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Transcriber's Office

Floor Debate
May 02, 2007

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SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this, the seventy-third day of the One Hundredth Legislature, First Session. Our chaplain for the day is Senator Nelson. Please rise.

SENATOR NELSON: (Prayer offered.)

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

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: One item, Mr. President. LR96, by Senator Pirsch, that will be laid over. (Legislative Journal pages 1359-1360. [LR96])

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, Select File, appropriation bill, LB368A. [LB368A]

CLERK: LB368A, Mr. President. Senator McGill, no E&Rs. Senator Erdman would move to amend with AM1145. (Legislative Journal page 1345.) [LB368A]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM1145. [LB368A]

SENATOR ERDMAN: Mr. President, members of the Legislature, good morning. AM1145 would reduce the A bill to LB368A. We adopted an amendment on Select File to LB368 that changes the reporting period in which a limited cooperative would have to report from every year to every other year, and because of that reporting requirement, it

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reduces the responsibility of the staff to gather and to compile those forms. Specifically, the amount of money is reduced is that on page 2, line 1, we strike \$97,676 and insert \$66,369--these are all cash funds, so it's a reduction of just over \$31,000--and in line 2, which is the second year, we strike \$69,676 and insert \$60,589, which is just more than \$9,000. The third provision of the committee amendment is a correction to the salary and benefits that, based on the previous fiscal note, the Fiscal Department felt that they were not reasonable, and I would argue that these numbers have been reviewed based on a more realistic approach. This is simply technical in nature, to reflect the amendments that were adopted on LB368 on Select File. I would encourage your support of the A bill and again remind you that these are all cash funded. There is no General Fund obligation. Thank you, Mr. President. [LB368 LB368A]

SENATOR LANGEMEIER: Thank you, Senator Erdman. The floor is now open for discussion on AM1145. Seeing no lights on, Senator Erdman, you're recognized to close. [LB368A]

SENATOR ERDMAN: I'll waive that opportunity, Mr. President. [LB368A]

SENATOR LANGEMEIER: Senator Erdman waives closing. The question is, shall AM1145 be adopted to LB368A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB368A]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Erdman's amendment. [LB368A]

SENATOR LANGEMEIER: AM1145 is adopted. [LB368A]

CLERK: Senator McGill, I have no amendments to the bill. [LB368A]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB368A]

SENATOR MCGILL: Mr. President, I move LB368A to E&R for engrossing. [LB368A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB368A does advance. Mr. Clerk. [LB368A]

CLERK: Mr. President and Senator McGill, on LB226, I do have Enrollment and Review amendments, first of all. (ER8080, Legislative Journal page 1327.) [LB226]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB226]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB226]

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SENATOR LANGEMEIER: You have heard the motion to adopt the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB226]

CLERK: Senator Cornett would move to amend with AM1173. (Legislative Journal page 1360.) [LB226]

SENATOR LANGEMEIER: Senator Cornett, you're recognized to open on AM1173. [LB226]

SENATOR CORNETT: Thank you, Mr. President and members of the body. As you may remember, LB226 deals with Boiler Inspection Act and primarily, it would allow the Department of Labor to contract with independent inspection agencies to complete the inspections required by the act. Under the advice of the Department of Labor, I have offered an amendment containing two technical changes. The first would be to clarify that it is the Commission of Labor and not the Office of Labor and Safety that has the ability to commission special inspectors. This technical change makes the language consistent throughout the Boiler Inspection Act. The amendment also strikes the terms "per occurrence" in regards to the liability insurance required. We were told that commercial policies have a certain amount per occurrence and an aggregate total, so taking out the "per occurrence" language makes it less confusing to those writing the policies. Finally, the amendment inserts the E-clause. You may remember from General File that the state currently has no boiler inspectors. Due to the urgency of the situation, the Department of Labor requests that we put this bill into effect as soon as possible. With that, I ask for your support in adopting the amendment. Thank you. [LB226]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Thank you, Senator Cornett. Members, you've heard the opening on AM1173. Are there any senators wishing to discuss it? Seeing none, Senator Cornett, you're recognized to close on AM1173. Senator Cornett waives her opportunity to close. Members, the question before you is the adoption of AM1173. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB226]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB226]

SENATOR ERDMAN: The amendment is adopted. [LB226]

CLERK: I have nothing further on the bill, Mr. President. [LB226]

SENATOR ERDMAN: We will now proceed to discussion on the advancement of LB226. Senator McGill, you're recognized for a motion. [LB226]

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SENATOR MCGILL: Mr. President, I move LB226 to E&R for engrossing. [LB226]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB226]

CLERK: Mr. President, LB195. Senator McGill, I have Enrollment and Review amendments pending. (ER8079, Legislative Journal page 1328.) [LB195]

SENATOR ERDMAN: Senator McGill. [LB195]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB195]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The motion is adopted. [LB195]

CLERK: I have nothing further on the bill, Mr. President. [LB195]

SENATOR ERDMAN: Senator McGill, for a motion. [LB195]

SENATOR MCGILL: Mr. President, I move LB195 to E&R for engrossing. [LB195]

SENATOR ERDMAN: Thank you. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB195]

CLERK: LB199, Mr. President. Senator McGill, I do have Enrollment and Review amendments. (ER8089, Legislative Journal page 1328.) [LB199]

SENATOR ERDMAN: Senator McGill, for a motion. [LB199]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB199]

SENATOR ERDMAN: Members, the question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendment is adopted. [LB199]

CLERK: I have nothing further on the bill, Mr. President. [LB199]

SENATOR ERDMAN: Senator McGill, for a motion to advance. [LB199]

SENATOR MCGILL: Mr. President, I move LB199 to E&R for engrossing. [LB199]

SENATOR ERDMAN: All those in favor of the advancement of LB199 say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB199]

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CLERK: Mr. President, Senator McGill, LB396. I do have Enrollment and Review amendments. (ER8082, Legislative Journal page 1328.) [LB396]

SENATOR ERDMAN: Senator McGill. [LB396]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB396]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor of adopting the E&R amendments say aye. All those opposed say nay. The amendments are adopted. [LB396]

CLERK: I have nothing further on that bill, Senator. [LB396]

SENATOR ERDMAN: Senator McGill. [LB396]

SENATOR MCGILL: Mr. President, I move LB396 to E&R for engrossing. [LB396]

SENATOR ERDMAN: You've heard the motion. All those in favor of the advancement of LB396 say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB396]

CLERK: Mr. President, LB5. Senator McGill, I do have Enrollment and Review amendments. (ER8081, Legislative Journal page 1329.) [LB5]

SENATOR ERDMAN: Senator McGill. [LB5]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB5]

SENATOR ERDMAN: The question is the adoption of the E&R amendments to LB5. All those in favor say aye. All those opposed say nay. The amendment is adopted. [LB5]

CLERK: I have nothing further on LB5, Senator. [LB5]

SENATOR ERDMAN: Senator McGill. [LB5]

SENATOR MCGILL: Mr. President, I move LB5 to E&R for engrossing. [LB5]

SENATOR ERDMAN: Members, the question is the advancement of LB5 to E&R Engrossing. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB5]

CLERK: LB256. I do have Enrollment and Review amendments, Senator. (ER8088, Legislative Journal page 1329.) [LB256]

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SENATOR ERDMAN: Senator McGill. [LB256]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB256]

SENATOR ERDMAN: Members, all those in favor of adopting the E&R amendments say aye. All those opposed say nay. The amendments are adopted. [LB256]

CLERK: I have nothing further on LB256, Senator. [LB256]

SENATOR ERDMAN: Senator McGill. [LB256]

SENATOR MCGILL: Mr. President, I move LB256 to E&R for engrossing. [LB256]

SENATOR ERDMAN: Members, the question is the advancement of LB256. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB256]

CLERK: LB388, Mr. President. Senator McGill, I do have Enrollment and Review amendments. (ER8083, Legislative Journal page 1330.) [LB388]

SENATOR ERDMAN: Senator McGill. [LB388]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB388]

SENATOR ERDMAN: The question before you is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB388]

CLERK: I have nothing further on LB388, Senator. [LB388]

SENATOR ERDMAN: Senator McGill. [LB388]

SENATOR MCGILL: Mr. President, I move LB388 to E&R for engrossing. [LB388]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB388]

CLERK: LB147, Senator. I have no amendments to that bill. [LB147]

SENATOR ERDMAN: Senator McGill, for a motion to advance. [LB147]

SENATOR MCGILL: Mr. President, I move LB147 to E&R for engrossing. [LB147]

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SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB147]

CLERK: Mr. President, LB504. I have no amendments to the bill, Senator. [LB504]

SENATOR ERDMAN: Senator McGill, for a motion. [LB504]

SENATOR MCGILL: Mr. President, I move LB504 to E&R for engrossing. [LB504]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB504]

CLERK: LB364, Senator. I have no amendments to the bill. [LB364]

SENATOR ERDMAN: Senator McGill, for a motion. [LB364]

SENATOR MCGILL: Mr. President, I move LB364 to E&R for engrossing. [LB364]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB364]

CLERK: LB481, Senator. I do have Enrollment and Review amendments pending. (ER8086, Legislative Journal page 1331.) [LB481]

SENATOR ERDMAN: Senator McGill, for a motion on the E&R amendments. [LB481]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB481]

SENATOR ERDMAN: Members, the question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB481]

CLERK: I have nothing further on that bill, Senator. [LB481]

SENATOR ERDMAN: Senator McGill, for a motion. [LB481]

SENATOR MCGILL: Mr. President, I move LB481 to E&R for engrossing. [LB481]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB481]

CLERK: LB152, Senator. I have no amendments to the bill. [LB152]

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SENATOR ERDMAN: Senator McGill, for a motion. [LB152]

SENATOR MCGILL: Mr. President, I move LB152 to E&R for engrossing. [LB152]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB152]

CLERK: LB221, Senator. I have no amendments to the bill. [LB221]

SENATOR ERDMAN: Senator McGill. [LB221]

SENATOR MCGILL: Mr. President, I move LB221 to E&R for engrossing. [LB221]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB221]

CLERK: LB664, Senator. Again, I have no amendments to the bill. [LB664]

SENATOR ERDMAN: Senator McGill. [LB664]

SENATOR MCGILL: Mr. President, I move LB664 to E&R for engrossing. [LB664]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB664]

CLERK: LB227, Mr. President. Senator McGill, there are E&R amendments pending. (ER8084, Legislative Journal page 1331.) [LB227]

SENATOR ERDMAN: Senator McGill, for a motion on E&R amendments. [LB227]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB227]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB227]

CLERK: I have nothing further pending to LB227. [LB227]

SENATOR ERDMAN: Senator McGill. [LB227]

SENATOR MCGILL: Mr. President, I move LB227 to E&R for engrossing. [LB227]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. LB227 is advanced. Mr. Clerk. [LB227]

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CLERK: LB132, Senator. I have Enrollment and Review amendments, first of all. (ER8085, Legislative Journal page 1331.) [LB132]

SENATOR ERDMAN: Senator McGill. [LB132]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB132]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB132]

CLERK: I have nothing further on LB132, Senator. [LB132]

SENATOR ERDMAN: Senator McGill. [LB132]

SENATOR MCGILL: Mr. President, I move LB132 to E&R for engrossing. [LB132]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB132]

CLERK: Mr. President, Senator McGill, LB561. I have no amendments to the bill. [LB561]

SENATOR ERDMAN: Senator McGill. [LB561]

SENATOR MCGILL: Mr. President, I move LB561 to E&R for engrossing. [LB561]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB561]

CLERK: LB252. Senator McGill, I have no amendments to the bill. [LB252]

SENATOR ERDMAN: Senator McGill. [LB252]

SENATOR MCGILL: Mr. President, I move LB252 to E&R for engrossing. [LB252]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. LB252 is advanced. Mr. Clerk. [LB252]

CLERK: LB69. Senator, I have Enrollment and Review amendments, first of all. (ER8087, Legislative Journal page 1331.) [LB69]

SENATOR ERDMAN: Senator McGill. [LB69]

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SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB69]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB69]

CLERK: I have nothing further pending to LB69. [LB69]

SENATOR ERDMAN: Senator McGill. [LB69]

SENATOR MCGILL: Mr. President, I move LB69 to E&R for engrossing. [LB69]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. All those in favor say aye. All those opposed say nay. LB69 is advanced. Mr. Clerk, next item. [LB69]

CLERK: Mr. President, LB277. No Enrollment and Review. Senator Mines would move to amend with FA93. (Legislative Journal pages 1361-1362.) [LB277]

SENATOR ERDMAN: Senator Mines, you're recognized to open on FA93. [LB277]

SENATOR MINES: Thank you, Mr. President, colleagues. Sorry to interrupt the flow of our consent. I am amending LB277 with the proverbial technical amendment. In the bill we reference federal code, and that federal code has been amended. So this merely addresses the fact that we are referencing the proper code in federal statutes. So with that, thank you, Mr. President. [LB277]

SENATOR ERDMAN: Thank you, Senator Mines. Members, you've heard the opening on FA93. There are no senators wishing to speak. Senator Mines, you're recognized to close. Senator Mines waives his opportunity to close. The question is the adoption of FA93. All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB277]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Mines's amendment. [LB277]

SENATOR ERDMAN: The amendment is adopted. [LB277]

CLERK: Senator McGill, I have nothing further pending to the bill, Senator. [LB277]

SENATOR ERDMAN: Senator McGill. [LB277]

SENATOR MCGILL: Mr. President, I move LB277 to E&R for engrossing. [LB277]

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SENATOR ERDMAN: You've heard the motion on the advancement of LB277. All those in favor say aye. All those opposed say nay. The bill is advanced. Pursuant to consent calendar rules, LB469 has been removed from consent calendar agenda. We will now proceed to the next item. Mr. Clerk. [LB277]

CLERK: Mr. President, LB445. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8092, Legislative Journal page 1331.) [LB445]

SENATOR ERDMAN: Senator McGill. [LB445]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB445]

SENATOR ERDMAN: You've heard the motion to adopt the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB445]

CLERK: I have nothing further pending to LB445, Senator. [LB445]

SENATOR ERDMAN: Senator McGill. [LB445]

SENATOR MCGILL: Mr. President, I move LB445 to E&R for engrossing. [LB445]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB445]

CLERK: LB233, Senator. I have no amendments to the bill. [LB233]

SENATOR ERDMAN: Senator McGill. [LB233]

SENATOR MCGILL: Mr. President, I move LB233 to E&R for engrossing. [LB233]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB233]

CLERK: LB449, Senator. I have no amendments to the bill. [LB449]

SENATOR ERDMAN: Senator McGill. [LB449]

SENATOR MCGILL: Mr. President, I move LB449 to E&R for engrossing. [LB449]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB449]

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CLERK: LB214, Mr. President. Senator McGill, I have no amendments to the bill. [LB214]

SENATOR ERDMAN: Senator McGill. [LB214]

SENATOR MCGILL: Mr. President, I move LB214 to E&R for engrossing. [LB214]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. [LB214]

CLERK: Mr. President, LB424. Senator McGill, I have no amendments to the bill. [LB424]

SENATOR ERDMAN: Senator McGill. [LB424]

SENATOR MCGILL: Mr. President, I move LB424 to E&R for engrossing. [LB424]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB424 is advanced. Mr. Clerk, next item. [LB424]

CLERK: LB580, Mr. President. Senator McGill, I have Enrollment and Review amendments pending. (ER8093, Legislative Journal page 1334.) [LB580]

SENATOR ERDMAN: Senator McGill. [LB580]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB580]

SENATOR ERDMAN: Members, you've heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB580]

CLERK: I have nothing further pending to LB580. [LB580]

SENATOR ERDMAN: Senator McGill. [LB580]

SENATOR MCGILL: Mr. President, I move LB580 to E&R for engrossing. [LB580]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, next item. [LB580]

CLERK: Mr. President, LB508. First of all, Senator, I have Enrollment and Review amendments. (ER8091, Legislative Journal page 1334.) [LB508]

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SENATOR ERDMAN: Senator McGill. [LB508]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB508]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk. I'm sorry. I'm sorry. Senator McGill. [LB508]

SENATOR MCGILL: Mr. President, I move LB508 to E&R for engrossing. [LB508]

SENATOR ERDMAN: Members, I stand corrected. Senator McGill, I apologize. We do have an amendment to the bill before we proceed to advancement. Mr. Clerk, for that motion. [LB508]

CLERK: Mr. President, Senator Synowiecki would move to amend LB508 with AM1144. (Legislative Journal page 1352.) [LB508]

SENATOR ERDMAN: Senator Synowiecki, you're recognized to open on AM1144. [LB508]

SENATOR SYNOWIECKI: Yes, Senator Erdman. Thank you. We do have an amendment. I didn't know about it until just a couple of seconds ago myself. I guess I filed it yesterday. This is an amendment that was recommended by Bill Drafting that could not be taken care of in the E&R amendment. As you recall, the bill expands the period of time that a surviving spouse has to apply for full death benefits of their deceased spouse. This amendment, AM1144, is suggested by Bill Drafting. It corrects a minor drafting error in the bill's language. Thank you. [LB508]

SENATOR ERDMAN: Members, you've heard the opening on AM1144 by Senator Synowiecki. Are there any senators wishing to discuss the amendment? Seeing none, Senator Synowiecki, you're recognized to close. Senator Synowiecki waives that opportunity. Members, the question is the adoption of AM1144. All those in favor vote aye. All those opposed vote nay. Have all members voted who care to? Record please, Mr. Clerk. [LB508]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Synowiecki's amendment. [LB508]

SENATOR ERDMAN: The amendment is adopted. [LB508]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB508]

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SENATOR ERDMAN: Thank you, Mr. Clerk. Senator McGill, you're now recognized for a motion to advance. [LB508]

SENATOR MCGILL: Mr. President, now I advance LB508 to E&R for engrossing. [LB508]

SENATOR ERDMAN: Thank you, Senator McGill. Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB508 is advanced. Mr. Clerk. [LB508]

CLERK: LB8, Senator. I have no amendments to the bill. [LB8]

SENATOR ERDMAN: Senator McGill. [LB8]

SENATOR MCGILL: Mr. President, I move LB8 to E&R for engrossing. [LB8]

SENATOR ERDMAN: You've heard the motion. All those in favor say aye. All those opposed say nay. LB8 is advanced. Mr. Clerk. [LB8]

CLERK: Mr. President, LB382. Senator, I have no amendments to the bill. [LB382]

SENATOR ERDMAN: Senator Langemeier, you're recognized to speak on LB382. [LB382]

SENATOR LANGEMEIER: Mr. President, members of the body, I was the only dissenting vote on LB382 the first time around, and I want to talk about that, and I will be the same today. LB382 is offered by the Secretary of State, and it is a bill to require notaries to put the date of expiration on their notary stamps, because it has been proven that some out there cannot put the date of their expiration on their stamps correctly. That leads me to a competency issue. Everything else we do, we require attorneys to have competency, we require appraisers to have competency. We have notaries out there signing away trusts, signing off on trust signatures, on deeds for properties in the state of Nebraska, and I have a problem with the fact that if we have to preprint their stamp because they cannot handle putting an expiration date, which is a year, putting the year you do it--it expires every four years. This is not like this rotates on a real regular basis. Mine is February 15, 2009. I know when mine expires. If we cannot have these people out there remembering an expiration date on a stamp, I think we don't need this bill. I question whether they should be notaries at all, and maybe we should look at our statutes on how you become a notary. It's a fairly easy process, and if we can't even hold them to a standard to remember their expiration date, I don't see how we should require them to be of sound mind to do their jobs. And so with that, I did not bring an amendment. I had talked about putting an amendment on to requiring the date, leaving off the last two digits off the year, so in my case, I wouldn't have to remember

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February 15, 2000...I would just have to remember the 09, and so with that, I want to thank the President, and I want to be on record of why I was a dissenting vote on the first round, and I'll be the dissenting vote on the next two rounds. Thank you, Mr. President. [LB382]

SENATOR ERDMAN: Thank you, Senator Langemeier. Any other senators wishing to discuss LB382? Seeing none, Senator McGill, for a motion. [LB382]

SENATOR MCGILL: Mr. President, I move LB382 to E&R for engrossing. [LB382]

SENATOR ERDMAN: You've heard the motion, members, and there has been a request for a board vote. All those in favor of the advancement of LB382 to E&R for engrossing vote aye. All those opposed vote nay. Have all members voted who care to? Senator Langemeier, for what purpose do you rise? [LB382]

SENATOR LANGEMEIER: I'd request a call of the house and I would accept call-in votes. [LB382]

SENATOR ERDMAN: Members, the question before you is, shall the house go under call? All those in favor vote aye. All those opposed vote nay. Record please, Mr. Clerk. [LB382]

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call. [LB382]

SENATOR ERDMAN: Members, the house is under call. Would all unauthorized guests please leave the floor. Unexcused senators, please report to the Chamber and check in. The house is under call. (Doctor of the day introduced.) Members, the house is under call. Senator Pedersen, would you please check in. Senator Avery, the house is under call. Members, the question before you is the advancement of LB382. Senator Langemeier has authorized call-in votes. Mr. Clerk. [LB382]

CLERK: Senator Hudkins, voting yes. Senator McDonald, voting yes. Senator Friend, voting yes. Senator Pedersen, voting yes. Senator Schimek, voting yes. Senator Christensen, voting yes. Senator Avery, voting yes. Senator Erdman, voting no. Senator Hansen, voting no. Senator Kruse, voting yes. Senator Carlson, voting no. Senator Janssen, voting yes. Senator Preister, voting yes. Senator Stuthman, changing from no to yes. [LB382]

SENATOR ERDMAN: Record please, Mr. Clerk. [LB382]

CLERK: 25 ayes, 12 nays, Mr. President, on the advancement of LB382. [LB382]

SENATOR ERDMAN: LB382 is advanced. I do raise the call. Members, that concludes

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consent calendar. Mr. Clerk, we'll proceed to the next item on the agenda. [LB382]

CLERK: Mr. President, LB564 on Select File. Senator McGill, I have Enrollment and Review amendments, first of all, Senator. (ER8069, Legislative Journal page 1123.) [LB564]

SENATOR ERDMAN: Senator McGill, for a motion on the E&R amendments. [LB564]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB564]

SENATOR ERDMAN: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB564]

CLERK: Mr. President, the first motion on the bill, Senator Chambers. Senator Chambers would move to indefinitely postpone. Senator Friend, you'd have the option to lay the bill over, Senator, or take it up at this time. (FA94, Legislative Journal page 1363.) [LB564]

SENATOR ERDMAN: Senator Friend, how do you wish to proceed? [LB564]

SENATOR FRIEND: We'll take it up. [LB564]

SENATOR ERDMAN: Senator Chambers, you're recognized to open on your motion. [LB564]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is a bill which, in its present form, I do not support. My reason for not supporting it is based on the fact that certain activities which are dangerous are covered by this bill. However, the political subdivision which provides these activities has no liability whatsoever for any injury, regardless of how grave, that may befall a person, generally a child, using these facilities. The only way out is that when one of these facilities is constructed, if it follows the standards at that time for constructing such a facility, there is no liability on the political subdivision. If those standards were not yet, then liability can attach, as it ordinarily would. I am in favor of having an ordinary standard of negligence when it comes to these dangerous activities. That ordinary standard is very simple. It requires the individual or the agency involved to exercise due care. Due care is considered in the law to be that level of care which an ordinary, reasonable, and prudent person would exercise, meaning that a prudent person is not going to allow a dangerous situation to exist, not corrected, not inform a person, and then an individual is injured as a result. So to simplify it, there must first be an absence of due care. A person must suffer an injury, and the injury flows from that lack of due care. So no matter how negligent or lacking in care an individual or agency may be, if nobody suffers an injury, nobody can bring a cause of action. The only thing of concern on the part of these political subdivisions is

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being sued. That's what this is all about, and a suit under an ordinary standard of negligence will allow a person to recover if the negligence is shown, and if a person is shown to have suffered an injury due to that negligence. Under this bill, a suit can be filed, no matter what. However, there is no chance of recovery because the Legislature is granting virtual blanket immunity from liability to these political subdivisions. My colleagues are very concerned about the political subdivisions, and I'm concerned about the individuals who may be injured. If somebody suffers a catastrophic injury using one of these facilities, the degree or severity of the injury means nothing. That person cannot recover. If the family lacks insurance or adequate insurance and huge medical bills result, first of all, to treat the injury itself, then to provide care that may be necessary due to the injury, the family cannot absorb those costs. The political subdivision does not have to absorb those costs. A lawsuit cannot force the subdivision to absorb those costs. So what happens? The state must step in and pay for the care and treatment of a person injured due to the negligence of a political subdivision. When you make the political subdivision liable, all that you're saying is that the cost of restoring a person--to the extent that money can--to the condition he or she occupied before being injured, is going to be spread across all of that society. The political subdivision will get the money to pay for the injuries, either from self insurance or from an insurance policy. Whether it's self insurance or a policy, the public through its taxes will pay the cost to underwrite the self insurance or the policy. That means that all of society which is in favor of having these dangerous activities is going to participate in paying to compensate a person who was injured. I know that this bill has overwhelming support. I know that nothing I say is going to change anybody's mind or sway the Legislature. Nevertheless, I must continue to oppose this bill. So confident are those who support this bill and its passage, so arrogant, insensitive and uncaring are those people. They even oppose the posting of a sign. They oppose the posting of a sign warning of the hazards of this activity, and notifying the people who use it or the parents of the children who will use it, that the political subdivision is not liable. If the government is going to be straightforward and honest with its citizens, why is this Legislature, whose job it is to represent the interests of the people, going to agree that it is too much trouble for a political subdivision to post such a sign? A couple of weeks ago I saw a feature on television. It was one of the local Omaha channels. I wish I could remember which one it was. I seem to think it was Channel 6, which would be...well, I won't say Channel 6, because I don't remember for sure. But there was a particular public school in Omaha which had a parking lot, as many of them do, but it seemed to draw numerous youngsters who wanted to skateboard. The school was afraid of the possibility of liability for this skateboarding on its property. They reached the decision through consultation that notice ought to be given to people who would come on the property for that purpose. The sign would tell them they have no right to be on that property skateboarding. They posted a sign to avoid liability, and when they showed a picture of the sign, it had been attached or affixed to a place on the building with screws, and the sign remains. The notice is given. The warning is given. So why should a political subdivision be able to persuade the senators that it is simply too much

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trouble, it is too burdensome, to put a sign warning that this is a risky or dangerous facility when used--the activities conducted here, engaged in here, may result in injury? Then a notification that the political subdivision has... [LB564]

SENATOR ERDMAN: One minute. [LB564]

SENATOR CHAMBERS: ...no liability. Is that too burdensome? I listen to my colleagues go on and on, including especially Senator Howard--and she's not here right now--talking about what HHS ought to do. There are other senators who will chime in. Then bills will be brought, supposedly to protect the public. The reason I say those things are disingenuous--I won't use the word "hypocritical" this morning, in this discussion, at this point, but maybe later--those attempts are disingenuous when the same senators say it is too much trouble to require a political subdivision to post a sign. Thank you, Mr. President. [LB564]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you've heard the opening on the motion to indefinitely postpone LB564. (Visitors introduced.) Senator Friend, pursuant to Rule 7, Section 4, as the principal introducer of LB564, you have the opportunity to immediately speak for five minutes following the motion to indefinitely postpone, and you are recognized for that opportunity. [LB564]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. More or less, I just wanted to give a briefing and then make a couple comments. I don't want to...Senator Chambers did a halfway decent job of laying out his concerns--decent job of laying out his concerns, not halfway. I wanted to remind members that the original bill, the original LB564, came into committee as trying to more or less give government entities the liability protection, if you will, that they felt like they enjoyed for a couple of decades. The Judiciary Committee wisely, I think, looked at this and said, there may be a better way to accomplish this and created the committee amendment that we adopted a couple of weeks ago, which essentially lays out a common-sense approach to dealing with this in a lot of our communities. I don't know if we'll get a chance...I probably would, and maybe Senator Lathrop would, later on...to get a chance to go into those more...in a more in-depth level. But we did pursue a lot of that in seven-and-a-half, eight hours on General File. I just wanted to...there's a rule of thumb. I don't know if it's a rule of thumb; it's a historical guideline, if you will. Some folks would...I wouldn't say they'd dismiss an idea, like a motion to indefinitely postpone, especially by the senior member, Senator Chambers. But there's a tendency for some folks to say, well, Senator Chambers, his opposition is strong on this one, and his opposition is not quite as strong on this one. Well, I don't think I've ever looked at it that way, because I just...I don't get into...I can't get into his head, except for what he delivers to us, and except for what he gives us on the floor. For that reason, I think that there are levels and categories of opposition: Call them whatever you want--serious, medium, low, nonexistent--whatever. But under no circumstances, under no circumstances, do the number of senators--it could be one, it

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could be two, it could be three--under no circumstances does that number of senators in opposition qualify as a directive for me to categorize. So in other words, oh! There's only one person that opposes this, so I'm going to say that the opposition just is, you know, virtually nonexistent or low or medium, at the worst, because you're talking about a representation, more or less, in regard to Senator Chambers, Senator Harms, Senator Flood, Senator Pirsch, whoever, of 33,000 people. That's the voice. So I guess, in other words, I'm taking it seriously. I know there's no other way that I can take it. But this is a serious bill, and there are serious problems associated, I believe,...associated to the issue if we don't deal with it as a society. [LB564]

SENATOR ERDMAN: One minute. [LB564]

SENATOR FRIEND: And frankly, folks, that's what we're doing. We're dealing with it. There's opposition that says we're not dealing with it in the right way, but always willing to listen to that. But not to be redundant, I think we've been down this road on General File, discussing...and Senator Lathrop and Senator Chambers did a good job of discussing the pluses, minuses, benefits, liabilities--no pun intended--of dealing with legislation like this, and what type of effect it's going to have on our communities. So what I would say is, obviously, serious opposition, serious concerns--willing to listen to them. But this is common-sense legislation, and I think we all know that. Mr. President, that's all I have. Thank you. [LB564]

SENATOR ERDMAN: Thank you, Senator Friend. Senator Friend, you were speaking on your opportunity to respond to the motion. Your light is next, if you care to continue. You've waived that. Senator Chambers, you're recognized to speak. [LB564]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I respect what Senator Friend said, because he correctly pointed out that the number of people speaking does not determine the meritoriousness of a bill, nor the level of opposition that can exist to the bill. Many times on a bill such as this, where it's known that I have opposition, other people will just sit back and wait for me to express what it is that I oppose in the bill, observe to see if any changes I would offer are accepted or not. But in the meantime, they're going to ride out the entire discussion, and I guess, console themselves with the fact that I am unable to persuade the body to accept an amendment, they certainly wouldn't be able to. So then they just tune it out, and we roll right along. I was surprised to learn how quickly all of the budget bills moved across the board yesterday. That happens, I suppose. I can't remember it happening in the years that I've been here, but having been here so long I could have forgotten when such an event or an occurrence took place. On the matters about which I have concern, and they extend beyond what we're dealing with on the floor of the Legislature, I have an obligation, perhaps self imposed, to do what I can to bring the result into being that I think is appropriate. Nobody can persuade me that a political subdivision should be immune when a child is injured participating in certain designated high-risk activities

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provided by the political subdivision and especially making use a facility provided by the political subdivision. So point number one, I do not believe immunity from liability should exist. Not being able to win on that score, I believe and am convinced that the minimum the Legislature should require is that notice be posted that the political subdivision is not liable in case of injury. I'm just looking at Senator Harms sitting over there, minding his own business, facing this direction, and asking myself a question. Here's the question: Can I tailgate on what Senator Friend mentioned about not getting into somebody's head and knowing what is there? The answer to the question that I give myself is the following: Yes, I can, so tailgate. Looking at Senator Harms, I'm unable to get into his head and know that he is paying attention to the discussion. However, on the front of Senator Harms' head is a collection of features known as a face, and if you look at the face, you can sometimes draw a conclusion, which may or may not be correct,... [LB564]

SENATOR ERDMAN: One minute. [LB564]

SENATOR CHAMBERS: ...that a person is either paying attention or not. When I see what appears to me to be an attentive expression, I conclude that Senator Harms is paying attention. Even were I not to look at and examine the expression on his face, I know from what he has done in the past, to the extent that such a thing can be known from a person's action, that he is concerned about what happens to young people. I believe that Senator Harms, if nobody on this floor other than him and me, I believe Senator Harms has an interest in whether or not an activity is going to result in injury to a child. But I don't know if his concern reaches the level of mine on this specific subject that we're discussing here. But if I cannot persuade Senator Harms, I probably cannot persuade anybody. But it seems to me that he of all people would agree that merely requiring... [LB564]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Time. [LB564]

SENATOR CHAMBERS: ...the posting...thank you, Mr. President. [LB564]

SENATOR LANGEMEIER: Thank you, Senator Chambers, and you may continue. [LB564]

SENATOR CHAMBERS: I should be able to persuade Senator Harms that it is not unreasonable to require a political subdivision to post a sign declaring something to the effect that in case of injury, the political subdivision has no liability. Senator Carlson, whom I call "Parson," has two of the most beautiful little grandchildren that I have met during my time in the Legislature, and that spans four decades. I didn't say it has been four decades--it spans four, and you can calculate to see if I'm even right about that.

