson a question, please? [LB502]

SENATOR LANGEMEIER: Senator Nelson, would you yield to a question? [LB502]

SENATOR NELSON: Yes. [LB502]

Floor Debate
March 28, 2007

SENATOR KOPPLIN: You made some comments about property tax, and I think I agree with you that this is not revenue neutral, and certainly counties are going to replace that funding with someplace and it's probably going to be property tax. So if I have a small amount of money that I can let somebody inherit, would they be paying just as much in property tax to make up what isn't done as they would in what they might inherit? [LB502]

SENATOR NELSON: Well, that's a hard question to answer. It depends so much on their particular situation and what their income is and things of that sort. Just bear in mind, this is a tax on money that they inherited, that they didn't earn particularly, and so we're taxing that at what I consider to be a fairly low rate and a fairly uniform rate, and raising revenue that way, as I said, where there has been very little complaint in my experience. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR KOPPLIN: Okay, thank you. I really would like to be shown before this discussion is over that it is revenue neutral. If it's not, the counties will indeed be shifting to property tax that which they were collecting in inheritance tax. So I'm looking forward to the rest of the discussion. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator Lathrop, you are recognized. [LB502]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am a practicing attorney and I will tell you that Senator Nelson has probably done more returns in a month than I've done in a lifetime. It's not my area of practice but I have done some probate work over the years. And my concern...first of all, I support the idea of updating the inheritance tax calculation process. There are two things at work in this reform. The first thing is, is that we don't want to require families who have just a small amount over what is now the exempt amount of \$10,000, we don't want them to come in and have to pay a lawyer \$300 or \$400 to go down to the courthouse and determine the inheritance tax due and work with the county attorney and get an order of the county court. I appreciate the need to increase the exempt amount. Having said that, I think this reform to inheritance tax was originally pitched to us as revenue neutral. I have seen numbers from NACO, the county folks, that indicate it's not revenue neutral. I hope that we will see an amendment here shortly that will make some changes so that this is revenue neutral. My concern is that when it comes to income to the counties, they can tax the inheritance tax or they can levy the property tax. And if we take away a revenue source from the county, in effect play big brother, we are effectively passing along or mandating that they increase property taxes. To suggest that this is money that counties don't take into account when they figure their budget, I think is not accurate. We may not know if

Floor Debate
March 28, 2007

you are a county commissioner how much you are going to get in any given year. It may depend upon whether you have someone in your county who is particularly affluent that dies, but they do know statistically a certain amount of people are going to die; a certain amount of revenue is going to be generated by inheritance taxes. And they're going to spend that money, they're going to count on that money, and that's certainly what the folks in Douglas County are telling me. So if we proceed with LB502 even as amended, we're going to create a revenue shortfall which will find its way back to the homeowner in the form of a property tax increase. I oppose that. I oppose the bill in its current form, but when we make changes, and I think we'll see an amendment here shortly that truly makes LB502 revenue neutral, it will have my full support. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Dubas, followed by Stuthman, Carlson, and others. Senator Dubas, you are recognized. [LB502]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I too rise in opposition to this bill and to the amendment. I agree with Senator Lathrop, if we can craft something that is revenue neutral I could be in agreement to that. Counties do depend on this money. Maybe it's not a regular amount that they're able to count on, but they know that it's there and they count on it. They use it. They use it, not for luxury items; they use it, as Senator Hudkins said, to pay payroll, to actually give that property tax relief. All too often we've heard, you know, that counties have to learn how to hold the line and tighten their belts and do all these other things if we want to control property taxes. And I think this is another example of the state giveth and the state taketh away. We've given them a funding resource. It's something that they've used. It's something that they tend to build into their budget. And then the state comes in and makes changes and takes that away from them. And the only place that counties or local governments have to go to is to property tax. That's the mantra of the session this year, is giving property tax relief, and we're not going to make that happen if we move forward with this bill. So again I can't support it in this manner. I've also visited with some of my local county treasurers who have told me that with the advent of good estate planning these days, you know there's not very many people anymore, especially if they own property of any sizeable amount, that aren't going through proper estate planning channels. And so just by this source alone, this income resource is going down because of good and sound estate planning. So I think things are happening in the personal arena as far as controlling people's finances, and we really shouldn't be having the state get involved in this. So I hope we're going to be able to generate an amendment that will be able to create this as a revenue neutral bill to the local counties. In that manner, I would probably be able to support it, but the way this bill stands and with the amendment, I cannot support it. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Stuthman, you are recognized. [LB502]

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

Floor Debate
March 28, 2007

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. The other day we did not get to this bill, and I did pass out the amount of dollars that were collected by counties and how much the revenue loss would be to the counties if this bill was enacted. The word is that it's supposed to be a revenue neutral bill, but it is not, and I'll give you some of the figures. And I'll use my county as an example: Platte County. We take in an average of \$568,000 a year. And the change that would take place if this bill was passed would be about \$90,000. Ninety thousand dollars is a lot of money. That is a lot of money. Yes, I will agree that the counties do not figure the amount that they're going to take in, and I know this from experience. I served on the county board for eight years; was the chairman two years. We do not put that figure in as guaranteed revenue coming into the county because we do not know how many people are going to pass on or how many estates are going to be settled throughout that year. But I'll tell you how we utilize those dollars, and I'll give you an example. In Platte County we put up a detention center, a correction center. It cost about \$8.5 million. We put a million dollars of our inheritance tax fund money into that so that our bond would be a million dollars less. That is property tax relief. That bond, those million dollars, did not go on to be paid for by the taxpayers. A lot of times counties will utilize that money for things that they did not foresee happening to the courthouse, to probably the highway department, issues that come up of maybe needed repairs or if something blows up or burns up, and they have that to fall back on. If the counties did not have this to fall back on, if they had to do that, where would they get the money? From property tax. They would get it from property tax. What is the biggest concern of everyone out there? Property tax. Did you ever hear on the campaign trail, I'm concerned about that inheritance tax that I might have to pay when I inherit money? No, you never hear that. I have never heard that. They're willing to pay that 1 percent. The thing that also concerns me in the discussion is that we're going to attempt to make this revenue neutral. We're going to raise the \$10,000 to \$50,000 on the Class 1's. What are we really doing? If we're going to make it revenue neutral, the only way you can make it revenue neutral is Class 2 and Class 3 beneficiaries--tax them a little bit more. They're distant relatives. Get a smaller group of people to pay a little bit more so that we don't have to pay any more property tax. It's a tax shift. You are shifting to that group of people. Yes, they are inheriting money, but why should a small group of people have to give a little bit more just to keep the property taxes low to make this revenue neutral? I totally oppose this bill and I will oppose it all the way. I think we're dealing with something that is a tax shift. I don't like a tax shift. Why don't we just come right out... [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR STUTHMAN: ...and say let's eliminate the inheritance tax, which people would be happy with, eliminate the inheritance tax and put it all on property tax? Anything the county needs, put it on property tax because we don't care about the \$5

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

Floor Debate
March 28, 2007

million that we've got in our kitty of inheritance tax. Let's just let that go away. I just...I'm really concerned that we're discussing an issue that the only thing we're going to try to do is shift something. It's not going to change anything. The county is still going to need to generate so much money to pay their bills. They utilize this money from the inheritance in their cushion, in their kitty that they can fall back on. There are times when a county does have to make payroll when taxes do not come in... [LB502]

SENATOR LANGEMEIER: Time. [LB502]

SENATOR STUTHMAN: ...and they can fall back on that. Thank you. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Carlson, you are recognized, followed by Hudkins, Gay, Loudon, Mines, and others. [LB502]

SENATOR CARLSON: Mr. President, members of the Legislature, I'm going to yield my time in a moment, but before I do I would like to address a question to Senator Wightman. [LB502]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB502]

SENATOR WIGHTMAN: I will. [LB502]

SENATOR CARLSON: In your experience, Senator Wightman, I've heard this mentioned now, that a lot of the taxes aren't collected...or a lot of the taxes aren't paid, so somebody is abusing the law in this. But are we talking about...we're talking about those estates, the small estates, is that correct? [LB502]

SENATOR WIGHTMAN: That's correct. [LB502]

SENATOR CARLSON: Are there larger estates that abuse this law? [LB502]

SENATOR WIGHTMAN: Oh, I'm sure there are. If they own real estate, Senator Carlson, they cannot do this because eventually they are going to have to have an inheritance tax determination to clear the title to the real estate. But they could have \$500,000 in CDs and probably never comply, never file a petition to determine the inheritance tax. And as I said, I have checked with our county and Dawson County. As far as I know, in 43 years I've never brought an action against anybody who failed to have that tax determined to determine that tax and to force payment. [LB502]

SENATOR CARLSON: Okay, thank you. If there are cases where there is a half a million dollars in a cash account and there are no inheritance taxes paid on it, that's a crime and that ought to be corrected. At the lower end I think it's a different story. You asked for this, Senator Wightman, and with that I yield the rest of my time to you.

Floor Debate
March 28, 2007

[LB502]

SENATOR LANGEMEIER: Senator Wightman, three minutes. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Carlson. Of course, Senator Carlson has said this is a crime. Unfortunately it's probably not a crime. There is a civil penalty and only a civil penalty for failure to determine and pay the tax, and even that goes away, which kind of indicates how unlevel the playing field is. But there is a 14 percent interest, but if a person owes \$10 after he determines it, obviously he's not very likely to determine that tax because he's not very concerned about the 14 percent that starts one year after the date of the decedent's death. I have an amendment that would provide a 5 percent penalty a month, up to five months, or 25 percent. I think that will get the attention of people having larger estates or being beneficiaries in larger estates, and would continue the 14 percent interest. And my understanding is that the counties do want that and I am certainly willing to go forward with that amendment. We are also working on some changes that would make it revenue neutral, so I hope that answers your questions. But there are probably \$500,000 estates that would owe as much as \$4,000 to \$5,000, and maybe greater amounts, that's never been collected because we just are not bringing any enforcement. And I have some ideas as to how that might be enforced, and one of them would be for county attorneys in counties the size of Phelps County and Dawson County to just clip out obituaries. One of the problems we have today, and I'm sure you are aware of this, Senator Carlson, is that people move away, particularly when they sell their homes, they are elderly. They very likely, and we have a lot of these, move away to a county where one of their children lives and takes residence in an assisted living there. And their place of residence determines where that would be brought in the event there is no real estate--that proceeding would be brought. And so all of a sudden the county of their residence has shifted from where they lived all their life to perhaps Omaha or Lincoln or some other county. But at that time it would be that county that would be entitled to collect the revenue from the inheritance taxes. [LB502]

SENATOR LANGEMEIER: One minute. [LB502]

SENATOR WIGHTMAN: So that's a problem that, in enforcement, that there is probably not a lot that we can do other than to give the county attorneys more enforcement. I am sure, and we're going to look at making this more revenue neutral, and those negotiations are on the way at the present time, but I am sure that the counties right now could collect more than they will lose in this revenue if they would enforce the inheritance tax law that's on the books. So with that I thank you. Thank you, Mr. President. [LB502]

SENATOR LANGEMEIER: Thank you, Senator Wightman and Senator Carlson. Mr. Clerk, for a motion. [LB502]

Floor Debate
March 28, 2007

ASSISTANT CLERK: Mr. President, Senator Mines has moved to amend the committee amendments with AM875. (Legislative Journal page 959.) [LB502]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Mines, you are recognized to open on AM875. [LB502]

