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Floor Debate  
May 15, 2007

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SENATOR FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eightieth day of the One Hundredth Legislature, First Session. Our chaplain for today is Reverend Rick Snodgrass, of the Assembly of God Church in Wayne, Nebraska, from Senator Engel's district. Please rise.

PASTOR SNODGRASS: (Prayer offered)

SPEAKER FLOOD: Thank you, Reverend Snodgrass. I call to order the eightieth 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.

SPEAKER FLOOD: Mr. Clerk, are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined and engrossed LB12, LB504, and LB674, and find those all correctly engrossed. Enrollment and Review also reports LB641 to Select File with Enrollment and Review amendments. And I have an Attorney General's Opinion addressed to Senator Nelson (re LB198). That's all that I have, Mr. President. (Legislative Journal pages 1565-1569.) [LB12 LB504 LB674 LB641 LB198]

SPEAKER FLOOD: Thank you, Mr. Clerk. (Visitors introduced.) Moving to the agenda, one note to pass along. LB316E and LB316AE will be passed over and will not be read on Final Reading today. Again, LB316E, LB316AE will be passed over and will not be read on Final Reading today. Mr. Clerk, we now proceed to Select File, LB588A. [LB588A]

CLERK: Mr. President, LB588A. The first item I have, Senator Cornett, AM1189, but I have a note you'd like to withdraw, Senator? [LB588A]

SENATOR CORNETT: Yes, I would. [LB588A]

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CLERK: Senator McGill, I have nothing further pending to the bill. [LB588A]

SENATOR MCGILL: Mr. President, I move LB588A to E&R for engrossing. [LB588A]

SPEAKER FLOOD: You've heard the motion. The question is, should LB588A be moved to E&R for engrossing? All those in favor say aye. All those opposed say nay. The ayes have it. LB588A is advanced to E&R for engrossing. We now move to Final Reading. Members, would you please take your seats in advance of Final Reading. Members, please take your seats. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR118 and LR103. Mr. Clerk, on Final Reading, we now proceed to LB274. [LB588A LR118 LR103 LB274]

CLERK: (Read LB274 on Final Reading.) [LB274]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB274 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who intend to do so? Mr. Clerk, please record. [LB274]

CLERK: (Record vote read, Legislative Journal page 1570.) 45 ayes, 0 nays, 3 present and not voting, 1 excused and not voting, Mr. President. [LB274]

SPEAKER FLOOD: LB274 passes. (Doctor of the day introduced.) Mr. Clerk, we now proceed to LB373. [LB274 LB373]

CLERK: (Read LB373 on Final Reading.) [LB373]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB373 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB373]

CLERK: (Record vote read, Legislative Journal page 1571.) 46 ayes, 2 nays, 1 present and not voting. [LB373]

SPEAKER FLOOD: LB373 passes. (Visitors introduced.) We now proceed on Final Reading to LB629E. [LB373 LB629]

CLERK: (Read LB629 on Final Reading.) [LB629]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB629 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB629]

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CLERK: (Record vote read, Legislative Journal pages 1571-1572.) 49 ayes, 0 nays, Mr. President, on the passage of LB629. [LB629]

SPEAKER FLOOD: LB629 passes with the emergency clause attached. Mr. Clerk, LB629AE. [LB629 LB629A]

CLERK: (Read LB629A on Final Reading.) [LB629A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB629AE pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB629A]

CLERK: (Record vote read, Legislative Journal page 1572.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB629A]

SPEAKER FLOOD: LB629A passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB274, LB373, LB629E, and LB629AE. (Visitors introduced.) Remaining on Final Reading, we now proceed to our second section of Final Reading, whereas previously announced, we shall pass over LB316E and LB316AE. Mr. Clerk, we proceed now to LB317E. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB629A LB274 LB373 LB629 LB317]

CLERK: 43 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB317]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB317]

CLERK: (Read title of LB317.) [LB317]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB317E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB317]

CLERK: (Record vote read, Legislative Journal page 1573.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB317]

SPEAKER FLOOD: LB317E passes with the emergency clause attached. (Visitors introduced.) Mr. Clerk, proceeding in Final Reading mode, let's go to LB318E. [LB317 LB318]

CLERK: (Read LB318 on Final Reading.) [LB318]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB318E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB318]

CLERK: (Record vote read, Legislative Journal page 1574.) 49 ayes, 0 nays, Mr. President, on the passage of LB318. [LB318]

SPEAKER FLOOD: LB318 passes with the emergency clause attached. We now proceed to LB319E. [LB318 LB319]

CLERK: (Read LB319 on Final Reading.) [LB319]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB319 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB319]

CLERK: (Record vote read, Legislative Journal pages 1574-1575.) 49 ayes, 0 nays, Mr. President, on the passage of LB319. [LB319]

SPEAKER FLOOD: LB319E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB320E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB319 LB320]

CLERK: 38 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB320]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, would you please read the title. [LB320]

CLERK: (Read title of LB320.) [LB320]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB320E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB320]

CLERK: (Record vote read, Legislative Journal pages 1575-1576.) 49 ayes, 0 nays, Mr. President, on the passage of... [LB320]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB320E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB321E. Members of the Legislature, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those

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opposed vote nay. Mr. Clerk, please record. [LB320 LB321]

CLERK: 38 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB321]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB321]

CLERK: (Read title of LB321.) [LB321]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB321E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB321]

CLERK: (Record vote read, Legislative Journal page 1576.) 37 ayes, 12 nays, Mr. President, on the passage of LB321. [LB321]

SPEAKER FLOOD: LB321E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB322E. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB321 LB322]

CLERK: 41 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB322]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB322]

CLERK: (Read title of LB322.) [LB322]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB322E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB322]

CLERK: (Record vote read, Legislative Journal pages 1577-1578.) 44 ayes, 1 nay, 4 present and not voting, Mr. President. [LB322]

SPEAKER FLOOD: LB322E passes with the emergency clause attached. LB323E. Mr. Clerk, are there amendments to this bill? [LB322 LB323]

CLERK: Mr. President, Senator Pirsch would move to return to Select File for specific amendment, AM1328. (Legislative Journal page 1578.) [LB323]

SPEAKER FLOOD: Senator Pirsch, you're recognized to open on your motion to return LB323E to Select File for a specific amendment. [LB323]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. LB321, the mainline appropriations bill, has passed today. Embedded in that appropriations bill was a gas tax increase, unless we take measures to fund the roads in a manner that does not raise taxes. That's what my amendment, AM1328, does. Essentially, I'm asking the body to reconsider Senator Erdman's amendment when LB321 went through General File. The essence of it is, it would fund the roads through the Cash Reserve Fund instead of through raising taxes. And I think that's important. I don't think that increasing taxes on the people of Nebraska at this point in time is the right thing to do for the state. I think it definitely sends the wrong message, and it is harmful for the people of Nebraska. When you look at what's occurring out there, you look to the...just to the...today, in the Omaha World-Herald, there's an article. It deals with the price of gas in Nebraska. Rising gas prices now in the state has set a new record in Nebraska and throughout the nation. We...the price of regular unleaded gas in Nebraska hit \$3.25 on Monday, which is 5 cents higher than the previous record in 2005. Nebraskans are paying more for gas than most others around the country. The national average Monday was \$3.10 per gallon. The article goes on to mention we have the seventh-highest gas prices in the country. Our...we have a neighbor, Wyoming, that their average price is just \$3.03 a gallon for gas. It is predicted, as well, that gas prices are going to go up markedly. They are predicted to reach a high perhaps of \$3.60 a gallon in the near future. So I think that to add on...this tax on top of that,...you know, Senator Chambers has mentioned, uses the story of the individual who is walking down the path with a wicker basket and everybody is dropping in stones, and at some point in time, as with the proverbial straw that broke the camel's back, it is...you've reached the level that the people can support. And I think we've reached that. And so I would ask you to support this motion to return to Select File so that we can talk about it and consider it here today. I think that it is a very important thing that we can do for the people of Nebraska. I was wondering if Senator Heidemann would yield for a quick question. [LB323 LB321]

SPEAKER FLOOD: Senator Heidemann, will you yield to a question from Senator Pirsch? [LB323]

SENATOR HEIDEMANN: Yes. [LB323]

SENATOR PIRSCH: Senator Heidemann, should we utilize the Cash Reserve Fund instead of raising taxes on Nebraskans, would that...would we still have a positive...well, let me put it this way, how much would be left in the Cash Reserve Fund then after deducting that financing for the year? [LB323]

SENATOR HEIDEMANN: Just one second. Current status would tell us there would still be just a little bit over \$400 million left in the Cash Reserve, and that would be at the end of the second year. [LB323]

SENATOR PIRSCH: Okay. So it would still be over \$400 million left in our Cash

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Reserve? [LB323]

SENATOR HEIDEMANN: Correct. [LB323]

SENATOR PIRSCH: Okay. Thank you very much, Senator Heidemann. With that, I would ask for your positive vote to return LB323 to Select File for the limited purpose of...so that we can fund the roads in a manner that doesn't lead to tax increases. Thank you. [LB323]

SPEAKER FLOOD: Thank you, Senator Pirsch. You've heard the opening on Senator Pirsch's motion to return LB323E to Select File for a specific amendment. Senator Heidemann, you are recognized. [LB323]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I stand in opposition to returning to Select File. I believe we've seen this amendment before. We've had full and fair discussion on this amendment before. I believe this body has taken a decision on this amendment before, and we decided not to do it. I'm definitely in opposition of taking money out of the Cash Reserve. And I guess if need be, we can get into that discussion a little bit further. But I think we've talked about this before, as I said before. And I think we need to just move on and fund our roads as we have in the past, and that's with the gas tax. I believe that good roads are important to Nebraska, and I believe Nebraskans are willing to step up to the plate and help fund those roads. So I do rise in opposition of returning to Select File. [LB323]

SPEAKER FLOOD: Thank you, Senator Heidemann. Senator Wightman, followed by Senators Avery, Harms, White, and Pirsch. Senator Wightman, you're recognized. [LB323]

SENATOR WIGHTMAN: Thank you, Mr. Speaker, members of the Legislature. I would like to review some of the facts that we discussed when this was on...the same amendment was proposed on General File. First of all, we talked about the fact that this had the possibility of raising taxes about 1.8 cents in the second year of the biennium. Right now, projections would indicate that there would be no increase in the first year of the biennium. I think it gets down to a matter of responsibility. We have always provided that the gas tax would pay for the Highway Allocation and the Highway Trust Fund, from which our highways and roads are funded. And it seems to me that's the path we ought to continue to take. We talked before about the fact that probably few people know what the gas tax is. I suggested, when it was on General File, that if you stopped 100 people on the road, not a single person, including probably many of the members of the Legislature at the time this session began, would be able to tell you what the gas tax was. Of course, with media attention, they know that there will be an increase if we do this. We also talked about the fact, on General File, that the cost to an average motorist who would drive his automobile 16,000 miles a year at 20 miles to the gallon, during the

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second year of the biennium would pay approximately \$14. And we discussed the comparison of this with other expenditures that people make that they don't seem to think breaks them. And I would suggest a carton of cigarettes would be about a time and a half to double what this tax would be, increased tax for an entire year. The use of alcoholic beverages, I would hate to think how many times the average Nebraskan would pay out for the use of alcoholic beverages, compared to the additional gas tax. So, one movie for a couple would approximate the...one time in one year, would approximate the approximate increase in the gas tax. We also discussed before, and I would remind you that the Department of Roads has stated that the inflation rate over a period of approximately three years in road construction is 36 percent. And we discussed the fact that that was attributable primarily to the cost of the three major ingredients, which is concrete, steel, and diesel fuel. But in the meantime, our gas tax has remained almost stable--the gas tax collections. I think the figure was given that it had averaged one-point-something percent over the last three years, and probably 4 to 5 percent is the ballpark of what the increased collections from the gas tax has been. So if we're going to keep up with our roads, we're going to have to look either at other methods of funding--and I know this is being proposed, but I don't think it's a responsible position--or we're going to have to look at increases in the gas tax. And I would...I know Senator Pirsch just gave the statistic that we were number seven in the country. That is not a correct statement if you look at the total taxes on gasoline, in view of the fact that many of the states impose a separate sales tax on the sale of gasoline, some also fund out of General Funds. So if we were looking at the cost of road construction,... [LB323]

SPEAKER FLOOD: One minute. [LB323]

SENATOR WIGHTMAN: ...I don't think that seventh place standing is an accurate statement as to what we're spending. So I do stand in opposition to the bill. I would hope that the body would see fit to pass LB323E without returning to Select File. Thank you. [LB323]

SPEAKER FLOOD: Thank you, Senator Wightman. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB317E, LB318E, LB319E, LB320E, LB321E, and LB322E. Continuing on with discussion, we have Senator Avery, followed by Senators Harms, White, Pirsch, Erdman, Karpisek, and others. Senator Avery, you are recognized. [LB323 LB317 LB318 LB319 LB320 LB321 LB322]

SENATOR AVERY: Thank you, Mr. President. I, too, am going to oppose this motion, primarily because I think it takes us even farther away from what is the true purpose of the Cash Reserve Fund. The Cash Reserve Fund, we must keep in mind, is primarily to be used for cash management, not for policy initiatives. And I think we have strayed from that original purpose of the Cash Fund, and I would like to see us be very

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restrained in how we do this. We already are transferring about \$100 million out of the Reserve Cash Fund to policy initiatives, and I think that that is more than enough transfer at this point, and I would hope that we do not continue down this path. We must remember the original purpose is for cash management, and when you take the money for one-time expenditures into policy initiatives, you're getting away from the original purpose of the Cash Fund. Thank you. [LB323]

SENATOR LANGEMEIER PRESIDING [LB323]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Harms, you are recognized. [LB323]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise to oppose this amendment. I guess what we have to decide here is if we want to have a change in our own public policy. I don't think this is good public policy. I don't think we should be getting into the reserves. My biggest fear is that if two years from now when we come back and do our next budget, if that's a down cycle, what are we going to do then when we have to dip into the reserve just to keep us operating generally in government? What happens to the roads? I think it's a poor decision to make. We've been down this road, and I would ask that you not support this. I wonder if Senator Fischer...would you yield for a question, please? [LB323]

SENATOR LANGEMEIER: Senator Fischer, would you yield to a question from Senator Harms? [LB323]

SENATOR FISCHER: Yes. [LB323]

SENATOR HARMS: Senator Fischer, you're going to be doing a study in the interim on how we fund the roads. Is that correct? [LB323]

SENATOR FISCHER: Yes, I'll be meeting with the Chair of the Appropriations Committee and the Chair of the Revenue Committee at the beginning, and then we hope to get our committees involved in that also. [LB323]

SENATOR HARMS: Well, I really believe that's part of the answer. I believe we need to study this, and I think that we need to wait to see what Senator Fischer can find and see if there are other sources of funding. But at this point, I would rise to oppose this. And I thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator White, you are recognized. [LB323]

SENATOR WHITE: Thank you, Mr. President. I rise because of a number of different

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concerns that I'd like to briefly address. First of all, during the initial discussions, I and others predicted that gasoline prices would rise, and they would rise to near record levels. We're not even in the driving period yet. We've not even hit the highest prices. I still predict we will see near \$4.00 a gallon for premium. As a result, you will see consumption drop dramatically because people simply can't afford to drive their cars. You will see this gas tax take place and increase earlier rather than later. I restate my position that it's absolutely irrational to have cut taxes in so many areas, particularly giving large amounts of money to very profitable institutions like the Union Pacific Railroad, or very wealthy individuals like Ted Turner, and yet raise gas taxes on the middle class, who are most vulnerable to this. And yet, that's exactly what we have done. Given all of that, I still am very uncomfortable, extremely uncomfortable, with spending money out of the Cash Reserve. That is credit card financing. It's not honest. Honest financing is, you pay as you go. We went through this during the early years of the Johanns administration, when there was a cash refund from the Cash Reserve because we just had too much money in it. The next year, we had a substantial economic downturn, and we were in a crisis, and we had spent down the Cash Reserve. That is not the kind of integrity and honesty that the voters expect from us. I don't like this gas tax, I don't like to increase it, and I also don't like to deficit spend out of a credit card. Those are both wrong. What I think should occur is we simply don't spend the money, and we get rid of the gas increase, and we continue to be fiscally conservative with our Cash Reserve Fund. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator White. Those wishing to speak, we have Pirsch, Erdman, Karpisek, Ashford, Janssen, and Dubas. Senator Pirsch, you are recognized. [LB323]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the statements of my fellow senators. This, as had been...the point had been brought out earlier, is an unusual year. There is a study that Senator Fischer just spoke of. They are looking at finding a framework, a reliable long-term source of funding for the roads, but we don't have that now. We do have an interest as a body--and I know there are many new senators here--of working out a paradigm for the long term. And I think that's important, and I think we should get that. But this has not been fleshed out yet, and this is an unusual year in that regard. So we are left just with those two choices until we can address this issue perhaps more fully next session. And so I suggest, as the stopgap measure for the unusual situation that we find ourselves in this year, rather than raise taxes to indicate that we are not setting precedents, that we are taking, Senator Fischer indicated, steps over the interim to determine a framework for the long term. But in the meanwhile, given our unique situation, given the imperative that's come about with the raise...with the cost of gas here, the regressive nature of the tax and how it's going to impact the people, given the fact that this is a one-time deal until we can address this more fully, I think it is entirely appropriate, more so--and the people, I believe, of the state of Nebraska believe it is, as well--to address this when we have cash reserves that

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are to the extent that we will not in any significant manner affect our...the safety or health of the state. I think that that is a whole lot more healthy for the state than by raising taxes. And so another point that I wanted to address is that no one here is saying that roads are not important or that somehow this bill is neglecting the roads. This is a...there's no disagreement that funds will be spent for the roads. The only thing that is in play here is the source of funding for those roads. So to say that I don't have concern for our infrastructure of roads, or that this bill doesn't, is incorrect. This addresses it. This just merely...the difference is in the source of funding. So again, I want to emphasize that this does...this is a regressive tax. We already have some of the nation's highest car taxes. And when you look at the working poor and how they also need to drive to work, they can't cut that out of their budget, that they still need to get around, that this is a very poor tax for the one-year shot that we're looking at here. And so it makes a whole lot more sense, in my estimation, for this one year--we're not setting precedent--while we're figuring out the long-term solution, to fund this, not through a tax increase, but rather through our cash reserves, which are more than adequate. And we have, in the short term...I am a conservative fiscal practitioner, and so I believe in good fiscal discipline. But given our outlook, given the unique nature of this...of the question here, I think that it makes perfect sense. And as I...as Senator Avery already pointed out, you know, nothing is done,... [LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR PIRSCH: ...we're not purists here. Whatever makes the best sense, you can't be an ideologue. We already have borrowed from the Cash Reserve Fund for other projects, and I don't necessarily agree with those. But in this particular instance, we're not setting new precedents, and it makes the most sense. And so I think rather than worrying about strictly adhering to...you know, being an ideologue, I think it makes more sense to figure out what is the best direction to go for this year, until we can get that framework in place. Thank you. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Erdman, you're recognized. [LB323]

SENATOR ERDMAN: Mr. President, I rise to share some information with the Legislature. One is procedural. As I have shared with Senator Pirsch and visited with him--and there is some resemblance to an amendment that I offered earlier to this one on Select File--but it's my understanding that the budget has to pass on the eightieth day, pursuant to our rules. This is part of the budget. If this would get adopted, I believe we would have to at least suspend the rule for this bill and allow it to advance at a later date. But I don't believe that that necessarily should be a hindrance to our process, because there are ways to address that issue. I just wanted to share that with the body. I handed out a sheet that was prepared by the Fiscal Office. And one of the things that seems to be discussed, at least maybe this session more than others, is, what's a good

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amount to be held in the Cash Reserve when you're setting a budget? If you look at the status sheet which is attached to your agenda, the green sheet, down at the bottom you'll see five fiscal years that are listed. If you would have gone back to each year that we passed a biennial budget, those same five years are now displayed in this one page that I have handed out. So the budget that was passed at the end of the session in 1999, the projected Cash Reserve for those five years are listed. The budget in 2001, the Cash Reserve that was projected, those are listed. And you can go down and see that. And you'll follow that the current 2007...obviously, we have 11 days of session left, but if the budget were to pass today, given the circumstances that we're in with the Cash Reserve, where it's projected, that would be where we would end this session. And obviously, those are projections. But you'll notice, the budget in '99 was projected at the end of that fiscal year to have almost \$100 million in the Cash Reserve at the end of that budgetary cycle. The next budget was passed in 2001, the fiscal year '02-03. That was projected to have an ending balance of that budget year of about \$79 million. If you go to '04-05, which would have been the budget passed in 2003, the ending balance of the Cash Reserve for that fiscal year would have been a little over \$126 million. Since 2005, which would have been the last budget and the current budget we're operating under, fiscal year '06-07, is estimated to have had an ending balance of \$208 million. The last line is where we're at today, or the last set of numbers. Fiscal year '07-08, we're projected to have a \$475 million Cash Reserve. That's the same number you'll see on your status sheet attached to your agenda. And you'll see in '08-09 you're going to have a Cash Reserve balance of \$424 million. That's projected, but that's the same number we're operating on our budget in the middle column of the Cash Reserve Fund on the status sheet. So what is a healthy number for the Cash Reserve? It's whatever we want to set it at. The last budget that this Legislature passed, the one that we're operating under right now, raised expenditures, or the growth rate was 15 percent over two years. We only set aside a little over \$200 million to get us through the short time. Now we're growing at a more responsible rate, which is approximately 4.5 percent, and we're setting aside over \$400 million. Out of that money that we have set aside comes \$113 million in what I would consider to be non-...as Senator Avery would talk about...cash management issues. Those are funding issues. The question Senator Pirsch is asking you and the question that I asked you earlier is, is it appropriate, as we have done with one-time expenditures out of the Cash Reserve, to say to the people of the state of Nebraska that this is a viable alternative in the short term to allow us to manage the circumstances until we get to a long-term solution? That's all it is. We're not tearing a hole in the legislative universe here. That's not this at all. If it is, you have to vote against LB323,... [LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR ERDMAN: ...especially those of you that are members of the Appropriations Committee, because there are things in there that deviate from standard practice. Again, what Senator Pirsch is simply asking you is for another opportunity, whether or

