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Floor Debate
April 18, 2007

[LB10 LB106 LB282 LB367 LB405 LB453 LB629 LB674]

SENATOR McDONALD PRESIDING []

SENATOR McDONALD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-sixth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Michael Benischek, from the St. Mark's Northwest United Methodist Church in Lincoln, Nebraska, a guest of Senator Hudkins. Please rise. []

PASTOR BENISCHEK: (Prayer offered.) []

SENATOR McDONALD: Thank you. I call to order the sixty-sixth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Thank you. []

CLERK: (Microphone malfunction.) []

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

CLERK: Madam President, an item for the record, if I might. Enrollment and Review reports LB674 to Select File with E&R amendments attached. Madam President, LB367, carried over from yesterday, the bill was originally introduced by Senator Janssen. (Read title.) The committee amendments were offered. The committee amendments were divided. The first component of the committee amendments was adopted. Pending now, Madam President, is the second component of the committee amendments, specifically AM972, and I do have amendments pending to that component of the committee amendments. (Legislative Journal page 1196.) [LB367 LB674]

SENATOR McDONALD: Senator Janssen, would you like to refresh us on our second division? [LB367]

SENATOR JANSSEN: Yes, I'd like to bring you up to speed, what we did on the first division yesterday. We adopted the first division, which put in place \$100 million in property taxes for 2007-08, and \$9 million in 2008-09. That's kind of an update where we're at right now, and if you give me just a minute, I'll get that second division, which we were going to start on today, if I could have just a little time. [LB367]

SENATOR McDONALD: Thank you, Senator Janssen. I'll give you a little time. [LB367]

SENATOR JANSSEN: All right, in the second division, what we're going to be talking

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

Floor Debate
April 18, 2007

about this morning are a sales tax and estate tax, and we will have the...will eliminate the estate tax from the bill, and that one we will probably withdraw. And the next amendment is AM935, that clarifies the sales tax exemption for wind energy, that it cannot get the tax credits. And that one we will need, because it would be a double dipping in that area. So that is what we are going to start on this morning. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Janssen. Mr. Clerk. [LB367]

CLERK: Madam President, the first amendment I have to this component of the committee amendments, Senator White. Senator, AM950. (Legislative Journal page 1196.) [LB367]

SENATOR WHITE: Thank you, Madam President, my colleagues. I appreciate the opportunity. I also again want to thank Senator Janssen for the courtesy of this. I appreciate his courtesy in allowing this to go forward at this time. We've discussed state taxes, we've discussed property tax credits at length, but one of the things I'd like to discuss with you is the necessity for balance in what we do. The overall plan that we're looking at in this particular amendment provides \$500 to every homeowner across the state. This applies, no matter whether they make income or don't make income, and it is directed primarily at the middle class, to assist the middle class in affording homes, and to keeping their homes, and in relieving the pressure they feel from property taxes that have, at least in their view, spiraled out of control. That is balanced in this amendment with an estate tax. The estate tax is primarily directed at two purposes: One is to improve our competitiveness and the image of the state in the various journals that follow tax climate, so that we can assist in holding and attracting new businesses. That is balanced by, and balances the effort to provide \$500 tax credit to the middle class. The estate tax would primarily benefit those who are the wealthiest among us, those who have been successful in amassing what most people would consider a fortune, and I think that is important. We need to also try to balance interests between the towns, and it is not an urban--the \$500 credit--is not an urban tax benefit. It is anyone who owns a home, and it primarily benefits people in the cities, but it also benefits people in our small towns across the state. That, then, is balanced with the estate tax, which would primarily benefit those who own ranches and farms and wish to pass them on to the next generation. Again, this is an effort to combine two different competing interests into one fair tax package. The total amount of this tax package is approximately \$230 million per year. Now that has been described as a whopper of a tax cut, one that actually I am very proud of. If we have the people's money, it seems to me the best thing we can do with it in this situation is return to the people. If we do not have current use for it, if we do not have the absolute necessity to keep the people's money, we should return it to them. I believe this procedure that we are proposing best returns the money in a way that will most promote economic prosperity in our state. It will definitely help the home industry--home building industry, the home remodeling industry. It will

Floor Debate
April 18, 2007

definitely put the money back in the people who are most likely to spend it in the local economy. One of the problems we have with competing tax cut concerns is they push money out of state. One of the opportunities that we've discussed in the committee's bill is the idea of a 8 cents on a \$100 assessment credit. In the case of Ted Turner, who owns 350,000 acres...and it depends on the price. My good friend Senator Rogert says \$300 for rangeland is probably fair; Senator Hansen yesterday indicated \$350. The good...under that circumstances, Ted Turner would get between \$84,000 and \$124,000 that would immediately leave the state. It would not be reinvested in the state. It would not come back into our economy. It would leave the state and that would be, in my view, a very bad economic policy to take money and move it out of state in that way. If we do this...and we have to remember that many of our farmers now actually farm land that's rented and owned by people who no longer live in the state--they've inherited it from their parents or their grandparents--and so much of the tax break on a generalized tax, property tax reduction, does not go to our voters, does not go to the people who will spend money in the state. Similarly, we've discussed Union Pacific. Under the committee's existing proposal for tax cuts, Union Pacific would get \$850,000 back on this provision alone. Union Pacific has not asked for that tax cut. Union Pacific, though a valued corporate citizen and, in fact, in many ways an exemplary corporate citizen, will not have the same economic impact as that money will if it was spread across the middle classes of our state. We have a unique opportunity. We can provide real, immediate, meaningful response to every homeowner in the state of \$500. It is an opportunity I do not anticipate will occur in every session, but this provision allows us, every year or every biennium when we review the budget, to look at what the economic forecasts are and, when possible, to provide that money to the state. A further advantage of this is that it does not encourage those local taxing entities to rely on a source of money from us and then find us, when we are short of money, disrupting building programs, educational programs, law enforcement programs, conservation programs, flood control programs, because the state coffers have been reduced. This is an ongoing problem, and it's one of the unspoken tensions between a property tax-based system and a system based on income and sales tax. One of the reasons the property tax system has endured so long, and indeed our dependence on it is so high, is that it is predictable. It is predictable across economic downturns. That source of income is more reliable than sales or income tax. When we start proposing to base fundamental programs such as education, law enforcement, other matters on the more variable forms of revenue--income tax and sales tax--we will have ongoing disruptions in the smooth delivery of government services. That is very expensive. I believe it's far better that we acknowledge that there will be years, based on the state's budgetary sources of income, that there will be more money available or less money. Rather than encouraging local taxing entities and spending money by giving it to them to build programs that have to be funded year after year on that basis, it is far better just to recognize that some years will be better than others; when we have a surplus, return it to the hard-pressed homeowners in the middle class, with the understanding that they know we cannot do that every cycle. They'll understand, but they know in good years

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

Floor Debate
April 18, 2007

we're thinking of them, and in the tougher years, then, we have not...we are not going to cause the substantial disruptions necessary if we have a downturn and they turn to us for income. In sum, then, I'd ask your support for this amendment. I think it moves us into a more sustainable, more rational, more economically viable method of handling our taxes. It also has a huge advantage: We are not, and I repeat, not spending money. We are enacting a real tax cut. A tax shift will be recorded as a cash expenditure on our books. What the committee proposes is exactly that. One final advantage: You will know exactly what you are giving, and you will know exactly to whom you are giving it. That is not true, particularly in the reduction of the \$1.05 to a \$1.00 aspect of the committee's plan. This then, in sum, is a matter that is popular politically, it makes good economic sense, it achieves responsibility in government, it is responsive to your constituents, and I ask your support. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator White. (Doctor of the day introduced.) Senator Mines. [LB367]

SENATOR MINES: Thank you, Madam President, colleagues. Bring you up to speed on...there's been a little action early. Senator White and I had talked. I was going to divide his amendment, AM950, because as you all know we have, I believe, two components. One is the repeal of the estate tax; the other is the \$500 tax credit. And earlier this session...in fact, I was one of the first to drop in bills, LB10 would terminate the estate and generation taxes, and in fact, Senator Stuthman also dropped in LB282 to eliminate the estate taxes. We'll talk about why we believe those are important, but I have a sense that the amendment, AM950, we're going to get an up or down vote, but I don't believe it's going to go anywhere--just a personal opinion. In my opinion, the estate tax repeal is vastly more important to the long-term health of Nebraska, and I think that it, on its own merits, may in fact garner your support. I hope it does. But I was going to divide this amendment. I've agreed with Senator White not to divide this amendment but the following amendment, which also includes the estate tax repeal, and we'll go into great detail about why it's important and how it's important to Nebraskans. Thank you, Madam President. [LB10 LB282 LB367]

SENATOR McDONALD: Thank you, Senator Mines. Senator Friend, followed by Erdman, Howard, Stuthman, Janssen, Hudkins, Lathrop, and others. Thank you. [LB367]

SENATOR FRIEND: Thank you, Madam President, members of the Legislature. Senator Mines is too kind, because I wouldn't have just divided this one, I'd divided the other one, too. They're divisible, and I would have done it. Look, this is going to be brief. We can pander all we want to voters. We can do that. Or we can create normal, fiscally responsible tax law. This ain't it. I mentioned earlier we were going to take a long time on this bill--a lot more. The baseball bat in the head and the Snickers bar or, vice versa, the ice cream cone, it ain't going to work, because I didn't march around my district

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

Floor Debate
April 18, 2007

telling people that I was going to provide property tax relief for them, because we can't do it! Madam President, that's all I have. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Friend. Senator Erdman. [LB367]

SENATOR ERDMAN: Madam President, members of the Legislature, maybe Senator Mines is too kind. It's probably not a bad thing, Senator. I think it's important that we stop before we lash out, and actually figure out what we're going to do. And as we talked yesterday, I hope the reality is, is that we provide meaningful tax relief to Nebraskans, and we're probably all going to disagree on what that looks like. That's why we have this process to wade through this. Obviously, Senator White is a member of the Revenue Committee. They didn't accept his proposal. Actually, they didn't accept either of his proposals that are in this amendment. Does that mean that they're bad? No. This is one member of the committee's opinion of how we should proceed, and he's offering us this opportunity. Are both of these bills still in committee? Yes. Is this inappropriate? No. I think Senator White is doing what he believes is the right thing to do here. As I've talked about on other issues, I think we have to look at the practical application of this, and I would hope that in this discussion, in the event that we get to that level--beyond the baseball bats and Snicker bars--that we can actually look and decide whether or not this is good public policy or whether this is closer to what Senator Friend would characterize it as. The first part of this amendment I can support. I said that yesterday when Senator Friend's amendment was up here regarding the estate tax. I can support that. In fact, if you go back--and it was alluded to a little bit yesterday--but if you go back and you look at the tax policy that we have in place now, we have effectively decoupled our tax policy from federal tax policy, when in prior years it was coupled. The estate tax followed the federal estate tax, the income tax was a percentage of the federal income tax--that was coupled. However, when Congress over the past four years have gone in and have reduced the federal income tax and the federal estate tax, we as a Legislature voted to decouple. I voted against that. At the same time, in the 1990s, when the federal government and the Congress was raising taxes, we didn't decouple then, and we received a windfall that was not only borne on the backs of our taxpayers on the federal level, but it was borne on the taxpayers on the state level, and we benefited from that. So to the first part of Senator White's amendment, I can support repealing the estate tax, in some form or altogether, because I believe I was one of two members of the Legislature that voted not to decouple the estate tax from the federal estate tax. I thought that was wise fiscal policy. I thought it was inappropriate for us as a state to look at our citizens and our businesses and say, you now have to maintain two sets of records when it comes to how you're going to file estate taxes. And obviously, a lot of that is done through their accountants and attorneys and others, but I still think that's an inappropriate way to set tax policy. There has to be a legitimate reason for us to say we need to be different than the federal government on our estate taxes, and at this point, I think the fundamental public policy would state, and rightfully so, for the future of family farms, for the future of our

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

Floor Debate
April 18, 2007

investment in rural Nebraska, and for the future of our state as an entity, the opportunity to transfer that wealth from generation to generation is vital. And I think the estate tax is an inhibitor for that becoming a reality. So I can support the estate tax and whatever amendment, in whatever form it gets, whether it's a direct one of Senator Friend's, or whether it's in something else. And then obviously, if it's in something else, we have to analyze the other parts. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR ERDMAN: I will...I don't have enough time to get into the other parts, but I will listen and turn my light on. I think there's probably plenty in this amendment to discuss for quite a while. I hope you will be involved in this discussion, as I shared with some of the members that were asking me kind of how this process works. Once you get to the floor, whether it's the budget, whether it's tax relief, whatever it is, once the committee has done that work, that's the basis for our work. And when we as a body finally figure out which direction we're going to go, that will set a clear direction for a lot of things to happen. I hope we get some of that clear direction this morning, and that can help us put together both this package and other packages that will be before us later this session. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Erdman. Senator Howard, followed by Stuthman and Janssen and others. Senator Howard. [LB367]

SENATOR HOWARD: Thank you, Madam President and members. As I attended neighborhood meetings throughout my district, there are three words that are constant. These words are "property tax relief." Whether it is the Field Club, the Ford Birthsite, Leavenworth, Blackstone, Hanscom Park, Joslyn Castle, Gifford Park, or Dundee, the demand for my constituents is property tax relief. As I do before every session, I sent out a district survey to my constituents. A majority of my constituents said property tax relief is the first or the second most important issue to them--above education, healthcare, roads, crime, and business tax breaks. My number one priority this session is getting meaningful property tax relief to homeowners in my district. Given that there is not a single parcel of agricultural land in my district, not one of my constituents got the property tax benefits of the tax bill passed last year that reduced the rate on agricultural land. I cosponsored LB453 before I...because I know homeowners in my district see a \$500 check much more meaningful than a \$40 line credit on their property tax statement. My constituents have stopped believing that the previous efforts of shifting money to local schools or governments brings about meaningful, meaningful property tax relief that they can take to the bank. Despite all of our previous efforts, homeowners continue to see their property bills just go up, and up, and up. I support this amendment because it is time that we listen to those who rely on us, and provide homeowners with the tax relief that is long overdue. Thank you. [LB367 LB453]

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

Floor Debate
April 18, 2007

SENATOR McDONALD: Thank you, Senator Howard. Senator Stuthman. [LB367]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. First of all, I would want to add my support to the elimination of the state estate tax. That was one of my goals. I had one of those bills this year, and I also had it in last year, of attempting to get...eliminate the state estate tax. The real concern that I have right now is the fact that we're trying to decide whether that \$500 to a homeowner is the right thing to do. I would like to ask Senator White a question or two, if I may. [LB367]

SENATOR McDONALD: Senator White, would you answer? [LB367]

SENATOR WHITE: I certainly will. [LB367]

SENATOR STUTHMAN: Senator White, what do you mean by homeowner? [LB367]

SENATOR WHITE: A homeowner is a person who owns the residence, primary residence. It's defined in the tax codes, both in the federal and state system, so it has a very extensive and defined message that legally it's well-known. You would not, for example, be able to deduct anything for a home you owned in Arizona or a cabin on your lake. [LB367]

SENATOR STUTHMAN: Okay. But a home--that would be the primary residence. [LB367]

SENATOR WHITE: Yes, sir. [LB367]

SENATOR STUTHMAN: Would that mean a mobile home--what is their primary residence? [LB367]

SENATOR WHITE: If that's their primary residence and they pay property tax on it then, yes, indeed it would, sir. [LB367]

SENATOR STUTHMAN: Okay. I want to give you a little illustration, an example. A lot of the mobile homes in my community, you know, are valued not very high. For that \$500 credit to this homeowner, if they own a \$30,000 mobile home and that's their residence, and a family of four living in that home, in my county, in Platte County, the taxes on that mobile home, which is a residence for those four people of that family--two of them going to school--their tax bill is \$564. And we're going to give them \$500 of that \$564. So that family of four, with two children getting educated, going to school, they're going to pay a total bill of \$64 to educate their kids. Is that the direction we want to take? Because this is what is going to happen. If you're going to give them that \$500, their tax bill was \$564, and you're going to give them the tax credit of \$500. Their bill--and I repeat--will be \$64 for the ability to drive on the streets, on the roads. That's going to be

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

Floor Debate
April 18, 2007

it for that family, because that's their primary residence. I don't know if that's the right direction we should be taking. And there's...and when I visited with my local assessor, there are a lot of homes that are...a lot of mobile homes, that are valued under \$25,000. There are some at \$8,000, some at \$10,000. They're going to get their whole bill. They're not going to get \$500. They're going to get the \$200 that they pay in taxes. They're going to get that total relief. Is this something that is right? I'm really concerned about that, that there's going to be a group, a number of people in the state, that are not going to be paying anything for property taxes. They're not going to be paying anything for educating their kids, because that's on the property taxes; they're not going to be paying anything for the library. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR STUTHMAN: That's what we're doing. Let's think about that. Do we want to give total relief to a group of people in the state of Nebraska and say, you know, you don't have to pay taxes this year, just because the state feels good and we want to give you some money. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Janssen, followed by Hudkins and Lathrop. [LB367]

SENATOR JANSSEN: Thank you, Senator McDonald and members of the Legislature. So now is the time that we actually do begin the debate on Senator White's amendment. Senator White and others have been talking about it for quite some time, while the members of the Revenue Committee, we have tried to keep the debate focused on what actually is in LB367. Now it's the time to turn our attention to this amendment and look at it seriously, because if you look at it seriously, you will find that its flaws are enormous. AM950 would establish a bad tax policy, in my opinion. It's wrong on many levels, almost too many to count. But let me try to name just a few of them. The White amendment isn't property tax relief. Let me repeat: The White amendment isn't property tax relief. One reason we're so insistent on...that the amendment not be debated in connection with the first division of the committee amendments is for exactly that reason. The White amendment reduces income tax. Only people who file a tax return will get the credit. If they don't file income tax return, for whatever reason, they won't get their credit, no matter how much property taxes they pay. As we now know, even our rules of germaneness recognize this obvious problem with the White amendment. It did not fit in the first division, and so it's not what it claims to be. If it walks like a duck and quacks like a duck, calling it a cow does not make it a cow, no matter how many times you do it. I'm going to end right now and push my light on again. But thank you for your attention. [LB367]

SENATOR McDONALD: Thank you, Senator Janssen. Senator Hudkins. [LB367]

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

Floor Debate
April 18, 2007

SENATOR HUDKINS: Thank you, Madam President and members of the body. I am not going to be able to be supportive of this amendment for a couple of reasons actually. A few years back, 1999 to be exact, there was a similar tax credit put in, and at the time, the county officials, mainly the treasurers and the assessors, were concerned about this because it necessitated additional help over time, and they had to redo the tax forms, and that was a significant cost to some of the counties. What did that mean? It meant that they had to have additional local revenue to cover those costs. Where do counties get their additional local revenue? Property taxes. Now I said I can't support Senator White's amendment, but what I'm most critical about is the process. It's also the fact that this amendment, AM950, is exactly the same as LB453. The language on page 18 and 19 of the amendment is exactly the same as the bill, LB453. LB453 was heard by the Revenue Committee and did not advance. Isn't Senator White's amendment an end around the Revenue Committee? On February 26 we heard a very similar situation. A bill that was heard by a committee was not advanced by them, and it was the subject of a motion. Those speaking said, no, no, we can't do this; we have a committee system, you should do what they say; you should...we have the committees, let's let them do their work. It's my contention that this amendment attempts to work around the committee system. I would like to ask Senator Janssen a question, if I may. [LB367 LB453]

SENATOR McDONALD: Senator Janssen, would you yield to Senator Hudkins? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR HUDKINS: Senator Janssen, your committee heard this amendment as LB453. Can you tell me why the committee did not advance the bill? [LB367]

SENATOR JANSSEN: Because there weren't enough votes. (Laugh) [LB367]

SENATOR HUDKINS: Obviously, but the reasoning behind that. [LB367]

SENATOR JANSSEN: No, because it was...we thought it was a little too rich. [LB367]

SENATOR HUDKINS: Can you tell us those numbers, what the committee...what your committee amendment does, and what Senator White's amendment does? What are the numbers that we talked about earlier? [LB367]

SENATOR JANSSEN: Well, in the White amendment, it is...what did I have down here...about \$435,000...\$225,000 plus \$235,000, yes, the first year and the second year. [LB367]

SENATOR HUDKINS: And that would be compared with \$218,000 and \$211,000 for

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

Floor Debate
April 18, 2007

your committee's proposal? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR HUDKINS: So this amendment is--and I haven't taken time to do the math--but this amendment is more costly. And the fact that people can get this credit back, even though they have paid no income tax, it just rubs me the wrong way. Senator Cornett, may I ask you a question, please? [LB367]

SENATOR McDONALD: Senator Cornett. [LB367]

SENATOR CORNETT: Yes, Senator Hudkins. [LB367]

SENATOR HUDKINS: Senator Cornett, we talked earlier about this bill, and can you tell me why the committee didn't kill the bill, if they didn't like it because of the cost? [LB367]

SENATOR CORNETT: The committee members respect Senator White immensely, and there was quite a bit of discussion about killing the bill. We decided that out of a courtesy that we would not do that. [LB367]

SENATOR HUDKINS: Thank you. And I respect Senator White, as well. He is one of my colleagues. He is a very learned man. He has very good comments on any other of the bills that he has spoken on. But in this case, I think that it is an end around the committee system. If a bill is not advanced from a committee and he wants to put it as an amendment onto a bill, it takes 25 votes. If the bill had been killed by the committee, it would take 30 votes. Now Senator White is well within his rights to ask that this amendment be put onto another bill. It is my contention that if you didn't think that a bill stuck in committee in February should be the subject of discussion on the floor, then neither should a bill stuck in committee be the subject of discussion today. So I'm asking you to...whether you like the bill or not, it's just the process. If you believe in the committee system and you want the committee system to work... [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR HUDKINS: Thank you, Madam President. [LB367]

SENATOR McDONALD: Senator Lathrop. [LB367]

SENATOR LATHROP: Thank you, Madam President and colleagues. Senator Friend, Senator Friend--pandering to the voters? We are engaged in an exercise of pandering to the voters when we consider some form of property tax relief? I'm really, really surprised to hear you talk that way, and to hear anybody talk that way. Senator White's proposal may have run into a rough road and touch sledding before it got here, and

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

Floor Debate
April 18, 2007

there are a lot of reasons, but it isn't the merits of that proposal. The idea that we could, in this legislative session, do something we haven't done for the voters in a long, long time, and that's give meaningful relief. If we adopt the approach taken by the committee, they might get \$30 here, might get \$10 there, something they'll never see, they'll never have an opportunity to use to pay off the balance on their credit cards. That's not pandering to the voters. Those are the people whose money we are spending, whose refund we are going to decide how it shall be disbursed. The amendment, AM950, I think strikes a good balance. It strikes a good balance because it gives the affluent Nebraskans a break from the estate tax, it eliminates the estate tax, and what you should understand when we eliminate the estate tax is this: that if a person accumulates in their lifetime--let's say they buy Berkshire Hathaway stock when it's at \$1,000 a share, and it goes up to \$25,000 a share, and you die owning it, we're not going to make your kids pay the profit. You're not going to pay the profit on that increase. We're just going to hand it over to the kids and their basis is now going to be what it was at the time of the transfer. We're allowing an awful lot of appreciated assets to pass to a new generation without taxing. At the same time, we're going to provide some relief to working families and to the middle-class Nebraskans--something meaningful, something they can see, something they can put their hands on. You know, when President Bush took over six years ago, he told us how important it was to put money back in the hands of the middle class. He told us that he was giving the middle class a tax break so that we could stimulate the economy. Five hundred dollars in the hands of every family that owns a home in the state of Nebraska will not only provide meaningful tax relief, it will provide an infusion of money into our economy. The money that is spent will be taxed. It will be a far better approach than to say, you can have a couple dollars in sales tax, a couple dollars in property tax, none of which you'll see, and none of which will help your family. Five hundred dollars to working families means something. As I told you yesterday, the typical homeowner in my district has about \$3,000 in property taxes. Five hundred dollars off of that is significant property tax relief. That's money they can pay off their credit card balances with and take care of unmet needs. This approach is sound, this approach is balanced, and this approach deserves our serious consideration and our vote. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Lathrop. Mr. Clerk, I understand you have a priority motion. [LB367]

CLERK: I do, Madam President. Senator Friend would move to bracket LB367 until April 29, 2007. [LB367]

SENATOR McDONALD: Senator Friend. [LB367]

SENATOR FRIEND: Thank you, Madam President, members of the Legislature. I am going to pull this bracket motion in less than ten minutes, okay? April 29 is one of my daughter's birthday, so that's that significance. Senator Pahls didn't want me to do this;