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They took a liking to me! Children, animals, and very old people share that trait. I've been told that the thread running through all of those categories is that none of them knows better, and that's why. Little children are too young, animals are not analytical enough, old people are past the point of caring. So it all adds up to a zero, but nevertheless, those little children took a liking to me, as other children have done. And I'm concerned, deeply, about what happens to children. You will hear it as I try to express it, when we discuss education matters. But my concern goes across the spectrum, not just when children are driving a car and maybe talking on a cell phone, not just when they might be in foster care and not receiving the services that they ought to. To me, I say like that woman--was it Dorothy Parker?--a rose is a rose is a rose. A child is a child is a child, and when children are exposed to danger, we should assume the responsibility of trying to shield them, to the extent that we can. I know that this hard-hearted, insensitive body, when it comes to children, is not going to assume that concern to the point where it will be expressed in a law. Since I know you don't care enough about their welfare to resist what the political subdivisions are asking you to do, I'm pleading with you, on behalf of the children and their parents, their guardians, those who care about them, who may be tending or attending to them, that we at least require the posting of a sign to notify somebody. You see signs all the time. People have put a little sign in their yard: Beware of the dog. No solicitors allowed. No right turn. No left turn. No passing in or from this lane. Yet when it comes to the children, we cannot give a warning? You don't want the child to be warned? So you would sit back and see a child about to fall off a cliff and you'd say, well, it's too much trouble to post a sign. The parents ought to keep the child from walking near the edge of the cliff,... [LB564]

SENATOR LANGEMEIER: One minute. [LB564]

SENATOR CHAMBERS: ...but we have no obligation to post a sign. I don't feel that way. My feeling, as a matter of fact, goes so deep that if parents don't look out for the welfare of their own children, somebody else still should. We don't shirk...we will shirk it, but we don't escape our responsibility to be concerned about our very small and young brothers and sisters, simply because those who have formal or legal care over them don't care. We still have an obligation. I think we're all human beings. I think we're familiar, from having read or heard that each person's death diminishes me, and there can be more than one way for a person to die. When something dies in you while you're still walking around breathing, talking, and thinking, you're worse than the person who is graveyard dead and buried under six feet of ground, because that person cannot do anything. You still can act. You still can reason. You still can assume... [LB564]

SENATOR LANGEMEIER: Time. [LB564]

SENATOR CHAMBERS: ...moral and ethical responsibility. You can... [LB564]

SENATOR LANGEMEIER: Time. [LB564]

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SENATOR CHAMBERS: ...attempt to achieve rectitude in your conduct. You said...thank you, Mr. President. [LB564]

SENATOR LANGEMEIER: Time. Time. Thank you, Senator Chambers. There are no other lights on. Senator Chambers, you're recognized to close on your motion to indefinitely postpone. [LB564]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, you all have heard the expression, "trying to get blood from a turnip." Turnips don't have blood, so you're not going to get blood from a turnip, I don't care what you do. You might refer to the liquid in a turnip or the liquid in any living thing that is animal or vegetable, as blood. So if you do that and you get liquid out of a turnip, you can say, well, I got blood out of a turnip. But in the ordinary sense and meaning of the word "blood," you can't get blood out of a turnip. You cannot get compassion from a stone. Some senator prayed this morning--I didn't hear which one. I'm speculating that a senator probably prayed this morning. And people who claim to be religious believe in a book, and in that book it said, if a child asks his father for bread, will he give that child a stone? If children don't even know how to formulate a question to ask--why don't you care about me? because they don't understand that you don't care--we should not require the child to be able to formulate the question, because we know the limitations of a child's ability. So we anticipate certain things. The government will say that certain products cannot be sold because they will hurt a child. Well, the child has parents--let the parents be responsible. But the government says no. The manufacturer is not going to be allowed to sell that product aimed at children, when it's clear that the child may be hurt, and everybody applauds and says, that's something the government ought to do. Then this government--you all comprise this government--you will not even say that a sign should be posted, giving a notice that the government is not liable if a child is hurt. This is truly a marvelous thing, but not marvelous in the sense of being praiseworthy. It is noteworthy, it could even be awe-inspiring, in its lack of compassion, concern, and consideration. So you all feel you're down here to represent the political subdivisions. Then you're going to stand up on other things and say, well, the people voted for such and such, and you've got to go for what the people want, because now you're representing the people. But you don't care about these little people who are going to engage in a dangerous activity to which they are drawn by the political subdivision. They're going to use a dangerous facility provided by the political subdivision, but the political subdivision can watch that child approaching danger, watch the child injured, and not even post a sign. Why is that? All I can do is pose a question rhetorically, but I really don't have the answer. I could provide an answer, but it would seem very unkind.,... [LB564]

SENATOR LANGEMEIER: One minute. [LB564]

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SENATOR CHAMBERS: ...very judgmental and critical of my colleagues. But I watch you all turn on and turn off your compassion like a spigot. On the issue that you like, you can get all teary-eyed, and your voice can shake and you become emotional, because you're speaking for the children and the people. But it doesn't go across the board. You don't even want to give a warning. Maybe there ought to be a warning posted on this Legislature to let people know what they've sent here. But you all wouldn't like that. Some people have ears that hurt when the truth is spoken, but they have the option of removing themselves from an area so that they don't have to listen to it. I do make judgments. [LB564]

SENATOR LANGEMEIER: Time. [LB564]

SENATOR CHAMBERS: But I make my judgments on the basis of the standards people set for themselves, not mine. [LB564]

SENATOR LANGEMEIER: Time. [LB564]

SENATOR CHAMBERS: And I know what those standards are, from how they conduct themselves on other issues. Thank you, Mr. President. [LB564]

SENATOR LANGEMEIER: Thank you, Senator Chambers. You have heard the closing on the motion to indefinitely postpone LB564. The question is, shall LB564 be indefinitely...Senator Chambers, for what purpose do you rise? [LB564]

SENATOR CHAMBERS: I would ask for a call of the house. [LB564]

SENATOR LANGEMEIER: 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. [LB564]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB564]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. 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. Senators Cornett, Pahls, Preister, McDonald, Synowiecki, please return to the Chamber. The house is under call. Senator Cornett, please return to the Chamber. The house is under call. Senator Cornett, please return to the Chamber. The house is under call. All senators are present and accounted for. Senator Chambers, how do you wish to proceed when we get to that? [LB564]

SENATOR CHAMBERS: I will take a machine vote. [LB564]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. The question before the body is, shall the motion to indefinitely postpone, or shall LB564 be indefinitely postponed? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB564]

CLERK: 2 ayes, 41 nays, Mr. President, on the motion to indefinitely postpone. [LB564]

SENATOR LANGEMEIER: The motion fails. With that, I raise the call. Mr. Clerk. [LB564]

CLERK: Mr. President, Senator Chambers would move to amend with FA94. (Legislative Journal page 1363.) [LB564]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Chambers, you are recognized to open on FA94. [LB564]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I may stay on this bill as long as under the rules I'm allowed to. I cannot think of any issue that is before us in the form of legislation as consequential as this one. Senator Fulton had a bill of mine pulled off the agenda because he thought that if school-based health clinics were allowed to seek grants, they might dispense contraceptives. He's that concerned with the possible dispensing of contraceptives. He talked to me about it in advance, so that's why I know. Three of his...three people sent him something on that gadget and said that Planned Parenthood supports this amendment that I had. So he got enough people to pull it off the agenda. They're that concerned, I suppose, about children and what they ought to be exposed to. I say that, trying to place the best construction on what it was he and his cohorts did this morning. Yet I venture to say Senator Fulton and all his sanctimonious cohorts will not carry that over and say that we ought to post a warning sign because these children may be hurt, because their religion does not extend that far. It is opposed to contraception, but it not opposed to political subdivisions creating dangerous circumstances and putting children into those circumstances, without even posting a warning. That's what I mean when I say I look at how my colleagues vote and conduct themselves on other issues, which will enable me to form a judgment about that person or my colleagues, as the case may be--singular or plural. So I'm going to use this opportunity to put things into the record and try to point out, for those who watch our proceedings, just what the nature of this Legislature is and the people who make it up. I was told by one of my colleagues that he has a brother in New York who watches our proceedings, so this goes all over the country and maybe all over the world. So I'm not just talking to you all--other people are hearing what it is that I'm saying and probably wondering, what kind of legislature is that? They're so worried about contraception, as if some school is going to distribute condoms. Who in here thinks that a school is going to distribute condoms? But that shows the level of thought of these kind of people. They project onto others what's in their mind. I wonder if any of them has ever used a

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condom, if they even know what a condom is! You all know what a condom is. You're all grown, and I'm not talking about a condominium. That's the first name of the Secretary of State of the United States--"Condominium Rice." I'm not talking about her first name. I'm talking about a device made out of synthetic materials and sometimes other materials which are designed to prevent semen from moving from the male member into the female receptacle or the Holy Grail. That's what I'm talking about, and that's what some of these Catholics are so worried about. They're worried about somebody talking about it, so the bill is pulled off, because these schools may be distributing condoms. Then why don't they run around to the post office--not the post office--to the drugstores with their signs: This store sells condoms! Don't go into this store. Don't let your children go in there, because condoms are sold. Don't they have anything else on their mind? I've often said if these religious people could get their noses out of other people's crotches, if they could stop worrying about sex between other people, they could give their time to other issues, and it would elevate their thought patterns, it would inform more of their conduct, and they would be concerned about children being lured into hazardous circumstances by the government. And the government be told that it doesn't even have to post a sign telling these children and their parents that there's no liability if you're hurt. I'd like to ask Senator Friend a question, if he has not decided to play political dodgeball and leave the Chamber while Chambers is holding forth. Is Senator Friend anywhere within the sound of my voice? [LB564]

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Senator Friend, would you yield to a question from Senator Chambers? [LB564]

SENATOR CHAMBERS: As I said on one other occasion, Henry--Henry Aldridge (phonetic). When he gets to his mike, he's supposed to say, "Coming, Father." But he doesn't have to. Senator Friend, here's... [LB564]

SENATOR SCHIMEK: Senator Friend, would you yield? [LB564]

SENATOR CHAMBERS: I would like to ask you a question. [LB564]

SENATOR FRIEND: Yes, I will yield. [LB564]

SENATOR CHAMBERS: And I will give you time to catch your breath, in case you had to run, so it's not going to require a great amount of discourse on your part. First of all, do you agree that there are activities which are inherently risky, and they are noted in this bill? [LB564]

SENATOR FRIEND: Yes. [LB564]

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SENATOR CHAMBERS: Do you think that there is a possibility that a child may receive an injury from those activities? [LB564]

SENATOR CHAMBERS: It sounds like you had more...yes. [LB564]

SENATOR CHAMBERS: Are there facilities such as these skateboarding facilities and the dangerous bikes, dirt bikes or whatever they're called...are you aware that facilities that accommodate those kind of activities will be provided by some political subdivisions, if this bill is enacted? [LB564]

SENATOR FRIEND: I think by some. [LB564]

SENATOR CHAMBERS: Okay. Do you think it is unreasonable that the political subdivision post a sign notifying the public that in the event of an injury, no liability attaches to the political subdivision? Do you think it's unreasonable to require that such a sign be posted? [LB564]

SENATOR FRIEND: Well, I don't know. Unreasonable, maybe not. Not practical would be a different...and you didn't ask that question, but that's a...that was one I struggled with on General File, and if you remember, we all struggled with that. We had some conversations about that, so my answer to you, as directly as I can, I don't know if unreasonable would be the way I would describe it. But it would raise practical concerns, Senator, I think. [LB564]

SENATOR CHAMBERS: Senator Friend, there can be practical difficulties associated with anything that a person or an entity... [LB564]

SENATOR FRIEND: Sure. [LB564]

SENATOR CHAMBERS: ...undertakes to do, because there could be an expenditure of money, time, and effort, so the practical difficulty does not mean that practically speaking, it is not feasible or possible; would you agree with that? [LB564]

SENATOR FRIEND: I would. By qualifying it, I would say that "practical" is a pretty darn big umbrella, and I think you would agree with that. I mean,... [LB564]

SENATOR CHAMBER: Okay. [LB564]

SENATOR FRIEND: Okay. [LB564]

SENATOR CHAMBERS: Before my time runs out, my amendment says that...first of all, so you'll have it in context, on page 4, line 7, I think. Let me... [LB564]

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SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...anyway, it will point out that these protections will obtain if a sign is posted, that in the event of an injury of any type, no liability attaches to the political subdivision. Are you opposed to my amendment? [LB564]

SENATOR FRIEND: I wouldn't say vehemently, Senator, and the reason I say that is because, based on our discussion earlier and the thought that I gave to it and the analysis...to answer your question directly before we run out of time, I am opposed only because of that practical umbrella that I was trying to tell you about. And I can push my button and we can talk about it later, but I think Senator Lathrop wanted to talk a little bit about that, too. But my feeling is, Senator, and we talked about this--a sign falls down. We're laying... [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR FRIEND: Sorry about that. [LB564]

SENATOR SCHIMEK: Thank you, Senators Friend and Chambers. Senator Lathrop, you are recognized to speak. [LB564]

SENATOR LATHROP: Thank you, Madam President and colleagues. I did want to jump in in the conversation this morning, as long as it's going to go on, and talk about the...take you back to General File and talk about the policy behind this bill, and also to talk a little bit about Senator Chambers' amendment and the practical problems that Senator Friend was referring to. First of all, understand that skateboards are legal. Kids are going to skateboard. Right now in Ralston they have a problem, and they have a problem in your community, I'm sure, with young people taking the skateboards downtown and trying to go down steps, go down the sidewalks in the middle of downtown. It is a situation where they are using the skateboards in a dangerous environment, which is where other people are, where folks who aren't expecting them are to be found, and in an environment with steps, with railings, different things that are dangerous. The skate park is a safe place to engage in this activity. It is a safe place to engage in this activity, and that's why the skate parks have been built by the municipalities, that's why we should encourage skate parks and not discourage them by trying to create strict liability or heavy liability hurdles. We talk about the skate parks, or some of the conversation about the skate parks takes us to a position where we're assuming that this is a dangerous activity, and it's not. The skate park isn't any different than the ball diamond, than the football field, than the jungle gym. They are all just a particular type of park available to citizens to use, and there are risks with anything you do, whether you get on a swing and you swing, or whether you play baseball, or whether you play football. Whenever you're using our parks across the state, there are going to be risks, and this is not an inherently dangerous activity--skateboarding

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isn't--but it is an activity, like football, that has inherent risks. And what this bill does is address liability in those situations. Now should we put a sign up? There are two difficulties with putting a...making a requirement that we use signs. One is that they get torn down, and then if they're not up, then the liability or the system of liability set up in this bill changes. Are they now going to use an ordinary negligence standard because an hour before, somebody hurt themselves at the skate park, another kid tore the sign down and took it home to use and hang in his bedroom? That's a practical problem that Senator Friend was referring to. The other side of it is, is that in order to get to the place where you're ready to put signage in this bill, you have to recognize or you have to accept that skateboarding is more dangerous than football, because why would be put a sign up for skateboarders at a skate park that's designed according to safety standards for this activity, and not do one at the football field? It seems to me that there is no more compelling argument about posting signs at the skate park than there is at the football field, and that is, there are inherent risks of injuries in any activities. People appreciate those. All we're doing is getting the law to catch up with what people appreciate themselves, and what common sense would dictate... [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR LATHROP: ...when you take a skateboard down an incline. During General File I had an opportunity to visit with some of the folks that are familiar with the skate parks. I'm told that in the state of Nebraska we don't have one that has a difference in elevation or a slope greater than eight feet, so we're not talking about opportunities for people to fall from heights of 10 or 15 or 20 feet. The most that can happen is they'll fall from a distance of eight feet down and slide down an incline, and can there be injuries? Yes. But are they likely to be serious? Probably not any more so than football, and I think the statistics we talked about earlier on General File indicated that there are a lot of activities that are responsible for more injuries than the skate park. So I would oppose the amendment for those practical reasons, and again, oppose FA94, and ask you to support LB564 on Select File. Thank you. [LB564]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Senator Chambers is next, followed by Senators Carlson and Friend. [LB564]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Senator Chambers is next, followed by Senators Carlson and Friend. [LB564]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I'd like ask Senator Lathrop a question or two. [LB564]

SENATOR SCHIMEK: Senator Lathrop, would you yield to a question or two? [LB564]

SENATOR LATHROP: Yes, I will. [LB564]

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SENATOR CHAMBERS: Senator Lathrop, you mentioned that the skate parks in Nebraska do not have a slope higher than a certain height, whatever it was. Is there anything in the bill that says that if one of these slopes is higher than that, there will be liability? [LB564]

SENATOR LATHROP: No. [LB564]

SENATOR CHAMBERS: So it could be 20 feet high, couldn't it? [LB564]

SENATOR LATHROP: I'm told the standard is something less than eight or ten feet. [LB564]

SENATOR CHAMBERS: But it could be 20 feet. They could construct what they choose, can't they? [LB564]

SENATOR LATHROP: I don't know that they would be within the applicable standards...safety standards for that kind of a park, which is also part of the bill. But I suppose they could do anything they want. [LB564]

SENATOR CHAMBERS: Have you heard or read where any of these political subdivisions said they're not going to let people play baseball or football or soccer if this bill does not pass? [LB564]

SENATOR LATHROP: No. [LB564]

SENATOR CHAMBERS: So when people draw those in, they're reaching far. Are you aware--and if you're not, I'm not going to badger you--of certain specific facilities that the political subdivisions have focused on and said they will shut them down, and in fact mentioned some that they have shut down because of the Nebraska Supreme Court decision? [LB564]

SENATOR LATHROP: Two areas. One is the skate parks, and the other would be hills. I think the city of Omaha closed some of the hills to sledding this last winter. [LB564]

SENATOR CHAMBERS: So we're not talking about every facility where somebody can be hurt. And if the amendment would refer to these activities which the political subdivisions have expressed concern about, would that alter your view about the sign giving the warning? Or hadn't you thought it through? [LB564]

SENATOR LATHROP: Well,... [LB564]

SENATOR CHAMBERS: If you hadn't, I don't want you to have to answer right now.

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[LB564]

SENATOR LATHROP: ...Senator Chambers, I guess my quick answer would be, if we required that to be...a sign to be posted at every recreational activity to avoid liability for inherent risks, then we'd have to do it at football fields, we'd have to do it at softball fields. The list of recreational activities is in there, and we'd literally have to post at every one of them. [LB564]

SENATOR CHAMBERS: Well, this is why I said, if it was narrowed to those that have concerned the political subdivisions, which it doesn't do now. The amendment is very broad. But if it were narrowed? [LB564]

SENATOR LATHROP: Yes. If it were narrowed--we talked about this on General File, you and I have had some conversation--there may be a way to provide for signage. But we'd also have to specifically provide that there would be no liability if the sign had been placed up and taken or torn down. [LB564]

SENATOR CHAMBERS: Here's some language in existing law, and you can find it in the E&R amendment on page 6 (sic--7). And I'm going to start in line 14. These are the activities or the circumstances under which the Tort Claims Act will not apply: Any claim arising out of the malfunction, destruction--and get this language--or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Already they're talking about signs that can be removed and in fact are removed. And if the entity has actual or constructive notice of the removal and does not correct it in a reasonable time, they then are liable. That kind of language is in the existing law dealing with areas much more serious than what I'm talking about. [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: But see, the political subdivisions did not tell their minions about this. They said, go in there and be opposed to any sign acknowledging any liability...I meant, the lack of liability. You've already got the language here. If I was here when you had those budget bills, I would have been reading them, and we'd probably still be on them today. But there's just a concern in getting things done and getting them done quickly. But as children are told, in words maybe not exactly that I'm going to use now, actions carry consequences. You've got language right here now that talks about the unauthorized removal of these signs. And somebody can be killed. But if the unauthorized removal had not been brought to the attention of the appropriate authority and the sign had not been replaced, there is no liability. We could craft language... [LB564]

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SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: ...to do this, but they're not interested in looking at this. They got all those lobbyists,... [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: ...and none of them will look at this kind of thing. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Carlson, you are recognized. [LB564]

SENATOR CARLSON: Madam Chairman and members of the Legislature, I'd like to address a question or two to Senator Chambers. [LB564]

SENATOR SCHIMEK: Senator Chambers, would you yield to a question or two? [LB564]

SENATOR CHAMBERS: Yes, I will. [LB564]

SENATOR CARLSON: Senator Chambers, I view you as always forthcoming in responses to question. Is your purpose in FA94 to make a bill better? [LB564]

SENATOR CHAMBERS: Yes. [LB564]

SENATOR CARLSON: Okay. In the area of posting notices--and I'll follow up a little bit on Senator Lathrop's comments--is it possible for there to be honest differences of opinion whether a given area or facility warrants a notice? [LB564]

SENATOR CHAMBERS: Well, yes, the way you phrase the question, certainly. But let me say this. I have mentioned that I'd be willing to narrow my amendment from what it says now to those activities that the political subdivisions have expressed concern about, so it would not cover all of these things like baseball diamonds, football fields, soccer fields, and so forth. [LB564]

SENATOR CARLSON: Okay. Now, we each have different views, I believe, of what common sense would bring us to determine as to what is posted and what isn't. And my difficulty is, regardless of the narrowing or the widening of those activities that should or should not be posted, would you agree that there's always a possibility that the next thing that comes up, there's a question about, should it or shouldn't it have been posted? [LB564]

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SENATOR CHAMBERS: Sure, that can always happen. [LB564]

SENATOR CARLSON: That's...thank you, Senator Chambers. I agree with that, and that's my difficulty with this amendment. Thank you. [LB564]

SENATOR SCHIMEK: Thank you, Senators Carlson and Chambers. Senator Friend, you're next to speak. [LB564]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. I used probably an inordinate amount of Senator Chambers' time earlier to answer that question. Make no mistake, I'm not yielding any time to him. That's the nature of the beast. But I want to throw the Legislature a little hypothetical. I've got 13 miles--and it's a rock's throw from my house--13 miles of trail that the city owns, called the Keystone Trail, the city of Omaha. Now, if I jog on that, we've got bikes flying through there, I mean, the 13...actually, it's a 26-mile track, I believe, let me take that back. You could run a marathon if you had the ability or the wherewithal. I think that's correct. But I digress. I'm jogging out toward that trail--large maple trees, rocks, skunks, varmints of all kinds that show up along the Papio Creek, but mostly hazards. Now, you're not supposed to be in the park after 11:00 at night, right? Well, before that, you can jog that trail or you can ride a bike on it. Trust me, I've seen people hurt, I've seen people fall while they're jogging, I've fallen while I'm jogging, and riding a bike. Clearly, I've been injured, but not too bad, so don't worry about it, folks. I don't need any sympathy cards. The point is, I could have foreseen those type of damages, I could have foreseen those type of accidents, had I not been jogging at dusk or before dawn. The city is providing that stuff. We can put those signs all along the trail. I'm the one. I should know that there's an inherent risk there, that there's danger. If it's 4:30 or 5:00 in the morning and I throw these special forces things on and try to jog to some sort of strange chant on...strange special forces chant down the Keystone Trail and I hit a log, who's responsible? That's really what we're talking about here, isn't it? I mean, Senator Chambers is trying to lay out this scenario where he says, darn it, you know, it's not that difficult to post, you know, these signs. I think that's what he's kind of arguing, and that if the sign were to fall...and we're arguing, if the sign were to fall down, what would that matter? Look, aside from this rambling hypothetical, I think what we're talking about here is societal common sense. It doesn't matter, 13, 26 miles of strip that cuts through the city of Omaha, and we're supposed to lay out guidelines for a city not only to adhere to so that they can maintain a certain amount of protection from the type of liability that I could come after them with? Frankly, I think what Senator Chambers alluded to earlier, that might be a tad unreasonable. One could argue that that's somewhat unreasonable, to lay out a 26-mile track and say,...by the way, how often are you going to post it, just at the beginning and the end? People run to that trail from all kinds of different spots. It's city-owned property. And I slip on a rock or fall down and crack my head open, subdural hematoma, I'm in a coma for three months, and who do I go after? The deepest pockets I can find? I don't think so. That's just not... [LB564]

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SENATOR SCHIMEK: One minute. [LB564]

SENATOR FRIEND: Look, life is not fair. We've been down that road. But that's particularly not fair. I know what I'm getting when I hit that trail. Look, next time I get skunked...sorry, I just spit all over the floor. (Laugh) Senator Christensen isn't helping any. Next time I get skunked on the trail, I'll let you all know, okay? And I'll make sure I let the city, if a bill like this doesn't pass, let the city know I might just be having a conversation with them, too. Where does all this end? That's all I have, Madam President. Thank you. [LB564]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Chambers, you are next to speak. [LB564]