SENATOR MINES: Thank you, Mr. President. I have good news, I think for everyone. This is an idea that was presented by the NACO officials and other county officials, and has been agreed to by Senator Wightman and others, including myself. Here's what AM875 does. Obviously we're going to amend the committee amendment of AM544, and I've talked to Senator Janssen about this and legal counsel for the Revenue Committee, and they've done great work. Here's what it does: In Class 1's, which are the immediate family members, it would increase the exemption amount from the current \$10,000, to \$40,000, and I think that will touch the average Nebraskans. I mean that's really what this bill was about, was about exempting those folks that don't have great wealth, and frankly, \$50,000 or \$40,000 is not great wealth unfortunately today in Nebraska. In the Class 2, which are remote family members, aunts, uncles, nieces, currently is 6 percent in excess of \$2,000. This amendment changes that to 13 percent in excess of \$15,000. So we've increased the exemption to \$15,000 but we've also increased the amount to 13 percent. And then finally for Class 3's, unrelated individuals, it would be 18 percent of anything in excess of \$10,000. Again, we believe that this is more revenue neutral than the bill that was introduced and prioritized then by Senator Wightman. I believe all parties are okay with it, and I think okay is sometimes...Senator Brashear used to say the enemy of good is perfect, and today we've seen the good and the not so perfect. But I believe this amendment does accommodate both sides. I will support it and would ask for your support as well. Thank you, Mr. President. [LB502]

SENATOR FRIEND PRESIDING [LB502]

SENATOR FRIEND: Thank you, Senator Mines. You have heard the opening on AM875 to AM544. Senator Hudkins, you are recognized to speak. [LB502]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. When I ran out of time last time I spoke, I was in the middle of telling you what the counties did do with this inheritance money. I would like to continue that now. Perhaps some of you weren't listening or were busy doing other things when I talked about Dawson County. That is Senator Wightman's county. If it hadn't been for the inheritance taxes, they would have been hard-pressed to pay their March payroll. The taxes don't come in, in February and March; now they'll be probably coming in, in April, May, I don't know what their county does. But that's one of the things that they used their inheritance taxes for. Buffalo County said that the original LB502, and of course we've made several changes since then, is not tax relief. And someone said this morning on the floor or asked if this

Floor Debate
March 28, 2007

was a tax reduction bill. Well, tax reduction to whom and in what form? It would perhaps mean less money paid for the people who inherit. But if you are a property tax payer in one of those counties that came up short, you can bet that it's not going to be a tax reduction to you. It is going to be a property tax increase. Knox County uses their inheritance taxes to pay for a public defender, court-appointed attorneys, and special county attorneys. If they didn't have this inheritance tax money, they would have to increase their levy by 2 or 3 cents just for the covering costs that would have been covered by the current inheritance taxes. Antelope County recently used their inheritance tax to make their courthouse ADA compliant. They also use it as a buffer for the times when the tax dollars are not there but the bills and the payroll still needs to be paid, similar to what Dawson County just went through. Hall County uses inheritance taxes for emergencies, health insurance increases, updating computer equipment. And a reduction of the funding to their county would definitely be an additional burden on local property taxes. Lancaster County had a problem with a bridge. There were certain chemicals that were in the water and was eating away at the pilings of this bridge, and I think it was something like, oh, I'm going to say \$400,000 but I don't know if that's completely accurate, but that's what they used inheritance taxes for in Lancaster County. So with the amendment that we have heard about, I think that I can be supportive of this bill. I don't want it to be an additional burden on the property tax payers. If it were just me talking, I would say, sure, exempt everything and don't have any inheritance taxes, but as the wife of a county commissioner, that would not be responsible. So I am also looking out for the welfare of the counties, as well. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Hudkins. Senator Gay. [LB502]

SENATOR GAY: Thank you, Mr. President. I wanted to discuss a few things, and one is the idea of a tax shift that in some way, if we don't collect these taxes, that automatically these counties are going to go raise their property taxes. You know what? Twelve years prior to coming here I was a county commissioner, and I understand their needs, believe me. But just because they don't get the revenue doesn't automatically mean that they are going to raise property taxes. They are very fiscally prudent people. What I would say is let's give them a little bit of credit. Many times counties come here, year after year after year, looking to help find ways that they can be more efficient or charge a little fee to offset some of their costs they're incurring, and they continually get the door slammed in their face from the Legislature. Well, you are in the Legislature now, and counties are looking out...they are looking...they can do interlocal agreements, they can reduce and not use some services that maybe they no longer need, much like we do. Sometimes you have revenue, sometimes you don't. That's the budget cycle. Again, I'm going to support this, and I'm looking forward in the coming years to find ways I can help the county. I will not make my county friends happy today probably, that's for sure. I commend NACO and Senator Mines and Senator Wightman for a compromise here. It sounds like it makes some good sense and I think it will work, so, as we have further

Floor Debate
March 28, 2007

discussion. But I guess the point is, let's just don't make an assumption that if they don't get this revenue that taxes are going up. I have a lot more faith in county elected officials than that, so. But on these unexpected expenditures, too, those are great uses for some of the money. They're still going to get this money. We're making it revenue neutral with these amendments the best we can. And again, let's remember, this doesn't happen until...we don't know who is going to die in the coming years, do we? So there will be some years where the wealthiest man in town will die. There will be other years where they don't. So it's an unexpected source of revenue anyway, but I would say, urge you to support this. It's a nice change from...1901 was the last time we looked at this and there's been other discussions so far this year in this session where we have increased things to adapt to change. That's what we're doing here. And this will help these smaller estates who, that's important, they don't have to pay this tax. It goes right into their pocket and doesn't go to the county. I would think they would like that because a lot of people, sure, they're not asking you when you are going door to door, boy, the inheritance tax. I mean, they're not thinking about that at that time. But when it comes time to pay this thing, they certainly are, and they aren't happy about it, I guarantee you that. So I think the amendment to help the collection process makes great sense if Senator White helped work on that. I just think that makes good sense, so there are some nice changes here, and the changes we're making too would be in the Class 2 and Class 3's which aren't the direct descendents. So we're talking about a niece or nephew who, boy, here I've got some money. Well, they're happy to get that money anyway and, you know. But what we're doing is creating the opportunity where we're going down the line a little further and it's nice fair amendments that are being proposed here, and I would urge your support on in. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Gay. Members of the Legislature, the discussion is AM875 to AM544. Wishing to speak are Senator Louden, Mines, Dierks, Howard, Wallman, and Erdman. Senator Louden. [LB502]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I stated before, I certainly would support this bill. What usually these counties use this money for is they always call it their rainy day fund. Some of the counties in the western part of the state, they'll use it for snow removal and bridges that get washed out or something, the catastrophes that they need some quick money. And they usually don't spend this money and that was mostly to save back so they didn't have to go into budget problems with their property tax in order for when something arose that needed some serious attention. There are some counties that have gotten into trouble with court cases, and they've had to pay some heavy-duty lawyer fees for convictions and that sort of thing in some of their court system, and it certainly has used that to eat up all of their money. So there are some counties that end up without any of this inheritance tax money, at all, on hand. I think the way this is set up, and especially with this amendment that's on here now, I would say the people on the immediate family are probably going to benefit from this, and this is well it should be. The way it's set up, the farther extended family

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

Floor Debate
March 28, 2007

members will pay a considerably amount more, and then when you get into those that aren't related, why, it's been lowered down to about \$10,000 and the 18 percent or so. So I think we're not going to cut the counties out of that much money. It looks like to me the way the thing is drawn up, it isn't going to be that far from revenue neutral, but it does give a benefit to the family members that inherited some of their parents' estate or spouse's estate or something like that. So some of the family members don't get a homestead exemption out of it, the spouses usually do, but there will be family members as sons, daughters, and that sort of thing and that lineage, that will get a little bit of a break. It would be a 1 percent; be raised from \$10,000 to \$40,000. So I think if this is a compromise to make the thing work, I think it's well-thought-out and it's well done. So I still...I will support this amendment to LB502. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Louden. Senator Mines, you are recognized to speak. [LB502]

SENATOR MINES: Thank you, Mr. President. This is the last time I'll speak on this amendment. Just let me bring you up to speed on process as I see it. We'll see how it happens. We've got LB502. We've got a committee amendment pending, AM544, which is the Revenue Committee amendment. And AM875 is amending the Revenue Committee amendment, and it does those things that we have already talked about--changes rates. And one thing I neglected to mention, Senator Hudkins had brought up changing the enacting date from 2007 to 2008. AM875 does that. And you'll see on your viewer that Senator Hudkins has FA54 that would do the same thing, and I believe she'll withdraw that at the appropriate time. We've also got in line, Senator Wightman has AM683 which I support and hope we will advance that, and Senator Stuthman has an IPP motion of FA39 that I hope we can get through that, as well. So I would urge the body to support AM875 to AM544, and then obviously we'll move on to LB502. Thank you so much. [LB502]

SENATOR FRIEND: Thank you, Senator Mines. Senator Howard, you are next to speak and you are recognized. [LB502]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I've been following this debate very closely and I was especially interested in what Senator Kopplin had to say earlier, and I echo his sentiments, having come from a career in Health and Human Services that was not a high-paying career by any means. I have not until this point worried to a large extent about any sort of estate or inheritance tax. However, the district I represent, District 9, is an older section of Omaha, well-established older homes, and many of those homes are owned by retired individuals, and their wealth is in their house. They will not be bequeathing property to their children until they either move from that property and then consequentially are not with us any longer. But one of their largest worries is an increase in property tax to the

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

Floor Debate
March 28, 2007

point where they can't afford to stay in their own home that they worked their lives to pay off. And I share that concern which was the motivation for me behind the removal of the...the efforts I made, I should say, towards the removal of the home repair tax which was enacted last year. But to look at these figures and to consider that the amount from Class 1 would jump from an exempt \$10,000 to an exempt \$40,000, that has got to leave an amount of money that is not going to be available to pay county bills, that's not going to be available to meet obligations and that will have to come from some place. Now, with all due respect to Senator Mines, who in the past two years I've learned a great deal from, being down on this floor with him, but I would have to say that one of the things that I am most concerned about is again the tax shifting, which in my mind is probably the most detrimental of taxes because it leads you to believe that there won't be a tax imposed, and yet it's tricky and you receive an increase in an area such as property tax that you are not expecting and don't know what to attribute it to. So I will continue to watch this bill and to study these amendments, but will be very vigilant regarding the potential of any type of a property tax increase that would affect especially those people that are working to stay in their own homes and to lead their own lives. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Howard. Wishing to speak are Senators Wallman, Erdman, Stuthman, and Wightman. Senator Wallman, you are recognized. [LB502]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I love the way Senator Stuthman says shift gears. Shift taxes. That was one of my favorite things on the campaign trail: shift, shift here, there, everywhere. We shifted money out of the General Fund to the road fund and we're shifting money around here. Whether it's good or bad, I don't know, but I'm watching this too, very close, if we can make this revenue neutral, but we're shifting something here. And I would yield the rest of my time to Senator Wightman. [LB502]

SENATOR FRIEND: Senator Wightman, you have 4 minutes and 20 seconds. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Wallman. I guess I'd like to ask a question or two of Senator Gwen Howard if she is available to answer a question. I don't know where she is. [LB502]

SENATOR FRIEND: Senator Howard, would you yield to a question, please? Is Senator Howard in the Chamber? Sorry, I see you. Will you yield? [LB502]

SENATOR HOWARD: Yes, I will. [LB502]

SENATOR WIGHTMAN: Senator Howard, you expressed some concern over the fact that perhaps property taxes would be asked to make up some of the revenue lost. Did

Floor Debate
March 28, 2007

you understand that AM875 would, according to the county officials, make this revenue neutral? [LB502]