Floor Debate
April 18, 2007

he wanted to talk. You know what? This is the way the game is played. Let's jump on the "Senator White--I respect Senator White" bandwagon. I do, too. I do--no question about it. This is flat-out pandering to voters. No offense to Senator White, that's what it is. I'm not trying to offend anybody here. But it does get a little bit politically frustrating. Let's talk specifically about what's wrong with this legislation, Senator White's amendment. Let's talk specifically, just as others have tried to point out. The first two lines of this amendment, the very first two lines, "strike the original sections and all amendments thereto and insert the following new sections," folks, we are gutting not just LB367; we are killing off the Revenue Committee amendments. We're taking one Revenue Committee member's idea and we're implanting that into the situation to create the tax policy for the state. Now a lot of us are committee Chairs; a lot of us have dealt with this, you know, type of stuff in the past. We'll deal with it again. We're dealing with it right now. I would just submit to you that that is potentially destructive, not because I don't respect Senator White, but because I respect Senator Janssen, too. I like part of Senator White's bill. He knows that. Everybody here knows that. We've made that clear. Senator Janssen I respect, as well. The committee members I respect, as well. And if those first two lines get implemented, game over--committee amendments gone, the original bill is gone. That's not how this process works, I don't believe. You guys make your own call. Senator Lathrop brought up a good balance, that that \$500...\$500 for somebody who owns a residence in this state, we're providing some good tax balance for these people. Balancing against what? Some of us were here...I took more stones, I took more slings and arrows. There's internal politics and there's external politics, folks. I and others took more slings and arrows when we were \$790 million in the red and I voted against the tax hike. Now I'm not patting myself on the back, but I got beat up, and I'm not going to tell you by who. So it's hard for me to sit here and listen, after being here for almost five years and doing what I thought was right, and have folks say, well, we're trying to provide some balance now. Frankly, I think that's a little bit of a disservice. Even though I saw the folks vote for a tax hike in that year, I respected the heck out of what they did. All of you who were here, I respected the heck out of that. I didn't agree. I wasn't going to go along with it, but we were marching and doing what everybody thought was the right thing to do. So I guess the point is, acting like, hey, boy, guess what, the Legislature has come up with this really great idea, let's give the money back to the people, you know what, that idea has been around for as long as this Legislature has been around. The key is implementation, the key is procedure, the key is the way you're going to do it in regard to our tax law in this state. Members, you're all waiting in line. I'm going to apologize for one thing and one thing only, and that's tossing this thing up here so I could get in. But you know what? I've seen Senator Chambers do it four or five times. I've seen others do it. I've only done it twice. I'm only going to apologize a little bit. Madam President, I'd like to withdraw that bracket motion. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Friend. Bracket motion has been withdrawn. Senator Avery. [LB367]

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

Floor Debate
April 18, 2007

SENATOR AVERY: (Microphone malfunction)...President. I have been looking at this bill, and some of it is clear but not all of it. If you go to the last sentence in Section 6, that would be pages 18 and 19, it reads, "Every biennium, the Legislature shall reexamine the amount of this tax credit based on economic conditions, fiscal conditions, and other relevant factors." I would suggest to you that that's not exactly clear. What does it mean? Examine the tax credit? I know what reexamine means. It means to consider in detail and subject to analysis in order to discover the essential meaning of something, to analyze. But what is not clear is to what purpose is this reexamination to take place. So if Senator White would please yield, I would like for him to address that. [LB367]

SENATOR McDONALD: Senator White. [LB367]

SENATOR WHITE: I'd be delighted, and thank you, Senator Avery. It's an excellent question. The point of that is to avoid what is an unspoken...really, it's an unspoken false assumption here. We talk about giving permanent tax relief, whether that is reducing sales tax, reducing income tax, whatever it is, Senator, and what, in fact, we are saying is, given economic conditions and fiscal needs for expenditures as they currently exist, we can live within this tax code. But as Senator Friend just finished discussing, times change, economic conditions change. This is designed, and that is a specific design factor in this particular proposal, to take into account that, in fact, conditions do change, and that we will look every biennium at what our needs are for expenditures and what our intended or expected resources are, in terms of sales and income tax. And we will then, just like a corporation looking at making a return to its stockholders, we will turn to the voters and say, this is what we can do, out of income tax and sales tax, to alleviate the burden that is falling upon you on property tax. In this way we build no false expectations on them that this will happen every year. Indeed, I hope in years to come there will be far more money available, that we will actually put more money into the system because our general economy will do better. Or if we have downturns, we simply tell them there is no money for tax relief, but at that time, Senator, we have not disrupted those essential programs such as education, environment, law enforcement, things like that. [LB367]

SENATOR AVERY: Thank you. [LB367]

SENATOR WHITE: That's why that provision is in there, to provide intelligent flexibility and more honesty and transparency in how we do both budgeting and (inaudible). [LB367]

SENATOR AVERY: Thank you. Thank you, Senator. You're using up all my time. It still is unclear to me, though. In the language, you don't say what you do after you reexamine. You don't actually specify. You reexamine to see what the conditions are,

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

Floor Debate
April 18, 2007

then what? [LB367]

SENATOR WHITE: Then we decide whether or not we have the money to do another funding. We cannot commit constitutionally... [LB367]

SENATOR AVERY: Shouldn't that be in the bill? [LB367]

SENATOR WHITE: We cannot constitutionally commit a legislature in future bienniums in this way, to say you'll give this \$500 every two years. The point, though, is the Legislature should look at it every two years and determine what, if any, relief we can give to the property taxpayers of the state. [LB367]

SENATOR AVERY: Well, but the language "to reexamine" does not then require any action to take place afterwards. [LB367]

SENATOR WHITE: That's because that's a constitutional requirement. We cannot mandate the action, as I understand the constitution. [LB367]

SENATOR AVERY: Thank you. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR AVERY: Well, I'm still confused as to how you're going to actually reexamine without, then, some kind of specified, required action. Reexamine; you decide that, yeah, you can't afford it anymore; then what? The language here does not actually require any action. [LB367]

SENATOR WHITE: If we cannot...if we do not have sufficient money, then we do nothing. If we feel we have sufficient money, maybe we do far more than \$500. The point is to hopefully make it an ongoing process where this Legislature looks at what we can do from the income generated from income tax and sales tax, to relieve the burden of property taxpayers. So it asks simply that this remain a line item on the tax returns, and some years we'll fill in that number and it might be zero. Other years it might be \$5,000. It just depends on how well we manage the overall economy. [LB367]

SENATOR AVERY: Perhaps, Senator White, what you might want to do is to sunset this, so that you're required, then, to come back and revisit it--sunset it at the end of two years, then the Legislature would be required to come back and revisit it. [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR AVERY: Then you could determine the amount. Thank you, Madam Chair. [LB367]

Floor Debate
April 18, 2007

SENATOR McDONALD: Thank you, Senator White. Senator Preister. [LB367]

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise in support of...continuing support of Senator White in his efforts to be able to provide this relief. Characterize it as you will, I choose, as Senator White does, to characterize it as a direct offset, or property tax relief. It will go directly to the taxpayers who paid property tax, of up to \$500, and could be the full \$500, should they have paid that much in their local property tax. I view that as an opportunity to put taxpayers' money that they paid, in one fashion or another, right back in their pocket. It does it in an across-the-board fashion for anybody who has paid property tax, so the person who has paid a small amount, to the person who has paid on the mansion, would all get a share back. And for those who most need the money, for those that are struggling, perhaps in trailer houses or trailer parks, those folks who have children and are barely able to pay for the clothing for those children to attend school, barely able to pay for the food so those children can eat, for those families that are struggling who sometimes work two and three jobs, for those families that are the least among us, I think we have a sense of responsibility to look out for those folks, and this, in Senator White's proposal, is a very good way to particularly help those that are the least among us. For those who have more and are doing well, I don't begrudge them that, but they, too, would get an equal portion. I think in that way it reaches the most people that we could reach, the most individuals who actually have a primary residence in the state of Nebraska, because many of the folks who would be getting the relief and getting the tax reduction through the levy lid reduction wouldn't necessarily even be Nebraskans, and they wouldn't necessarily even be individuals, as Senator White has said over and over again. That would go to everybody, including some very wealthy corporations and wealthy individuals who have not asked for this relief. I prefer to give it to all Nebraskans, and this is the closest that we can come to giving it to all Nebraskans. And it's a direct check. The mechanism that's being used is through the income tax, but that just facilitates the ease of administration and cuts administrative costs. So it's economically wisely done, which I like as well. The other component is that it's a stimulus to the economy. Many of those people, particularly the lower-income folks, many of whom I represent--and I would venture to say everyone in here has some of those low-income people in their district--would most likely spend that money on their families, on paying some of their bills, on trying to get out of debt. As they spend that money, it's going to local retailers, it's going to people within the community, most likely, and some of it will come back to the state, as well. So we help local business and we also offset some of it, coming back into the General Fund through sales tax. I think that makes sense. It certainly makes sense to me, it makes sense to Senator White, and to others. I'm going to vote for it because I believe in the concept, and I think it's as close as we can see of getting that money back in as equitable a fashion as we can... [LB367]

SENATOR McDONALD: One minute. [LB367]

Floor Debate
April 18, 2007

SENATOR PREISTER: ...to the people who actually live, reside, and pay property taxes in the state of Nebraska. And property tax is the most burdensome, whether you are living in a very, for you, affordable piece of real estate, or a mansion. Ask anyone at any level of property taxpayer, and they will all tell you that the tax they dislike the most is property tax. The one that's the most burdensome, particularly to middle- and lower-income folks, is the property tax. This at least shows them directly--with a check in their hand, that they have control over, that they can spend how they choose--that we recognize that, we appreciate and value that, and we want to do something to offset and help them. Thank you very much. [LB367]

SENATOR McDONALD: Thank you, Senator Preister. (Visitors introduced.) On with the discussion. We have Senator McGill, Carlson, White, Adams, Erdman, Kruse, and others. Senator McGill. [LB367]

SENATOR MCGILL: Thank you, Madam President, members of the Legislature. I'd like to tell you all little bit about the homes in my district. They're smaller, mainly built in the forties, fifties, and sixties. They're perfect for a new couple just starting off on their life together and for seniors to retire in. As I knocked on doors in my district, a reoccurring story that I heard, which actually kind of surprised me starting out, wasn't just that they would...property taxes would come to their mind as the biggest issue for them, but they would point to the house across the street that it now empty and say, my neighbors recently moved because they couldn't stand the property taxes anymore, and as soon as I retire I'm moving out of the state, as well. I heard this over and over again. When our seniors are leaving the state because our property taxes are so high, it is our duty to do something about it. It is our problem. And if some senators say that property taxes aren't an issue for us to be discussing here, then what were we doing yesterday on the first amendment, in trying to provide property relief that way, property tax relief? I support Senator White's plan because the property tax relief we examined yesterday would only give those seniors I'm concerned about in my district about \$60 bucks for their houses, while others who don't even live here in the state who own property would receive thousands of dollars. These seniors have paid their dues to our state. They've worked hard. They have little income but may not be eligible for the homestead exemption. Their homes are paid off, but they're still paying thousands of dollars in property taxes. Five hundred dollars is a lot of money to them, money they'll be spending on their grandkids, on their medications, on their bills, in local stores. Some will argue and have argued that other tax cuts are more important to the long-term stability of our state. But we are losing the heart and soul of our state when we allow Nebraskans to be leaving over a tax like this. If we do not advance AM950, then we should go back and increase the property tax relief that we voted on yesterday. Property tax relief should not make up just half of our tax package, but the majority of it. It should...every day Nebraskans are leaving the state, and we have to do something about it. When they leave they're decreasing our tax base, which only makes our

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

Floor Debate
April 18, 2007

situation in the future harder. It is our obligation and smart policy to do what we can to keep them here. They have paid their dues to our state. It is our duty and our moral obligation to give them the opportunity to stay here, by giving them meaningful tax relief that allows them to stay in their homes here in Nebraska. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator McGill. Senator Carlson. [LB367]

SENATOR CARLSON: Madam President, members of the Legislature, I rise to have some further discussion concerning this idea of tax relief. I think that Senator White has brought up a really good point, in terms of talking about the Ted Turners and the Union Pacifics and others that would be big recipients of part of this tax refund, and I think that on AM935 that we voted on yesterday, it would be rather easy to address that on Select File with an amendment. But I would like to engage in a little conversation with Senator White. [LB367]

SENATOR McDONALD: Senator White. [LB367]

SENATOR WHITE: I would be delighted. [LB367]

SENATOR CARLSON: Senator White, you know that I respect you, and it's wonderful that we're in a position that we can debate, and we can disagree, and we can share opinions, and we remain friends. [LB367]

SENATOR WHITE: Absolutely. It's like when the Jays beat the Huskers yesterday, Senator. I'm a Creighton graduate, and we're still friends. (Laughter) [LB367]

SENATOR CARLSON: That's exactly right. Senator White, of the dollars that we're talking about here, what are the sources of these refundable dollars? [LB367]

SENATOR WHITE: The state only has two meaningful sources of money, Senator; that is income tax and sales tax. We do get some money currently from the estate tax, but other than that, the money comes...in the General Fund comes from those sources, sir. [LB367]

SENATOR CARLSON: Okay, I agree with you, and I think that as we talk about property tax, property tax, property tax, it's kind of easy to forget what the real source of these dollars that we're discussing are, and it basically is sales and income tax. I am all for property tax relief. I want a plan that is fair, that's in fact a true reduction--which is, for the most part, related to the amount paid in--and, Senator White, I am for the repeal of the estate tax. I agree with Senator Friend's comments earlier. Now under your amendment, I would ask that you help me with an example of the application of your amendment. Are you willing to help me? [LB367]

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

Floor Debate
April 18, 2007

SENATOR WHITE: I'll certainly try, Senator. [LB367]

SENATOR CARLSON: Okay. Under your amendment, you are the one who owns a home, and you pay \$500 in property tax in 2007. [LB367]

SENATOR WHITE: Yes, sir. [LB367]

SENATOR CARLSON: You don't pay any state income tax for 2007, and you've talked about this before, that this would be a possibility, so let's imagine that that's you. [LB367]

SENATOR WHITE: Yes, Senator, and just so we...before we get too far down, I not only own it, it is my principal place of residence. [LB367]

SENATOR CARLSON: Okay. [LB367]

SENATOR WHITE: I mean, that's important, because we're not going to give people tax credits for rental properties, other things; it's only for the residence. [LB367]

SENATOR CARLSON: Right. I agree with you on that. Now you do spend some money, though, and even though you don't pay any state income tax, you buy groceries with a good portion of your spendable income, on which no sales tax is paid. This is good. And I want it to stay that way. Any attempt to tax any groceries will be over my dead body in this Legislature. But you do pay some sales tax, and if you spend \$10,000 you would pay approximately \$500 in sales tax. Do you agree? [LB367]

SENATOR WHITE: Whatever the math is. I mean, I haven't worked the numbers out, but... [LB367]

SENATOR CARLSON: Well, 5 percent would be \$500. [LB367]

SENATOR WHITE: Sure. [LB367]

SENATOR CARLSON: So with your \$500 property tax and your \$500 in sales tax, you pay a total of about \$1,000. [LB367]

SENATOR WHITE: That sounds about right. [LB367]

SENATOR CARLSON: Okay. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR CARLSON: Now pretend that I make \$100,000. I'm middle class. I'm

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

Floor Debate
April 18, 2007

thankful for it. I pay about \$4,000 in income taxes. I pay about \$4,000 in sales taxes. I pay about \$4,000 in residential property tax, and I do own a little farmland, and I pay about \$4,000 in property tax on my farmland. That's \$16,000 total. I get a credit of \$500 against \$16,000. You get a \$500 check to refund your sales tax. Do you agree? [LB367]

SENATOR WHITE: Not my sales tax, Senator. [LB367]

SENATOR CARLSON: Well, you get a \$500 check under your amendment; do you agree? [LB367]

SENATOR WHITE: I get it for property taxes paid on a principal residence. [LB367]

SENATOR CARLSON: Okay. Now we've run out of time, but I would like you to tell me why that's a good deal for me. I thought a tax refund was supposed to go back to the people who paid taxes, in a fair and equitable way. [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR CARLSON: Thank you, Madam President. [LB367]

SENATOR McDONALD: Time. Senator White. [LB367]

SENATOR WHITE: Ah, thank you. Timing is everything, Madam President. It is fair on a number of different reasons, Senator Carlson. First of all, it's fair because we all pay an initial level of property tax. I believe a bill like this, a budget like this, is a moral document, and I appreciated your statements very much about how you would not tax groceries, and I assume that's so that the hungry among us can eat, and we will not push them to the wall by charging them taxes on the food necessary for their survival. But in this country, one of the great and brilliant things about the United States has been home ownership. Without question, the ability to purchase and own and maintain a home has been one of our extraordinary achievements. We want to be an ownership society. In my district, Senator, we are having a problem with people who are renting, and it's causing two problems. One, they do not have the same stake in the outcome of society. I would tell Senator Stuthman: That family that has managed to scrape together enough to own a trailer owns more than a trailer. They own a home. They become different quality of citizens. They're more invested in the community, their lives are likely to be better, their children are likely to be better fed, they're likely to achieve more because they're intact, together, under a roof. Just as much as food, Senator, the need to have ownership of a home is essential if we're really going to be pro-family. What this bill does is focuses very much on those who are trying to make that first critical step to owning a piece of the American Dream--their own home, especially those that are at the humblest end of our economic earnings. We have to help them make that step, and our property tax is a huge burden, particularly to them. Now this bill does not only focus on

Floor Debate
April 18, 2007

that, Senator, and that's why I was glad it was not divided. In addition to that, it has the estate tax. So while I am focusing on ownership and trying to help those who are trying to keep and put together a family, which, by the way, saves us enormous money in social costs...while we are focusing this part on it, we are giving the estate tax to those who have made that first critical step and then moved beyond it, that have moved to the point where they own large portions of our society's wealth. And we are extending our hand to them, too. I am trying in this bill to achieve a balance, so that all citizens have a shot at an ownership of our communities. And as Senator McGill so eloquently put it, the elderly among us are being pushed out of the ownership society. We need to stop that, as well. And so this bill is really focused, like a laser, on encouraging ownership and telling our citizens, whether you make \$20,000 a year and you live in a trailer--but that is your home, and you have a family and children who have shelter, and you feed them--no matter how humble, we honor and respect that and we'll help you. Or if you are the wealthiest among us and you've amassed a huge fortune, far beyond the point you're working for yourself--you're now working for your children and your grandchildren--we honor and respect that, and we will seek home ownership and an ownership of society on both ends. And that's why the amendment is structured the way it is. In courtesy to Senator Avery, who I kind of tromped all over his time, would you yield to a question, Senator Avery? [LB367]

SENATOR McDONALD: One minute. Senator Avery. [LB367]

SENATOR AVERY: I will. [LB367]

SENATOR WHITE: What were your further concerns, Senator, with regard to your earlier questions? [LB367]

SENATOR AVERY: Well, actually I got them all in. Thank you very much. But I do think you ought to consider how you...what action you take after you reexamine. Maybe there's some language in there that could sunset it after two years. That would require us to come back to it. [LB367]

SENATOR WHITE: Senator, I would be delighted to discuss these concepts with you and would be willing, should this survive an advance, to work closely with you to embody such language. [LB367]

SENATOR AVERY: Yeah, if you get to Select File, there would be plenty of time to do it. Thank you. [LB367]

SENATOR WHITE: Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator White. Senator Adams, Erdman, Kruse, Schimek, Gay, Janssen, and others. [LB367]

Floor Debate
April 18, 2007

SENATOR ADAMS: Thank you, Madam President, members of the body. We can talk about tax relief, and I'll be first in line to say that we ought to try to achieve tax relief--first in line. However, the reality of it is if we really want to have substantive tax relief, we've either got to have more taxpayers or reduce our spending, and there isn't anyone in this body that doesn't understand the problems with doing both of those things, though they are our goals to do that. So as risky as it may seem, I'm going to take the word "tax relief" out of the discussion for a moment and talk about property tax stabilization instead. I don't think that I am going to support Senator White's portion of this that deals with the \$500 property tax rebate. I think it's short term, it's going to sound good, and it is definitely going to feel good, but I don't think that it's substantive over the long term, and though it is short-term relief, I don't believe it's really stabilization. What we did yesterday with the school levy scares me a bit, being a former educator, dropping it from \$1.05 to \$1.00, and it's going to impact schools that any of us may have in our districts that are nonequalized districts. But if you want to stabilize property tax, and you want to prioritize education, and you also want to prioritize stabilizing property taxes, then we've got to take this move and move more of the cost of education from property tax over to sales and income. Now I can't stand up here and tell you that's going to reduce your property taxes. But it can stabilize them and it prioritizes. And on the property tax side of this amendment, I don't believe that the \$500 credit does that. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Adams. Senator Erdman, followed by Kruse, Schimek, Gay, and others. Senator Erdman. [LB367]

SENATOR ERDMAN: Madam President, members of the Legislature, I believe where I left off was approximately Section 6, which is the tax credit under Senator White's amendment. I'm not sure, after listening to Senator Stuthman's argument, whether he's persuasive for or against the amendment. I think he probably made some good points that Senator White would appreciate. I think the part that he left off was that there's no guarantee that this extends beyond one or two years. I think that's the problem of this, and that is, is that if we do meaningful tax relief, people expect it to continue. To the extent that that's capable or accomplishable, then I think you have a different discussion. I think Senator White would even admit, as he did to Senator Avery just a moment ago, that this may not be sustainable beyond this budget. Who's going to go to Senator McGill's constituents and tell them, here's your \$500 check one time; next year you get to pay the full amount? That's the problem of some of these ideas. We need to think what is sustainable and have fundamental reform. I think that's appropriate. To the extent that Senator White can make that argument effectively, whether we can oblige or obligate future legislatures, I think is a valid concern and a recognition of the realities of our process. However, if you lower the rates, if you do fundamental change, it requires law to come back and to redo that. So I would hope that in this discussion that we're talking about fundamental change. Senator Adams is right. Fundamental change in the

Floor Debate
April 18, 2007

area of funding of schools is necessary. We got there last year, but that law is on hold until the courts can figure out what to do with LB1024, or the Legislature responds, because there is stabilization aid, assistance, in LB1024. Let me share an observation with this credit that I don't believe has been brought up. I've heard it from others, and I verified this with the committee staff to make sure...the Revenue Committee staff, to make sure this is true. The example that Senator Stuthman gives us about the family who is married, living in a mobile home, that has a \$564 property tax obligation--they get a \$500 credit. That's true. I think that's a fact that's recognizable under the White amendment. But here's what is not being said. When they get that \$500 tax credit, they get a 1099. With that 1099, now they have an income tax obligation to pay on that \$500 that we gave them, from federal and state taxes. Now to the extent that they have standard deductions that wipe away some of that, that will help alleviate that obligation, but it goes in above, on the income tax schedule, not below, on the expenses and deductions. So we have to also weigh that. Is it truly \$500, or is it \$500 minus whatever their percent of that tax is? There would be some tax obligation to that. The obligation, I believe, of the sponsor of AM950 is to say, that is still sufficient beyond...but it goes back to the argument. If we're going to provide tax relief, how can the tax relief you're providing be taxed? Well, if you provide income tax relief, you're lowering their obligation to pay that income tax, but you're also providing them the opportunity to stimulate the economy. Maybe Senator White will make the same argument on his proposal, but recognize that if you increase the income to the citizens of the state of Nebraska by fundamental tax reform, they'll potentially have an income obligation or another tax obligation. But theoretically, and I think actually, they'll have the resources to pay it. If we're providing property tax relief, but that is going to be mitigated by the fact that you have to take part of that property tax relief and pay income taxes on it, then that also has to be weighed in this discussion. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR ERDMAN: Here's the other thing. Senator Friend is right on the first two lines of this amendment. Senator Howard stood up and said that she promised her constituents that if she got here she'd do everything she could to eliminate the tax on repairs of your homes and on construction tax. That goes away under the White amendment, Senator Preister's effort on LB648 goes away, \$151 million dollars in income tax relief to eliminate the marriage penalty goes away. Those are real numbers. Maybe we could take the \$151 million from the marriage penalty tax away and put it into property tax relief under the committee's plan. Those are all moving parts that we can rearrange, but understand that if you adopt this amendment, you take all those off the table. And then any amendment that follows this would have to be defeated; otherwise, you exceed the committee's amount. I'm not saying I'm comfortable with the committee's amount. I wouldn't mind seeing that even be higher. I just think it's appropriate that we analyze all these working parts and make sure that at the end of the day that the engine still runs. [LB367]

Floor Debate
April 18, 2007

SENATOR McDONALD: Time. [LB367]

SENATOR ERDMAN: And I hope that's where we're going. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Erdman. Senator Kruse, followed by Schimek, Gay, Janssen, Pahls, and others. [LB367]

SENATOR KRUSE: Thank you, Madam President and colleagues. I will be supporting this amendment. I do that in order to continue a conversation on a creative idea. I welcome the creative idea. I'm glad it's brought forward. I wish it would have been cut back enough to fit into the bill from the Revenue so that it could be long term. That's a problem I see. In trying to do all at once, it won't fit with the rest. But at the same time, it's something we need to talk about. I would ask you to put on your appropriations hats now--you'll be getting a budget before too long--and think about that budget. We in Appropriations really want property tax relief. We do several little things to help that along, but the reality is that if you do budget relief through the budget, you are increasing the budget, and people call that spending. It's not spending; it's a tax shift. But the press and those who want to grump about increased taxes will call it spending, and that's the bind that we all are in. I would hope that if we were to go forward with this we would provide a credit for 10 percent of rent and really make it across the board, because it needs to apply to all the persons. I'm a little dismayed that somebody here has pointed out that it doesn't give enough help to the rich. Well, hello! We're looking for persons that are going to spend this money. I remember when Mr. Buffett got the \$300 million tax deduction from a federal cut that was touted as a way to increase the economy. He pointed out the next morning that he now had \$300 million more. He was not going to spend one nickel of it. He was already spending what he wanted to. This is a good target of tax relief, because it goes mostly to those who will be spending it. I support the thoughts of Senator Erdman, that we need to look long term and figure out how to keep it sustainable. I would fuss with him a little bit on filling out my tax form, because one of the benefits of this particular idea is that my property taxes would be totally deductible on that tax form and would be retained as that. It shaves off some, but it's true tax relief. I think our main task is to keep services going, not to make everybody in the state tax exempt. There's some of that kind of thought going around here--well, if we could just get rid of taxes for everybody. That would be a disaster. It is our responsibility to keep the community going. It is our responsibility to keep infrastructure going. That is the main task we have. When we can shave something off, we will do it. We all want some kinds of tax deduction. I don't call it tax relief ever, because that would indicate that we're getting rid of a pain. No, we are working with something that is to our benefit, a whole package of community services that does the right thing. And when we adjust it, it is a benefit to us, not a distraction. I hope that we will give some thoughts, and somebody can find a way to spin off of this creative idea. Thank you.