SENATOR CHAMBERS: Madam President, members of the Legislature, when somebody refers to something as common sense, usually it means nonsense. (Laughter) When I bring an amendment, people take leave of their senses, if they had any in the first place. Thomas Paine wrote about George Washington, I don't know if you're a man who lost all principle, or if you ever had any. And Thomas Paine had helped in this country's Revolution, and he became very disappointed after he saw the direction it went. Lafayette, who had helped this country obtain its freedom, when he saw the slavery that was imposed, he said had he known that, he never would have raised a sword or a hand to help this country get free from England. Senator Friend doesn't pay attention when he's driving on the highway or the city streets. If there is a speed limit, do they put that speed limit sign on every corner? How often...what is the distance between speed limit signs on the Interstate? You think they're not aware of how these kinds of things are dealt with? But he can't think about that, because he's looking at an amendment that Chambers is bringing and the political subdivisions are against, so he puts on his paraphernalia and runs down a trail and trips over a log. Well, I should think the log is the one that had the action. The log would look at him and say, I have a right to a cause of action. I'm sitting here where I've always been, doing what logs do, bothering nobody, then this strange chanting is emitted from this strange-looking creature who runs and assaults me when I'm doing nothing. I did not place myself in that person...or whatever it is, in that creature's path. And now I am condemned for the deficiencies in the creature. You all know that they don't post a speed limit sign on the Interstate every hundred yards. In cities, they don't post speed limit signs every block. But if there's a speed bump, they'll put a sign there warning you about it. If the purpose of that speed bump is to make people careful, don't warn them; let them hit that bump and maybe damage the undercarriage of their car, knock their wheels out of alignment, shake the dentures out of their head, and maybe there will be space for some brains or some sense to enter their skull. But no, they warn you: speed bump, proceed with caution. That's for grown people. And now it comes to the children, and they can find every reason why it can't be done. What Senator Friend should have

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done is sung this song: Signs, signs, everywhere a sign, blocking out the scenery, breaking my mind; do this, don't do that, can you read the sign? Then it talks about how they don't want any of the long-haired, funny-dressing hippies coming in certain places. They don't want you to come in to eat if you don't have a coat and a tie. They have tall walls and fences saying, keep out. So then this guy decided to make his own little sign, and I won't tell you what he put on his sign. It wasn't anything obscene, but if you're interested, you can find the song and he'll sing it to you. What I'm talking about is not an unreasonable sign. I'm talking about the activities that the political subdivisions... [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...have filled the newspapers and the airwaves with, the types of facilities which were mentioned when these representatives of political subdivisions came before the Judiciary Committee, the facilities that they themselves had closed down because they thought there would be liability, due to the likelihood of injuries being sustained. The political subdivisions said this. It is so difficult for me to talk to people who don't show that they have good sense. This guy went to this loony bin--that's what they called it--and he said, I have a talk I'm going to give. Why are we all here? And somebody in the back said, because we're not all there. Well, my colleagues are not all there, on many occasions. But I'm going to continue to hammer at these thick, hard, virtually impenetrable skulls, and try to make a dent,... [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: ...then an entry place. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Preister, you're recognized to speak. [LB564]

SENATOR PREISTER: Thank you, Honorable President, friends all. I was sitting here at my laptop like the proverbial bump on a log, and along came Senator Friend, chased by a skunk, and tripped over me, and stirred me to press my light to get up to say something. I think that posting a sign perhaps at every location isn't practical. But I think posting a sign warning young people of the potential, or the fact that the city is not liable, is reasonable when it's done at the BMX tracks, which I believe is one of the concerns, and when it's also going to be at the skateboard parks. Those aren't large numbers of parks. It wouldn't require large amounts of money to implement them. I think, as Senator Lathrop said, there is the potential for being able to work out language to be able to do that. I think that's reasonable, and I would assume that the municipalities could concede to that. It's not that difficult to do. I would submit to you that the precedent, if there needs to be one, is already there. It was not that many years ago, perhaps as many as eight, when this body passed legislation dealing with equine

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professionals. And those equine professionals, or people who have horse boarding or work with horses and animals, post a sign on their property saying that they are not liable for any of the inherent dangers of working with horses. We've already done that. It's not that difficult. When I go to ride my horse, and I go down to the farm where I board her, that sign is right there in front of me. It reminds me of my own responsibility. I know it already. But it isn't that difficult. I've never had a complaint from the owner saying I shouldn't have put up the sign, or I don't think that's a good idea, or it was too expensive. He was more than happy to do it. I think the same could be done by a municipality. Senator Chambers did state that he was willing to limit this, and limit it to just the areas of most concern. There may be more than a BMX track and a skateboard park. I do support the concept of LB564, but I think this is a reasonable accommodation, and I think placing those signs at those limited locations is a good thing to do, and it does take into account and demonstrate that we do share some concern for the safety and well-being of young people who will be using those facilities. So with that, I'll get back on the log and just be the bump for a little while longer. Thank you. [LB564]

SENATOR SCHIMEK: Thank you, Senator Preister. Senator Hansen is next, followed by Senators Friend and Aguilar. [LB564]

SENATOR HANSEN: Thank you, Madam President. I rise in support of Senator Chambers' amendment, and I'll spend a couple of minutes and tell the body why. There's an old gentleman in North Platte that his favorite phrase is, when we talk about "ifs" and "buts," and he says, when "ifs" and "buts" become candy and nuts we'll have Christmas every day. Senator Lathrop said, if the sign falls down. Well, maybe the sign will fall down; maybe someone will take it down. But I think the city has a responsibility for signage on places that are dangerous, and they have those signs now. Soccer fields have signs. And I went to a soccer game this past weekend, and it has, parent-free zone. And that's just for the kids, so the kids can go over there and they can listen to their coach and they don't get the influence from their parents. That's a place that's not paid for. At least, I didn't pay to go to the soccer game. The kids paid to go to soccer. But as parents, there was a sign there--be respectful of the coaches and the referees, and those things. The swimming pool has signs all around it. Swim at your own risk. You know, we have lifeguards on duty, but you can't holler and you can't jump on other people, and you've got to leave the pool when they ask you to leave, and all that thing. A football field has signage around it about not swearing at the referee, not hollering at the referees. And they're logical things. They are signs that maybe give us common sense to those of us who don't have common sense. But I think that it's common sense, for the most part, to put up signs at skate parks. I can see a sign there that says, skate at your own risk. The city...say the city of North Platte has limited liability. They have other signs around town with limited liability signs, so why not at a skate park, or a track where you run, or the dirt bike tracks, too? The city has limited liability there. Please use safety equipment. This goes back to the skate park. Please use your safety equipment that your folks gave you for Christmas. You know, use the elbow pads, the helmet. But

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they're not there to enforce those, but a signage to say, skate at your own risk and the city has limited liability, I think, would be a...would only be logical. Have a nice day. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Hansen. Senator Friend, you're recognized to speak. [LB564]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. You know, I think Senator Chambers ought to know better. I don't really care what the lobby tells me on this issue, because of the fact that it comes down to common sense, because of the fact that we're trying to deal with that, or as Senator Chambers says, nonsense, or whatever. Talk about the...the reason you bring up the jogging down a trail is because you have to talk about practical instances of you dealing with these type of circumstances in your neighborhoods. That's what you have to look at. That's how we make law. Not all of us are attorneys. I can't go toe-to-toe with Senator Chambers, Flood, Lathrop, White, dealing with these liability issues. I can tell you two things right now. This particular amendment, while I may end up accepting it in the long term, depending on what this is framed like and what it looks like, because I'll adhere to what some of the legal eagles, for lack of a better term, try to say is going to be best for us--maybe that's a mistake, but I may do that--I'm telling you, there's a practical problem with an amendment like this. I'm going to tell you why, and this time I'm not going to use any cute analogies, okay? Sign falls down,...first of all, comparing this to the streets of the city? For me to go out and get a license and drive a car, the state has to approve me to do that. I have to take a test that indicates that I have the wherewithal to understand, whether it's posted or not, what a speed limit is going to be, what a speed zone is going to look like, how fast I can drive in a construction zone. Totally different subject matter, totally. You have somebody run down to a park with their kids, run down in the middle of a trail, stuff is not posted. I can hang a sign on anything and say that I am not liable for this, this, and this. Does that mean that I'm not, just because I say I'm not? There are other areas of law that indicate that we have done this, and that's fine. That's why I have said that I will defer, to a certain degree, to some sort of compromise here. But Senator Chambers should know better, that I don't care what anybody else is saying. And he should know better to think that I'm just opposing him because it's him. Not true. And that irritates me a bit. I've accepted amendments from him, I've accepted amendments out here from others. I didn't think this was practical, and I just gave you two reasons why it's not. A 26-mile trail that Senator Preister says should be posted prominently at the beginning and the end, what good does that do me? I don't have to take any kind of test to tell me that I can go out to a trail and ride a bike. We're talking about different subject matter here, folks. That's what's a little irritating to me, that the analogy plays out. No, it doesn't, not at all. Irritating to the degree that we have to make policy for recreational facilities that would be the same for the roads and the interstates. Can't do it. Tough to connect. If I oppose one of the senior member's amendments, or anybody else's, I'm going to make a halfway decent, I hope, argument for opposing it.

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And that's why I've strayed away from these cute little "I run down and get skunked" type of analogies. I can go for four hours talking about reasons why this particular amendment is a bad idea. Does the body want that to happen? [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR FRIEND: (Laugh) Maybe Senator Chambers does, and maybe that's why I'm doing it at the level or the degree that I'm doing it right now. I've already said, from the outset, that I will adhere, or follow the type of expertise, the experience of dealing with these particular issues when it comes to liability, because flat out, I don't have it. But just saying that somebody not having the practical experience, or possibly the lack of common sense, and not being able to make a decision about an amendment or a public policy, that's not right, that's not fair, and I'm not going to adhere to that. So if I don't like the amendment in the long run, look whose name is on the bill. I'm willing to talk about it and work this out. [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR FRIEND: Right now, I'm not convinced. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Aguilar, you're recognized to speak. [LB564]

SENATOR AGUILAR: Thank you, Madam President. In light of some negotiations that are going on, I would yield Senator Chambers some time. [LB564]

SENATOR SCHIMEK: Thank you, Senator. Senator Chambers, you are recognized to use the rest of his time. [LB564]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Aguilar. I had told Senator Aguilar that Senator Lathrop and I are working on some language, so he gave me some time. But if it's necessary, I will put a motion up there just so that people won't have to give me time. Then when Senator Lathrop has the language and we can work our way through it, then I will pull that motion. And I think that's what I might wind up doing, instead of going around here like a beggar with a tin cup, saying, please give me some time. It's hard for me to beg, although I didn't have to beg Senator Aguilar, because he understands, and he has given me help on matters such as this in the past. What I say about my good friend, Senator Friend, is that methinketh he doth protest too much, or, methinketh he protesteth too much. And I was informed by the resident expert on literature that it was Gertrude Stein who said, a rose is a rose is a rose. So I stand corrected on that, and the record is. Senator Friend said he doesn't care what people think, or something, on an issue. But another...he doesn't realize how

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much I listen to him. He stood up here one day and said, maybe it...you shouldn't worry about being liked, maybe it shouldn't matter that people don't like you, but when people don't like me, it bothers me. He said that. And maybe he forgot, because I pay more attention to what he says than he does. His mind...you know what, I've got a button that I visualize. It's called the Mike Friend button. And in my mind, I say, I'm going to push the Mike Friend button. I push it. It's his button, I push his button. Works every time. I throw the bait out there, and he rises to the bait every time. That's why, when I'm dealing with Senator Friend, you never hear anger in my voice. You might hear some passion--that's one of his words--but not anger, because I enjoy my tete-a-tetes with Senator Friend. And I think he's very sincere, but he's also often wrong, and it's my job to try to correct him. And it is a stubborn, hardheaded child who will not accept correction from his parent. Now, that's...I'm not his parent, but I meant, that's one of those quotes that is coming from that book. But I'm old enough to be his parent. I've got to think what motion I'm going to craft here, so I will say something that is intended to be very serious. I had mentioned that people do watch what we discuss here. And a man had called and said, on MTV there's a program called "Scarred"--I don't watch MTV--and that they show skateboarding activities, and how often these children get hurt, the types of injuries that they get, from strawberries, as you might call them, where you skin yourself, to broken bones. So maybe a lot of people on this floor are talking about something which they are not very informed about. And that does not just go to Senator Friend. Because that's the case, and some people recognize that posting a sign is not unreasonable, I've got to continue chatting for a while. The language that Senator Lathrop is trying to work out would say that the sign would be posted. [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: But it would also say that the absence of the sign would not affect liability, or something along that line. And I'm going to look at that, and it's better than nothing. Not much better. I'm cynical toward the political subdivisions. My feeling is that if you give them a directive but there is no price to pay for their disregarding it, they're going to disregard it. Senator Lathrop has more confidence in them. He thinks we're dealing with honorable people who don't need to have a stick poised over their head to get them to do that which they know the public policy of the state is requiring of them. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Friend, you're recognized to speak. [LB564]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. Senator Chambers is so right. I'm easy. All you have to do is toss it out there, like corn on a hook. Just like a carp, I'll just grab it. But you know what? That's fun for me. That's fine. And he's right. I remember virtually everything I said out here, and I do like to be liked, even by Senator Wallman, I hope. But you know what, further? I'm not going to

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die because I'm not liked. And I really don't care. It's gotten to the point, practically, where as I mentioned, we have attorneys...Senator Chambers doesn't like to group himself into that category, but he is. We have attorneys arguing over what's going to be the best public policy for the state of Nebraska. Quite honestly, folks, that's why we're in the position we're in right now, because we had a bunch of attorneys, lawyers, judges, everybody else, making public policy for the state of Nebraska. That's why this has happened. And it's happening again. Okay, I'm willing to listen. But I think it's borderline condescending to think that folks out here can't go out and practically make that decision about what's good for our parks, what's good for our children, what's good for those communities around the state, without having to overanalyze and technically dig in to what this really...what this park should be hanging around its neck and providing as notice. There's a volcano park down...we call it the volcano park, down from our house. There's a cement volcano. You used to be able to crawl into it, get inside of it, as a kid, crawl around. They cemented it up. You can't get in there anymore. You know what the kids do now? The climb to the top of this volcano; we're probably talking about 14 feet. I know my kids do it. Who's going to be liable when my kid goes tumbling off of that volcano? The city of Omaha? Should they be? Or should somebody grab me or my wife by the hair and say, hey, stupid, you let your kid climb to the top of that volcano? Do you see what I'm getting at here? Is that where the common sense and the practicality comes into play? Is it? Maybe that's a tad rhetorical, because I didn't ask anybody the question. But you know, I think that the reason that we're here, to risk being redundant, is because we've left this in the hands of the attorneys--no offense to all of my attorney friends. My brother is an attorney, family member. Who doesn't know an attorney? Can't swing a stick without hitting one. You know what, in here, we don't have to adhere to that. How about somebody standing up and saying, you know what, I don't want my kid climbing to...I don't want my kid skateboarding in that environment. Now granted, in some communities in our state, we don't have the type of guidance, the parental guidance, guardian guidance, that type of thing, that's going to be able to help or control or shape that type of behavior. [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR FRIEND: But have we become a nanny state, where we can just pick apart every bill and say, you know what, this is how we're going to make this better? He's got a right to do that. I just think he might be wrong. This bill is pretty darn good, because the one below this, the one we changed, brought them back to the standard that they were before. I thought that was a heck of a compromise myself. The standard that everyone thought that the city of Omaha and every other park in the...every other subdivision in the state though that they operated under, for 25 years, is gone. The Judiciary Committee said, no, we think better of that; let's try to wrap some different guidelines around this, and better guidelines. But because our resident attorneys think that they know better, that was a bad idea, too? They were the ones that came up with the idea in Judiciary. Now the attorneys are rethinking it? I think we're losing our senses

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all right. [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR FRIEND: And I'm not sure I'm the only one. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Friend. Continuing debate on FA94. Senator Chambers, there are no lights on. Would you like to close on your amendment? [LB564]

SENATOR CHAMBERS: Madam President, members of the Legislature, work is being done on some language, so I have put a motion up there that will allow further discussion. But it will not be a reconsideration motion. It doesn't matter what it would be. But Senator Friend said something that was very interesting. He was mentioning making policy for the state in this bill. I dissent from that. This is making policy for the political subdivisions. That's what this bill is about. The people are not the ones who asked for this bill--the political subdivisions, the politicians with the political subdivisions. He talked about making policy for the state. He has some distaste for lawyers, as he laid it out--not across the board, but he discussed his feeling toward certain activities of certain lawyers, not by name, but who engage in certain activities. And a lot of people feel that way. But when it comes to making policy for the state by somebody other than the Legislature, that's what the Department of Corrections is doing right now. The Legislature has established a state policy that there should be a death penalty, and it established in statute how that death penalty is to be administered--by one continuous flow of electricity until the condemned person is dead. Well, the Department of Corrections has adopted a protocol which violates that statute. And who on this floor has taken issue with it? The one who's speaking now. And if there is anything that represents the policy of the state, it is the idea that the state will extinguish a human life, and anything designed to implement that policy as reflected in statute is a rule or regulation that should have to comply with the Administrative Procedure Act. That Department of Correction has all kinds of little-bitty things that relate to the life and activity of inmates, and those things have to go through the APA. But when it comes to taking a human life, the Attorney General told them, I don't think you have to go through the APA, but you might, because some states have said that you do, some courts have said that you do. So you do what you want to--either have public hearings on this protocol you're going to use to kill somebody, or don't have public hearings. That's not what the Attorney General should do. He is the lawyer, and he knows what the law is. But he is so busy running for the U.S. Senate that he cannot discharge his duties as the Attorney General, giving proper advice to the agencies relying on his advice. The Governor is so busy attacking Senator Raikes for not behaving, as far as rushing a bill out here in the way the Governor wants him to do it, that the Governor cannot discharge his duty under the constitution to see that all the laws of this state are faithfully carried out. And one of those laws requires that this protocol... [LB564]

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SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...comply with the APA. But the Governor is washing his hands up and saying, I don't want to have anything to do with it. So I'm going to spend some time on this floor, laying out in gory detail what is entailed with what the State Corrections Department is going to do. And I'm going to bring that up if they carry out this execution, and the things that I think ought to happen to prevent terrible things from occurring. But if they put that man in that electric chair and run 2,450 volts through him for 20 seconds and he lights up like a Roman candle, I want to be able to say, I told the Attorney General, I told the Governor, I went to the Supreme Court, I went to the state district court, the Lancaster County District Court,... [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: ...I talked about it on the floor of the Legislature, and they all looked the other way. Thank you, Madam President. I will ask for a call of the house. [LB564]

SENATOR SCHIMEK: 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 aye; all of those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB564]

CLERK: 25 ayes, 0 nays, Madam President, to place the house under call. [LB564]

SENATOR SCHIMEK: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. (Visitors introduced.) The house is under call. Would Senator Hudkins, Raikes, Burling, Langemeier, and McDonald please return to the Chamber. The house is under call. Senator Hudkins and Senator Burling, the house is under call. Senator Hudkins, the house is under call. Please return to the Chamber and record your presence. All are present and accounted for. Senator Chambers, how did you wish to proceed? [LB564]

SENATOR CHAMBERS: Roll call vote. [LB564]

SENATOR SCHIMEK: There's been a request for a roll call vote. The question is the adoption of FA94 to LB564. Mr. Clerk. [LB564]

CLERK: (Roll call vote read, Legislative Journal pages 1363-1364.) 13 ayes, 27 nays, Madam President. [LB564]

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SENATOR SCHIMEK: The amendment is not adopted. I'll raise the call. Mr. Clerk, did you have an amendment on the desk? [LB564]

CLERK: Madam President, Senator Chambers would move to bracket the bill until May 15, 2007. [LB564]

SENATOR SCHIMEK: Thank you. Senator Chambers, you are recognized to open on the bracket motion. [LB564]

SENATOR CHAMBERS: Madam President, members of the Legislature, this motion is to give some discussion time which will allow Senator Lathrop to fashion some language which will be acceptable to me and the other people, whoever they are, with whom he is working. When that amendment comes before us, I can address it with specificity, so I won't try to do it now. I'm not going to take all of the rest of the morning talking about this upcoming or impending execution, but I'm going to make a comment or two. And I'll probably talk about it from now until it occurs, if it occurs. This is one of the most brutal protocols ever contrived for electrocution. There was an Associated Press article in the Lincoln Journal on Saturday. There was a biomedical engineer, biomedical, who has studied execution by electrocution. He said the new protocol adopted by Nebraska is a terrible idea. Quote, from that article: The particular protocol Nebraska has adopted is one of the worst I've seen, said John Wikswo, W-i-k-s-w-o, of Vanderbilt University. It's potentially extraordinarily ugly. I will go into more detail at a later date. But the man relied on by the Department of Corrections is some person named Wright in Miami, Florida. He had a job as the chief medical examiner for the state, and he was not reappointed to that position several years ago, because of public allegations and criticisms of the way he conducted his work. This new protocol that has been adopted by the state was adopted without medical or scientific evidence used to support it. Now, voltage is the force that pushes the electricity, and the amps will be involved through the body. And when you have this high-voltage electricity, it's not going to do what this Dr. Wright said, and he had nothing in the way of scientific evidence to support what he said. The reason they had to change from what they were doing is because of what two district courts said. The last three executions were carried out through multiple jolts of electricity. The first would be a 2,450-volt application for eight seconds, then a second application, after a brief pause, of 480 volts. There would then be a pause of 20 seconds, then that first multiple application again. The fear has always been that if you had this sustained flow of electricity for any significant period of time, the body is going to ignite--the man is going to catch fire. And this doctor in his report to the Department of Corrections, when they were required to move from this multiple-jolt process because the court said it does not comply with the law, he said, you need to keep a fire extinguisher available because there may be fire. And what the courts had said is that the way Nebraska's statute for carrying out the death penalty reads, there cannot be multiple jolts; there has to be one continuous flow of electricity till the person is dead. But there's no assurance that 2,450 volts for 15 seconds, which is what the

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doctor first recommended, will kill the person. When I raised questions about that in a letter to the Attorney General, the doctor was contacted and he said, well, change it from 15 to 20 seconds, for no apparent reason other than that this may be more lethal than 15 seconds. Well, 2 minutes would be more lethal than 20 seconds. This is what the State Department of Corrections is relying on? This is what the Attorney General and the Governor are going along with? And the expert, even this doctor they relied on, said that after this 2,450 volts have been applied, soon as you stop the application of the electricity, the heart is as likely to restart itself as not. Respiration will resume. What then becomes of the mandate in the statute that you apply the electricity till the person is dead? And my colleagues are not troubled by this. Your state is killing somebody pursuant to a protocol laid out by a quack. There has been testimony and evidence of a scientific nature given in court hearings which contradict what this quack said. But the department is relying on the quack. And when it goes awry and you have the botched execution, then what are you all going to say? You going to sit around here and say, tsk, tsk, tsk, it shouldn't have happened? Well, it could be stopped now. It doesn't have to happen. The Supreme Court does not have to rush to an execution. The Supreme Court ought to resolve these cases pending before it right now where those issues relative to the use of the electric chair are being raised. I don't know what the Supreme Court will do, but I know what they ought to do. I know what the Department of Corrections ought to do, and I know what the Governor ought to do. He runs the Department of Corrections. He should not leave them hanging in limbo, as the Attorney General did. He should instruct them to scrap that protocol that they have and adopt one in the way that the Administrative Procedure Act mandates. That means they should have a public hearing. Genuine experts will testify. And maybe the conclusion will be reached that there is no way to have a protocol to guarantee the death of the person being electrocuted, unless at the same time you're going to cook him literally. In order to have enough electricity for the period of time to guarantee the death of every person, it has to be of such duration that the body cannot be kept from catching afire. And they have the nerve out at the institution to say that they're doing this humanely. There's no humane way to burn somebody alive, and that's what they will be doing. So if you violate the statute by not keeping the electricity on until the man is dead, what are you going to do? This doctor said, allow 15 minutes to pass, hoping that he'll die during that period, because the electricity didn't kill him. But if he isn't dead after that time, what do you do then? And you know what the doctor said they should do before they make this check? They should remove all of the restraints. You take the electrode off the head, you take the electrode off the leg, you take the straps off the arms, those on the torso, around the legs, and around each ankle. You remove all of that. So I don't know if you just let him flop forward like a limp dishrag or you stretch him out on the floor.
[LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: And a witness watched this. But in any case, if he's not dead,

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he will have the blistering, he will have the burns. There will be the stench of the cooked flesh. So now you're going to have these employees of the Corrections Department sit him up in the chair again, re-strap him in again, put the sponges and the electrodes on again, and then apply 2,450 volts for 20 seconds again, and that will guarantee that he'll catch fire, because the body is not going to completely cool by that time. Those sponges will have dried, certain fluid in the body will have dried, and you have tinder sitting in this chair now. And that's what's going to be done, in your name. And look at you, sitting around here now. You better hope that I can find a way to spare your state from this shameful fiasco. [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Chambers. Continuing discussion on the bracket motion. Senator Chambers, your light is next. [LB564]

SENATOR CHAMBERS: Now, Madam President, I will get back to the bracket motion. But I wanted to complete the comment that I had started. This motion will be before you only so long as it takes Senator Lathrop to get the language needed. Now, if we don't get that language before we leave this morning--I think we should have it for sure--then I'll take a vote on this and then I'll move to reconsider. But the idea is that an amendment is being crafted. I will not get everything that I want, and maybe the political subdivisions are giving up something they'd rather not give up. But I cannot for the life of me see why anybody would consider it unreasonable and too onerous to require the political subdivisions to post a sign saying, if you are injured or killed, the political subdivision has no liability. The fact that those who have spoken against this talk about facilities that I'm not even concerned about indicates that they cannot face what I'm really talking about, the facilities that they know are dangerous. And I'm sure they wouldn't go to speak to a class of high school children or elementary school children, who are at a grade level high enough to understand what's being said, and tell them, well, the city is going to build these dangerous facilities, but we don't think that you ought to be warned. We don't think they ought to have to put up a sign, because that's too much trouble. And these are the children who are being taught in school every day to assume responsibility for their actions, and they're being told that the entity that governs them is going to put something before them, encourage them to make use of it. They may be harmed, but the Legislature says they shouldn't have to warn you of that fact. Even though Senator Friend is raw and chafing, that is a position which is crazy. Grandfathers. I'm a grandfather, Senator Carlson. I'd certainly want my grandchildren to be warned if the city is putting something before them that is dangerous. I want them to know, and I as their grandfather want to know, and their parents want to know, that should their child be hurt, the city is not liable. Then the parents have some additional information to utilize in determining whether or not they will give consent to their child

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going there. Now, we know children don't always obey their parents. But some parents might be under the mistaken notion that a political subdivision is not going to encourage their children to participate in an activity where they may be hurt, and not be responsible. So we tell them. But my colleagues, even Senator Carlson says that might be too hard on the political subdivisions. Now there are other issues, Senator Carlson, where certain people want to be sure that parents have what they call parental notice. But on this, where the children very well may be hurt, you don't think the parents should have that notice? That's crazy. It's wrong. But fortunately, Senator Lathrop is willing to help work something out where that notice will be given. Then we're going to see... [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...if my colleagues will accept that. Or are their principles so locked in that they'll reject that, too, because they think it's too hard for the political subdivisions to do that? Put up a sign, and that's too hard? By the way, I was told that the channel that did that story about the school putting up the sign saying the skateboarding could not occur on their property, it was Channel 6 in Omaha, WOWT--they were the ones who had the story. And the schools just did it. They didn't have all these people who make laws stand up saying, well, you know, gee, they might come up and take that sign down, so maybe we shouldn't do it; and then we'd have to put it up again. They didn't have that at all. Senator Carlson, they put the sign up, just like that. You all pass the budgets across the board in two hours. Big things... [LB564]

SENATOR SCHIMEK: Time. Thank you, Senator Chambers. Senator Chambers, your light is next. [LB564]

SENATOR CHAMBERS: Thank you, Madam President. Big things in the budget just slid across the board without much discussion. Then something like this, and you have all of this struggling, all of this moral and intellectual turmoil. Why? Because you don't think the city should have to put up a sign. Budgets gone, billions gone. But a sign sends people into conniptions, a sign notifying the public that the city has no liability if a child is hurt. And all of this worry--it can't be done, that's too hard, somebody might take the sign down--well, somebody might steal \$1 million, but you don't care about that. (Laugh) There can't be a God, Senator Carlson. Can't be. Can't be. Or if there is, he, she, it, or they have a tremendous sense of humor and irony. The big things, you can't grasp, so you let them go in two hours. A sign causes you heartburn, palpitations, sweaty palms, worry and concern, because the lobbyists for the political subdivisions told you this is too hard. They can build roads, they can put out fires, they can deal with barking dogs, they can talk about an ordinance to make people get a license to feed feral cats. Political subdivisions can do that. They can talk about making you put your address on your back door. That's in Omaha. But to put a sign up telling the public that the city is not liable if a child is hurt, that's just too much. They can't deal with that. Can't