SENATOR HOWARD: Well, I heard that...I'd be happy to respond, yes...I have heard the term revenue neutral discussed here on the floor considerably now, including that this bill was initially revenue neutral, which I received documentation that said, no, it wasn't. And so I am sure you can appreciate my concern regarding this. I would welcome your further explanation regarding why this will be revenue neutral, and I'm always open to reassurance regarding that. [LB502]

SENATOR WIGHTMAN: Thank you. I can tell you that the way it was initially proposed by LB22 was not intended to be revenue neutral, and AM875, to the best of our knowledge, and I don't believe that the NACO lobbyists would be telling us that it is revenue neutral unless it is. Frankly, I have a lot of problems with AM875. I'm going to support it because I understand that the nature of legislation is compromise, and I think that's what's happened here, but believe me, it bothers me, because I've certainly represented a lot of estates where if the inheritance passed to nephews and nieces, in the spirit of compromise we're talking about raising about \$45,000 of what previously to them was taxed at 6 percent, to 13 percent, and they from there on, \$60,000 on up. What they previously paid a tax on at 9 percent is going to go to 13 percent. And that concerns me, but I still think that it's better to have larger exemptions, have a law that maybe will be enforced sometimes. And I talked a little bit about the amendment that is still coming up. That amendment will give some enforcement tools, and I have no question that if the counties seek to use the enforcement tool that they're given, that they will be far better than revenue neutral. And what that amendment will do is to provide some larger penalties for failure to provide to have a proceeding that would determine this inheritance tax. So if they go a year after the date of death without determining inheritance tax, there would be a 5 percent per month penalty up to 25 percent. Now that happens to be the same penalty that's provided for Internal Revenue Service by Internal Revenue Service on late payment of income taxes, or at least late filing of income taxes. [LB502 LB22]

SENATOR FRIEND: One minute. [LB502]

SENATOR WIGHTMAN: In addition, they will continue to have their 14 percent interest that would continue from one year after the date of death, so they have many tools at their disposal, and I think a lot of counties, counties particularly under \$40,000 or \$50,000, the county attorney's office could easily maintain a register and know the dates of death. But one of my objections to the law as it existed, and probably my major objection is, nobody was complying with it. And when I say nobody, I am using that term too loosely, but I suspect that 50-75 percent of the people, at least 50 percent of those who owned real estate, were not complying with that law, and that's not a very level playing field. Thank you. [LB502]

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

Floor Debate
March 28, 2007

SENATOR FRIEND: Thank you, Senator Wightman. Senator Erdman, you are next and you are recognized. [LB502]

SENATOR ERDMAN: Question. [LB502]

SENATOR FRIEND: The question has been called. Do I see five hands? I see more than five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB502]

CLERK: 27 ayes, 1 nay, Mr. President, to cease debate. [LB502]

SENATOR FRIEND: The debate does cease. Senator Mines, you are recognized to close on AM875 to the Revenue Committee amendment. [LB502]

SENATOR MINES: Thank you, Mr. President. This old horse is about dead tired so I won't go on very long. AM875 amends the Revenue Committee amendment, AM544, and again changes the rates in our three different classes of inheritance tax. There is belief that it's somewhat revenue neutral, and it also changes the enacting date from 2007 to 2008, as Senator Hudkins had pointed out. This isn't the end of it. Now we've got, following this, if you are in concurrence and we adopt AM875, you'll see Senator Wightman's AM683, and then a couple floor amendments. But this puts this whole thing together. I would appreciate your support. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Mines. You have heard the closing on AM875 to the Revenue Committee amendments. The question is, shall AM875 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Record please, Mr. Clerk. [LB502]

CLERK: 34 ayes, 3 nays, Mr. President, on the adoption of Senator Mines' amendment to the committee amendments. [LB502]

SENATOR FRIEND: The amendment is adopted. [LB502]

CLERK: I have nothing further pending to the committee amendments, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Mr. Clerk. We will continue discussion on the committee amendments, AM544. There are three people wishing to speak. Senator Stuthman, your light is next; you are recognized. [LB502]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have tried to explain several of the things that we're doing in this process right now. We're

Floor Debate
March 28, 2007

trying to come up with the same dollars to the county. How are we trying to do that? We're trying to shift. We're going to have one group pay a little more, the other group pay a little less. Is it a concern of the people? I've never heard of it. We're talking about \$4.8 million of shift; just about \$5 million of shift from one group to another group to attain the same goal. Why are we spending all of this time if we're trying to get to the same goal? We want to say, you've got to pay a little more, Senator Carlson; Senator Ashford, you have to pay a little bit less. That really concerns me. I have a concern, that Class 3 one where they're not relatives, and a lot of you people do not realize that there are ranch families where there is probably just the widow left on that ranch that has a hired hand that has a family that's worked for this widow for 45 years. And she wants to give this ranch to that family that has helped her, kept her ranch, kept the things going, kept her dreams come true. But now we voted on something that we're going to make him pay a little bit more. We want more money from him. He'll probably have to sell a quarter or a half section or half of the ranch to pay the inheritance tax. Is that what we want to do? I don't want to do that. The real issue, in my opinion, is why do we want to try to do something when we want to raise \$5 million but from a different part of the three pots? If you can explain that to me that that's the right thing to do, then I'm wrong, but. And it's not an issue that I have ever heard of in the community. It's not an issue. I'm concerned about my inheritance tax; I never heard that. But I did hear, I'm concerned about my property tax. But here we're going to do something that's going to make the property tax the same. We're going to change the areas where we get that \$5 million. We're going to have one group pay just a little bit less, another group pay a little bit more, and another group pay a lot more. Is that what we're supposed to be doing here in the legislative body? I don't think so. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Gay, your light is next and you are recognized to speak if you wish to. [LB502]

SENATOR GAY: Very quickly. One more thing, we talk about this shift again, and I will keep it short: It is not a shift. We do many other things, and one this year was introduced every year, but Senator Cornett introduced LB587, county jail reimbursement--got nowhere. I mean, that was direct property tax relief. Those were services that we know we have to provide every day, every year, every hour of the day, but yet the Legislature doesn't see fit to pay that, the proper reimbursement rate that counties want. Those are the kind of things really where we can make a difference. This, what we're talking about, is aunts, uncles, nieces, and nephews, who are lucky--I wouldn't say lucky, but you are fortunate if you get anything passed on to you in this day and age. So what we're doing, this just is a fairness issue. This is a fairness issue directly to those taxpayers. Counties have a lot of other resources and brains to figure out other things. So I would continue to urge your support on this. Thank you, Mr. President. [LB502 LB587]

SENATOR FRIEND: Thank you, Senator Gay. Senator Synowiecki, you are recognized.

Floor Debate
March 28, 2007

[LB502]

SENATOR SYNOWIECKI: Thank you, Senator Friend. Members of the Legislature, just...I'm going to support the bill, the compromised version of the bill. I just might comment I was really appreciative of the hard work that was done and to arrive at the compromise, and I, for one, didn't think that there was...we were going to arrive at this situation where both these sides, the opponents and proponents, could come together on such an issue. But we've arrived at that, so I'm going to support the compromise under LB502 and I'd like to give the rest of my time to Senator Wightman. [LB502]

SENATOR FRIEND: Senator Wightman, you have 4 minutes and 15 seconds. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Synowiecki. Senator Stuthman says, well, why would we want to have a tax shift? And whether it's a tax shift or not, you know, I guess that can always be argued and it probably is. However, I would say that 95 percent of the people that pay, not 95 percent of the taxes but 95 percent of the people that pay, are direct descendants, ancestors occasionally, and brothers and sisters, all of which fit into the Class 1. I've said before it bothers me that I'm giving up this much in the spirit of compromise, but I'm agreeable to that. But as far as why we might want to make this shift, I know that all of you have always heard from realtors that three things sell a property: location, location, and location. I submit to you that three things justify this shift: enforcement, enforcement, and enforcement. We're never going to enforce a law, no county attorney in this state is going to enforce a law when the threshold level is at \$10,000 per child, \$200 for the friend that maybe lives on the farm. They aren't going to get the farm that Mr. Stuthman talked about, but they might get a \$210 or \$300 or \$400 inheritance in the form of a joint CD, and the county attorney won't have to worry about whether he's enforcing this or isn't enforcing it because we will change the threshold at that level to \$5,000 even on the Class 3, or 10. I had to look. We've changed it so many times, I'm not sure. I know that an issue was made about what are all the counties doing with the revenue. Well, I can tell you what 48 states are doing with the revenue they collect from the inheritance tax. They aren't collecting any. And probably many times in the idea of fairness that they aren't...if they aren't going to enforce it, then it's not fair. Senator White just gave me a quote, and I think it's applicable here, that the worst law you can have on the books and the most dangerous law is the one that you don't enforce, and that's exactly what we have right now. We have a law; it hasn't been enforced for years. Only the person who comes forward or that person who owns the real estate and is subject to this tax and had to do it as a title clearing measure, pay the tax. So 60 or 70 percent of the people who owe the tax aren't paying it, and at least we will have it at a level where I think the county attorneys can have some sort of an enforcement mechanism and can move forward with at least some enforcement of this bill. And we will be discussing an additional amendment if, LB...or the amendment AM544 passes, that will give the county attorneys some additional method of enforcement. And quite frankly, I think they will collect more

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

Floor Debate
March 28, 2007

revenue than they ever have, or can, if they desire to take advantage of the enforcement mechanisms that I will address in a few minutes. [LB502]

SENATOR FRIEND: Thank you, Senator Wightman. There are no other senators wishing to speak. Senator Janssen, you are recognized to close on the committee amendments, AM544. [LB502]

SENATOR JANSSEN: Thank you, Senator Friend, members of the body. Well, the committee amendments now are a little different than what they were, and I believe all interested parties are relatively satisfied with the outcome of the amendment that has been proposed. They're held relatively harmless. And I ask for your advancement of the committee amendments. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Janssen. Members of the Legislature, you have heard the closing on the committee amendments. The question is, shall the committee amendment to LB502 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB502]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB502]

SENATOR FRIEND: The amendments are adopted. [LB502]

CLERK: Mr. President, I now have amendments and motions to the bill. Senator Wightman would move to amend with AM683. (Legislative Journal page 884.) [LB502]

SENATOR FRIEND: Senator Wightman, you are recognized to open on AM683. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. Members of the Legislature, I've given you advance billing with regard to this amendment. It's the one I've been speaking about that will provide some enforcement mechanism to the counties involved, which are all 93 of them. And what it does, in the past we have...the only penalty--and it was in the form of a high interest rate--that there ever was, if you didn't determine and pay the tax, was a 14 percent interest rate that took effect one year after the date of death of the decedent. What AM683 would do is to provide, in addition to that 14 percent interest rate, a penalty for failure to file a proper proceeding. Now it's my intention that if a proceeding is on file in the form of a probate or a form of a petition to determine, that they would still only be liable for the 14 percent tax if they haven't fully determined it then. All of us lawyers from some time, time to time, in our practice...and I think John Nelson could address that and I know he has some concerns over the amendment because of that, because sometimes attorneys end up being late. Sometimes somebody comes in and they only find that the inheritance tax is going to have to be

Floor Debate
March 28, 2007

paid maybe 11 months or 12 months after the date of death, but. So from an attorney's standpoint, it's kind of a nightmare, and I am a practicing attorney and it's a nightmare to me. But I promised early on that I would offer this amendment as an enforcement tool which would assist the counties in collecting that tax that should be owing to the county, and this would provide a 5 percent penalty a month, up to 25 percent, and it might well be the thing that convinces some accountants or attorneys that maybe they better comply with the law because the penalty will be substantially larger than it was, and they could have a 25 percent penalty 17 months after the date of death, being the 12 months that they have to file the proceeding and an additional 5 months that the penalty would continue to run. So I am asking for your support to the amendment. It's not favored probably by...wouldn't be by a lot of attorneys who practice a lot in this area, but I think it is a fair amendment and it does level that playing field that I've been talking about. So again, I would ask your support for the amendment. [LB502]