Floor Debate
April 18, 2007

[LB367]

SENATOR McDONALD: Thank you, Senator Kruse. Senator Schimek, followed by Gay, Janssen, Pahls, Stuthman, and others. [LB367]

SENATOR SCHIMEK: Yes, thank you, Madam President and members of the body. First of all, I don't think I said it yesterday and I need to say it today, that I do respect the committee's work on this, and I'm sure that they've had a lot of these same discussions within the committee that we're having now on the floor. But there are some things that I would like to get into the record, and some questions I would like to raise. First of all, I hear this phraseology "pandering to the voter," and I don't know but what we're pandering to the voter if we don't do a real study of this and make the fundamental changes that both Senator Adams and Senator Erdman and even, yesterday, Senator Harms have mentioned. I'm afraid--and I've seen this happen before--that we do something that comes back to haunt us in two or four years from now. Senator Stuthman, I'd like to say to you that, of course, this is the direction we want to go, at least this is the direction I want to go. I want to help those people who really are at the bottom rungs of the economic ladder, and that means taking care of those people who have the fewest resources--young people who are just starting out who may have families, those folks who have maybe bought just a little bit over their head and are having trouble making the house payments for now. In four or five years they may not have that trouble, but in the beginning they do. And then you load on more property taxes all the time, it becomes more and more difficult. It's also, as you all have said and we all know, very, very difficult for the elderly sometimes in this state. So I think those who are living in trailer homes that you mentioned are often those that are at those very bottom rungs, and so many of these trailer houses are substandard. They really have unsafe conditions if they are living in those. As far as this bill being considered, or this amendment being considered at this time, I don't think we should let process get in the way of the discussion of issues that are deemed by this body to be important. Senator Hudkins reminded me earlier that I could legitimately say this, because I supported her in her amendment that she was trying to attach to the bill, because I thought that was a very important discussion that this body would hold. I have tremendous respect for the committee system. I don't think you should always try to overturn committee decisions or even very often, but this isn't exactly the same amendment as was the bill that was introduced earlier, because it does have the estate tax provision. I don't know for sure if I'm going to vote for this. I very much support the idea of concentrating on property taxes, but I have trouble with doing away with the estate tax totally. I'm coming around to the belief that maybe we could up the amount, as the committee did, but not do away with it totally. You know, I've got a quote that I keep pinned to my light here, and it's by Edmund Burke, who was the famed parliamentarian back in the 1700s, in England. [LB367]

SENATOR McDONALD: One minute. [LB367]

Floor Debate
April 18, 2007

SENATOR SCHIMEK: And Jerry Warner always reminded us of this--not always, but sometimes reminded us of this--and Edmund Burke said, your representative owes you not his industry only but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion. Generally, I believe that's the kind of representative I want to be. However, when the public voice is loud and clear, then I believe that our best judgment tells us to listen, to listen to the people. And I think you all have indicated that you heard loudly and clearly from the public. I think that property taxes should be our focus, and I think a more long-term study of the effects of anything that we do ought to be part of the package. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Schimek. Senator Gay, Janssen, Pahls, Stuthman. Senator Gay. [LB367]

SENATOR GAY: Thank you, Madam President. I rise, opposed to Senator White's property tax credit. I do believe...I don't think this is a precedent we should set at this point. I'll explain why. I commend him for his diligence and I know his commitment is unparalleled on this issue because we knew it was coming, as Senator Janssen said, but I believe this proposal was discussed at length in the committee. And there's a certain point, though, I disagree. Senator Hudkins spoke to it and I want to speak to it a little bit, too, because we've all had ideas and good ideas or we wouldn't be bringing them to the committees for hearings. But those committees are there for a reason, to work things out, have our arguments, whatever. We then have that right to make amendments. But this amendment, as it sits now, would...I don't know how we could do both. Yesterday we voted to...you know, just yesterday we had a property tax proposal we dealt with. It's \$200 million. Today we're going to come back again and look at another \$200 million property tax? How can we do both? That's what I wonder. And I think the committee worked hard and was very diligent coming to a compromise, and I know some people don't like the word "compromise." Well, you know, that's what this is about sometimes, and most the time, is what I'm finding out. You don't always get everything you want. But I think the committee amendments, as we're working through these, are very good. I'd rather take all those...all that experience, put it together, and feel more comfortable that way than saying, well, here's the way we're going to go, and moving on. But like I say, Senator White has that...he has that ability and we're going to vote on it, and that's fine. Everyone will decide what to do. But there is a certain point, though, I think when we're here and we're going to vote, however you vote, up or down, and you're either for property taxes or you're not, because we're not supporting an idea or we're supporting another idea, I disagree with that, and when I go back and somebody asks me at the end of the session, well, Senator, why did you vote against a \$500 tax credit for me, well, I'll explain. Because, more than happy to stand up and say, well, because I voted for the other tax package and that was \$429 million tax cut; I felt at that time that's the best thing to do. And I think all of us have to decide where are we at on this issue, you know, what are you going to say to your constituents. I'm very

Floor Debate
April 18, 2007

comfortable with what we're moving forward, but I don't appreciate the fact that, well, now here's where we're going on this. And, you know, the news media or whoever, they'll portray it as you're against this or that. I think our actions, Senator Adams alluded to it, this is about spending and the process and a lot of complex things. I don't think it can be balled up; that we're all for property tax relief. I don't know anyone in this body that would stand up and say, I'm not for that. Of course we all are. But I do believe there's a certain point where we were elected to come here, deal through these things, work on these things. They're complex. Not everyone can understand the whole process. We're learning it as we go, let's face it. But as you come here, I think we got to listen to everybody's points of view, but I do think there comes a time where you respect what a committee has worked on, you move on, and you try to tweak it with an amendment. But I think this amendment pretty much guts that Revenue Committee proposal. It does. It would gut it. And we might as well then just wrap it up because there's nothing...there's no more money to talk about here because it's all taken up by this amendment. So, like I say, that's why I'm opposed to it. I think it may have its day down the road, as who knows what the economy will be. Like I say, I supported... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR GAY: ...the initial concept and the discussion. I think it probably was a great discussion in Revenue and I'm glad they did struggle with this issue, because it's a tough one. But I think we're beyond that. I think we needed to continue to discuss what's going to be presented to us, and like I say, my own personal opinion. I hope yours will be to oppose this and find some common ground we can come together, and I think that's the Revenue Committee's proposal. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Gay. Senator Janssen. [LB367]

SENATOR JANSSEN: Thank you, Madam Chairman, members of the Legislature. The White amendment is an income tax cut. It would strike all the property tax relief that is in the bill and replace it with an income tax cut. In the poll that Senator White distributed yesterday, the broadest support for cutting property tax by \$500 for every Nebraska homeowner, the White amendment doesn't do that. The White amendment cuts income taxes by \$500 for every Nebraska homeowner. The amendment isn't affordable. The committee proposal would reduce taxes by \$218 million the first year and \$211 million in the second year. This amendment would cut income tax and estate taxes about \$225 million the first year and \$235 million the second year, and it cannot be done within the budget that the Appropriations Committee will send out later this month. Something would have to be cut to accommodate this amendment and I wonder what it might be. One suggestion would be to cut state aid to education, and one way to do that would be to increase the levy limits for the schools. About two cents would do it. An appropriate amendment to AM950 would be one to increase the levy limit from \$1.05 to \$1.07. That

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

Floor Debate
April 18, 2007

would be paying for this amendment with local property taxes. The checks taxpayers would be getting, it won't be \$500. It could be any amount. Every income taxpayer now either pays in a little or maybe gets a refund. This amendment merely changes the amount of the check either going in to the state or coming back to the taxpayers from the state. There would be a few who would get a check if this passes that wouldn't have otherwise, but the amount won't be \$500. It might be \$100, \$200, \$143.78. It wouldn't necessarily be \$500 and it won't be associated with property tax relief. Your constituents never recognize it. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Janssen. Senator Pahls, followed by Stuthman, Nantkes, Wallman, and others. [LB367]

SENATOR PAHLS: Madam President, members of the body, I think I agree with Senator Gay, with some of his questions that he did have, and I could see why Senator Hudkins may have some questions because something similar to this had happened earlier with her. But I would have a question with Senator Cornett. [LB367]

SENATOR McDONALD: Senator Cornett, would you yield to Senator Pahls? [LB367]

SENATOR CORNETT: Yes. [LB367]

SENATOR PAHLS: Senator, you serve on the Revenue Committee. [LB367]

SENATOR CORNETT: Yes. [LB367]

SENATOR PAHLS: And earlier you had indicated that this bill was not killed because of...the reason, would you repeat that? [LB367]

SENATOR CORNETT: Courtesy. [LB367]

SENATOR PAHLS: To a fellow member. [LB367]

SENATOR CORNETT: Yes. [LB367]

SENATOR PAHLS: So if I had served on the committee, my bill, chances are, would not have been killed. [LB367]

SENATOR CORNETT: No, we'd a killed your bill. (Laughter) [LB367]

SENATOR PAHLS: (Laugh) Well, at least I know where I stand. Thank you. This is just going to give me an opportunity to talk about what I thought was a significant bill that never made it out of committee. It was a tax sales holiday at the beginning of a school year. And we had figured that this could save up to \$250 for a family, and most of these

Floor Debate
April 18, 2007

families would have children in school so, for those of you who have children in school, you know you need that type of rebate. It would have helped you out. But again, this bill did not--and Senator Avery also had a similar bill--did not make it out of the committee so I'm not going to talk about it. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Pahls. Senator Stuthman. [LB367]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I'll try to be more convincing this time. I've been thinking a lot about this as far as how is this going to be administered if this income tax credit would be given. People will fill out their tax form, your tax person will fill out the form. You pay property taxes. The question will probably be is this...is that property tax part of that? Is that part of your primary residence? You'll say yes. You maybe own a motor home. You may own a fifth-wheel trailer, or you travel south in the wintertime, hopefully on that Snowbird Trail that will happen in a few years from now. How are we going to validate, how is the Nebraska Tax Commissioner, how are we going to validate that this was an actual residence? I feel there could be a lot of fraud happening with this. You just check the box. Is that part of your property tax that you paid, is that part of your...is your residence part of that? You'll say yes, check it, you get \$500 credit--simple, very simple. Maybe you don't have a home on that property. Maybe it's just that fifth-wheel trailer, like I said. So how are we going to come up with a realistic situation where we're going to be able to validate that part of it? I think there's also the chances that if the people get the credit there's going to be more need for the state to maybe generate money when we get in times of need, and your property taxes will go up maybe a couple hundred dollars, maybe \$500. They'll say, yes, they give it on one hand and they take it on the other hand. These are the things that could very well happen within a year. The thing I don't like about this situation is that if this would happen we're going to bait them with that \$500 one year and the next year say, oh no, no, can't do it, can't do it, we'll raise your taxes again. What are those group of people...like a lot of the senators have mentioned in their discussion about giving it to the people that need it, and next year they're going to have to pay twice as much because they utilized those \$500 to pay some of their bills. Next year they're going to be twice as far behind. I just think that we're going to run into a real problem with certifying or validating the primary residence, and how are we going to do that? Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Nantkes. [LB367]

SENATOR NANTKES: Question. [LB367]

SENATOR McDONALD: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB367]

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

Floor Debate
April 18, 2007

CLERK: 27 ayes, 3 nays to cease debate. [LB367]

SENATOR McDONALD: Debate does cease. Senator White, you're recognized to close on your amendment. [LB367]

SENATOR WHITE: Thank you, Madam President. And again, to all my colleagues, I thank you for your attention and your focus on this, and in my closing let me try to address some of the concerns that were expressed as we went through this. First of all, to my bench mate and senator friend Senator Adams, he was concerned about stabilization, and that by pushing this money into the local accounts we are stabilizing, but stated he wants to see a long-term solution where we transfer the obligation of education more to income tax and sales tax. I agree with him. I agree with him wholeheartedly. But until we can figure out how we balance local control and the ability of local spending with sources of funding from the state, we can't effectively do that and remain fiscally responsible. I ask every senator here to recall what the Governor said to us. We have an overwhelming duty to control spending. One of the enormous ongoing problems with the committee proposal, especially with regard to the property tax as it's defined right now, is that it is a spending bill. We are spending money, and we are spending money and we don't necessarily have a clue on how much we're really spending, particularly with the \$1.05 to \$1.00 adjustment. We don't know what the real costs of that will be. With regard to Senator Stuthman, I don't know how the math works that if we give a poor family \$500 today, that two years they're going to be further behind. I can't make that compute. I think if we give working- and middle-class families \$500 now, they will make the best judgment on where it should go. That's fundamental respect. You know, Senator Friend is concerned we are pandering, pandering to the voters. I do not call this pandering. I call this keeping a promise. We promised, I promised certainly, over and over again, to do my level best to help the middle-class families that were struggling to hold on their homes, the elderly people who want to stay in their homes, the young families and the poor who are seeking to own homes, to become an ownership society. I promised to do my best to help the neighborhoods, to help the small towns remain viable. Our entire society is based on home ownership. Our costs, our spending costs when we force people out of their homes, whether because of poverty or because of their advancing age, explode. This bill is focused at the most essential and completely unrepresented constituents...constituency that we have, and that is the homeowner. There are no lobbyists for the homeowners. There are no lobbyists to come forward for all those people who ask for direct, simple, meaningful, transparent action by us. We can do this. It is within your power right now to advance the ownership society, to restore the trust of many of the voters that their voices in fact are heard; that when we respond to them we are simply living up to the democratic ideals, not being accused of pandering, but certainly being commended for listening to them and their concerns. And I pledge myself, going forward, to work with Senator Adams and others for a long-term solution, a long-term solution of how we can start adding the burden of education on to the state income and sales tax without long-term

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

Floor Debate
April 18, 2007

disruption of planned programs, while maintaining some measure of local control, but at the same time keeping our absolute obligation for fiscal responsibility. As you move forward in this bill, please note not only did we, many of us, pledge for property tax relief,... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR WHITE: ...we absolutely pledged and promised that we would control spending. This bill provides neither, but the amendment does. Please vote for the amendment, vote for ownership, vote for the constituents. Find a balance between the wealthiest and the middle-class, the agricultural interests and those who live in our cities and towns. I thank you for your courtesy and consideration throughout. [LB367]

SENATOR McDONALD: Thank you, Senator White. You have heard the closing on AM950 to the second component of the committee amendment of AM972. Senator White. [LB367]

SENATOR WHITE: Yes, Madam President, I would like to call the house and have a roll call vote in reverse order, please. [LB367]

SENATOR McDONALD: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; and all those opposed vote nay. Record, Mr. Clerk. [LB367]

CLERK: 33 ayes, 0 nays to place the house under call, Madam President. [LB367]

SENATOR McDONALD: The house is under call. Senators, please record your presence. Those senators outside the Chambers please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. All members are present. There has been a roll call vote in reverse order. Mr. Clerk, please call the roll. [LB367]

CLERK: (Roll call vote taken, Legislature Journal page 1200.) 13 ayes, 32 nays, Madam President, on the amendment. [LB367]

SENATOR McDONALD: Amendment is not adopted. The house is no longer under call. [LB367]

CLERK: Madam President, the next amendment I have, Senator White, AM1031, Senator. (Legislative Journal page 1197.) [LB367]

SENATOR McDONALD: Senator White, would you open on your amendment. [LB367]

Floor Debate
April 18, 2007

SENATOR WHITE: I will. Ladies and gentlemen, this is an amendment that also is a continuation of concerns I have with the committee's proposals, as drafted. Again, in this amendment we are looking at a series of reliefs...of relief mostly focused on doing things that avoid collecting money from our constituents. In this one we have a series of different concerns. One of them is the estate tax. Senator Mines I think will move to divide the question and, out of courtesy for allowing me a straight up or down vote on the last one, I have no objection when that comes, so we can address these issues separately. One of the hallmarks of this one, please note a very substantial, very substantial tax credit, again, an income tax credit similar to the property tax credit, but this time it's directed at ownership, private ownership, of automobiles. This is an idea from Senator Landis. It is, at this point, based on the number of automobiles registered in the state, and it is \$150, up to \$150 per automobile. This reaches all of us--renters, nonrenters, agriculture, all of us, anyone who owns a private automobile. Also is again the complete repeal of the estate tax. This is again a concern I have because it is necessary for us to seriously look at this issue in order to determine whether we'll have competitive tax climate going forward. I won't overburden you with this one; instead, open it to debate. And I appreciate your attention and concern, and your interest in this matter. Thank you. [LB367]

SENATOR LANGEMEIER PRESIDING [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. You have heard the opening on AM1031. The floor is now open for discussion. I see there were a number of lights remaining on prior to the last vote. We'll go through those as they on the screen. We have Kopplin, Ashford, Friend, Engel, White, Erdman, Chambers, and others. Senator Kopplin, you're recognized. [LB367]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. The relationship between taxing authorities and taxing, as far as federal and state and local, gets really confusing, and I'm sure some of you will set me straight when I'm wrong. But when I do my federal income tax, I deduct my property tax, I deduct the taxes on my...what I pay on my vehicles. So if you send me money back on my vehicles, I got to claim it as income next year, and I don't know where I'm getting on that. I'm not sure where I'm getting on tax relief on property tax that I will notice. Frankly, my valuation is going to go up anyway so I'm not going to see any decrease on my statement. It will be there, but I won't see it. I'll think what are you guys doing; you didn't do anything for me as far as this. I've heard a lot of talk about, well, some of these things we've got to do so that the poorer citizens and so on have more money in their pocket to spend. Well, that's true, but then why aren't we talking about insurance that these...health insurance that these people can afford? Why aren't we talking about quality day care so that these people can go to work? Or how about even a transportation...a public transportation system so they can get to work? We have to be careful that we don't get so bogged down in we've got to cut spending and we've got to give tax relief that we forget that we are here to

Floor Debate
April 18, 2007

serve the citizens of this state. I'm a senior citizen, fixed income sort of. I get my legislative check every month. But I'm not leaving the state. So my property tax goes up a little bit. Well, it goes to schools, primarily. If you take away the tax on motor vehicles you're taking primarily tax money away from the schools, so where are we going to make it up? We'll make it up somewhere else because we're not going to shortchange our schools. Why would we? It's the quality of life that we want. Sometimes that quality of life takes a little spending. Sometimes it takes some taxes. I'm all for tax relief. I don't like paying them any more than you. But just to be calling for tax relief because that sounds a popular thing to do is the wrong way to go. What are the needs of our state, of our schools, of our people? We need to determine that first and then gear our spending and our tax collections towards that. I'll probably vote for the elimination of the estate tax. I don't have to worry about it and neither does anybody else, but they keep telling me that this will indeed keep more people here and they'll spend more tax monies here. I think that remains to be seen, but I'm willing to take the chance on it. But I'm not so sure I'm going to support reducing the tax on your vehicles when I know I'm going to have to make it up somewhere else anyway. [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR KOPPLIN: Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator Engel, you are recognized. [LB367]

SENATOR ENGEL: Mr. President, members of the body, I, too, have all these years heard complaints about property taxes, property taxes, property taxes, and we do have to do something about that. The thing is, and like Senator White talking about the autos, it's very expensive to license a car in the state of Nebraska, especially when you live in a border area like I do. Have people move over from Iowa or South Dakota and so forth and they go down to license their car and say, whoops, and if they're not a permanent resident many times they'll move back across the river because it costs more to license a car...a new car in Nebraska than it used to be to buy one, if you can remember back that far. But the thing is, we must do something about it so...about that I think is that satisfy...everybody will be satisfied with that. How we do it, though, is...I think is the problem. As far as property tax relief itself, we think we have to do that, but a few years ago--I want to bring you up to date a little bit--we had...when we had good times here like we're having now, we had extra money in the budget. We had about \$38 million, I believe is the figure we used, and what we did, we gave that to community colleges and telling them it was temporary, just for two years. They'd receive this for two years. But the people realized that immediately in their property taxes. It was almost for a dollar for dollar reduction in their property tax, and that showed up on their property tax bill. So if we're going to reduce property taxes, I think we should do, it's in that manner where people can actually see it and it's not used up on the new valuations, etcetera. Because

Floor Debate
April 18, 2007

it...they...then especially in the community colleges, where it goes directly right into their budgets and it shows dollar-for-dollar relief. And I think if we're going to do it, that's where people, everybody, every homeowner, is going to see that and they'll see it immediately and it won't be used up in, like I say, when the appraisals go up and so forth where you don't even notice the reduction. And then also, more important than all of this, I think we need to do what we can do statewide, but I think what we have to do, instill in the people of the state of Nebraska, in our local communities, that they have to start showing up at the school boards. I used to serve on a school board and, of course, that's the biggest budget in the city, in the county, and nobody would show up. People have to start showing up at the school board. They have to start showing up at the county boards and showing up at the city councils and to say, property taxes, enough is enough. But when they go there, they also have to be prepared to say what they can give up. And that's the big problem right there, is when you talk to people about cutting property taxes, etcetera, they want you to cut but they don't want to give up anything. And you can't have both because the only way you're going to pay for...in government, the only way you pay for services is through some taxing mechanism, whether it's property taxes or, in our case, sales and income tax. So that's something we have to start instilling in people and what's necessary is...we take care of, and what's nice sometime put on the back burner and perhaps let them take care of a lot of that stuff themselves. And the same way in the schools, they've got to go there and say enough is enough there. But...and then you got to tell them what don't we need in the schools. Do we need this? Do we need that? What? But they have to give up in order to cut back on taxes, and that's something we have to instill in everybody in the state of Nebraska. Again, we must do what we can do, but I think we also have to go to the local people and tell them that you also have to be part of this solution. So with that, I'll return the rest of my time to the Chair, or I'll turn it over to Senator White, if he'd like to take it. Senator White, would you care for some time... [LB367]

SENATOR LANGEMEIER: Senator White, one minute. [LB367]

SENATOR ENGEL: ...to use as you please? [LB367]

SENATOR WHITE: God bless you, Senator Engel. [LB367]

SENATOR ENGEL: I need it. Thank you. [LB367]

SENATOR WHITE: Yes, you know, I'll probably use it to lick my wounds or something. I'm very indebted to Senator Landis and Senator Raikes on this. There are two divisions. There will be three divisions in this motion. One, again, is property tax relief, which we've discussed. The other two, though, are motor vehicle, and the primary aspect of this one...I mean estate tax, I'm sorry, not property tax in this one. Primary one is motor vehicle relief. This reaches all economic classes. It's important, and it also is not a spending bill. Again, I cannot emphasize to all of us on wherever you're at on

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

Floor Debate
April 18, 2007

these issues, if we're going to try to deliver to our children an economically viable state, controlling spending and the perception of spending in our budget is essential. And if you look at this, you will note none of these can be characterized as tax shifts, none of them can be characterized as spending. And this will make an enormous difference... [LB367]

SENATOR LANGEMEIER: Time. [LB367]

SENATOR WHITE: ...moving forward. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White and Senator Engel. (Visitors introduced.) Returning now to discussion on AM1031, wishing to speak we have Erdman, Chambers, Mines, Gay, Janssen, and others. Senator Erdman, you're recognized. [LB367]

SENATOR ERDMAN: Mr. President, members of the Legislature, could Senator Mines yield to a question? [LB367]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB367]

SENATOR MINES: I will, Mr. President. [LB367]

SENATOR ERDMAN: Senator Mines, I'm prepared to yield you my time, if you would like, or I can discuss our conversations. I would yield you the time, if you would like it. [LB367]

SENATOR MINES: I would accept your time, Senator. [LB367]

SENATOR ERDMAN: I would yield my time to Senator Mines, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you. Senator Mines, you're recognized, 4, 40. [LB367]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator Erdman. I would ask, Mr. President, that the question be divided. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Mines. Senator White and Senator Mines, would you please come to the front, please. Senator Mines, you are recognized on your motion to divide. [LB367]

SENATOR MINES: Thank you, Mr. President. Colleagues, thank you for your consideration and patience. With that, I'll let...Senator Chambers is going to come up next, but Senator White is going to explain procedurally what has happened. And, with

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

Floor Debate
April 18, 2007

that, Mr. President, I will withdraw my motion to divide the question. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Mines. It is withdrawn. Senator White, you are recognized on AM1031. [LB367]

SENATOR WHITE: Thank you, Mr. President. And as I understand it, let me explain to the body what's occurring. Senator Mines was kind enough to reach an accord with me regarding the vote on the previous amendment. In exchange, I agreed to him that we would divide this amendment, which would entitle him to a full and fair debate on a solo repeal of the estate tax. Because of technical concerns on how my amendment was phrased, we need to withdraw this amendment at this time, redraft it, which the able Patrick is handling as I speak, and then it will be offered following Senator Chambers and we will take it up yet today. So with that, Mr. President, I will withdraw my amendment under the understanding we will refile it in a different form so that Senator Mines and I can have debate on the issues we've previously addressed. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. Your amendment is withdrawn. Mr. Clerk. [LB367]

CLERK: Mr. President, the next amendment I have to this component of the committee amendment, Senator Chambers, AM1052. (Legislative Journal page 1201.) [LB367]

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on your amendment, AM1052. [LB367]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, sometimes it becomes necessary to simplify what it is that we're doing. Sometimes the body may tend to meander, like a stream that has very soft banks and any pressure of the water will move the bank in the direction the water is moving until the motive force of the water runs out. Then it continues downstream till it finds another soft place and it kind of meanders over there. Then, if the bank is low, it will overflow the bank at that point, run on top of the surface of the ground, then come back into the channel. Well, that's what the body has been doing. Yesterday there were issues that I had an interest in, but I had things that were of more interest to me other than what was going on, on the floor. So what this amendment would do is get rid of all of the nonsensical things that were added to this bill yesterday. My amendment would wind up restoring this bill to its pristine form, meaning that it would reduce the sales tax by a half percent, and that would bring it to 5 percent as of October 1 of this year. That's what the bill was for. It was hijacked in committee and used for a nefarious purpose. Senator Flood...I mean Senator Friend had mentioned that a couple of years or so ago the state was facing a crisis and it became necessary to raise some taxes. He voted against raising the taxes and said that he suffered slings and arrows. I don't know from whom because the easy way out was to vote against the income tax and the sales tax, or wherever we increased