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not we want to delay what's in the budget and provide funding for roads without a gas tax increase. Here's the other side of this. If you don't vote to do this, it's my understanding the Governor is going to line-item out the gas tax. Then that means that we're short \$19 million in roads funding, according to the Appropriations budget. Then you must be committed to raising the gas tax by an override, otherwise we're going to be short, and the 36 percent growth rate that Senator Wightman talks about gets wider, because we're not funding the roads at the level that most people would think we would need to at this point, even under the current budget. And if you reduce that amount, it gets greater. So either it puts more pressure on the so-called task force or study, which is just a discussion about the future of the roads funding, or you adopt this amendment... [LB323]

SENATOR LANGEMEIER: Time. [LB323]

SENATOR ERDMAN: ...and we have a different alternative and we don't have to raise taxes as a Legislature. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Karpisek, you are recognized. [LB323]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I would like to thank Senator Pirsch for bringing this forward. As I was home over the weekend, about the biggest number one question that I heard is, how can you possibly think about raising the gas tax now when it's so high? I agree with Senator Pirsch. I do think that we should consider this. I don't want to spend out of the Cash Reserve either. I feel that \$500 million would be a great place. But as with any of us that have a checking and savings account, sometimes you need to get into the savings. We have the money there. I don't like to get into it. We can make interest on that money. But rather than to pass this on to everyone that tries to make a living, the people that have to drive, people that use gas in their businesses, it's just too much on them. We should be here to help people of the state, not to put another burden on them. I agree with Senator Erdman and Senator Pirsch, I don't think that it's smart for us to put another 2 cents on them. I guess I don't understand where we're coming from on this. The money is there. I would be in favor of one time...and I know we'll probably come back and do it again, or look at it. But I cannot support anything to raise that gas tax, and I would support bringing this back to Select File. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Ashford, you're recognized. [LB323]

SENATOR ASHFORD: Thank you, Mr. President. I'm going to give Senator Heidemann some of my time. I just want to stand in opposition to Senator Pirsch's motion. Having served on the Appropriations Committee for a number of years, I can tell you it's very

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difficult, especially in dealing with the roads question, to anticipate what the gas tax is going to have to be in order to meet the needs of the state. It is an exercise that takes a considerable period of time within the committee. It is a very thoughtful process. And I appreciate Senator Wightman's comments about scale. We're talking about a \$14 tax on someone who drives 20...yeah, 20 miles a gallon, drives 14,000 miles, 16,000 miles in a year. And we have to think about that scale. Also, there's a...we're dealing here with a \$370 million budget. The funds for that budget come out of a variety of sources, not the General Fund. And it has been that way in the state for a number of years. We expanded this year to include rental car payments, or tax that now goes into that fund. We do need to find other ways of dealing with road construction. As Senator White rightly states, as the cost of driving goes up, the amount of driving goes down and the amount of tax collected, theoretically, will go down. Guessing the price of gasoline, though, I think is a difficult task and one that is fraught with danger. But I do agree with Senator White that it is bad policy to use this reserve fund for this purpose, especially when the state has traditionally utilized other sources of related sources of income for the Roads Department and for roads construction. So I would strongly urge the body not to take reserves of \$19 million and add them to a \$370 million budget. It just makes absolutely no sense. With that, Senator Heidemann, I would give you the rest of my time. [LB323]

SENATOR LANGEMEIER: Two minutes, 30 seconds, Senator Heidemann. [LB323]

SENATOR HEIDEMANN: Thank you, Senator Ashford, Mr. President. I'll be brief. The precedent that we would set by doing this scares me. That's about as simple as I can get. I would rather not have a gas tax increase, not give the Roads Department any more money to spend, keep them flat, than to do this, because this is not the right road to start down. I'd like to ask Senator Pirsch a question, if he would yield. [LB323]

SENATOR LANGEMEIER: Senator Pirsch, would you yield to a question? [LB323]

SENATOR PIRSCH: I would. [LB323]

SENATOR HEIDEMANN: I was wondering, after we get...if a group gets together and studies this and comes back with the only conclusion that we can do to fund our roads is to...with a tax on gas, what would you do at that time? [LB323]

SENATOR PIRSCH: I guess the assumptions that are supposed in your question are that there are no other alternatives to funding--and let me know if I'm wrong--there's no other alternatives to funding roads but to raise taxes? [LB323]

SENATOR HEIDEMANN: The best...if the people that are studying this come back with, the best way that we can fund our roads is the gas tax, what would you do then, having started down this path? [LB323]

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SENATOR PIRSCH: Well, I guess what I'm...I would just disagree with...I don't...I feel that this is just a stopgap measure for this year, not setting precedents, and would not lead to a long-term policy, is how I view it. It's my understanding that we're going to take... [LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR PIRSCH: ...steps to address those long-term type of frameworks over the interim this time, as Senator Fischer had mentioned. [LB323]

SENATOR HEIDEMANN: You're a lawyer. Once you start to do something, doesn't that set a precedent? [LB323]

SENATOR PIRSCH: Well, then we're already in trouble if that's the case, because we already have used Cash Funds. And if we're not capable of changing that because precedent has already been set, then there's no added danger by this measure. It either already has been done...this is really, in my way of thinking--and I'm the proponent of this--I'm not advocating that this be a long-term employ, but if it is, if you're afraid of that, it's already been done to a large extent. [LB323]

SENATOR HEIDEMANN: Not...yeah, but not for this purpose. This would be a purpose that we've never used Cash Reserve money before, we're very...at least I think... [LB323]

SENATOR LANGEMEIER: Time. [LB323]

SENATOR HEIDEMANN: Thank you. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Ashford. Senator Janssen, you're recognized, followed by Senator Dubas. [LB323]

SENATOR JANSSEN: Thank you, Senator Langemeier, members of the Legislature. I am opposed to returning this to Select File for an amendment. We tend to forget in this state that we have a lot of help. We have a lot of help with out-of-state motorists who are helping us pay for our road infrastructure. We have I-80 that runs all the way through this state, and most generally, you cannot get from one end of the state to the other without stopping and filling up at one of the gas outlets. And I think that this...we have the opportunity here in Nebraska of having a lot of help in maintaining our roads and building the new roads. And I also believe...now, you stop at the service station and you see gas has went up 4 cents a gallon, which is not unusual. I think just this weekend it did take a jump, and then it dropped back again. But you know, if you've got a couple of cents difference in a 12-gallon fill-up, are you going to notice that? The

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average Joe out there isn't going to notice that. I certainly won't. You know, when the price of gas will jump so crazy, that tax is not hardly going to be noticed. I guess you can argue that it would be. You know, we also have to think about the road infrastructure we have in this state. And some of those roads that were built, say, 15 years ago, are needing repair. They don't last forever. But the amount of traffic that we have on the roads in Nebraska, they are not going to last forever. I mean, we have developed new ways. The Department of Roads now puts different types of structures in that concrete to prevent the rippling effect on some of the four-lanes that we have, and they're taking care of that. I think they're doing a remarkable job in this state in funding. I don't know of anywhere else in the country that has the infrastructure that we have with the few people that we have. And with that, I am going to be opposed to bringing this back. And I would give the remainder of my time to Senator Johnson, if he would like to have it. [LB323]

SENATOR LANGEMEIER: Senator Johnson, 2:20. [LB323]

SENATOR JOHNSON: Thank you, Senator Janssen. Mr. President, members of the body, let me just remind you of a few things that we talked about when this was on the floor before. The things that are used in constructing roads are steel, asphalt, concrete, and diesel fuel. All of these have gone up tremendously in the last couple of years. If you don't want to build roads, then say so, because it's going to cost more. The other thing is this. I keep hearing these statistics comparing our gas tax to others. Many of the states that have lower gas tax than we have also have toll roads. And if you want to have an interesting discussion sometime, take a look at what the cost of the toll road is. You will find it isn't 27 cents a gallon; it will run over \$1 a gallon to take that toll road. So we don't have that option in this state. The other thing is that when I first got down here, the people from the Fiscal Office came around and saw me and...because we were in a fiscal crisis at that time. What they told me... [LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR JOHNSON: ...was this: Keep the cash flow and your budget as level as you can, not up and down. If you destroy the Cash Reserve, you are creating potential danger. One other thing that I might remind our senators from Omaha--and I'm not one to disparage Omaha--but the West Dodge freeway cost \$140 million, and last session, we transferred .5 cent of the sales tax on motor vehicles to cities and counties. Guess which cities and counties got almost all of that money. We need to build roads, and we need to build them statewide. There is a 1940 road from Sioux City to Norfolk,... [LB323]

SENATOR LANGEMEIER: Time. [LB323]

SENATOR JOHNSON: ...and it's time we fixed it. Thank you. [LB323]

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SENATOR LANGEMEIER: Thank you, Senator Johnson and Senator Janssen. Senator Dubas, you're recognized. [LB323]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I, too, stand in opposition to this request to return to Select File. While I strongly oppose raising the gas tax,...you know, for those of us who have to drive a long way to get anywhere, that increase in the tax is a burden. And even though 1.8 cents doesn't sound like a lot right off the top, when you add that to the existing gas tax, it definitely does create a hardship. And we don't have a lot of control over the price of gas. The gas tax is about the only impact that we can make. I agree with what Senator White said as far as budget management. Robbing Peter to pay Paul is not good budget policy. And this is the venue that I think we're straying into when we're looking at the Cash Reserve. And while roads are extremely important, roads are an important part of my business, I can't do my business without good roads, we are definitely setting a precedent here by looking at the Cash Reserve. We do need to look at roads and we do need to look at funding and we do need to look at how that funding is being used and the accountability of the Roads Department. And I am really glad to hear that Senator Fischer and the Transportation and Telecommunications Committee will be looking at this and be looking at it as far as long-range solutions, because that's something we definitely need to do. But I also agree with Senator Heidemann. I think right now we're better off to do nothing, we're better off just to make do with the financial situation that we're in, than by setting this precedent and looking at the Cash Reserve, because if it's good for the Roads Department, then why isn't it good for any other department whose work is just as important and who are in just as much need of money as the roads are. So again, I stand in opposition to this amendment, and thank you for your time. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Those wishing to speak, we have Nelson, Wightman, Hansen, Pirsch, and Howard. Senator Nelson, you're recognized. [LB323]

SENATOR NELSON: Thank you, Mr. Speaker, members of the body. Thank you for all the comments on the floor today, especially from Senator Ashford, who went through the appropriations process years ago and knows how much time we on the Appropriations Committee spent on this trying to decide the best way to go. The only thing I would emphasize is that traditionally we have financed the road through this type of tax. The roads...it's a user tax, is what it amounts to. Our policy is that the users of the roads should pay for the maintenance and also the building of the roads. And as Senator Janssen said, a lot of that additional money is going to be coming from people who pass through the state of Nebraska, especially the large trucks. And it's not very much of an increase; none this year, so far as we know. And I might add that we don't know where things are going to be a year from now as far as what the price of gas is. It may very well be down, and I certainly hope so. But people are going to have to drive. They may have to cut back. But I heard on the radio, coming down here this morning,

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that people are still keeping their SUVs, they're still using a lot of gas. And it seems to me that whatever your economic position is, people are going to continue to drive. I really don't feel that this is much of an increase, if at all. I don't think that we should be worried about the fact that it might be viewed as a tax increase, because let's keep in mind that we have given a substantial tax decrease to the people of Nebraska in the form of \$200 million a year in relief on property tax. Thank you very much, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Wightman, you're recognized. [LB323]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I wanted to rise merely to discuss a few of the arguments that have been made in favor of returning to Select File. My friend Senator Karpisek suggests that we were sent here to help the people of the state of Nebraska, not to be a burden on them. I think that could probably be said of every item of legislation that we have. We pass new regulations and we regulate everybody's lives, and in doing so we burden them, and yet the overall good, frequently, I think, justifies the action that we take. We get back, kind of, to the statement that you hear so often, that the only fair tax is a tax paid by someone else. And I think that's kind of all of our thoughts as we go into any tax bill. If it hurts our constituents, we're opposed to it. But I would suggest that this is a responsible method of financing our roads, not to take money out of Select File, because I'm here to say that if we started doing all of our shortfall, financing all of our shortfall on roads through transfers from the Cash Fund, Cash Reserve Fund, we could finance \$50 million down the road, because I think we're that much short of being able to maintain our roads. And Senator Harms mentioned that, Senator Dubas mentioned it, that roads are absolutely essential to outstate Nebraska, but they're essential to everyone within the state. You know, and we can talk about other sources of funding, but the other sources are pretty limited, I think. When we talk about other sources of funding, we could be talking about a General Fund appropriation. And I think there's nobody here on this floor that would really want to go there, that we would be funding a major portion of our roads out of a General Fund appropriation. We've always taken the position that the people who use our roads ought to be the one to fund the maintenance and construction of highways. So I want to thank everyone that's spoken on this issue this morning. I think their intentions are all good. It gets down to a difficult situation, but I would urge your opposition to returning this to Select File. Thank you. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Hansen, you are recognized, followed by Senator Pirsch. [LB323]

SENATOR HANSEN: Thank you, Mr. President, members of the body. I just wanted to mention something to my good friend senator from Nickerson, and my good friend, Senator Carlson from Holdrege. And Senator Carlson, the other day when we were

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talking about this, we were talking visitors through the state. Well, the visitors through the state pay...they stop and they buy food, which is taxed, they buy trinkets, which is taxed as a sales tax, and they either pay gas tax or diesel fuel tax. I looked up on the Web page for the American Petroleum Institute, and it gave the differences of the gas tax and the diesel tax in every state. So the difference in Wyoming and Nebraska is, at present, on diesel fuel alone, it's 13.4 cents a gallon. So a trucker, if he's apportioned or not, if he fills up in Wyoming and gets 200 gallons of diesel fuel, he can drive across Nebraska without buying any diesel fuel. And I think at 14 cents or 13.4 cents a gallon difference now, some of those truckers are bound to be doing that. If we raise it another 1.8 or 2 cents a gallon, we're talking over 15 cents a gallon difference. They're going to do that more and more, all the time, and skip Nebraska and buying any fuel in Nebraska. Then our variable tax rate says we're buying less gas, so our gas tax has to go up. We're going to pay for the roads one way or another. Either we're going to pay for it in increased tax or a shift from the General Fund in the form of what Senator Pirsch has in mind. So I think I...I don't think...I know it's setting a precedent for this year. I don't think that precedent has to...certainly it can change again in the future, and I'm not worried about the precedent that it sets. I will be voting in favor of...to reconsider this or put this on Select File. Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Pirsch, you're recognized. [LB323]

SENATOR PIRSCH: Well, thank you, Mr. President, members of the body. I think that's an important statement, a couple of things that Senator Hansen pointed out. First of all, we who are in support of this amendment, I have not yet heard anyone who indicates that they would like this to be the paradigm for a long-term, ongoing basis. I think it is recognized among all proponents that this is to address the particular unique challenge that the state faces this year, a year in which we don't have a long-term framework in place. And so we are not...we are left with two choices, and neither one are the ideal choice that I'd prefer to have, but one choice is less worse than the other choice. And by far, the worst choice to me is raising taxes. At this period in time we are already a high-tax state in that regard, and many other regards that build upon each other. Senator Hansen also mentions a very important phenomenon that exists when our gas taxes go up. We experienced this, I know personally, firsthand in Omaha, which has a great percentage of the population in the state, and that is, when you raise taxes--trust me, I know this--the people I know, my friends, the people in my neighborhood and other neighborhoods in Omaha, drive then across the river in greater percentages, and then the state doesn't get any money. And that's...what has happened in recent years here is, we raise taxes because we think it's going to generate more income, and then as a result of that, people respond. They react to that and they say, we have choices. We can go across the river and fill up for much less, and they do. And then we're even...we're left with that, you know, continuing quandary of, what do we do then? Some things I just wanted to keep emphasizing. There's been something that has been

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brought up about, well, the scale of the tax increase isn't all that much in light of other tax increases. But I'd just like to remind you that when you're talking about spending and taxes, they reach really high levels; usually not in big chunks at a time. But it's usually just a little bit at a time, stacked on a little bit of a time, stacked on a little bit of a time, and we haven't always done a good job in that regard, of watching our spending in taxes in the state. With regard to the statement that the precedent that would be set here scares Senator Heidemann: it's already clear that that has been done, not just in the past, but this very year, that cash reserves have been tapped. And that has not been agreed upon, that that is some short-term fix; that those may be long-term problems that should be looked at. And I don't agree with those. We are talking about a very narrow issue here. We're not talking about, should our infrastructure be kept up or the dollar amount. Both ways, both proposed under LB321, the tax increase, and my amendment here under LB323, suggest the same amount. What is at issue here is the source of funding. One proposes to compel the people of Nebraska to ante up more money involuntarily through taxes, to reach back into their pockets and come up with some more money, in a year in which we didn't need to do that. [LB321 LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR PIRSCH: I can see why they'd be confused. The taxpayers are saying, you know, use in a reasonable manner the funds you already taxed me before you go back and tax me some more. And that makes sense. This is not, contrary to what Senator White has said, this is not deficit spending. We've already taxed that money. It's sitting in our accounts. Now the question is, do we...as between taxing the people again or spending the money we already got from what...before we do that, what makes more sense? And clearly, taxing the people more does not make sense when we have the funds on hand, and it will not make a material effect on what the safety or health of the state. So to that extent, I would ask you to keep an open mind and listen to some of the statements in favor. We are not trying to set precedents. This is an unusual year. [LB323]

SENATOR LANGEMEIER: Time. Thank you, Senator Pirsch. [LB323]

SENATOR PIRSCH: Thank you. [LB323]

SENATOR LANGEMEIER: Senator Howard, you're recognized. [LB323]

SENATOR HOWARD: Thank you, Mr. President and members. I rise to support Senator Pirsch. Two times each day I pass a gas station I fill up at as I leave Omaha and drive to Lincoln. Naturally, I don't always pass it. This morning I stopped at it and put over \$31 worth of gas in the tank, and every day it's a few pennies more. Every morning and every evening I see a steady price increase. I understand that there is not intended to be a gas tax increase next year, but it is more than likely that the possible

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gas tax increase of 1.8 cents will go into effect the next year. This tax will hurt those who can least afford to pay it. This will hurt the average person who feels the cost increase at every turn. I think the Roads Department, like all of us, will have to find the funding that they need, but they're going to have to learn to use that smarter, to provide for the most economical use of the funding that we provide to them. An example of this would be not costing the taxpayers approximately \$125,000 for repairs to concrete on a brand-new three-lane interstate. This was particularly concerning to me, and again, I would see this every day on the drive back and forth between Omaha and Lincoln. Tim Weander of the Nebraska Department of Roads said the problem was a combination of the water/cement ratio, the delivery time of the trucks, and also the temperatures that were out there when the paving took place. It would seem to me common sense would tell you that some of those factors are pretty obvious, and some of those you could make adjustments for. And while the Hawkins Construction Company will absorb the cost of replacing the concrete in the eastbound lanes, the other problems that might have resulted from state specs will be split between Hawkins and the state. And that's because not only workmanship, but some specification issues might have caused that to occur. Again, the amount that that little repair to a brand-new interstate is costing the taxpayer is \$125,000. I support Senator Fischer's study, and I hope that she can propose a more equitable way of funding our roads system. I hope that she includes in this, transparency and accountability for the expenditures of this department. I'd like to offer the balance of my time to Senator Pirsch. Thank you. [LB323]

SENATOR LANGEMEIER: Senator Pirsch, two minutes. [LB323]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I guess one of the remarks I'd like to address...I think Senator Wightman it was who said that different calculations are used throughout the nation with respect to taxes, so that if you take an apples-to-apples look at the facts, that Nebraska doesn't have as high of a tax relative to other states, but I think even in light of looking at those in an apples-to-apples type of comparison, that we are one of the high...no one can deny that we are one of the highest taxed gas states in the nation, even assuming an apples-to-apples comparison. So with respect to the idea that had been brought out earlier about the availability and ease by which Nebraskans, then, will bypass the tax altogether,... [LB323]

SENATOR LANGEMEIER: One minute. [LB323]

SENATOR PIRSCH: ...and drive to other states, you got to keep in mind that the bulk of the population in Nebraska, a large part of the population, lives very close to the borders, and so it is a very real and distinct possibility, and it does happen right now. I can tell you that people, especially people who live on the east part of Omaha, routinely fill up in Council Bluffs, Iowa, and the state then does forgo the collection of any gas tax. And so with the increase...and as I mentioned, gas prices are now setting new records in Nebraska, and they are slated to...in Nebraska right now, today the paper reports,

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they're at \$3.25, and they're slated to go even higher than that. As Senator White has pointed out,... [LB323]

SENATOR LANGEMEIER: Time. [LB323]

SENATOR PIRSCH: Thank you, Mr. President. [LB323]

SENATOR LANGEMEIER: Thank you, Senator Pirsch and Senator Howard. Senator Pedersen, you're recognized. [LB323]

SENATOR PEDERSEN: Question. [LB323]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on the motion to return to Select File? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB323]

CLERK: 30 ayes, 5 nays, to cease debate, Mr. President. [LB323]