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you just see all these big-time politicians, Senator Wallman, when they're on the campaign trail--vote for me, I'm a person of energy, I can lead, I can do this, I can do that, I can do the other--then somebody says, well, we want you to put up a sign letting the public know that if a child is hurt you don't have liability. Their forehead...back of the hand goes to the forehead, they lean over backwards and faint. You want me to put up a sign? Why, we can't do that. You wonder why people mock politicians? A big water bill that the Governor signed and boasted and bragged about, and Senator Christensen had a lot to do with that, but he's against putting a sign up to tell parents that if their children are hurt the political subdivision is not liable. But he also wanted to require people to take some kind of crackbrained training before they get married, and if they don't take it, they got to delay and pay a \$100 fine. But he doesn't want to warn the people that if their child is hurt, the city is not liable. Sometimes I feel like I am in the midst of an insane asylum. I listen to these people running around here, and I'm wondering where those huge individuals are... [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...who will walk in with some of those jackets that don't have buttons on them. You put your arms in them, and then your arms wind up in front of you, or behind you, and then they tie ropes around the back of it. Then they put you in a room, Senator Carlson, that has a mattress on the ceiling, a mattress on all the walls, and a mattress on the floor. That's what I'm looking for to happen at any minute. I won't let them take Senator Aguilar out of here, though, because sometimes he has flashes of rationality. And Senator Dubas, my good friend, I wouldn't...they wouldn't lay a finger on her unless they came through me first. Now, some of the others of my colleagues that I thought had some sense, I'm not so sure anymore. A sign. These, Senator Aguilar, are signs of the times. All I'm saying is, do as much for these parents... [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: ...and their children...is that my third time, Madam President? [LB564]

SENATOR SCHIMEK: Yes, it is, Senator. [LB564]

SENATOR CHAMBERS: Thank you. [LB564]

SENATOR SCHIMEK: Thank you. (Visitors introduced.) Senator Friend, you are the next speaker. [LB564]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. He's expert...his expertise never ceases to amaze me. Also his ability to talk about things...he says that people framing the discussion don't make any sense. This

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discussion, in what I'm hearing from him about signs, that we have this big huge problem with signs, doesn't really have that much to do with that. He's framing the argument, and he's doing a good job. But you know what? Here's the thing. I can see right through it. And I don't think he likes it. I don't think Senator Chambers likes that, because here's the reality. Before the Supreme Court made the decision about...that reflected and affected our governmental subdivisions, do you know why governmental subdivisions didn't have to put these signs up that we're so worried about right now? Because there was no liability. They fell under the Recreational Liability Act, or at least they felt like they did. The Supreme Court, either correctly or incorrectly, said no, you don't fall under that category. So this amendment is actually trying to help frame, create where the liability can be and where the liability won't be. So before this decision in Dawes, if the city of Omaha put up a sign at the skateboard park, just out of the goodness of some park director's heart, and said, hey, by the way, this little skate park here, you can get hurt on your skateboard and we will not be liable, that sign would have been correct; the city of Omaha wouldn't have been liable at all, right? Now, if this bill passes, they will be, to a degree. But we're...but, exactly, we're worried about signs. Omaha stands...Omaha, Lincoln, Scottsbluff, they stand to gain some liability with legislation like this. But Senator Chambers is right, we're worried about signs. Whose fault is that? Omaha will now be liable, if this passes. Before, they weren't. Keep that in mind. The Supreme Court made a decision. Look, Omaha can hang up a sign anytime it wants, whether this bill passes, whether it doesn't. Do you really think you're not going to be able to find an attorney, if one of your kids falls down and knocks his or her teeth out in one of these parks, you think you're not going to be able to find somebody to go after them? I don't know how long we have to wait for this amendment, but...Madam President, how much time do I have? [LB564]

SENATOR SCHIMEK: Senator, you have about 1 minute and 30...or, 25 seconds, 15 seconds. [LB564]

SENATOR FRIEND: Okay, that...perfect. Now we're down to about 10. I said before, and I'll say it again, I talked to Senator Lathrop about this amendment. I'm probably okay adhering to the idea. I also talked to Senator Gay and others. There are still concerns about their...about this. But I would submit to you that it's not about the signs. It's about establishing power and control. And we know the senior member is very, very adept at that. [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR FRIEND: So I would further submit to you, all of us that think that these signs are a great idea, that we're being a little myopic right now. It's not the point. The point is, we have no legislation to deal with this subject matter in all of our governmental subdivisions right now. What we're trying to do is establish those guidelines with the Judiciary Committee amendments. But yet all we run into is this myopic argument about

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putting a sign up somewhere so we can protect our kids. Come on. I know what it's about--wielding the power. He knows he's got it, he can do it, he is doing it. And now we're...thank goodness, we're going to put an amendment up that deals with signs. [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR FRIEND: Boy, thank you. I feel better. [LB564]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Carlson, you're recognized to speak. [LB564]

SENATOR CARLSON: Madam Chairman, members of the Legislature, Senator Chambers, the Bible talks about the foolishness of men, and the wisdom of men is foolishness. Also, and you've said this before, Jesus said that, suffer the little children to come unto me. He also said it would be better to have a millstone tied around your neck and thrown into the sea than to harm one of these children. Senator Chambers, many times you demonstrate true wisdom. But true wisdom doesn't come from you, and it doesn't come from me. It comes from God. I'm here because God wants me here. You are here because God wants you here, and you're here for no other reason. If he doesn't want you here any longer, you won't be here; if he doesn't want me here, I won't be here. But we both receive wisdom, and I appreciate your disseminating that wisdom. Enjoy the dialogue. Thank you for it. Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Carlson. Senator Aguilar, your light is next. [LB564]

SENATOR AGUILAR: Thank you, Madam President, members. In the spirit of collegiality and the fact that Senator Chambers is going to keep me out of the loony bin, I would yield him some time. [LB564]

SENATOR SCHIMEK: Thank you, Senator Aguilar. Senator Chambers, you have 4 minutes and 46 seconds. [LB564]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Aguilar. Senator Carlson, you were offering what is of great meaning to you, so I thank you for what you said, although I disagree with it. If I was being given wisdom, if what I have is wisdom, I should not have had to read and study and work so hard to get it. A gift is that which is given without strings attached. To work as hard as I have to work to get anything lets me know it's not a gift, and it's not something somebody is giving to me. It comes from hard, continuous, strenuous labor. I do the things that I do as they come before us because I'm convinced they are right. Nobody, by any means, can convince me that it is right to expose children to harm without letting the parents of the children

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know, if the children themselves are too young to understand, that there's not going to be liability if the child, in fact, suffers harm. I would rather that they not be exposed to it in the first place. But there are certain practicalities and realities that I cannot change, so I have to adjust to their existence and do the best I can under the constraints they impose. When it comes to this bill, the political subdivisions are loved by this body more than the welfare of children and their parents. Things are achieved on this floor by votes, and the votes, obviously, are here to give the political subdivisions what they want, while doing all that's possible to prevent the parents of children from knowing what the Legislature has wrought. I want the record, if anybody ever looks at it, to understand what was being discussed and what it is the Legislature has done. If you characterize what you do a certain way, it might be palatable, whereas if you characterize it in stark terms, it would not be. I doubt that there's a person who would stand on this floor and say directly that I don't believe parents have the right to be told that the political subdivision is not liable if their children are hurt. I don't think anybody would stand up and say that. I don't think anybody would stand up and say that the parents should have it concealed from them that no liability exists if their child is harmed on a facility provided by the political subdivision. Courts are aware that sometimes things will not be stated directly. And politicians, being the sneaky, slimy, slippery, eel-like individuals they are, will try to adopt language to circumvent a constitutional requirement. So the courts will say, this that you have done can be unconstitutional, based on the terms you use, such as saying somebody doesn't have the right to a jury trial if he or she is on trial for murder, or... [LB564]

SENATOR SCHIMEK: One minute. [LB564]

SENATOR CHAMBERS: ...if in its effect it does something which is not allowed by the constitution, then it will be struck down. So it will be struck down for what it says by its terms or on its face, or struck down on the basis of the effect that it would have. So although senators will not stand up and say directly the kind of things that I've mentioned, the effect of their actions is the same. Parents are not to be notified, children are not to be notified, because the political subdivisions don't want to do it, because it's too difficult. And Senator Friend spent all of that time really trying to help us fill some time in order for that amendment to be drafted, so forgive him when he was so off the beam on so many of the things that he said. He means well. And I'm looking at the motive, not the flawed result. [LB564]

SENATOR SCHIMEK: Time. [LB564]

SENATOR CHAMBERS: Thank you, Madam President. [LB564]

SENATOR SCHIMEK: Thank you, Senator Chambers. Mr. Clerk, did you have any messages, reports, or announcements? [LB564]

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CLERK: I do, Madam President. Enrollment and Review reports LB463 to Select File with Enrollment and Review amendments attached. I have an amendment from Senator Fulton to LB469, to be printed. [LB463 LB469]

And I have a priority motion. Priority motion is to recess until 1:30 p.m.

SENATOR SCHIMEK: You have heard the motion to recess. All in favor vote aye; all opposed vote nay. Say aye. Opposed? We are recessed. Thank you.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. 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. Mr. Clerk, please record.

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

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

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

SENATOR LANGEMEIER: We will return now to Select File. The discussion was on LB564. We were talking about the bracket motion until May 15, 2007. The floor is open for discussion. Is anyone wishing to speak to the bracket motion? Senator Chambers, your light is on but you have spoken three times. Seeing no lights on, I can recognize you to...oh, Senator Mines, you are recognized. [LB564]

SENATOR MINES: Do you want to close, Ernie? [LB564]

SENATOR LANGEMEIER: He waives his time. Like I said, Senator Chambers, your light is on, but I will recognize you to close at this time if you're prepared to close. [LB564]

SENATOR CHAMBERS: Right, thank you. Mr. President, I just wanted to get in for this purpose as quickly as I could. I'd like to ask Senator Lathrop a question. [LB564]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB564]

SENATOR LATHROP: I'd be happy to. [LB564]

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SENATOR CHAMBERS: Senator Lathrop, has the amendment that we talked about been filed? [LB564]

SENATOR LATHROP: Yes, it has. [LB564]

SENATOR CHAMBERS: Oh, good. Thank you. Mr. President, I then withdraw this bracket motion. [LB564]

SENATOR LANGEMEIER: The motion to bracket is withdrawn. Thank you, Senator Chambers. Mr. Clerk. [LB564]

CLERK: Mr. President, Senator Lathrop would move to amend with AM1190. (Legislative Journal page 1365.) [LB564]

SENATOR LANGEMEIER: Senator Lathrop, you are recognized to open on AM1190. [LB564]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is the long-awaited amendment to LB564. The amendment provides for signage and essentially does these things. LB564 is an amendment to both the Political Subdivision Tort Claims Act and the State Tort Claims Act. So we will amend both of those two acts to provide that political subdivisions or the state of Nebraska, as the case may be, shall post and maintain a sign at each skateboard park and BMX park sponsored by the political subdivision or the state containing the following warning. And the warning will read on these signs as follows: Under Nebraska law, a political subdivision is not liable for an injury to or the death of a participant in a recreational activity resulting from the inherent risks of recreational activities pursuant to Section 13-910 or, in the case of the State Tort Claims Act, 81-8,219. The amendment will also provide that while the signage is required and must be maintained by the state or the political subdivision, the absence of a sign will not give rise to liability on the part of the political subdivision. The intention with this language is to accommodate the concerns of those who have expressed that they'd like to see signage at these particular parks. The last sentence, which deals with liability for the absence of a sign, it is our intention with this amendment to provide essentially this, that political subdivisions and the protections found in this LB will not be altered by the presence or the absence of a sign. We're simply directing to the state and political subdivisions that they put the signage required. The absence of that will not change the liability or the absence of liability otherwise provided for in the bill. That would be, I think, the last hurdle we need to clear before we can pass LB564 on Select File. So I would ask for your support on AM1190 and again your support on LB564 on Select File. Thank you. [LB564]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Chambers, you're

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recognized, followed by Pirsch, Friend, and Schimek. [LB564]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I appreciate the work that Senator Lathrop did. It's a well-crafted amendment. It is as much as I could possibly hope to get out of this bill or added to this bill. It will provide the notice information that I think is essential. I know that I cannot stop this bill. There is no need for me to take all of the time under the rules that I could when my main goal was to obtain what Senator Lathrop has made possible. He feels that...let me ask him a few questions instead of telling how he feels about anything. [LB564]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB564]

SENATOR LATHROP: Sure. [LB564]

SENATOR CHAMBERS: Senator Lathrop, do you believe that, by and large, the people who are elected to the boards or commissions or councils of these areas' political subdivisions, by and large I emphasize, are honorable people? [LB564]

SENATOR LATHROP: I believe that, by and large, they're honorable people. [LB564]

SENATOR CHAMBERS: Do you think that if they are aware of a policy expressed by the Legislature, that they will adhere to that policy, even if not threatened with some kind of dire sanction? [LB564]

SENATOR LATHROP: I think they will, and I think many of them already had that signage, Senator, so yes. [LB564]

SENATOR CHAMBERS: Thank you, Senator Lathrop. Members of the Legislature, you all know from having listened to me on occasion and paid attention on occasion, though the occasions be few, that I'm a bit more cynical and distrustful of elected officials, especially at the local level. However, in this particular instance, because they are getting so much from the Legislature, even they may realize that the signage requirement is a small price to pay for what they are getting in return. The final sentence that is in Senator Lathrop's amendment should satisfy anybody who still feels that lingering loyalty, that lingering homage, that lingering, slavish, holding onto these political subdivisions can be put at ease. And that sentence says "the absence of a sign shall not give rise to liability on the part of the political subdivision." I may make occasional spot checks myself just to see how they're doing. And if they're doing okay, then I'm okay. Senator Lathrop had wanted to know that if this amendment were adopted, would that get me off the bill as far as messing with it. And I told him it will. He said, for Final Reading, too? I said, for Final Reading, too. And to reassure my colleagues, I'm not a "Chrishian," Senator Carlson. My ethics when it comes to making deals is that system of ethics of a mythical Satan. Now when the "Chrishians" were

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making treaties with the Native Americans, they broke them. They weren't worth the paper they were written on and the words were like words written in water. But I've said on numerous occasions that if you read about a deal made by Satan with anybody, he kept his word. He delivered whatever he promised to deliver. And he delivered his before the other party had to ante up. And it would be the other party who, upon second thought,... [LB564]

SENATOR LANGEMEIER: One minute. [LB564]

SENATOR CHAMBERS: ...may not have wanted to go through with the deal. So count yourselves lucky and fortunate that I adhere to the ethics of Satan when it comes to deal making. And my word, once given, will be kept. I don't like the bill. I will not vote for it. But I will not argue against it. I will not offer an amendment. I will not offer a motion. I will not do anything further with this bill. And with that, ah, parting is such sweet sorrow. But I part with this bill as far as my having anything else to say on it. Thank you, Mr. President. [LB564]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Pirsch, you're recognized. [LB564]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I was just wondering if Senator Lathrop would answer a couple of questions. [LB564]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB564]

SENATOR LATHROP: Sure. [LB564]

SENATOR PIRSCH: Thank you very much, Senator Lathrop. And in your amendment, it identifies the specific places where the warnings would have to be posted, is that correct, where it would be posted? [LB564]

SENATOR LATHROP: That's true, two places: skateboard parks and the bicycle motocross parks. [LB564]

SENATOR PIRSCH: Okay. And are those easily distinguishable places such that it should be easily discernible for the subdivisions to post signage at those locations? [LB564]

SENATOR LATHROP: Yeah. I appreciate the question. I think skateboard parks and bicycle motocross parks are distinguishable from other parks and that this is sufficiently clear to provide them with a directive from the Legislature. [LB564]

SENATOR PIRSCH: Very good. Thank you very much for answering those questions.

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[LB564]

SENATOR LATHROP: Sure. [LB564]

SENATOR PIRSCH: Mr. President, I'll yield the balance of my time to Senator Friend. [LB564]

SENATOR LANGEMEIER: Senator Friend, 3,50. [LB564]

SENATOR FRIEND: Thank you, Senator Pirsch. And thank you, Mr. President, members of the Legislature. I'll thank you--just relax. (Laughter) You know, everybody hates lawyers until you need one. Well, I've eaten crow before. Let's put all the politics, you know, aside. Let's put the power struggles aside. Let's put the mettle testing aside. Oh, is Friend going to stand up to Ernie? Who's going to stand up to Ernie? You know, I'll stand up to Ernie. Nobody likes lawyers until you need one. But frankly, I'm glad we have them out here and, quite honestly, I've read this amendment. I believe I understand it. Senator Lathrop and Senator Chambers did a good job of explaining what the goal and the objective was. Yes. And look, it's difficult for people like myself--at least, I don't know if there is anybody like myself--but it's difficult for people like myself to say, you know, where do you draw that line in the sand? Where do you say...you get to the point where you can take those political battles and take that mettle testing and take that power struggle and drive it to a certain point. Well, you know, we've come to that point. I've always liked to say, and that's why I feel that this amendment is fine. In conclusion, I've always liked to say that I don't know what's swimming around in Senator Chambers' head. But I certainly don't know what's swimming around all the time in other people's heads. And to me, sometimes you have to look at the handwriting on the wall. A vote like Senator Chambers took where folks are saying, you know what, signs might not be a bad idea, a certain type of sign in certain areas in certain ways. And that's where reality kicks in. Fine. I think no matter what happens here, I think we end up with a pretty decent bill. And I guess I wanted to thank Senator Lathrop and, dang it, I wanted to thank Senator Chambers for the help. Mr. President, that's all I had. Thank you. [LB564]

SENATOR LANGEMEIER: Thank you, Senator Friend and Senator Pirsch. Senator Friend, your light is next. Do you care to use that? He waives that. Senator Schimek, you're recognized. [LB564]

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I can't be as entertaining as Senator Friend but maybe I can add to this discussion. I went up to talk to Senator Lathrop a few minutes ago. And Senator Lathrop, I'd like to ask you the question on the mike and then have you respond. It seems to me that this is a little bit confusing and the part that I am talking about is the final sentence in both Section 2 and Section 4, where it says "the absence of a sign shall not give rise to liability on the part

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of the political subdivision." There's nothing in here that tells me that that's not part of the message on the sign. And I don't believe that that part belongs here because who's going to know if the sign is absent anyway? So would you, just for the record, respond to that? [LB564]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB564]

SENATOR LATHROP: I'd be happy to respond and to yield to the question. When I spoke to the folks at Bill Drafting, they would not put quotes around the part that we wanted to be the language on the sign. So that we're clear and so that our floor record reflects that, the sign language would not include the last sentence. It would simply be that place where we start at "under Nebraska law" and end with a cite of the section. That last sentence, "the absence of a sign shall not give rise to liability on the part of a political subdivision," that is not part of the sign language but simply a statement of the consequences of not having a sign up at the time of an injury. [LB564]

SENATOR SCHIMEK: Thank you. And I felt sure that's what the answer would be. But it seems to me that there ought to be some way for the people upstairs to craft this so that it doesn't look like it's a part of the sign message, and maybe that would be a different subsection or something. But just so that we have that in the record, so maybe that they can do something about it on E&R, whatever. But I do believe it needs to be corrected. [LB564]

SENATOR LATHROP: I can appreciate your concern. I'd have to agree with you. [LB564]

SENATOR SCHIMEK: Thank you. [LB564]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Thank you, Senator Schimek and Senator Lathrop. Senator Harms, you're recognized to speak, followed by Senator Nelson. [LB564]

SENATOR HARMS: Thank you, Mr. President, colleagues. I wonder if Senator Lathrop would yield. [LB564]

SENATOR ERDMAN: Senator Lathrop, would you yield to questions from Senator Harms? [LB564]

SENATOR LATHROP: Yes. [LB564]

SENATOR HARMS: Senator Lathrop, in looking at this piece of legislation, we talk about recreational activities. Could you define that for us, so that I have a better

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understanding what it means? I have looked at ER8069 and there is a definition there on this white sheet. But it's really a little difficult to understand for the average citizen to read that and understand what that really means. Could you help us a little bit with that? [LB564]

SENATOR LATHROP: Sure. The recreational activities, we do define them in paragraph b, i, to include but not be limited to, whether as a participant or a spectator, hunting, fishing, swimming, boating, camping. We've given a list; it's not intended to be exhaustive, but by way of example. And it would include those types of activities. [LB564]

SENATOR HARMS: Okay. Also on page 5, do you have that, on ER8069? [LB564]

SENATOR LATHROP: I think I do. [LB564]

SENATOR HARMS: Talks about the inherent risk of recreational activities means those risks that are characteristic of, intrinsic, or an integral part of the activity. [LB564]

SENATOR LATHROP: Yes. [LB564]

SENATOR HARMS: That's really what I'm after, is to get that better defined so people can really understand what that means. [LB564]

SENATOR LATHROP: Right. On General File, during the time that we spent about eight hours on this, I talked about that at some length. And just so that we're clear, I appreciate the opportunity to clarify that. Inherent risks are things that are associated with an activity, like being tackled, being hit in the face with a ball if you're playing catch, falling down if you're skateboarding, falling down if you're making jumps on a bicycle, for example. But it wouldn't include somebody's negligence, necessarily. I mean, you can only play sports so carefully, and then even while they're being conducted carefully there's a risk of injury. But if somebody is doing something that's negligent, that isn't necessarily an inherent risk, even though you have to be participating in the activity to encounter it. Okay? And maybe a good example that I could use would be if the activity were to be a spectator at a fireworks show, for example. There might be some inherent risk that you're going to hear loud noise, that you're going to see a flash. Those are things that are associated with it. If somebody knocked over the fire display and shot it into the crowd, that's not an inherent risk. That's simply somebody's negligence. [LB564]

SENATOR HARMS: Thank you. I just wanted that clarified in the record for us so that if it ever comes up, we've had that discussion. [LB564]

SENATOR LATHROP: Right, yeah. Thank you, I appreciate it. [LB564]

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SENATOR HARMS: Thank you. Thank you, Mr. President. [LB564]

SENATOR ERDMAN: Thank you, Senator Harms and Senator Lathrop. Senator Nelson, you're recognized to speak. [LB564]

SENATOR NELSON: Thank you, Mr. President and colleagues. First of all, I want to thank Senator Friend for publicly recanting what he said about lawyers, and I'm glad to know that he does feel now that lawyers and attorneys serve a useful purpose, not only on the floor of the Legislature, but also in society as a whole. Secondly, I rise to make the same point that Senator Schimek made so well. Senator Schimek probably should go to law school and be a lawyer. I'm still a little bit concerned, Senator Lathrop, if you will yield to a question. [LB564]

SENATOR ERDMAN: Senator Lathrop, would you yield to a question from Senator Nelson? [LB564]

SENATOR LATHROP: Yes, I would. [LB564]

SENATOR NELSON: On your amendment there, on line 9, the final sentence there, the absence of a sign shall not give rise to liability. I think that's going to pose...I agree with it. I think it should be in the amendment somewhere. But I think that if it stays in that same spot, it's going to be confusing to the people that are going to have to post signs, what they should include. And I don't know whether, as Senator Schimek suggested, a separate subsection or something, but just to get it out of there altogether so that it's part of the amendment and part of the statute but is never going to appear on a sign, and there wouldn't be any confusion about that. The second thing is, I'm looking at ER8069. I'm not quite sure where your new sections, Section 2 and Section 4 and Section 6, fit in. Are they later on in the amendment on other pages or... [LB564]

SENATOR LATHROP: What they will do is follow the very last bit of language in each one of those sections. So subparagraph C or paragraph C where it says this subdivision and not subdivision 3 of this section shall apply to the claim, it will be a section to follow that language. [LB564]

SENATOR NELSON: This is on what page? I'm sorry. We're looking at... [LB564]

SENATOR LATHROP: I'm looking, on my copy it's page 5, line 21. [LB564]

SENATOR NELSON: All right. I see. It would go in right after there. [LB564]

SENATOR LATHROP: Yeah, it'll just be an addition at the very end of what is the new language of the Political Subdivision Tort Claims Act. [LB564]

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SENATOR NELSON: I see. All right, thank you very much, Senator. And thank you, Mr. President. [LB564]

SENATOR ERDMAN: Thank you, Senator Nelson and, again, Senator Lathrop. We are discussing AM1190. Are there any senators wishing to speak? Seeing none, Senator Lathrop, you're recognized to close on AM1190. [LB564]

SENATOR LATHROP: I'll waive close, thanks. [LB564]

SENATOR ERDMAN: Senator Lathrop waives the opportunity to close on AM1190. Members, the question before you is the adoption of AM1190. All those in favor vote aye; all those opposed vote nay. Have all senators voted who wish? Record please, Mr. Clerk. [LB564]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB564]

SENATOR ERDMAN: The amendment is adopted. [LB564]

CLERK: Mr. President, I have nothing further on the bill at this time. [LB564]

SENATOR ERDMAN: We're back to discussion of LB564. Senator McGill, you're recognized for a motion to advance. [LB564]

SENATOR MCGILL: Mr. President, I move LB564 to E&R for engrossing. [LB564]

SENATOR ERDMAN: You've heard the motion. All those in favor vote aye. All those opposed vote nay. LB564 is advanced. Mr. Clerk, next item? [LB564]

CLERK: Mr. President, LB367. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8076, Legislative Journal page 1242.) [LB367]

SENATOR ERDMAN: Senator McGill. [LB367]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB367]

SENATOR ERDMAN: Members, the question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB367]

CLERK: Mr. President, the first amendment I have to the bill, Senator Janssen, AM921. Mr. President, Senator Janssen would like unanimous consent to withdraw AM921 and substitute therefore AM1121. [LB367]

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SENATOR ERDMAN: Senator Janssen...excuse me. Are there any objections? Seeing none, so ordered. [LB367]

CLERK: Senator Janssen, AM1121. (Legislative Journal page 1284.) [LB367]

SENATOR ERDMAN: Senator Janssen, you're recognized to open on AM1121. [LB367]

SENATOR JANSSEN: Thank you, Senator Erdman. Stand at ease just a second here. Mr. Speaker, I would like to stop in my tracks here, and I would like to substitute AM1187 for AM1121. And put that one, AM1121, at the bottom of the list, please. [LB367]

SENATOR ERDMAN: Senator Chambers, for what purpose do you rise? [LB367]

SENATOR CHAMBERS: Is that a unanimous consent request? [LB367]

SENATOR ERDMAN: It is. [LB367]

SENATOR CHAMBERS: I object. [LB367]

SENATOR ERDMAN: (Visitors introduced.) Members, the objection has been withdrawn. Senator Janssen, your request is to substitute AM1187 for AM1121. There are no objections. I will order that substitution, and you are recognized to open on AM1187. (Legislative Journal pages 1366-1369.) [LB367]

SENATOR JANSSEN: Thank you. AM1187, Mr. Speaker, that is the new amendment, correct? All right, the Clerk is shaking his head yes. Oh, let's see. You've got me a little off here but we can...I would ask Senator Langemeier, this is his amendment, rather than going through the whole list of things that are in the amendment which are pretty much similar to what it was on General File. But Senator Langemeier has the last provision in there. So I would yield my time to him. [LB367]

SENATOR ERDMAN: Senator Janssen, the amendment is Senator Langemeier's that has been substituted. Senator Langemeier, you are recognized on AM1187. [LB367]

SENATOR LANGEMEIER: Thank you, Mr. President, and thank you, Senator Janssen. AM1187 is pretty brief. What it does is changes the \$1.05, \$1.00 levy drop in the second year that does not seem to be real popular in the body. What it does is it just flips that up into the tax credit. And with that, we've raised the first year, the old bill that...LB367 as it sits today has a \$100 million tax credit in the first year, with a \$50 million tax credit in the second year and the \$1.05 to \$1.00 lowering of the levy limits in the second year. What this amendment would do, would take that \$1.05 out of the second year and put it

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up into that upper line. So also with the review of the Forecasting Board and what they've projected out there for revenues, we've also upped those numbers a little bit. So what we would end up with if you adopt AM1187, is you would have on that property tax line--and we have some handouts coming around in a minute--you would have in that property tax credit line \$105 million the first year, with \$115 million in the second year. Second component of this is the full estate tax repeal. So that is the third component of AM1187 is the full estate tax repeal. The third, to make that full estate tax repeal work, in LB367 there's a lowering of the top income tax bracket. And what AM1187 does is removes that lowering of that top bracket. So what you end up with, if you accept AM1187, with its adoption to LB367 this is what your final results are going to be of the tax package. First, you're going to have a marriage tax penalty, marriage penalty taken away. You're going to repeal the child tax credit, which was LB325, which is already in LB367. The EITC 10 percent reduction, which was LB683. You're going to have property tax direct credit of \$105 million the first year, second year, \$115 million; the total estate tax repeal, starting 1-1-2007; repeal of construction tax labor; and the renewable energy bill, LB648, with its sales tax credit on wind energy equipment. And that total package the first year is \$208.32 million and the second year is \$216.41 million. So again, that's what your total package would look like. You should all have the handout in front of you today. But actually, now this is just a summary of AM1187, does three things: total estate tax repeal; undoes the adjustment to the top income tax bracket; and it takes out the \$1.05 to \$1.00 levy drop and puts that back up into a direct credit. So that is what AM1187 offers you. I would encourage you to adopt AM1187. Thank you, Madam President. Thank you. [LB367 LB325 LB683 LB648]