Floor Debate
April 18, 2007

taxes. We even put a sales tax on some things that I never agree to raise the sales tax for. But I was convinced that it needed to be done so I voted to increase the sales tax, along with the other work we were undertaking. Those of us who did the responsible thing and made it possible for nonparticipants, such as Senator Friend and others, to sit back and not assume that responsibility, but know that others of us were going to do what needed to be done, and they could potshot, we were known as the "Dirty 30" and I was one of them. I made it clear that I know what I'm doing. I don't like what I'm doing, but as a state senator, being convinced the state has a need for this, I voted for a sales tax increase. Now, Senator Carlson, I cannot say that I voted for it with a song in my heart, if I had a heart, but it had to be done. At that time, we stated that at the first opportunity to reduce the sales tax we would do it. Senators who have recently joined the body were not a part of any of that, but when the Legislature acts collectively, its agreement becomes the agreement of, quote, the Legislature, unquote, even if individual senators were not participating. If I stood by the Missouri River, it would always look the same, unless huge amounts of water are coming in to raise the level, but I wouldn't be looking at the same individual droplets of water that comprise the river because they don't remain at the point where I'm standing. They move with the current. So the river looks the same but the constituent elements that make it the river are not going to be stationary and remain there. The only way that would happen is if the temperature fell sufficiently for the river to freeze into ice. So the Legislature had stated to the public that when the opportunity came to reduce the sales tax, that would be done. My amendment would do that. It would get rid of that estate tax manipulating where you increase the amount of the exemption. It would restore the sales tax to that commercial construction work, and I don't know why they voted to take that off yesterday. And any income tax manipulating would go away, too, and we would have a reduction of the sales tax. I listened, even while not participating in the discussion, and many people, maybe not every speaker, talked about putting money back into the pockets of the public. My amendment would not take the money out of their pocket in the first place. This is a tax that benefits every person who spends money for something other than food. This tax break will, in fact, be distributed across the entire state, from the northern border to the southern border, from the western border to the eastern border. Everybody would benefit from what it is that I'm offering. The posturing that has occurred on the other provisions can be expected when you're talking about so-called tax breaks which might in fact be tax shifts. This is not a tax shift. This leaves money in the pockets of our citizens, of our residents, of people passing through the state, anybody who spends money for any item on which a tax is assessed. You probably pay some of this on utilities. And if you look at that thing you get when you pay your automobile tax, you didn't know that there were that many institutions, agencies and whatnots. Even fire plugs in Omaha are taxing you. Now, I've never seen a fire plug come around to collect the tax, but obviously they have some kind of organization and they have representatives who will not frighten us by approaching us to collect the tax. But what would you think if here come a little fire plug waddling up to your door saying, give me some money? This will work. The sales tax is the worst tax of all. Some of you

Floor Debate
April 18, 2007

all are old enough to remember a program called "Young Widder Brown"; some of you are not. All of you should be old enough to remember Little Orphan Annie. She had a very rich somebody related to her named Daddy Warbucks. The sales tax taxes Little Orphan Annie at the same rate as Daddy Warbucks. I am the poorest politician in the country. The sales tax taxes me at the same level of Warren Buffett. And if Ted Turner happens to traipse through this state, I heard him being excoriated the other day because he bought some land that was for sale in Nebraska, and the laws would benefit Ted Turner as they would any property owner in Nebraska. If Ted Turner came through Nebraska, and people don't like Ted Turner, he wouldn't pay any more as far as the sales tax rate than I pay, or the farmhand, or these kids who go out here and work like serfs in these cornfields with these...where they doing things, pick corn or whatever they call it. They pay at the same rate as the exploiter who might have hired them. This tax is known as a regressive tax because the rate does not take into consideration the ability of the person to pay. No matter how little you have, no matter how much you have, you pay at the same rate. The promise was made. Abraham Lincoln was the only politician who had the nickname of "honest" attached to his name, and it was not attached satirically. He said, the... [LB367]

SENATOR ERDMAN PRESIDING [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR CHAMBERS: ...promise, being made, must be kept. And guess what he was talking about? When black men were promised freedom if we'd fight for the Union, and after we had done that and people wanted to keep us in slavery, that's the occasion when Lincoln said, the promise, being made, must be kept. We made a promise not nearly so solemn, probably not having the same impact, but there should be the same intent to deliver on it that honor placed on Abraham Lincoln to deliver on the promise that he made. I'm going to listen to the discussion and see where this goes. The amount of money involved would be about \$120 million and there might be somewhat of a difference between the total amount that would be stricken by my amendment and the amount that would be taken by my amendment. My amendment will not take an equal amount of money from the state as these things that have been added in the provisions that I'm striking. [LB367]

SENATOR ERDMAN: Time. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you heard the opening on the Chambers amendment to the second division of the committee amendments. (Visitors introduced.) We will now proceed to discussion on the Chambers amendment. The speaking order is Senator Chambers, followed by Senator White, Friend, Stuthman,

Floor Debate
April 18, 2007

Raikes, and Carlson. Senator Chambers waives. Senator White, you're recognized to speak. Senator White, you are recognized to speak on the Chambers amendment. We will pass over Senator White. Senator Friend, you're recognized to speak on the Chambers amendment. [LB367]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. You know, I'm probably too easily influenced by the work of people on their particular microphones, but most easily influenced by Senator Chambers. And that's his skill. That's his art. That's a gift. It's come with experience. It's also come...it's his nature and he was born with a lot of it, I think. But it absolutely proves my point. He, I mean, he played that one right into my hands. Senator Friend, two years ago--this is an impression of Senator Chambers--Senator Friend, two years ago, did the irresponsible...or sort of like that is what he said. I'd say that's a sling, I'd say that's an arrow from the very distinguished senior member. That's how I felt. I'm kind of an insecure guy anyway. I like people in here to like me. The problem with that is when you're 1 of 13, there's a lot of folks in here that don't like you, sort of. They like you, but they don't. You're not a team player. You're not doing what you need to do for the state. The responsible thing is a matter of opinion, it's a matter of experience, it's a matter of what you believe your constituency wants you to do because they're the ones that sent you down here, and it's a matter of what you felt was really practical. I didn't feel we needed to raise taxes \$360 million--one of the largest tax increases, if not the largest the second largest in the history of this state. I didn't feel it was necessary. So what I end up doing is getting up here, spending two minutes defending myself, and to me that's sort of a sling and an arrow. He does it in a very kind manner and the arrow doesn't hurt much, but when you have the type of feelings that I do about the folks that are out here on the floor that...I mean, you know, that affects you a little bit. You don't want people not to like you, at least I don't. Now maybe I'm blowing it out of proportion, but the bottom line is, as far as this point and what we're doing here, I can stand on this. I can stand on this when it comes to the revenue or the idea that we're trying to promote here, what we want, what we want to do as far as policy. Senator Chambers came out here because he wanted to add some clarification or he wanted to add some clarity. From where I stand, the clarity already came, for the most part, from the Revenue Committee, from the leadership of Senator Janssen, and from the majority, the good majority, of the Revenue Committee, so that a lot of us don't have to go out and seek that clarity to the degree I think that we feel like we need to seek it. Now whether we felt like they've done a decent enough job promoting that clarity and promoting that idea, that's up for debate. Maybe that's why Senator Chambers said, you know, felt it was incumbent upon him to help in that arena. The only thing that I did and the only thing that I made points on yesterday in the ten-minute opening on the estate tax is that I hate that tax. I loathe it. I think it's unfair. I think it's...I think...you want to talk about confiscatory taxation. I hated it. I told Senator Janssen I wanted to bring it into the discussion. I did. And frankly, I told him if you want to come back to me and say, you know, get it off of there, Mike; we think we have a better opportunity to do it from this angle, in the long run I would probably respect his

Floor Debate
April 18, 2007

wishes. [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR FRIEND: But here we sit now trying to decide on one of the Revenue Committee's member's ideas about what he thought the state policy should be, again; not just one amendment, a second one, a bill that failed out of that committee. Now we have to try to provide clarification. I think the clarification is this. I'd love to see somebody blow away the estate tax. I'd love to be the one to do it. But if we can't do it and we have to enhance it or amend it or just tweak it, fine with me. Let's go down that road. But I want to hear that discussion. And I want to hear a little more of the clarity from the Revenue Committee. I know there's folks that have strong feelings about it. I'd like to hear it. I think this isn't in a convoluted form that a lot of folks would necessary sit here and believe right now. [LB367]

SENATOR ERDMAN: Time. [LB367]

SENATOR FRIEND: Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Friend. Senator White, you are recognized to speak, followed by Senator Stuthman. [LB367]

SENATOR WHITE: Thank you, Mr. President. Sales tax breaks of this type are very important. I, again, support these kind of methods. I will have more to say later, but generally I would prefer this approach to others that we've undertaken. With that, I will return the rest of my time. Thank you for your time. [LB367]

SENATOR ERDMAN: Thank you, Senator White. (Visitors introduced.) Senator Stuthman, you're recognized to speak, followed by Senator Raikes. [LB367]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I'm very interested in Senator Chambers' amendment. I think it's the right direction we're probably taking. And the reason I'm saying this is because I was involved, when I entered the Legislature several years ago, of the \$360 million problem that we had. I was...I came in when Senator Friend came in. We had that issue to deal with. We raised the sales tax. We put a sales tax on reconstruction and remodeling of residence, and we got that taken off a year ago. And then it was put on to commercial remodeling. That's taken off, hopefully, this year. We want to get that taken care of. I think in time of need what you put on should be the first to be taken off. I think that's a good direction that we should follow. Whether we can take the whole amount off or not depends upon the need at the time. So I think...I think I can hopefully support this part of it. I'm really interested in the fact that we're looking at something that was put on in time of need and I think that should be, like I had stated, be taken off first and not try to be giving it out in

Floor Debate
April 18, 2007

another way that's going to be very hard to keep track of. So I'm very interested in this. So with that, thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Stuthman. Senator Raikes, you're next to speak, followed by Senator Carlson. [LB367]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. First, a comment to my fellow members of the Revenue Committee. I agreed to the package that came out of the Revenue Committee, and I do believe that that is...that package is appropriate and one that I would prefer over several others that we've talked about. But I have to tell you that this proposal comes much closer to what I think really should be done than does the package that came out of Revenue Committee. Just to review a little bit so I'm...we're on the same page, this would eliminate all the changes in the income tax. It would also eliminate the elimination of the sales tax on construction services so that there would still be a sales tax on construction services. It would eliminate any change in the estate tax. It would replace all that with a reduction of one-half a percent on the state sales tax. It would leave in the property tax credit program and the school levy drop. The reasons I think this is the preferred approach are ones that follow along with what Senator Stuthman said. In the past and, I would submit to you, in the future when the crunch comes, and it will be a crunch, there will be one--revenue cycle, economy cycle, there will be a crunch--when that happens the places the Legislature will be able to go to address their financial needs are, based on history, sales tax and school levy. It is imperative, in my opinion, that when given this opportunity to restore those levels to their previous...or restore those rates, I should say, to the previous levels, we need to take advantage of the opportunity. The sales tax, lowering the sales tax not only I think is beneficial because it is a regressive tax so it certainly has that advantage, but also it impacts other significant policy issues, such as border bleed. One of the things we constantly hear about in the Revenue Committee is that our tax rates are higher than across the border and, therefore...across the state border and, therefore, our business people lose sales because of that. I think clearly the best policy, the sales tax policy for the state, is to have a broad base, which would in this particular context mean you keep the sales tax on construction labor and you try to make the rate as low as possible. This is a way that everybody participates, but everybody benefits. The school levy, if I were to make one change in this proposal I would probably put all of the property tax relief money in the school levy reduction so that we could reduce it more than a nickel and eliminate the property tax credit program. But again, I think this is certainly a much preferred program and one that we should very seriously consider. I would suggest to you that there may well be a time when some of the other provisions in the Revenue Committee package can be considered again. If revenues continue on the upward spiral that they've had in the last couple years, it may well be that we could look at changes in the estate tax or even changes in the income tax,... [LB367]

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

Floor Debate
April 18, 2007

SENATOR ERDMAN: One minute. [LB367]

SENATOR RAIKES: ...of top rate and those sorts of features. But I would suggest to you that now, that where we are in the cycle now, and given what we've done in the past, and given what we might face in the future as a Legislature dealing with the fiscal issues of state, this is what we should do. We should lower the sales tax and we should drop the school levy. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Raikes. Senator Carlson, you're recognized to speak, followed by Senator Chambers. [LB367]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to address a couple of questions to Senator Chambers. [LB367]

SENATOR ERDMAN: Senator Chambers, would you yield to questions from Senator Carlson? [LB367]

SENATOR CHAMBERS: Yes, I will. [LB367]

SENATOR CARLSON: Senator Chambers, I think I'm just checking with you on that, on this amendment. You talk about a promise made needs to be a promise kept,... [LB367]

SENATOR CHAMBERS: Uh-huh. [LB367]

SENATOR CARLSON: ...and so that is agreeing to reduce the sales tax following the increase that was necessary several years ago. This is correct? [LB367]

SENATOR CHAMBERS: Yes, and mine applies to taxation because, as everybody tends to say, once a tax is on it's never taken off, and we had solemnly promised that this would not be that way. When it was no longer needed because of the circumstances that produced it, we would take it off, and that's the promise I'm saying should be kept. [LB367]

SENATOR CARLSON: Okay. Now another question, because I don't know the answer to this, but back when that sales tax was increased, before the increase went into effect was there sales tax on commercial remodeling? [LB367]

SENATOR CHAMBERS: I believe there was. Wait a minute, no, we put a tax on commercial remodeling at that time, and there were other things that we allowed the sales tax to reach, but I can't remember all of them. [LB367]

SENATOR CARLSON: Okay. And I believe one of those others would have been sales tax on home remodeling as well. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Yes, and that was taken off. [LB367]

SENATOR CARLSON: That was taken off. I'd like to see the commercial remodeling taken off as well. Would you support that in your bill, in your amendment? [LB367]

SENATOR CHAMBERS: Yes, Senator Carlson, and had I been aware that they were going to take it off yesterday I would have stopped what I was doing to come up here and oppose it. I think it should stay on. [LB367]

SENATOR CARLSON: If you say it should stay on, what's the difference between...oh, you would have come yesterday to oppose taking the sales tax? No, we did that before. We did that last year. Home remodeling went last year, didn't it? [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR CARLSON: Okay. So why are you opposed if the commercial remodeling sales tax wasn't on before, it got put on, and you're following the principle of taking back what was put on, why shouldn't we take that off? [LB367]

SENATOR CHAMBERS: Because I'm going to give you a little sweetener, those who want to keep something there. But in reality, I never saw the purpose of granting an exemption on sales tax on the commercial property. Once it was put on...I meant the reconstruction, I thought that was something that should have been taxed anyway. See, there are certain items exempted from the sales tax which I think never should have been exempted, so if the tax is put on those things, I think that's an appropriate policy decision. For example, bull semen, there's an exemption on that. I think it ought to be taxed. And I could go through the entire list and show you things that... [LB367]

SENATOR CARLSON: All right now, Senator Chambers, this is my time and I don't want to get into that. [LB367]

SENATOR CHAMBERS: Oh, I'm sorry. (Laughter) No bull will be discussed. [LB367]

SENATOR CARLSON: But I would like to see the sales tax on commercial remodeling eliminated as well, and that's all my questions for you. Thank you for your time. (Laughter) [LB367]

SENATOR ERDMAN: Thank you, Senator Carlson and Senator Chambers. (Visitors introduced.) Thank you for visiting the Nebraska Legislature. Senator Chambers, you're recognized to speak, followed by Senator, excuse me, Fischer, then Stuthman. Senator Chambers. [LB367]

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, down through the years on various occasions I've gone through the list of exemptions from the sales tax and have tried to restore some of those items to the tax rolls. They were taken off the tax rolls because certain special interest groups were able to persuade the Legislature to bring about a break in the policy of some kind of equity in the levying of the sales tax. To my way of thinking, there was no rational basis to exempt some of these things from the sales tax. So when a move can be made to bring those things into the state's taxing base, I support that. I am not one of these people who will say, if there are 26 things in a basket and they're labeled from A to Z, or Z to A, that if you take the one labeled A out of the basket you have to take the other 25 too. I don't agree with that. When we're in a political setting, when we are formulating public policy, we have to think in nuanced terms. We have to be able to decide which things appropriately are to be dealt with in a certain way. There was a famous American philosopher who set the idea to words: You got to know when to hold 'em, you got to know when to fold 'em. That means you use your judgment. There is not a one size fits all when it comes to certain aspects of taxation. That's why you have different brackets when you're talking about the income tax. But for this particular one, services of specific kinds were also taxed for the first time under the sales tax. One had to do with pet grooming, and I agreed to put a tax on that even though I didn't think it ought to be done. The amount of money derived was inconsequential and it could put the people who were in that line of work into a bind. When it comes to putting a tax on labor performed on commercial entities and enterprises, that tax was not going to hurt that industry at all. People might not like it, but they're not going to be hurt by it. And my understanding is that when people came before the committee, the Revenue Committee, to try to persuade them to put into their package taking the tax off, the sales tax off this construction on commercial enterprises, it was like Johnny One Note--it's hard to administer. No policy reason, not that it's cutting the amount of work that's done as far as remodeling and every other kind of construction work that was done, no argument that jobs are lost, nothing--it's hard to administer. And if you ask them what does administer mean, the person saying it would say, well, they just told me to say it's hard to administer and I've said what they told me, in other words, name, rank, serial number, that's all, and I gave name, rank, and serial number, and I don't want to be harassed up here. And then they go sit down. The next one comes up. It's hard to administer. Well, didn't you just hear me tell the other person who preceded you that you have to give me some reason other than that? That person says, I was given the same instruction by the same mentor--name, rank, and serial number; I gave that to you, it's hard to administer, and that's all I have to say and don't harass me. [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR CHAMBERS: When a special interest group is trying to make a point they are free to adopt any methodology they think will work, but the Legislature is not bound to go along with it. This amendment that I have is designed to keep the promise that we

Floor Debate
April 18, 2007

made when we raised that sales tax by a half percent. They're entities that had never been taxed, that would never be taxed, but people were scrambling around saying, let's give a little pain to everybody, even those who, when they were put in pain, did not contribute enough money to make it worthwhile to tax them. But because that's what the policy was going to be, I went along with it. I'm trying to correct and rectify that now because we don't need this sales tax at the rate it is now. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Chambers. Senator Fischer, you're recognized to speak. [LB367]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I thought that I needed to stand up and say something on this just as a point of information for the members. The half cent that we're talking about, to give you a little history on that, it's my understanding when the budget crunch occurred that that half cent was taken from the Highway Trust Fund and put in the General Fund, for revenue in the General Fund. Last year we passed a bill, LB904. Under LB904 that half cent was taken from the General Fund and it is now going to the Highway Allocation Fund. That fund is different from the Highway Trust Fund. The members last session decided that the half cent needed to go to the Highway Allocation Fund. That fund specifically sends revenue for roads, it is earmarked for roads, to cities and counties. Under Senator Chambers' amendment, that half cent sales tax would no longer be going to the Highway Allocation Fund; it would not be going to your cities and counties for roads. I wanted to clarify that point for the members and, with that, thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Fischer. Senator Stuthman, you're recognized to speak. [LB367]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I want to talk a little bit about the sales tax on the commercial reconstruction/remodel that was put in place last year. Initially, there was the sales tax on residential remodel and reconstruction. There was different options on that. We did take that off last year, but at that time the original bill had only the residential sales tax on the reconstruction/remodel. The commercial part was exempt at that time. When we pulled the residential part of it off I think the feeling was that we were hopefully trying to make this revenue neutral, so what was exempt the prior three years or two years would now be not exempt. So then it went on to the commercial property, the remodel and reconstruction of commercial property. The reason I'm in favor of taking this off is because why do we put a sales tax on the labor of the remodel and reconstruction of a property, a commercial property, where...what it is right now, when if a person puts up a new building there is no sales tax on the labor? I think that's...I think that's the direction that was taken a couple years ago to try to generate some money. The homeowners, the homebuilders did not have a very strong voice down here and that's why it got put

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

Floor Debate
April 18, 2007

on. I'm really concerned that we need to take that off, because we are targeting one small group to generate some revenue. I think that's the wrong direction to take. So I'm in favor of taking that off and I will do everything possible to try to get that off so that we can get it cleared off that the labor on remodel of commercial buildings is not...does not have to pay a sales tax. It's another bookkeeping nightmare. Some buildings that remodeled and reconstructed, they would put their remodeling part of it one foot away and just have a doorway through. Then it was new construction and then they didn't have to charge the sales tax on that. So I think we've got to be very careful here. I think we're going in the right direction, but we need to clear up some of these issues. And I would also like to echo the comments that Senator Fischer had. We need to be very cautious as to, you know, where we're taking this money away. Are we taking it away from counties and municipalities, what we just gave them a couple years ago? Maybe it was just last year. And we need to be very careful with that. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Stuthman. Mr. Clerk, items for the record. [LB367]

CLERK: Mr. President, just one item: A communication from the Clerk to the Secretary of State regarding LB106. An announcement, Mr. President: The Education Committee will meet in Executive Session in Room 2102 upon recess; Education Committee, upon recess in 2102. (Legislative Journal pages 1201-1202.) [LB367 LB106]

And a priority motion, Mr. President: Senator Aguilar would move to recess until 1:30 p.m. []

SENATOR ERDMAN: Members, the motion before you is the motion to recess until 1:30 p.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are in recess. []

RECESS []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Senators, the afternoon session is about to reconvene. Please return to the Chamber and record your presence. Thank you. 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? []

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

Floor Debate
April 18, 2007

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to where we left off before the noon recess, and we were discussing AM1052, offered by Senator Chambers to the second component of the Revenue Committee amendment. Senator Chambers, I would recognize you to give us a brief reintroduction of what your amendment does, if you would do that for me. Thank you. (Legislative Journal page 1201.) [LB367]

SENATOR CHAMBERS: Thank you. And, Mr. President, unlike my colleagues, I'm going to comply with what you requested. What this amendment would do, and nobody is listening but you and me anyway, is to get rid of those things that were added to this bill and substitute in their place a one-half percent sales tax reduction which would take effect October 1. So that would remove \$150 income tax credit for car tax payments, estate tax relief, sales tax relief. And that total...oh, this is what Senator White was offering. Somebody was listening. (Laughter) But at any rate, all that my amendment will do is to reduce the sales tax by a half percent to 5 percent. Thank you, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers. You have heard kind of a brief reopening on the AM1052. We now return to discussion on that amendment. Wishing to speak we have Senators Wallman, Kruse, and Janssen. Senator Wallman, you are recognized. [LB367]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Fischer a question. Is she in here or not? No. Well, I would have a...if we actually give a half percent to the road tax, then I guess I would have a hard time supporting this. But I'm willing to listen to the rest of the talk and if I have (inaudible) support, but otherwise I have a hard time taking money out of the roads because we need to fix our roads. So with that, I'd turn my time back to the Chair. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Kruse, you are recognized. Not seeing Senator Kruse, Senator Janssen, you are recognized. [LB367]

SENATOR JANSSEN: Thank you, Senator Langemeier and members of the Legislature. The Revenue Committee heard several proposals during the year, and the sales tax has been kicked around in the Revenue Committee. We looked at just about everything that you could do to lower the tax burden in this state, and it was a pick-and-choose type situation and the sales tax was one of those items. I remember several years ago, and I'm sure that Senator Chambers remembers this also, when we were in a situation like we are this present time when we were cutting the income tax and some other things to use up that extra revenue that we had. And I remember, I

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

Floor Debate
April 18, 2007

think, Senator Warner sat right over in this corner, and Senator Kristensen sat there also, and I sat down there. And I got to thinking about, you know, we're doing these income tax proposals and so on and cutting this, cutting that, and I thought, you know, what would happen if we could lower that sales tax rate a half a percent? And I had only been here a year or two and I threw that amendment in, and I remember Senator Warner and Senator Kristensen gathering around over here. And Senator Warner, for those of you who remember Senator Warner, he would kind of roll his eyes occasionally, and he kind of rolled his eyes and he and Senator Kristensen had a visit and, by golly, that amendment was adopted. Of course, then we did turn upon harder times again and we had to raise that back up. But I understand what Senator Chambers is looking at and I am going to listen to the further debate, and, Senator Chambers, I am sure you will pursue this for a good amount of time. With that, I would give the rest of my time to Senator Chambers, if he would like to have it. [LB367]

SENATOR LANGEMEIER: Senator Chambers, 2, 40. [LB367]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was discussing this amendment with some of my colleagues in the culture corner, so I have to ask Senator Janssen a question before I proceed. [LB367]

SENATOR LANGEMEIER: Senator Janssen, would you yield to a question? [LB367]

SENATOR CHAMBERS: Senator Janssen, do you support my amendment, or are you opposed to it? [LB367]

SENATOR JANSSEN: Well, you know, I support it philosophically. I think that we do, at some point in time, need to lower the sales tax if the revenues continue to accelerate like they have been, but not at this present time, Senator Chambers. [LB367]

SENATOR CHAMBERS: Senator Janssen, isn't one of the reasons they have the money that they have on hand because we had raised the sales tax and did some program cutting? Isn't that one of the things that helped put the state in the good financial position it's in now? [LB367]

SENATOR JANSSEN: Oh, absolutely, Senator,... [LB367]

SENATOR CHAMBERS: Okay, so... [LB367]

SENATOR JANSSEN: ...because you know what a half a cent or a cent will raise in this state. [LB367]

SENATOR CHAMBERS: Right. So because we put on a tax and promised to take it off when we no longer need it, and we're in a position now to deliver because we don't

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

Floor Debate
April 18, 2007

need it, you're saying break faith with the public and leave that tax there and let it be siphoned off with some of these other programs. Isn't that, in effect, what is being done here? [LB367]

SENATOR JANSSEN: Well, that's true, but I do support what the committee put out and the sales tax is not in that package, so that's where I'm at right now. [LB367]

SENATOR CHAMBERS: Thank you, Senator Janssen. How much time do I have, Mr. President? [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR CHAMBERS: Thank you. You know what? You all are going to get tired before we finish this session of hearing people say, well, I agree with this but I am going to go along with the committee. Go along with the committee? You don't think anymore? You're not a free moral agent? You're a coward? If you agree with it, support it. Those who were here know what we did when we raised that sales tax. They know the promise we made. They know that the state is in good financial shape now because we have raised the sales tax on a basis which was to be temporary. Senator Friend didn't vote for it at all so he'll remember what we said who voted for it, that this was not to be a permanent tax. And now that the money has come rolling in we have some of those who were here saying, even though we have reached that set of circumstances where we can deliver on the promise and take this half cent off, we're not going to do it; we're going to misuse it for something else. [LB367]

SENATOR LANGEMEIER: Time. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Janssen. Senator Burling, you are recognized. [LB367]

SENATOR BURLING: Thank you, Mr. President, members of the body. As we've already heard, but I will jump in on this as a member of the Revenue Committee and share some of my thoughts, yes, we did consider many, many ideas on what to put in this package--so many ideas, of course, that everybody understood we couldn't use them all. What you see as a committee recommendation is the ideas that made the cut. None of us got what we wanted. But this was the plan that garnered the most support among the committee members as we compromised our individual desires. I am supportive of eliminating the construction labor tax that's in this proposal because it's just bad tax policy. Now, if we want to tax construction labor, then let's do it evenly and fairly. Let's do it across the board for everyone, all types of construction. But to do it this way is the wrong way to establish tax policy and so, therefore, that's why I support that.