SENATOR LANGEMEIER: Debate does cease. Senator Pirsch, you are recognized to close on your motion to return to Select File for a specific amendment. [LB323]

SENATOR PIRSCH: Mr. President, members of the body, I can see the writing on the wall, and that's part of the uniqueness of this body. You're one of 49 senators, and so you can't always control the outcome. Nonetheless, you do the best you can. As I have mentioned, I see the writing on the wall. I see that this particular measure to amend LB323 does not have the support necessary to go forward at this time, and so I will...I'm going to make a motion to pull the bill when I'm done here...I'm sorry, pull the amendment, rather. And I will vote for LB323. This particular bill does not raise taxes; that's LB321, where the tax increase is embedded. This would just be a possible vehicle to take action to mitigate that tax increase, but I can tell from the, I guess, opposition and the level of opposition from those on the Appropriations Committee, that this just doesn't have the steam that it needs to, to get up the hill at this point in time. But I do appreciate the statements on both sides, the questions and the comments on both sides, but at this point in time, Mr. President, I will move to pull my amendment. [LB323]

SENATOR LANGEMEIER: Senator Ashford, for what purpose do you rise? [LB323]

SENATOR ASHFORD: I would object. I think we should have a vote on this measure, Mr. President. [LB323]

SENATOR LANGEMEIER: At this point the member has the opportunity to withdraw, no objection necessary. Senator Pirsch, your motion to return to Select File for a particular

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amendment is withdrawn. Mr. Clerk. [LB323]

CLERK: (Read LB323 on Final Reading.) [LB323]

SENATOR LANGEMEIER: All provisions of law relating to procedure having been complied with, the question is, shall LB323E pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB323]

CLERK: (Record vote read, Legislative Journal page 1579.) 42 ayes, 2 nays, 2 present and not voting, 3 excused and not voting, Mr. President. [LB323]

SENATOR LANGEMEIER: LB323E passes with the emergency clause. (Visitors introduced.) We will now proceed to LB88E. [LB88 LB323]

CLERK: (Read LB88 on Final Reading.) [LB88]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB88E pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB88]

CLERK: (Record vote read, Legislative Journal pages 1579-1580.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB88]

SENATOR LANGEMEIER: LB88E passes with the emergency clause attached. We will now proceed to LB334. Speaker Flood, for an announcement. [LB88 LB334]

SPEAKER FLOOD: Thank you, Mr. President and members. Just some scheduling notes here, as we progress this week. This Friday, May 18, will be treated as a regular legislative day. It's been our custom so far this session to work through the noon hour and adjourn midafternoon. This Friday, as we prepare for the end of the session, we will meet at 9 a.m. and adjourn at noon, reconvene at 1:30 and work till 5 p.m. That is a scheduling change that will be this Friday, May 18, and may possibly happen on May 24, although I would prefer to wait until early next week before making that announcement final. Additionally, next Monday, May 21, I anticipate scheduling LB641, the learning community bill. That bill will obviously take up a lot of time next Monday. I plan to begin on Monday at 9 a.m. instead of 10 a.m., to give us as much debate time as possible on May 21. Those are the scheduling changes that I'd like to announce at this time. I will send an e-mail to each of your offices and your staff. Thank you, Mr. President. [LB641]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk. [LB334]

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CLERK: Mr. President, with respect to LB334, Senator Dierks would move to return the bill for a specific amendment, AM1297. (Legislative Journal page 1492.) [LB334]

SENATOR LANGEMEIER: Senator Dierks, you are recognized on your amendment, AM1297. [LB334]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. AM1297 has been introduced because of a bill drafting error. This amendment ensures that all funds designated for the Department of Property Assessment and Taxation will be transferred, in addition to all of their other assets, to the Department of Revenue. This is not a new appropriation. It is the money already designated for the Department of Property Assessment and Taxation. As you will remember, LB334 merges the two departments, and the Department of Property Assessment and Taxation will become a division of the Department of Revenue. For your information, LB334 was held on E&R Engrossing while awaiting this amendment. The Final Reading copy has not been printed yet. Thank you for your consideration. I ask for your support of AM1297 to LB334. [LB334]

SENATOR LANGEMEIER: Thank you, Senator Dierks. You have heard the opening on the motion to return to Select File. The floor is now open for discussion. Seeing no lights on, Senator Dierks, you are recognized to close. Senator Dierks waives closing. The question is, shall LB334 be returned to Select File for a specific amendment? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB334]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB334]

SENATOR LANGEMEIER: The motion to return is successful. Senator Dierks, you are recognized to open on AM1297. [LB334]

SENATOR DIERKS: Well, my opening would be the same as my opening to get the bill returned, so if there's any questions, I'd be glad to try to answer them. With that, I'd close. [LB334]

SENATOR LANGEMEIER: You have heard the opening on AM1297. The floor is now open for discussion. Seeing no lights on, Senator Dierks, you're recognized to close. Senator Dierks waives closing. The question before the body is, shall AM1297 be adopted to LB334? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB334]

CLERK: 44 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB334]

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SENATOR LANGEMEIER: AM1297 is adopted. Senator McGill, for a motion. [LB334]

SENATOR MCGILL: Mr. President, I move LB334 to E&R for engrossing. [LB334]

SENATOR LANGEMEIER: You have heard the motion to advance LB334 to E&R for engrossing. All those in favor say aye. All those opposed say nay. It is advanced. [LB334]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Members of the Legislature, while the Legislature is in session and capable of transacting business, I propose to sign and to hereby sign LB323 and LB88. Mr. Clerk. [LB88 LB323]

CLERK: Mr. President, Senator Schimek would like to print an amendment to LB247, as would Senator Nantkes. A series of study resolutions: LR159, LR160, and LR161 by Senator Erdman; LR162, Senator Synowiecki; Senator McGill, LR163, LR164, LR165; Senator Schimek, LR166; Senator Flood, LR167 and LR168; Senator Kopplin, LR169; Senator Nantkes, LR170, LR171, LR172; LR173 is offered by Senator Heidemann; LR174, LR175, LR176, LR177, LR178 by Senator Christensen; all studies, all to be referred to the Executive Board. Bills read on Final Reading this morning were presented to the Governor at 11:05, Mr. President (re LB274, LB373, LB629e, LB629Ae, LB317e, LB318e, LB319e, LB320e, LB321e, and LB322e). An announcement that the Education Committee will meet in Executive Session upon recess; Education Committee, Executive Session upon recess. (Legislative Journal pages 1580-1593.) [LB247 LB274 LB317 LB318 LB319 LB320 LB321 LB322 LB373 LB629 LB629A LR159 LR160 LR161 LR162 LR163 LR164 LR165 LR166 LR167 LR168 LR169 LR170 LR171 LR172 LR173 LR174 LR175 LR176 LR177 LR178]

I do have a priority motion, Mr. President. Senator Pedersen would move to recess until 1:30 p.m.

SPEAKER FLOOD: You've heard the motion, members. The question is, should the Legislature recess until 1:30 p.m. this afternoon? All those in favor say yea. All those opposed say nay. We stand in recess until 1:30.

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.

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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: Mr. President, Enrollment and Review reports LB588A as correctly engrossed. And the last two bills on Final Reading this morning were presented to the Governor at 12:15 p.m. (re LB323e, LB88e). That's all that I have. (Legislative Journal page 1594.) [LB588A LB323 LB88]

SENATOR LANGEMEIER: Thank you. Mr. Clerk, we will move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, first bill, LB198. [LB198]

CLERK: Mr. President, Senator Erdman would move to return LB198 to Select File for purposes of striking the enacting clause. (FA107, Legislative Journal page 1594.) [LB198]

SENATOR LANGEMEIER: Senator Erdman, you are recognized on your motion to return to Select File for a specific amendment. [LB198]

SENATOR ERDMAN: Mr. President, thank you. Members of the Legislature, the amendment before you is an opportunity, and it's an opportunity for Senator Schimek to present a case for her bill after the Attorney General's Opinion has come out on LB198. And if she would offer an amendment that would address the issue, she will have that opportunity. But given the fact that we are on Final Reading and we can't simply debate the bills without motions, this motion is here to enable us this discussion. We have received an Attorney General's Opinion that was dated May 10 in which the constitutionality of LB198 has been called into question and whether or not LB198 is based on regulating speech to the extent that it's content-based or whether or not it is held to a different standard or a lesser standard. And that, I hope, will be the discussion of today. It's my understanding is, as this bill has gone through the process, that after the last election, that there were certain activities that were undertaken either intentionally or unintentionally by different candidates for different offices in which there were automatic dialing devices that were used to either harass or to pester citizens in our state, voters. And this bill is simply an attempt to try to respond to some of those issues and trying to determine a way to appropriately regulate, if possible, some of those characteristics, as we currently do with commercial speech in existing law. The Attorney General's Opinion was requested by Senator Nelson, and I believe that he also has an interest in this discussion. He, as I, I believe, share a similar goal, and that is, if we're going to do something, it should be constitutionally sound, it should be based on

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the analysis that has been done of the case laws specifically under the Eighth Circuit, which is the court of appeals that we as Nebraska sit under, in trying to determine the way to effectively and appropriately draft any remedy to the existing law that Senator Schimek and this Legislature would hope to accomplish. If you'll go and read through the Attorney General's Opinion, you'll see a number of cases that are referenced. There are different rationales or different goals that were intended in each of those. And the case that's on point, I believe, will be probably the Van Bergen case from Minnesota. And depending upon how you read the Van Bergen case, you may come to a different opinion than what is in the proposal. But I will tell you objectively as a nonattorney, as a nonconstitutional scholar, unlike my good friend Senator Lathrop, it is my intent to go through my knowledge of this and be willing to be corrected by the good senator from District 12 or his counterpart who may also be on the floor, to be able to discuss the issues contained in LB198 and whether or not what we are actually engaging in here is actually more restrictive than what we currently have in law for commercial speech, and fully recognizing that the opinions that are in play here are always being challenged in some form. And I think it's appropriate for us to walk through those and understand those decisions before we would proceed with a bill similar to LB198, given the fact that there would be possible challenges, and I would argue, in the current form, successful challenges to its enactment in its current form. One of the things that we'll go through and hopefully in this discussion, and again, Senator Schimek, I would hope should she have an amendment to offer us that would address the concerns that the Attorney General, would present that to us. One of the things that we have to go through is understanding the different terminology and standards that are used. If you go to the Minnesota case and you look at whether or not the statute was content-neutral or not, that will determine whether or not the law will be held under strict scrutiny or not. The Minnesota law applied to all calls. That was amended by the Minnesota Legislature, I believe, in 1994 to state that regardless of whether the call was a political call in nature, whether it was a commercial call in nature, all calls are treated the same. They had the same standard. And in analyzing that case, the court ruled that that law was constitutional and that there were standards that they went through. And each one of those checks and balances, as the court went through and analyzed the law, they determined that the state had met the standard necessary for the law to be upheld and to be enforced. This law that's before us does not treat political speech or political phone calls that are not commercial speech the same as we would commercial speech. There are things that are being proposed in LB198 that would bring it into conformity. But I would even argue that in addition to the time restraints...or excuse me, in addition to the number of calls you can make, the disclosures actually exceed those in which we have for commercial law or for commercial calls. And so we need to walk through this very carefully and understand, if we're going to go through this process of trying to craft legislation that does, as most people I think would objectively agree, limits an individual's right to use all the tools that are currently available to them to reach voters in a political message or, on the contrary, for a commercial message, that we have to be careful of how we proceed. Again, the motion before you is to return to Select File to

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strike the enacting clause. Should the motion be successful, the amendment be adopted, it would kill the bill. That is not my intent as we begin this discussion. Again, I would offer and hope the opportunity or hope Senator Schimek would take the opportunity to provide her rationale for the bill in its current form, how she would plan to proceed with the bill, whether she plans to offer amendments or not, or whether she has a different interpretation of the law than what the Attorney General's Office has distributed to us on May 10. With that, Mr. President, I will...I don't see Senator Schimek. I would have yielded her my time. Senator Schimek, would you care to have some of my opening or...? Mr. President, how much time do I have? [LB198]

SENATOR LANGEMEIER: Four minutes. [LB198]

SENATOR ERDMAN: Senator Schimek, I have about 4 minutes if you would care to have that or we can continue on with, I think your light is on. It's your time. [LB198]

SENATOR SCHIMEK: Thank you. [LB198]

SENATOR LANGEMEIER: Senator Schimek, 3:50. [LB198]

SENATOR SCHIMEK: Thank you. I appreciate that very much, Mr. President. I knew coming in here today that this would be a discussion, and it's a rather complicated discussion because we're talking about different kinds of phone calls. We're talking about, yes, the commercial calls, but we're also talking about charitable calls, which are noncommercial calls, as are political calls noncommercial calls. And whether they all need to be exactly the same or not, I don't know how the courts would rule. But let me say to you, Senator Erdman, is one of the reasons that I don't think we want to make them, the political calls, exactly the same as the commercial calls is then that means the political calls would have to provide for do-not-call lists. And do we want campaigns to have to maintain do-not-call lists? I think that would be very complicated. Maybe if we did that then there wouldn't be any robocalls, so maybe that's a good idea. So I think what we tried to do here was to craft something that would not be unconstitutional but yet would have some distinctions. The case that you mentioned in Minnesota, of course, did say that protecting residential privacy is a compelling state interest. And generally speaking, the differences between the two types of noncommercial calls is that charitable groups don't tend to make robocalls. They tend to want to talk to you personally. The political calls, of course, tend to be not personal. And those are the ones in which fraud is more likely to occur, perhaps, because there's not someone personal on the line. Also, political campaigns by their very nature are often short-term, and they're here and then they're gone. So sometimes I think that preserving reputations are not quite as important as they are for noncommercial and commercial. The Attorney General's Opinion, as you mentioned, is not conclusive. It doesn't say this is unconstitutional. [LB198]

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SENATOR LANGEMEIER: One minute. [LB198]

SENATOR SCHIMEK: It raises issues that could be considered unconstitutional. But any bill that we pass in here could be unconstitutional. And I think the issues that the Attorney General raise are issues that I looked at when I was developing this with committee counsel, that the committee even looked at when it was discussing the bill and sending it to the floor. So I think you could guess either way, and you might be right or you might be wrong. The question that was raised by Senator Nelson was about the two calls. And frankly, you know, I prefer one call, but we decided that two calls were logistically possible because it would give a candidate a chance to respond at the last minute to... [LB198]

SENATOR LANGEMEIER: Time. [LB198]

SENATOR SCHIMEK: ...negative campaigning. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Schimek and Senator Erdman. (Visitors introduced.) You have heard the opening on the motion to return to Select File for a specific amendment. Those wishing to speak, we have Schimek, Chambers, and Erdman. Senator Schimek, you are recognized. [LB198]

SENATOR SCHIMEK: Thank you, Mr. President. To continue where I left off, I do think that...we have talked to a few attorneys, and some feel that a good argument could be made that the bill is not underinclusive because political speech is a form of speech that is handled differently from other types of speech. For instance, there are many restrictions on campaign signs, for instance: where you can locate them, how many days you can have them in the ground. I mean, at least we have that in Lincoln. You can only have them up 30 days before the election. That's a restricted kind of speech. There are others that are regulated by statute also. For instance, when you do TV ads, radio ads, you have to state who the candidate is and whether or not they approve this message. The guidelines that we developed here are in keeping with some of the guidelines that are already in our accountability statutes. I think that the people of Nebraska really want us to do something about this nuisance, if you will. And that's all that a lot of people think of it, is as a nuisance, particularly when they're inundated with 8 or 10 or 12 calls a day. And my understanding is that they got a lot worse than that out in the Third Congressional District in this last election. And I think that the Van Bergen v. Minnesota case was important because it says it really is a balancing of issues. It's a balancing of free speech rights, plus a balancing of privacy in your own home. And they came down on the side, in that case, I believe, of privacy in the home. So I don't know that we know. When we get into these areas in the accountability statutes or any others involving campaigns, we always are wading into unknown territory, particularly if we're doing something that nobody else has yet done. I might say to you that other states do have differences in the way they handle some of these calls. And for instance, on the

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blue sheet that you were given a lot earlier, you'll notice that Missouri does have legislation pending that would add political calls to the list of calls prohibited under the do-not-call list. That means, right now, as of this time, they aren't requiring do-not-call political campaigns, but they do have commercial; that's federal law. So there's a distinct difference between the calls in that state. Now maybe they're going to make them all the same. There's a number of other states that are considering the do-not-call list. Or here's something else that a lot of states require: If you're using ADAD, which is the automatic dialing devices, that you have to have prior consent to even have the message played to you. In other words, a live person has to come on the line and ask if you want to take the call. So that's a little bit restrictive, I think you would admit, because a lot of people are going to say, no, I don't want to have the call, probably maybe most even. At any rate, I understand the dilemma. I'm going to listen. But I'm not sure... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR SCHIMEK: ...that you can achieve what you want to achieve by amending this bill. If you can, if you think that there's a way to do it so that everything is treated exactly alike, I'd be very happy to listen to it. With that, Mr. President, thank you very much. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Chambers, you are recognized. [LB198]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have in my hand a \$20 bill minted by the United States of America. Do you know what this \$20 bill represents? A portion of the amount delivered to me by the state as a part of reimbursement for my legislative expenses. Had I followed what the Attorney General stated, we would not have expenses because the Attorney General said it was unconstitutional. We have to use our judgment. We have to use our minds. And I'm not satisfied that a person in the Attorney General's Office is better able to speculate about how a court might react to a law than I am. I have won cases in the Nebraska Supreme Court before, arguing them myself, briefing them myself. And I won cases that people said nobody could win. I've won cases against radar, VASCAR, airplane clocks and speeds. In fact, Mr. Conboy, who is a city prosecutor from Omaha, attends various meetings at the national level for prosecutors. And one of the questions he invariably receives: Who is this Chambers fellow who seems to have cornered the market on traffic cases in your Supreme Court and he wins them? This bill is not precisely like any of the bills that the Attorney General's Opinion mentioned. I do not think that it is unconstitutional. The first part of the bill amends the Political Accountability Act which already says that if a message of this kind comes into your home, and the person who makes an expenditure which is reportable is responsible, then there's certain information that has to be given. That's already the law. And that portion of the law that

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is being amended, the time during which these calls can come, will be found. When we get to page 3, which is across the street from page 2, we have the material which must be stated, along with the message. I do not believe that political speech of this kind is on the same level as a political discussion among citizens or when they are approaching their elected representatives. This is in the nature of advertising a position. A person's home is not a freeway. A person's telephone is not a taxi cab, meaning it must accept every fare or every call. But because there are people who have access to a person's home through the telephone and access to the telephone, I think there is a compelling state interest in assuring citizens that their right to privacy is not going to be infringed simply because they make use of a telephone in their home, which now is deemed a necessity. I believe that the bill is narrowly drawn in the sense of not doing anything more than is necessary to address the evil that exists which we are trying to remedy. I just don't feel, I do not believe, I am not convinced... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR CHAMBERS: ...that one person's opinion in the Attorney General's Office should cause this Legislature to derail a bill and not enact it into law. The issue is one which is appropriate for a court to determine. We should do our job as the Legislature, and enact this law. Then if somebody wants to challenge it, place it before the Nebraska Supreme Court. Let us get a judicial determination of whether or not this bill falls within the realm of what we constitutionally may do. And I'm not persuaded that we should let an opinion from a person in the Attorney General's Office trump what it is we intend to do in the Legislature. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Erdman, you are recognized. [LB198]

SENATOR ERDMAN: Mr. President, thank you. Members, a couple things, and Senator Schimek, I think, knows this. We're not comparing always apples and apples with some of her examples. And I think it's important to realize that some of the states that have gone down this path have crafted out narrow exemptions or exceptions that are accepted under the court's interpretations of their statutes. For example, if you look at the Van Bergen case on page 1550, number 2 is titled content neutrality. It talks about that it is well-settled that government may impose reasonable restrictions on the time, place, or manner of engaging in protected speech provided that they are adequately justified without reference to the content of regulated speech. That's found in the Van Bergen case. That's in the first paragraph under sub 2, which is content neutrality. If you read further down in paragraph 2 of that same opinion--and again, this case is on point--it deals with the regulation of automatic dialed calls. It's not yard signs which Gladstone does and we can get into that, which is a Missouri case, or other areas. This is specifically on point with the topic that we have before us in LB198. The court further finds that under the 1994 amendment to the statute, and this was the Minnesota statute,