SENATOR FISCHER PRESIDING

SENATOR FISCHER: Thank you, Senator Langemeier. You've heard the opening on the amendment. We do have senators wishing to speak. Senator Raikes, you are recognized. [LB367]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. I am one of those in the body who does not regard the levy drop in an unfavorable fashion. In fact, I think that is the best state policy component we have in the tax package. If you, as is proposed here, take away the levy drop and instead just do the property tax relief program, you are going from nonequalized...rather you're going from equalized property tax relief to nonequalized property tax relief. The critical difference is this. In equalized property tax relief, you provide state aid to those areas--school districts in particular, which are the biggest property tax users--you provide those aid to reduce property taxes where the wealth is lowest and the property taxes are the highest. If you do a direct property tax relief program instead, you're just scattering it regardless. So high wealth, high spending, receive just as much property tax relief as low wealth, low spending. To make that switch, in my view, is a poor choice in public policy. I don't think that's a good idea. You'll hear the argument that, well, if we do property tax relief, then that's regarded

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as a revenue reduction, whereas if we do a levy drop, that's regarded as spending. And spending, of course, is bad because we're trying to get under 5 or 4.6 or whatever it is, which I don't necessarily object to, if it's done legitimately in a straightforward manner. But that argument is phony. We have a policy in the state which has been in place for a number of years where there is shared financing between the state and local governments. The state provides state aid to help local governments. In exchange, the state provides limits on what those local government entities can spend and on how high their levies can be. That is a workable relationship, especially for a service such as public schools, where the state is on the line. The obligation for the public education in Nebraska is at the state level. The other thing, in a very practical sense, if you do a property tax relief program, you're really doing nothing about property tax rates or levels or anything else. All you're doing is you're allowing the property taxes to go on as they otherwise would. And at the bottom of the statement, you're basically saying to the taxpayer, well, your property taxes are high here, but we're going to give you some of the money back. The question is, for those local subdivisions, how do they get the money that they need to operate? Aren't they aware that, well, there's going to be money available from the state for property tax relief? It's not coming to the local entities, the government subdivisions, so the choice for the subdivisions then has to be to go to the taxpayers instead to get it. And when that happens, some of you say, well, that's local control and so the taxpayers... [LB367]

SENATOR FISCHER: One minute. [LB367]

SENATOR RAIKES: ...ought to expect that they're going to have to go to the board meetings and so on and make their case. Frankly, they don't. They expect the state to be in charge of that, and we have in place a number of mechanisms to do just that. I've mentioned levy lids. I've mentioned budget lids. We also have a needs calculation, a state aid formula. We have aid formulas for other subdivisions. That is the way we should distribute aid. We should distribute it through the formulas on an equalized basis. We shouldn't be, in effect, handing out checks through a property tax relief program. And unfortunately, that is the switch that's being proposed here, and I think it's a bad idea. Thank you. [LB367]

SENATOR FISCHER: Thank you, Senator Raikes. Senator Janssen, you are recognized. [LB367]

SENATOR JANSSEN: Sorry about that, Senator Fischer. You know, as we discussed this bill on General File, the issue that the people most wanted to change in the bill was the estate tax, which we have in this amendment. The committee had decided the estate tax several...or they discussed it several times in committee. In this discussion, before deciding what to put in the final version of this bill be sent to the floor, there was interest in repealing the estate tax. But that was a low priority, or lower than things that ended up in the original bill. As you all know and as the rest of you have heard, that

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the...most everyone's first priority was property tax, especially you freshman senators who had come off of the campaign trail. And I'm sure that is what you heard above anything else. Second probably was income tax. The bill currently contains two income tax elements that were in the Governor's original bill. You know, the elimination of the marriage penalty was one of them and some reduction in the income tax rate on the highest bracket. But that is also gone. The third priority was to repeal sales tax on construction labor. And that left just enough room for an increase in exemption on the estate tax. The package, I think, is very balanced and it still is. It still is with the confusion we're going through right now, through a combination of the elements that give your constituents, Nebraska taxpayers, the most bang for their buck. I said that during General File and, you know, I believe that that debate is still true, that we are going to try to do something in here to relieve the burden on most of our constituents. You know, sometimes, and I've said this before, you know...of course you all know that I'm a sausage maker. Well, you know, making sausage and making legislation is very similar. Most generally, you don't want to watch it being made, but the finished product isn't too bad. So we've had a lot of cooks stirring the pot and some that probably shouldn't have been stirring the pot. The ultimate decision rests in this body on what we're going to do with the tax situation in this state. You know, I've been here long enough to see this thing go up and down a couple of times. And you know, it probably is harder when you've got a pot of money sitting out there. When you don't have any money, it's very easy to say no to everyone. Senator Carlson, I see you're shaking your head. You understand what I'm talking about. But you know, I wouldn't... [LB367]

SENATOR FISCHER: One minute. [LB367]

SENATOR JANSSEN: ...change this, this year and this experience for all the money in the world. It's been fun having...holding committee hearings and listening to the different ideas that people have. You know, the compromise is a compromise. I came up here this afternoon to think, you know, I'm going to file a whole bunch of amendments on this thing. I felt as though we were getting pushed around a little bit. Senator Raikes was getting hammered on. But you know, I think we can mend our fences and come to an agreement and get something that will help relieve the burden on most of our constituents. You're never going to do it all, you can't do it all, there's not enough dollars in this state to do it all. But I think we'll sit through this... [LB367]

SENATOR FISCHER: Time. [LB367]

SENATOR JANSSEN: ...and work through it and come out with a good compromise. Thank you. [LB367]

SENATOR FISCHER: Thank you, Senator Janssen. There are a number of lights on. Senators Friend, White, Chambers, Fulton, Gay, and others. Senator Friend, you are recognized. [LB367]

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SENATOR FRIEND: Thank you, Madam President and members of the Legislature. A lot of chefs stirring the pot, and I'm not even going to consider myself a chef. I'm on the outside looking in. I'm looking in the window waiting to eat the final product, waiting to consume it. And so are the people in the state of Nebraska. Now the way it's been described to me by Senator Langemeier, quite well, and Senator Janssen, is that the committee appears to be, to the best degree possible, together on an idea of providing marriage penalty (inaudible), repealing child care and EITC back to 10 percent, property tax enhancement, tax credit enhancement, and also numbers changing. Terminating the estate tax--you know how much I love that thing. I'll applaud that. I'll applaud that until I leave this body. I think that is an absolutely excellent and wise move. Repealing construction labor, the labor on construction, and so on and so on; \$208 million the first year of the biennium, \$216 million in the second. Now I can't get credit for this, but I heard about it over the lunch hour from one of my staff members and I think he was right on, right on. We're doing everything in here...we're doing virtually everything in here except provide what I would consider the best economic solution, the best overall high-level economic solution for a state that's overtaxed, for people that are overtaxed in a state that is somewhat high tax, or at least in the middle of the pack of all 50. Here's what I mean. In 2003, the federal government went in with the income tax cuts, capital gains, and dividend rates enhancements. The policies that they were trying to accomplish, that the folks were trying to accomplish were designed to increase market incentives to work, save, and invest. Here's what happened, okay, and some say it's just a fluke. No, it's not a fluke. Empirical data all the way back to John Kennedy. It's not a fluke, it happens. GDP, gross domestic product, grew an annual rate of just 1.7 percent in the six quarters before the 2003 tax cuts took effect. In the six quarters following the tax cuts, the growth rate was 4.1 percent, over double. That's not a fluke. Those aren't standard market forces. There's a reason this happened. Fixed income investment, nonresidential--that means not housing, we're talking an S&P 500 type of stuff--declined for 13 quarters before the 2003 cuts took effect. Since then, it's expanded for 13 consecutive quarters, since those tax decreases, tax cuts. And here's the one that's the most telling, as far as I'm concerned, and it's the difference between... [LB367]

SENATOR FISCHER: One minute. [LB367]

SENATOR FRIEND: ...what I tried to lay out in General File and what I would like to see happen, or what I think is free market laissez-faire type of economics. The economy lost 267,000 jobs in the six quarters before the 2003 tax cuts. And the next six quarters, it added 307,000 jobs followed by 5 million jobs in the next seven quarters. Those numbers are from the U.S. Commerce Department Bureau of Economic Analysis. Some would say you're promoting voodoo economics. That's what you're doing, that's what you're saying, that's what we were able to fend off. The only thing that comes remotely close to the proverbial voodoo economics in here, the cut, is the estate tax. We're going

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to get more money by taking that \$20 million out of the pot, right? We are. Call it voodoo if you want. We are and we will. We will prevent people from leaving this state... [LB367]

SENATOR FISCHER: Time. [LB367]

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

SENATOR FISCHER: Thank you, Senator Friend. Senator White, you are recognized to speak. [LB367]

SENATOR WHITE: Thank you, Madam President. I appreciate the opportunity to address my colleagues on this. I think this bill is a work in progress and it has progress, though I don't and am not yet completely comfortable where it's at. One of the points I would like to direct your attention to, because I believe it's something that we're going to seriously going to hear from our constituents in this, whatever property tax relief is provided for now in the committee's bill does not go to the taxpayer. It does not go to the taxpayer. What it does do is go into the budgets of all those governmental subsidiaries that spend--whether that's counties, schools, community colleges, NRDs, libraries. We are again just putting money in the budget of other governmental agencies who are hard-pressed with legitimate demands and needs. And the temptation for them to do what they have done for decades in this state past when we've tried this method of providing property tax relief is to spend the money. Now I'm told we will get credit because in your property tax bill there will be a notation, if this bill is passed, stating, based on the valuation of your property, the amount of money you got a credit for in your property taxes. I can tell you right now that many of my constituents will say that will buy no milk at the store. That will not put money in my pocket. I don't see it, I don't know it's there. It will be spent or allocated by other worthy causes, without a doubt, whether that is more books for the library or better healthcare for the indigent or jails or whatever, the many, many needs we have. The property tax relief that we are talking about is not going to be property tax relief, and we will further "cynicize" our constituents. They look to us to do something meaningful. They look to us to return money to their pockets. We are not doing that in this bill. We are not doing that at all. Now there may be other things that we are doing that are good and noble, but we are not returning money to our constituents. Now in terms of what the accountants will say, they'll say it's no longer spending. And indeed, it may not be to someone who has a CPA degree. But to the people in my district who work in the factories, who work in the garages, who do drive the buses, cut the meat, who do those kind of jobs that make it possible for all of us to live well, this is spending because it is going to governmental subdivisions, not to them. It is not a tax cut, it is not a tax return. I urge my colleagues again to look hard at this bill, recognizing that people have worked very hard. Again, the committee has worked extremely hard. Senator Janssen, Senator Cornett, Senator Langemeier, all have worked hard on this. But it does not do what I promised to do. And until we can deliver something more clearly and certainly, an actual tax cut...and

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hopefully that could have been really property tax relief. But it may be that that bus has passed us. It may be the best we can do is other certain tax cuts rather than moving money from the General Fund, which this bill does, into the bank accounts of the counties, the cities, the schools, the community colleges, and the libraries. I urge my colleagues once again to stand true to what so many of us promised--real meaningful tax relief for property owners. Thank you. [LB367]

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

SENATOR CHAMBERS: Thank you, Madam President, members of the Legislature. Much of what Senator White said, I agree with. But I have never come down here advocating for property tax relief to the exclusion of everything else because, first of all, it is not primarily the state responsibility when it comes to property taxes. We are not in the property tax business. And we need to stop letting the local subdivision politicians give the people the impression that what their property tax rates are, are the doings of the Legislature. I'm interested in genuinely doing something for the ordinary people. And to me, Warren Buffett is a normal person, more or less, but he's not an ordinary one. In other words, the Warren Buffetts of the world can take care of themselves, he and his ilk. It is that group of people who can be considered at the bottom rung of society's ladder, whether you're talking about social issues, economic issues, education issues, employment issues, justice issues, whatever issue you want to talk about. Although there are large numbers of those people, they are not organized, they don't have meetings, they don't have a lobbyist. So since they're kind of just diffused out there--here, there, and everywhere--politicians don't worry about them as a cohesive group with any clout. The only time they're appealed to at all is when politicians need...(Recorder malfunction)...vote. But they are beholden to the big shots who might have money, but not nearly enough votes to get any politician into office. So the people that I'm interested in are those who would be better served if money does not come out of their pocket in the first place, and the way for us to do that directly, as the state, is to reduce the sales tax. We said we would do it. Unfortunately, this is a Christian Legislature and my colleagues operate according to the ethics of Christians rather than as I do, which is the ethics of Satan, who believes in keeping his word. When you can have it said legitimately that Satan can be relied on more than the "Christians," that brings things into perspective. Satan's people never burned anybody at the stake, but many of the "Christians" burned people at the stake. There is all this talk about tax relief. The Governor is a politician par excellence, and he's rolling through and over this Legislature. There used to be a cigarette commercial, how the smoke goes over, around and through. That's what the Governor is doing to this Legislature. When he can get this body to move all of those budget bills in a little more than two hours, that tells me nobody is paying attention. The Governor says... [LB367]

SENATOR FISCHER: One minute. [LB367]

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SENATOR CHAMBERS: ...run, and the body runs. He says this is wise tax policy; the body says this is wise tax policy. And I find people running around here with the Governor's plans who I never thought would do that, but obviously changes and circumstances change the ethics of people. It changes their political orientation, and they are making deals where they won't do like I do and say, this is what's at play here. They want to continue that posing of somebody who is in corner A, when really they're in corner B, and they've got you looking at the straw person in corner A, which is the pose. But the real one who's doing the work in corner B, which is what that person really is, is designed to do it surreptitiously, out of ambush, and without being detected. I will never fly a false flag. You will not see me flying the flag, say, of Libya, then when I get close enough to you I strike Libya.. [LB367]

SENATOR FISCHER: Time. [LB367]

SENATOR CHAMBERS: ...and I run up the Jolly Roger, and you say, good God, the pirate has gotten us. No. If I'm coming to you as a pirate, you're going to know it. [LB367]

SENATOR FISCHER: Time, Senator Chambers. [LB367]

SENATOR CHAMBERS: What? I mean, yes, ma'am. (Laughter) Is my time up? [LB367]

SENATOR FISCHER: Yes, sir. [LB367]

SENATOR CHAMBERS: Thank you. [LB367]

SENATOR FISCHER: Thank you, Senator Chambers. Senator Fulton, you are recognized to speak. We have a number of lights on: Senator Gay, Erdman, Flood, Avery, Janssen, and others. Senator Fulton. [LB367]

SENATOR FULTON: Thank you, Madam President, members of the body. Would Senator Langemeier yield for a question? [LB367]

SENATOR FISCHER: Senator Langemeier, would you yield for a question? [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR FULTON: The...Senator White raised some concern that our efforts at reducing property taxes will, in effect, go to, I think he said, local taxing...the local governments. It's my understanding...or local taxing authorities. It's my understanding that this property tax credit that you propose in AM1187 will appear as just that, as a tax credit individually on personal tax returns. Could you clarify that, please? [LB367]

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SENATOR LANGEMEIER: Correctly. What happens there is this particular...let's say you take the first year here. You take \$105 million, will be divided over the total evaluation (sic) of the state. Then that money then will be given back to each county based on their evaluation (sic) , so we agree to that point. The county then will take that money and they will directly credit, put a credit in equivalence to that amount of money, to every property tax statement within that county. That then pushes to each landowner, property owner, business owner a credit on their tax statement. So does it give them a check? No. But what it does is allow us not to go to them and say we need a little more money. So it is a credit from us to the counties to the taxpayer. [LB367]

SENATOR FULTON: Ultimately our action is going to find its end on individual tax returns. Is that a correct statement? [LB367]

SENATOR LANGEMEIER: On property tax statements. [LB367]

SENATOR FULTON: Okay. Thank you, Senator Langemeier. [LB367]

SENATOR LANGEMEIER: You bet. [LB367]

SENATOR FULTON: This is...this is something that is worthy of consideration, because it is a policy decision. Senator Raikes brings up a good point. I would like to flesh out the contra to what Senator Raikes's point is, and that is, those who levy the property tax have the most direct authority to control the property tax. Those who spend the money locally have the most direct control over the collecting of the money locally--that's school boards, cities, counties, NRDs. I think that when we put this...when we...when we put this property tax relief in the form of a credit, individuals will see this on their individual returns. Those individuals will, therefore, be more likely to pay attention to how the money is being spent locally. That we senators receive requests to reduce property taxes, which I've had e-mails asking me to reduce property taxes, indicates they aren't...those who are asking that question don't understand that the property taxes are levied by local authorities. So those who have something to gain are more likely to pay attention to how the money is being spent. So I think that is an argument on the contra to what Senator Raikes has brought up, a legitimate point that he has brought up. Now there's...I have a question about the math here. By my calculation, there are \$44.07 million that I'm not accounting for, and I've talked to Senator Janssen. I wonder if Senator Langemeier is still available. [LB367]

SENATOR FISCHER: Senator Langemeier, would you yield? [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR FULTON: Sorry to keep you moving. [LB367]

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SENATOR LANGEMEIER: That's good. [LB367]

SENATOR FULTON: Okay. [LB367]

SENATOR FISCHER: One minute. [LB367]

SENATOR FULTON: The total tax cut package under AM1187 will be \$424.73 million. I'm adding \$208.32 million plus \$216.41 million. [LB367]

SENATOR LANGEMEIER: That is correct, if AM1187 is adopted to LB367. [LB367]

SENATOR FULTON: Okay. [LB367]

SENATOR LANGEMEIER: That would reflect the sheet you just referenced that off of. [LB367]

SENATOR FULTON: Okay. There are about \$44 million that I'm not accounting for, most of which has to do with the new Revenue Forecasting Board's report. Do you have a response as to where that money is, or what's happening to that money? [LB367]

SENATOR LANGEMEIER: The anticipation is that Senator Raikes has a bill in Education Committee that would fund community colleges to the tune of \$10 million a year for the next two years, so there would be \$20 million of it, and so that's where we're accounting. We've left room to account for that credit back to community college at \$10 million each year, and that will be on a proceeding bill coming from Education Committee. [LB367]

SENATOR FULTON: So... [LB367]

SENATOR FISCHER: Time. [LB367]

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

SENATOR FISCHER: Thank you, Senator Fulton and Senator Langemeier. (Visitors introduced.) The Chair next recognizes Senator Gay. [LB367]

SENATOR GAY: Thank you, Madam President. I rise in support of AM1187. I agree with Senator Chambers on a portion of what he said. Of course, we keep forgetting we want to be the property tax cutters. That is local decision making; local decisions are property tax cuts, as much as we want to talk about that. But how many times have we heard, I want local decision making, local authority? Entrust them a little bit to make a decision. I agree, Senator Chambers is right, maybe no one shows up to those

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meetings. That's...nothing we can do about that. That's the way society is nowadays. But these people make decisions, and they can make good decisions. We act like we're the only ones that can make a decision to cut a program, cut some spending or do what's right. I have complete faith that local boards can do that. The reason I'm supporting this plan, I think we need to get behind a package that we can agree on. We talked about, all last week, about property tax, property tax. This has it in there. This has marriage penalty in there. This has estate tax in there, construction labor, renewable energy, earned income tax credits. This is a good package. I don't think, no matter how hard we tried, we could get a perfect package to fit 49 individuals in this body. I think the Revenue, Senator Janssen, has shown some leadership here and said, here's what we will do; let's go get this done. And I think that's what we need to do. There are other ideas. We know. We've heard them, we've voted on them. We voted for some, we voted against some. This is a very good package; I think takes into account property tax, income tax, takes in earned income tax for those less fortunate or those that are working to get by. So we all are looking for something. Sales tax maybe is an option that was out there. I don't know if that's going to happen at this point, because we've all been rallying behind a property tax banner, but this has that. So I would commend the Revenue Committee. I think they've come together with a package here that we can get behind. You may not love every single piece of this package. I don't. Personally, I'd love to see some income tax, more income tax in here. I don't get everything--nobody does. This is about compromise, and I think that's what we're getting done here. So I commend the committee. This is a good amendment that takes care of a lot of people. It's...the beauty of this whole thing, at least we are talking tax cuts. I understand the economic outlook can change. Our economic picture can change quickly, and it may before we're out of here. But at this point we're struggling and arguing about how to give money back. That is a good thing, let's not forget. But we do need to, at some point, come to some kind of consensus of what will get through here, and this is a good amendment. It's something I think that we can all support. Those who were talking about property tax relief, it's in here for you. It may not be exactly the way you wanted it. Well, that's the way it works. Sometimes...this is the art of compromise and that's what happens in this body, from what I've seen. Things change quickly, but like I say, this has property tax relief in it. If you're saying it doesn't then you're just not agreeing to this particular way of delivering it. But it has it in there. So I would urge you to listen to the debate, see if you feel comfortable with it. Hopefully you will, and we can support this amendment. Thank you, Madam President. [LB367]

SENATOR FISCHER: Thank you, Senator Gay. We do have a number of speakers: Senators Erdman, Flood, Avery, Janssen, Raikes, and others. Senator Erdman, you are recognized. [LB367]

SENATOR ERDMAN: Madam President, members of the Legislature, I also want to just publicly thank those that have been working on this and would fully recognize the reality that, as any bill that goes through this process is a work in progress, this one definitely

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is. It would appear, from some of the discussions, that this may be the direction to go. And based on some of the additions to this proposal, I think it does provide a little better clarity for me, at least as to what we could do as a state. The alternatives that I believe will be offered to you, and I need to at least do a little more research on my part, I don't know how you afford to do this amendment and other preceding amendments, because the other preceding...the other following amendments don't strike any of these provisions as of yet. And so I guess I'd like to hear what that plan is, because if you adopt this amendment and then you adopt the substitute amendment of AM1196, you add another \$240 million in tax relief. And maybe there is an offset. I'm just not being told, at least at this point, by the plain reading of the amendments, what that is. I think if you walk through this amendment you'll see that, as any bill that passes this body, there has to be compromise in order to accomplish something. I don't know anybody could stand on the floor and argue that it's fundamentally fair to have the marriage penalty in the state of Nebraska. I can't. I can't explain to you why it makes sense to allow single Nebraskans to make a certain amount or to get a certain tax break at this point and then to require married individuals, who otherwise would be single, a penalty. That doesn't make sense, and so I'm grateful that in this proposal you see that. And this is not a new issue this year. I can remember when Senator Redfield was here. She carried bills like this repeatedly and even got them to Final Reading. So this isn't new as far as what we're doing. The idea with the earned income tax credit that Senator Dubas has offered the Legislature, as I understand it is still in committee, is a partial request and actually it doubles the earned income tax credit that she asked for. I think that's a substantial offering by the committee on her behalf. As I mentioned on General File with the bill that was before us in LB367 and the committee amendment, I would like to see a complete repeal of the estate tax. We're not going to get a dime of Warren Buffett's money. He's donated it all to Bill Gates' Foundation. But if you look at the realities of this process, and again I'll go back to the example of a family farm, the idea is, is that we somehow force people to start over is somehow a good use of tax dollars or tax policy. I think it's completely contrary. If you're in a situation where you have the opportunity to pass on wealth to your family, as a family farmer you expect to be able to build that wealth and to provide a viable opportunity for your future generations to have access to that, whether you're in livestock, whether you're in production agriculture or otherwise, and specifically the existing thresholds that we have in law don't amount to much of a break when you get to the point where you have to be in certain areas to be competitive in agriculture. I think the termination of the estate tax is a fundamental policy change that should be done. Senator Friend spoke about that before, and I believe that it is also a fundamental part that should be included in this process. The repeal on construction labor is also in here. I think that was fundamentally flawed when we passed it. I would argue that you probably are estimating what you're receiving as far as a total and not actually receiving the total amount. But I do think there are things in here that make sense to try to balance things. Ultimately, I think it comes down to where we as a Legislature want to go with this decision. I'm comfortable with AM1187. In fact, I would be comfortable with more. Now I recognize some of you may not want to do that, or you

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may want to do it differently, but this process appears to at least play a part... [LB367]

SENATOR FISCHER: One minute. [LB367]

SENATOR ERDMAN: ...in flushing out what we heard on Select...or General File. It will be interesting when the debate comes later to determine how not providing property tax relief, as some would propose--and maybe rightfully so, I guess, in their opinion--is somehow consistent with their earlier attempts. So I'm interested in hearing what the alternatives are. I think this is a good opportunity for us to reevaluate. I think it provides us some markers for what we heard on General File. I think it is appropriate, and I would continue to listen to the discussion. Thank you, Madam President. [LB367]

SENATOR FISCHER: Thank you, Senator Erdman. Senator Flood, you are recognized. [LB367]

SPEAKER FLOOD: Thank you, Mr. President (sic), members. I support AM1187, as amended, to LB367. And despite what anybody says, my opposition to the \$1.05 to \$1.00 has been from the start. It's been because I have two unequalized school districts in western Madison County. And you can talk about them spending \$10,500 per student. The fact is in Tilden you still have to have 4th grade. You may only have 12 students and you used to have 30, or 40, or 50, or 60; you still have to have 4th grade and that costs money. And the other option is to close the school and let Tilden dry up. We saw that happen in Meadow Grove in the late sixties and it's about six miles east. It's not going to happen again. And that \$1.05 to \$1.00, you say, well, those folks in Elkhorn Valley, they're levying \$1.05. No, they're authorized for \$1.18 because they went back and got a levy override to make their school run, and they're willing to pay the taxes. So you take that \$1.05 back to \$1.00 and Elkhorn Valley goes back for another levy override. I'm not having it. And in Newman Grove, their levying about 96 cents. And you say, well, wait a second; they're not even \$1.00. Well, they're at 96 cents because they're trying to be a good steward with the people's money, but they've got to come up with \$50,000 for these new servers, the state mandate, so they can have this distance learning. They've got to come up and pay teachers. They've got to hire new teachers. They're going to start a preschool program. They're going to have extra educational opportunities in the school system. That \$1.05 to \$1.00 does nothing but cause trouble. And if you want to point to Norfolk and say, well, wait a second, Norfolk Public Schools would benefit; that would help them out. I talked to the superintendent. They don't trust the state aid to schools formula. Fix the formula and I might be interested in supporting something that throws \$60 million into it, but we don't trust it. Why? Because every one of my school districts is a loser under that formula, and we have been the last couple of years. I'm for property tax reductions, I'm for property tax relief, but I'm not going to do it \$1.05 to \$1.00 along the way. That's why I think AM1187...you know, you can have a debate on where to send that \$59.6 million. You can send it to sales tax reductions. You can put it to property tax credits. That's not the hill for me to die on. The hill for me is to

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get rid of that \$1.05 to \$1.00 because people in Tilden and Meadow Grove are willing to pay that property tax to keep their school open, and they get no state aid, and they're not going to get any state aid. And when I show up in Tilden next summer and say, oh, look at this--should we pass this without the amendment--we got you property tax relief. They say, well, we didn't get any; in fact, we're having an override next fall. That's not the way to do it. I think what Senator Raikes is attempting to do with \$1.05 to \$1.00 is commendable. I can see where he's going with the tax policy argument that he makes. But the problem is the formula is flawed, and it needs to be fixed before I'm willing to support \$59.6 million extra. This year we put \$170 million extra in the state aid to schools formula and we lost a bunch more money in the state aid formula. Obviously, you can't connect the dots because we're a year in arrears, but we are...I am very much in support of what AM1187 attempts to do. I want to thank Senators Cornett and Langemeier for bringing it forward. I also like the idea that we can use some of the money that's not spent by the tax plan on the community college bill. Community colleges will provide dollar-for-dollar tax relief after the levy is met. We're at 7.5 cents in Northeast. Omaha, you're just a little under 6. Western Community College, as you know, you're at 13 cents, and that money will be well spent as property tax relief in Senator Raikes's community college bill. So I think this is the right direction to go. I know we're going to have a discussion about whether it should be sales tax or property tax credits. To be quite honest, I'm open to both of those discussions because, for me, it's the \$1.05 to \$1.00. It doesn't work for everybody, and we can't sell it as property tax relief when it really isn't property tax relief for some smaller school districts. Thank you, Madam President. [LB367]

SENATOR FISCHER: Thank you, Senator Flood. Senator Avery, you are recognized. [LB367]

SENATOR AVERY: Thank you, Madam President. I have to tell you I enjoy the flurry of activity on the floor as we work out the compromises and tweak this amendment. I think that's why we're here, is process. We love it, and it's fun. I talk to my friend Tim Gay and hear good ideas. I talk to my friend Ron Raikes, and I hear other good ideas. It reminds me of a saying, some of my friends are for this and some of my friends are against it, and I think I'll stick with my friends. The...there are many elements to this bill or this amendment that I like, and there are parts of it I don't. Let me tell you what I like about it. I like the fact that we're retaining the repeal of the death penalty. I like very much the increase in the EITC. In fact, early before the session started I talked with the people who are supporting this and they asked me to carry this bill, and I really wanted to do it. But I thought that it was a little bit too early, because the law was just passed last year. I said, you'll never get it passed this soon, an increase, and here it is. I like that part. The property tax credit, I like that. I campaigned for property tax relief. I got battered every day when I was doing door-to-door campaigning about the need for property tax relief, and I like that part of this. However, when it comes to the complete termination of the estate tax, I like the committee's proposal better. And I talked with the committee Chair