SENATOR FRIEND: Thank you, Senator Wightman. You have heard the opening on AM683. There are senators wishing to speak. Senator Fulton, you are recognized. [LB502]

SENATOR FULTON: Thank you, Mr. President. Members of the Legislature, this...I've been listening to the debate back and forth and generally that this has not been addressed, that the inheritance tax has not been addressed since 1901, in my opinion, is a scandal, and I'm glad that we are addressing it in one way, shape, or form. There's been a great deal of work to reach this compromise, and that should be applauded. This particular amendment adds some teeth to the county's ability to access what by statute is theirs, and so it seems to me that bringing the bill to being revenue neutral and then adding Senator Wightman's amendment will actually put the counties ahead, at least it should, in theory. So I'd like to get an idea, at least get this on record and verify this. Would Senator Wightman yield to a question? [LB502]

SENATOR WIGHTMAN: Yes, I would. [LB502]

SENATOR FRIEND: Sorry, Senator Fulton. Senator Wightman, will you yield? [LB502]

SENATOR WIGHTMAN: Yes, Mr. President. [LB502]

SENATOR FULTON: Senator Wightman, I heard some of the debate earlier, and it sounds to me like it's your opinion that if this amendment is adopted, that the counties are going to come out ahead because of the enforcement character included in this statute. Is that correct? [LB502]

SENATOR WIGHTMAN: Senator Fulton, I have no doubt that they will come out ahead if they avail themselves of the enforcement tool that they're granted. Now whether they're going to avail themselves of that...I certainly hope they will because I think it

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

Floor Debate
March 28, 2007

places everybody on a level playing field and it subjects the beneficiaries to penalties that I think will aid in the enforcement. [LB502]

SENATOR FULTON: Thank you, Senator Wightman. That should allay any more concern out there that this is going to inordinately take revenues away from the counties in such a way that property tax will have to increase. And so hopefully we can move these bills forward. I should point out, and I'm glad that I am hearing this, the idea that a tax shift is a bad thing. We should bear that in mind as we move forward because this is...we're going to be discussing this in great length when we talk about the budget and the tax relief measure that the Revenue Committee will put out. But as it stands, this amendment is going to put the counties ahead and we should support this bill fully from this point out. So thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Fulton. Senator Gay, you are next to speak and you are recognized. [LB502]

SENATOR GAY: Thank you, Mr. President. This is an important mechanism, I believe, that we should support and pass. The Nebraska Association of County Officials does a very good job of educating their member counties of changes taking place. Obviously they will be discussing this and how to go about to implement this. So I don't think it would be any problem at all, and actually this will, I agree with Senator Wightman, will in the long run probably benefit those member counties. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Gay. Senator Stuthman, you are next to speak and you are recognized. [LB502]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Wightman a couple questions, if he would respond. [LB502]

SENATOR FRIEND: Senator Wightman, will you yield? [LB502]

SENATOR WIGHTMAN: I will. [LB502]

SENATOR STUTHMAN: Senator Wightman, is it in the current law that you are supposed to file what you are intending to do with your amendment? [LB502]

SENATOR WIGHTMAN: The law as passed says that you owe the tax. My amendment will provide a penalty for not doing that. [LB502]

SENATOR STUTHMAN: Okay. So what your attempt is that there will be an additional penalty tacked on to it if there isn't something filed. If... [LB502]

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

Floor Debate
March 28, 2007

SENATOR WIGHTMAN: That's correct. It will be based on the amount of the tax. If no tax is owing, there would be no penalty. [LB502]

SENATOR STUTHMAN: Okay. And in this situation the discussion was, and I think it came from one of the senators, Senator Fulton, of where the counties will come out ahead on this. Do you feel that would be correct? [LB502]

SENATOR WIGHTMAN: I think they could come out way ahead if they enforce it. [LB502]

SENATOR STUTHMAN: Who would be the one that would be not faring so well with this, the one that is inheriting that \$201 savings account? [LB502]

SENATOR WIGHTMAN: Oh, no, he's going to fare real well because the exemption will now take care of him under the current change in the law if it's passed. [LB502]

SENATOR STUTHMAN: If that passed. [LB502]

SENATOR WIGHTMAN: The person who will come out behind, Senator, are the attorneys, and I happen to be one of those, but I'm willing to take that risk. [LB502]

SENATOR STUTHMAN: You're willing to take... [LB502]

SENATOR WIGHTMAN: They will be paying that penalty, I can almost assure you. [LB502]

SENATOR STUTHMAN: That it will be coming out of the attorney's pocket? [LB502]

SENATOR WIGHTMAN: Most of the time. And you can go back and review the receipts of any county, and you will see all kinds of receipts of interest currently from attorneys. [LB502]

SENATOR STUTHMAN: Will it...will that be the end of the process when it comes out of the attorney's pocket, or will there have to be a shift from the individual to put the money back into the attorney's pocket? [LB502]

SENATOR WIGHTMAN: Well, I've never asked for that, ever. And I've paid some interest. [LB502]

SENATOR STUTHMAN: Yeah. So okay... [LB502]

SENATOR WIGHTMAN: And I think every attorney has, and I'm not saying none of them have ever asked for the money back, but I'd be surprised if any have. [LB502]

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

Floor Debate
March 28, 2007

SENATOR STUTHMAN: Well, I have heard something this afternoon that I am very happy that I have heard this and witnessed it, that there was going to be some money coming out of the attorney's pocket. [LB502]

SENATOR WIGHTMAN: (Laugh) [LB502]

SENATOR STUTHMAN: And that is something that does not happen very often. (Laughter) Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Wightman, there are no other lights on. You are recognized to close on AM683. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. As I have said before, I think this strengthens the counties' position. They've been very concerned about their position. We have many situations where there's a tax shift, but I have no doubt in my mind that if the counties use this, they will be more than made whole by this bill and by the change in the amendments that we've made in it. So I would urge your support of AM683. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Wightman. Members of the Legislature, you have heard the closing on AM683. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB502]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Wightman's amendment. [LB502]

SENATOR FRIEND: The amendment is adopted. [LB502]

CLERK: Mr. President, the next motion I have is from Senator Stuthman. He would move to indefinitely postpone the bill. Senator Mines, we would have the option to lay the bill over at this time or take it up. It's your choice, Senator. [LB502]

SENATOR MINES: No, sir, I'd like to continue. [LB502]

SENATOR FRIEND: Senator Stuthman, to open on your motion to indefinitely postpone. [LB502]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. In reviewing the voting situation that has taken place in the past hour, I'd ask that this motion be removed. [LB502]

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

Floor Debate
March 28, 2007

SENATOR FRIEND: The motion is withdrawn. [LB502]

CLERK: Mr. President, Senator Hudkins, I now have FA54. (Legislative Journal page 960.) [LB502]

SENATOR FRIEND: Senator Hudkins, you are recognized. [LB502]

SENATOR HUDKINS: Thank you, Mr. President and members. This is the one concerning the date, changing it from 2007 to 2008. Is that correct? [LB502]

CLERK: Page 4, line 10, strike "2007," insert "2008." [LB502]

SENATOR HUDKINS: Yes. Senator Mines and I were talking earlier and he had said on the microphone that this date change was incorporated into a prior amendment. We have since found out that it was not, and so I would be asking for your approval in changing this so that we do not have a retroactive date for inheritance taxes. And if Senator Mines would like to use the rest of my time, he may. [LB502]

SENATOR FRIEND: Senator Mines, you have 9 minutes and 15 seconds. [LB502]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Hudkins. Absolutely correct. I was working off of a printed sheet that, without closely looking at it, is AM873. This body advanced AM875. The amendments were identical; however, AM873 is crafted...I don't know where this came from, but AM873 showed that on page 4 it struck the date 2007 and inserted 2008. AM875 did not do that. Senator Hudkins' floor amendment is appropriate and I would urge your adoption. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Mines. Members of the Legislature, you've heard the opening on FA54. There are senators wishing to speak. Senator Wightman, you are recognized. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. I rise in support of the amendment. Quite frankly, I have more at stake than anyone else because I think I have determined an inheritance tax in the county court of Dawson County, Nebraska, on a decedent that died since the first of the year that I would have to go back and amend if we didn't change the date to 2008. So I would ask your support of this amendment. I don't think anybody ever intended that this would affect estates that were...where the death occurred prior to the passage of this bill. So this will take care of that and I would urge the adoption of Senator Hudkins' amendment. [LB502]

SENATOR FRIEND: Thank you, Senator Wightman. Senator Hudkins, there are no other lights on. You are recognized to close on FA54. Senator Hudkins waives closing. Members, the question is, shall FA54 be adopted to LB502? All those in favor vote aye;

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

Floor Debate
March 28, 2007

all those opposed vote nay. Record please, Mr. Clerk. [LB502]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Hudkins' amendment. [LB502]

SENATOR FRIEND: The amendment does advance...or the amendment is adopted, excuse me. [LB502]

CLERK: Mr. President, I have nothing further on the bill at this time. [LB502]

SENATOR FRIEND: Back to discussion on LB502. Senator Stuthman, your light is on. You are recognized to speak. [LB502]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. This bill has a good intention to be passed by the amount of votes it's been getting. I still have a real concern with it because we're not going to get any further than where we were last year, last week for the counties in their money that they're receiving, if this truly is revenue neutral, truly revenue neutral. That's a concern that I have, but how are we going to find out? There will be 17 in here that probably won't find out the results of it. This goes into effect January 1, 2008. That's a year from now. Results, revenue from the inheritance, will be coming in during that 2008 year, 2009 Legislative Session with 17 new legislators down here. And if it isn't revenue neutral, what are we going to do? I guess there's a good possibility maybe it's going to bring more money into the counties. I don't know. We don't know. No one knows. But if it doesn't bring as much in and the counties need funding, there's one place they can get it from. Anytime they need money, if they can stay under the lid limit, they can get it from property taxes. So it's going to take several years before we will finally realize are we getting the same amount of dollars to the counties that we have been getting in the past? And we're taking the chance. We're changing something. Is there a need to change it? And you've heard my argument. I don't believe there is a need to change it. But the majority rules. A lot of you people feel there's a need to change it. That's not my opinion. That's not the direction that I want to go when I want to get the same amount of dollars, hopefully close to the same amount of dollars, to the county. I know that very few people, in two or three years, they're ever going to know or realize the real effects of this unless the county officials get into a bind and say, you know, we're not having as much money that we thought we were going to be getting in because of this. Thank you. [LB502]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Wightman, you are next to speak and you are recognized. [LB502]

SENATOR WIGHTMAN: Thank you, Mr. President. I would like to ask a couple questions of Senator Stuthman, if he would respond. [LB502]

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

Floor Debate
March 28, 2007

SENATOR FRIEND: Senator Stuthman, will you yield? [LB502]

SENATOR STUTHMAN: Yes. [LB502]

SENATOR WIGHTMAN: Senator Stuthman, tell me how many counties are in your district, or parts of how many counties. [LB502]

SENATOR STUTHMAN: In my legislative district? [LB502]

SENATOR WIGHTMAN: Right. [LB502]

SENATOR STUTHMAN: Twenty-two; all of Platte County and the north half...about the north half of Colfax County. [LB502]

SENATOR WIGHTMAN: And you served on the county board of commissioners or supervisors. [LB502]

SENATOR STUTHMAN: I was a member of the county board of supervisors of Platte County for eight years. [LB502]

SENATOR WIGHTMAN: And are you aware of any enforcement proceedings that have ever been brought, to the best of your knowledge, in Platte County to enforce payment of the inheritance tax on somebody who didn't voluntarily come in and file a petition? [LB502]