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messages are defined as including any call regardless of its content. So obviously we have a different standard that the court was analyzing the Minnesota law under than what we would have under our law to be analyzed by the courts. Further, it goes on to say that the exceptions exempt certain groups from the restrictions, not on the basis of the content of their message, but on the basis of the relationship with the subscriber. Case in point: charities. So there are exemptions that are accepted. Those are recognized. And the reason why we have a stricter scrutiny for political speech is because it's core speech. It's something that the founders intended above all other speech to be preserved. In fact, if you go and look at, as I understand the law, the case law, commercial speech wasn't protected until 1976. So you can walk through this. And Senator Chambers is a gambling man. He's gone to court a number of times and has won some and has lost some. The question is whether or not we believe that the odds are sufficient enough that you're going to prevail in court. Obviously none of us know that. None of us know that unless the case is brought before the court with proper standing. Further, if you go on and talk about some of the other issues, Senator Schimek brings up the issue of Missouri. Missouri had a case that went to the Eighth Circuit. I believe it's referred to as Gladstone. And as I understand the case, what Gladstone...Whitton v. City of Gladstone, Missouri, as I understand it, it dealt with the sign code which is, again, an example that Senator Schimek gave us. What they were trying to do was to try to regulate political yard signs more excessively than they were commercial yard signs. And I believe the issue specifically was the illumination of political yard signs and whether or not that was acceptable, and some other issues. This, I think, also speaks to the comments that Senator Chambers said. On page 1406 of the Gladstone Opinion, it says Gladstone argues under Ward, which is a case that was before the U.S. Supreme Court, its political sign restrictions are constitutionally sound because its stated purpose controls the case and the stated purpose is justified without reference to the content of regulated speech. We reject this argument. We do not read Ward--again, that was the earlier case that was, I believe, a 1989 case before the U.S. Supreme Court--we do not read Ward to mandate that reviewing courts are required to accept legislative explanations from a governmental entity regarding the purpose for restriction on speech without further inquiry. So just because we say that it's a compelling state interest, doesn't mean that it is. And Senator Chambers' comment is spot on: that it will take a court to determine that. But I believe based on what we have seen briefly, both in some of the references in the Attorney General's Opinion,... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR ERDMAN: ...as well as actually looking at some of the case law, you can see the opinion of the Eighth Circuit, which we sit under, that may give us some guidance. As I said earlier, my motion here is not to kill the bill. My motion here is an opportunity for discussion. I even yielded some of my opening to Senator Schimek so she could explain her position. Senator Schimek, I believe, if I heard her correctly, believes that this is appropriately drafted, should go forward in its exact form regardless

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of what the Attorney General's Opinion is, and we should try it in court. I think we have an opportunity to analyze what the Attorney General has told us and try to determine that weighing effect of whether or not there's a more appropriate way to accomplish the same goal, because that's what the court is going to look at under strict scrutiny, whether other opportunities that we had to accomplish a similar goal and we didn't have to go this far in creating this regulation on political speech. That's simply what the motion is before you. There is no intent to delay the bill unnecessarily, but rather to have a fair discussion of the issues now that the Attorney General's Opinion has been raised. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Those wishing to speak, we have Fulton, Chambers, Nelson, and Schimek. Senator Fulton, you are recognized. [LB198]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I do thank Senator Erdman for bringing this out for some more debate. The Attorney General's Opinion caught me, I guess, a little off guard. As you know, this is my priority bill and I've worked with Senator Schimek on it and I thank her for introducing it. I get the sense that Nebraskans don't like an overintrusive reach of political campaigns via these robocalls. And I think that it's therefore appropriate that this bill goes forward and that's why I made it my priority bill. I do have some concerns about what the Attorney General says, and so I, not being an attorney, and particularly a constitutional attorney, I'm interested in this debate. Would Senator Chambers yield? [LB198]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB198]

SENATOR CHAMBERS: Yes, I will. [LB198]

SENATOR FULTON: In your opinion, this bill, as drafted on Final Reading, is constitutional. [LB198]

SENATOR CHAMBERS: Well, I can't say that, Senator Fulton. It takes a court to do that. But I believe that it will withstand a legal challenge. What the court will do will be determined when the court does it. If I thought the bill were unconstitutional as drafted, I would have made recommendations to Senator Schimek. [LB198]

SENATOR FULTON: Okay. Are there...the Attorney General's Opinion was in response to a specific question that Senator Nelson brought forward about limiting the number of bills. Were you able to glean from the AG's Opinion...I guess, did the Attorney General's Opinion address that question with specificity to your liking? [LB198]

SENATOR CHAMBERS: Nothing that I read in the Attorney General's Opinion convinces me that anything in the bill is unconstitutional. As to the number of calls, I

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don't know whether the Attorney General concluded that 16 calls or 16,000 calls would have to be allowed. So I didn't get anything from that opinion which would really give us direction. There might have been something there but I just didn't pick it up. [LB198]

SENATOR FULTON: Okay. Thank you, Senator Chambers. Would Senator White yield to a question? [LB198]

SENATOR LANGEMEIER: Senator White, would you yield to a question? [LB198]

SENATOR WHITE: Yes, sir. [LB198]

SENATOR FULTON: Okay. I talked with Senator White off the microphone and I'm apprehensive to introduce the question but I think that it should be introduced in the interest of fair debate on this. Senator White, what is your opinion on the constitutionality of the bill and why? I mean, explain why. [LB198]

SENATOR WHITE: I don't think it is constitutional. And the reason I don't think it's constitutional is that we, by statute, restrict political speech more greatly than we do commercial speech. In the cases that the Attorney General has pointed out, the commercial speech was restricted equally with or more severely than the political speech. Political speech is a content, highest value content under this kind of scrutiny. It should be subjected to the least amount of controls, yet somebody who wants to sell Twinkies could call you 30 times in a day under our statute, and yet you could only call twice. I also do have a concern about the timing. I'm pretty much pretty strong about the First Amendment. I mean, do you remember the poem, "The Midnight Ride of Paul Revere?" If he wanted to autodial, we'd still be singing "God Save the Queen," because it would be after 9 p.m. (Laughter) So political speech, controlling it is a dangerous proposition. Sometimes things happen, we don't know when they would or how they would. And I get nervous about any time we put restrictions on it. [LB198]

SENATOR FULTON: Would you say that there exists restrictions now? [LB198]

SENATOR WHITE: There are, but not on the content. You know, we talk about some of the things, about it's supposed to be a registered phone and things like that and we're supposed to report it. My understanding that in the Third District, that didn't occur anyway. But to say, for example,...and the way I would fix it--I mean, to be constructive about it--the way I would fix it is I would make it any speech, commercial or otherwise, any calls, you can't have more than what we're allowing. And that way the rational basis is we want to protect our citizens from intrusive, disruptive phone calls. I would simply add any speech, not just political. And under those circumstance, I think... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

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SENATOR WHITE: ...you take care of much of what I would find most easily objectionable. [LB198]

SENATOR FULTON: Okay. Thank you, Senator White. I'm going to listen to some more. I guess where I'm at right now on this, there is no question this is well-intentioned and there ought to be some way that we as a society can regulate what comes into the home by way of phone. And if we've done it in one way, then we ought to be able to do it in another way. I don't know whether this has any constitutional question. I am concerned when the Attorney General raises the concerns that he's raised. But at least... [LB198]

SENATOR LANGEMEIER: Time. [LB198]

SENATOR FULTON: Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Chambers, you are recognized. [LB198]

SENATOR CHAMBERS: Mr. President, members of the Legislature, words are very important when we are parsing a statement for the purpose of political, but especially legal, analysis. I know that the Attorney General's letter referred to political content. What the Attorney General and even courts that they quoted should have said, in order to be more precise, was a type of call rather than the content. This bill does not discuss the content of the call. It does not say you cannot refer to your opponent as a no-good, lying thief who deserves to be in the penitentiary. We don't say that. It doesn't say you can't insult somebody. It doesn't say you can't use profanity, obscenity. It does not deal with the content. It deals with a type or a category of call. The problem that this bill is designed to address has been established factually as occurring in the political arena. Concrete examples have been given. The Public Service Commission even had investigated some complaints. So the nature of the evil and its existence are not open to question. Those things have been established. So the next question, as I look at it, is whether or not the state, in the interest of protecting its citizens' basic right to privacy, can it, in the exercise of its police powers, enact a law that would restrict the time during which such calls can be made and restrict the number of them? What is the purpose of the call? It is, based on what has been established from the complaints, a repetition of the same thing over and over and over. So it's not like even a matter where you have like the Burma Shave advertisements on the highway where the first one gives you part of the message, the next one gives you the other part of the message, and then you wind up, through a series of calls, getting a complete message. If there were too many calls achieving that purpose, I think the state would have the right to step in and limit. The state is not prohibiting these calls. When Senator White mentioned the ride of Paul Revere, some think that William Dawes was the one who was really more responsible for spreading the alarm. So instead of the poem starting, "Listen my children and you

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shall hear of the midnight ride of Paul Revere," they might have said, listen my children while I pause and tell you the tale of William Dawes. (Laughter) It depends on the approach that you're going to take. But we are not limiting how much and when these politicians and the people conveying the message can be out on the public highways saying what they want to say. But I'm sure if somebody had a loud speaker on a car at midnight driving through the neighborhood, speaking for a candidate or a political issue on the ballot, that there are criminal sanctions that can be invoked to stop that speech entirely--entirely. Even the First Amendment, as everybody knows... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR CHAMBERS: ...does not lay down an absolute right to speak and say anything you want to any way you please under all circumstances. They say you cannot yell, fire, in a crowded theater, but in fact you can. If you have a play and an individual is going to be shot for treason, then the person says, ready, aim, fire, in a loaded theater, and it's not against the law. And somebody can holler, fire, if, in fact, there is a fire. So when you make these statements, they are not absolute. You can find exceptions to all of them. I will acknowledge that we're in an area where there can be a considerable amount of grayness. But there are some of us who believe this bill is unconstitutional, others who believe it is not. Our belief is not going to ultimately determine the issue a court, even if it hands down an opinion, a decision with which I disagree... [LB198]

SENATOR LANGEMEIER: Time. [LB198]

SENATOR CHAMBERS: ...is going to ultimately decide. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Returning to discussion, we have Nelson, Schimek, Friend, Erdman, White, Loudon, Ashford, and Chambers. Senator Nelson, you are recognized. [LB198]

SENATOR NELSON: Mr. Speaker and members of the Legislature, with reference to LB198, if you're looking at it, there are three different places in the bill that it refers to a recorded message relating to a candidate or ballot question. And that, there's no question that we're dealing with political speech here. And I appreciate Senator White's suggestion as to what we can do to get this bill in better form so that it will withstand any legal challenges, and the fact that we just should make it very broad and be sure that we're including all types of speech. I just want to go over the terms once more again so that we understand those in the statute. If speech is content-based, then that regulates the content of the political speech. If it's content-neutral, it regulates the protected speech without regard to content. And content-neutral is okay if the restriction serves substantial government interests and they are narrowly tailored. So we're not talking just about the speech itself but the regulation. Content-based regulation is okay only if the

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state's interests are compelling and there is no less restrictive means available to achieve the state's interest. And when we're looking at the Van Bergen case, which is the Eighth Circuit case that has already been mentioned which dealt with the automatic dialing devices, it applied to any call regardless of content and it required prior consent of a subscriber or a live operator. And the court held that that was content-neutral because the statute applied to all callers and all messages regardless of the content. The rationale given for the bill as it stands is the protection of residential privacy. And I agree that that's important. But LB198 pertains only to political messages. It's therefore content-based regulation and it requires a higher level of scrutiny. And the Burson v. Freeman case that's cited in the Attorney General's Opinion, a restriction solely for political speech is content-based. So whether residential privacy is a compelling state interest as against a significant interest is the question. The other question is whether LB198 is significantly narrowly drawn. And I guess I would ask this question. If we have an opportunity to go back and amend this and make it a broad-based statute so it's not restricted only to political speech, then let's do that. Let's get the bill in the best shape that we can. Do we really want to go forward at this time with the bill as it is and ensure that we're going to have a legal challenge, and then this is a law that's good for attorneys, I guess. But why go to that expense and trouble if we can be a little more precise with the bill and be a little more sure that it is constitutional? And if a lawsuit is filed, a legal challenge, then it's got to be defended by our Attorney General, who already has stated, you know, that we're on kind of shallow ground here. So I support the amendment that Senator Erdman has filed to strike the enacting clause and I would argue that we should return this to Select File, look at it a little more closely, and I think it can be amended so that it will pass muster in much better form. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Schimek, you are recognized. Senator Schimek waives her time. Senator Friend, you are recognized. [LB198]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I remember when we were in executive session discussing this and then ultimately the bill was amended. Some of the interesting comments...and I've never had, I don't think in my time here, a more interesting discussion, at least for me, than I've had in Government Committee. And some of the things that happened during that executive session, if I remember correctly, concerns were brought up--Senator Adams and I talked about this on various occasions in other bills--but concerns had come up about this very freedom of speech concern. And I think that that's, you know, where the bill was ultimately amended because there was enough concern in that committee where that ended up happening. But there was another thing that was brought up and I thought it was pretty interesting and it was just touched on. And it was, do we really need this? Well, let me expand on that a little bit. This bill came out 6-0, and after it was amended I thought, well, it was probably worth a try. I mean, nobody likes these robocalls. You get into a

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group-think mentality in committees, we all know that, and you feel like, you know, this does make some sense. But let's shine a little bit different light on it. And I haven't seen the light shone on this yet. Let's pretend for a second, let's just role-play and say this is constitutional. Maybe it is. Let's just say it is. I'm wondering...I'm wondering why--I'll go back to that piece of the discussion that I thought that we had--I'm wondering why it's even necessary. Let me expand. We've had an answering machine in my house or the houses, gosh, even as far back as, I think I can think to maybe when I was in college we even had them. We could try to figure out who was calling us. It wasn't that difficult to do. But let's push that further. Now Cox, Qwest, a lot of these organizations, a lot of these corporations have advanced and helped us advance in our technology to the point where often, for a nominal fee or often just as part of the package, you have caller ID or you have fire wall capability that will allow you to screen or to actually block unwanted solicitation. Now, technology is moving so rapidly that I hardly even use a land-based phone anymore. Most of the calls I'm getting are on my cell phone. That's problematic in itself but that's off the subject. I think technology is moving in a direction that we can arguably make the point that much of these sorts of nuisances and things that we're talking about right now are soon going to be antiquated. We're not going to have to worry about them and candidates are going to steer in a different direction. They're going to say, ah, not that effective anymore. Right now they're effective because we walk over like sheep and go, oh, phone is ringing; boom, pick it up; and there you go. It's Lee Terry, it's Tom Carlson, it's somebody bothering me again. (Laughter) If I step back and take some time or my daughter doesn't grab the phone, all I have to do is flip that baby around and look, and I know. Now not everybody has access to that technology and I understand that. Not everybody wants that technology, I understand that. But I think this is pertinent and this is key. We're going to go out here and make some law... [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR FRIEND: Thank you, Mr. President. We're going to go out here and make some law, and I said this a few years ago, Adrian Smith had what Pat Bourne used to call a big...what was it? A big government bill. Adrian Smith, a big government bill. We talked about this then. I did anyway and nobody seemed to want to elaborate. Was it really necessary? Is this really necessary? I think I'd ask that question again. I would hope that you think about that because quite frankly I didn't take one phone call during the election that I didn't want to take. I think that's pertinent and I think it's going to be more pertinent as we move on and technology either catches up with every one of us or we decide to start accepting it. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Erdman, you're recognized. [LB198]

SENATOR ERDMAN: Mr. President, I further would like to discuss some of the points

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that have been made. And if we truly are desirous of protecting the privacy, the residential privacy that even the Attorney General referenced in their ruling in Rowan, about the state may wish to protect citizens from unwelcome speech that invades the privacy of their home, it's going to be a hard barrier to prove why we have limited only political calls and not commercial or nonpolitical-based calls. Because you have to be able to argue the contrary as well. You can't just argue that this is an appropriate remedy. You have to argue that there were no other remedies available to you, and to the extent that you don't have remedies on other similar speech, why not? I would imagine we go before a court, whether it's a district court here in Nebraska or the Eighth Circuit, and they say, curious why you have no restrictions on the number of calls that you can be solicited for commercial purposes on that content-based speech. And you say, well, we could have done that but we just chose not to. That isn't going to hold up in court. If we're going to resign ourselves to the reality that this is going to be challenged, why not give us a chance to win? Why not give us, as the state, the legislators, the lawmakers, the opportunity to put the law in the proper form in which, analyzing the case law, we believe we have the best chance of succeeding to accomplish either what is a perceived goal of the public or a real goal of the public who are tired of being bothered by these calls? Because if you put this in law and you go to court and lose, you're back to where we are now. So I think it's wise for us to step back and try to understand where we're at. You can try to redefine content-based speech all you want. But that's a term recognized by the court. Senator Nelson mentioned this in Burson v. Freeman, "a restriction solely for political speech is content-based." We're not asking you to ignore...well, they aren't using the right terminology, therefore you should ignore the term "content-based." The courts have generally held that it's the type of call, not the speech within the call, that determines its content. If it's for a political purpose as LB198 is, that's held to a standard. If it's for a commercial call, that's held to a lesser standard. Or if there's a difference and there's a higher standard on one, there has to be strict scrutiny in determining why that determination was made. So the courts have recognized, the Attorney General's Office has recognized that content refers to the purpose of what is being said or for the purpose of what is being said, not what is specifically being said. And if you go and you look at the Ward case, I believe Ward v. Rock Against Racism, which is a 1989 U.S. Supreme Court ruling, it goes through and outlines some of these issues as well. I'm not asking you to do anything different than what we're doing. I'm asking you that if we're going to make this the public policy of the state, that we feel comfortable not only that it's defensible in the court, but that it will prevail. And no one can ever presume or can guarantee the success. But let's go back to what was said in the Eighth Circuit under Gladstone. Again, this was a case dealing with free speech rights regarding signage. And this is on page 1409 of the Gladstone ruling, Whitton v. City of Gladstone. Therefore, we conclude that Gladstone's durational limitations in section 25-45 as applied to both residential and commercial property are content-based restrictions which fail to satisfy strict scrutiny and therefore unconstitutional restraints on free speech. I think it's advisable for us to pause and to step back and to determine,... [LB198]

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SENATOR LANGEMEIER: One minute. [LB198]

SENATOR ERDMAN: ...and I would again offer the opportunity to Senator Schimek if she feels that there's a more appropriate vehicle, and the courts would argue this is the only vehicle to accomplish this without a less restrictive means, if there is that vehicle available to us, why not put it before us, give us that opportunity? Because candidly, I don't know how you're going to go to court and argue that we're concerned about privacy in your residential homes and the reach of these automatic dialing calls, but yet, as Senator White said, you can call 30 times to sell Twinkies and that's somehow not a violation of your privacy if that is the compelling state interest that we're trying to protect. I think we need to connect the dots. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator White, you're recognized, followed by Louden, Ashford, and others. [LB198]

SENATOR WHITE: Thank you, Mr. President. Just two points and I will try to be brief. First of all, I would recommend to you that honest phone calls more than twice in a day are not likely. Anybody who knows how unpopular these are and is actually running for office would be unlikely to actually authorize those. So I wonder if the bill is really aimed at the problems that we perceive exist. Second, I would urge you to think about something, the courts...once we move to a strict scrutiny standard, which is what this bill will engender and that's what the Attorney General is saying, it's just a much tougher row to hoe. And when you're going up on that situation, a person who's challenging the law, his job is fairly easy. They just have to put forward a situation where legitimate speech will be curtailed. And generally speaking, if that happens the law should be struck down. Let me give you a simple example. Any one of us is running for office. The night before the election, at 8:58 p.m. our opponent floods the phones with a false robocall, flat-out says we support an issue--pick whatever hot-button issue you want--that we don't. They just do it. You cannot, if you're law-abiding, respond. By the time you hear what's happened and you could get a response, it's after 9 p.m., and it's too late. Given that kind of an application of this kind of law, and that the speech you would want to pass on to the voters is lawful, it's appropriate, correct, it's a flat-out misstatement about where you are on your position, we're now in a position of outlawing lawful speech; not only lawful speech but necessary speech to correct an untruth. These kind of laws are very tricky. We should move carefully. Thank you. [LB198]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Louden, you're recognized. [LB198]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I have read this bill and looked over it and I think back on some of our political campaigns that have went on, I'm wondering if, as Senator White has said, is this bill actually

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necessary? Because some of these campaign telephone calls are probably self-governing because if the wrong ones come along, why, you can lose more votes than what you gain. If any of you can remember here in our last Governor's election, I think in the primary there was some phone calls that went out, and I think one of the candidates spent about two or three weeks trying to put the fire out and backpedaling on what was said over some phone calls that went out and not that often. So I think some of these phone calls is ways that can be self-governed, and I'm wondering if we really need to be into this. I guess I always think about nothing is safe when the Legislature is in session and we certainly are getting into phone calls now. So I myself question whether we should be going ahead with this bill at this stage there although it has went through the process to Final Reading. But perhaps it is not too late again to take another step back and take a look at that. With that, I would turn the rest of my time over to Senator Pirsch if he would like to have it, Mr. President. [LB198]

SENATOR LANGEMEIER: Senator Pirsch, 3:30. [LB198]

SENATOR PIRSCH: Thank you. I would yield. I appreciate that, Senator. Mr. President, members of the body, constitutional issue aside, I think that we should also...I guess I'm somewhat concerned about the suggestion now to go forward with a broader application that would affect commercially, those interests that utilize those calling devices. I'm not saying it's a bad idea or a good idea but I'm saying that we haven't gotten the input, and I think it's important to follow procedure. A policy consideration to think about: We do have a large telecommunications center in Nebraska and especially in Omaha; more applications than at first you would realize. And I wish I had time to ask Senator Schimek a little bit of definitional questions. But my concern lies with the way that the bill, if it is expanded, would limit those communication services that our Omaha and Nebraska telecommunications providers provide via this type of vehicle that are actually invited by the individual and actually in some cases subscribe to. Would this prevent, say you subscribe to an automated dialer to give you a wake-up call or for certain other services? And I guess the law of unintended consequences is what I'm worried about. And so I want to follow good procedure to that extent. And that would regulate not only a telecommunications-type of company that has multiple clients because it applies, I believe, to the telecommunications company, not per client, or at least that's my question. And also to the time of day, if you would subscribe to a service that you want to be reminded and you're unable to get that thereby because of this time limitation as well. So I just wanted to briefly mention that as a consideration and say that having a well-thought-out process in place to think through it is, I think, vital. So I do appreciate the time. [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR PIRSCH: Oh, I'll yield back. [LB198]

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SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Ashford, you are recognized. [LB198]

SENATOR ASHFORD: Thank you. I'm going to give my time to Senator Chambers. [LB198]