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and I told him, I said, I really respect the committee process and I want to...I want to stick with the committee; are you okay on this? And when he gives me and did give me the go-ahead, I said, okay, I can do it, I can support it. Is it perfect? No. It's a compromise. As I have said in here before, compromises are essential to what we do. You can't get everything you want. You've got to give up something to get something. So I look at this bill and I see things that I'm getting, things that I'm giving up; things I like, things I don't. When you have a compromise everybody leaves the table a little bit unhappy, a little bit dissatisfied, but nobody is completely unhappy, nobody is completely dissatisfied. That's the nature of a compromise, and that's what we do. So I'm going to listen to this debate very carefully. I'm inclined to support this amendment. I do wish there was more in here in sales tax relief. In fact, I will forgo the temptation now to give you, once more, a rendition of my property...my sales tax holiday proposal that both Senator Pahls and I promoted. The Revenue Committee didn't like that. I respect the committee process, and so I will wait till next year and maybe the year after that. But this is a compromise. It's one that has good elements, not perfect, but I think I might be able to support it. Get up, turn on your mikes and convince me. Thank you. [LB367]

SENATOR McDONALD PRESIDING

SENATOR McDONALD: Thank you, Senator Avery. Senator Janssen, followed by Raikes, Friend, Adams, Langemeier, Mines, and others. Senator Janssen. [LB367]

SENATOR JANSSEN: Thank you, Madam Chairman, members of the Legislature. Well, this, you know, this has been a long, long, drawn-out affair. We started working on this, this summer, during the interim, and trying to put together...you know, we had probably more ideas and plans and compromises in the committee, outside of the committee. People would get mad, and we'd come back the next day and, you know, we would usually come to an agreement to get things together. And one thing that I'd like to talk about a little bit that I think is pretty important is the earned income tax credit. Now this is Senator Dubas' idea, and when I first looked at it I thought, you know, I'm not too sure that I'm going to support this. But the longer I looked at it, the longer I looked at it I thought, you know, this is targeting people of low-to-moderate incomes, and I think it's something that Senator Dubas should comment on a little bit, and I will give her the remainder of my time if she would...if she would care to have it and explain this process to the rest of the body. Senator Dubas, I will give you my time. [LB367]

SENATOR McDONALD: Senator Dubas. [LB367]

SENATOR DUBAS: Thank you, Madam President. Thank you, Senator Janssen. The earned income tax credit program was something that was new to me also, and when I first learned about it, you know, I wasn't quite sure where it was going or, you know, even if I was supportive of it. But the more research I did, the more people I talked to, the more convinced I became that this is a great program, and it's a program that shows

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positive results. It's a program that does put dollars back into the pockets of the hardworking working poor all across our state, and we especially see its positive results in the more rural parts of the state. The federal earned income tax credit was a program of President Ronald Reagan's, and he was quoted as saying that the earned income tax credit is the best antipoverty, best pro-family, best job creation measure to come out of Congress, and I would have to say that I agree with him on that based on what I've...the results that I have seen in the course of my research. The earned income tax credit can only be claimed by working families, so these are people that are out there, they're trying to better themselves, they're trying to take care of their families, but they're the ones that have kind of fallen between the cracks. They make too much money to qualify for any public assistance, but yet they are struggling on a daily basis just to make ends meet, to pay their bills, to take care of their families, to try to improve their lot in life. So as I've talked to people who have received this earned income tax credit, and I've seen the work that they've done and the things that they've done with the money, I am totally impressed. And some of them might just be using that money to help with day care or get their car repaired, or they might even be using it to further their education. There's a program in place, VITA. It helps low-income people with their tax returns, and they're also expanding their services by...the people that qualify for this earned income tax credit, they're helping them open savings accounts. They're helping them understand how to budget their money. They're showing them positive ways that they can use this money to support their families and to improve their lot in life. Right now there are 20 states, plus the District of Columbia, that have enacted state earned income tax credits. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR DUBAS: And right now we are at 8 percent, looking at boosting that up to 10 percent. Again, I think it's a program that does put those dollars back into the pockets of people, and those dollars are, in turn, invested back into our communities. I passed out earlier a chart that would show the amount of money that would come back to each of your districts, and it's some pretty substantial dollars. And we know, again, that those dollars are going to be invested right back into the communities through, again, like day care, car repairs, buying a different car, education, lots of other things like that. Most...again, most low-income families receive limited public assistance. Eighty-two percent of these same poor children in Nebraska have at least one working parent, working at least a full- or a part-time job. And we know that a majority of the children in poverty are living in rural areas of the state. [LB367]

SENATOR McDONALD: Time. [LB367]

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

SENATOR McDONALD: Thank you, Senator Dubas. Senator Raikes. [LB367]

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SENATOR RAIKES: Thank you, Madam President. Members of the Legislature, again, I'm going to continue my urge, if you will, that in the interests of the best state policy the proper direction is a levy drop versus a property tax relief program. A couple of points from comments that I've heard: Senator White basically has said that whenever you send state aid to local subdivisions a bad result happens--they just spend the money. That is a dangerous track for us to head down. We provide services in the state mostly with some sort of a combination of a state and local effort. It is, and of necessity must be, a financial partnership. In most all the formulas I know about, the local subdivision puts up money, the state puts up money, there's a check that the state money isn't there unless the local money is there, and so on and so forth. It is a carefully constructed--perfect, no--but a carefully constructed process whereby state funding is directed to local subdivisions. What you're being persuaded here, I think, to do is, instead of that, let's abandon all that history, abandon that approach of using equalization aid through formulas; instead, send a check to every taxpayer. Because really, if you look at it, this isn't anything different than that. What you're doing is you're going to have a property tax statement that comes to an individual. It's going to have the school, it's going to have the county, the city or whatever is involved, and it's going to have a total, and then there's going to be a line down there that says, your state senators are sending you 8 cents per \$100, so you get to subtract that off for this one year. Now you talk about uncertainty. What about when you run out of money? Have you really done anything to lower the property taxes for any of those local entities that are out there providing the services? I don't think so. I simply don't think this is a good way to do it. Now certainly...and Senator Flood was vocal about his frustrations with the state aid formula. Senator Flood has got a couple of schools that spend money like a drunken sailor, and they can do it because they are rich districts. And if you step up and say, look, our state policy is not to support higher spending in those kinds of districts, then guess what the answer is--the formula is broken. The formula is not broken. This is an equalization state. We are committed, as a state, to providing funding up to that certain base level. If somebody spends more than that they're not going to get more money out of the aid formula, and they shouldn't get more money out of the aid formula. You know, somehow you want property tax relief, but what about the property taxpayers in that district? They're supposedly not entitled to relief. Gosh, they're paying \$1.13 and \$10,000, I looked it up, \$10,800 per student, compared to a statewide average of \$8,000, but those taxpayers are not entitled to pay any less for that school. They ought to keep paying that...paying more. I mean you almost come to the conclusion, well, maybe we ought to just take the lids off altogether; let 'em...let 'em charge as much as they want. I mean, Senator White is of the opinion that spending will go out the roof, and maybe he's right. I don't think so. But I will tell you that the state has a history and a procedure to place caps on that spending. [LB367]

SENATOR McDONALD: One minute. [LB367]

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SENATOR RAIKES: We've got a needs calculation. We've got budget lids. We've got property tax lids. And it's based on the sound public policy concept of equalization. We ought to stick with that concept. We're not in the business, however pleasant it may seem at the moment, of sending checks to taxpayers. We're in the business of collecting taxpayers' money and using that to provide services as efficiently and as effectively as possible. Let's stick with what we're supposed to do. Thank you. [LB367]

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

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. Let me continue where he left off, but let me switch gears. Was talking the first time around about what's not in here now and I guess the problem that I had with that. Senator Avery did a good of describing, hey, we all know what we would like to see; we all know the way we'd like to see the revenue package created. I guess let me say from the outset that I think what we have here is something that I can vote for. Okay? But let's talk about something else that's not in here, and there happens to be a good reason that it's not, in my view. In really, really tough years we go after our sales tax. It's a quick way to go out and generate revenue. It's also a quick way to reduce taxes and make people think that we did something really good for them. But let's talk about the dysfunctionality of that system, because I've already talked and railed against the estate tax and thank goodness, I feel a lot of you out here felt the same way. I think that tax was crazy when it was created, it's crazy now, and hopefully it's going away to the greatest degree possible. But the sales tax is a less than tolerable...the way we have it set up, and I'm not casting stones at anybody, but the way we have this set up is a less than tolerable way to provide revenue for this state, to establish tax policy. Let me give you a few examples of why I feel that way. By the way, we're not going to solve any of that today, but it could be coming eventually--exemptions in a sales tax code. Right now, as we speak, we're removing construction labor, a sales tax on construction labor from the dockets, if you will. We're taking it off. It's only be there two and a half years. We have a dysfunctional system with an underlying tax that was inherently unfair. That's why it's going away. And when we get in lean years we go out and look for these people and we go out and look for these services and we say, boy, there's some quick money; we can go get it and they don't have a lobby out here so it will be fairly quiet. Second reason is that it's still fairly high and it's excessive, behavioral in nature. Here's an example. Where do sin taxes fall in this mix? Sin taxes are sales taxes, folks. You know, Alexander Hamilton, he didn't establish sin taxes solely to create a federal treasury. He did it to control behavior. And everybody said, oh, good boy; these are bad guys we want to take care of, these still makers out here. The very first tax this nation had, and I've said this before, was a sin tax. So this is not new behavior by legislatures and governmental entities. It's easy to do, that's why we do it. That's why we have to make this sales tax as fair as we possibly can. We're not doing it, folks. There are so many exemptions out there, I could walk into a Target after work today and I can buy five things that are going to get taxed and five other products that aren't. Why? They're all

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commodities. Lower the rate to about 2 or 2.5 percent. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR FRIEND: This doesn't sound like Reagan at all, but let me tell you something: follow it, see what it eats, and then tax it, but tax it fairly. You know, I don't know that I'll speak to this again, all right? Hold your applause. But I was going to amend this thing. I was going to do all kinds of stuff. I had ideas, just like you, but I can't take care of my ideas today. I don't know if I can ever...I don't know if I can ever take care of them in the time that I have down here left, but I'll try. Now is not the time. I just feel like we're doing the best that we can with the situation with AM1187 with the time that we have allotted. Madam President, I believe that's all I had. Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Friend. Senator Adams, followed by Langemeier, Mines, White, Wightman, Harms, and others. Senator Adams. [LB367]

SENATOR ADAMS: Thank you, Madam President. I think that Senator Raikes stole all the thunder. The only thing that I would add to it is this. You know, I look at this amendment and I like most of what I see, and I've heard that from a lot of fellow senators. But the part that bothers me is the property tax. You know, if we take 8 cents this year and 8 cents next year--it's similar to what I said last week--it's going to feel good, we can say that we devoted \$105 million to property tax relief, but two years from now where are we at? We are still going to have constituents talking about property tax. Of course, it probably wouldn't matter what we do here, they're still going to be talking about property tax two years from now. But when we make a move from \$1.05 to \$1.00 there's going to be nonequalized school districts out there--Speaker Flood spelled it out very, very clearly--that may have to go into levy override, no question about it. And there are going to be school boards all across the state that are going to say to this body, leave it alone, because you drop it to \$1.00, then you put it back to \$1.05, then you drop it to \$1.00, and we can't predict our revenue flows. Those are very legitimate arguments for leaving it at \$1.05. But if you want the state to pick up a bigger share of education, not just this year or next year, but over a longer period of time--this is a change in policy, it's a change of priority--and you want to stabilize the property tax, not just this year or next year but on down the road, then I think you have to look very seriously at that move from \$1.05 to \$1.00. I haven't decided where I'm at on this amendment. I have three nonequalized school districts in my district. I've been in contact with all three of them last week when this was brought up. One is going to fall into equalization. Another is below \$1.00. The other is at \$1.05 and can't pass an override. It's going to hurt them. And I wish there was something that I could do right now, and I know that there is--vote in favor of the \$1.05--but I'm not sure that that is substantive tax policy. Madam President, I'm going to yield some of my time now to Senator Ashford. Thank you. [LB367]

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SENATOR McDONALD: Thank you, Senator Adams. Senator Ashford. [LB367]

SENATOR ASHFORD: Thank you, Senator Adams, Madam Speaker, Madam President. I...Senator Raikes is so right, and Senator Adams is so right. You know, going back 20 years, when this issue began, when we did LB1059 and then the caps were put on property tax, you can't look at that period of time without seeing the decrease in the growth of property tax. It is...to argue that this does not decrease property tax is simply not looking at what is factually there. If...and different districts are treated differently, but the state aid formula, the equalization formula is, as far as I can tell, the only fair and equitable way to deal with what is the largest expenditure that we make every year and that is in aid to primary and secondary schools. Senator Raikes has been through this many, many times. He's an... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR ASHFORD: ...expert on this. Senator Adams has been doing this for 31 years, as...in education. This has a direct impact on property tax. The problem with trying to do tax policy this way, as Senator Adams says, is absolutely correct. I support getting rid of the estate tax. I support...Senator Dubas is so right about the earned income tax credit. It's such...it will make such a difference. Those who read the story in the World-Herald about the poverty in Omaha and the rural poverty, and they see that, and there is no other conclusion that we need to raise that to 10 percent or 15 percent, as Senator Dubas suggested earlier. The problem with making tax policy this way and just knocking out this \$1.05 to \$1.00 is that we're just avoiding what is absolutely factually true and we're ignoring it. We're forgetting about it. Let's just send some money back. I favor doing that, too. But Senator Raikes is absolutely 100 percent right. You go back over... [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR ASHFORD: ...the last 20 years and you can draw no other conclusion. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Ashford. Senator Langemeier. [LB367]

SENATOR LANGEMEIER: Thank you, Madam President, members of the body. I just want to point out we handed out a new summary sheet here that's in two sections. The top half is LB367, as it stands passed off General File today; the bottom half is the new LB367 with the amendment, AM1187, adopted to it, so you can compare. And with that, I'd yield my time to Senator Flood. [LB367]

SENATOR McDONALD: Thank you, Senator Langemeier. Senator Flood. [LB367]

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SPEAKER FLOOD: Thank you, Madam President. Drunken sailors. (Laughter) We're not drunken sailors. We still have a hangover from your little Class I schools bill, Senator Raikes, that you passed two years ago. We're still trying to make our way through your last little bit of wisdom on how to reform K-12 education and Class I schools. We're here at the table trying to figure out how to keep a school system running, and they've passed levy overrides and you want to take the authority away. That's not sound policy when you're trying to make it work. And you say we're spending money like drunken sailors. We may look rich to you on paper, but let me tell you, corn is only up a buck per bushel. We may have land values that look like something special to the tax assessor, but we're not selling land in western Madison County because family-to-family-to-family farming is happening. We are cash poor and land rich, you could say. But if you look at the median income in towns in my district, it's not superspecial. It's nothing that you should look at and you should say, oh, look at all that money. In fact, western Madison County is so economically deprived that we're in a special zone for economic development because the federal government says we qualify because of our median income. And why are we spending \$10,000 per kid? Because we want a school in Tilden, and I'm not going to apologize for that. And I'm not going to back down. I don't want your \$1.05 to \$1.00, and neither do my constituents. And you may say you're doing a disservice to Norfolk. I am not doing a disservice to Norfolk. I talked to the Norfolk superintendent and I quote, in paraphrase: In his 25 years of experience in education, any time the Legislature lowers the levy it has never fully funded the replacement aid on an ongoing basis. Yes, the money may be there for a year or two or three, but invariably, when the economy goes south, state aid to education is one of the first cuts made. We don't need this policy change that you recommend. We need something we can take back and say it either does sales tax relief or property tax relief, but nothing that plays with a formula that we don't trust. We're losers under the formula. We've been losers under the formula for a couple years. Why? Because we're losing kids. The Tyson plant closed. People are moving out, I'll be the first to admit that, but we're the ones voting for the levy override and, guess what, we're the ones paying for it. The top property taxpayers in western Madison County are footing the bill. We don't need any more wise ideas until we are comfortable with the formula. We're not going to back down. We're not drunken sailors. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Flood. Senator Mines. [LB367]

SENATOR MINES: Thank you, Madam President. As many here have said, I think much of LB...the adjustment, the swap estate with top tax rates, I think is reasonable. I think most of the components probably work quite well, the marriage penalty, go down the list. But there's the one component I think we're all going to end up talking about and that component is whether or not it should be a property tax credit or it should be a sales tax reduction. There are arguments on both sides. Reasonable people will disagree. From my perspective, I favor sales tax reduction, and here's why. First of all,

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I'm not familiar with the property tax credit, and I'll ask Senator Langemeier or Senator Cornett to help me...explain the mechanics of how that works, but just on the surface you can see that if we have a property tax credit, you know, it's going to disproportionately affect the poor. Everyone of us in this body have hundreds and thousands of people that live in homes that are \$70,000, \$100,000 homes. And I think, as Senator Synowiecki was saying the other night, he says, you know, he's got...a lot of people in his district live in a \$70,000 home, have a couple kids, earn a living, and you know how much they're going to get back out of this particular plan? Not very much. This doesn't go to the core Nebraskan. This will end up in a property tax refund to those of us that have property, and substantial amounts of property. As an example, western Nebraska, Senator Friend's area where everyone is wealthy with land, guess who gets a great big property tax refund? And it is those folks that have property. Those folks that rent, those folks that can't afford to own get nothing, and I think that is, in fact, disproportionate. And obviously, if you look at a sales tax, and we've all been told in here a sales tax is a very painless tax. I remember Senator Landis at our last retreat saying sales tax is painless; have you ever heard anyone say anything about that? Well, in fact, it isn't painless and a half-cent sales tax reduction is meaningful. People see it every time they buy something. Is it still going to be too high for people? Absolutely. But I'll guarantee that the property tax that we're talking about isn't going to be recognized. As Senator Adams had said, property taxes are always too high. I think it's an interesting idea and I'm curious about if...oh, let me also submit, in October 2002 is when the state raised the sales tax from a nickel to a nickel and a half, with the...with floor debate, with the understanding that when times are better--by the way, that was a special session--when times are better we will correct this formula and go back to a nickel. But what I don't understand...and I would hope Senator Langemeier or Cornett are available, Senator Langemeier. Would he yield, Madam President? [LB367]

SENATOR McDONALD: Senator Langemeier,... [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR McDONALD: ...will you yield? [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR MINES: Senator Langemeier, the property taxes are deductible, is that correct, under this formula? [LB367]

SENATOR LANGEMEIER: Property taxes are tax deductible without this, yes. [LB367]

SENATOR MINES: Yes. And so they will remain tax deductible. [LB367]

SENATOR LANGEMEIER: Right. [LB367]

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SENATOR MINES: My question is strictly mechanics. You have \$100,000 house. You pay your property taxes and then what happens? Tell me on mike again, would you please, what happens. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR LANGEMEIER: If you have \$100,000 house, you're going to get a \$80 tax credit. What the mechanics of this is, is the state of Nebraska gives \$80 to the county in which you reside, and then the county then gives you a credit on your tax statement of \$80 on your next tax statement. [LB367]

SENATOR MINES: So the credit follows the property taxpayer. The credit doesn't come back to the county and then it's divided among all the property tax owners and you get a proportionate share. Is that right? [LB367]

SENATOR LANGEMEIER: In the whole picture, yes, you get the proportionate share based on the... [LB367]

SENATOR MINES: So it may not be the \$80? [LB367]

SENATOR LANGEMEIER: No, it will be the \$80. [LB367]

SENATOR MINES: Okay. [LB367]

SENATOR LANGEMEIER: It just happens to be you were talking about a \$100,000 house, so what we do is we credit the county back \$80 bucks. Then they take that \$80 bucks, instead of collecting it from you as a property tax owner, they give you a credit on your tax statement. So when you get that tax statement, it's \$80 less. [LB367]

SENATOR MINES: So it does follow the property taxpayer. [LB367]

SENATOR LANGEMEIER: So it goes all...you bet, goes all the way back to you. [LB367]

SENATOR MINES: Okay. [LB367]

SENATOR LANGEMEIER: You do not get a check for \$80 bucks, but you just write a check for \$80 less. [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR MINES: Thank you very much. [LB367]

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

SENATOR WHITE: Thank you, Madam President. Ladies and gentlemen, I would like to make a couple of points here. First of all, with regard to this property tax credit as proposed, and I support, strongly support, property tax credits, it is not limited to residents in the state of Nebraska. The money that will come to support this tax credit will come from the hard-earned income and sales taxes paid by our residents, overwhelmingly. But the money will be paid out to anyone who owns land here, whether or not they are a resident. I think that a more equitable and reasonable way to handle this is to make a change that makes sure that if we are going to take money from income tax and sales tax to do property tax relief, we in some way ensure it is limited to those who actually reside here, add to our economy and to our income tax receipts and to our sales tax receipts. As stated, this does not do that. I think that's a serious flaw. Furthermore, and this is very important--I spoke at length with Senator Fulton about this--remember, the money does not go back to the taxpayer. It goes, instead, into the checking accounts of all the governmental entities who can spend it. History teaches us that they will not pass on this savings. Senator Chambers and others with historical memory of the institution, and I have been assured, have told me, not just Senator Chambers but others, former senators, that in the past what has happened is the various entities have figured out a way to spend the money, because it is relatively painless. If our constituents are used to paying \$100 in property tax, this would reduce it to \$92. The temptation to do those projects that will cost \$8 per homeowner or per valuation will be overwhelming. What will happen is there will be a credit on the tax, saying you've been credited with \$8 in property tax, but they'll still pay \$100. Finally, I'd like to point out just the fundamental inequity of where this money is going. As it is structured, it is not going to those who struggle to own homes. It is not going to the middle class. It is not going to the people who have trusted us with this office. My understanding is, based on the numbers provided, a Union Pacific will get approximately \$850,000 in tax credit. They will get \$850,000 in benefit on this, assuming local governments don't spend it. A person in my neighborhood who has a \$100,000 home will get \$80. I don't think that's equitable. I don't think that's reasonable. It doesn't help the middle class. It doesn't help the people we are intended to help. I, like Senator Mines, in this situation would prefer that a longstanding promise of this body be redeemed, the promise that Senator Raikes, among others, made. Senator Raikes will tell you he, among others, promised to reduce sales tax from 5.5 to 5 percent. I think keeping our promises is essential to continuing to have the faith of our fellow citizens. I think much progress has been made on this. I commend the committee in how hard they worked, but I think there remains a huge problem and I think we should address it and continue this debate. Thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator White. Senator Wightman, followed by

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Harms, Pirsch, Louden, Chambers, Gay, Flood, and others. Senator Wightman. [LB367]

SENATOR WIGHTMAN: Thank you, Madam President. Members of the body, I do have some questions that I would like to address to Senator Langemeier, if he's available. [LB367]

SENATOR McDONALD: Senator Langemeier, would you yield to Senator Wightman? [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR WIGHTMAN: Senator Langemeier, and I haven't heard this discussed much, but on the repeal of estate death tax, your bottom half of your sheet down here shows that the termination would result in a \$13 or \$13.19 million, I guess, in the first fiscal year, and \$25 million in the second. Is that your understanding? [LB367]

SENATOR LANGEMEIER: That is my understanding with...that has been updated from earlier discussion we've had on this issue. [LB367]

SENATOR WIGHTMAN: There's a later figure than the one I have here? [LB367]

SENATOR LANGEMEIER: No, there was an earlier figure that would have had them lower,... [LB367]

SENATOR WIGHTMAN: Okay. [LB367]

SENATOR LANGEMEIER: ...at about \$9 million and \$20 million actually. [LB367]

SENATOR WIGHTMAN: Are you familiar with what the situation is with regard to claiming the estate death tax on a federal estate tax return? [LB367]

SENATOR LANGEMEIER: I do not. All I know about that is what you've provided us for knowledge on General File. [LB367]

SENATOR WIGHTMAN: Okay. So we have a 46 percent federal tax bracket. That's the lowest federal tax bracket. So I guess I would want the body to know that instead of the decedent's estate saving the amount of money on here, it probably will average about 50 percent of that amount. Now I'm not necessarily opposed to this, but I think people should know that an awful lot of that money is not going to stay in Nebraska and is going to go to the federal government. Do you know...do your figures show you approximately how many people or how many estates a year would pay a state death tax at a \$2 million exemption? [LB367]

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SENATOR LANGEMEIER: I do not have those numbers. [LB367]

SENATOR WIGHTMAN: We know that there would be zero paying it, starting with deaths occurring in January 2007, under your amendment. Is that correct? [LB367]

SENATOR LANGEMEIER: Correct. [LB367]

SENATOR WIGHTMAN: Well, thank you. Thank you. [LB367]

SENATOR LANGEMEIER: Thank you. [LB367]

SENATOR WIGHTMAN: My understanding is that about 150 estates would pay that tax on an annual basis if it was at \$2 million, so in some ways I think that the reduction at the higher tax rate would affect a lot more people each year by lowering that top tax rate than are going to be benefited by the elimination of the death tax. Furthermore, you're going to have not only a substantially lesser number of people receiving any benefits, but you're also going to be able to have a deduction on your federal income tax return, as well. I'd like to address the property tax also for just a minute, the property tax as opposed to the sales tax. I know that everybody is talking about you would be able to deduct the property tax. We do a lot of tax returns and a lot of people itemize their deductions, but a lot of them take the standard deduction and, of course, if they take a standard deduction they would not be entitled to deduct the taxes on their home. So that situation really varies according to what your situation and your filing status is. But nevertheless, I really think we will have a more direct result returning the property tax, and I know that Senator White states that a lot of this savings and...or refund of tax returns or credit will go to Union Pacific and some big corporations, but I can tell you out in our area a lot of it will go to farmers, as well. It's not unusual to have a couple million dollars worth of land with probable tax of about \$30,000. And, of course, a 5 percent reduction is going to be fairly substantial to them. [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR WIGHTMAN: So I do prefer an across-the-board credit as opposed to one that transfers the tax credit back to those who, in some instances, did not pay the tax, and certainly not proportionately. So I will listen to the rest of the discussion on the amendment. Thank you, Senator Langemeier, and thank you, Madam President. [LB367]

SENATOR McDONALD: Thank you, Senator Wightman. Senator Harms, followed by Senator "Hirsch"...Pirsch, Louden, Gay, Flood, Karpisek, and others. [LB367]

SENATOR HARMS: Thank you, Madam President and colleagues. You know, when I went through my campaign, in the primary and before the general, I went door to door,

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and you know what I heard? People didn't talk about income tax. They didn't talk about sales tax. They didn't talk about corporate tax. They talked about property tax, and that's what people want, is out direct property tax relief. And where I live in rural America, that's what they'll tell you. You know, one thing I want to caution us, colleagues, is that right now this is a fun discussion, this is great debate, these are good times. But you know what? Two years from now when we talk about this budget, this economy might very well be in the tank. And you know what? You know what we're going to be talking about? We're going to be talking about how do we streamline government; how do we get rid of some of these employees? Let's just give it back to the...let's cut the state aid to the political subdivisions and let them raise their property tax. That's exactly the conversation we're going to have. And what I'm urging you to think about, as we look at next year, we cannot go the direction we're going today or tomorrow. We've got to have a plan. You've got to begin to look at what you want the state to become, and you've got to begin to look honestly at permanent cut...tax cuts. What we're going to give at this point in portions of our relief is just temporary. It's not going to be permanent. And that's what people want. And I'll tell you what, I've been on the receiving end where this Legislature has promised to fund a project or the community college system and fund their funding formula fully and, guess what, you haven't done it. So guess what happened? You told us to raise our property tax. So guess what we did? We raised the property tax. That is not what people want. And so I would just urge you, as you look at this, these are fun times, these are good times, but the bad times are coming and are you going to be...are we going to be prepared for them? The other thing I want to talk about, briefly about, is the state aid formula for the public schools. I hear them discussing, on...the Speaker on one side and Senator Raikes on the other side. I'm here to tell you right now the funding formula is too complicated. This funding formula, very few people understand it. Unless you're a fiscal analyst or unless you're someone like Senator Raikes, who works with it on a regular basis, you understand it, but the majority of us don't understand it. In fact, when we had our hearing with the State Department of Education, I asked the commissioner a number of questions and one of the things I asked him about was TEEOSA, this funding formula, and why it was so complex and could he explain and could we actually have a better understanding about where the efficiencies are in this funding formula, and whether they're working appropriately or not appropriately. And the answer was he could not at that point; that he could not understand...could not give me the efficiencies, not whether it was working or not, but the efficiency side of it. And I'm here to tell you I think that funding formula needs to be opened up. I think we need to examine it carefully. I think we need to look at it. So the next time we have this debate, the next time Senator Flood brings this up or the next time Senator Raikes talks about someone having too much to drink here, we ought to understand what this funding formula is about. We ought to be able to honestly debate it and say, you know what, folks, we are going to fix this. My argument has always been and I have always felt if you're going to complain about something or we're going to say it doesn't work, then let's fix it. Let's fix it. If it's wrong, it's wrong. And I urge you, as colleagues, as we do this debate and we

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give people tax relief, to remember--these are the good times. The bad are coming and we will be in the tank and we're going to be debating these issues, and those are not going to be fun times. And I'd ask you to give thought to the planning... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR HARMS: Thank you, Madam President. I would ask you to plan for the future and start to look at how we can redesign, reengineer, and regear this state and this economy and this government. Because without it, we're going to have this same discussion the next time we build our budget, but it might be worse. Thank you, Madam President, colleagues. [LB367]

SENATOR McDONALD: Thank you, Senator Harms. Items for the record, Mr. Clerk? [LB367]