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

Floor Debate
April 18, 2007

The discussion about narrowing the base or broadening the base and adjusting the rates accordingly, the current Tax Reform Commission is discussing that now, and I don't know what the recommendations will be, but that's on the front burner of some of their discussion and so we'll be seeing how that comes out next fall. I've heard from many of my colleagues here and we've all heard us talk about how our constituents complain most about property taxes; second, about income taxes; and the least complaint is about sales tax. Now, if we lower the sales tax, what we're doing is lowering a tax that the people oppose the least, and the taxes that the people oppose the most will have to pick up the difference. I was here when we had to raise the sales tax rate a few years back to balance the budget. My constituents understood that. They understood the necessity of it. I received no complaints about raising the sales tax rate at that time. I didn't make any promises. Maybe some of you people did, and that's fine. I didn't personally make any promises that I would support lowering it when it was timely because it's really hard to predict the future and to bind future legislators. And so I wasn't part of that, but if there are those who were, that's fine. Then they need to try to follow through with that idea. So I guess I just urge you to think about this very carefully and the ramifications of doing the various proposals, and to consider seriously the proposal that the committee put out, as we spent hours and hours and hours coming to that conclusion and discussing the very same issues that have been discussed here on the floor. So thank you for listening. Thank you, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Burling. Senator Schimek, followed by Raikes, Kruse, Friend, White, and others. Senator Schimek, you are recognized. [LB367]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I would like to ask Senator Chambers a question, if I might. [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question from Senator Schimek? [LB367]

SENATOR CHAMBERS: Of course. [LB367]

SENATOR SCHIMEK: Senator Chambers, I was downstairs this morning during discussion of your amendment in the beginning. Did you give a figure on how much money we're talking about here? [LB367]

SENATOR CHAMBERS: Yes. One hundred twenty million dollars, about. [LB367]

SENATOR SCHIMEK: Okay. Okay, thank you. I would like to give you the rest of my time, if I might, Mr. President. [LB367]

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

Floor Debate
April 18, 2007

SENATOR LANGEMEIER: Senator Chambers, 4, 30. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schimek. Members of the Legislature, every time Senator Burling wakes up, every time he wakes up a discordant no. Senator Burling, before you woke up today we were home on the range. There never was heard a discouraging word until you stood up. Then what does Senator Burling say? Well, you might have made a promise but I didn't. I would like to ask Senator Burling a question or two before I proceed. [LB367]

SENATOR LANGEMEIER: Senator Burling, would you yield to a question? [LB367]

SENATOR BURLING: Yes. [LB367]

SENATOR CHAMBERS: Senator Burling, you did vote to raise the sales tax a couple of years ago, correct? [LB367]

SENATOR BURLING: Correct. [LB367]

SENATOR CHAMBERS: And we did that, those of us who voted for it, because we knew the state was in a very serious financial bind and that was necessary to be done to get us out of that bind. Is that correct? [LB367]

SENATOR BURLING: That's what I felt. [LB367]

SENATOR CHAMBERS: Did you hear discussion that that increase was going to be temporary and when we were able we would reduce the sales tax to its original level? Did you hear discussion of that? [LB367]

SENATOR BURLING: I remember hearing that discussed on the floor, yes. [LB367]

SENATOR CHAMBERS: Did you make it clear that such was not your intent; that you intended to leave that increase there on a permanent basis? Did you make that statement or express that sentiment at that time? [LB367]

SENATOR BURLING: Well, as I remember I expressed a sentiment at that time that I didn't know what the future held and I didn't know what we might want to do in the future. [LB367]

SENATOR CHAMBERS: Did you say you were opposed to reducing it back to the 5 percent when the state was financially able to do so? [LB367]

SENATOR BURLING: No. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Okay. Do you think this state is financially able to do so now? [LB367]

SENATOR BURLING: I think they're financially able to do something now, I just don't think that that's the way we ought to go. [LB367]

SENATOR CHAMBERS: But you know that if this amendment were adopted, the money would be there to absorb it. Isn't that true? [LB367]

SENATOR BURLING: Yeah. [LB367]

SENATOR CHAMBERS: Okay. But you want to keep a high tax on the sales, as far as the sales tax. Is that correct? [LB367]

SENATOR BURLING: Well, like I said, if we do this then we are going to have to make up for it with property. [LB367]

SENATOR CHAMBERS: Well, I don't want to do like you said. I'd like you to answer this question before my time runs out, if you will. You want to keep a high sales tax rate permanently. That's what you're saying, isn't it? [LB367]

SENATOR BURLING: I want to... [LB367]

SENATOR CHAMBERS: Well, if you're against lowering it, you can't be for keeping it where it is and lowering it at the same time, can you? [LB367]

SENATOR BURLING: Well, I don't know that we currently have a high rate. We have a rate and I think we ought to keep it where it's at now, whether it's higher or lower or where it's at, I... [LB367]

SENATOR CHAMBERS: It's higher than it was before we raised it. Do you agree with that? [LB367]

SENATOR BURLING: Yes. [LB367]

SENATOR CHAMBERS: And you want to keep it as high as it is, whatever that term "high" means? [LB367]

SENATOR BURLING: Yes. [LB367]

SENATOR CHAMBERS: Okay. Is that what you tell your constituents? [LB367]

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

Floor Debate
April 18, 2007

SENATOR BURLING: Yes. [LB367]

SENATOR CHAMBERS: (Inaudible) tax. Are you a Democrat or a "Repelican"? [LB367]

SENATOR BURLING: I'm registered the latter. [LB367]

SENATOR CHAMBERS: You're "Repelican." Are you a wild-eyed, liberal spender, or are you a conservative person when it comes to fiscal matters? [LB367]

SENATOR BURLING: Well, I'll let other people make that judgment. [LB367]

SENATOR CHAMBERS: That's why I'm asking for your opinion, so you can characterize yourself. [LB367]

SENATOR BURLING: Well, I characterize myself as conservative in fiscal matters. [LB367]

SENATOR CHAMBERS: And fiscal conservatives believe in increasing the taxes on people least able to pay them, correct? [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR BURLING: There is a lot to go into that. [LB367]

SENATOR CHAMBERS: Do you agree with the analogy that I gave this morning that Little Orphan Annie is taxed at the same rate as Daddy Warbucks when it comes to the sales tax? That's correct, isn't it? [LB367]

SENATOR BURLING: Yes. [LB367]

SENATOR CHAMBERS: And you agree with that, correct? [LB367]

SENATOR BURLING: Well, that's the way the system works, is you pay a tax on what you buy. [LB367]

SENATOR CHAMBERS: No, I know the way it works; we agreed. But I'm asking, you like that...I'll rephrase it. You like it to work like that, don't you? [LB367]

SENATOR BURLING: Not necessarily. [LB367]

SENATOR CHAMBERS: Well, why don't you help me change it so we can give "Little Orphan Annie" a break? [LB367]

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

Floor Debate
April 18, 2007

SENATOR BURLING: Well, then we've got other problems in other areas, too, so... [LB367]

SENATOR CHAMBERS: Right, and we'll address those when we come to them, but we're on this one. Are you going to help "Little Orphan Annie" today, or stick with "Daddy Warbucks"? [LB367]

SENATOR BURLING: Well, I'll stick with the sales tax rate we have. [LB367]

SENATOR CHAMBERS: You'd stick with "Daddy Warbucks," in other words. [LB367]

SENATOR BURLING: Okay. [LB367]

SENATOR CHAMBERS: Okay. Thank you. I might just call you "W.B." or "Warbucks." Thank you, "W.B." [LB367]

SENATOR BURLING: Okay. [LB367]

SENATOR CHAMBERS: And my time is probably up at this point, Mr. President. [LB367]

SENATOR LANGEMEIER: It is. [LB367]

SENATOR CHAMBERS: Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Schimek. Senator Raikes, you are recognized. [LB367]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I'll try to add a few memories I have of the experience we went through dealing with the financial crisis. First off, I think that not only did we as a body more or less, well, agree that we would not continue the sales tax increase, but I think when we first adopted it, it had a sunset on it. I think we adopted a measure that only kept that in place for one or two years. Later we came back and took the sunset off, reluctantly of course. So I don't think there is any doubt that we had in mind that it was a difficult decision to raise the sales tax, and as soon as it became feasible to undo that increase that's what we would do. Now, another thing I remember about it, and this refers to Senator Wallman's comment, when we first increased the sales tax, as you know...and I misspoke the other day, talking about the fact that we don't earmark sales tax. We do earmark some sales tax. It was sternly pointed out to me by our Revenue Committee Chair. We direct sales tax on autos to the Highway Trust Fund. When we first passed the increase in the sales tax rate, we did not pass the extra half percent on autos to the Highway Trust Fund. Instead, we kept it in the General Fund because that's where the financial crisis was. It

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

Floor Debate
April 18, 2007

wasn't until, I believe, last year that we transferred the half cent, the additional half cent on autos, to the Highway Trust Fund. I opposed that for the very reason that by doing that you more or less trap the Legislature into being unable or feeling unable to lower the sales tax rate because it would reduce funding to the Highway Trust Fund. The problem with that is you've got a policy in place whereby, I think, the tail is wagging the dog. You've got a good state policy that involves reducing the sales tax rate for many good reasons--its regressiveness, the border bleed, and all the other good reasons--but you're prevented from that because of an earmark to the Highway Trust Fund. Senator Wallman is correct that in fact reducing the sales tax from 5.5 to 5 would reduce funding to the Highway Trust Fund, but it's my belief that we ought to provide for that funding in other ways. In fact, I would and have argued that sales tax on autos and the other mechanisms we now have providing funds for Highway Trust are not going to be adequate into the future anyway. We might as well get started on looking at some replacements. My point is that I don't think it's wise for us to say that, because of an earmark on the Highway Trust Fund, we ought to forgo the broader, appropriate state policy of having a lower base, or a lower rate, I should say, on the sales tax. So for that reason, I support the amendment that lowers the sales tax rate, along with lowering the school levy and providing the personal property tax credit. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Kruse, you are recognized. [LB367]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I will also be supporting the amendment out of...I don't know if it's a guilty conscience or not; I don't know. Several people have wondered if we're capable of that here. But I was also here when we voted that and my understanding was that we promised to take it off as the first item, the first item of tax that we would reduce. We passed up that chance a couple of times and it doesn't look like we're going to try to do it now, but it's still a promise. Now, I would agree with the dialogue between Chambers and Burling that we weren't individually promising that, but it was said on the floor enough times, and I believe there was a sunset on it at first, it was said enough times that...and not one of us; I did not object to it. I just felt that 5 percent is as high as the sales tax should go. No good reason for it; it's just that's the way. So that was the promise and I would confirm that. As part of the penance that I would pay for having done that, I...and hopefully to resolve some conscience that I have, I'll yield the rest of my time to Senator Chambers. [LB367]

SENATOR SCHIMEK PRESIDING [LB367]

SENATOR SCHIMEK: Senator Chambers, you are recognized. [LB367]

SENATOR CHAMBERS: Thank you, Madam President. You are forgiven, my son, and thank you, Senator Kruse. Members of the Legislature, I'm going to say again what the philosophical underpinnings of this amendment are. The sales tax is regressive

Floor Debate
April 18, 2007

because it places the identical rate on everybody regardless of ability to pay. It hurts those who are poor the most. Why is that? They have none of what you call discretionary income. Everything they make is obligated and they have to spend it. So all of their income virtually is taxed as a rate of 5.5 percent. Wealthier people are not having that percentage of their income taxed at that rate. What they spend on purchases will be taxed, but they have additional money that is not necessary to be spent on the necessities where this 5.5 percent sales tax is imposed. This half percent may not seem like much to those who don't have to count their pennies, but a half percent means a lot to those who have little. I wish Senator Carlson was here because he knows enough about the "Bible" to confirm that what I'm going to say is correct. To him that hath, meaning the rich, to him that hath shall be given. From him that hath not, shall be taken, even that which he seemeth to have. Not what he hath; that which he seems to have. He doesn't even have it. Before you come to the state of Nebraska, Senator Wallman and all the other hardhearted people who don't want to reduce this sales tax...when I came here I had a hole in my pocket, Senator Wallman. After I've been here awhile not only did they take all the little change I had, they took the hole also. I don't even have the hole in my pocket anymore. [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: It is difficult for people on this floor to understand what it means to be without, to have to go to the store and, as you go through the checkout line, wonder if you've miscalculated and you're going to be embarrassed because you have to put some small item back on the shelf. But I shouldn't even say that because it doesn't register; it doesn't resonate with anybody. But I want it in the record so it's clear the types of things that were discussed on this issue and the arguments given which I think are compelling for our delivering on the promise to reduce this amount, this rate, back to the 5 percent. Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senators Chambers and Kruse. The next in line is Senator Friend, followed by Senators White, Synowiecki, Chambers, and Aguilar. Senator Friend. [LB367]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. I'm sure glad there is more clarity now. I...well, I'm a little tongue-in-cheek there. I'm not sure that there is but...maybe for some there is. I should say I would be glad that there is more clarity. This is interesting, it really is, because...there's two different...over the last couple of days there's two different thought processes, I think, that have been in motion. I brought this up last year and I mispronounced his name, the British economist and, slash, philosopher, if you will, John Maynard Keynes, which Senator Thompson quickly was able to say, Senator Friend, no, that's not how it's done. So I stand corrected, but that is...it's appropriate that we realize, I think, while we're going through some of this discussion, that there are those two philosophies out there--a laissez-faire

Floor Debate
April 18, 2007

type of philosophy, which, quite frankly, a sales tax cut incorporates into, as opposed to a Keynesian, if you will, that more or less differs so greatly from laissez-faire by...I think it's more or less a fallacy, but saying that government more or less...more or less, that government spending injects new money into an economy and that it could actually strengthen an economy to a certain degree; that the combination of that government work and that government implementation in certain ways, along with private sector, you know, market-driven forces, is going to take your economy and help it rise. And personally, I think it was a...you know, it's obviously a Depression-driven and a New Deal-driven idea--an ideal. I just don't buy it. Like I said, I think it's a fallacy. So what we were talking about yesterday was significant discussion matter that others have been talking about, and that's how they have divided it up. Keynesian economics is what Senator White has promoted, and others on the floor have promoted, over and over again, is that the government gets that money back and income tax...the revenue system takes that money back and then they start popping it back into people's pockets. That's government intervention. What a standard, straight-out income tax cut does is promotes market forces over a five- and ten-year period, especially significant ones. That's what happens. That's the idea. That's where the debate...I think that's where the...and I'm not saying...I'm saying I don't believe it. I'm not saying Keynesian economics is wrong; I'm just saying I don't buy into it. I buy into a different type of ideal. Now what we have today with Senator Chambers' amendment, among other things, one of the things that we have is this idea that we can make up, you know, to the citizens that we promised laissez-faire type of economics and, to promote that idea,... [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR FRIEND: ...that we're going to keep that promise. Well, look, I don't need any absolution. I would say the same...I didn't...look, there is guilt by association but I didn't vote for that. I didn't like it. I didn't think it was right because I believe in a laissez-faire type of economic system. I would finally say that I think part of the problem with what Senator Chambers is dealing with, I wouldn't call it sheer folly, but I brought up a couple of times, and I'm on the record as saying, look, I think that this sales tax system is broken. So adjustments, making merely adjustments to this thing is going to make it right, either up or down? How many times have we had to deal with construction labor the last three years, or complaints about it? Three years in a row. It's broken. It's messed up. That's what I would submit to you. [LB367]

SENATOR SCHIMEK: Time. [LB367]

SENATOR FRIEND: Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senator. (Visitors introduced.) Moving on, on discussion of AM1052, Senator White, you are next to speak. Senator White. [LB367]

Floor Debate
April 18, 2007

SENATOR WHITE: Thank you, Madam President. Would Senator Chambers yield to a brief question? [LB367]

SENATOR SCHIMEK: Senator Chambers, would you yield? [LB367]

SENATOR CHAMBERS: Yes, I will. [LB367]

SENATOR WHITE: Senator Chambers, the spending hawks have discussed a number of different options here. Would your bill add to the amount the state is spending, or would it function as a tax cut and thereby preserve our reputation for fiscal conservatism? [LB367]

SENATOR CHAMBERS: It would do the latter. It would be an actual tax cut. [LB367]

SENATOR WHITE: May I yield the rest of my time to Senator Chambers, please? [LB367]

SENATOR SCHIMEK: Yes, you may. Senator Chambers, would you like to use this time? [LB367]

SENATOR CHAMBERS: Yes. Thank you, Madam President. Members of the Legislature, if you check my transcripts when I was in school after I got out of OPS where I didn't get much in the way of an education, I got good grades because people gave me soft questions of the kind that my good friend Senator White gave me--easy for me to answer them; I got a 100. So it looks like I'm smart by the record, but you can tell from my performance on the floor that I'm not. In fact, on the floor I manifest what I've told Senator Schimek about. I grew up in a neighborhood, believe it or not, where there was an overabundance of lead so I acknowledge readily that my intellect is stunted. My mind is less capable than what it ought to be. It's as those a film were over my intellect, and if I could remove that film I would see things clearly. And when I took that film off, Senator Harms, I would sing in the words of Johnny Nash, "I can see clearly now, the film is gone." But I try to do the best I can with what I have to work with. On this proposal that I'm offering, it is the one which nobody can characterize as anything other than a tax cut. When you have a rate of 5.5 percent that you must spend in addition to the cost of every purchase, and that amount is going to reduced by a half cent, that is an actual cut. We're not talking about you make a certain amount of money, you give it to the government, then they give you some of it back. You make a certain amount of money and they let you take something off which you might otherwise owe. This is as simple as it can be. The money stays in your pocket. The government does not intervene. Nobody restores to you something in the form of a rebate, a refund, or anything. You keep the money. Now, I have heard Presidents, from Reagan and Nixon and the Bushes, talk about fiscal conservatism and not having to put the money into the government's hands because it is your money. This is the only proposal that has been

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Transcriber's Office

Floor Debate
April 18, 2007

offered which would realistically and immediately leave money in the pockets of the citizens. I'm not just talking about those who run big companies. I'm talking about little children. Do you realize...? Let me ask Senator Janssen a question because he's the Chair of the Revenue Committee and he knows everything. We're waiting for him to make his way to his microphone. [LB367]

SENATOR SCHIMEK: Senator Janssen, would you yield to a question from Senator Chambers? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: Senator Janssen, food is not taxed in Nebraska. Is that true? [LB367]

SENATOR JANSSEN: That is correct. [LB367]

SENATOR CHAMBERS: Are crayons taxed? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: So this would even hit the little child who goes to the store to buy crayons. Is that true? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: If the child goes to the store to buy a pencil, is that taxed? [LB367]

SENATOR JANSSEN: Yes. It's nonedible. [LB367]

SENATOR CHAMBERS: It doesn't matter the age or the economic status of the person making... [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: ...a purchase when it comes to the sales tax, does it? [LB367]

SENATOR JANSSEN: I'm sorry, I didn't... [LB367]

SENATOR CHAMBERS: Let me ask it a different way. [LB367]

SENATOR JANSSEN: Yeah. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: I'll go back to Daddy Warbucks and Little Orphan Annie.
[LB367]

SENATOR JANSSEN: Okay. [LB367]

SENATOR CHAMBERS: "Daddy Warbucks" is standing here with these iPods and low pods and the BlackBerries and the strawberries and all of these other things which people my age have no idea what they're talking about, but he has a cart loaded with these things. And right next to him is "Little Orphan Annie," sad-eyed, with a lined notebook and a pencil. Do they pay the same rate of sales tax, Senator Janssen?
[LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: So you're in favor of treating "Little Orphan Annie" like you treat "Daddy Warbucks" when it comes to taxation. [LB367]

SENATOR JANSSEN: Well, Senator Chambers, if they would come to my store...
[LB367]

SENATOR CHAMBERS: No, no. [LB367]

SENATOR JANSSEN: ...and buy those items, and I saw this little kid standing, "Little Orphan Annie" standing there with her tears running down her cheek,... [LB367]

SENATOR SCHIMEK: Time. [LB367]

SENATOR JANSSEN: ...I'd pay the sales tax for her. (Laughter) [LB367]

SENATOR CHAMBERS: I'll fix him. [LB367]

SENATOR SCHIMEK: Thank you, Senators White and Chambers and Janssen. (Visitors introduced.) The next speaker will be Senator Synowiecki, followed by Senators Chambers, Aguilar, Erdman, Fulton, Wallman, and Howard. [LB367]

SENATOR SYNOWIECKI: Thank you, Senator Schimek, members of the Legislature. There had been some discussion on the sales tax, the reconstruction sales tax. And, yes, it has been talked about quite a bit in the Legislature. There's been quite a few hearings relative to it. And Senator Stuthman kind of led the charge before the tax was even slapped on, to try to avoid it. I, too, had amendments a few years back when that tax was levied on residential properties. I believe and I still believe that there were legitimate public policy reasons to not levy that tax based upon serious unfairness issues and serious...in areas relative to equity in terms of that tax on reconstruction

Floor Debate
April 18, 2007

labor for primary residences. However, I don't think...I don't think that the same public policy and fairness issues relative to that reconstruction labor tax can be attributed to commercial properties. I think there is a public policy differentiation. I think you are talking about properties that earn an income and I don't think that the same public policy arguments in the area of equity, in the area of fairness, can be, again, attributed to the reconstruction tax on commercial properties. I have not heard an outpouring of concern relative to that area. I think it's a legitimate tax by the state on these commercial properties when they renovate the properties. It's not an enormous amount by any means in our...and if you look at the committee statement I think it's something like \$6 million the first year and \$7 million or \$8 million the second year. So while I stood shoulder-to-shoulder with Senator Stuthman to avoid the tax in the first place, and then once it was put in stood with Senator Stuthman and others in the Legislature to repeal the tax, I genuinely, genuinely feel that that was the right thing to do in terms of social justice reasons. In terms of public policy reasons that was the right thing to do. But I don't think those same arguments, from a social justice perspective or a public policy perspective, can be attributed to the sales tax on commercial properties. Thank you, Senator Schimek. [LB367]

SENATOR SCHIMEK: Thank you, Senator Synowiecki. Senator Chambers, this will be your third time to speak and you are recognized. [LB367]

SENATOR CHAMBERS: Thank you, Madam President. Madam President, without being impertinent, is the only reason you recognized me because it's my third time to speak, or would you recognize me anyway? [LB367]

SENATOR SCHIMEK: Senator Chambers, I'd recognize you anywhere. [LB367]

SENATOR CHAMBERS: Thank you; I needed that. Members of the Legislature, Senator Synowiecki introduced phraseology: social justice. I haven't used that term but that applies to what I'm discussing here and I'd like to ask Senator Janssen another question or two. [LB367]

SENATOR SCHIMEK: Senator Janssen, would you yield to a question? [LB367]

SENATOR JANSSEN: Certainly. [LB367]

SENATOR CHAMBERS: Senator Janssen, the "Little Orphan Annie" who was in your store would be able to get her lined notebook and her pencils and crayons without paying the sales tax. Is that what you indicated? [LB367]

SENATOR JANSSEN: No. The sales tax would still be paid, but I would give her the money to pay the sales tax, that's what I was getting at, if she were short that 10 cents or whatever it would be. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Okay. You would make sure that she was not going to have to be responsible for paying that sales tax because you would reimburse her on the spot or save her from having to pay it in the first place, correct? [LB367]

SENATOR JANSSEN: That's right. [LB367]

SENATOR CHAMBERS: That means you have some compassion and you understand the plight of "Little Orphan Annie." [LB367]

SENATOR JANSSEN: Absolutely; been there. [LB367]

SENATOR CHAMBERS: Are you aware that there are other "Little Orphan Annies" in this state... [LB367]

SENATOR JANSSEN: I'm sure there are. [LB367]