SENATOR LANGEMEIER: Senator Chambers, almost 5 minutes. [LB198]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford. Members of the Legislature, I will say it for the first time. And if I have said it before, then I'm going to repeat it. We are all speculating as to what a court might do. None of the cases was on all fours with what this bill has to say. Courts are notorious for distinguishing one case from another case, one case from a line of cases because it thinks that under the circumstances, a particular approach is the right one to take. The Nebraska Supreme Court has said numerous times that whereas we will note the decisions and opinions of our sister courts, it is our responsibility to determine what is in the best interests of the citizens of Nebraska. Now Senator Erdman and the Attorney General talked about decisions handed down by the Eighth Circuit Court of Appeals at the federal level, suggesting that if this matter is challenged, it would be in the federal court. But they cannot say how the Eighth Circuit or even a federal trial court would decide on the constitutionality or lack thereof of this bill. Never have I been prepared to forgo what we as a Legislature should do based on an opinion of somebody in the executive department. The Governor has made it clear, although I don't believe him, that if he doesn't get what he and the superintendents want on the school bill, he'll veto every bill that we send over there. Well, let him. He can veto mine, I've always said that. I don't care. It shows more about him than me. But threats come from the executive department. Sometimes a politician has a political agenda. The Attorney General is running full bore, less about 1 percentage point, for the U.S. Senate, and maybe it would be to his advantage to be able to make a lot of robocalls. This opinion was rendered in a political setting, not just in the sense of anything that comes through the Legislature involves a political process, but I mean political in the sense of perhaps partaking of partisanship. Senator Erdman cannot say with certitude what the court will do. The Attorney General will never say that when an opinion is rendered. The Attorney General stopped several years ago saying that this law, this bill if enacted into law will be unconstitutional. First of all, his office was often wrong. Secondly, it was going beyond what the role of an opinion from the Attorney General's Office should be. So there will be the argument, the speculation, then the inconclusive conclusion that a court may do this, a court may do that. But it's up to the Legislature to make a decision. These issues were touched on during the earlier debate, or they could have been. I was trying to restrict the time frame so that between the hours of four and six when people might be eating dinner none of these calls could be made. But I withdrew that amendment. It is aimed at a particular problem that has been shown to exist. And I'm sure if the matter came before a court, the defender of this law...and it wouldn't be the

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Attorney General. [LB198]

SENATOR LANGEMEIER: One minute. [LB198]

SENATOR CHAMBERS: The Attorney General would be compelled to hire outside counsel, having already taken a public position against the bill. The facts would be presented to establish why the bill was enacted. There would be a laying out of these types of calls, when they're made, and all of that. The bill is aimed at that particular problem. It does not prohibit political speech. It does not prohibit these types of calls. It regulates the time during which such calls can be made. It limits the number of calls to two. Some people are saying, suppose the court said, well, why don't you regulate commercial speech? We don't have to do everything that can be done every time we enact a bill. Senator Pirsch had stated what I've mentioned to some of my colleagues on the floor. [LB198]

SENATOR LANGEMEIER: Time. [LB198]

SENATOR CHAMBERS: Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Returning to discussion, wishing to speak we have Senator Chambers, Pedersen, Schimek, and Karpisek. Senator Chambers, you are recognized. [LB198]

SENATOR CHAMBERS: Thank you. Mr. President, I was going to mention that Senator Pirsch said something on the mike that I had been saying to some of my colleagues, namely that it wouldn't be appropriate to extend the scope of this bill. There has been no discussion of any additional inclusiveness in terms of reaching out and pulling in other entities. This is Final Reading and there has been no hearing on the extension of this bill. That in and of itself, it being Final Reading I'm talking about, is not an argument against adopting a substantive amendment on Final Reading. Since we're in the tail end of the session, we may see that happening. But when we're dealing in the realm of speech and governmental regulation of speech, we should not willy-nilly, helter-skelter, "ad hocly" put a bill in place that would reach out and include other areas of speech to be regulated without having given thorough consideration. I'm going to support this bill. I cannot guarantee that a court would uphold it as being constitutional. Nobody can say with certitude that a court will strike it down. The issue is serious. It is one on which we are entitled to have a definitive answer. The only institution in this society which can give us that answer is a court. If the trial court ruled one way and nobody appealed it, that would be the definitive answer. If it were appealed to the Eighth Circuit and whatever opinion was given there, decision was rendered, if it were not appealed, that would be the answer. If on the other hand it's sent to the U.S. Supreme Court and that court takes it up, that would be the final answer. But if the U.S. Supreme Court refused to hear the case, then whatever the appellate court had said would be the final word as

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far as this bill that we're talking about. I believe that considerable thought has gone into the issue itself. I don't know of another way less restrictive than this which could address the problem. As Senator Schimek said, you could put in place a do-not-call list and a number of other things that have been suggested at the federal level and in some states to restrict unwanted calls. I start from the position of the right of the citizen to be free from this kind of intrusiveness into his or her castle. How far a court would go in applying that concept where this bill would be concerned is something that I can only speculate about. But I do believe we ought to enact this bill into law and then let one of the political parties challenge it. I don't know of a citizen who's going to be offended that we pass this bill. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Pedersen, you're recognized. [LB198]

SENATOR PEDERSEN: Thank you, Mr. President. I'd give my time to Senator Chambers if he wants it. [LB198]

SENATOR LANGEMEIER: Senator Chambers, 5 minutes. [LB198]

SENATOR CHAMBERS: Thank you, Mr. President, and thank you, Senator Pedersen. And I will not use all of that time. I think we're reaching the point where what needs to be said, what has been desired to be said, has been said. I'm going to support this bill. If there comes a challenge, let it come. If this were a clear-cut issue one way or the other, I would be one of those saying there's no way that it could be held up when we look at it rationally, no way that it can be upheld. But even those speaking against it cannot say with certainty that a court will strike this bill down. I'd like to ask Senator Nelson a question and I don't mean Senator Hansen or Senator Carlson, but Senator Nelson. [LB198]

SENATOR LANGEMEIER: Senator Nelson, would you yield to a question? [LB198]

SENATOR NELSON: Senator Nelson is happy to yield. [LB198]

SENATOR CHAMBERS: Senator Nelson, having read the Attorney General's Opinion, listened to the discussion, and having your own views on this, could you say with certainty that a court will strike this bill down as unconstitutional if it's enacted into law? [LB198]

SENATOR NELSON: No, I think what you and others have to say is there's a great deal of uncertainty here. We can't say with certainty what the court would do. [LB198]

SENATOR CHAMBERS: Do you want to say more? [LB198]

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SENATOR NELSON: It would be using up your time, Senator. [LB198]

SENATOR CHAMBERS: I know how to say, cease. (Laughter) Go ahead. [LB198]

SENATOR NELSON: All right. I'm just sitting here listening and I'm thinking of my own position as a political candidate in the future. Do I really want to be restricted to making two robocalls a day if I think that maybe three or four might get the job done in winning the election? And I look at the other side of it. What are we trying to prevent here? We're trying to prevent abuse of robocalls, and we find as a result of a World-Herald article that we can't find out who's doing it anyway. And so what's the point? And I'm not going to say that a court would say this but they might ask the same question: Are you hitting something with a hammer here that you can't hit and you can't prevent in any event? [LB198]

SENATOR CHAMBERS: Senator Nelson, if somebody were to fire a weapon from a location inhabited by nobody and you couldn't find out who fired the weapon, should you then make the firing of a weapon under those circumstances legal? In other words, you as a lawyer know the difference between an issue of proof and other issues. So maybe you cannot find in all cases who did this but that doesn't mean necessarily that you allow that conduct to be unregulated. Would you agree with that statement as far as it goes? [LB198]

SENATOR NELSON: As far as it goes, yes, I would, Senator. [LB198]

SENATOR CHAMBERS: Thank you. And that's all I will ask Senator Nelson because I said I wouldn't take the full five minutes. And I'm saying for myself again, I cannot predict with certitude what a court will do, but the issue is such an important one that I think a court should make that decision if somebody chooses to make the challenge. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Schimek, you're recognized. [LB198]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I have tried to listen to this discussion and keep getting distracted by different conversations so I'm not certain that I've heard all that you had to say. But the word that I would leave you thinking about is that robocalls, what we've seen so far of robocalls, it's probably just the tip of the iceberg. I think that it's only going to get worse than it is now. And citizens have definitely told us that they would like to have some kind of limitations placed on this. Now these may not be strict enough limitations for the citizens. They may wonder why we allowed so many because it's not just two phone calls per household. It's two phone calls per campaign per household. So if you have six campaigns making phone calls, you could still get 12 robocalls per day. Now, Senator Nelson, I don't agree that I

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want to make more than two robocalls per day. I think the diminishing returns are definitely there. The more you increase the number of robocalls, the more chance you have of actually irritating the people that you're trying to woo to your side. So I'm not really very concerned about the number in here. I think it's okay. But I want to remind you that there were no opponents to this bill at all at the hearing. In fact, the proponents were the Nebraska Accountability Commission and the Public Service Commission, who both saw some value in doing this. The bill came out of committee with six yes votes; no, no votes; and two who were absent. So it's really only between Select File and Final Reading that this whole stir has arisen. And frankly if we'd have had the bill on Final Reading several weeks ago when we thought it was going to be, it would have been passed by now and nobody would have probably thought anything of it. So I really think that the bill is okay. I'm willing to abide by what the body thinks. I can tell you that we have looked at it from several different angles. I've got several amendments laying on my desk but I don't think they improve it. They raise other questions. So I think the bill is okay. I'm going to ask you not to return the bill to Select File and just to take a straight up or down vote on it. So with that, Mr. President, thank you very much. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Karpisek. He waives his time. Senator Nelson, you are recognized. [LB198]

SENATOR NELSON: I'll be very brief. In light of my recent discussion with Senator Chambers, I just simply want to point out that in the Kleeb campaign we don't know who was doing that. And what they were doing was already in violation of the law that we have under the Political Accountability Act. They were doing a number of things that they were not supposed to do and yet we can't enforce that. So now we're in the position of putting on another bill that probably is also unenforceable. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Seeing no other lights on, Senator Erdman, you are recognized to close on your motion to return for a specific amendment. [LB198]

SENATOR ERDMAN: Mr. President, let me say this, if I haven't already said at least once this session: Senator Chambers is right, at least maybe in a limited area here. Neither one of us can say what the court will do though. He cannot argue definitively that they will uphold his argument and I can't say that they'll uphold my side of this argument. But what we can agree on is that if this is the public policy of the state, that we should have thought through what we were doing. It appears through the course of this discussion this afternoon that folks have come to a comfort level with what they're going to do with LB198. As I said in my opening, I'm not intending to take this to a vote. Senator Schimek said she had amendments but she will not be offering them. We've had the discussion. One of the things that I think you always have to analyze though is, what is the appropriate remedy? If you have a fly buzzing around, you don't try to kill it

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with a sledgehammer the first time. To the extent that we can analyze what the courts may do, we should do that, and I think that's instructive. When Senator Chambers gets up and says he's going to filibuster your bill, you can look at the history in which he has effectively done that and understand that that's probably not a veiled threat. The case in Minnesota, I think, is more on point than most people want to give credit. And the case in Minnesota is on point to the extent that the Eighth Circuit ruled that it was content-neutral. This bill is not. And to the extent that we want to become content-neutral, then the lesser standard in which the Minnesota law was upheld will be the standard in which our law will be challenged against. But that's not where we are today. Senator White gave an example about the 9 p.m. deadline if I was a candidate trying to respond. I'd amend that briefly and say that a 3 p.m. call when you've exhausted your two is probably a more effective challenge to this law because all calls are prohibited after 9 p.m. regardless of content. But if it's at 3 p.m., you've called twice--which I don't know why you would have--but if you've called twice already and you feel you need to respond again, had you been a commercial endeavor, you would have that right under our law. Under political speech restrictions under LB198, you will not. And if you're coordinating with other campaigns, as Senator Schimek pointed out--which it's not just any campaign, it's yours--if you're coordinating with other campaigns and you make that call, I would argue you're in violation because it's a coordinated expenditure and technically part of your campaign anyway. So we can go through this legal gymnastics if you would like. If we're concerned about the freeing the citizens in his or her castle from this intrusion, we should be doing it content-neutral. We should be doing it in all areas. If you don't know of a citizen who will be offended by this law, then you obviously haven't read the Minnesota case, because a citizen brought a challenge against the Minnesota law and said that it was a violation of their right. It wasn't a political party, it wasn't a special interest group, it was a citizen. It happened to be a candidate but it was a citizen. We can't say definitively what the court will do. In respect to Senator Schimek, if she will recall the debate that we had on LB198 on General File and on Select File, I asked specific questions pointing to these types of issues. This didn't just come up on Select File and Final Reading. This has been here since the inception of this bill and trying to work with Senator Schimek to try to find a workable solution to what the Government Committee has advanced, as amended--this bill is not as amended by the Government Committee, by the way--and what she would believe is a goal based on her research. That's fine. I have yet to filibuster any of Senator Schimek's bills. Maybe I should at some point. But in keeping with the tradition that I have shown to her, I don't intend to delay this one much longer than the time I have to close. So I withdraw this motion. I believe that the concerns before us are fundamental enough that we could have done better and I agree with the desire or the attempt, but I don't believe in the methodology that's before us. And obviously it will be up for the court to decide. But I thank you for your time this afternoon. I look forward to future discussions this session on major issues. Senator Schimek, I thank you for your hard work and wish you well. Mr. President, with that, I will withdraw the motion to return to Select File and the amendment to strike the enacting clause. Thank you, Mr.

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President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Your motion is withdrawn. Mr. Clerk. [LB198]

CLERK: (Read LB198 on Final Reading.) [LB198]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB198 pass? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB198]

CLERK: (Record vote read, Legislative Journal page 1595.) 31 ayes, 7 nays, 10 present and not voting, 1 excused and not voting, Mr. President. [LB198]

SENATOR LANGEMEIER: LB198 does pass. We will now proceed to General File, senator priority bills, LB551. Before we do that, Mr. Clerk, items for the record? [LB198 LB551]

CLERK: Thank you, Mr. President. Study resolution, Senator Fischer, LR179, LR180, LR181; Senator Kruse, LR182; Senator Nantkes, LR183, LR184, LR185; Senator Pedersen, LR186; Senator Dierks, LR187, LR188; Senator Janssen, LR189, LR190; Senator Flood, LR191. (Legislative Journal pages 1595-1601.) [LR179 LR180 LR181 LR182 LR183 LR184 LR185 LR186 LR187 LR188 LR189 LR190 LR191]

Mr. President, LB551 on General File, a bill originally introduced by Senator Flood. It was introduced on January 17. (Read title.) The bill has been discussed, Mr. President. Committee amendments were presented. A division was ordered with respect to the committee amendments. There were amendments, I believe, to that, that were adopted. When we left the issue, Senator Chambers had pending FA74 to the bill. [LB551]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. It has been a number of days since we discussed LB551. Senator Flood, would you give us a brief opening on LB551? [LB551]

SPEAKER FLOOD: Thank you, Mr. President, members. And thank you for your attention this afternoon. This is an important bill. I'm just going to briefly cite to you what the sections do and then we'll return to our discussion. Section 1, of course, cites the act. Section 2 expands the legislative finding to reflect the changes made in the bill, namely: A, the expansion of the bill's application to the sports arena facilities and hotel facilities; and, B, the calculation of the sales tax eligible for the turnback. Sections 3, 4, and 5 eliminate definitions used in the formula that exist now in the turnback formula and adds the definitions of hotel facility and sports arena facility. Section 6 greatly simplifies for both the sales tax collectors and the Department of Revenue the

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department's required audits, reflecting the change in the turnback formula. Section 7 strikes outdated language and updates the language in which the turnback taxes are to be split, 70 percent to the city, in this case with the Qwest Center would be Omaha, and 30 percent for other communities in the state and the outstate fund. And Sections 8 and 9 are repealers. The new Section 10 adds the emergency clause. So that is the bill in a nutshell and I look forward to the discussion on the same. Thank you, Mr. President. [LB551]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Thank you, Senator Flood. Senator Chambers, FA74 was introduced by you. You have opened but we'll give you an opportunity to explain the amendment to the Legislature briefly. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. I will withdraw that amendment, FA74. [LB551]

SENATOR ERDMAN: FA74 is withdrawn. Mr. Clerk. [LB551]

CLERK: Mr. President, the next motion I have, Senator Chambers, FA75. (Legislative Journal page 1188.) [LB551]

SENATOR ERDMAN: Senator Chambers, you're recognized to open on FA75. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to be withdrawing some of my amendments. Some of them will be incorporated into an amendment that Senator Avery will offer, but a couple of them I intend to take up and this is one of them. On page 7, lines 16 and 17, I will reinstate the following words, "In determining whether state assistance is in the best interest of the state, the board shall consider..." That would be in quotes. Then I go on. And in lines 19 and 20, reinstate, "...the fiscal and economic capacity of the applicant to finance the local share of the eligible facility." What I am trying to put back into the law is a requirement that when the board is determining whether state assistance will be available, the applicant must establish its ability to finance the local share of the eligible facility. So you have a facility. There would be a state share, a local share. The applicant would have to be able to establish that the local share can be financed. I don't know why that was to be taken out of the bill, the law, but I would like to hear that explained. And if I can be shown a compelling reason why an applicant should not be required to show that financing is available, I want to know why. And that's all I will say at this point, Mr. President. I will listen carefully. Perhaps I can be persuaded. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you've heard the opening on FA75. Those senators wishing to speak are Senator Ashford and Senator

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Avery. Senator Ashford, you're recognized. [LB551]

SENATOR ASHFORD: I'm just going to talk on the bill. [LB551]

SENATOR ERDMAN: Senator Ashford waives. Senator Avery, you're recognized to speak on FA75. [LB551]

SENATOR AVERY: Thank you, Mr. President. I had a conversation with Senator Chambers. I had looked at this amendment earlier and had actually highlighted it and said, I like this one. It's entirely reasonable. It's offered, I think, in the interest of improving LB551. I would be interested in knowing what the principal introducer of this bill thinks of it, but for my purposes there's nothing at all wrong with requiring those who are to receive state assistance in building these facilities to be able to show they're capable of doing so, they're capable of coming up with their part of the financing. That's what this amendment tries to do, and I will support it. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Avery. Senator Fischer, you're recognized to speak on the Chambers amendment, followed by Senator Flood. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members of the body. When this bill was first introduced and discussed, it was referred to as the Qwest Center bill, and my understanding from discussions with Senator Ashford and others, was that this bill only applied to the Qwest Center, because of problems that were faced with that convention center. In conversations in the last couple weeks, it seems that the bill will apply to any city. Lincoln might possibly use it for a convention center here. Norfolk might use it for a water park. I think that's dangerous, that we're offering a bill and offering sales tax credits and paybacks on facilities to be built in certain communities across the state. I do have some problems with the bill. When it was first introduced and I visited with Senator Ashford, I felt that perhaps it was appropriate to address the problems that the Qwest Center was facing in Omaha and that we needed to address that and needed to find a solution for it. But when we're looking at a loss in revenue across the state beyond the \$2 million or whatever we have in the fiscal note right now for the Qwest Center, yes, I have problems with it. And I guess I would yield time to Senator Ashford, since we had talked about that first, if he would like to clarify that. [LB551]

SENATOR ERDMAN: Senator Ashford, you have 3 minutes and 15 seconds. [LB551]

SENATOR ASHFORD: Thank you, Senator Erdman. Thank you, Senator Fischer. The...you know, I think it really would...there is an amendment that Senator Avery is offering that has to do with a planned convention center in Lincoln, I believe, and that is an amendment that Senator Avery filed, and we will get to that amendment, and he can explain to us that amendment when we get there. Certainly, the idea behind the Qwest

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Center bill is, as I stated to you, is not necessarily to just help Omaha. That really isn't the reason. The reason that the bill was brought, I think, and Senator Flood is the introducer, was to be consistent with what the original idea behind the financing for the Qwest Center was. And as I think I said at the time that this bill was first...well, I said to you and I've said to others, the idea initially was that up to \$75 million could be made available pursuant to a formula, to the city of Omaha to help retire the bonds. The only mistake I guess I might have made in promoting the bill initially, years ago, was that not asking or suggesting that the amount of the state contribution be specifically stated as a match, which is often done on various state projects. So what I believe we're talking about now, as it relates to the Qwest Center, is trying to come up with a formula that will come at least closer to the original idea behind the financing for the Qwest Center, which was the potential of receiving \$75 million in state funds. This bill will not get us anywhere close to \$75 million in state contribution. Again, I think this does make it different, the fact that the state acknowledged at the time the bill was passed... [LB551]

SENATOR ERDMAN: One minute. [LB551]

SENATOR ASHFORD: ...a couple years ago, that it could have an obligation of up to \$75 million. Again, it will be less than that. So really, I think it is really trying to be consistent with what was originally intended by the bill that initially established the turnback. As far as Senator Avery's initiative for Lincoln, I do support it. I have seen it; it's a relatively recent amendment. Quite frankly, these facilities, sales tax is not being generated now, because these facilities do not exist in Lincoln. I think Lincoln should have the ability to access this turnback money for a worthy project. I think this is a worthy project that Lincoln is proposing to do. Certainly when we talked, Senator Fischer, the Lincoln project was not something that was being contemplated by me or anybody else, as far as I know, so that would be my response. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Ashford, Senator Fischer. Senator Ashford, your light is next. You may continue. [LB551]

SENATOR ASHFORD: Thank you, and I just want to, just for the record, and then I will try not to use all my time. But there is another amendment, Senator Fischer, that I have filed and a number of Omaha senators have filed, which would provide for 60 percent of the turnback money going to the city to pay back the bonds, and 10 percent would go to tourism projects in north and south Omaha. And so, just so you understand, that's an amendment that was drafted today and was introduced by me today and cosigned by a number of Omaha senators. Again, Omaha cannot access the 30 percent money under Senator Avery's amendments, I believe. You can't have two projects going at once. At the time the Qwest Center was contemplated initially, there was a great deal of discussion about the impact of the Qwest Center and the sales tax and other economic impact of the Qwest Center on parts of Omaha. And I believe that parts of Omaha, north and south Omaha, have not benefited as have other parts of the city as much, at least,

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that there are worthy tourism projects in those parts of the city that are worthy of some consideration, and so I have put an amendment up on that issue. But other than that, those would be the amendments that I know of, and I would give the rest of my time to Senator Fischer. [LB551]

SENATOR ERDMAN: Senator Fischer, you have 3 minutes and 20 seconds. [LB551]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Senator Ashford; appreciate it. As I said before, when the bill was introduced and in my early conversations with Senator Ashford and others, I stated my support for the bill. I believe that we have to find a solution to address the situation that Omaha has seen with their convention center. I think that is appropriate for this body. I will not support expanding this beyond the convention center in Omaha. I will not support taking state revenue to help other cities benefit from that tax credit. Right now, Lincoln and other cities are able to access that economic development fund. I see no reason to expand it. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Fischer and Senator Ashford. (Visitors introduced.) Senator Fischer, your light is next, followed by Senator Engel. Senator Fischer waives. Senator Engel, you're recognized to speak, followed by Senator Harms. [LB551]

SENATOR ENGEL: Mr. President, members of the body, I know the last time when we were debating this, talking about the agreement made in 1999, and of course, they want to alter that now, and I understand why, because they're not getting the funds that they thought they would get. At that point in time, they're the ones that set up the formula that they said it would work, and it hasn't worked. Well, and that's not really a big surprise. But I did...and I was talking about...I'm talking about the original bill now, as far as about \$2 million it will bring in--\$1.7 million I think it will bring in each year, under the new formula. And that certainly will not take care of their situation, because as we know, the bonds...I think it's \$10 million or \$11 million to 2012, and it jumps up to \$19 million in 2012 to 2024. So what I'd like to ask Senator Ashford, whoever can answer the question is, do you feel, even with this legislation, that they will have to raise taxes in Omaha to pay for this convention center? [LB551]

SENATOR ERDMAN: Senator Ashford, would you yield? [LB551]

SENATOR ASHFORD: I don't think so, Senator Engel. [LB551]

SENATOR ENGEL: How do you... [LB551]

SENATOR ASHFORD: I don't think for this project. There may be other things down the line that they'll have to raise taxes to deal with, but I...again, and it's hard to anticipate.