SENATOR STUTHMAN: No, I was not aware of anything. As a board member, this money came in. It was more like a gift to the county from the inheritance from estates that were being settled. And I was not aware of any procedures or anything taking place, because the county attorney has never discussed that with me. [LB502]

SENATOR WIGHTMAN: If you knew, in fact, that it had never been enforced in your county, if that was, in fact, the situation, does it bother you that we have a law in effect that is not being enforced at all? [LB502]

SENATOR STUTHMAN: I have a great concern about having a law in place and not being enforced, because then I think why do we have the law? [LB502]

SENATOR WIGHTMAN: Thank you. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Wightman. (Visitors introduced.) Senator Mines, there are no other lights on. You are recognized to close on LB502. [LB502]

SENATOR MINES: Thank you, Mr. President. Colleagues, at long last we are at

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

Floor Debate
March 28, 2007

advancing to E&R LB502. Very quickly, as you've heard for the last several hours, three classes of inheritance tax. And what LB502 now will do is increase the exemption on Class 1 from \$10,000 to \$40,000, and that is, I believe, the most important part of this bill because it affects the most people. Those that don't have wealth, they are transferring a small amount of money and it allows them to keep it. You've heard all the other arguments. I believe this is in good form. I would ask for your support. Thank you, Mr. President. [LB502]

SENATOR FRIEND: Thank you, Senator Mines. Members of the Legislature, you have now heard the closing on the advancement of LB502 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Record please, Mr. Clerk. [LB502]

CLERK: 32 ayes, 8 nays, Mr. President, on the advancement of LB502. [LB502]

SENATOR FRIEND: LB502 does advance. Mr. Clerk. [LB502]

CLERK: Mr. President, the next bill is LB343. It was offered by Senator Langemeier. (Read title.) Introduced on January 12 of this year. It was referred to the Revenue Committee. The bill was advanced to General File. There are Revenue Committee amendments, Mr. President. (AM661, Legislative Journal page 809.) [LB343]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Langemeier, you are recognized to open on LB343. [LB343]

SENATOR LANGEMEIER: Thank you, Mr. President and members of the body. LB343 is, as the Clerk stated, a biodiesel incentive bill. This bill would incentivize, to a very minimal degree, biodiesel facilities in the state of Nebraska that are built prior to January 1, 2015. This bill does have a limitation to how long you can continue to build facilities and qualify under the credit. The refund limitations, the tax credit, could not exceed 50 percent of the qualifier's investment, nor can it be refunded more than 50 percent of the individual's tax liability for any given year. The refund was limited due to the above mentioned factors. The credits may carry forward for 15 years after the initial investment. However, the maximum credit cannot exceed \$250,000. This bill was designed to incentivize biodiesel facilities in the state of Nebraska, but yet not get us in the problem we have with the EPIC fund and ethanol in Nebraska, and running short in the perpetual per-gallon of production. This bill was designed for credits toward initial investment, to get the facilities open and operable, and not have any continued impact based on the product produced. Some of the criteria that go into effect is, the credit does not go into effect until when you do your initial investment, which may be two years from completion of your facility. This credit would not start and not be available to you until the facility is up and operable. So even though your initial investment may be a couple years prior to that point, you still cannot take advantage nor receive it until you

Floor Debate
March 28, 2007

have the opportunity to make that plant up and going 100 percent. The product must be produced which would be a B100 product. There's been some discussion out here, why does this not have a checkoff tied to it to soybeans, like we do in corn? Basically, because biodiesel, only 17 percent of biodiesel is produced with soybeans; the rest is animal fats, canola oils, and some other recycled oils across the state. Nebraska has a number of fine products that make us kind of attractive in the country for biodiesel facilities. This incentive plan would help us be the leader in trying to get biodiesel facilities in Nebraska, with our number of meat packing facilities, as well as our soybean production across the state of Nebraska. This also, with the current positive things in Nebraska that help us with this, we've limited this to the \$250,000 credit. Kansas has a much greater credit, and the number of states around us. But I think Nebraska has enough positive things out there that we do not need to compete on a dollar-for-dollar incentive plan across the state of Nebraska. And with that I would conclude. And if there are any questions, I'm more than happy to take those as they come. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Langemeier. You have heard the opening on LB343. As the Clerk stated, there are amendments from the Revenue Committee. Senator Janssen, as Chair of the committee, you are recognized to open on those amendments. [LB343]

SENATOR JANSSEN: Thank you, Senator Friend and members of the Legislature. Committee amendments do three things. The first thing it does, it limits the investment made to generate the credit to investments made prior to January 1 of 2015. The second thing, it defers the credit until the first year the facility produces biodiesel. And the third thing, allows investments by cooperatives to be eligible for the credit also. Those are the three things it does. I think it makes the bill better. And hope for your acknowledgement of a red vote on the committee amendments. Thank you--or green vote. Green, please. [LB343]

SENATOR FRIEND: Thank you for the clarification, Senator Janssen. And you have heard the opening on the committee amendments, AM661. There are senators wishing to speak. Senator Preister, you are first, and you are recognized. [LB343]

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise in support of both the Revenue Committee amendment, as well as Senator Langemeier's bill. I think he did a very good job of explaining what this does. And certainly, Senator Janssen explained the three components of the committee amendment well also. What I like about this...well, aside from the fact that it's not the EPIC fund, and I think differentiating there is important; this doesn't go on for perpetuity and continue to pay out, and it also requires that the plant be up and be operating and actually producing. So it's a startup incentive, but you have to have made the investment, and you have to have been operating and producing the biodiesel fuel. I like that component of it. It's also got a limitation of the \$250,000 total, and I think that's a good component. One of the other

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

Floor Debate
March 28, 2007

things that I like about it is the fact that we're offsetting some very air-emissions intense-polluting kinds of diesel fuel, a very crude kind of fuel that has little refinement and that ends up going into our air and our atmosphere. This is a more refined fuel. It doesn't create the same level and degree of pollution. And I think that's a real plus, a much better plus than other forms of burning that we can do. So for the limitations that are in it, for the committee amendment that further refined that, for the fact that this has to be the producers up and operating, for the 15-year limitation, and especially for the offset or the reduction in air emissions that it would allow for, I do support the committee amendment and the bill. I thank the committee for advancing it, and also certainly thank Senator Langemeier for bringing it forward. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Preister. Senator Louden, you are next to speak, and you are recognized. [LB343]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I also support this bill. I think this is probably what's going to be some of the major environmental issues that's going to help our area in the western part of Nebraska, is using this biodiesel and manufacturing biodiesel, because we can raise material to make this out of with a lot less water and out in the western part of the state, such as the sunflowers and some of the other plants of that nature that doesn't take as much water. In the eastern part of the state, they always talk about using soybean oil, but for the most part, in the western part of the state where we don't raise those kind of crops, I think we can go ahead and have something that will be positive about that, and it will help alleviate some of the water problem. I would like to ask Senator Langemeier questions, if he would yield, please. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB343]

SENATOR LANGEMEIER: I will. [LB343]

SENATOR LOUDEN: Senator Langemeier, I see where you are asking about the B100. And that's pure oil, right, that can be burned in a diesel motor with a B100? [LB343]

SENATOR LANGEMEIER: It is. But it's typically blended with diesel to make what we call soy diesel. [LB343]

SENATOR LOUDEN: Okay. But then as you blend it to diesel, that's where you get your B95, and B...on down like that. But this is the pure oil. I was wondering, with...in your bill, the way it's set up then, about the only thing that can be made is oil to burn in engines, or diesel fuel. Is there any way that someone that would be making food-grade oil out of this could use this bill? [LB343]

SENATOR LANGEMEIER: The intent is to allow that to happen, as well. [LB343]

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

Floor Debate
March 28, 2007

SENATOR LOUDEN: Okay. Then if they, with their B100...I think you call food-grade oil something besides B100, I think. But that would still work in there? Is that correct? [LB343]

SENATOR LANGEMEIER: Correct. [LB343]

SENATOR LOUDEN: Okay. And then you have the \$250,000 cap on it, and that's an income tax credit, isn't that...? [LB343]

SENATOR LANGEMEIER: Correct. [LB343]

SENATOR LOUDEN: Yeah, they have to make some money before they're going to get any tax credit out of the thing. [LB343]

SENATOR LANGEMEIER: A nonrefundable Nebraska credit. [LB343]

SENATOR LOUDEN: Yeah. [LB343]

SENATOR LANGEMEIER: So it incentivizes Nebraska ownership and Nebraska taxpayer. [LB343]

SENATOR LOUDEN: Yeah. Now, this is a little bit different than some of the funding that was put out for...oh, for some of our other economic incentives, because I notice there's nothing in there that anyone has to pay a particular hourly wage or any kind of health benefits or anything. Is that...would that be an issue in there someplace? I'm always concerned about, when we're putting incentives, to have some type of manufacturing or something come into an area, that they come in there and bring in workers, but sometimes there aren't any health packages to go along with it, or else their hourly wage is quite low, that it's still a secondary job. Was that considered or anything in that bill, with your tax credit? [LB343]

SENATOR LANGEMEIER: It was not in my bill, nor the committee amendment, to address wages particularly paid by these facilities. However, those that are out there have been pretty good wages,... [LB343]

SENATOR LOUDEN: Okay, that was... [LB343]

SENATOR LANGEMEIER: ...that have been developed. [LB343]

SENATOR LOUDEN: Yeah. Thank you, Senator Langemeier. I think this is something that, as we looked around and looked into biodiesel, these are places where the...what I've seen in the research is to have more smaller plants located around the part of the

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

Floor Debate
March 28, 2007

country, so they don't have to have such a freight rate on this biodiesel. If it can be used locally, to mix in with your other diesel fuel, to get down to your...mix it with half-diesel fuel or something like that, so it works better. [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR LOUDEN: This is something that really needs to be done, and I certainly support this bill and support the committee amendments to it. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Louden. Senator Wallman, you are next to speak, and you are recognized. [LB343]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, support this amendment and the bill, and thank Senator Langemeier for bringing this forward. As we depend on foreign oils and polluting in our atmosphere, and anything we can do to help the environment, plus our local economies, it should be done. We have facilities that are working, and people use this stuff, and it works really good in their engines. And I myself use it, and I've had no trouble with it. So again, I want to thank the committee. And hopefully this will get passed. And thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Wallman. Members, we are discussing the committee amendments, AM661. Senator Hansen, you are next to speak and you are recognized. [LB343]

SENATOR HANSEN: Thank you, Mr. President. Members of the body, I heard a little while ago, or read somewhere maybe on the gadget, that Iran maybe had fired a missile at a United States ship. Immediately, the price of oil...a barrel of oil went up \$5. That's going to affect the gas at the pump tomorrow probably by a nickel. We need to...we really need to rethink this whole thing about where we get our fuel. Let's get as much as we can made here in Nebraska as we can. This is a great bill that Senator Langemeier brought. There's been some...there's been a lot of discussion in the animal industry on ethanol, but I, for one, believe that ethanol, corn, and cattle can get along. I think that this biodiesel project that Senator Langemeier is pushing, it's not like the EPIC funds. It has a limited amount of time and a limited amount of money. The fiscal note, if you look at that, starts out at \$1 million maybe in a few years that we won't get as revenue. We won't, because there's going to be some tax incentives. But look at the other side of it, the jobs created, the fuel created, and I think it will come out as a plus for Nebraska. I think that the animal fat that's in there is a value-added product for my cattle industry, so I think it's a good bill, and I thank Senator Langemeier for bringing it. I support both the amendment and the bill. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Hansen. Senator Chambers, you are next to