CLERK: Madam President, thank you. Your Committee on Enrollment and Review reports LB588, LB610, LB324, LB324A, LB247, LB435, and LB629 to Select File. Senator Dierks would offer LB629A. (Read LB629A by title for the first time.) Senator Synowiecki, an amendment to LB540; Senator White to LB321; Senator Kruse, LB573. And a hearing notice regarding a gubernatorial appointment; those...that will be referred...or hearing notice from Judiciary, I should say. That's all that I have. Thank you, Madam President. (Legislative Journal pages 1369-1373.) [LB367 LB588 LB610 LB324 LB324A LB247 LB435 LB629 LB629A LB540 LB321 LB573]

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

SENATOR PIRSCH: Thank you, Madam President, colleagues. Senator "Hirsch" thanks you, too, Madam President. I appreciate the careful and mostly cordial manner in which we're approaching the tax relief bill here today. I believe that disciplined spending is the only guarantee of ensuring reasonable taxes over the long term. I am inclined to support this amendment, AM1187. Obviously, it's not as I would design it myself, not perfect, but I feel that it addresses tax relief in the most clear and direct method, in my opinion. And I must say that I, as I was out campaigning this past year, did hear an awful lot about property tax here in Nebraska and how it was both causing a hardship in people's lives and causing people to leave the state who would normally not otherwise. I will listen to the thoughts of those others who have suggested that we take a look at sales tax and other facets other than that which is encompassed in AM1187. I believe that procedure is very important here in this body. It's very interesting we do have, you know, on a federal level or on a national level many people who have differing views of what federalism is and how...the interplay between the states and the federal government, and I think we're here today kind of discussing a similar type of concept--the interplay between the state and the local governments. And so I think that is a very warranted discussion. Tax relief, absolutely essential. As I mentioned we, with the high taxes and

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the state property taxes in particular, we are driving people out of the state and making life hard for those who do stay in the state, I think. And Senator Friend had touched upon earlier that it does have a stimulus effect when you get to keep more of your hard-earned money in your pocket. So the good news is that we are all generally agreed upon the idea of tax relief as being something necessary here this year, and so it is encouraging to see that only...for the most part, that the debate has centered around the different methods to achieve that. So hitherto the debate has talked, really centered, upon the form of tax relief. I'd like to lead the debate. I wouldn't...I think it's important not to neglect the concept of the extent of the tax relief here this year, as well. And so I'd like to encourage members to comment and start to address that issue, especially in light of new revenue forecasts that predict substantial amounts of new revenues in future years. And so I guess towards that end, towards addressing the idea of extent, I wonder if Senator Langemeier would yield for a question or two. [LB367]

SENATOR McDONALD: Senator Langemeier, would you yield to Senator Pirsch? [LB367]

SENATOR LANGEMEIER: Be happy to. [LB367]

SENATOR PIRSCH: Thank you, Senator Langemeier. Now you had indicated in answering an earlier question, I believe by Senator Fulton, that 40...there was approximately some amount, perhaps in the neighborhood of \$40 million, that was allocated in the underlying LB367 that is not allocated in this particular amendment, AM1187. Is that correct? [LB367]

SENATOR LANGEMEIER: That is not correct. [LB367]

SENATOR PIRSCH: That is not correct. [LB367]

SENATOR LANGEMEIER: The \$40 million that Senator Fulton was referring to was based off of the last fiscal analysis we just got last Thursday, so that is a project... [LB367]

SENATOR McDONALD: One minute. [LB367]

SENATOR LANGEMEIER: ...that is an additional projection out there that would be available for tax credits. So... [LB367]

SENATOR PIRSCH: I see. Okay. And so... [LB367]

SENATOR LANGEMEIER: ...he was just asking, are we going to account for that. Well, we are, technically. If Raikes's Education Committee bill funds community colleges at the \$20 million, that would use up \$20 million of it. There would still be another \$20

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million out there, and I don't have a problem with leaving that hypothetical number out there. [LB367]

SENATOR PIRSCH: I see. And so it may well be that there may be some \$40 million additional, or somewhere in that ball park? [LB367]

SENATOR LANGEMEIER: Correct. And the next time the fiscal analysts meet again and forecast again, it could be \$80 million. It could be \$20 million. [LB367]

SENATOR PIRSCH: Okay. And I guess if Senator Langemeier would just yield to one more question... [LB367]

SENATOR McDONALD: Time. [LB367]

SENATOR PIRSCH: Thank you. [LB367]

SENATOR McDONALD: Thank you, Senator Pirsch. Senator Louden. [LB367]

SENATOR LOUDEN: Thank you, Madam President and members of the body. As I read this, I, of course, come up with some questions, I wonder. These people are talking about these \$100,000 houses. I'm more concerned about in these smaller towns, where these houses are valued at \$25,000 or \$30,000, and they get their income tax or their tax...property tax credit and they get about enough to maybe go to supper, if they're lucky. I've went through this once. I remember before when we've had tax breaks and everybody got this little bit of money and, like they said, they spent it in 20 minutes. I can remember when we had tax credits for sales tax on food and everybody got, what, \$37, I think, at the end of the year. And so what did you do? You probably went out and whatever happened to it. But anyway, it was never anything to be of any substantial use. I'd like to ask Senator Langemeier a question, if he would be available, please. [LB367]

SENATOR FRIEND PRESIDING [LB367]

SENATOR FRIEND: Senator Langemeier, will you yield to a question from Senator Louden? [LB367]

SENATOR LANGEMEIER: Yes. [LB367]

SENATOR LOUDEN: Senator Langemeier, on this property tax relief, like this, where does, like the Board of Educational Lands and Funds fit in on their property taxes, or the Game and Parks with their wildlife management areas that have to pay in lieu of taxes and stuff? Would they be entitled to a tax break, too? [LB367]

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SENATOR LANGEMEIER: Nothing in lieu of taxes. If you have a tax statement and have an assessed value, you would get it back. You would get a credit back based on your assessed value. In lieu of taxes is a lien set in another form other than right on a property tax statement. [LB367]

SENATOR LOUDEN: Okay. But they wouldn't be able to acquire any of this \$100 million into these...out of this particular funding like such as it is? [LB367]

SENATOR LANGEMEIER: I would not think so through the in-lieu-of-taxes method, if that's what you're inquiring about. [LB367]

SENATOR LOUDEN: Well, that's usually how it's paid, is in lieu of taxes. But nonetheless, they always say they pay property tax. Now what about the University Foundation where they have, like that Gudmundsen Laboratory and that? They pay...they pay a property tax on that. Then they would be entitled to a property tax relief the same way as anyone else? [LB367]

SENATOR LANGEMEIER: If they pay property tax, they would be less, as well. So we would be giving more money to the University of Nebraska, and that would make Senator Avery happy. [LB367]

SENATOR LOUDEN: Now what...yeah, but it wouldn't help Grant County any, because we already don't get enough out of them to fix the road. Thank you, Senator Langemeier. One other question I'd like to...I'd like to ask Senator Raikes some questions, if he would yield, please. [LB367]

SENATOR FRIEND: Senator Raikes, will you yield to a question? [LB367]

SENATOR RAIKES: I would. [LB367]

SENATOR LOUDEN: Senator Raikes, as they lower this down to...from \$1.05 to \$1.00 on your state aid to education, by doing that those districts that are at the dollar marker that go above that makes them...they're eligible for more state aid. Is that correct? [LB367]

SENATOR RAIKES: Senator, actually any equalized school district would be eligible for more state aid, and any...and there are some nonequalized districts that would also become equalized and thereby receive state aid. [LB367]

SENATOR LOUDEN: Now if you...if that's raised back up to \$1.05 or whatever then, then there will be some districts out there that won't be eligible for state aid. Is that correct? [LB367]

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SENATOR RAIKES: Right. If there's no change, the districts that are nonequalized now, depending a little bit on number of students and valuation in the district and so on, probably will remain nonequalized. And in fact, if you leave it at \$1.05, over time you probably are going to see more and more districts become nonequalized. [LB367]

SENATOR LOUDEN: Well, what I've noticed over the years is...and I was on a school board when they started this state aid to education, I found out that wherever you set that limit, someday or another the school districts usually try to make it up to that limit so they're eligible for state aid. They play the games or whatever it takes to do that. And I'm like Dr. Harms, I think that has to be fixed because there's ways that...there's no conservation built into that state aid formula. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR LOUDEN: But that's another project. But at the present time, I don't have any problem with lowering that down to \$1.00, because those districts that need it should be more eligible for state aid. So thank you, Mr. President, and thank you, Senator Raikes. [LB367]

SENATOR FRIEND: Thank you, Senator Louden and Senator Raikes. On with discussion of AM1187, the Langemeier amendment to LB367. Senator Gay, you are recognized. [LB367]

SENATOR GAY: Thank you, Mr. President. Once again, I want to rise in support of the amendment. I had heard...a little bit back to local control, local taxation. I don't understand how, if we fund the schools more, that we're providing local control. We've heard other people say...as I look around the body here I see people who were 12 years, county commissioner; I see mayors in front of me, school board members, NRD board members. We were all local...many of us were local officials at one time. You knew what you were doing when you were meeting, having those meetings. I didn't see anybody going crazy wanting to spend things. I thought, if anything, they're much more conservative than this body when it comes to spending, because they value that money much more. Here we're deciding, well, let's help them with their...let's help them out. I mean the state does not help you out. Senator Harms had a very good point. I would correct that. But the point is this--unfunded mandates. We will do this, we will change this, we will do whatever. No one can guarantee what is going to happen down the future here. We need to get back, and if we're really going to be helpful, let's help them find ways to be more innovative, as Senator Harms has mentioned. Let's come up with our own ideas to deliver services better. But instead, we stand here and we talk about, well, so-and-so might get a tax break and, gee, that wouldn't be good; it might...some of it might go to a big company. Well, some of it might go to my constituents directly on their tax bills. That's kind of important, I think. I don't think we're...I don't think that we're going to come up with better ideas how to spend that money than our constituents. They

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talked about property taxes, of course, in a campaign. That's fine. We're out of the campaign mode. We're here making decisions. They talked about property taxes. They talk about all taxes. So as we look at this, again, I want to go back to this. This is a package that was put together in a compromise, and it has something for those who are working hard, the earned income tax credit, to help them out. It has some...the marriage penalty is removed. It has some energy assistance. It has many things that will benefit citizens of Nebraska. But to say that we can decide how to spend this money better...somebody said, well, let's lower it down to \$8 per \$100; what about \$80 per \$100,000, what about \$160 for \$200,000, \$300,000? We're talking some money here. It goes on a property tax credit, on their tax statement. They will see it and understand this. They aren't imbeciles. So we act like we know all the answers here and I just got to have...I have a lot of faith in these local governments. And of course they make mistakes and of course they do some things that aren't always correct, but you got to remember these local citizens are electing those people and they're making good decisions. Back when you were on that county board, you made good decisions and you made tough decisions, and it can be done. So I...Mister...Senator Mines used to be Mayor Mines. There were some good decisions I'm sure he was making. So as I look around this body, let's not forget back where we came from and decide that I think those people can make good decisions. So as we look at this package and we keep talking about property taxes, I'm going to stand up every time and remind you that we do not control property taxes; and if we do, I believe this is the best way to do it. And there is a difference of opinion here on how that's done. My view is put it directly into their pocket and let them...let the constituents decide how to spend that money. And it's for...what it is, is what it is, if it's \$80...if we don't do any of these packages, let's raise it all in property taxes then, but we didn't come with that plan. We came with a plan that's a good compromise. So I urge you to support this amendment, and then we'll move on and pass the bill hopefully. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Gay. Senator Flood, you're recognized. [LB367]

SPEAKER FLOOD: Thank you, Mr. President, members. I stand in support of AM1187 and appreciate the work done by Senators Langemeier, Cornett, Senator Janssen and others on the proposal that's been presented. And while I have, as you know, strong feelings about the elimination of the \$1.05 to \$1.00 that continues to exist in LB367, I do also very much support the elimination of the estate tax. And it all comes back, for me, to the benefits to all Nebraskans, especially in transference of their...as their estate makes its way to the beneficiaries or to the heirs. I want to make clear that I also support the estate tax. I feel strongly about the elimination of the \$1.05 to a \$1.00. And would yield the rest of my time to my very respected colleague and friend, Senator Raikes. [LB367]

SENATOR FRIEND: Senator Raikes, you have 4 minutes and 10 seconds. [LB367]

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SENATOR RAIKES: Thank you, Mr. President, members. Thank you, Mr. Speaker. Senator Flood, I appreciate your lessons on the state aid formula. I'm learning a lot about that from listening to you, a lot of things that I didn't know before. But at any rate, I will comment, one. You know, one of the things we try to do in that formula is encourage efficiency. We have to do that. We have got to, as a state, try to keep the costs under control, and I don't think I need to emphasize to anyone here the importance of that. With LB126, we reduced the number of school districts in the state from 488 down to about 250. We eliminated 11 school districts that didn't have any students, yet were changing...were charging over \$800,000 in property tax. This has been a...okay, I've got some more people drawn into the conversation now--that's good. (Laughter) This certainly has been a controversial journey, but I think, when it's all said and done with LB658, we will have made progress. One of the things that Senator Flood complained about was the fact that a school district like Norfolk, as students reduce in number and as valuation goes up, state aid goes down. That certainly is the case, although one of the things that actually Senator Heidemann introduced as an amendment to LB1024 put a needs stabilization in the formula. And as I recall, Senator Flood didn't vote for that, but nonetheless that addresses the very issue that he mentioned. And I will tell you, Senator Harms mentions the formula is complicated. It is. It is complicated because we make an effort to be fair. That's where the complication comes from. And of course, in the Education Committee we're going to very seriously consider the bill that Senator Flood introduced, which totally fixes the aid formula. He didn't introduce that, I understand, but I mean...and I don't expect him to, but the point is that is a mechanism, a tool of public policy, which you don't just fix. You continually work on it. You continually try to improve it. One of the things you do, though, to improve state policy, in my opinion, is move the state toward equalization. I don't think it's been brought up that, to the extent you compare us with other states, state support for public education in Nebraska is very low... [LB367 LB658]

SENATOR FRIEND: One minute. [LB367]

SENATOR RAIKES: ...compared to other states. We're in the bottom few states, five or eight, something like that. We're out of kilter with the rest of the nation. Certainly this is an opportunity which I hate to see us waste to move ourself in the right direction in that regard. Finally, even though I would certainly tell you that we encourage thrift and efficiency in school districts, as we must, by the same token I don't want to be disrespectful of local citizens that tax themselves to support their school system. And by the way, Senator, the...Senator Flood, the drop in the levy would not reduce anyone's ability to have an override. That would still be available, as it should be available. And again, I would remind you that the... [LB367]

SENATOR FRIEND: Time. [LB367]

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SENATOR RAIKES: Next time I'll remind you. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Raikes. Members, before we continue with discussion...there are a lot of members wishing to speak, at this point. (Visitors introduced.) On with discussion of AM1187. Senator Karpisek, you are recognized. [LB367]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. The sound you don't hear is the wind out of my sails, the thunder out of my...I don't know, clap out of my thunder. Senator Flood said it all for me, but...and since we had to wait so long to get on the mike, my blood has gone from boiling back down to normal. I do have to say that we keep talking about these rich school districts. As Senator Flood said, land rich, cash poor. I wish there were a way that we could tax this ag land on what it can produce rather than what the inflated values are. But wait, I think maybe I dropped a bill just like that this year, and it didn't come out of committee. The main reason I heard it didn't come out of committee is, oh, we tried that five years ago and it didn't work. Well, I tried this year and it didn't work. I...to me, it sounds like a way better way to go. Some days I want to go to see how Senator Raikes farms, because he must be a darn good farmer because he must think that they can really make a bunch of money on land. Maybe in his part time he can teach some people that. But these places that are getting hammered on their valuations and having to override, it's not fair. And we can talk and we can yell and we can scream, but when it's not fair, it isn't. I hope to draw up my bill again in a few years or maybe two and try to go at it again, but until then I guess we'll keep working on this. My idea for how we could do this was to get rid of that income tax reduction for the top bracket, give a quarter percent to sales tax, the rest to more property tax relief, and I'd be happy. Senator Gay and I have been sparring for a few days over that. He wants more income tax. It is a good compromise. There's parts I don't like. But I am not in favor of dropping from \$1.05 to \$1.00. I have five unequalized districts. I don't think that they can do it. I think if you think they can you need to go see. Thank you, Mr. President. I'll yield the rest of my time to Senator Dubas. [LB367]

SENATOR FRIEND: Senator Dubas, you have 2 minutes and 10 seconds. [LB367]

SENATOR DUBAS: Thank you, Mr. Speaker, Mr. President, and Senator Karpisek. I've never been known for my grace or my coordination, but I can remember on the playground when yo-yos were really popular. And I really wanted to learn how to do the yo-yo, you know, and I could get it going pretty good and then all of a sudden it would whack me on the knuckles hard. And I kind of feel like that's what we're doing right now. You know, we've got the yo-yo going really good. We're in a good place financially. We're trying to figure out a way that we can, you know, share the wealth with our constituents. We're trying to give property tax relief. We're trying to spread it across the board. And I do support what we're doing and I do support this amendment, but I know in a not too distant future that yo-yo is going to come back and whack us hard on the

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knuckles and we're going to have to figure out, everything that we gave away, how we can nicely ask for it back. And I did hear about property taxes when I was out campaigning, and I still hear about property taxes. I just paid my property taxes this week. I don't like writing that check, but I also like the services that I receive from that check. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR DUBAS: I owe it to my constituents to seriously look at how we can provide sustainable, responsible tax policy, tax reform, whatever we want to call it. I owe it to my constituents to make sure that when they're plunking that tax...those tax dollars down that I am making sure that they're being spent in a responsible and an efficient manner. I owe it to my constituents to go through the budget, to ask questions, to make sure that that money is being spent responsibly. I know at the local level--I served at the local level--that these people are not, you know, wild-eyed maniacs spending money like crazy. They have to live with their constituents. They're faced with them on the main street daily. They have to be responsive to how they're spending that money. They are being responsive. But when they're faced with unfunded mandates, when they're promised and given money one year and the next year that money is pulled back, they have to make the hard decisions. They have to decide, do I make up for this in property taxes, do I cut the services? [LB367]

SENATOR FRIEND: Time. [LB367]

SENATOR DUBAS: So thank you very much, Mr. Speaker. [LB367]

SENATOR FRIEND: Thank you, Senator Dubas, and thank you, Senator Karpisek. Senator Dubas, your light was next. [LB367]

SENATOR DUBAS: I call the question. [LB367]

SENATOR FRIEND: Members of the Legislature, the question has been called. Do I see five hands? I do see five hands. Members, the question is, shall debate cease? All those in favor please vote aye; all those opposed signify by voting nay. Have you all voted who care to? Record please, Mr. Clerk. [LB367]

CLERK: 29 ayes, 5 nays to cease debate, Mr. President. [LB367]

SENATOR FRIEND: Debate does cease. Senator Langemeier, you are recognized to close on your amendment, AM1187. [LB367]

SENATOR LANGEMEIER: Mr. President, members of the body, what I'm going to...as I close on AM1187, I am going to give you the picture of what LB367 will look like upon

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the adoption of AM1187. It would fix the marriage tax penalty; it would repeal the child tax credit that's never been put into place; it gives a property tax credit directly to property tax owners equal in a way that every property tax owner pays and every property tax owner receives; it terminates the estate tax as of 1-1-2007; it repeals the construction tax labor that was put on in the tough times; it has LB648, renewal energy tax credit for wind renewable projects; and it has the earned income tax credit to 10 percent credit; with a total tax package of \$208.32 million the first year, '07-08, and \$216.41 million in '08-09. And I would encourage the adoption of AM1187. Thank you, Mr. President. [LB367 LB648]

SENATOR FRIEND: Thank you, Senator Langemeier. Members of the Legislature, you have heard the closing on AM1187. The question is, shall AM1187 be adopted to LB367? All those in favor please signify by voting aye; all those opposed please vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB367]

CLERK: 37 ayes, 7 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB367]

SENATOR FRIEND: The amendment is adopted. [LB367]

CLERK: Mr. President, the next amendment I have, Senator White has FA82 pending. Senator White, I understand you'd like to withdraw and substitute AM1196. [LB367]

SENATOR FRIEND: If there are no objections, so ordered. [LB367]

CLERK: AM1196, Senator. (Legislative Journal page 1373.) [LB367]

SENATOR FRIEND: Senator White, you are recognized to open on AM1196. [LB367]

SENATOR WHITE: Thank you, Mr. President. My colleagues, this is a very straightforward amendment. It simply adds to this bill. It does not subtract; it simply adds to this bill a tax cut of one-half percent, from 5.5 to 5 percent. Essentially, it is Senator Chambers' bill, but since I had the prior position I agreed to put it in mine, and I urge your support of this. What I would urge is that we debate sales tax, debate keeping our promise, debate whether or not we should in fact refuse to collect taxes, keeping that money in the pockets of our constituents, rather than gathering them up and redirecting them to different parts of the government. I, myself, would deeply prefer to give homeowners \$500 back each. That does not seem to be the will of this body. The next best thing that I can think of is to refuse to take that \$500 from all constituents of the state who pay sales tax. That is the basis of this amendment. If it is adopted, we'll then have the opportunity to examine what if other things can be taken away, but certainly at this point I believe all of us should have an opportunity to debate and then vote on whether or not we should have very meaningful real sales tax relief, from 5.5 to 5

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percent, and keeping our promise as legislators to the people of the state of Nebraska. Thank you. And I would at this point, if it is possible in opening, yield my time to Senator Chambers. [LB367]

SENATOR FRIEND: Senator Chambers, you have nine minutes to speak. [LB367]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to consult, while the time is running, with Senator White for about 30 seconds, at the most. [LB367]

SENATOR FRIEND: Let me think about that. Okay, go ahead. [LB367]

SENATOR CHAMBERS: Mr. President, have you had the opportunity to think about it? [LB367]

SENATOR FRIEND: You're recognized to continue, 8 minutes and 35 seconds. [LB367]

SENATOR CHAMBERS: Thank you, and I will not take all of that time. I do believe and am convinced to a certainty that the only direct way to benefit all of the citizens when we talk about giving tax relief, is to do it by way of a sales tax cut that runs from little children to people as old as I am, from people as rich as Senator Hansen to people as impoverished as myself, and all points and persons in between. So with all the talk of property taxes and how difficult it is to get a true cut directly into the pockets of those to whom you're trying to extend it, with all the talk of jockeying tax rates for various brackets, estate tax cuts and all these others they talk about, this cutting of the sales tax is the only one that will allow money to stay in the possession of the one who is to be benefited. The money is there. All of these rebates, refunds and credits sound good, but when you're talking about the truly needy, they don't work. Even if you had a credit of some kind that would go to people who don't pay taxes, they are not going to file, and what begins to happen is that the state will budget, taking into consideration the fact that these amounts are never going to be claimed--never. When the food tax was on and there was to be that rebate, as they called it, many people and most of those who were poor never claimed it, so that amount was budgeted. And when those of us who wanted to take the tax off food wanted to do so, it was then admitted that that would be difficult to do because the state was relying on people not claiming that rebate, so it was factored into the budget. Those are cynical programs when you look at how they actually operate. This, as Senator White pointed out, is a straightforward tax cut. This is the only tax cut that benefits everybody who will have money leaving his or her pocket or pocketbook. I have always been reluctant to see a sales tax. I've always been reluctant to raise that tax. But I was prevailed upon, as were 29 of my other colleagues, to vote to raise the sales tax a half percent over the Governor's veto. The promise was made, and I thought we were following Satan's ethics at the time, that when times were better we would restore to the people what we had taken with that increase by dropping that half percent, making the public whole once again. This proposal of Senator White is

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designed not only to deliver on that promise but to cut this tax and benefit those who need the assistance the most. Somebody had said earlier that the sales tax is a painless tax, and I think they quoted Senator Landis in saying or asking, who ever complains? Well, because something doesn't give pain, because somebody doesn't complain does not mean it is not lethal or deadly. Who feels pain when their blood pressure is too high? Who feels pain when their cholesterol is too high? But those are called, by some people, the silent killers, because they don't hurt and you don't feel symptoms. When you're going to have a stroke, you may not feel anything until it hits, and then you go paralyzed or whatever else is going to happen to you, and what led up to that was completely silent. It is the stealth disease. You can get blurred vision, loss of balance after it hits you. So you can say that the sales tax is painless until it hits you at the checkout counter, and you may not attribute to the sales tax the fact that you are a few pennies short of what your total bill is and you have to, with great embarrassment, tell the clerk, I can't take this item because I can't pay for it. So it might be silent, it might be apparently painless, but it is like high blood pressure, high cholesterol. It can take you out. So I see no justification for not adopting the offering of Senator White. How much time remains, Mr. President? [LB367]

SENATOR FRIEND: Three minutes, Senator. [LB367]

SENATOR CHAMBERS: I'm going to restore that time to Senator White, in case he has something else he would like to add in his inimitable, very wise and sage manner, which you all ought to be persuaded by because his arguments are compelling. Thank you. [LB367]

SENATOR FRIEND: Senator White, it's 2 minutes and 45 seconds now. [LB367]

SENATOR WHITE: Thank you, Mr. President. I've come so far since I dropped my coin purse that first day, Senator Chambers. It's amazing how much I've learned. I would like to thank you for your attention, but I would like to point out one thing. A sales tax is real. It's a percentage fixed to the cost of the goods and so we know what we're giving and we know who we're giving it to. Now this bill specifically does not tell you what must be given up in order to pay for it, and that's on purpose. That is so we don't make those decisions but that we have a choice, clearly alone, to determine whether it's worth keeping our word to the Nebraska citizens that we were going to remove the half-cent sales increase when times got better. I would submit to you one thing, and this goes back to one of the components on the bill that we are dealing with. I am a huge proponent of property tax. You know that. You know I'm fighting to give \$500 back, but actually in the hands of the people who pay the tax. One of the deep concerns I've had about the bill, the property tax of the bill as composed, not only does the money not go back to the taxpayers, not only may it be absorbed by new spending, I can tell you in Douglas County and I can tell you in any irrigated corn land, and probably dryland corn, that when that land is revalued, the entire amount of the 8 percent tax credit will

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disappear. The revaluation of the houses in Douglas County alone are guaranteed to go up more than 8 percent, and I know farmland has gone up far better than that. So when you pass "property tax" of the type that this bill currently contemplates, I can assure you with a certainty that your voters will say,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR WHITE: ...you gave me property tax relief, you claim, but you valued the property so much higher. You were just lying to me; it disappeared like autumn leaves in the wind and the politicians' promises. We should not do that. Whatever we should do, it should be real. It should be concrete and the voters should know we kept our promise. What we're doing right now is setting them up for deep disappointment, setting ourselves up for yet again breaking a promise. We need and deserve to do better for the middle class and the taxpayers of this state. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator White. Members of the Legislature, you've heard the opening on AM1196. Senators wishing to speak are Erdman, Synowiecki, Stuthman, Fulton, White, Dierks, Hudkins, and others. Senator Erdman, you're recognized. [LB367]

SENATOR ERDMAN: Thank you, Mr. President. If Senator White would yield to a question. [LB367]

SENATOR FRIEND: Senator White, would you yield to a question from Senator White? [LB367]

SENATOR WHITE: Most certainly, Mr. President. [LB367]

SENATOR ERDMAN: Senator White, again, thank you for your perseverance. The question I would have for you is that if you were to make a recommendation for an offset, what would it be? The numbers that we have, at least that I have been able to gather from Revenue, is that it's approximately \$78 million the first year for a half-cent drop in the sales tax, \$118 million for a full year. And so trying to fit that in, if we're going to try to get to a similar number or near that number, what would your proposed offset be personally? Obviously, you haven't included in that because I think it's probably strategically wise not to do that, but I understand your point there. What would your recommendation be? [LB367]

SENATOR WHITE: Well, actually, Senator, if we were going to do anything, my recommendation is let's give each and every homeowner \$500 back and see what's left, and then put that in sales tax relief. That's what I believe should be done. [LB367]

SENATOR ERDMAN: In fairness, that's not the amendment before you, so I would ask

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the question again. If we adopt your amendment, which adds \$196 million of tax relief from the sales tax into this proposal, what would your corresponding offset be if this amendment were adopted, or do you have one at this point? Are you willing to listen to the body? [LB367]

SENATOR WHITE: Oh, of course, that's why it's phrased the way it is, is to listen to the body. But, Senator, again, I'm not obligated to formulate a fourth and fifth level tax plan. My first hope is to give \$500 back to each and every homeowner, real money back in their hands to the middle class. Okay, that didn't work. That happens. So now my next proposition is, don't take the money from them. Don't take the money from them. I can tell you what I don't like, Senator Erdman. I don't like taking the money from them, sticking it into the bank accounts of other governmental agencies and claiming it's a tax cut, because that flat-out is not true. [LB367]

SENATOR ERDMAN: So you would eliminate the property tax credit? [LB367]