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But I...this is not...I've said before, I don't think this is a tax relief measure, really. I wouldn't cast it as such. [LB551]

SENATOR ENGEL: Well, the thing is, like in...I know it's not an additional expenditure, but it would be almost \$2 million loss of revenue, as far as the state is concerned. And this year, what we're working on with our budget and so forth, and the Governor is looking for things to veto, etcetera, to cut out certain programs, and some of them aren't particularly of up to \$2 million--a lot less than that, some of them--and I think we're depriving ourselves of income that we should get. Just because something did not work out,...and again, I'm all for the Qwest Center, I'm all...in Omaha, if you want to build a baseball diamond, I think that's wonderful. Leave that up to the people in Omaha. But we made the original agreement, and I think we should stick to that, and then if they want to do these things, I think, more power to them. But they say, well, everybody out of state comes there. I said, right, but when we go there, we spend our money there, so we're not like coming into town and freeloading off of anybody. We're not doing that. We're coming in to spend our money in Omaha, and a lot of us travel to Omaha, and I appreciate that being the gateway to Nebraska, coming from the east, of course. But now here's a survey, May 15: breaking news. "Omahans like Qwest, hate parking problems." So I won't talk about the parking problems, but three out of five...no, that's a (inaudible). "The survey, conducted by MSR Group of Omaha from March 27 to 29, suggests Omahans are more positive about the facility than when they voted to build in 2000. Nearly 80 percent of those surveyed rated the decision to build the convention and arena as either excellent or good, and less than 8 percent called the decision poor or terrible. In the spring of 2000, 63 percent..." thought it would be a good idea. "...63 percent approved the...construction bond issue." Now the thing is, now, if you've got 80 percent of the people in Omaha liking what you did, I'm sure that they wouldn't mind raising their property tax 1 cent to raise this \$2 million that we'll be giving up, as far as state revenue. And so with that, I think you've got plenty of support in Omaha to pay for your Qwest Center. I don't think you have to come back to the taxpayers. And, to me, this is just a start. Now, if you do get your baseball field, I know you'll figure out ways that it will take care of itself, and of course, if it doesn't, we'll come back for a little throw back. If the situation is extended... [LB551]

SENATOR ERDMAN: One minute. [LB551]

SENATOR ENGEL: ...to Lincoln, I'm sure they'll come back for throw back, and that will extend across the state. And as far as that 30 percent the rest of them are getting, when you divide that up among the communities, you're talking about just a few thousand dollars per community. So I don't think that's a big plus for these different communities. I know there's another amendment coming up and I'll talk about that later, but for now, I think that we should let them take care of their own situation here, because they have the capacity. They have the capacity to do it very easily, because 1 cent of tax increase will take care of the situation and make it level here. So with that, I'll turn the remaining

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few seconds back to the Chair. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Engel. Senator Harms, you're next to speak, followed by Senator Wallman. [LB551]

SENATOR HARMS: Thank you, Mr. President, colleagues. Since Senator Chambers is not here, Senator Ashford, would you yield for me, please? [LB551]

SENATOR ERDMAN: Senator Ashford, would you yield to questions from Senator Harms? [LB551]

SENATOR ASHFORD: Yes, I will, thank you. [LB551]

SENATOR HARMS: In his amendment, line items 16 and 17,... [LB551]

SENATOR ASHFORD: Right. [LB551]

SENATOR HARMS: ...he wants to put that back in, and it talks about the best interest of the state. You know, I have difficulty with that, of understanding, what does the best interest of the state mean? How do we define that? What criteria is involved in that, and how do we determine that? So what is the best interest of the state? I don't know what that means, and... [LB551]

SENATOR ASHFORD: Well, I think in this case...if I might, Senator Harms, I think in this case--and I hate to sound like a broken record--I think the state did establish for itself what its best interest was when it passed the original Qwest bill, saying that the state would have an interest in paying up to \$75 million into this project. So I think the state...and for a number of years they looked at this, studied this, and a determination was made that \$75 million was a fair amount, albeit not a number that will be reached, but it was, I think...that was the intent, was that the state did have a significant interest in a project like this. [LB551]

SENATOR HARMS: Okay, and then the other question I would have, then, is, as we continue this process and whatever happens today, if it's in a positive sense, what eliminates, then, in the future from Lincoln, Nebraska, Grand Island, and even more importantly, Scottsbluff, Nebraska, (laugh) to be able to pursue some assistance here, or Mr. President, Bayard, Nebraska. I mean, what prohibits us from pursuing that? [LB551]

SENATOR ASHFORD: Well, you know, to be honest with you, I think that's a great question, Senator Harms. I think...we are creating sales tax revenue and other tax revenue that does not now exist, because of these facilities. They are sales tax intensive. They generate substantial tax and economic impact. I support expanding this

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program. I'm not sure the Legislature will do that, but I support expanding this program beyond Omaha and Lincoln. But that's just me (laugh), so. [LB551]

SENATOR HARMS: Well, thank you, Mr. President. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Harms and Senator Ashford. There are four senators wishing to speak. Senator Wallman, you're recognized, followed by Senator Avery, Heidemann, and Carlson. Senator Wallman. [LB551]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I too support this amendment. I think you build it and they will come, and like Senator Ashford said, you get sales tax revenue. We never would have had a final volleyball tournament in there, stuff like this in Omaha, if that wouldn't have been there. So they didn't get the anticipated revenues they thought they would from the state, so should we step up to the plate? We're not really stepping up to the plate. The people that visit that institution or that building, it's a wonderful place to visit, it's a wonderful place to see concerts, no matter what you want to do. We would have never got these regional tournaments without that place, so that brings revenue not only to Omaha, but as they go down the interstate from the west, from the north, from the south. So I think this is a good amendment, and I'd urge the body to support it. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Wallman. Senator Avery, you're recognized to speak on the Chambers amendment, followed by Senator Heidemann. [LB551]

SENATOR AVERY: Thank you, Mr. President. I think that what we need to do is understand what the objective here is. We are seeking to do something that should be beneficial to the economic well-being of the state. We have a convention center in Omaha, the Qwest Center, that is a source of pride for the entire state. It brings in high-profile sporting events, top tier performers, musicians and musical groups. It generates new economic activity, brings in new dollars, local taxes, from both within and outside the state. It also creates jobs. It creates new economic opportunities for the residents. Reference has already been made to an amendment that I have on file that will be coming up, I hope soon. And what this amendment does is try to broaden the benefits so that cities all across the state can enjoy some of the same economic growth. So I will be proposing an amendment to include other communities, or at least set up the terms so that they can qualify, and of course it would include Lincoln, but it would not be limited to Lincoln. I will reserve discussion of that specific amendment for later, but at this point I think it's important for us to understand that this is good legislation, as a part of our need to help the Qwest Center and also to provide this opportunity for other communities. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Avery. Senator Heidemann, you're recognized to speak on the Chambers amendment, followed by Senator Carlson.

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[LB551]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. I was wondering if Senator Ashford would yield to a question. [LB551]

SENATOR ERDMAN: Senator Ashford, would you yield to a question from Senator Heidemann? [LB551]

SENATOR ASHFORD: Yes. Yes, I will. [LB551]

SENATOR HEIDEMANN: I was wondering, Senator Ashford, in the copy of your bill on page 9, you strike out the language that caps this at \$75 million, is that correct? [LB551]

SENATOR ASHFORD: I don't believe so. If I do, it shouldn't be done. It's meant to be...it's not going to get to \$75 million, Senator, but I don't believe we removed that cap. If we did, I...that's inadvertent. [LB551]

SENATOR HEIDEMANN: Okay, because I'm not saying that the bill doesn't make me nervous, but that part of the bill definitely makes me nervous, if we would strike out the cap at \$75 million. [LB551]

SENATOR ASHFORD: And it shouldn't. [LB551]

SENATOR HEIDEMANN: It should be on page 9, line 9. [LB551]

SENATOR ASHFORD: Page 9, line 9? [LB551]

SENATOR HEIDEMANN: Green copy. [LB551]

SENATOR ASHFORD: Oh, the green copy. It is the green copy, I've now been informed. Page 9, line 9: 70 percent of the state sales tax collected by retailers. I understand your question, Senator Heidemann. \$75 million is the promise that was made, and that's where it should stay, at \$75 million. [LB551]

SENATOR HEIDEMANN: Okay, so... [LB551]

SENATOR ASHFORD: So on Select File I will make that change. [LB551]

SENATOR HEIDEMANN: To put the \$75 million cap back in? [LB551]

SENATOR ASHFORD: Absolutely, yeah. [LB551]

SENATOR HEIDEMANN: Okay. Thank you very much. That's all I have for right now.

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Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Heidemann and Senator Ashford. Senator Carlson, you're recognized to speak, followed by Senator Langemeier and Senator Pahls. [LB551]

SENATOR CARLSON: Mr. President and members of the Legislature, a few minutes ago Senator Engel testified, talking about that the formula was set up and determined that was hopefully going to allow the Qwest Center to perform and pay for itself. And in his words, the formula hasn't worked. I would like to address a couple of questions to a couple of different people in the body here. First of all, Senator Ashford, if he would yield. [LB551]

SENATOR ERDMAN: Senator Ashford, would you yield? [LB551]

SENATOR ASHFORD: Yes, sir. [LB551]

SENATOR CARLSON: And Senator Ashford, this is not a difficult question, and I'm not trying to... [LB551]

SENATOR ASHFORD: That's good (laugh), because... [LB551]

SENATOR CARLSON: I'm not trying to push you any place. [LB551]

SENATOR ASHFORD: Okay. [LB551]

SENATOR CARLSON: The Qwest Center is valuable to Omaha, would you agree? [LB551]

SENATOR ASHFORD: Yes. [LB551]

SENATOR CARLSON: The Qwest Center is valuable to the Greater Omaha area, would you agree? [LB551]

SENATOR ASHFORD: Yes, yeah. [LB551]

SENATOR CARLSON: Okay, thank you. And I'd like to address a question to Senator Avery, if he would yield. [LB551]

SENATOR ERDMAN: Senator Avery, would you yield to a question? [LB551]

SENATOR AVERY: I will. [LB551]

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SENATOR CARLSON: Okay, Senator Avery, I don't know what the answer to this question is. Is the Qwest Center valuable to Lincoln? [LB551]

SENATOR AVERY: I think the Qwest Center is valuable to the entire state, to the extent that it brings new business in and generates new economic activity in Omaha. There's a diffusion effect. You're an economist, I believe, aren't you? You...am I wrong about that? But you do know about the diffusion effect of economic...new economic activity in one part of the state, spreading throughout the state? [LB551]

SENATOR CARLSON: Okay, thank you, Senator Avery, and I'll get back...my question to you was, is it valuable to Lincoln? Your answer is yes. [LB551]

SENATOR AVERY: Yes. [LB551]

SENATOR CARLSON: Okay. Next question I'm going to ask myself, is the Qwest Center valuable... [LB551]

SENATOR ERDMAN: Senator Carlson, would you yield to a question? [LB551]

SENATOR CARLSON: Yes, I will. Thank you, Mr. President. (Laughter) You're just taking up my time, too. The question is, is the Qwest Center valuable to the entire state? And I will say that it is. Now to draw what I think is a decent parallel to this situation, in LB701 this body voted to provide dollars to help with the compact with Kansas, but the compact with Kansas was signed and agreed to by the state of Nebraska. And during that debate, this body and several members of the body had the frame of mind that the Legislature, the state, should only provide state dollars if there was a substantial contribution from the people of the Republican Basin. And that was a fair enough stance. And the people of the basin stepped up, and the Legislature cooperated in LB701, and we are thankful for that. Now my question is, how can the people of Omaha step up to the plate to help in a situation where something like the Qwest Center is very valuable; it's valuable to the state, it's most valuable to the people in Omaha and the Omaha Greater area. And so I've calculated what an equivalent occupation tax would be to the one that was provided for in LB701, to be made for by the people in the Republican Basin, and up to \$10 an acre of irrigated farm land. It's kind of difficult to get some information, but we got information on the total value of commercial property in the city of Omaha, and if an occupation tax, you can't apply it that way. I'm working on it here but I'm interested in what the body would think about this, but if it could be property applied,... [LB551 LB701]

SENATOR ERDMAN: One minute. [LB551]

SENATOR CARLSON: ...that would have to do with the value of the commercial real estate in Omaha, like the value of irrigated farm land in the Republican Basin. That

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equates to one-half of 1 percent of the value. That's what the people in the basin are willing to do. In the city of Omaha, that would generate \$33 million a year--\$33 million a year. And that would make that a doable project; could be paid off in a rather brief period of time. And I think it could be used in such a way, applied as 1 cent up to 10 cents per square foot of commercial real estate. I think an occupation tax might be appropriate, and this may be something that is addressed on Select File, if this bill passes to Select File. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Carlson. Senator Langemeier, you're recognized to speak, followed by Senator Pahls. [LB551]

SENATOR LANGEMEIER: Mr. President, members of the body, when I hit my light on, before a number of people have spoken, Senator Heidemann brought up the point that I was going to make, is the \$75 million cap is taken out of the wording here, and I'd like to see that put back in, and there was some discussion about that, so that will be taken care of. I guess I wanted to also yield a question, if Senator Avery would yield to a question. [LB551]

SENATOR ERDMAN: Senator Avery, would you yield to a question from Senator Langemeier? [LB551]

SENATOR AVERY: I will. [LB551]

SENATOR LANGEMEIER: Senator Avery, I'm going to ask this question now, even though we're not to your amendment, but I'll have time to speak on that, as well. Do you have any idea what that does to the fiscal note, if that is expanded out? [LB551]

SENATOR AVERY: I was just trying to get an answer to that just before you called me to the mike. I do not have that answer yet. [LB551]

SENATOR LANGEMEIER: Okay. We'll look forward to looking at that in the future. And Senator Carlson just brought up an interesting concept. I don't know how palatable that is, but it will be something we'll get the opportunity to think about here for a little bit. And with that, I would yield my time to Senator Carlson, if he has any more thoughts he would like to share on his idea. [LB551]

SENATOR ERDMAN: Senator Carlson, you have 3 minutes and 45 seconds. [LB551]

SENATOR CARLSON: Okay, thank you, Senator Langemeier, and I don't often get up and wing it, so Senator Lathrop, beware. But I would be very interested in what the rest of the body thinks about...this is an opportunity for that area that's affected most by that facility--and none of us want to see it be in real difficulty--to take care of this and get it paid off and put it in a very, very profitable position for the Greater Omaha area and the

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entire state of Nebraska. And I think that we've set a precedent in LB701 that has some applicability to this situation, and it may have applicability to some other bills that we're currently debating. So I do thank Senator Langemeier for giving me some time, and I hope to hear some honest opinion on this idea. Thank you. [LB551 LB701]

SENATOR ERDMAN: Thank you, Senator Carlson, Senator Langemeier. Senator Pahls, you're recognized to speak on FA75. [LB551]

SENATOR PAHLS: Mr. President, members of the body, after hearing some of the conversation, I think we ought to break the state down into quadrants, and then we'll take a look with taxes on this part of the state and...I think we need to start moving off of that concept. I was wondering if Senator Chambers is here. If not,... [LB551]

SENATOR ERDMAN: Senator Chambers, would you yield to a question? [LB551]

SENATOR PAHLS: Okay. Senator, I've been reading some of the amendments, and I just...I'm going to ask you what I call, basically, a pretty simple question. The stadium is an issue? [LB551]

SENATOR CHAMBERS: Say it again. [LB551]

SENATOR PAHLS: The stadium is an issue (inaudible)? [LB551]

SENATOR CHAMBERS: Oh, for sure. [LB551]

SENATOR PAHLS: If that concept would be totally removed, would this cause you to be in favor, or at least getting closer to saying this bill has potential? [LB551]

SENATOR CHAMBERS: What would help is if we eliminated stadium. If when we're talking about a sport arena, we're talking about an enclosed facility,... [LB551]

SENATOR PAHLS: Yes. [LB551]

SENATOR CHAMBERS: ...and then some of the other amendments that I've offered, like the one we're considering now, where the local has to prove that it can finance its share. [LB551]

SENATOR PAHLS: Okay, okay. So... [LB551]

SENATOR CHAMBERS: And then get some money for the poor people of the parts of Omaha that have always been ignored. Then I will look with less disfavor on the bill. [LB551]

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SENATOR PAHLS: Okay. So it seems to me, as I read the transcript of the last discussion we had on this bill, a lot of the times when the new senators who were not here in 1999, and we said, well, that was the past and let's move forward, your comment was, hey guys, you don't know what was going on; you're being sort of hoodwinked. So I'm trying to find, personally, a solution that would make us smarter for future decision making, but also some things that would move this bill along. To me, eliminating something such as a stadium, an enclosed, has merit. I mean, I like what you're saying, and to help people in need, I have no problem with that. So I think we're in good shape. Would you agree? [LB551]

SENATOR CHAMBERS: If we can take it a step at a time, and I can convince the body to adopt the amendments that I'm talking about, as I say, it will reduce considerably my opposition to the bill. [LB551]

SENATOR PAHLS: Okay, so as we go through those individual amendments, if I am in agreement and the majority of the body is in agreement, it does seem like we could move forward of this. I'm just being honest with you. [LB551]

SENATOR CHAMBERS: The heat of my opposition diminishes with each amendment that's adopted, and the chill against the bill reduces proportionately, also. [LB551]

SENATOR PAHLS: Okay. Last night I could have really used some of that chill, because it was hot here last night. Thank you. [LB551]

SENATOR ERDMAN: Thank you, Senator Pahls and Senator Chambers. Senator Avery, you're recognized to speak, and this will be your third time. [LB551]

SENATOR AVERY: Thank you, Mr. President. I might just address a question that Senator Pahls brought up about stadiums. The amendment that I have yet to get to, my own amendment, AM1336, does include Senator Chambers' FA77, which would strike stadiums in the definition of sports arena facility. In fact, I include four of his floor amendments, and he and I have talked about that. I don't know if he's still in support, but I hope he is. But I would urge you to support FA75, and then allow us to get to my amendment that I believe you'll find very appealing, because it does include a lot of things that need to be included in this, which is the elimination of the ability to dip into both funds, for example. You wouldn't be able to get into the outstate fund as well as taking assistance on building an arena. It also has language in it about putting a sunset provision in. Some of the language...it cleans up the original language, and I think that if you wait for that, you'll find that something you'd want to support; at least I hope so. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Avery, and that was your third time. Senator Chambers, there are no lights on. You're recognized to close on FA75. [LB551]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the only thing my amendment does is to restore language that is being removed from the present law by this bill. The language that I would restore says that the local applicant must be able to establish to the board that they can finance the local end of this deal. I don't know why they were going to remove that from the law, but I think it ought to be retained, and that's all my amendment does. So I'm asking that you support it. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you've heard the closing on FA75. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB551]

SENATOR ERDMAN: The amendment is adopted. Mr. Clerk, next motion. [LB551]

CLERK: Senator Chambers, FA76. (Legislative Journal page 1188.) [LB551]

SENATOR ERDMAN: Senator Chambers, you're recognized to open on FA76. [LB551]