SENATOR CHAMBERS: ...besides the one who may have been in your store? [LB367]

SENATOR JANSSEN: I'm sure there are. [LB367]

SENATOR CHAMBERS: Are you able to go into every store and make sure that no "Little Orphan Annie" has to be out of the money that would go for that tax? You're not able to do that, are you? [LB367]

SENATOR JANSSEN: No, I'm not. [LB367]

SENATOR CHAMBERS: It's not even logistically possible. But you are able, as a state senator, to take a step that will shield every "Little Orphan Annie" from paying that half cent, aren't you? If we would adopt my proposal, we would be helping every "Little Orphan Annie" in the state, wouldn't we? [LB367]

SENATOR JANSSEN: Yes, we would. [LB367]

SENATOR CHAMBERS: And you're not willing to help the other "Little Orphan Annies" in the state, is that what you're telling me? [LB367]

SENATOR JANSSEN: Only if we take something away somewhere else, Senator Chambers. [LB367]

SENATOR CHAMBERS: Well, we can do that, but let's take it a step at the time. [LB367]

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

Floor Debate
April 18, 2007

SENATOR JANSSEN: All right. [LB367]

SENATOR CHAMBERS: Are you going to help me help every "Little Orphan Annie" this afternoon? [LB367]

SENATOR JANSSEN: I hope I can. [LB367]

SENATOR CHAMBERS: Well, you know you can because you are a free moral agent. You can do what you want to do. Do you agree with that? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: Do you want to help every "Little Orphan Annie" in the state? [LB367]

SENATOR JANSSEN: If it... [LB367]

SENATOR CHAMBERS: You hesitate. [LB367]

SENATOR JANSSEN: Personally, yes, I do. [LB367]

SENATOR CHAMBERS: All right. Now, are you motivated by what your best judgment, the angels of your higher nature, lead you to do? Is that what guides your conduct, as I've seen in the past the situation to be? [LB367]

SENATOR JANSSEN: Yes, I have, as I remarked before, Senator Chambers, been in that situation before, and I did see, too, that that sales tax was lowered at that time. [LB367]

SENATOR CHAMBERS: And you will help this afternoon, then, to put it back to 5 percent as of October 1? [LB367]

SENATOR JANSSEN: If we can do some other adjusting to compensate for that. [LB367]

SENATOR CHAMBERS: But we have to do this first, would you agree? [LB367]

SENATOR JANSSEN: Well, I would imagine, yes; um-hum. [LB367]

SENATOR CHAMBERS: If I have to take two steps, I have to take the first step first, right? And then the second step? [LB367]

SENATOR JANSSEN: Yeah, I think that's what they call the two-step. Yes. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Okay. Now, are you going to help me do this first step, then we'll work together to find a second step? [LB367]

SENATOR JANSSEN: Well, you know, Senator Chambers, you drive such a hard bargain. I think I'm just going to sit and ponder on that for awhile. I don't want to make that statement right now. As...there may be some... [LB367]

SENATOR CHAMBERS: So now you're willing... [LB367]

SENATOR JANSSEN: We may be getting closer. [LB367]

SENATOR CHAMBERS: ...you're willing, though, despite all of the good conversation we had and the impression I got from your words, that you are a compassionate man, that you do care about "Little Orphan Annie," you now are going to throw me a curve... [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: ...and say, but I was just kidding; I didn't mean that. [LB367]

SENATOR JANSSEN: No. [LB367]

SENATOR CHAMBERS: Did you see that movie with Arnold Schwarzenegger where he promised to do something? I think he was maybe going to help somebody and he didn't, and he said, I lied. Is that what I'm to take your earlier words to have been? Or did you mean them? [LB367]

SENATOR JANSSEN: Well, my earlier words about helping "Little Orphan Annie" buy those Crayolas, you know, I would have done that in my place of business, yes, but now we're working on something a little bit bigger here. And I'm waning... [LB367]

SENATOR CHAMBERS: More "Little Orphan Annies" than you're willing to help, in other words. [LB367]

SENATOR JANSSEN: Well, you know, there are some "Big Sals" along with that "Little Orphan Annie," too. [LB367]

SENATOR CHAMBERS: So then to get at "Big Sal," you'll hurt "Little Orphan Annie." [LB367]

SENATOR JANSSEN: Well, no; now I'm not too sure of that. [LB367]

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Well, I'm going to let you ponder... [LB367]

SENATOR JANSSEN: And I'd like to treat everybody the same. [LB367]

SENATOR CHAMBERS: I'm going to let you ponder and I hope you reach the right decision. Thank you, Senator Janssen. Thank you, Madam President. [LB367]

SENATOR JANSSEN: Thank you. [LB367]

SENATOR SCHIMEK: Thank you, Senators Chambers and Janssen. Senator Aguilar, you are next in line to speak. [LB367]

SENATOR AGUILAR: Thank you, Madam President and members. I was intrigued by Senator Chambers saying that he was so poor that they even took the hole out of his pocket--that's poor. Senator Chambers, when I was young I was so poor I couldn't afford to pay attention. But I was paying attention the day we had the discussion on the floor about putting that half cent back where it was before, and I also remember a little bit later there was a proposal to do such a thing and the administration at that time opposed that. And so the whole concept kind of failed and didn't go anywhere. And at the same time we added that half cent we also added a sales tax on specific services. That was a tax introduced by Senator Wickersham, if I recall. And at that time I asked him: Senator Wickersham, why are you just taxing certain small businesses; why are you only adding a tax to that instead of your own business, which was an attorney, or that of engineers, which is a much higher income level? And his answer to me was quite simple. He said, well, Senator, we don't need that much money. Not a good answer in my estimation. But that's the way it all came about and that tax is still out there today. And with that I would yield the rest of my time to Senator Chambers. [LB367]

SENATOR SCHIMEK: Thank you, Senator Aguilar. Senator Chambers, Senator Aguilar had yielded the rest of his time to you. You have 3 minutes and 36 seconds. [LB367]

SENATOR CHAMBERS: Thank you, Madam President; thank you, Senator Aguilar. Members of the Legislature, the reason we were called the "Dirty 30" when we raised those taxes is because the then-Governor vetoed the bill and immediately began fasting and praying in the hope that we would override his veto so that money, which he needed and he knew the state wanted, would be there and he could tell the people, but I vetoed it. And that's the way some of the people were thinking who voted against our increasing the tax. They knew there were those of us who found it distasteful but would assume our responsibility and set the ship of state aright. And we did it. But the Governor did not say, because I vetoed this bill due to the fact that I thought the taxes should not have been increased, therefore, I'm not going to spend that money. No, he made use of it. And my colleagues on the floor who voted against raising the tax did not say, I'll make sure that I do not bring a bill that spends any of that ill-gotten money and I

Floor Debate
April 18, 2007

will not support an expenditure using that ill-gotten money. They are like the people in the story of the Little Red Hen. They wouldn't help her plant the wheat, they wouldn't help her tend the wheat, they wouldn't help her harvest the wheat, they wouldn't help her grind it into flour, they would not help her make it into bread. But when it was bread and that delightful aroma was wafting throughout the barnyard...every time she asked before on the work, "Who will help me?" all the animals said, "Not I, not I." So she said, "I'll do it myself." So when time came for the bread to be consumed, she said, "Who will eat the bread?" They all said, "I will, I will." She said, "No, you won't. I'll eat it myself." But my colleagues said, we will spend that money, although we want to be able to say, we were against the tax increase. And now I think we ought to bring this amount, this rate on the sales tax, back to where it was. I don't see anything other than that which can be considered acceptable. I know we are in a political setting. I know that people's word counts for nothing. It often is less substantial than a word written in water, Senator Carlson. But for some people it means more than that and I'm trying to appeal to that... [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: ...in my colleagues, along with pointing our attention to the fact that a half cent of sales tax means a great deal to a lot of people. But if you want to become practical and hardheaded and utilitarian, you can listen to what Senator Raikes pointed out earlier: The school levy and the sales tax is where the state is likely to go if there is a crisis again and you need to raise something. The sales tax will be at 5.5 percent. There could be consequences of a political nature if you raise it higher because it's higher than other sales taxes in the region already. So lower it while we can, then when the rainy day comes you can more easily and with a better conscience and a greater justification do what we did before--raise it temporarily. And the public will believe us because they saw when we were in a better set of circumstances we reduced it as we said we would do. [LB367]

SENATOR SCHIMEK: Time. [LB367]

SENATOR CHAMBERS: Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Fulton, your light is next. [LB367]

SENATOR FULTON: Thank you, Madam President and members of the Legislature. I love to think about these tax policies up here by way of philosophy. I don't know that I have a really strong opinion one way or the other, but I do like to hear Senator Chambers, and I'm going to throw some questions out there just to, I guess, get into his mind a little bit about tax philosophy, if Senator Chambers would yield to a question. [LB367]

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

Floor Debate
April 18, 2007

SENATOR SCHIMEK: Senator Chambers, would you yield? [LB367]

SENATOR CHAMBERS: If he's going to get into my mind, there is an admission charge. [LB367]

SENATOR FULTON: So long as there is no tax I would be all right with that. [LB367]

SENATOR CHAMBERS: Yes, I will yield. [LB367]

SENATOR FULTON: Originally, taxes, as I understand it, at least at the federal level, came about and they were construed to be by way of volition. And there is even...I heard this on the radio, there is a constitution party, constitutional party, and their reason for being is that taxes are voluntary. So at least there's probably...there is some history to it and it's probably argued. But would you say that it's better, Senator Chambers, to have a tax that comes by way of choice or not? By way of volition or not having a choice, which is better? [LB367]

SENATOR CHAMBERS: If you had a tax (inaudible) by volition, you would have a tax on the books but you wouldn't have any money. [LB367]

SENATOR FULTON: True enough. So if it was purely by choice, there wouldn't be a whole lot of people that would choose to pay taxes. [LB367]

SENATOR CHAMBERS: A tax is imposed and a tax is exacted because it is not voluntary and you don't even put people in a position to say I will or I won't. You shall or else. [LB367]

SENATOR FULTON: Is it possible to have taxes which have an indirect use of an individual's volition? Such as, would you say that the sales tax is an indirect use of one's volition? [LB367]

SENATOR CHAMBERS: No. You are coerced because you have no choice. If you wanted to make the purchase, you must pay the tax. [LB367]

SENATOR FULTON: But you get to choose whether you make the purchase. [LB367]

SENATOR CHAMBERS: Well, yeah. That's like saying I need a pair of gloves; it's cold; but in order not to pay the tax I will remain cold. For it to be freely...for your will to operate freely there can be nothing externally exerting pressure that could coerce your will. If there is anything that causes you to take a decision other than because you freely do it, you are not making a free decision. [LB367]

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

Floor Debate
April 18, 2007

SENATOR FULTON: Okay. [LB367]

SENATOR CHAMBERS: You might be making a wise one but it's not free. [LB367]

SENATOR FULTON: Okay. I'll go to your...the example: Daddy Warbucks and Little Orphan Annie. [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR FULTON: "Daddy Warbucks" wants to buy..."Daddy Warbucks" has a lot of money to spend things on things that "Daddy" might want,... [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR FULTON: ...like Lamborghinis or whatever rich people buy. [LB367]

SENATOR CHAMBERS: He could buy the factory. [LB367]

SENATOR FULTON: He could buy the factory. [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR FULTON: So he wants to buy a Lamborghini and he knows that there is a 5.5 percent tax on the Lamborghini or whatever other... [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR FULTON: Yet he chooses to buy the Lamborghini knowing full well he has to pay that sales tax. Is he not using his volition, at least indirectly, to pay that sales tax? [LB367]

SENATOR CHAMBERS: The kinds of questions that you ask, Senator Fulton, are fact specific, meaning that if you ask it just in a general way there is an answer given of the kind that I gave. When you make it fact specific, as you did, where this person has so much discretionary income that he is not purchasing a necessity, it certainly is a matter of volition on his part to make that purchase despite the tax. He probably wouldn't even take the tax into consideration. [LB367]

SENATOR FULTON: Okay. Well, I guess that's where I would look. There is another side, I guess, to the sales tax equation. For those who need to buy food, is it proper for society to put a tax on that food knowing full well that people will take all that they... [LB367]

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

Floor Debate
April 18, 2007

SENATOR SCHIMEK: One minute. [LB367]

SENATOR FULTON: ...all that they earn in order to buy food, which they need to survive. I'd say that a good policy would say, no--and I think you'd agree with me--you shouldn't tax food because people need to have food. [LB367]

SENATOR CHAMBERS: Yes, and that's why we took the tax off food, but Nebraska did tax food for a number of years. [LB367]

SENATOR FULTON: Well, the other side, I guess...well, thank you, Senator Chambers. I'll go into my point, or at least what I want to get across. The other side to this sales tax equation is, if we were to lower the sales tax there would be large discretionary purchases that "Daddy Warbucks," or whomever, will make, which will be where he will pay less tax. And he is willing to pay a sales tax to get to a large ticket item, and if he doesn't notice it or if he doesn't have a great consternation with making that purchase, then I would say in that case that's where we would want to use his volition in order to raise revenue. People that are poor aren't going to be making those big-ticket item purchases and so that would be another side of the equation. [LB367]

SENATOR SCHIMEK: Time. [LB367]

SENATOR FULTON: Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senators Chambers and Fulton. Senator Wallman, you are recognized to speak. [LB367]

SENATOR WALLMAN: Thank you, Madam Chair, and thank you, Ernie, Senator Chambers. In regards to sales tax, as I was going around, and we have a sales tax on food in our small community--1 percent--and that funds our parks, our rec areas, and minor street repairs. And nobody seems to holler except the person who collects the tax. And I'm impressed by that money and I don't...it doesn't...you know, I don't begrudge paying that sales tax. So I appreciate what the Revenue Department has done, and as far as sales tax, I agree with Senator Chambers, it's a tax nobody likes to pay. But I go to other states; I don't mind paying their sales tax, their lodging tax, or this and that. Some of us have more ability to pay than others; it's always going to be there. The Bible says you shall always have the poor, and that's some of our fault. If we have lots of resources...we do use government entities. Airlines, airports are taxed, and we can use that and poor people can't. Is that right? No. Some in society have more benefits than others. Is that a good society? Some of us can afford healthcare; some of us can't afford insurance. Is that fair to society? But the sales tax thing is probably about as fair as I can think. It's not a huge tax. If it were 10 percent, I'd say yes. If it were 7 percent, I'd say yes. But a half a percent...I guess the infrastructure is there to collect this tax right now. And as you all know, I hate taxes and I'm not going to mention that

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

Floor Debate
April 18, 2007

one word, and so I would...I'm sorry, Senator Chambers; I'm against this amendment. [LB367]

SENATOR SCHIMEK: Thank you, Senator Wallman. Senator Howard, you are next in line. [LB367]

SENATOR HOWARD: Thank you, Madam President and members. If Senator Chambers would yield to a question or two? [LB367]

SENATOR SCHIMEK: Senator Chambers, would you yield to a question or two? [LB367]

SENATOR CHAMBERS: Yes, I will. [LB367]

SENATOR HOWARD: Thank you. Let me give you possibly a hypothetical example of a concern that I have. Say I was a widowed mother of two little girls, you could say "Orphan Annie" and "Orphan Sarah," and I was on a limited income and I took those children to get school clothes. I would be able to purchase possibly more clothing for them or possibly clothing that they would prefer to wear if I had a little more money available to me. Would that be correct? [LB367]

SENATOR CHAMBERS: That's correct. [LB367]

SENATOR HOWARD: And say I also had to get to work because I had a job that I had to maintain in order to support them, but I needed to have some form of transportation. So if I went out to buy a car and I had a limited income and a limited amount of money, I could possibly buy a bit better car if I had a half a cent less sales tax that I had to be able to produce in that sale. Is that correct? [LB367]

SENATOR CHAMBERS: Correct again. [LB367]

SENATOR HOWARD: So it would appear to me that the person that's really struggling the most and trying to make the most of what they had would benefit from this decrease in the taxation. [LB367]

SENATOR CHAMBERS: That is correct. [LB367]

SENATOR HOWARD: Thank you. I yield the rest of my time to Senator Chambers. [LB367]

SENATOR CHAMBERS: Thank you, Senator Howard. Thank you, Madam President, because I know you were going to cede that time to me. I thought Senator Wallman was going to support what it is that my amendment would do, especially when he said you

Floor Debate
April 18, 2007

have the poor with you always. That's what the Bible said: You have the poor with you always. Then Senator Wallman amended it--my role is to keep you as poor as possible. I think...I'm putting words in Senator Wallman's mouth. I think that the inconvenience of reducing this by a half cent outweighs the good that it can do for the people who we all know need it. We will have other issues that come before us when pennies make a difference. Senator McGill, just a couple of days ago, was talking about reimbursing schools where lunches or breakfasts were concerned. I heard the term "nickel" used--a nickel. And you might say, what's a nickel, whether they get reimbursed for it or not, or even a dime? But those amounts have a tremendous amount of significance when you are dealing with certain segments of this society. The concept of social justice means that a floor is going to be established below which no member of society will be allowed to fall; that those who are better off are entitled to be grateful for what they have and they ought to enjoy it. But it shouldn't make them so hardhearted and insensitive that they look down on those who are less fortunate, and say it's too inconvenient to change the method of collecting this tax to give those people some help so they don't get it, but it doesn't hurt me. I don't have to have something bad happen to me to understand how much it hurts somebody else to whom it is hurting. I had a favorite baby sister who died... [LB367]

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: ...when a liver transplant went bad. But I never had an infant child die from cancer or some childhood disease, but that doesn't have to happen to me for me to understand, to some extent, what the parent is feeling who loses a child in that fashion, and we shouldn't have to go to these kind of extreme examples to make our colleagues understand things, but we must. And then it doesn't take; it doesn't resonate. But when we talk about reimbursing schools for breakfast programs, then when it's a nickel, well, that's important and we need to do that. But if it's the family, if it's the widowed mother that Senator Howard was talking about, we don't care because if she's that poor she deserves whatever happens to her and she is fulfilling Jesus' prophecy that the poor you'll have with you always. Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senators Chambers and Howard. Senator Dubas, you are recognized to speak. [LB367]

SENATOR DUBAS: Thank you, Madam President and members of the body. Would Senator Chambers yield to a question please? [LB367]

SENATOR SCHIMEK: Senator Chambers, would you yield? [LB367]

SENATOR CHAMBERS: Yes, I will. [LB367]

SENATOR DUBAS: Thank you very much. Would you say that this sales tax reduction

Floor Debate
April 18, 2007

is a way to help those among us who have the least means? [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR DUBAS: Are you familiar with the amendment that I am proposing later on in this debate regarding the earned income tax credit? [LB367]

SENATOR CHAMBERS: Yes. [LB367]

SENATOR DUBAS: Okay. Would you say that that would be a good mechanism to address the working poor in our entire state? [LB367]

SENATOR CHAMBERS: As a complement to this, yes. [LB367]

SENATOR DUBAS: Thank you very much. I would like to speak a little bit to that earned income tax credit and what it could provide to the state along with what Senator Chambers is proposing with the sales tax reduction. The earned income tax credit would provide crucial tax relief to the hardworking poor amongst us. It would help close that gap in what they earn and in what they need to have to make ends meet. A state earned income tax credit also returns millions of dollars to families who put that money right back into our economy. It is economic development in its truest sense. It can make a significant difference for hardworking families, just like reducing this sales tax. The federal earned income tax credit is the single most-effective policy that truly does lift low-income working families out of poverty. The National Center for Children and Poverty found that the federal EITC reduced child poverty among young children by nearly 25 percent, and our state earned income tax credit would build on the benefits of the federal program. Working families with incomes of up to \$32,000 with one child and up to \$36,000 with two children would qualify for the federal EITC. That same threshold would hold true for the state. Most beneficiary families, 74 percent, earn less than \$20,000, so the average refund we're talking about here is \$1,200. In Nebraska, approximately 110,000 households filed for the federal earned income tax credit, collecting more than \$169 million. The EITC in Nebraska is collected equally in urban and rural areas, with approximately 13 percent of urban and rural filers claiming that federal credit. President Ronald Reagan, who was a huge supporter of the earned income tax credit, stated, "The earned income tax credit is the best antipoverty, best profamily, best job creation measure to come out of Congress." We have that opportunity today as we continue this discussion as to who should receive the benefits of these tax credits to make some of these things happen. We just passed out...you should be receiving a chart that lists all the districts in the state, and it would show you the exact amount of dollars that can come directly back to your district. And again, those dollars would be put directly back into the economy of your district. Thank you for your time. [LB367]

Floor Debate
April 18, 2007

SENATOR SCHIMEK: Thank you, Senator Dubas. Senator Erdman, you are recognized to speak [LB367]

SENATOR ERDMAN: Madam President and members of the Legislature, the poor will be with you always, but not all that are poor will be in the Legislature forever. There is a tidbit of wisdom for you. Just an observation on the way that Senator Chambers' amendment is drafted, not that it's lost on you but you may not have picked up on this. There are three parts of his amendment that are actually in the third division. There are two parts of his amendment, Section 6 and 10 through 21, that are actually in the second division. And so, practically speaking, in the event that we would adopt the Chambers amendment, you possibly could come back and add to it by adopting the third division because that would have followed in line and you would have actually restated some of those provisions. And so there is some effort, at least from my perspective, of how to understand this. I think, practically speaking, if you adopt this amendment here, you will be doing exactly what Senator Chambers has represented, and I think effectively so. But once we get to the third division then I think it becomes a little more difficult to understand the process as how we would proceed, given the fact that the divisions that he is less supportive of come after this, in the sense of some of those, I believe, income tax provisions, if I understand the divisions correctly. So just the perspective of where we're at. As I mentioned earlier, and Senator Chambers knows this better than any of us based on his experience, the analogy that I used with him was you don't know where that train is going until you determine the appropriate path, and then off it goes. His example was a stream that's meandering and sometimes the banks can swell depending upon different circumstances. If the banks of this want to swell to this area, great. Do what you want to do. I think the point comes back is what is the determination that we're making to accomplish this goal. Is it what Senator Chambers pointed out, and others, about it's socially unfair or its a regressive tax, which I would admit that it would be, to have the sales tax at 5.5 percent? If that's true then it's still regressive at 5 percent. It may be more palatable but we're not, again, making fundamental changes other than the rate. And I still think you still have the same problem with "Little Orphan Annie" paying for something regressively that she would be paying now. It's just the difference, it's a lower rate. And maybe that's more appropriate. Senator Chambers understands the history of this body. He understands that the body made a decision to raise taxes. He also understands that at times there were people that didn't do that but provided alternatives that were not accepted either. So the will of the body prevailed. The will of this body is the one that matters today. We need to understand the history of how we arrived here. If Senator Chambers stands on the hill at the end of the day and his proposal wins, then that was the will of the body today. But I do think it's appropriate to understand how we got here, but in the process in which we're engaging to also understand the practical parts of this amendment and the fact that potentially it may cause some confusion with the actual application of the law, should it be adopted and the third division be adopted, move over to Select File, and I think we have to understand all of that appropriately. Thank you, Madam President.

Floor Debate
April 18, 2007

[LB367]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Aguilar, you are next to speak, followed by Senator White. [LB367]

SENATOR AGUILAR: Thank you, Madam President. I would yield my time to Senator Chambers. [LB367]

SENATOR SCHIMEK: Senator Chambers. [LB367]

SENATOR CHAMBERS: Thank you, Madam President. Members of the Legislature, the amendment is drafted the way it is because other parts of the committee amendment would be implicated. The fact that we divided the committee amendment doesn't mean we have three separate, freestanding entities as such. If my amendment is adopted and it strikes provisions that happen to be found in the third division, they will be stricken. This amendment is germane to this particular division of the committee amendment because this portion of the committee amendment deals with sales tax matters. So if this is adopted and it says you eliminate these various sections from the committee amendment, they are eliminated, period. The only way you get them restored is to pick them individually and get a vote to return them to the bill. That wouldn't even be a reconsideration because what I'm offering is a package. It contains the digits 1, 2, 3, 4, 5. If I offered them individually and you were against each one and you voted against each one individually, you could not move to reconsider if the vote was successful. But if I take them as a unit, all five of them, and you vote against that unit of all five, then even though it's eliminating portions from this committee amendment that you like, you could make individual motions to restore portions to the committee amendment. What you could not do if you voted against this unit is to get a reconsideration vote on that. So that would take care of, I believe, what Senator Erdman was talking about and which others may have been concerned about. Talking about the difference between Daddy Warbucks and Little Orphan Annie, there was a time and there were places and there may be places now which have what they call a luxury tax. If you are making certain nonessential purchases, you pay what is called a luxury tax which is in excess of an existing sales tax. Those things are not essential, and if you can pay the costs of those things, you can pay a larger amount of tax. The notion of how taxes are to be assessed is one which allows fluidity. States, whether you mean it in the sense of the units that make up the United States or in the sense of an entire nation, must have the wherewithal to raise the revenue necessary to carry out its operations, whether done efficiently or inefficiently. Taxation is the means for doing that. A maxim was coined a long time ago which says the power to tax is the power to destroy. A tax can be set at such a high level that it is confiscatory. You can run businesses out of operation through a taxing mechanism, if you put the same tax on all those categories, all the businesses in that category. You also can give consideration...