SENATOR WHITE: Not at all, Senator Erdman. Once again, I told you what I would do. I would give \$500 back to each and every homeowner. Any money left over I would put in sales tax relief. That has lost. I've now proposed 5...a half-cent sales tax relief and I'm going to let the body try to tell me what they choose to do, because my choices are now, the first two aren't there. If you want a third choice, I'll tell you what I would take. I would give each owner of an automobile \$150 in credit on their income tax, same mechanism that we would have used for property tax but we...real property tax but we'll use it for real...for property tax on automobiles. Once again, it's really money going back to taxpayers but, again, that doesn't look like it has the traction necessary, so I'm looking at sales tax. I've given three ideas of what I believe are the right thing to do, Senator. I think that's more than reasonable. [LB367]

SENATOR ERDMAN: Thank you, Senator White. Members, I can understand the desire to do something different than what's in the package, and based on some of the conversations that I've had with other members, I would have probably done things a little differently myself. However, I think to continue to go back to a previous attempt is not in the here and now, notwithstanding Senator White's other attempts, which I think were valiant and I believe that he did what he said he would do, or at least wanted to do firsthand. If you adopt this amendment you figure out in this existing package what you would offset. And that's what I wanted to get to and I don't...I'm not getting that answer and maybe that's designed to be that way. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR ERDMAN: Simply put, you can't afford to do both. You can't afford to do LB367, as it currently sits, and AM1196. And I can't get a response from Senator White as to what the proposed offsets might be. I'll tell you that under the existing bill, as it

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sits--again, my opinion--we could do more tax relief than we are doing and still be able to afford it, because the revenue forecasts have come in higher than what we were. The bill, as it sits now, is approximately the same dollar amount as what we did on General File before the forecasts. So there's some additional funds that may be available. There are other bills that may do tax relief in addition to these. Senator White has one of them, LB456. So I'm trying to make sense out of this because we can't simply add to and not take something away. I think we have to decide that as we go forward. Obviously, it's not in this amendment and so if you adopt this amendment, we as a body will have to vote to take something else out, notwithstanding Senator White's previous attempts that were unsuccessful. [LB367 LB456]

SENATOR FRIEND: Time. [LB367]

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

SENATOR FRIEND: Thank you, Senator Erdman. Senator Synowiecki. Senator Synowiecki, you're next and you're recognized. [LB367]

SENATOR SYNOWIECKI: Thank you, Senator Friend. Appreciate it. I support the amendment of Senator White's. I was one of those that had one of the most difficult votes I made down here, obviously, was to raise the sales tax a half cent, and I think it's in our best interest to do this now, to return to the taxpayers what we had taken before. It is naturally regressive and I think we need to do something. I don't believe Senator Langemeier is present. Senator Janssen, would you yield to some questions? [LB367]

SENATOR FRIEND: Senator Janssen, will you yield to a question from Senator Synowiecki? [LB367]

SENATOR JANSSEN: Yes, I will. Yes. [LB367]

SENATOR SYNOWIECKI: Senator Janssen, Senator Langemeier is not here. We just adopted his amendment that had a whole lot of items in it relative to tax relief,... [LB367]

SENATOR JANSSEN: Um-hum. [LB367]

SENATOR SYNOWIECKI: ...and it really is a bunch of numbers to me, doesn't make a whole lot of sense. And it's my recollection that in previous years we had...I believe Senator Landis, as Chairman of the Revenue Committee, provided, if I remember correctly, had provided, like scenarios or examples, you know. Okay, for instance, how would what we just adopted, how would that apply to a single household family in an urban setting with a \$60,000 a year or, excuse me, a \$60,000 house with a family...with the head of household earning \$35,000 a year, married with two kids? And then we'd have a scenario or an example of what the bottom dollar tax relief would be. And then

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for the rural setting, that same family, that same family. Let's say they own 1,000 acres in rural Nebraska and they farmed 1,000 acres. What is the bottom line for that same family--mother, father, two children? What is the bottom line? And then likewise, I think Senator White mentioned the corporate aspect of this. I think there was a mention of Union Pacific and what happens. Likewise, for the corporations in the state, those that have a substantial amount of land in our state, what is the repercussions, the bottom line? What is the scenarios and examples? So in other words, can we come up with some scenarios and examples of what these numbers under the previous amendment would mean to us in terms of bottom line, if the Department of Revenue would work with George, the legal counsel of the Revenue Committee, to work up some bona fide actual examples of Nebraska families and how this would play out? [LB367]

SENATOR JANSSEN: Certainly, that could be done, Senator Synowiecki, but I will tell you on the...on your home, you know, we were using a \$100,000 house. Your credit that you would get back on your property tax statement would have been \$80. So on a \$60,000 house it would be \$60, is what you would receive on that credit portion. [LB367]

SENATOR SYNOWIECKI: Okay. [LB367]

SENATOR JANSSEN: But we can get you some scenarios put together. [LB367]

SENATOR SYNOWIECKI: I mean again, I think for us to make an informed decision on Final Reading, for us to make a...again, these numbers here don't mean a whole lot to me until they're played out in scenarios... [LB367]

SENATOR JANSSEN: Um-hum. [LB367]

SENATOR SYNOWIECKI: ...and exactly how this impacts real, living Nebraska families, both in the urban setting, in the rural setting,... [LB367]

SENATOR JANSSEN: And the rural. [LB367]

SENATOR SYNOWIECKI: ...in the corporate community. I'd like to have scenarios played out to how this all looks,... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR SYNOWIECKI: ...because I can't make heads or tails of this, what it actually...the meaningfulness of this; doesn't mean a whole lot to me until I can see scenarios of a typical Nebraska family in the different settings within our...the landscape of our state, including the corporate community, and see how this thing plays out on a bottom-line basis. And I think we owe it to ourselves as a Legislature, as we seek to make an informed decision on Final Reading, that we know what we're looking at.

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[LB367]

SENATOR JANSSEN: Yes, Senator Synowiecki, we can certainly provide you with that and Bill Lock will get that for you. We'll have to use one, you know,... [LB367]

SENATOR SYNOWIECKI: Right. Right. [LB367]

SENATOR JANSSEN: ...one median income and a... [LB367]

SENATOR SYNOWIECKI: Right. [LB367]

SENATOR JANSSEN: ...say a \$100,000, \$80,000 house, and what the credit would be coming back, each one of them. [LB367]

SENATOR SYNOWIECKI: And on the income...then on the income part, the marriage penalty part, what it all means. [LB367]

SENATOR JANSSEN: Sure. Sure. [LB367]

SENATOR SYNOWIECKI: So it can make sense to me. Thank you, Senator Janssen. [LB367]

SENATOR JANSSEN: Absolutely. I'd be glad to do that. [LB367]

SENATOR SYNOWIECKI: And thank you, Senator Friend. [LB367]

SENATOR FRIEND: Thank you, Senator Synowiecki and Senator Janssen. Senator Dierks, you are recognized. Senator Dierks, I apologize, you're not recognized. I messed it up. You'll be up soon. Senator Stuthman, you are recognized. [LB367]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. First, I didn't really know whether he was trying to avoid me or not, up there in the Chair, but I will take this opportunity. I wanted to discuss a little bit about some of the events that we've been talking about, and I want to ask a couple questions of individual senators about their campaign issues, when they were campaigning this last year. I would like to direct a question to Senator Gay. [LB367]

SENATOR FRIEND: Senator Gay, will you yield to a question? [LB367]

SENATOR GAY: Yes, I would. [LB367]

SENATOR STUTHMAN: Senator Gay, when you were on the campaign trail, was it ever brought to your attention that sales taxes were too high and the people were really

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concerned about that? [LB367]

SENATOR GAY: No. All taxes, but sales tax was never specifically mentioned. [LB367]

SENATOR STUTHMAN: Sales tax was really never mentioned or identified as one of the key components to the things that are happening in the state and they're too high, so that was never really mentioned, was it? [LB367]

SENATOR GAY: No, it wasn't mentioned when I was knocking on doors. [LB367]

SENATOR STUTHMAN: But was...were property taxes ever mentioned? [LB367]

SENATOR GAY: Yes, they were. [LB367]

SENATOR STUTHMAN: Okay. Thank you. Thank you. [LB367]

SENATOR GAY: Thank you, Senator. [LB367]

SENATOR STUTHMAN: Senator Dubas, I would like to ask a question of you. [LB367]

SENATOR FRIEND: Senator Dubas, would you yield to a question from Senator Stuthman? [LB367]

SENATOR DUBAS: Yes, I will. [LB367]

SENATOR STUTHMAN: Senator Dubas, you heard the prior question. What was your reactions to the people when you went door to door? And I know you did a lot of door to door. Were the people concerned about sales tax? [LB367]

SENATOR DUBAS: No, I'd have to say it was property taxes that I heard about. [LB367]

SENATOR STUTHMAN: That was the main issue,... [LB367]

SENATOR DUBAS: Yes. [LB367]

SENATOR STUTHMAN: ...was the property taxes. [LB367]

SENATOR DUBAS: Yes. [LB367]

SENATOR STUTHMAN: Thank you. Thank you very much. So we have heard that, you know, the main issue is property taxes and we're considering right now a drop in sales tax, of taking off the half a cent that was put on before. I just think that, you know, it is something that we've got to consider, but the total dollar amount is one thing that really

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is something that I'm concerned about, you know, the hundred-and-some million dollars that will have to be made up some other way. But I would like to direct a question to Senator Synowiecki. [LB367]

SENATOR FRIEND: Senator Synowiecki, will you yield to a question from Senator Stuthman? [LB367]

SENATOR SYNOWIECKI: Yes, I will. [LB367]

SENATOR STUTHMAN: Senator Synowiecki, in your half a cent reduction of the sales tax which you said you supported, will that be just a half a cent off of the sales tax? What portions of that half a cent will affect other entities other than the state of Nebraska? [LB367]

SENATOR SYNOWIECKI: Will affect other...I'm not understanding your question. [LB367]

SENATOR STUTHMAN: Okay. My question is that half a cent that was raised, you know, two years ago, did a portion of that go to counties, communities, or did it all go to the General Fund? [LB367]

SENATOR SYNOWIECKI: Well, it...well, counties and the cities realize some measure of relief through county jail reimbursement and what have you, aid to cities and programs and so forth. That comes through the General Fund. The...what we did was increase the amount of money that taxpayers and Nebraska citizens pay into the state coffers. We increased the amount of money taken out, directly out, of their billfolds. I think now that we have the ability to do it, Senator Stuthman, we ought to let them preserve their money. And this half-cent sales tax is really important to me in the sense of living up to my vote and delivering on the promise that was made. [LB367]

SENATOR STUTHMAN: Okay. Thank you, Senator Synowiecki. I just think that, you know, it is perception, it is a good idea. But I think the concerns of the majority of the people in the state of Nebraska, their main item is property tax, property tax relief. I've always said sales tax is the most fair tax. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR STUTHMAN: Everyone, almost everyone pays the sales tax and I think that's very, very fair. I'm also concerned about the comments that were made by Senator White stating that that \$8 or that property tax credit, you know, being utilized on your property values, and the values are going to go up 8 or 9 percent. Yes, they probably will, they probably will go up that much, but they're going to go up that much anyway. Just because of that tax credit doesn't mean that they're going to jump that

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much more. They're going to be going up anyway, and you're going to be paying a greater amount the next year. Also, the fact that the counties will be receiving that money and giving it as a tax credit on your property taxes, the counties are not going to be spending that money, because that's not money to be spent. Those are dollars that are credited to the property owners. It's a status quo issue as far as the county... [LB367]

SENATOR FRIEND: Time. [LB367]

SENATOR STUTHMAN: Thank you. [LB367]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Fulton, you are recognized. [LB367]

SENATOR FULTON: Thank you, Mr. President, members of the body. The...we ought to think very deeply. I'm going to tell you a little bit of what was going on inside of this skull as we were having the debate, as I heard Senator Chambers talking and Senator White. We ought to think very deeply about what occurs when we tax. When we, as a governmental entity, tax, we are also expressing that we will spend. Were there no need to spend money, there would be no need to tax. All taxes--sales, income, property, estate, inheritance, etcetera--all taxes are tied fundamentally and inherently to government spending. That's the nature of the beast. So we have things that we need to provide as a government, therefore, we are going to be spending some money, therefore we're going to have to tax. Now the question is, by which way shall we collect that tax? Sales? Income? Property? Therein lies the debate. So this amendment that's before us, Senator White's amendment--and hopefully Senator White is here, I'm going to ask him a question--says that we ought to reduce the sales tax from 5.5 percent to 5 percent, suggesting, by way of philosophy, that the sales tax is a bad thing. But it's going to cost money. There will have to be a tax cut reduced or, logically, there will have to be some spending reduced, and so I think it's legitimate to try to glean where Senator White would make that reduction. Again, philosophically, all taxes are tied fundamentally and inherently to spending. That's why I said earlier, I think it was a couple weeks ago, when we provide...when we spend money in order to provide property tax relief, there must be some mechanism by which we incite the people from whom those taxes are taken to take ownership and pay attention to how those taxes are spent, because that's why we tax. Would Senator White yield to a question? [LB367]

SENATOR FRIEND: Senator White, will you yield to a question from Senator Fulton? [LB367]

SENATOR WHITE: Most assuredly. [LB367]

SENATOR FULTON: Thank you, Senator White, if you've had to rush up here. I tried to

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give you some advance warning. [LB367]

SENATOR WHITE: Thank you for that courtesy. [LB367]

SENATOR FULTON: Senator Erdman was asking where you might reduce our tax cuts that we've passed on the amendment. Would you...I think there are some answers there. I didn't get any definitively. Would you perhaps recommend some spending reductions in order to pay for the amount of this amendment in front of you? [LB367]

SENATOR WHITE: Well, we're going to have to go through the budget, and certainly, if I found wasteful spending, absolutely I would. I would tell you this, Senator Fulton. To answer your question as straightforwardly as I can, remember when the committee was looking at what are available tax cuts? They didn't have the Hobson's choice of which gets first or what. They could say...they could have easily said sales tax is a half percent, and then we'll get rid of estate tax, too. And you'll remember that in fact that was one of my earlier amendments, was to get rid of...to give \$500 back in sales tax. I've made a number of first choices on where they would go, you know, but I'm now down very far so I'm at a point where I want to see what the body says. If I gave you no tax cuts that I would have preferred over others I think it would be a fair question, but when I've given you first choice, second choice, third choice, and fourth choice, I think I've done my job telling you where I would prefer to see tax cuts from and what my priorities are--\$500 bucks back to every homeowner... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR WHITE: ...is number one. If we can't get that, then get rid of the estate tax. If we can't get that, I'd look at sales tax. If we can't get that, let's go to car taxes. [LB367]

SENATOR FULTON: Okay. Thank you, Senator White. I have another question, and this is...I'm truly trying to get at the...philosophically where your basis is for the amendment. Would you say then that of all of the taxes that are collected by government, sales tax is that which you least like? [LB367]

SENATOR FRIEND: Senator White. [LB367]

SENATOR FULTON: Sorry. Would Senator White yield to a question yet? [LB367]

SENATOR FRIEND: Senator White, will you yield to another question? [LB367]

SENATOR WHITE: Yes. Yes, sir. [LB367]

SENATOR FULTON: Would you say that...there's a certain prioritization to the different taxes that are taken by government. Would you say then that sales tax is that which you

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least like? [LB367]

SENATOR WHITE: No. Actually, I think the most regressive is the property tax on homes. Before my campaign started I would have agreed with you, but as I walked and talked to people they explained to me, look, when I'm making more money I can pay income tax, if I've got extra money in my pockets since they don't tax food,... [LB367]

SENATOR FRIEND: Time. [LB367]

SENATOR WHITE: ...I can stay... [LB367]

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

SENATOR FRIEND: Senator White. Thank you, Senator Fulton. Senator White, your light is next and you are recognized. [LB367]

SENATOR WHITE: May I continue the dialogue, Mr. President, with Senator Fulton? [LB367]

SENATOR FRIEND: Senator Fulton, you will need to yield if... [LB367]

SENATOR FULTON: Yes. [LB367]

SENATOR WHITE: So first, it would have been I would have agreed with you, Senator Fulton, because it's generally considered to be the most regressive tax, which is Senator Chambers' position. And I did believe that until I started looking at the mix of tax versus amount of money people have. And when I realized that many of the people in my district, particularly, bought homes and paid maybe \$15,000 for them in 1955 and now they're in their 70s or 80s, they're on a fixed income based on Social Security, based on the income that they were making when they retired 25 years ago. They still have to eat. They still have to pay for medical care and medical provisions. And for them, by far and away, property taxes to keep a roof over their head is the most onerous. I mean, no question about it in my mind because what they will tell you is, look, I can stay out of the store. If I don't have money, I give up going to lunch. I don't go out for lunch, or I can stay out and I don't buy a TV or a radio if I don't have cash on hand. If I'm making more money I can pay more income taxes, but when my income is fixed and I'm out of cash and I don't control the spending of it and they raise my property taxes by 50-75 percent, where am I going to live? Where am I going to go? So until I actually campaigned and talked to them and heard that story over and over again on porch after porch, people in tears thinking they're going to lose their homes, I would have put sales tax first. But having heard that I changed my mind, promised them and tried to give each middle class taxpayer homeowner \$500 back, because we have the money. Barring that, I guess I'd go to sales tax. Barring that, I would go to property tax

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on automobiles as relief, because they are excessively high as well. Now at that point, Senator, I would submit to you I've made three or four substantial choices and priorities of where I'd put tax cuts. To say that now I owe you more among people that didn't even make my first team, I don't think that's reasonable. I'd rather see now what the body thinks is more important. But I will tell you this. I would not give Ted Turner \$120,000 back. I would not give Union Pacific \$850,000 back. And if that number is correct, and I'm assured it is, we're giving \$100 million a year, and Union Pacific gets \$850,000? I mean, one of the biggest recipients of the property tax cuts as we've currently talked about them are going to the fast food empires, corporations that don't pay income tax really here and don't pay sales tax. And I'd yield some time back, Senator Fulton, out of courtesy to what you did for me. Mr. President, I'd yield some time to Senator Fulton. [LB367]

SENATOR FRIEND: Thank you, Senator White. Senator Fulton, you have 2 minutes and 12 seconds. [LB367]

SENATOR FULTON: Thank you, Senator White. Appreciate that. There is...there's a point that I would...I'll go ahead and make this...bring this point out now. Part of our tax policy has found its way into the business practice of the country, certainly in Nebraska. The taxes that are paid by corporations, particularly small businesses--let's talk about small business, it's three-quarters of the economy--the taxes that are paid by small businesses find their way to all of us, rich people and poor people alike. Whatever taxes are paid find their way into the price that's charged for a given good or service. And so while it's important to point out that we collect taxes because we spend money, that is number one. Fundamentally, philosophically, when we are looking at our tax policy we have to recognize that to control spending is to control taxes. We need to bear that in mind. [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR FULTON: Second, when we start delineating by priority--sales, income, property, estate--we need to bear in mind that the property tax, as well as the income tax to a certain extent on corporations, finds its way into the price tag of a particular good and service. And so in that sense those taxes can also be considered regressive also. So that argument which is used against the sales tax, to a lesser degree, can also be used against each of these other taxes because they find their way. It's called an embedded tax. It's part of the price that I charge to my consumer. It's a cost that I have to incur and it finds its way into the bottom line price that a consumer has to pay. And so while, yes, the sales tax is a regressive tax by nature, there is a level of regression in all taxes because it finds its way into the economy. Again, it gets back to spending. That's the best way to control our taxes. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Fulton. Senator Dierks, thank you for your

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patience. You are recognized. [LB367]

SENATOR DIERKS: You're very welcome. Thank you very much, Mr. President. Members of the Legislature, I just was struck by the conversation we heard from Senator Harms a little bit ago. Is it time to start looking at streamlining government? When I started my veterinary practice in 1961, if I wanted to visit the state veterinarian I came to the Capitol and his office was down in 1126. If I brought some blood samples with me from the sale barn to have brucellosis tests done on them, we went to the basement. The testing lab was in the basement of the Capitol. At that same time, when Senator Hansen's grandfather was in the Legislature, his office was at his desk here on the legislative floor, and he had a staff that consisted of a pool of stenographers that wrote the letters he needed written. We are a great bureaucracy. We've provided great things for our constituents. But the bureaucracy, and I've said this for years, unless it's...I've said the bureaucracy, unless it's growing and expanding, thinks it's failing. And so we have a tremendous amount of pressure to keep these bureaucrats growing and expanding. What happened over those years? We built a State Office Building, big four-story building over here, counting the basement I guess, and it's not big enough to take care of what we've done in the way of expanding the bureaucracy. They want to build more. The state testing lab is out by the Department of Roads. We just grow and expand and keep building. I can say the same thing for most other bureaucracies we know, the university for instance. What about education and our schools? We educate the same number of kids in Ewing Public School, maybe a few less now, than we did when I graduated there in 1950. We have at least two and a half times as many teachers today in that school system as we had then. We had a superintendent then that taught halftime. We had a principal who taught full-time. Rule 10 of the Department of Education has provided us with a whole lot of bureaucracy where we have our teachers now where they have to have...they have to have an aide because they have to spend their time filling out reports. Is it time for us to visit Rule 10 and streamline this whole proposition? If we're going to talk about streamlining, we got some real serious thinking to do, and I'm just telling you some of the possibilities that have happened since I can recall, of how we've expanded and provided more bureaucracy for our citizens and have less citizens to give it to. I'm pretty well convinced that our LB367 is in pretty good shape right now, and I'm willing to support what we've done. I think that it'd be good for us to move on. So with this, I'd like to thank you for the time, and I don't mind waiting, Senator Friend, that's fine. Thank you very much. [LB367]

SENATOR FRIEND: Thank you, Senator Dierks. Senator Hudkins, you are recognized. [LB367]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I have been listening all afternoon and I have a whole sheet of comments that I would like to make to what various senators have said, beginning with Senator Harms. He said that when he did his campaigning that people were most concerned about the property tax. I agree,

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because sales tax, you can pretty much determine what kind of sales tax you're going to pay on specific items. You buy a luxury car you're certainly going to pay more sales tax than if you bought something from Weird Wally. Income tax, if you make the money you can afford to pay the tax. But property tax, you have to pay that whether you dry out, drown out, freeze out, hail out, no calves, or nothing, and unfortunately there are a number of people in this state that need that dirt to make a living. One way that we could reduce property taxes is insist that the state pays its bills. I have had several bills--well, same bill over the several years--there have been others with the same bill, that says to the state of Nebraska we have a number of adjudicated criminals; in other words, the county jail reimbursement. They have been tried, found guilty, and we're just waiting, or the state is waiting, for a place to put them. In the meantime they are kept, courtesy of whatever county they were tried in. There was one case in Lancaster County where the person was kept in the county jail. I don't remember the exact number of days, but it was well over 100. Problem was, he had some mental problems, and it was decreed that he would get mental help. Well, the county is not authorized or equipped to give him the treatment that he needed, so he sued the county. Well, guess what? The county paid both sides. So if we could get the state to pay their bills, we would be a lot better off. The fiscal year in Nebraska starts the 1st of July. They're usually out of money in this particular fund by October. Then who pays? Well, the county. And where do they get their money? Guess where?--property taxes. It was said that this state and their schools are land rich and cash poor. We do have a lot of agricultural land in this state. But when a school has a bond issue, who votes? If it's in a more rural area, 90 percent of the votes are in town, 10 percent of them are rural. But who pays? Because of the property taxes and the number of acres that people have to have, it is 90 percent rural, 10 percent town. You want a way to lower taxes? I agree with Senator Fulton. It's called less spending. And, Senator White, I don't see you right now, but for everyone else's benefit, his plan to give \$500 per homeowner back doesn't do anything for the renters and it costs \$440, 4-4-0, million dollars over two years. And that \$500 that each homeowner gets back, a person that is living in a more... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR HUDKINS: ...western rural part of the state maybe has a--I don't know, pick a number--\$75,000 house. They get \$500 back. A person in Omaha in Regency Estates who live in a--pick a number, \$300,000, \$400,000 or up house--they get \$500 each. But the cost of that, \$440 million, I think we just cannot afford that. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Hudkins. Senator Gay, you are recognized. [LB367]

SENATOR GAY: Thank you, Mr. President. We just got done voting for \$424 million in tax relief, tax savings. The question on this amendment--and I'm looking ahead a little

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bit, there's three or four other amendments coming up with a lot of spending in them, a lot of tax cuts--I have a question, if Senator White would yield to a question. [LB367]

SENATOR FRIEND: Senator White, will you yield to a question from Senator Gay? [LB367]

SENATOR WHITE: Certainly. [LB367]

SENATOR GAY: Senator White, on this fiscal note on this amendment, the way I understand it, \$76 million the first year, \$120 million for every other year, the question... [LB367]

SENATOR WHITE: Yes, given current economic levels of activity. [LB367]

SENATOR GAY: Okay. As I said earlier, I'm looking ahead a little bit and there are other amendments filed. Do you know, what is the cost, if you would, what are the costs of those upcoming amendments as well? [LB367]

SENATOR WHITE: It depends on whether we offer them. I mean, we're working through the situation right now. For example, the other one that's left would have been to provide property tax relief for automobiles, and property tax relief for automobiles, we've talked about different numbers. Roughly, we'd try to limit it to private automobiles and approximately, there are one million of them. So however much money you want to pay per vehicle would be whatever number you want. [LB367]

SENATOR GAY: So there's no...is there no estimate at this point? Are we just going to... [LB367]

SENATOR WHITE: Well, it depends on what number we put in there. [LB367]

SENATOR GAY: Okay. [LB367]

SENATOR WHITE: I mean, the question I have... [LB367]

SENATOR GAY: Probably be substantial. [LB367]

SENATOR WHITE: ...and, Senator Gay, the point of this is again, I've come to this committee a number of times and to this body a number of times where I picked priorities and said this is what I think is the most important. First one was \$500 back for every homeowner to middle class and get rid of the estate tax in its entirety, arguing that that is a balanced program, fair to both the wealthier taxpayers and the middle class. That was not the priority of the body. At some point, I think anybody with any kind of humility has to accept, okay, so now the question is, is sales tax, which the Revenue

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Committee did not put in at all, at all, and that seems really wrong. So what I hoped to do in this amendment with Senator Chambers was to give a clean choice to this body to say, is sales tax our first priority and, if so, then you select what else goes with it. [LB367]

SENATOR GAY: Okay. Thank you for that. The question I have, that runs through my mind, is the responsibility of this. If we just did that and then we're going to add hundreds of millions of dollars, where do we then go? I spoke twice on the compromise and I think we...I heard other people saying, well, we have a compromise, we have a package. I don't question one bit Senator Chambers' or Senator Synowiecki's intents. They were here and made that commitment, and I don't question that at all. There's a certain point, though, where I think we just passed that; we have to move on. And I don't see how, even if you were for the sales tax, how we can go...how this works where we can go give this kind of money back when we just...just reverse gear of what we just did, and then go ahead with this. So I have a hard time supporting this because...unless I know exactly where those cuts are going to come from. Is Senator Heidemann in the...would Senator Heidemann yield to a question? [LB367]

SENATOR FRIEND: Senator Heidemann, will you yield to a question? [LB367]

SENATOR HEIDEMANN: Yes. [LB367]

SENATOR GAY: Thank you, Senator. Senator Heidemann, you just heard what I said. How can we, with what we just did as a package and now if we add this on, how could we fund this? Because I would like to support the sales tax. How do we fund this, or do you have any ideas? [LB367]

SENATOR HEIDEMANN: Well, if you would go to, on your general financial...General Fund financial status on line 43, it shows \$25 million there. With the last amendment that we had passed it will probably pop up to \$28 million... [LB367]

SENATOR FRIEND: One minute. [LB367]

SENATOR HEIDEMANN: ...of spending that we would have left. If you would pass this amendment that is before us right now, we would have a shortfall of approximately about \$172 million. How would you fund it? You would have to either go into the budget and cut the budget either \$172 million or part of that, or... [LB367]

SENATOR GAY: Okay. [LB367]

SENATOR HEIDEMANN: ...go back to the tax cut package and do something different there. [LB367]

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SENATOR GAY: Thank you, Senator. Question I had, Senator Chambers mentioned this and I agree, we just voted on a budget, very large budget, in an afternoon, and I didn't hear a whole lot of opportunities to save money on that. I think we agreed with the budget and we're moving it on. Now unless something changes between now and on Select File, I don't know where we're going to go cut a hundred...how much? [LB367]

SENATOR HEIDEMANN: Hundred and seventy-two. [LB367]

SENATOR GAY: Hundred and seventy-two million dollars, because we...there weren't a whole lot of questions on that budget. So the responsibility of doing this, I don't think we would be very responsible if we moved ahead with this. Thank you, Mr. President. [LB367]

SENATOR FRIEND: Thank you, Senator Gay. Mr. Clerk, you have items. [LB367]

CLERK: Mr. President, Senator Hudkins would offer LR97, calling for an interim study. Senator Lathrop would like to add his name to LB629 as a cointroducer. (Legislative Journal page 1374.) [LR97 LB629]

And I do have a priority motion. Senator Preister would move to adjourn until Thursday morning, May 3, at 9:00 a.m.

SENATOR FRIEND: Members, the motion is to adjourn until Thursday morning, 9:00 a.m. All those in favor signify by saying aye. All those opposed say nay. The ayes have it. We are adjourned.