SENATOR CHAMBERS: I will withdraw that amendment, Mr. President. [LB551]

SENATOR ERDMAN: FA76 is withdrawn. Mr. Clerk, next item. [LB551]

CLERK: Senator Chambers, FA77. (Legislative Journal page 1188.) [LB551]

SENATOR ERDMAN: Senator Chambers, you're recognized to open on FA77. [LB551]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, although Senator Avery has what could be considered a somewhat comprehensive amendment that may include some of what I'm offering, I think I'm going to take mine up individually, see if I can get them, and then my amendments won't become embroiled in any of the discussions that are going on about Senator Avery's amendment: discussions both in the Chamber and outside the Chamber, to which I am not privy, and which I don't intend to get involved in too deeply. But the amendments I'm offering are going to be very simple, straightforward, easy to understand, and they can be voted up or down. I assure you that they're not designed to simply take time, because I could do it that much easier than the course I'm pursuing here. So on page 5, in line 20, I would strike the word "stadiums." The Qwest Center, which supposedly is what this bill is about, primarily, has nothing to do with stadiums. There is a lot of discussion in Omaha right now about building a new stadium somewhere around the area of the Qwest Center. To

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ensure that this bill does not fly a false flag, I want to strike the word "stadiums" from the bill, and that's all this amendment does. If you have questions, I will answer them, but aside from that, I don't intend to discuss the amendment further, but I will close. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Chambers. Members, you've heard the opening on FA77. Those senators wishing to speak are Ashford, Carlson, and Flood. Senator Ashford, you're recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President, members. And Senator Chambers' amendment is appropriate, and I support it. With that, I would give my time to Senator Carlson, if he would like to... [LB551]

SENATOR ERDMAN: Senator Carlson, you have 4 minutes and 50 seconds. [LB551]

SENATOR CARLSON: Mr. President, thank you, Senator Ashford. I won't need four minutes and whatever it was, but I'd like to address a question to Senator Chambers. [LB551]

SENATOR ERDMAN: Senator Chambers, would you yield to a question from Senator Carlson? [LB551]

SENATOR CHAMBERS: Certainly. [LB551]

SENATOR CARLSON: I just want to clarify something for Senator Pahls. In his question to you, you said, I think, that as discussion has gone along, your chill is reducing. Is that what you said? [LB551]

SENATOR CHAMBERS: I said that my heat in terms of opposition is diminishing, and my chill in opposition to the bill is diminishing, which means that I'm slightly warming, but I haven't reached a high enough level to say that I'm warm. I'm just less chilled. [LB551]

SENATOR CARLSON: Okay, that clarifies it, because I heard you say your chill is reducing, and I wondered if you were getting colder or warmer, but that explains it, and hopefully it helps Senator Pahls. Thank you. [LB551]

SENATOR CHAMBERS: (Laugh) Okay. [LB551]

SENATOR ERDMAN: Thank you, Senator Carlson and Senator Ashford. Senator Carlson, your light is next. You may continue. Senator Carlson waives. Senator Flood, you're recognized to speak on the Chambers amendment. [LB551]

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SPEAKER FLOOD: I support the Chambers amendment and plan to vote for FA77. Thank you, Mr. President. [LB551]

SENATOR ERDMAN: Thank you, Senator Flood. Senator Avery, you're next to speak. [LB551]

SENATOR AVERY: Thank you, Mr. President. I'm kind of in a quandary here, because I have that amendment and my amendment. So now we're hard at work trying to figure that out. I do think it's a good thing to do, but I would ask you to debate it fully, give Senator Chambers as much time as he desires to talk about this. It is a part of AM1336. I'd like to keep it there. You get a chance to vote on it when my amendment comes up, so I would suggest that we fully debate it now and then wait and vote for it when it comes up under AM1336. Thank you. [LB551]

SENATOR FRIEND PRESIDING

SENATOR FRIEND: Thank you, Senator Avery. Senator Rogert, you are recognized. [LB551]

SENATOR ROGERT: Thank you, Mr. President. Would Senator Chambers yield to a question, please? [LB551]

SENATOR FRIEND: Senator Chambers, will you yield to a question? [LB551]

SENATOR CHAMBERS: Yes, I will. [LB551]

SENATOR ROGERT: Senator Chambers, is it your understanding that the Qwest Center arena would never be qualified as termed a stadium? [LB551]

SENATOR CHAMBERS: Say it again? [LB551]

SENATOR ROGERT: Would you never concern yourself with saying that the Qwest Center or a facility of that type could be called a stadium? [LB551]

SENATOR CHAMBERS: Right. [LB551]

SENATOR ROGERT: A stadium would be an outdoor facility, and an arena would be a closed facility? [LB551]

SENATOR CHAMBERS: Yes. [LB551]

SENATOR ROGERT: Okay, that's all I wanted to know. Thank you, Mr. President. [LB551]

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SENATOR FRIEND: Thank you, Senator Rogert and Senator Chambers. Senator Howard, you are recognized. [LB551]

SENATOR HOWARD: Thank you, Mr. President and members of the body. This is a speedier recognition than I had expected. In recent weeks there's been a great deal of discussion in Omaha about whether a new baseball stadium should be constructed in downtown Omaha to replace Rosenblatt Stadium. While I strongly support LB551, this should be in no way construed as support for building a new baseball stadium in Omaha. These are two completely separate issues that should in no way be tied together. I continue to oppose building a new baseball stadium when we have a facility that has had millions of taxpayer dollars invested into it over the years and that could continue to serve the needs of our community. Before every legislative session I send out a survey to my constituents in District 9, to get their opinions on various issues that will be before the Legislature. I asked my constituents last November whether they would support building a new baseball stadium. The response was an overwhelming 91.7 percent against building a new stadium. I support Senator Chambers with this amendment and urge you to do the same. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Howard. Senator Chambers, there are no other senators wishing to speak. You are recognized to close. Senator Chambers waives closing. Members, the question is, shall FA77 be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB551]

SENATOR FRIEND: The amendment is adopted. Mr. Clerk, items? [LB551]

CLERK: Yes, Mr. President. Study resolutions: LR192, Senator Pankonin; LR193, Senator Raikes, LR194; and LR195, Senator Schimek--all study. The Health Committee will have an Executive Session in Room 2022 now, Mr. President. (Legislative Journal pages 1602-1603.) [LB551 LR192 LR193 LR194 LR195]

SENATOR FRIEND: Thank you, Mr. Clerk. [LB551]

CLERK: Mr. President, the next amendment I have: Senator Chambers, FA78. (Legislative Journal page 1188.) [LB551]

SENATOR FRIEND: Senator Chambers, you are recognized to open on FA78. [LB551]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this

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amendment, to some extent, complements, c-o-m-p-l-e-m-e-n-t-s, the one we just adopted. In line 19, on page 5, we have this language: "Sports arena facility means any real or personal property used for observing" and so forth. What I would do on line 19, after the word "any," insert the word "enclosed": an arena is enclosed. I do not want this language that I'm dealing with to undo what we just adopted. The language we just adopted said that stadiums are not a part of what this bill is about. The arena facility at the Qwest Center is enclosed. Because I just am distrustful of people in Omaha, I'm going to let you know I really am. I have stated before that when we are legislating and we have the opportunity to put into the legislation what we mean, that's what we ought to do. An arena is an enclosed area. What this amendment would cause the language on line 19 to say is the following: "Sports arena facility means any enclosed real or personal property used for observing" and so forth. All I'm doing is inserting that word "enclosed" for the reason that I gave. And in case you missed it in my involved discussion, an arena is an enclosed facility. So maybe included in the understanding of the term "arena" is the fact that it's enclosed, but I want to state it so that it's crystal clear what this bill is dealing with. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members, you have heard the opening on FA78. (Visitors introduced.) On with discussion of FA78. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. And I also, as well, on this amendment, I think it's an appropriate amendment and would urge its adoption. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Speaker Flood, you are recognized. [LB551]

SPEAKER FLOOD: Thank you, Mr. President. I support FA78; plan to vote for it. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Flood. Senator Chambers, there are no senators wishing to speak at this time. You are recognized to close on FA78. [LB551]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Wightman and I had a discussion off the mike as to where this word "enclosed" ought to be. I wanted to disrupt as little as possible the language that the drafters put into this bill. So what I wanted to make clear from the discussion is that the arena area is going to be enclosed. It is not a stadium, and I felt that the best place to put it would be after the word "any." It would say "any enclosed real or personal property used for observing competitive sports." And since you're going to be in this facility for the purpose of observing competitive sports, and then you have the dressing room, locker facilities, and so forth, I think it would be clear that you're not talking about a parking lot

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or the environs, but this location which is enclosed, used for the purpose of competitive sports and the observing of the competitive sports. So I inserted the word in the spot that I did, and I believe the discussion will make it clear what it is referring to. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members, you have heard the closing on FA78. The question is, shall FA78 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 26 ayes, 0 nays, on the adoption of Senator Chambers' amendment. [LB551]

SENATOR FRIEND: FA78 is adopted. [LB551]

CLERK: Mr. President, Senator Chambers offers FA79. (Legislative Journal page 1188.) [LB551]

SENATOR FRIEND: Senator Chambers, you are recognized to open on FA79. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, as you can see, my amendments are very simple. What I would do, still on page 5, in line 22, after the word "and," I would insert the two words "on-site," and it's hyphenated. This language relates to the sports arena facility, and it says that it would include administrative offices in connection with operating the facilities. Administrative offices could be located anywhere. If the intent is that the administrative offices be located with the facility, my language only clarifies and underlines that point. If the intent is to have off-site administrative offices, then I think that should be stated differently from the way it is here. I believe that these administrative offices should be on site to be included in this definition. So that's what I'm offering, and I'll answer any questions that you have. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members of the Legislature, you've heard the opening on FA79. On to discussion. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. And I agree with Senator Chambers; it's an appropriate addition of language to the bill, and I would urge its adoption. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Senator Chambers, there are no senators wishing to speak. You are recognized to close on FA79. Senator Chambers waives closing. Members of the Legislature, the question is, shall FA79 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB551]

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CLERK: 28 ayes, 0 nays, on adoption of the amendment, Mr. President. [LB551]

SENATOR FRIEND: FA79 is adopted. [LB551]

CLERK: Senator Chambers would move to amend with FA80. (Legislative Journal page 1188.) [LB551]

SENATOR FRIEND: Senator Chambers, you are recognized to open on FA80. [LB551]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Wightman stated that things are so agreeable around here that some of the fun is gone, but it's also moving so rapidly that I have to reacquaint myself with what these amendments are doing, because some of them I may withdraw, so I'm going to take a second to reorient myself on this amendment. But it would be found on page 9, in line 22. And before I tell you what it does, I want to be sure that it does what I had in mind. What I would do is strike from line 22 the words "It is the intent of the Legislature that the." I would strike that which says intent. Then I would insert "The" with a capital T, and it would say simply, "The remaining 30 percent." It doesn't change anything substantively; it simply removes the language that says "It is the intent of the Legislature," and instead just makes a declaratory sentence that the remaining 30 percent of state sales tax revenue collected, and so forth. So we simply make the statement. For example,...well, I don't think I can make it any clearer than that. If there are questions, I will answer them. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members of the Legislature, you've heard the opening on FA80. On to discussion. Senator Ashford, you're recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. Senator Flood just came by and said that he had no objection to FA80. I strenuously object, however. (Laugh) No, I'm just kidding. I think it's a great amendment and I urge its adoption. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Senator Fulton, you are recognized. [LB551]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Chambers yield to a question? [LB551]

SENATOR CHAMBERS: Yes, I will. [LB551]

SENATOR FULTON: The amendment would strike line 22, "It is the intent of the

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Legislature that the." That will be stricken, correct? [LB551]

SENATOR CHAMBERS: Yes. [LB551]

SENATOR FULTON: So then we would be picking up with...I don't know that I disagree with what you're trying to do, I'm just... [LB551]

SENATOR CHAMBERS: Then we would put "the" in front of remaining, but with a capital T to show we're starting a new sentence. If you look in line... [LB551]

SENATOR FULTON: Okay, so this would be in line...we would be reinserting in line 22, correct? [LB551]

SENATOR CHAMBERS: We would...the word "the" in line 22 begins with a lowercase t. [LB551]

SENATOR FULTON: Okay, understood. [LB551]

SENATOR CHAMBERS: Okay, so I have to strike that version of "the" and replace it with an uppercase "The." [LB551]

SENATOR FULTON: So you're making this a statement exclaiming, as opposed to expressing intent. [LB551]

SENATOR CHAMBERS: Yes, and then in line 24, so that the sentence will be complete, after the word "facilities" the word "shall" is inserted, and here's what it would read: "The remaining 30 percent of state sales tax revenue collected by retailers doing business at such facilities shall be appropriated." [LB551]

SENATOR FULTON: Okay, thank you, Senator Chambers. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Fulton and Senator Chambers. Senator Chambers, there are no other senators wishing to speak. You are recognized to close. Senator Chambers waives closing. Members of the Legislature, the question is, shall FA80 be adopted. All those in favor please vote aye; all those opposed vote nay. Have all senators voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 25 ayes, 0 nays, on adoption of the amendment, Mr. President. [LB551]

SENATOR FRIEND: FA80 is adopted. [LB551]

CLERK: Senator Chambers would move to amend with FA81. (Legislative Journal page

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1188.) [LB551]

SENATOR FRIEND: Senator Chambers, you are recognized to open on FA81. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to try to get rid of some bunglesome language with this amendment. This is a definition of a hotel facility. Here is what the current language says, for the sake of the record, beginning in line 20 on page 4: "Hotel facility means any facility located within 200 yards of a convention and meeting center facility, or sports arena facility in which the public may, for a consideration (laugh), obtain sleeping accommodations." It could mean that you get the sleeping accommodations in the sports arena facility, and that's not what is intended. The intent is that you get the sleeping accommodations in the hotel facility. So in line 20, after the word "facility," I strike everything through line 23. And this is what I insert: "...in which the public may, for a consideration, obtain sleeping accommodations, and which is located within 200 yards of a convention and meeting center facility or sports arena facility." What I'm doing in defining hotel facility is to group together the words that define this facility first, that you can get the sleeping accommodations there. Then we add the language that specifies how near it must be located to one of these convention centers or sports arenas. You can read the language for yourself, and you'll see that it is much more syntactically correct and it clarifies. I think I've spoken long enough, and I think I've made the point, so that's all I will say at this point, Mr. President. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members, you have heard the opening on FA81. On to discussion. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Mr. President, thank you, and I think the language does clarify the bill, and I would urge the adoption of FA81. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Senator Chambers, there are no senators wishing to speak. You are recognized to close on FA81. [LB551]

SENATOR CHAMBERS: Thank you. And Mr. President and members of the Legislature, that is the last amendment that I have, so I may as well go ahead and strike Senator Avery...Senator Ashford and Senator Avery while I'm about it, but I don't think I'll do that. I really have nothing further to add, so I hope you'll adopt this amendment before you. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Members of the Legislature, you have heard the closing on FA81. The question is, shall FA81 be adopted? All those in favor please vote aye; all those opposed vote nay. Have all senators voted who wish to? Record please, Mr. Clerk. [LB551]

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CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB551]

SENATOR FRIEND: FA81 is adopted. [LB551]

CLERK: Mr. President, the next amendment I have, Senator Avery, AM1009. Senator, I have a note you'd like to withdraw AM1009 and offer as a substitute thereto AM1336. (Legislative Journal pages 1604-1605.) [LB551]

SENATOR FRIEND: Senator Avery, is that correct? [LB551]

SENATOR AVERY: Correct. [LB551]

SENATOR FRIEND: Without objection, so ordered. Senator Avery, you are recognized to open on AM1336. [LB551]

SENATOR AVERY: Thank you, Mr. President. Actually, what is left of this amendment...we've now adopted four provisions that I had in here, but I've gone back and checked the language and those provisions are the same as Senator Chambers', the ones that we have adopted. And it's my understanding that when you have the same language in two bills, or in two amendments, that the E&R process takes care of that. So what I have left is three really important provisions. Number one, this amendment will put a sunset provision in LB551 that would end the program on June 1, 2010. I think that is something that is necessary, because we don't want these programs to run on indefinitely. Putting a sunset provision in it does give us a date certain where the program will end, and I think that is better legislation. Number two, it has language in it that prevents double-dipping. Now what I mean by that is, no community that would qualify under LB551 would be able to use funds from the outstate portion of the throw back or the turnback monies and also get money from the convention center fund. That also, I think, is an important improvement to the bill. And finally, it would strike the language referring to "publicly owned." If you look on my amendment...well, if you look on page 4, line 11, it would simply strike "publicly owned" in the definition of eligible facility. That would permit Lincoln and other communities in the state to qualify for assistance under this program. I believe that's all that remains. I did talk with the people in the Fiscal Office about what this might cost. Their best calculation at this point is about \$2 million to add Lincoln and perhaps about a million for other communities. Some projects...if we do not adopt this amendment, it's very likely that some projects that are in the planning stages now, like the Lincoln arena, may not be built. Certainly, we would lose the economic benefits to these communities and to the state if we lose these projects. With that, I will stop and listen to the debate. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you have heard the opening on AM1336. There are senators wishing to speak. Senator

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Synowiecki, you are recognized. Senator Synowiecki waives his opportunity to speak. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: I didn't push his button. I think he did it inadvertently, Mr. President, but thank you. [LB551]

SENATOR FRIEND: You're welcome. [LB551]

SENATOR ASHFORD: Yeah, and Senator Avery, may I, just to clarify the, just very briefly, the change that could apply to Lincoln is the line that...which line is that? Is that line 9? [LB551]

SENATOR FRIEND: Senator Avery, will you... [LB551]

SENATOR AVERY: I will. [LB551]

SENATOR FRIEND: Will you yield? [LB551]

SENATOR AVERY: I will. [LB551]

SENATOR FRIEND: Senator Avery will. [LB551]

SENATOR ASHFORD: Senator Avery, which line is it in your amendment that... [LB551]

SENATOR AVERY: Oh, on my amendment it's line 16, but it refers to page 4, line 11, on LB551. [LB551]

SENATOR ASHFORD: Okay, and that... [LB551]

SENATOR AVERY: On the amendment itself, it's line 16, page 1. [LB551]

SENATOR ASHFORD: All right, and the idea here is that the... [LB551]

SENATOR AVERY: Well,... [LB551]

SENATOR ASHFORD: ...that part of the facility may be privately owned, is that... [LB551]

SENATOR AVERY: Yes. For Lincoln, Lincoln does not plan to publicly finance the hotel and convention center, only the arena. [LB551]

SENATOR ASHFORD: Okay. [LB551]

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SENATOR AVERY: But we expect private money. [LB551]

SENATOR ASHFORD: And so then I think this is, if I might, this is not a significant divergence from where we are, because in the case of Omaha, the hotel is owned publicly. It's owned by the city. [LB551]

SENATOR AVERY: Right. [LB551]

SENATOR ASHFORD: But it's part of the arena/convention center project. In Lincoln the difference would be, potentially, that the hotel itself is not owned by the city, and the convention center is part of the hotel, but the arena would be a publicly owned venue. [LB551]

SENATOR AVERY: That is right, and the city could use some of this turnback money... [LB551]

SENATOR ASHFORD: Right. [LB551]

SENATOR AVERY: ...in the convention center fund... [LB551]

SENATOR ASHFORD: Right. [LB551]

SENATOR AVERY: ...to do infrastructure development, to support the building of that center. [LB551]

SENATOR ASHFORD: All right, thank you, Senator Avery. I don't think this is as significant a change as it may seem on its face. When the Omaha project was financed, there was an effort by the city to attract private ownership of the hotel portion of the project which is connected to the Qwest Center, and that was unsuccessful. So the city owns the building and developed the building with a, in this case, a Hilton developer that developed the hotel on a long-term lease arrangement, and that's how that is financed. In looking at these kinds of projects, they are financed in a variety of ways; private hotel ownership is one of the ways. And what I would also suggest here, and the reason why I think this is a good amendment, is that if in fact Lincoln is able, or any other city is able, to attract a private hotel developer/owner, that that is a significant savings to the project, in that the city...or at least it reduces the risk, in that the public entity is not required to own the hotel portion or convention center portion of the project. So I think this is probably a very prudent amendment, and it does reflect another way or means of financing these kinds of convention center/arena projects. So with that, Mr. President, I think it's a good amendment. If Lincoln can accomplish something like this with that kind of financing, it's prudent that they do so, and I would urge the adoption of AM1336. [LB551]

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SENATOR FRIEND: Thank you, Senator Ashford. Senator Flood, you are recognized. [LB551]

SENATOR FLOOD: Thank you, Mr. President. I was just having another enjoyable afternoon conversation with my colleague, Senator Fischer, who has lively thoughts on a variety of issues confronting the Legislature this year. I would just add this: I believe in thinking outside the box. I think what we did with the Qwest Center was the result of the Legislature in 1999 thinking outside of the box to make something big happen in a metro area, to fill a void that eastern Nebraska lacked, to build what is arguably the tenth best venue, ticket saleswise in the nation, and I understand fifteenth best in the world, according to media reports released today. I think we should celebrate what has happened in Omaha. We should look at the positives that have been created, and if it was a good idea in 1999, it's a good idea today. Had I thought of this idea for something in my district, I'd be waving the flag for it. The bottom line is, it's serving a need, it's doing a good job. If the folks in Lincoln want to step to the plate, if the people in Grand Island or somewhere else across the state, this bill extends that sunset provision and makes that opportunity available. I think it's okay, and I'm going to vote for Senator Avery's amendment, because we do need to think outside the box, expand our horizon, and find ways to grow this state, make this state a place that offers more opportunity, both socially and culturally and many different ways. And one of the things I think we forget to do as Nebraskans is to look at our communities and say, how can we enhance the opportunities available to our citizens, whether that's an opera house in Minden, or the amenities that Holdrege has, or the Johnny Carson museum in Norfolk. Each community has to offer something to its citizens to make living in that community attractive to all generations--the youngest, of course, the most--to build new families. So I'm going to support it, and I support ideas outside the box, and I think this is the right direction for the state. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Flood. Senator Langemeier, you are recognized. [LB551]