[LB367]

Floor Debate
April 18, 2007

SENATOR SCHIMEK: One minute. [LB367]

SENATOR CHAMBERS: ...to not taxing certain items at all. And you all understand these things. What I'm talking about here is to reduce the onerousness of the sales tax. This bill is not designed to even attempt to abolish the sales tax. The only two sources of revenue the state has are income tax and sales tax. If you put this extra half percent on "Little Orphan Annie," it's like they said, Minnie the Moocher, she'd pour water on a drowning man. Yeah, he's going to drown, but you're going to pour more water on him. "Little Orphan Annie" is going to suffer, but you want to turn the screw just another turn to make her suffer a little more. I want to unturn it to give her what relief is possible under the circumstances and which we promised. Thank you, Madam President. [LB367]

SENATOR SCHIMEK: Thank you, Senator Chambers. The Chair recognizes Senator White. [LB367]

SENATOR WHITE: Thank you, Madam President. Senator Chambers, would you like this time, sir? [LB367]

SENATOR SCHIMEK: Senator Chambers. [LB367]

SENATOR CHAMBERS: Yes, I would. [LB367]

SENATOR WHITE: May I yield it, please? [LB367]

SENATOR SCHIMEK: Senator Chambers. [LB367]

SENATOR CHAMBERS: Thank you, Madam President; thank you, Senator White. If there is some discussion as to the impact of the adoption of this amendment on the next section, the next part of the division, I'm willing to discuss that. This amendment that I'm offering will hit the state for an amount of about \$120 million. These other items which would be removed total maybe a bit more than that. This amendment is drafted to make it clear that there is going to be a cost; that you could not retain these items that I am striking and do what it is that I'm attempting to do. You cannot do them both. And I don't want anybody to be misled by the approach that I'm taking, as would be the case if I suggested that this that I'm doing could be done. I could have just offered an amendment that would cut the .5 percent off the sales tax and say that will take effect October 1. That could have been done. Then we could have battled independently of what I did on these other items. You all should want to have on the table the factors that are at play here. You should want to know what is necessary to be done in order to achieve what my offering is designed to accomplish. When it comes to these matters, I don't want there to be any misdirection on my part. I don't want there to be anything that

Floor Debate
April 18, 2007

even appears to be a misrepresentation or a withholding of evidence that should be made where full disclosure ought to be the ticket. I didn't have to take it this way. I could have just offered an amendment to reduce the sales tax by a half cent and some of these other things would not have been discussed in the context of this amendment and maybe there would have been a better opportunity for it to be adopted. But I can discuss at a later point what the impact of this amendment would be if we adopt it, but that should not be the primary consideration. The issue clearly is whether or not the sales tax will be reduced by a half cent. That's what I want to do. If I could abolish the sales tax, do you think I would not do it? I will say, from time to time, that we are a political body. We do things incrementally. We get what we're seeking to the extent that we can, here a little, there a little, line upon line, and that's the way I have to operate here. Seldom, if ever, do I bring a bill which powerful special interests are supporting, so all I have to do is stand up and be the conduit for them; put it before the body and the body takes it. I have to fight for practically everything that I bring and I'm aware of that. But in my fighting I want it to be clear that I fight fair to the extent of letting you know what it is that we're dealing with. [LB367]

SENATOR LANGEMEIER PRESIDING [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR CHAMBERS: And I make myself open to any questions, which I will answer directly, that anybody wants to put to me with reference to anything that I'm offering, anything that I've said. How does it benefit what I'm trying to do if people operate with a misconception of what it is that I'm talking about. There is another stage of debate. They can take their vote back then. I want it to be clear so that when they take their vote back, they are taking their vote away from something which they understood that they were voting for. They will not be able to say, well, Ernie, I thought you were saying this or I thought you meant that. No, they're going to know what I meant; they're going to know what I say. And if they don't, they have every opportunity to ask me. Thank you, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Seeing no other lights on, Senator Chambers, you are recognized to close on AM1052. [LB367]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this that I'm offering is basically what the green copy of the bill purported to do, and the reason for that bill to be introduced was because a promise was made by the Legislature when the sales tax was increased that when economic times were better the sales tax would be reduced to its former level. That's what this amendment attempts to do. We've all heard it said that a tax, once levied, will never go away. This is not abolishing the sales tax. This is to take away the part that was added on which was represented as being temporary when that addition was made. The state is in far better

Floor Debate
April 18, 2007

economic circumstances than at the time that sales tax was increased. I've seen Senator Synowiecki stand on the floor, Senator Aguilar, others of my colleagues stand on the floor to support bills that would help the poor. In fact, if I wanted to really bring it down front, this is the kind of bill that the Catholic Conference ordinarily supports. I don't know whether they supported it in the committee or not. But social justice should be elastic only when we're going to expand its reach to include more, but never elastic in the sense of it shrinking and excluding people who ought to be included. These amounts that are being addressed by this bill have great meaning and consequence to people in this society, whether you want to acknowledge that such people exist among us or not. Denying their existence does not make them go away. I am looking at an icon on Senator Fulton's screen right now. It looks like a mother who is seated and holding in her lap is her son who suffered a fearsome and awesome death. I think the artist who rendered that intended to reach the higher angels of people's nature. And if the only time those angels come into play is when we're sitting in the pews in a church, when we're down on our knees at an altar taking communion, then we make a mockery of all such things. The time for those "movings" to come into play is when we make the decisions that we have the power to make to help those, the least among us. Senator Carlson has heard that expression: the least of these, my brethren. The least among you--that's where the virtue is. If I reach in my pocket and I give Warren Buffett every penny that I've got, there is no virtue in that. But if a poor woman comes to my office who is in pain and, without having been told why, her workers' comp assistance is cut off, and there are prescriptions at the pharmacy for which she cannot pay and she is in pain, now if I go in my pocket and of my little give her all I've got and it happens to cover what those prescriptions cost, there is virtue in that. It's not how much I give; it's how much I have left after I give. And that's why what the widow gave had so much virtue because she had scarcely anything left when she gave. [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR CHAMBERS: But when the wealthy people gave of their abundance, that was no big thing because it didn't hurt them at all. They didn't have to give it a second thought. But when you have to consider if I help this person I'm not going to have what I need, and you help the person anyway, that is a virtuous act. That is a meritorious act. We do not hurt ourselves or the state by adopting this amendment and reducing that sales tax, but we will help a great many people among us who should mean something to us. The strong should bear the infirmities of the weak. In this position, whether we're rich or poor, have much or little, when it comes to the action that can be done, we are the strong. We can take the action that will help mitigate the infirmities of the weak among us. [LB367]

SENATOR LANGEMEIER: Time. [LB367]

SENATOR CHAMBERS: I will ask for a call of the house, Mr. President. [LB367]

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Floor Debate
April 18, 2007

SENATOR LANGEMEIER: Thank you, Senator Chambers. 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. [LB367]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB367]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. All those senators outside the Chamber, please return to the Chamber and record your presence. The house is under call. All unauthorized personnel please leave the floor. The house is under call. Senator Lathrop, Senator Kruse, please return to the Chamber. The house is under call. Senator Chambers, while we're waiting, how do you wish to proceed? [LB367]

SENATOR CHAMBERS: Initially, by machine. [LB367]

SENATOR LANGEMEIER: Thank you. All senators are present or accounted for. You have heard the closing on AM1052. The question is, shall AM1052 be adopted to the second component of the committee amendments, AM972? All those in favor vote yea; all those opposed vote nay. There has been a request for a roll call vote in regular order. Thank you, Senator Chambers. Mr. Clerk, please call the roll in regular order. [LB367]

CLERK: (Roll call vote taken, Legislative Journal page 1203.) 18 ayes, 26 nays, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. AM1052 is not adopted. With that, I raise the call. Mr. Clerk. [LB367]

CLERK: Mr. President, the next amendment, Senator White, AM1049. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator White, you are recognized to open on AM1049. [LB367]

SENATOR WHITE: Thank you, Mr. President. At the Speaker's request, I will pull this amendment at this time. We've agreed that it can be discussed on the next level on Select File. This, of course, is the amendment that would provide \$150 million in tax credits, income tax credits, for property taxes paid on automobiles. So I'll invite your attention at that time and, with that understanding, Mr. President, I pull the amendment. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. AM... [LB367]

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Transcriber's Office

Floor Debate
April 18, 2007

SENATOR WHITE: That it will be reoffered on Select. [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR WHITE: And that it be refiled now. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. AM1049 is withdrawn and refiled on Select File. [LB367]

CLERK: Senator White, AM1050. [LB367]

SENATOR LANGEMEIER: Senator White, you are recognized to open on AM1050. [LB367]

CLERK: This was the second component, Senator. [LB367]

SENATOR WHITE: Thank you. Mr. Flood, Senator, will you yield to a question? [LB367]

SENATOR LANGEMEIER: Senator Flood, would you yield to a question? [LB367]

SPEAKER FLOOD: Yes. [LB367]

SENATOR WHITE: Would you like this addressed at a subsequent date as well? It's just been discussed. It is a 25-cent sales tax reduction. [LB367]

SPEAKER FLOOD: I would encourage you to withdraw the same and refile it on Select, Senator. [LB367]

SENATOR WHITE: With the same agreement, Mr. President, that it be refiled on Select, at that time we will do so. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. AM1050 is withdrawn and refiled on Select. Mr. Clerk. [LB367]

CLERK: Senator White, AM1051. Believe this is the estate tax provision, Senator. [LB367]

SENATOR LANGEMEIER: Senator White, you are recognized. [LB367]

SENATOR WHITE: Situation has changed and Senator Mines has asked that I withdraw this amendment and I do so. I will not separately file it on Select. [LB367]

SENATOR LANGEMEIER: Thank you, Senator White. AM1051 is withdrawn. [LB367]

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Floor Debate
April 18, 2007

CLERK: Senator Mines, I have AM1062 in front of me, Senator. [LB367]

SENATOR LANGEMEIER: Senator Mines, you're recognized on AM1062. [LB367]

SENATOR MINES: Thank you, Mr. President. Thank you, Senator White, for your consideration. I will also withdraw and refile this amendment on Select File. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Mines. AM1062 is withdrawn and refiled on Select. Mr. Clerk. [LB367]

CLERK: I have nothing further, Mr. President, with respect to this component of the committee amendments. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to discussion on AM972, the second component to the committee's amendment. Is there anyone wishing to speak? Senator Chambers, you're recognized. (Legislative Journal page 1196.) [LB367]

SENATOR CHAMBERS: Mr. President, there's a song that the Temptations sang. I don't have it all right, because it's for younger people with a heart, but it says something like I'll have to watch you walk away with the sun in my eyes, we've seen how love can grow, now we'll see how it dies. I just saw compassion die. I'm glad I don't have a heart because if compassion can be dealt with in such a cold, inhumane manner, it would be enough to break a heart of stone, but since I have no heart at all I'm spared that. And I see that my colleague Senator Fulton has gotten that icon off his screen, and I'm glad because I don't have to make a comment about that, and I wouldn't anyway, but I want him to know that I'm just kind of looking at him. When we were little, the religious people used to have this song and to make you scared of God they'd say He sees everything you do, He hears all the words you say, because God has got his eye on you. And God became something that little children were afraid of. They were more afraid of God killing them than they were of the devil getting them, and maybe that's why they spent more time doing the devil's work than God's work, because the devil was not that much of a threat. I know that when we have issues that come before us there are a lot of political considerations. But the reason...one of the reasons I say the things that I say is that my colleagues who vote against something like this that we just had, and I wanted a roll call vote so I can get that list, will stand up on this floor and become tearjerkers when there's something that relates to their district--oh, my district, and you got to help me! And project themselves as so filled with compassion, and those are the most cynical, political speeches that are given on the floor, and maybe I'll call attention to them as we proceed. Senator Pahls doesn't do that very much. The only thing I heard him ever say that came close to it was when they gave him a bucket of paint and a hat

Floor Debate
April 18, 2007

to turn around backwards and some coveralls and told him to go paint Millard back on the water tower. And he wanted a little sympathy from us. That's the only time I heard him make that pitch. And rather than give him sympathy, I was feeling kind of blue that day. It kind of reenergized and powered me up, because I could just envision "James Colburn," instead of saying Schlitz Light, climbing up that little fragile ladder, balancing that bucket of paint and trying not to drop that brush. But he did a good job. If you ever drive in the area of Millard so you can look at what a good job he did, you'll know that when he leaves here, whether by resignation or term limits or any other way, there's a living that he can make. Am I dissatisfied with what the body did? Obviously. But remember, the sun also rises. There will be a morning after. This is never the end of the world, and my colleagues need to learn how to take a setback when it comes to something that means a great deal to you. You cannot go off and sulk. You have to stay in the struggle. You get strong by doing hard things, although... [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR CHAMBERS: ...a hard life makes a hard man or a hard woman. But in this environment you must be able to survive, and there always is a tomorrow and tomorrow and tomorrow. That's for General File, Select File, and Final Reading. So, as Schwarzenegger said, I'll be back, and I shall. And he came back when he did in that movie with a vengeance. But, Senator Carlson, since the Lord said vengeance is His, I won't come back with vengeance, but I might feel just a slight twinge of satisfaction when the record is made even. Thank you, Mr. President, and that's all I have to say on this part of the bill. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator White, you are recognized. [LB367]

SENATOR WHITE: Thank you, Mr. President. I urge the body to consider tax cuts are well and good, but is this a tax cut or is it spending? And unless Senator Chambers wishes my time, I have...the only observation I have at this point. I would yield my time to Senator Chambers. [LB367]

SENATOR LANGEMEIER: Senator Chambers, 4, 30. [LB367]

SENATOR CHAMBERS: Mr. President, thank you. Senator White, thank you. After what I've gone through I have to take and accept anything given to me, even if it's a little more time and an opportunity to exact a bit more of your time. I think today is the day when the old senators come back, like the swallows returning to Capistrano. What makes a swallow come back to Capistrano? You all will never know. Who in here has ever talked to a swallow? But have you noticed how many presumptions are made about creatures with whom we have no way of communicating, because we try to put our...their thoughts, we try to make them our thoughts, make our thoughts their

Floor Debate
April 18, 2007

thoughts, and conclude that they must be doing it for this reason because that's why we would do it? I have no idea why in the world an old senator would want to come back here once he or she got away. You all will never have to worry about me coming back when I leave here. I'll have a life. But I don't blame them for coming back. I think you get nostalgic. Got these old leather chairs, you want to sit in one again. Got these curving desks, you want you be behind one of them again. I think they let...do they, I think they let them sit at the desks, but I'm not sure because I don't ever engage in the festivities. But what I intend to do on this bill is to oppose what parts of it I oppose and then let the bill proceed to Select File. But on Select File all things are new, and I will start again. And I intend to offer the amendment to reduce the rate of the sales tax. Senator White has already moved his offered amendments into a position to be considered at the next stage. So these bills merit a lot of discussion; they receive a lot of discussion. But I think we need to keep in mind that what happens on this bill affects other bills, I don't mean in terms of my linking it to other bills and saying because something happens on this one I'll do something to another. I don't have that much interest in this bill, but there are other matters that are going to be contained in bills and my reaction to how I feel about those matters will be based on what we do on this bill. If the state is so generous, in some respects, on this bill and so stingy on others, I'm going to help us remain stingy when you-all's bills come up. And I'm going to have a list of those who voted against helping the poor people. My little vote can't hurt your bill, but my opposition might. And I want to hear those senators who are so adamant against this explain to me why we ought to do what they want, and they better not try to sound like they're compassionate. I've seen Senator Fischer more compassionate about roads than she is about the poor. I've seen that. And that is one bill I'm going to fight tooth and nail. [LB367]

SENATOR LANGEMEIER: One minute. [LB367]

SENATOR CHAMBERS: And I'm going to keep pointing out the overpass to nowhere. She won't talk about that, I'm the only one who will talk about it, because she got her marching orders--you get that money for the Department of Roads. That's why I'm the one who raises these issues. They need to be raised and I shall raise them. And when you put yourself voluntarily in a position, be prepared to contend with me. If I were a chairperson, I'd be ready for anything that came along and I wouldn't have to always be talking to a staff member to tell me what I ought to say or write my statements and my speeches for me. I would know. And nobody could say that a staff member is running this committee. And if I were a chairman, I couldn't answer the questions without calling my staff person to tell me what to say. That's what I observe around here. You all won't talk about it, even Senator Friend. Lately he has been bombastic, but he won't be bombastic talking about the realities that I will talk about because people... [LB367]

SENATOR LANGEMEIER: Time. [LB367]

SENATOR CHAMBERS: ...sit... [LB367]

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

Floor Debate
April 18, 2007

SENATOR LANGEMEIER: Time. [LB367]

SENATOR CHAMBERS: For what? Thank you, Mr. President. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Chambers. I don't think you want an answer. (Laughter) Seeing no lights on, Senator Janssen, you are recognized to close on the second portion of the committee amendment, AM972. [LB367]

SENATOR JANSSEN: Thank you, Senator Langemeier. It was good discussion. The bill would repeal sales tax on construction labor for commercial projects effective October 1, 2000 (sic). This tax, first implemented in LB759 in 2003, and has been very controversial ever since. Last year LB968 removed the sales tax for labor on single-family residence, duplexes. LB367 would complete that repeal. These changes are in Section 10 through the committee amendments. Second, Sections 7 and 9 would enact new sales tax exemption for community-based wind energy projects; would be enacted under the proposal. Section 22 in amendment also would increase the current tax credit renewable energy projects slightly and eliminate one megawatt capacity requirements to make the credits available for more. That is what we just accomplished and I thank you for your patience. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the closing on AM972, the second component of the committee amendment to LB367. The question is, shall AM972, the second component, be adopted to LB367? There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB367]

CLERK: (Roll call vote taken, Legislative Journal pages 1203-1204.) 41 ayes, 2 nays, Mr. President, on adoption of the second component of the committee amendments. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. AM972, the second component, is adopted. Mr. Clerk. [LB367]

CLERK: Third component, Mr. President, of the committee amendments is AM971. (Legislative Journal page 1204.) [LB367]

SENATOR LANGEMEIER: Senator Janssen, you are recognized to open on the third portion of the committee amendments, AM971. [LB367]

SENATOR JANSSEN: Thank you, Senator Langemeier. Members of the Legislature, this is regarding the income tax. The bill would make three changes. It would eliminate the so-called marriage penalty by increasing the married, filing joint bracket so that they would be double the current single return levels. Heads of a household bracket would

Floor Debate
April 18, 2007

also be increased proportionately. Second, the current standard deduction would be increased to the federal level. Finally, the maximum income tax rate applicable for income greater than \$54,000 for a joint return under this amendment would be decreased from 6.84 to 6.65. All of these changes would be retroactive to cover the current 2007 tax year and are found in Section 17 and 19 of the committee amendments. Finally, the plan repeals the business childcare expense credit for businesses providing subsidized childcare. This credit was first authorized in 2001 and it has been delayed several times and becomes operative in 2007. This change would save \$3.1 million over the next two years. This change requires that the harmonizing of six other sections, and it constitutes the rest of the bill. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the opening on AM971, which is the third component of the committee amendments. The floor is...Mr. Clerk, for a motion. [LB367]

CLERK: Mr. President, Senator Janssen, I have an amendment to this component, AM922. [LB367]

SENATOR LANGEMEIER: Senator Janssen, you are recognized to open on AM922. [LB367]

SENATOR JANSSEN: All right. I would like to pull that, that portion. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Janssen. AM922 is withdrawn. Mr. Clerk. [LB367]

CLERK: Mr. President, Senator Janssen would offer AM1008. (Legislative Journal page 1185.) [LB367]

SENATOR LANGEMEIER: Senator Janssen, you're recognized to open on AM1008. [LB367]

SENATOR JANSSEN: All right. Thank you, Senator Langemeier, members. AM1008 would strike some unnecessary language that was inadvertently brought into the committee amendment that would terminate the bracket changes in 2010. Adopting AM1008 would make that bracket change permanent and extended by the committee. That is the extent of this amendment. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the opening on AM1008 to the third component of the committee amendment. The floor is now open for discussion. Senator Chambers, you are recognized. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. And contrary to what you thought, I

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

Floor Debate
April 18, 2007

would like to have had an answer. So now that you're coming to your mike, you can probably give it to me. I'd like to ask Senator Janssen a question. [LB367]

SENATOR ERDMAN PRESIDING [LB367]

SENATOR ERDMAN: Senator Janssen, would you yield to a question from Senator Chambers? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: Senator Janssen, in your amendment all it says is you're striking the words "and before January 1, 2011." Is that the amendment we're on? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: And how does that do what you said? First of all, what did you say this will do? [LB367]

SENATOR JANSSEN: Well, it would strike the unnecessary language that was inadvertently brought into the committee amendment that would terminate the bracket changes in 2010. [LB367]

SENATOR CHAMBERS: One second, so I can follow that. The language that ought not to have been there would cause the termination of something which was not to be terminated. Is that correct, or am I getting it backward? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: Okay. And to accomplish that you needed to strike this language that's being stricken. [LB367]

SENATOR JANSSEN: Yes. Yes. [LB367]

SENATOR CHAMBERS: Okay. This is one of your better amendments. And now that that's clear, I want to ask you another question. Is it the only...is the only thing this bill...this section deals with is doubling...well, getting rid of what they call the marriage penalty? Is that all that it does? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: Okay. And what is the amount of money that will be entailed if this part of the amendment is adopted? [LB367]

Floor Debate
April 18, 2007

SENATOR JANSSEN: Well, the marriage penalty itself is \$70 million, I believe, uh-huh. [LB367]

SENATOR CHAMBERS: And if it's not adopted, what would be the current situation? [LB367]

SENATOR JANSSEN: Well, it would stay in there. [LB367]

SENATOR CHAMBERS: And how does it work? How does the current system work? Does one of the persons get full benefit and the second spouse does not, or do they prorate the amount that each spouse can get? Let me ask it a different way. [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: If they file as individuals, let's say \$10 would be what each could get... [LB367]

SENATOR JANSSEN: Yeah. [LB367]

SENATOR CHAMBERS: ...if they're filing individually for an amount of \$20. If they are married and file jointly...would this be the same if they file jointly or separately once they're married? If this provision is adopted will it be the same that they can recover, regardless of whether they file jointly or separately? [LB367]

SENATOR JANSSEN: No. By filing as a married couple I think it costs them more, if I'm correct, and if they filed separately it would cost them less. [LB367]

SENATOR CHAMBERS: Even right now... [LB367]

SENATOR JANSSEN: So I think I'm correct on that. [LB367]

SENATOR CHAMBERS: Well, right now, if they're married... [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: ...and they file separately, then they get the same benefit that two single people would get. Is that correct or is that incorrect? [LB367]

SENATOR JANSSEN: No. No, that's not correct. [LB367]

SENATOR CHAMBERS: Okay. [LB367]

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

Floor Debate
April 18, 2007

SENATOR JANSSEN: All right. [LB367]

SENATOR CHAMBERS: The fact that they're married would mean that that so-called penalty applies whether they file jointly or separately. [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: If they file separately, which one gets the full benefit and which one gets the smaller? [LB367]

SENATOR JANSSEN: They're equal. [LB367]

SENATOR CHAMBERS: So they subtract an amount that is the same from both of them... [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: ...whether they file jointly or separately. [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: With this amendment, if it's adopted, if they file jointly or separately, will they still get the benefits that two single people would get? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: Okay. Why are you doing this? [LB367]

SENATOR JANSSEN: Well, I think it's something that was set up that is unnecessary because they can do it the other way, so we just eliminate that penalty by filing jointly. [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR JANSSEN: Understand? [LB367]

SENATOR CHAMBERS: Huh? [LB367]

SENATOR JANSSEN: (Laugh) If they file as a married couple it does cost them more, so if they file separately it's less, so that is kind of ridiculous so we took that penalty out and so they can file as a married couple and still have the same benefits as if they would have filed separately. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: So I'm going to ask again, why are you doing this? [LB367]

SENATOR JANSSEN: So they don't have to mess around with it. [LB367]

SENATOR CHAMBERS: Well, under the current law, doesn't matter how much messing around they do, they're not going to get the full benefit, are they? [LB367]

SENATOR JANSSEN: Yes, and it...there is a better cut by filing as a married couple. [LB367]

SENATOR CHAMBERS: A better cut from what for whom? [LB367]

SENATOR JANSSEN: For taxes. [LB367]

SENATOR CHAMBERS: Who gets the better cut, the couple? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: And it costs the state. It's going to reduce the amount of money that... [LB367]

SENATOR ERDMAN: Time. [LB367]

SENATOR CHAMBERS: ...the state would receive. Okay. [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR ERDMAN: Thank you, Senator Chambers and Senator Janssen. Senator Mines, you're recognized to speak, followed by Senator Chambers. [LB367]

SENATOR MINES: Thank you, Mr. President. If Senator Janssen would yield, please. [LB367]

SENATOR ERDMAN: Senator Janssen, would you yield to a question from Senator Mines? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR MINES: Senator Janssen, if the body chose not to advance AM1008, what's the impact? What would happen? [LB367]

SENATOR JANSSEN: Nothing. [LB367]

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

Floor Debate
April 18, 2007

SENATOR MINES: All right. So our income tax would remain in effect as long as... [LB367]

SENATOR JANSSEN: They would still have to do the... [LB367]

SENATOR MINES: If we want a true tax revolution, this won't do it. [LB367]

SENATOR JANSSEN: They'd still have...they'd still have to go through the same situation. [LB367]

SENATOR MINES: This won't do it. I understand. [LB367]

SENATOR JANSSEN: It just simplifies it. [LB367]

SENATOR MINES: I understand. I just wanted to take...thank you. I just want to take this opportunity to let you know that the estate tax is still on the table, still being discussed, and that there's an element that is...has to do with our income tax rates. We'll see that filed...it is filed on Select File and I just wanted to give you the heads up that that's going to happen. So, Mr. President, thank you very much. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Mines and Senator Janssen. Senator Chambers, you're recognized to speak. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Janssen, we've been having a little discussion over here so I would like to engage you further. [LB367]

SENATOR ERDMAN: Senator Janssen, would you yield to a question from Senator Chambers? [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: Are we talking about an income tax credit here? [LB367]

SENATOR JANSSEN: No. [LB367]

SENATOR CHAMBERS: What are we talking about? [LB367]

SENATOR JANSSEN: No. We're talking about something... [LB367]

SENATOR CHAMBERS: Well, don't get angry. (Laugh) [LB367]