Floor Debate
March 28, 2007

Speak, and you are recognized. [LB343]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I don't like these subsidy bills, and that's what they are. When ethanol was the rage--and it's the biggest scamming boondoggle in this country--all kinds of promises were made. And it boggles my mind how so many otherwise sane, sensible people can suggest that the ethanol produced in this country is going to reduce to any significant degree America's reliance on petroleum-based fuel and America's reliance on fuel that comes from outside this country. America is never going to be fuel self-reliant. The percentage reduction of the total amount of fuel used in this country that will be caused by ethanol is relatively inconsequential. I've heard people complaining, Senator Hansen, about how hot it is in here. And I want to remind my colleagues that it's just a preview, and not nearly as hot as it's going to be where most of you are going. You know who you are. I don't, but I have a pretty good idea. I'd like to ask Senator Langemeier a question or two. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Senator Langemeier, does it require any type of fuel to produce this product that your bill talks about? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Is there machinery involved? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Are there trucks or other vehicles involved? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Are there tractors? [LB343]

SENATOR LANGEMEIER: I don't know about that one. [LB343]

SENATOR CHAMBERS: How will this fuel be transported from the place where it is produced to wherever it is going to be sold? [LB343]

SENATOR LANGEMEIER: Train or truck. [LB343]

SENATOR CHAMBERS: No pipeline? [LB343]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: Not the B100 product. [LB343]

SENATOR CHAMBERS: Okay. What fuel is going to be used to produce this biodiesel fuel? [LB343]

SENATOR LANGEMEIER: Depending on what type of facility you buy, just about every fuel source that's out there. [LB343]

SENATOR CHAMBERS: Will there be any petroleum-based fuel? [LB343]

SENATOR LANGEMEIER: You bet. [LB343]

SENATOR CHAMBERS: Will there be any ethanol? [LB343]

SENATOR LANGEMEIER: I don't know for sure. I would assume so. [LB343]

SENATOR CHAMBERS: So with all this talk of ethanol, ethanol cannot be used to produce ethanol; ethanol is not going to be used to produce this biodiesel fuel. Can this biodiesel fuel be used, once it comes into being, to produce biodiesel fuel? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Will biodiesel fuel be adequate to provide all of the fuel needed to produce the biodiesel fuel that will be produced in Nebraska under your bill? [LB343]

SENATOR LANGEMEIER: I don't know for sure. [LB343]

SENATOR CHAMBERS: Do you think it will be? Speculate. [LB343]

SENATOR LANGEMEIER: Yes, it can be. Can it be 100 percent of the source? That I do not know. [LB343]

SENATOR CHAMBERS: What kind of vehicles use this biodiesel fuel that is described in your bill? [LB343]

SENATOR LANGEMEIER: Typically, trucks. [LB343]

SENATOR CHAMBERS: What kind of trucks? What's the smallest truck that will use it? [LB343]

SENATOR LANGEMEIER: All the way down to diesel pickups. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CHAMBERS: And how large are they, roughly? [LB343]

SENATOR LANGEMEIER: Six-thousand-pound vehicles, (inaudible). [LB343]

SENATOR CHAMBERS: And the largest that will use it? [LB343]

SENATOR LANGEMEIER: Over-the-road semis, combines, tractors. [LB343]

SENATOR CHAMBERS: Are they using this kind of fuel now? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Where is it produced? [LB343]

SENATOR LANGEMEIER: Typically, it's coming out of Fort Collins, Colorado. [LB343]

SENATOR CHAMBERS: And is it subsidized in Fort Collins, Colorado? [LB343]

SENATOR LANGEMEIER: That's where it's distributed. It's made across the country. And it is subsidized in a number of other states. [LB343]

SENATOR CHAMBERS: And without the subsidy, it couldn't be produced, could it? In other words, it can't pay its own freight, just like ethanol cannot pay its own freight. Isn't that true? [LB343]

SENATOR LANGEMEIER: That I couldn't tell you. [LB343]

SENATOR CHAMBERS: Well, you can tell me, though, about ethanol, that if it were not heavily subsidized by the federal and the state governments, ethanol as an industry would cease to exist. Isn't that true? [LB343]

SENATOR LANGEMEIER: You and I would agree on ethanol. [LB343]

SENATOR CHAMBERS: Okay, so as long... [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR CHAMBERS: One minute? Who said that? I didn't recognize...Senator Ashford, did you say that? Somebody said one minute. Well, I'm going to take it that that's how much time I had when that statement was made, and some seconds have elapsed, so I will stop now. Thank you...Mr. President, you said that. Thank you, Mr. President. (Laugh) [LB343]

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

Floor Debate
March 28, 2007

SENATOR FRIEND: You're welcome. Thank you, Senator Chambers. Senator Carlson, you are next to speak, and you are recognized. [LB343]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to address a question to Senator Langemeier. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CARLSON: Senator Langemeier, I'm not afraid to ask a simple question, and that's what this is. In the statement of intent, as a part of the bill, it says, if the investment is withdrawn, the credit will be recaptured. Explain that to me, would you? [LB343]

SENATOR LANGEMEIER: If you invest...the goal to that would be, is if you invest in a facility and pull your money back out and you don't complete your facility, you aren't going to get the tax credit. You've got...the facility has to be up and operable. (Inaudible.) [LB343]

SENATOR CARLSON: I think...yeah, I think that I would agree with that. But recapturing means payback. [LB343]

SENATOR LANGEMEIER: Correct. But we...that's what that means, but I guess that would be a misstatement, because if the plant is not fully operable, you would not have that. When we wrote the letter of intent in the green copy...the provision to be fully operable was added in the committee amendment, which we are talking about. And so it was a pertinent statement in the letter of intent. With the committee amendment requiring the facility being operable, then it really is irrelevant to recapture. [LB343]

SENATOR CARLSON: Well, I'm not being critical here. I think that I like the wording, because if somebody starts a project, doesn't complete it, takes some tax credit, they're going to get it recaptured. [LB343]

SENATOR LANGEMEIER: If I may use your time, if the project is started and the keys are never turned on the day the plant is opened, the credit will never be issued, with the committee amendment. So you wouldn't have to go back and get it back, because it will never actually be given, because, as I say, the final turnkey operation has never been put into place. [LB343]

SENATOR CARLSON: Okay, thank you. I like the idea that there's a requirement that 51 percent of the ownership must be in Nebraska companies. [LB343]

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

Floor Debate
March 28, 2007

SENATOR LANGEMEIER: That's in the bill, yes. [LB343]

SENATOR CARLSON: Okay. I appreciate that. And I stand in support of LB343. [LB343]

SENATOR FRIEND: Thank you, Senator Carlson. Members, the discussion continues on AM661. Senator Chambers, your light is next, and you are recognized. [LB343]

SENATOR CHAMBERS: Thank you, Mr. President. And now I've become oriented and I know who is in the chair, so the voice that told me "one minute" had total authority to say that. But to show how obedient and accommodating I am, even though the voice could have come out of the ceiling, I was complying with its dictate, because it sounded authoritative, and had I not complied, there might have been a thunderbolt, and nothing would be here except a little puff of green smoke. I want to ask Senator Langemeier a few questions, if he will yield. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: Senator Langemeier, in order for the credits to issue, the plant must be operable, if I've understood you correctly. [LB343]

SENATOR LANGEMEIER: Correct, that's in the committee amendment. [LB343]

SENATOR CHAMBERS: Is there any requirement as to how many gallons of this product must be produced prior to the issuance of the credits? [LB343]

SENATOR LANGEMEIER: No. [LB343]

SENATOR CHAMBERS: So the plant could be operating and not producing any product, and the credits, under the terms of the bill right now, would be issued. Is that right? [LB343]

SENATOR LANGEMEIER: Correct. [LB343]

SENATOR CHAMBERS: And they can be utilized in that taxable year that would be involved? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: And the plant needs never have produced a single gallon of

Floor Debate
March 28, 2007

this product, as the bill is written? [LB343]

SENATOR LANGEMEIER: Correct. But you would have to have a profit to use those tax credits against. [LB343]

SENATOR CHAMBERS: Well, here's where I want to ask you another question. Is that credit usable only against the income produced by this plant? Does the bill specify that? [LB343]

SENATOR LANGEMEIER: I do not believe so. [LB343]

SENATOR CHAMBERS: If I...because some people used to drill dry holes, and then they'd get certain oil depletion allowances, and they'd set it off against heavy income in other areas, and they raided the treasury in the way some people want to raid the General Fund and give it to the Roads Department. I want to be sure that's not going to happen here. But it could happen, the way the bill is drafted, couldn't it? [LB343]

SENATOR LANGEMEIER: I will review that. That would not be the intent if that is available. [LB343]

SENATOR CHAMBERS: If these credits can be carried forward 15 years from the time when they first are earned, is that allowable, under the language of the bill right now? [LB343]

SENATOR LANGEMEIER: With the committee amendment, yes. [LB343]

SENATOR CHAMBERS: So if I begin my plant operating in the year 2000--and I want to have an even year so it's easy for me to calculate--I could carry that credit forward to the year 2015 before I make use of it. Is that true? [LB343]

SENATOR LANGEMEIER: Yes, but depending on the size of your credit, if you carry too much forward, you'll never get it collected. [LB343]

SENATOR CHAMBERS: What's the maximum I could carry forward? [LB343]

SENATOR LANGEMEIER: You could carry forward the whole \$250,000 if you so chose. [LB343]

SENATOR CHAMBERS: But if I... [LB343]

SENATOR LANGEMEIER: But it cannot exceed more than 50 percent of your income. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CHAMBERS: No matter where that income derived? [LB343]

SENATOR LANGEMEIER: Correct. [LB343]

SENATOR CHAMBERS: But the maximum I could carry forward would be \$250,000? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CHAMBERS: For a given year, or for the whole 15-year period, if I just wanted to stack it up? [LB343]

SENATOR LANGEMEIER: It would be collective. So if you just stacked it up to the last year, \$250,000. It could not be \$250,000 per year. [LB343]

SENATOR CHAMBERS: Be \$250,000 all together? [LB343]

SENATOR LANGEMEIER: Total aggregate. [LB343]

SENATOR CHAMBERS: So then if I qualified for the \$250,000 the first year, could I claim more subsequent to that? Or is that the total that I can claim during the operation of this plant? [LB343]

SENATOR LANGEMEIER: That is the total you can claim. [LB343]

SENATOR CHAMBERS: For the operation of this plant? [LB343]

SENATOR LANGEMEIER: Correct. [LB343]

SENATOR CHAMBERS: So then if I claim that in the first year and then I go out of business, then it's over, right? [LB343]

SENATOR LANGEMEIER: That would be a potential. [LB343]

SENATOR CHAMBERS: And I would have had to make enough profit from the production of this product to qualify for the \$250,000. Is that right? [LB343]