SENATOR JANSSEN: No, I (laugh) you know me better than that. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: Okay. [LB367]

SENATOR JANSSEN: I never get angry. I just get even. [LB367]

SENATOR CHAMBERS: Okay. Me too. [LB367]

SENATOR JANSSEN: So, no, it is something that is in the law and people can circumvent it now. [LB367]

SENATOR CHAMBERS: So what are we talking about, a return, a refund, or what? What are we talking about? [LB367]

SENATOR JANSSEN: No, it is just the amount of income tax that is owed. [LB367]

SENATOR CHAMBERS: So you owe less if this is adopted. Is that what you're saying? [LB367]

SENATOR JANSSEN: Yes. Yes, you might say that. [LB367]

SENATOR CHAMBERS: Well, what might you say? [LB367]

SENATOR JANSSEN: Well,... [LB367]

SENATOR CHAMBERS: In other words,... [LB367]

SENATOR JANSSEN: Well, it would actually save you some money, yes. [LB367]

SENATOR CHAMBERS: If these people are married right now and they file...first of all, if they're just girlfriend and boyfriend, or man friend and woman friend, or however, and they're not married and they file individually, what do you call what it is we're talking about that they get? What do we call that benefit that is to be derived under this bill? [LB367]

SENATOR JANSSEN: The marriage penalty you mean? [LB367]

SENATOR CHAMBERS: Where there's... [LB367]

SENATOR JANSSEN: Yeah, they call it the marriage penalty. By filing as a married couple you do not get as good a deal as if you would file individually. [LB367]

SENATOR CHAMBERS: And the "deal" consists of what? What do we name this deal that you're getting? [LB367]

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

Floor Debate
April 18, 2007

SENATOR JANSSEN: Well, eliminating... [LB367]

SENATOR CHAMBERS: Is it less tax liability? Or do you get a bigger return if you've paid in your taxes and you file a certain way, then you get more money back, or you owe less? Exactly what are we talking about? Are we saying that under this the married couple is going to owe less in taxes at the outset? Is that what we're saying, that they're going to be taxed... [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: ...at a lower rate? [LB367]

SENATOR JANSSEN: Yes, they would save some money by filing as a married couple rather than filing as individuals. [LB367]

SENATOR CHAMBERS: Because when they file then their taxes are going to be figured at a lower rate than they would be without this bill. Is that correct? [LB367]

SENATOR JANSSEN: That's correct. [LB367]

SENATOR CHAMBERS: Okay. And if they paid taxes, they would get more back if this bill passes than they would currently, because they're taxed at a lower rate so that means their return would be bigger? [LB367]

SENATOR JANSSEN: That's right. [LB367]

SENATOR CHAMBERS: And why do you want to do that? [LB367]

SENATOR JANSSEN: Well, it's something that would help people and they would not have to file two returns that way. They could file as a married couple and still owe the same amount as what they would have if they filed separately. [LB367]

SENATOR CHAMBERS: But if they file separately, then they get the same benefit that this bill is going to give them if they file jointly. [LB367]

SENATOR JANSSEN: Absolutely. Yes. [LB367]

SENATOR CHAMBERS: So there is a way right now under the law that a married couple can get the same benefits as two single people. [LB367]

SENATOR JANSSEN: Oh, excuse me, the counsel says that they can't file separately. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: They cannot file separately even if they want to? [LB367]

SENATOR JANSSEN: That's correct. That's correct. They have to file as a married couple, and it costs them more than if they would have filed...they can't file as separately. [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR JANSSEN: But now, with this amendment, they could file as a married couple and it would save them the same amount... [LB367]

SENATOR CHAMBERS: So then... [LB367]

SENATOR JANSSEN: ...as two people who are filing individually. [LB367]

SENATOR CHAMBERS: So if I'm married and I file a tax...my tax form and my wife files her tax form, they reject both of them? [LB367]

SENATOR JANSSEN: Yeah. Yes. Yes. Yes. [LB367]

SENATOR CHAMBERS: So they notify me. [LB367]

SENATOR JANSSEN: Because they have to file as a married couple. Right? [LB367]

SENATOR CHAMBERS: And so then they'd send my form back and tell me that it's been rejected. [LB367]

SENATOR JANSSEN: That's right. [LB367]

SENATOR CHAMBERS: That's not the way it was when I was married. [LB367]

SENATOR JANSSEN: When was that? [LB367]

SENATOR CHAMBERS: A long time ago. But income taxes were charged. But my time is up so I'll turn on my light one last time. [LB367]

SENATOR ERDMAN: Thank you, Senator Chambers. Your light is next. You may continue. [LB367]

SENATOR CHAMBERS: Thank you. Senator Janssen, what threw me was when you said that if this bill is passed they don't have to mess around. They can just file one form jointly,... [LB367]

Floor Debate
April 18, 2007

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: ...which would have suggested that under the current system they can file separately. I'd like to ask Senator Mines a question, if he will respond. [LB367]

SENATOR ERDMAN: Senator Mines, would you yield to a question from Senator Chambers? [LB367]

SENATOR MINES: I will, Mr. President. [LB367]

SENATOR CHAMBERS: Senator Mines, is it true that if people are married they cannot file separately, even if they choose to? [LB367]

SENATOR MINES: That's not true. [LB367]

SENATOR CHAMBERS: So they can file separately. [LB367]

SENATOR MINES: Yes, they can. [LB367]

SENATOR CHAMBERS: So then when my wife and I were filing separately and the government accepted them, the government was not in a conspiracy with us to let us do something that nobody else could do. [LB367]

SENATOR MINES: That's correct. [LB367]

SENATOR CHAMBERS: Did you hear my conversation with Senator Janssen? [LB367]

SENATOR MINES: I'm sorry, I did not. [LB367]

SENATOR CHAMBERS: He said that a couple must file jointly; that they cannot file separately. [LB367]

SENATOR MINES: No, a couple may file separately if they're married, of course. [LB367]

SENATOR CHAMBERS: And we had a bill where that was being discussed and I was going to mess with... [LB367]

SENATOR MINES: Yes. [LB367]

SENATOR CHAMBERS: Okay. Thank you, Senator Mines. (Singing) It was clear as

Floor Debate
April 18, 2007

mud but it covered the ground and the confusion make me brain go round. (Laugh) Now Senator Janssen is confusing me because I know what happened to me in the real world, and I've never been on such good terms with the United States government that they would give me a break that they wouldn't give anybody else. Now they might try to break me. I'd like to ask Senator Janssen a question or two. [LB367]

SENATOR ERDMAN: Senator Janssen, would you yield to a question from Senator Chambers? [LB367]

SENATOR JANSSEN: Okay. Yes. [LB367]

SENATOR CHAMBERS: Senator Janssen, you're outnumbered two to one over here. Two of us say that a married couple can file separately if they choose to. You... [LB367]

SENATOR JANSSEN: Yes, they can, married couples filing separate. [LB367]

SENATOR CHAMBERS: But before, you said they could not. Okay, now you agree. [LB367]

SENATOR JANSSEN: I was wrong. All right. [LB367]

SENATOR CHAMBERS: Okay. This married couple right now wants to file separately. [LB367]

SENATOR JANSSEN: Yes. [LB367]

SENATOR CHAMBERS: Each of the persons will make \$1,000. [LB367]

SENATOR JANSSEN: All right. [LB367]

SENATOR CHAMBERS: There are no children, so we're not going to say...or if there are two children, each one claims a child, but I want to put it on all four, so each is situated the same way. If they file separately, will each one of them get the same benefit as a single person filing separately right now. Is that what would happen? [LB367]

SENATOR JANSSEN: Not right now. [LB367]

SENATOR CHAMBERS: What happens? [LB367]

SENATOR JANSSEN: Well, it does cost them, costs them more money. [LB367]

SENATOR CHAMBERS: So the government, when it receives these two forms, will figure out that these two people are married and reduce the amount of the refund that

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

Floor Debate
April 18, 2007

they would have, or raise the amount they're owed, that they owe the government. Is that what they would do? [LB367]

SENATOR JANSSEN: Yeah, I'm not sure about that, Senator. [LB367]

SENATOR CHAMBERS: Which spouse would they subtract money from? Because one of them is not going to get as much benefit as the other. Or do they reduce the amount that both of them would be entitled to? How does it work? [LB367]

SENATOR JANSSEN: I can't answer that, Senator. [LB367]

SENATOR CHAMBERS: Thank you, Senator Janssen. Members of the Legislature, somebody has got the answer to this question. Otherwise, why do we need this bill? This is...who said that they'll answer? Oh, Senator Langemeier now wants to give me an answer and he told me, when he was sitting in the chair, you wouldn't want to know the answer. See how quick he changes? And I do want to know his answer. Senator Langemeier, would you help me out on this, and everybody else? [LB367]

SENATOR ERDMAN: Senator Langemeier, would you yield to a question? [LB367]

SENATOR LANGEMEIER: I'd love to. [LB367]

SENATOR CHAMBERS: Thank you. And I'm not going to re-ask the question because it would take time, but you know what the issue is. Okay, if you will clarify for us. [LB367]

SENATOR LANGEMEIER: Right. Let me give you a little example. In the first tax bracket, if you file singly... [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR LANGEMEIER: ...you get a tax credit of...and I'm just going to use rough numbers here, you get a tax credit singly of \$3,000. And if you are married and file, you don't get \$6,000; you get \$5,050...let's say \$5,600. Okay? [LB367]

SENATOR CHAMBERS: And is that if you file jointly? [LB367]

SENATOR LANGEMEIER: That's if you file jointly. [LB367]

SENATOR CHAMBERS: Okay. [LB367]

SENATOR LANGEMEIER: Now if you file...you're married and you file jointly, you get to split the \$5,600. You don't each get \$3,000. [LB367]

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

Floor Debate
April 18, 2007

SENATOR CHAMBERS: So how... [LB367]

SENATOR LANGEMEIER: So therein lies the penalty filing separate while being married. [LB367]

SENATOR CHAMBERS: How do they know that you're married? [LB367]

SENATOR LANGEMEIER: Oh, you'd have to talk to Department of Revenue on that. [LB367]

SENATOR CHAMBERS: Is there a penalty if people are married and they don't tell the government they're married? Because a lot of women keep their maiden name. So if I'm Mr. Jones and she marries me and she's Ms. Smith and she just files as Ms. Smith and I file as Mr. Jones, how are they going to know that we're married? [LB367]

SENATOR ERDMAN: Time. Thank you, Senator Chambers, and that was your third time. Senator Langemeier, you're recognized to speak, followed by Senator Stuthman. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. President, and I would like to go back to my discussion with Senator Chambers, if he would yield to be back in it. [LB367]

SENATOR ERDMAN: Senator Chambers, would you yield to questions from Senator Langemeier? [LB367]

SENATOR CHAMBERS: Yes, or accept his answers, whichever way it goes. [LB367]

SENATOR LANGEMEIER: Yeah, Senator Chambers, I guess I don't know what the form looks like personally right in front. I file a joint return each year. I don't know whether it's checked on there that you check whether you're married or not, and I believe you do when you file jointly, but what the penalty is, that I could not answer. And with that, I would yield you the rest of my time if you want to keep discussing this. [LB367]

SENATOR CHAMBERS: Thank you. [LB367]

SENATOR LANGEMEIER: I can go try and find that answer if you'd like me to. [LB367]

SENATOR CHAMBERS: I would, because I want to know if there's something on that form which says that you must specify if you're married and, if so, what is the name of your spouse. [LB367]

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

Floor Debate
April 18, 2007

SENATOR LANGEMEIER: Okay. Then I would yield you my time to continue to talk. I will try and find that out. If there's still time, we'll engage before the time runs out. [LB367]

SENATOR CHAMBERS: Okay. I'm going to ask Senator Wightman. I think he may be saying...Senator Wightman, if you'll yield. [LB367]

SENATOR ERDMAN: Senator Wightman, would you yield to a question from Senator Chambers? [LB367]

SENATOR WIGHTMAN: I will. [LB367]

SENATOR ERDMAN: And, Senator Chambers, you have four minutes left. [LB367]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Langemeier. Senator Wightman, do you have the answer to that question? [LB367]

SENATOR WIGHTMAN: You do state on the return whether you're married and, if you're married filing separately, you show the name of a spouse... [LB367]

SENATOR CHAMBERS: And it says... [LB367]

SENATOR WIGHTMAN: ...and the identifying number or Social Security. [LB367]

SENATOR CHAMBERS: Okay. So it tells you that you must put that on the form. [LB367]

SENATOR WIGHTMAN: Right. [LB367]

SENATOR CHAMBERS: And if you don't, what happens? [LB367]

SENATOR WIGHTMAN: Well, I suppose it depends on whether you have gained or lost. If you lose, I don't think the government cares... [LB367]

SENATOR CHAMBERS: Well, we're in a... [LB367]

SENATOR WIGHTMAN: ...whether it's state government or the federal government. But if you gain by that, I think that's a fraudulent return and you'd be subject to penalties. [LB367]

SENATOR CHAMBERS: And how would they determine that you are in fact married when you did not check it on your form? [LB367]

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

Floor Debate
April 18, 2007

SENATOR WIGHTMAN: Well, it's like about anything else in the tax field. They don't discover all of those things, but if they did, you were either reported or they found it out from some other method, you'd be subject to penalties. [LB367]

SENATOR CHAMBERS: Okay. And you said it would be considered fraudulent because it's something you're required to put and you did not put it. [LB367]

SENATOR WIGHTMAN: Yeah. [LB367]

SENATOR CHAMBERS: Would they... [LB367]

SENATOR WIGHTMAN: It isn't a matter of putting it or not putting it. You have to declare whether you're single, whether you're married filing separately, or whether you're married filing jointly. [LB367]

SENATOR CHAMBERS: But what I'm saying, the fact that there is a box for you to check which you are required to check if it applies to you, and you do not check it, that is what puts you in a position of committing fraud. Is that what you're telling me? [LB367]

SENATOR WIGHTMAN: Well, I think if you did not check it, Senator, they will send that return back saying it's an incomplete return. But you're going to have to mark it one way or the other, whether you fit within actually four categories, because there's a fourth category of head of household. [LB367]

SENATOR CHAMBERS: So then if you put something which is not true, that you are single, that would be fraudulent. [LB367]

SENATOR WIGHTMAN: It would be fraudulent and I don't think anybody is going to care, though, if you pay more tax or the same amount of tax, but obviously if it's fraudulent you're doing it to probably escape some of the taxes. So if you show you're single and your spouse shows she's single, under the current law you're going to have larger exemptions and more tax credits. [LB367]

SENATOR CHAMBERS: And what methodology is the IRS going to use to track down these people who may be saying they're single when, in fact, they're married? Do they have some software or something that will check the names of these people and bring them together and show that at some point they were married? Or must... [LB367]

SENATOR WIGHTMAN: My guess is they're not automatically going to find that. I think that you probably see that more often than not when you have an interlocutory decree or a decree that's not yet final in a divorce, and I think sometimes in that instance people unknowingly, or maybe knowingly, declare that they were unmarried where the

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

Floor Debate
April 18, 2007

decree hadn't become effective yet. [LB367]

SENATOR ERDMAN: One minute. [LB367]

SENATOR CHAMBERS: So there would be an element of intent if they're going to charge the person with a crime, like anything else, or would the mere fact that you checked the box incorrectly constitute fraud for which you could be prosecuted, or you're not sure? [LB367]

SENATOR WIGHTMAN: I am almost certain it would not constitute fraud if you inadvertently check the wrong box. If you checked it and received a tax break then it would be my understanding that you're probably guilty of fraud. Whether the IRS or whether Department of Revenue would prosecute, I have no idea. [LB367]

SENATOR CHAMBERS: Okay. Thank you. And Senator...his time, Senator Langemeier's time is going to run out before I can ask him this question, but I will ask it, if I can. The other information you gave me, though, was correct in terms of the differing amounts that would be received if you are married as opposed to what two single people would receive. That information is correct, right? [LB367]

SENATOR LANGEMEIER: Yes. Yes. [LB367]

SENATOR CHAMBERS: Thank you. Thank you, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Senator Langemeier and Senator Chambers. Senator Stuthman, you're recognized to speak. [LB367]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been listening very closely to this and we're always talking about the marriage penalty. The way I understand this, and I have hopefully got some information just a little while ago, the reason...the reason the marriage penalty is, is what Senator Langemeier stated. If you file separately, an individual files separately, he has taxable income of, let's say, \$10,000. Then he has his personal exemption, as an individual, of \$3,000. So his taxable income is \$7,000. That's for that one individual. Now you file as a married couple with a taxable income of \$20,000 and you get an exemption of a married couple of not two times the \$3,000, but only two...only \$5,200. So there's those \$800 there difference in the couple that's going to be taxable income. That's the penalty. Those \$800 of that couple filing a joint tax return comes to that whatever dollar figure, I'm not sure. Maybe Senator Raikes knows. Was it \$13 million or something like that? That is how they're computing the difference. They're going to be pay...the married couple filing jointly are going to be paying, as I said, on that \$800 extra the tax. So that's the way I understand it. It's a penalty now because the married couple is paying more income tax than two people filing separately. That is because of the \$3,000 exemption; times two is

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

Floor Debate
April 18, 2007

\$6,000, but the two are only getting \$5,200 exemption, and it's that \$800 difference is what makes the difference. And at this time I would like to give the balance of my time to Senator Aguilar. [LB367]

SENATOR ERDMAN: Senator Aguilar, you have 2 minutes and 40 seconds. [LB367]

SENATOR AGUILAR: Thank you, Mr. President. Thank you, Senator Stuthman. I just have a quick question for Senator Chambers. [LB367]

SENATOR ERDMAN: Senator Chambers, would you yield to a question from Senator Aguilar? [LB367]

SENATOR CHAMBERS: If it's not personal, I certainly will. [LB367]

SENATOR AGUILAR: Well, it is kind of personal. [LB367]

SENATOR CHAMBERS: I figured. [LB367]

SENATOR AGUILAR: I'm just wondering, with all these questions, are you considering another marriage? [LB367]

SENATOR CHAMBERS: Heavens no. [LB367]

SENATOR AGUILAR: Thank you, Senator Chambers. (Laughter) [LB367]

SENATOR ERDMAN: Thank you, Senator Stuthman. Senator Janssen, there are no lights on. You're recognized to close on AM1008. [LB367]

SENATOR JANSSEN: Thank you, Mr. Speaker. I learned a little more this afternoon, and I think that we are...those that were questioning have got their answers now and, like I say, I learned something too. But I do ask for your consent on this particular amendment. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Janssen. Members, you've heard the closing on AM1008. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB367]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB367]

SENATOR ERDMAN: The amendment is adopted. Mr. Clerk, next motion. [LB367]

CLERK: Senator Dubas, AM1030. [LB367]

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

Floor Debate
April 18, 2007

SENATOR ERDMAN: Senator Dubas, you're recognized to open on AM1030. [LB367]

SENATOR DUBAS: Thank you, Mr. President. At this point I'd like to withdraw my amendment and I've been working with the committee and I'm reoffering an amendment on Select File. [LB367]

SENATOR ERDMAN: The motion is withdrawn. [LB367]

CLERK: I have nothing further to this component of the committee amendments, Mr. President. [LB367]

SENATOR ERDMAN: We are now back to discussion on the third division of the committee amendments. Seeing no lights on, Senator Janssen, you're recognized to close on the third division of the committee amendments, AM971. [LB367]

SENATOR JANSSEN: Thank you, Senator Erdman and members. Interesting discussion, you know, but you get to be my age, you still learn something and we did on the last amendment to this section. With that, I would ask for the passage of the third division of this bill. Thank you. [LB367]

SENATOR ERDMAN: Thank you, Senator Janssen. Members, you've heard the closing on the third division of the committee amendment, AM971. All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB367]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the third component of the committee amendments. [LB367]

SENATOR ERDMAN: The amendment is adopted. [LB367]

CLERK: I have nothing further on the bill, Mr. President. [LB367]

SENATOR ERDMAN: Thank you, Mr. Clerk. We will now proceed to discussion on the advancement of LB367 to E&R Initial. Senator Janssen, you're recognized to close on LB367. [LB367]

SENATOR JANSSEN: Thank you, Senator Erdman. Members of the Legislature, it's been a two-day discussion on this bill. It is a important bill. I thank you for your indulgence and the time it took, and I think we've done some good here. That will probably be for history to decide. With that, I would ask for your support of LB367 and advance it on to Select File. Thank you. [LB367]

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

Floor Debate
April 18, 2007

SENATOR ERDMAN: Thank you, Senator Janssen. Members, you've heard the closing on the advancement of LB367 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB367]

CLERK: 38 ayes, 2 nays, Mr. President, on the motion to advance the bill. [LB367]

SENATOR ERDMAN: LB367 is advanced to E&R Initial. Mr. Clerk, items for the record? [LB367]

CLERK: Mr. President, Senator Pedersen, an amendment to LB405 to be printed. Senators Dubas, White, Mines, Mines and...amendments to be printed to LB367. Natural Resource Committee reports LB629 to General File with amendments; Senator Dierks, an amendment to LB629. (Legislative Journal pages 1204-1214.) [LB405 LB367 LB629]

Mr. President, I have a priority motion. Senator Flood would move to adjourn the body until Thursday morning, April 19, at 9:00 a.m. []

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Thank you, Mr. President (sic). A reminder to senators, too, you are encouraged to stay after adjournment as we have a very special program with former state legislators from across the state of Nebraska. The question now before the body is, should the Legislature adjourn until April 19 at 9:00 a.m.? All those in favor say aye. All those opposed say nay. Ayes have it; we are adjourned. []

At this point, members wishing to stay for the program, as you are encouraged, of course to stay, we would...we will ask you to take your seats at this time as we prepare for the Nebraska Association of Former State Legislators recognition program here in the Norris Legislative Chamber. Senators, please find your seats. Sergeant at Arms, would you please assist senators finding their seats this afternoon. This afternoon we, as the One Hundredth Legislature, have the distinct pleasure and opportunity to recognize those who have gone before us in service to the Legislature that have joined us here today. We have a number of former members that will be recognized. To those attendees being honored today, we'd ask that when your name is called that you make your way down the aisle and please stand in front of the Clerk's desk. We will begin today with the current president of the Nebraska Association of Former State Legislators, legislative recognition group. Of course, he's also a former congressman and a former Speaker of the Nebraska Legislature. Congressman Bill Barrett served in the Nebraska Legislature, representing the Lexington area, from 1979 to 1990. Please hold your applause until the end. Former Senator George "Bill" Burrows from Adams, Nebraska, served in the Nebraska Legislature from 1975 to 1983. Senator Burrows,

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

Floor Debate
April 18, 2007

thank you for being here today. Former Senator Bob Dickey from Laurel served in the Nebraska Legislature from 1999 to 2000. Senator Dickey, thank you for joining us today. Former Senator Owen Elmer of Indianola served from 1987 to 1999. Thank you, Senator, for being here with us today. From Grand Island, Nebraska, former Senator Don Elrod. He served from 1966 to 1973. Representing a portion of the capital city from 1983 to 1987, please welcome former Senator Bill Harris. Former Senator Elroy Hefner from the Coleridge, Nebraska, area served in the Nebraska Legislature from 1976 to 1993. Thank you, Senator Hefner, for making the trip today. Former Senator Lowell Johnson of North Bend, Nebraska, served in the Legislature from 1981 to 1993. Thank you, Senator Johnson, for being here. With us today, representing a portion of Omaha from 1995 to 2007, former Senator Jim Jensen. Former Senator Jim Jones from Eddyville is with us today. Senator Jones served from 1993 to 2005. From Aurora, serving from 1999 to 2007, former Senator Bob Kremer. Senator, it's nice to see you looking so good. From Anselmo, representing a portion of Nebraska from 1977 to 1993, former Senator Howard Lamb. Former Senator Carol McBride Pirsch from Fremont served in the Legislature from 1979 to 1997. She's here today to keep a good eye on her son. Former Senator Dennis Rasmussen of Lincoln served in the Legislature from 1973 to 1979. A state senator from Columbus, Nebraska, from 1989 to 2002, former Senator Jennie Robak. From Ord, Nebraska, and a member of the Legislature from 1993 to 2001, former Senator Jerry Schmitt of Ord. Former Senator Loran Schmit of Bellwood is with us. He served from 1969 to 1993. President-elect of the Nebraska Association of Former State Legislators, former Senator Sandra Scofield of Lincoln joins us. She served in the Nebraska Legislature from 1993 to...or 1983 to 1990. Former Senator Gerald Stomer, now living in Arlington, Virginia, served in the Legislature from 1971 to 1975. Former Senator Elaine Stuhr of Bradshaw served as a member of the Legislature from 1995 to 2007. Welcome, Senator. Former Senator David Tews, who represented the city of Norfolk in Madison County from 1957 to 1961. He now lives in Knoxville, Tennessee. Former Senator Merle VonMinden of Allen joins us. He was a member of the Legislature from 1981 to 1985. Former Senator Donald Wagner of Ord is with us. Senator Wagner was a member of this Legislature from 1979 to 1985. Former Senator Willard Waldo from DeWitt served as a member of this Legislature from 1957 to 1959, from 1961 to 1963, and a third time from 1968 to 1973. He is escorted today by his grandson, Lee Waldo. And finally this afternoon, Senator Roger Wehrbein of Plattsmouth, a member of this body from 1987 to 2007. Are there any former members that wish to be recognized this afternoon? Seeing none, members of the One Hundredth Legislature, please rise so that we may thank these members for their service to the state of Nebraska. (Applause) Please remain standing until I determine what the next step is. We want to thank you each again for making the Legislature today a part of your experience in Lincoln, also especially for your service to the citizens of the great state of Nebraska. Tonight the former members will be having a dinner at the Nebraska Club in the U.S. Bank Building and everyone is encouraged to attend from the Legislature. Thank you once again for your service. We stand adjourned. []