SENATOR LANGEMEIER: Correct. But you would have to... [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR LANGEMEIER: It's your time, I'm sorry. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CHAMBERS: But I wouldn't...that wouldn't necessarily be so. All I have to do is have the plant operating, and the income from someplace else, and I could set that \$250,000 against income from another source, under the way the bill is written. Isn't that right? So if it's cheap to just run the plant, and I can get this \$250,000, and I have other income, then I set it off against that other income, which on its own wouldn't bring me the return that this bill will, if I tie it in with this plant. See, I'm cynical. I think there are people out there figuring how to cut corners and dupe a Midwestern Legislature with the best of intentions, but who are so upstanding and honest they think nobody is going to cut a corner. I'll have a few more questions, but my time is up. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Louden, Carlson, Langemeier, and Chambers, in that order. Senator Louden, you are recognized. [LB343]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I certainly tend to agree with Senator Chambers on ethanol plants. I've never been one that was completely sold on them. I thought we probably opened up the bank to the ethanol production industry, and I question whether it will be a viable source of income for the state of Nebraska for years to come. I think it's something that's going to be a quick flash in the pan, and then probably the cost of it won't be there that we were expecting. Now, having said that, we've got to remember that a biodiesel plant and an ethanol plant are two different animals altogether. A biodiesel plant is...you are crushing seeds of some sort, whether it's sunflower or soybean. And you can also, if you are making biodiesel fuel, you can also use oil out of your local hamburger joints and that sort of thing, because we have a person up by Chadron at the present time that is making biodiesel, and he's using most of the cooking oils that come out of some of the restaurants around the area. So I think we have to...we can't really compare these to an ethanol plant. Part of the trouble...and I've looked into this when I first came down here five years ago, to see why we couldn't have a crushing plant in western Nebraska, because of the amount of sunflowers we raised out there. And at that time, there were large corporations that had a corner on food-grade oil, so the only place you could sell your food-grade oil was to these large corporations, and if they didn't want to buy them, then you didn't have a market for your food-grade oil. Since then, since they've come out with biodiesel, that gives these crushing plants another opportunity, or another place to sell their product. So that's what's brought forwards a chance that you can have some biodiesel plants in an area. They not only can use that locally to mix with their local fuels and sell it locally, but they...if they have an opportunity, they can go ahead and use it and sell it as food-grade oil. Now, that might sound a little bit gross to some people, that you can either crank that oil out and either drink it or burn it in your diesel engine, but that's the fact of the matter. That's what biodiesel does. If you are going to have B100, you can cook your french fries in it, or you can take it out and dump it in your diesel pickup or whatever and burn it the same way. If you mix a little bit of diesel fuel in it and

Floor Debate
March 28, 2007

then get it down to, I think they call it B5 and that sort of thing, that's got 5 percent diesel, then it's probably a little bit better. And my understanding is that in some of the colder winters in Nebraska, you probably will have to have something else mixed in with it. But this is something that can be done in our local areas. It isn't going to be the drain on it that your ethanol plants are. They don't have to have a lot of natural gas to cook their hooch like you do with an ethanol plant, so it's mostly all crushing machinery, so you shouldn't have any problem getting the product made, and you are not going to have to use a lot of water like an ethanol plant does. They use little if any water, mostly just whatever they use to clean up the place, because you certainly don't want any water around any of your oil, because it will contaminate your product. So I think this is something we have to be very careful and not mix it up or compare it to an ethanol production plant. It's something altogether of its own. They can be made on a smaller scale. They don't have to have millions of gallons of oil in there. As far as I know, there is no tax incentive, as... [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR LOUDEN: ...from the federal government or anyone else, to make or sell diesel, biodiesel fuel. It will sell...it will be a stand-alone product, and it will compare with the price of diesel fuel. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Louden. Senator Carlson, you are next to speak, and you are recognized. [LB343]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to address a question to Senator Langemeier. [LB343]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB343]

SENATOR LANGEMEIER: Yes. [LB343]

SENATOR CARLSON: I believe that Senator Chambers made a real good point here. And I don't know law well enough to recognize whether this can be addressed, but a credit should only be applied against the profit from that specific biodiesel plant, not from other entities that are owned by an umbrella corporation. Can we do that? [LB343]

SENATOR LANGEMEIER: Can I, if you don't mind, use your time? Senator Chambers and I and Senator Raikes had just talked about that. We're going to look at doing something to do two things: number one, that; and number two, look at some perpetual production to claim your credits against. And we've talked about that. We're going to try and come up with an amendment to address that perpetual issue for Select File. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CARLSON: Okay. Thank you. And I would like to address a question to Senator Chambers. [LB343]

SENATOR FRIEND: Senator Chambers, will you yield to a question? [LB343]

SENATOR CHAMBERS: Um-m-m, yes. [LB343]

SENATOR CARLSON: Okay. Thank you, Senator Chambers. If you were the owner of one of these plants, and the first-year profit was \$125,000, you would take that credit, wouldn't you? [LB343]

SENATOR CHAMBERS: If I was going to stay in business, I'm not sure. I really am not sure. If I thought this was a viable operation and I've got what it takes to keep functioning, I might put it off, because it's always there. I won't ever lose that. But if I take it, then something could happen, there could be a twist or a turn here, and I lose it. So credits in the bank are worth two in your pocket. [LB343]

SENATOR CARLSON: Okay. Okay. I won't argue that. But you are acknowledging the importance of that credit. And according to the bill, only half of it could be used in year one. So if year two you made another \$125,000, you would acknowledge the balance of that credit in some way, either taking it or banking it. [LB343]

SENATOR CHAMBERS: I'm not disputing any of what you are saying. Right. Regardless of how I might address it myself as a plant owner, I'm not disputing the accuracy of what you are saying. [LB343]

SENATOR CARLSON: Well, I think you have a concern with somebody trying to take advantage and move in here and drill a dry hole and take credit and then leave. And if it's a profitable, functioning company making money to make use of the credit, and they can't use it against other entities, which you've had some discussion about, apparently, I think that problem would be taken care of. And... [LB343]

SENATOR CHAMBERS: You mean by work on the bill, that we can do something on the bill to deal with the things that I'm questioning? [LB343]

SENATOR CARLSON: Right. [LB343]

SENATOR CHAMBERS: I agree. I think all...I think every issue I raised can be dealt with. That's why I kept saying, under the language of the bill as written. [LB343]

SENATOR CARLSON: Okay. [LB343]

SENATOR CHAMBERS: Okay. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CARLSON: Thank you, Senator Chambers. [LB343]

SENATOR CHAMBERS: Are you...okay, go ahead. [LB343]

SENATOR CARLSON: I'm through. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Carlson. Senator Chambers, your light is next, and you are recognized. [LB343]

SENATOR CHAMBERS: Senator Carlson, I'd like to ask you a question or two. Senator Carlson, do... [LB343]

SENATOR FRIEND: Senator Carlson,...excuse me. Will you yield? [LB343]

SENATOR CARLSON: Yes, I will. [LB343]

SENATOR CHAMBERS: Senator Carlson, you support this bill and what it's attempting to do, based on what you've said so far. Is that correct? [LB343]

SENATOR CARLSON: That's correct. [LB343]

SENATOR CHAMBERS: And you think this can be a profitable venture for a person who invests in it and has sufficient resources to put a plant together that can perform in this fashion? You think that money can be made? [LB343]

SENATOR CARLSON: I hope so. [LB343]

SENATOR CHAMBERS: Are you interested in investing in such an operation? [LB343]

SENATOR CARLSON: I might be. [LB343]

SENATOR CHAMBERS: Would you object to investing in it with me? [LB343]

SENATOR CARLSON: No. [LB343]

SENATOR CHAMBERS: Could I be a silent partner? [LB343]

SENATOR CARLSON: No. [LB343]

SENATOR CHAMBERS: Well, sit down. (Laugh) Mr. President and members of the Legislature, Senator Langemeier came to me and we began a discussion immediately, and Senator Raikes happened upon our discussion and added a word or two. In

Floor Debate
March 28, 2007

responding further to what Senator Carlson said, these issues can be addressed. I still don't like these subsidy bills. But my opposition is not nearly, on this bill, what it continues to be as far as ethanol. I have no use at all for ethanol. It is one of the biggest, worst boondoggles to come along. And if Senator Harms, Senator Carlson, I, and Senator Kopplin--three out of four, good guys--did something like this other than in ethanol, we'd be facing indictment for fraud, misrepresentation. But because these big multinational corporations have been able to get Congress to keep that huge federal subsidy going, and the Legislature has been tricked, tricked, double tricked, triple tricked into granting these subsidies to ethanol at the state level, it continues--the monster, that is, which is ethanol--continues to exist. I say, withdraw all of the subsidies, and ethanol as an industry is through. These big companies know that America is not going to be weaned away from its reliance on foreign oil through the production of ethanol. You cannot produce enough ethanol to do that. The first thing you'd have to do, you should ground about 95 percent of the commercial airplanes. You should take 99.1 percent of all the SUVs off the highways. You should take any car larger and more modern than a 1999 Honda Civic off the roads. Then you might begin to see a diminution in the amount of oil-based fuel being used in this country. But as long as industries are encouraged to produce more products that make use of the petroleum-based fuels, how in the world are you ever going to catch up to that by producing ethanol? It's not going to work. But you cannot make people in a state like this acknowledge what they have to know if they are awake and observing. You don't even have to be an economist to analyze what's happening in the ethanol arena. Because of the way Senator Langemeier is approaching this particular boondoggle,... [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR CHAMBERS: ...well, I won't put the whole "doggie" on it--this "boondog," it cannot reach the magnitude of ethanol. But I want to have more information on how many plants might come into existence, because if you put enough of them, the amount of these credits will add up and have a substantial negative impact on the citizens of this state. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Chambers. And Senator Chambers, that was your third time on this amendment. Senator Raikes, you are next to speak, and you are recognized. [LB343]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. This is a bill that I supported in committee. I will suggest to you that Senator Langemeier has taken what I consider a very cautious approach on this, which I think is entirely appropriate. I do think that pursuant to the discussion between he and Senator Chambers, it would be wise to make the credits available only upon the completion and operation of a plant, so that there isn't a possibility that someone could build a plant,

Floor Debate
March 28, 2007

never operate it, and still get the credits. And Senator Carlson mentioned the possibility of making it only...the credits only available for that operation, versus another division of a broader company. If that can be accomplished, I would be interested in that, as well. The reason I suggest the importance of caution is, our history on ethanol. A number of years ago--I believe the bill number was LB536--in my opinion, the Legislature made a serious error in that bill. We had an opportunity at that time to condition incentives for ethanol on the price of corn and the price of oil. In effect, we could make a floor available to ethanol producers such that if the market was adverse for the production of ethanol, they would be subsidized; if it were not adverse, they would not be subsidized, and the reasoning would go, there would be no reason for them to be subsidized. If the market is favorable and the operation won't work, why would you add a state subsidy? The Legislature neglected to do that, and instead, they simply put a straight 18-cent-per-gallon state incentive on ethanol production. The results we're still paying for. We are proposing, I think, in this biennial budget, several million dollars to bail out the EPIC fund, which basically is paying ethanol plants subsidies, even though those ethanol plants, in current market conditions, are making money hand over fist. Regardless of your opinion on ethanol, that was a dumb decision. We never should have done that. So I am pointing that up only to remind you that these kinds of eventualities can occur, and it is appropriate to make sure, when we establish a policy, that we don't set ourselves up, or set the state up, more generally, and the state's taxpayers up, for what I think was a real boondoggle. So again, I support the amendment and this bill, but I'm supporting it because it is a very cautious approach. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Raikes. Members, the discussion continues on AM661. Senator Langemeier, your light is on and you are recognized. [LB343]

SENATOR LANGEMEIER: Thank you, Mr. President. I'd like to yield my time to Senator Chambers. [LB343]

SENATOR FRIEND: Senator Chambers, you have 4 minutes and 55... [LB343]

SENATOR CHAMBERS: Thank you. Four minutes and 55 what, Mr. President? Mr. President? [LB343]

SENATOR FRIEND: Four minutes and 44 seconds. [LB343]

SENATOR CHAMBERS: Thank you very much. When I'm dealing with the President, I have to be sure of exactly what we're talking about. When you look at Senator Langemeier, whom I call Senator "Longmeier," or "long drink of water," and you look at me, when he and I are working together--this is old--the long and the short of it. But in this instance, we are in sync, more or less. I had come up here with the intent to try to bury this bill. But as soon as Senator Langemeier began to explain it, and he talked

Floor Debate
March 28, 2007

about no EPIC fund, a ceiling on the maximum that a person can rip off from the state if that's what the person chooses to do under the worst scenario, much of my opposition diminished. This is not the cousin of ethanol. It may not even be the step-half-cousin of ethanol. But whenever you are going to subsidize a commercial venture, you must look at it with the eyes of somebody who is trying to prevent the bank vault from being robbed, the cash drawer from being tapped. And that's the approach that I want to take. If this can produce income for people in the state, income which is more or less honest, when compared to the rapacious actions of the insurance industry, the skullduggery in the ethanol industry, and you come up with something which is relatively clean, it is not difficult for me to support it in the initial stages. And as the bill moves forward--and Senator Langemeier and Senator Raikes are willing to work, and I'm sure Senator Carlson will add any expertise he can provide--we can get something done that will give Senator Langemeier what his purpose is, while at the same time taking care of the grave doubts and misgivings that I have about programs such as these. So I do think that he has come forth with something which shows that lessons were learned, messages were received, and the errors that had been made in the past with reference to ethanol will not be made with reference to this product. Everything that I dislike is not necessarily something that I will fight tooth and nail against. I may not like this bill and the approach, because it involves subsidies, at all. But that doesn't mean that I will try to stop it. I could be mistaken. I'd like to ask Senator Raikes a question or two, if he's still back there. [LB343]

SENATOR FRIEND: Senator Raikes, will you yield? [LB343]

SENATOR RAIKES: Yes. [LB343]

SENATOR CHAMBERS: Senator Raikes, I said I'd like to ask you a question or two. Question number one: Can you name for me, if your memory is that good, one of the senators who was trying to do what you said ought to have been done with reference to ethanol, but it was rejected? Can you name one of the senators who did...who was with that...? [LB343]

SENATOR RAIKES: Some guy named Chambers, as I recall. [LB343]

SENATOR CHAMBERS: Question number two: Can you give me the name of the other senator? [LB343]

SENATOR RAIKES: I can. Wickersham. [LB343]

SENATOR CHAMBERS: Were there three? [LB343]

SENATOR RAIKES: Yeah, there was a third, but the third was inconsequential. [LB343]

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

Floor Debate
March 28, 2007

SENATOR CHAMBERS: Thank you, and such modesty. The third was Senator Raikes. And it was a difficult argument to have accepted. In fact, it was impossible to get it accepted. Legislatures can become blinded... [LB343]

SENATOR FRIEND: One minute. [LB343]

SENATOR CHAMBERS: ...and dazzled for various reasons. It could be to go along with a lobbyist who is high-pressure. It could be lack of attentiveness and taking the word of somebody who in the past had been trustworthy. But at any rate, the state did make a blunder by acting in haste, and now they are repenting in leisure. And for however many years in the future I can't say for sure, that Appropriations Committee is going to be reminded of that error. And we have to do all we can to make sure it's not repeated with this program. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Harms, you are next, and you are recognized. [LB343]

SENATOR HARMS: Mr. President and colleagues. Senator Chambers, would you yield, please? [LB343]

SENATOR FRIEND: Senator Chambers, will you yield to Senator Harms? [LB343]

SENATOR CHAMBERS: I'll yield to a question that Senator Harms may want to ask me, but with the way I've treated him, I don't know what else he might have in mind. So I will yield for the purpose of answering a question. [LB343]

SENATOR HARMS: Hey, you are getting smart over there. I don't know about you. I don't know if I can keep up with you today. What I really want to talk to you a little bit about, and that is the importance of ethanol, the importance of biodiesel, the importance of wind, and the fact that this state, it's critical for us to be able to develop and to do the research and to be able to be a part of this, because with that, it increases our tax base, it increases the revenue, it increases the ability for our farmers to be profitable, and in turn, and in the long run, Nebraska is better. And in fact, what we ought to be doing, if we are not happy with ethanol, we ought to be asking the university and we ought to be giving the more money to begin to develop other sources of energy, because we cannot, we cannot, Senator Chambers, as you know, we cannot be dependent on foreign oil, because we are...they are going to just simply cut our throats. And so I hope as we think about this, as we look at this, that we understand that we have an opportunity in Nebraska to grow Nebraska and have a very good future. We just have to find the solution to it. And you are a statesman, and you can help us do that. Thank you, Mr. President. [LB343]

SENATOR FRIEND: Thank you, Senator Harms. There are no other senators wishing

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

Floor Debate
March 28, 2007

to speak. Senator Janssen, you are recognized to close on the committee amendments. [LB343]

SENATOR JANSSEN: Thank you, Senator Friend. Had a good discussion on the committee amendments, and I ask for your adoption of the committee amendments. Thank you. [LB343]

SENATOR FRIEND: Thank you, Senator Janssen. Members of the Legislature, you have heard the closing on the committee amendments. The question is, shall the committee amendment to LB343 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record please, Mr. Clerk. [LB343]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB343]

SENATOR FRIEND: The amendment is adopted. [LB343]

CLERK: I have nothing further on the bill, Mr. President. [LB343]

SENATOR FRIEND: There are no senators wishing to speak. Senator Langemeier, you are recognized to close on LB343. [LB343]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I appreciate you sticking around in the...close to adjournment on a nice warm day. I would ask that you advance LB343 to Select File. Thank you. [LB343]

SENATOR FRIEND: Members of the Legislature, you have heard the closing on the advancement of LB343 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB343]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of the motion to advance LB343. [LB343]

SENATOR FRIEND: The bill does advance. [LB343]

CLERK: Mr. President, the next bill is LB343A, by Senator Langemeier. (Read title.) [LB343A]

SENATOR FRIEND: Senator Langemeier, you are recognized to open on LB343A. [LB343A]

SENATOR LANGEMEIER: Thank you, Mr. President and members of the body. LB343A is a fiscal note for, initially, \$38,000 to start the Revenue Department tracking

Floor Debate
March 28, 2007

this type of incentive. With that, I'd ask for your adoption of LB343A. [LB343A]

SENATOR FRIEND: Thank you, Senator Langemeier. You have heard...members, you have heard the opening on LB343A. There are senators wishing to speak to the issue. Senator Chambers, your light is next and you are recognized. [LB343A]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I want to make an acknowledgement for the record, whether anybody listens or not. And the fewer who listen, probably the better for my ego. Not really. I came up here with the intent to try to kill this bill, as I stated. I've turned around almost completely. I'm supporting the bill. I voted for the amendment and the advancement of the underlying bill, and I will vote to advance the A bill. The reason I will do this with Senator Langemeier, because he is a man who has shown himself to be true to his word, and a person's word means a lot to me. So on that basis alone, even with misgivings about the bill, I will make no attempt at this stage to delay any aspect of it. I offered no amendments. That is not necessary. In some cases, I have to offer amendments to slow a bill down, to try to get people to look at what I see as flaws. Senator Langemeier and others have acknowledged that work needs to be done on this bill, and that's as much as I could ask for at this stage of the debate. I would not even want Senator Langemeier or others who support this bill to try to hastily craft an amendment or a set of amendments to deal with the issues that I think exist here. We want a bill, if it is enacted into law, to be the best that we can produce. We will make sure that the principals, the amounts of money made available to these gougers and others--that's my terminology--the investors, to use you all's terminology, are going to be kept on a short leash. They will have to function in a way envisioned by Senator Langemeier, who crafted the program, before they can get the underwriting from the state and by the state, at the expense of the taxpayers. So this is a bill that has the potential that has been mentioned, with the exception that I'm going to state here. And it's based on something Senator Harms had said. This bill, and no other bill enacted by Nebraska or any other state or Congress, is going to use vegetables or vegetation, whether it's wood chips, grass, corn, soybeans, or anything else, to take the place of the reliance of America on foreign oil. To show how great that reliance is, the cost has been over 3,000 young people's lives in Iraq. You think the white people in America care anything about an Iraqi? I've heard them described as sand, and then they use the N-word with reference to them. They've destroyed that country. The electricity is not turned on. The water is not drinkable. Nobody is safe on the streets. People are being killed by the scores, at random. Under Saddam Hussein, none of these things were happening. There were people killed, and I don't justify that. But people were not killed at random. People knew where the lines were. And a woman could go out on the street and not be raped or assaulted. People could operate their vegetable markets and other entrepreneurial enterprises on the street, and be safe. They had electricity. They had water. And people are now saying, oh for the days of Saddam Hussein. And this is because of people outside that country talking about, we're going to save you, when the

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Transcriber's Office

Floor Debate
March 28, 2007

only thing they're looking at is that oil. [LB343A]

SENATOR FRIEND: One minute. [LB343A]

SENATOR CHAMBERS: They're looking at that oil. There are countries in this world where the people are suffering far worse than what the people of Iraq were suffering under Saddam Hussein. But there is no oil under the soil, so you don't hear Bush and these other people saying, we've got to go over there and bring democracy and save these people. But let there be some oil discovered, as they're finding more and more of it in Africa,...why do you think China has taken such a strong interest in the Sudan? Oil. Oil. America is creating the circumstances, with its insatiable thirst for oil, and all these little tack-on programs that are being done with ethanol or biodiesel fuel or wind energy are designed to make people feel better. But it is not going to have a substantial impact on America's need for this foreign oil. Thank you, Mr. President. [LB343A]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Langemeier, your light is next. You are the only person wishing to speak. Would you like to use this for your closing? [LB343A]

SENATOR LANGEMEIER: Yes, I would. I would ask you to adopt and support LB343A. I want to make one correction. I'm trying to recall what I just said, in my mind. I think I said the A bill was \$36,000. It's \$136,000. I want to make that correction for the record if I misstated. I'm not sure. With that, I'd like to ask for your support for LB343A. Thank you. [LB343A]

SENATOR FRIEND: Thank you, Senator Langemeier. Members of the Legislature, you have heard the closing on LB343A. All those in favor of advancement please vote aye; all those opposed vote nay. Have all of you voted that wish to? Record please, Mr. Clerk. [LB343A]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB343A. [LB343A]

SENATOR FRIEND: The bill does advance. The Chair would like to now recognize Speaker Flood for an announcement or two. [LB343A]

SPEAKER FLOOD: Thank you, Mr. President and members. Just to give you a heads up, tomorrow we will resume in the Raikes division with LB658. I anticipate that will take a better part of the entire day. On Friday, we will be on Final Reading, to begin with. And I will, of course, let you know, maybe late tomorrow afternoon or with the agenda, exactly where we will be after Final Reading, but wanted to give you kind of a heads up and a road map as we plan out the rest of the week. Thank you for being so attentive. It is very hot in here. I recognize that. And your attendance and attention is greatly appreciated. Thank you, Mr. President.

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Transcriber's Office

Floor Debate
March 28, 2007

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

CLERK: Thank you, Mr. President. New resolution, LR66, offered by Senator Flood. That will be laid over. Amendments to be printed: Senator Dierks, to add his name to LB629; Senator Harms to LB658; Senator Louden to LB658; and Senator Hudkins, four amendments to LB658. An announcement, Mr. President. The Revenue Committee will meet at 5:00 in Room 1524, Executive Session; Revenue Committee, 5:00, Room 1524. Senator Stuthman would like to add his name to LB562, as cointroducer. (Legislative Journal pages 960-964.) [LR66 LB629 LB658 LB562]

I have a priority motion, Mr. President. Senator Flood would move to adjourn until Thursday, March 29, at 9:00 a.m.

SENATOR FRIEND: Members of the Legislature, you have heard the motion to adjourn until Thursday, March 29, 2007, at 9:00 a.m. All those in favor please say aye. All those opposed say nay. I believe the ayes have it. We are adjourned.