SENATOR LANGEMEIER: Mr. President, members of the body, and I want to thank Senator Flood for his conversation. In 1999, they thought outside the box and came up with the Qwest Center, and I like the Qwest Center. But they found out the financing for it didn't work--it just plain didn't work, or we wouldn't be here today, talking about LB551. And I'm going to support LB551 if it stays in the tact it is currently. Expanding this out, LB551, at best, is a stopgap measure to regenerate funding for this project, and I support that. I think it has been a great asset to Nebraska. I've been to a number of functions there, both in the arena and the conference facility, and I appreciate having it here and I do support LB551. AM1336 I do not support. I do not think that this has a proven record, to expand it out to other entities across the state. The scratching of publicly owned language and allowing private entities to get involved in this, bothers me. Mr. President, would Senator Avery yield to a question? [LB551]

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SENATOR FRIEND: Senator Avery, will you yield to a question? [LB551]

SENATOR AVERY: I will. [LB551]

SENATOR LANGEMEIER: Senator Avery, I want to thank you for your attempts to expand this out, and we're talking about private entity, and in Lincoln's case, you're talking about a hotel. What's the process of getting the bid to build this hotel, if it's going to be privately owned on the convention center, and with that, what's their financial commitment to do that? [LB551]

SENATOR AVERY: The way it works in Lincoln is that the city issues a request for proposals. RFPs are collected from various developers. They already have a very experienced and well-funded developer interested, John Q. Hammons, who built Embassy Suites. They have a committee, a citizen committee, or a committee comprised of citizens, developers, and city officials. They evaluate the RFPs and then they award the contract. The extent to which this assistance money would be involved would not be directly to build the hotel or the convention center but to provide infrastructure: sewers, streets, lighting, things of this sort. [LB551]

SENATOR LANGEMEIER: Thank you. Would you be willing to accept an amendment to this, that would limit the ownership of that motel to a Nebraska-owned and based company through its entirety, of ownership and receiving the benefits, through your time line given in your amendment? [LB551]

SENATOR AVERY: No, because I'm afraid that that might make the project much more expensive. John Q. Hammons has been active in the city of Lincoln for some time, and I think to put that kind of restriction on it would probably drive the price up to a prohibitive level. [LB551]

SENATOR LANGEMEIER: Interesting. What's going to drive that price up, if I may ask that? I'm curious now. [LB551]

SENATOR AVERY: Well, these RFPs are competitive, and whoever comes in with the best project and the best price would get the project, and I'd hate to say you have to be...if you confine it to just Nebraska bidders, you may not get the best price for the best project. [LB551]

SENATOR LANGEMEIER: And the reason I bring that up is we have a number of nice motels and large facilities owned with Nebraska owners already in Nebraska. We have a number of individuals that own nice facilities in Kearney and North Platte, as well as others. Do you not believe that we have the talent and leadership in the hotel industry to have Nebraska owners bid on this project? [LB551]

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SENATOR AVERY: That may happen, but we have an open bidding process. You open it up to...as broadly as you can, so you get the best bids at the lowest price. [LB551]

SENATOR FRIEND: One minute. [LB551]

SENATOR AVERY: It might be that the successful bidder would be from Nebraska. There is no guarantee that an outside bidder would be chosen. [LB551]

SENATOR LANGEMEIER: Okay, thank you very much. I appreciate your candid answers, and thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Langemeier and Senator Avery. Senator Fischer, you are recognized. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members. I also would like to thank the Speaker for the very enjoyable conversation that we have on a number of issues, and as we do almost every day that we're in session, and also out of session. I'd also thank him for introducing this bill, LB551, and as I said at the beginning, I do support the bill as it was introduced. I think it's interesting, if you read the Speaker's statement of intent on the bill. That's what I support. I do not support Senator Avery's amendment, AM1336. As the law currently is, and as the this bill would do, I believe, 70 percent of the financing would go to Omaha and to the Qwest Center. In 2007, that was about \$800,000. The other 30 percent goes to other projects. In 2007, that was \$342,000. The Qwest Center is facing a situation where they need more funds. In my district, as in many of yours throughout the state, we're facing a situation where we'd like more money in that 30 percent that we can tap into. I had a couple communities, Arnold and Stuart: Arnold received \$100,000; Stuart received \$20,000 from that 30 percent. Oh, let me remind you, Omaha in 2007, under their 70 percent, received \$800,000. This bill as it was written, if you read the statement of intent, is to address the situation with the Qwest Center. I support that. I think it is bad public policy, I think it is bad state policy, that we expand these benefits--and they are benefits--that the Qwest Center has received. I think we will continue, then, to see a loss in revenue that will gain momentum. There are many other communities--Senator Avery is speaking for one--that wants to take advantage of this. I don't blame them. I don't blame them. If I had a community that could benefit by receiving \$1 million or \$2 million a year from this or even more, boy, that sounds like a good deal. As Senator Flood says, we're state senators in here, and I don't think we should be parochial in our outlook on this bill and look, okay, what can I make a deal with now? What can I make a deal with so that the lobbyists outside the glass there can check me off on his list and get me as a yes vote on this entire bill? Deals don't need to be made. The votes are there to address the situation with the Qwest Center. Let's address that. Let's not bind this state to more. Senator Chambers, early on...April 7 in the Omaha World-Herald, Senator Chambers

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was bashing the plan. He was slamming it. [LB551]

SENATOR FRIEND: One minute. [LB551]

SENATOR FISCHER: Thank you, Mr. President. You know, he was talking about the formula was a boondoggle--it's a sham; the predictions that the formula wasn't going to be able to carry the burden of the Qwest Center when it was drawn up from '99. He said his predictions have come true with a vengeance. That was eight years ago. So in eight years, are we going to have different senators standing up on the floor and saying, my gosh, what they did on that LB551 back in 2007, the way they expanded it to everybody, boy, we really have a boondoggle now, and we really have a sham, and it's come back to face us with a vengeance? I urge you to oppose Senator Avery's amendment. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Fischer. Members, we are discussing AM1336. Senators wishing to speak: Senator Avery, Heidemann, Pahls, Pirsch, and Fulton. Senator Avery, you're recognized. [LB551]

SENATOR AVERY: Thank you, Mr. President. Senator Fischer said we're all state senators. She's absolutely right--emphasis on state. And if you will look at how I have conducted myself in this body, I have consistently put the interests of the state ahead of what often were identifiable and important interests to my district, and I refer specifically here to LB701. I supported that; I voted for it; I spoke on behalf of it. I had a lot of comments from my constituents, and I'm still getting comments. They weren't happy about that. They don't think they ought to have to help pay for that. What I'm suggesting to you here is that when somebody stands up and tells you, well, this is good policy for Omaha but it's bad policy for Lincoln, that is not in the interest of the state, because Lincoln is in this with you, Omaha is in this with you. We're all in this together, and I think that it's important that we remember that. There's something else we need to remember: Lincoln is probably Nebraska's best sports town. We have Memorial Stadium and Haymarket Park close together, within walking distance of each other, and now, if we can build an arena in the Haymarket, which would be just west of the train station--that is, at least the plan as of now--you'd have three key sports arenas, sports facilities, all within walking distance of each other. This would create a sports triangle in Nebraska's most sports-minded city, and it would help us create a sports triangle that would be the envy of most cities in the country. I am very happy that Senator Flood has allowed me to offer this amendment. I am pleased to have his support. I believe, too, that most of the Omaha representatives support this, as well. I've certainly talked with the chief of staff of Mayor Fahey, and they have no problem with this amendment. In fact, they think it would be an improvement to the bill if you could expand it so that other people can participate. I am a state senator, and I intend to continue to conduct myself in this body as a state senator, and I will always do that, and I'm asking you to help me. There's nothing wrong with any of us doing things to try to help our cities out. I will help

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you when you need it, and I'd ask you to help me when Lincoln needs it. Thank you, Mr. President. [LB551 LB701]

SENATOR FRIEND: Thank you, Senator Avery. Senator Heidemann, you are recognized. [LB551]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. I was wondering if Senator Ashford would be open for a question. [LB551]

SENATOR FRIEND: Senator Ashford, would you yield to a question? [LB551]

SENATOR ASHFORD: Yes, I will. [LB551]

SENATOR HEIDEMANN: Senator Ashford, this bill was passed several years ago, and now we're back and probably best be described we're back because they're not able to make the payments on their bonds, because not enough revenue is coming in or... [LB551]

SENATOR ASHFORD: You know, I don't want to...no. That's not right. I mean, your question is well taken, Senator, but I don't think that's the right conclusion. They can make the payments on the bonds. In fact, the success of the Qwest Center has resulted in a reduction of the obligation from the city to the Qwest Center under the original agreement, so there actually was some leeway given back to the city. So I just won't make that claim, because I don't think that's really the reason why we're here. I think it really gets back to the formula as originally constructed and the \$75 million intent language in the original bill. That's my opinion. Now, others may differ, but. [LB551]

SENATOR HEIDEMANN: Wasn't the formula, though, proposed by the people that were promoting the Qwest Center? This is actually what they wanted? [LB551]

SENATOR ASHFORD: Actually, it was, as I've said a couple times in response to Senator Engel last time, Senator Landis and myself were responsible for the formula. We sat down on the white board, and Senator Landis charted it out, and that's...and he had some ideas on how it could be...he felt that it should only apply to the convention center and not to the arena. And that was the...and I felt that Senator Landis was in charge, and so that was the way it was. (Laugh) I think the formula was constructed appropriately under the circumstances at the time, and Senator Landis helped a great deal in getting this done. But it wasn't the city asking for the formula so much as it was a give and take to try to come up with a formula that was fair. That's what they came up with--we came up with--and I was part of that. Had I known then what I know now, I would have constructed it in a different manner. [LB551]

SENATOR HEIDEMANN: Do you support the Avery amendment? [LB551]

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SENATOR ASHFORD: Yes, and can I tell you why, or... [LB551]

SENATOR HEIDEMANN: Can I just...I want to point something out, and I don't know how much time I have left, but you support the... [LB551]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Two minutes and 41 seconds remaining. [LB551]

SENATOR HEIDEMANN: Thank you, Speaker Flood; appreciate that. Does it make you nervous that if you support the Avery amendment, and Lincoln builds one, that it is actually going to take business and economic activity away from the Qwest Center, thus loss of revenue? Do you foresee that you might, if Lincoln builds one and you're not doing as much business as you did before, that you will come back to the Legislature and say, you know, we're not making it now; help us? [LB551]

SENATOR ASHFORD: No. The answer is absolutely, unequivocally no. If Lincoln...if I might, Senator Heidemann,... [LB551]

SENATOR HEIDEMANN: Sure. [LB551]

SENATOR ASHFORD: If Lincoln is able to do this project, it will bring more people into the state. They will spend money, not only on the events that occur there, but in the general community, and I think that's a positive for the entire state. Also, Lincoln could do this today under the way the bill is now presently written. The only change Senator Avery is asking for here is that the means of financing involves private ownership as opposed to public ownership, which is the Qwest model. Other than that, I think the projects are fairly the same. The 30 percent fund will go up, as Senator Avery's project or Lincoln's project moves forward, if it does, so the whole state benefits. That's what I think the beauty of the formula is. The mistake that was made, or the misjudgment, as you correctly asked me, was on the convention center as being the only avenue for turnback, and that was the consideration in 1999. [LB551]

SPEAKER FLOOD: One minute. [LB551]

SENATOR HEIDEMANN: You don't see these two as being in competition with each other, then, the way I take what you're telling me? [LB551]

SENATOR ASHFORD: I think it's an enhancement of opportunity for the entire state, to allow the two largest cities in the state to bring more people in here. I just think it's a good thing for the entire state. And quite frankly, the reason the arena was not originally included in the bill in 1999 was because Lincoln had some concern about having a

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competing arena. But, in fact, that fear, I think, has been alleviated by the fact that both Lincoln and Omaha do fairly well with their arenas, or the hockey rink does well here; the arena events that they do have at the Devaney Center do well. So it really hasn't had that consequence. But that was some of the motivation at the time not to include the arena in the formula at that time. [LB551]

SPEAKER FLOOD: Time. [LB551]

SENATOR HEIDEMANN: Thank you. [LB551]

SPEAKER FLOOD: Thank you, Senators. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB198. Continuing on with General File discussion, Senator Pahls, followed by Senators Pirsch, Fulton, Fischer, Ashford, Wallman, and others. Senator Pahls, you are recognized. [LB198 LB551]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Some of the questions have already been asked of Senator Ashford. I was going to...I had a few questions. But the one thing about it, as I try to analyze, it seems to me that the problem--and I think we've all discussed this and we understand this--was the initial model of payback. There were some flaws in that. I think people said there were, and hopefully we're learning from that. The new model, it seems to me that we should not have those same flaws. The potential is always there. The thing that I am trying to stress here: I don't see Omaha and Lincoln being in competition with each other. I think it's sort of like a relationship that can evolve into making this whole area...because we're talking about someday this may be a metropolitan-type area, so I see the potential in that. So for those of us who argue that too much of a good thing is...I think like the business model, when you have restaurants. Most of the time they have a restaurant, they find another restaurant. Even though they're competing, it does generate, it brings more people there. I think it causes enthusiasm here, so I do support Senator Avery. Thank you. [LB551]

SENATOR FRIEND PRESIDING

SENATOR FRIEND: Thank you, Senator Pahls. Senator Fulton, you are recognized. [LB551]

SENATOR FULTON: Thank you, Mr. President, members of the body. I'd like to go straight to Senator Avery's amendment, AM1336. That is at issue here. If indeed we move forward with LB551, is it appropriate to adopt Senator Avery's amendment? And I think so, I think it would be. That reason being, were LB551 to move forward without this amendment, Lincoln would find itself in a position that the city would have to go after a project, which we know the city is going after, this convention center

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project--contemplating it, anyway--should they go forward as a fully public entity. In order for Lincoln to consider the benefits or experience the benefit of LB551, Lincoln would have to do that strictly as a public entity. We have on the table a proposal that involves public and private entities, public-private partnership. And so I think adopting Senator Avery's amendment would make this consistent with what's possibly going to happen, what may happen in Lincoln. One of the reasons that's good is, if Lincoln were to pursue this strictly from a public perspective, then that land is going to be off the property tax rolls. And we just got through debating at great detail and great length, a property tax relief package, or a tax relief package in which property taxes took front and center. Property tax relief is what we talked about. And so this bill moves forward if we...then we are saying by way of policy, if we don't adopt Senator Avery's amendment, that we are encouraging, I guess to say, Lincoln to engage in a strictly public endeavor in which we would remove property, a great deal of valuable property, from the property tax stream. So in my opinion, we adopt AM1336. We make consistent a policy across the board for any type of convention center activity that's beneficial, yes, to Lincoln, to Omaha, but also beneficial to the state, and in such a way that's consistent with what we've said about our previous tax cut package and tax policy. So in my opinion, if we look specifically at AM1336, we should adopt AM1336 as a means of being consistent in our broader tax policy. For that, thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Fulton. Senator Ashford, you are recognized. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. I would give my time to Senator Carlson if he wishes. [LB551]

SENATOR FRIEND: Senator Carlson, 4 minutes and 50 seconds. [LB551]

SENATOR CARLSON: Mr. President. Thank you, Senator Ashford. And I do have a question for Senator Ashford if he would yield. [LB551]

SENATOR ASHFORD: Yes. [LB551]

SENATOR FRIEND: Senator Ashford, will you yield? You said yes? [LB551]

SENATOR ASHFORD: Yes, I did. Thank you. [LB551]

SENATOR CARLSON: Just refresh me a little bit. Something you said, and I maybe didn't catch it all, on the city of Omaha's initial commitment to the Qwest Center, briefly, what was that? [LB551]

SENATOR ASHFORD: There was a...that's a good question, Senator Carlson. There was, as part of the contract with the MECA, the organization that operates the Qwest

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Center, there was what was called in the contract a subvention. And what it really was, was simply a payment to the MECA organization to help defray the startup expenses for a period of years and to close what was an anticipated gap in the operating budget of the Qwest Center. What happened was, the Qwest Center, as has been suggested by Senator Wallman and others, was significantly successful, much more...especially the arena. And so that subvention, or payment, stops in 2009, which I believe is five or six years before the contract requires. I think it's five years, four years, something like that. So it's a savings of about \$5 million, \$6 million. [LB551]

SENATOR CARLSON: Okay. And I think you said then that the city of Omaha has been able to back off of their contribution. Is that correct? [LB551]

SENATOR ASHFORD: I believe, starting in 2009. That's correct. [LB551]

SENATOR CARLSON: Okay, so they haven't yet. [LB551]

SENATOR ASHFORD: Correct. [LB551]

SENATOR CARLSON: Now, with things being in the condition that they are in as far as expecting the greater Omaha area to contribute, continue to contribute to helping pay off the Qwest Center--and we're talking about really state funds here and expanding the sales tax revenue--it would seem to me to be appropriate that the city of Omaha be encouraged to continue doing what they're doing as evidence that the Qwest Center is very important to that area. And I don't know how that would be pursued, but in just listening here, we're looking for dollars to help out, and I think that that would be appropriate, as well as what we're trying to do here. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Carlson and Senator Ashford. On with discussion of AM1336. Senators wishing to speak: Wallman, Heidemann, Schimek, Pirsch, Fischer, and Rogert. Senator Wallman, you're recognized. [LB551]

SENATOR WALLMAN: Question. [LB551]

SENATOR FRIEND: 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 signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Senator Wallman, for what purpose do you rise? [LB551]

SENATOR WALLMAN: Call of the house. [LB551]

SENATOR FRIEND: Senator Wallman,... [LB551]

SENATOR WALLMAN: Okay, I'll drop the call. [LB551]

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SENATOR FRIEND: Senator Wallman, are you withdrawing your motion? [LB551]

SENATOR WALLMAN: Yes, I am. [LB551]

SENATOR FRIEND: Thank you. Record please, Mr. Clerk. [LB551]

ASSISTANT CLERK: 29 ayes, 4 nays, to cease debate, Mr. President. [LB551]

SENATOR FRIEND: Debate does cease. Senator Avery, you are recognized to close on AM1336. [LB551]

SENATOR AVERY: Thank you, Mr. President. LB551 is good policy for Omaha. AM1336 is good policy for Lincoln and other communities. Both together are good for the state. Pershing Auditorium is more than 50 years old. Lincoln is losing convention business every day. We have not been able to make improvements to that facility that would attract the kind of business that we need to continue Lincoln as an important site for convention activity. We really desperately need to be able to build a new arena. That arena, we believe, will add to Lincoln's already stellar reputation as a sports city. It will also complement the activities that already occur at the Lied Center for the Performing Arts. Many of the groups that would ordinarily come here, that used to come to Pershing and no longer do, are going elsewhere, and they're going to places like Wichita. We're losing income to Nebraska. I urge you to support AM1336. I believe it improves on LB551 and allows Lincoln to do something it desperately needs to do. Thank you very much. I urge your support. [LB551]

SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you have heard the closing on AM1336. The question is, shall AM1336 be adopted? All those in favor please vote aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB551]

ASSISTANT CLERK: 28 ayes, 6 nays, on the adoption of the amendment, Mr. President. [LB551]

SENATOR FRIEND: AM1336 is adopted. Mr. Clerk, next item. [LB551]

ASSISTANT CLERK: Mr. President, Senator Ashford would offer AM1332. (Legislative Journal page 1605.) [LB551]

SENATOR FRIEND: Senator Ashford, you are recognized to open on AM1332. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. I believe this is the last amendment. I may be wrong on that, but I believe that's correct. There's another amendment? [LB551]

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SENATOR FRIEND: There is another amendment. [LB551]

SENATOR ASHFORD: All right. Thank you, Mr. President. AM1332 is an amendment that was filed earlier today by myself and others. What it does is allocates a portion of the turnback funds to tourism projects that will be developed or have been developed and would be expanded in the area of the Qwest Center in north and south Omaha. Part of the promise of the Qwest Center is that these tourism projects, such as the Jazz Center in north Omaha and other newly developed tourism sites in south Omaha, are an enhancement to conventioners that come to Omaha for events at the Qwest Center. And in thinking about a way to help enable those projects to develop more quickly and to increase the number of sites that conventioners can go to when they attend a convention at the Qwest Center, it was my feeling, the feeling of others from the Omaha delegation, and also Senator Flood, who's a cosponsor of this amendment, that allocating a portion of the turnback money to opportunities such as the Jazz museum, which is a significant facility in north Omaha on 24th and Lake--and I know there are similar facilities in south Omaha, on 24th Street and in that general vicinity--would simply enhance the portfolio of sites and attractions available to conventioners that will highlight the history, underline the history of Omaha, and enhance opportunities for people who are coming to Omaha to the Qwest Center. So with that, Mr. President, I would move the amendment. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Members of the Legislature, you've heard the opening on AM1332. There are senators wishing to speak, or their lights were on, at least, from the previous amendment. Senators wishing to speak are Heidemann, Fischer, Engel, Pahls, Loudon, and Pirsch. Senator Heidemann, you are recognized. [LB551]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. It looks like we're building steam here, and I always hate to not stand in front of things, but I do got a few questions I want to ask. And I was wondering if I could ask Senator Howard a few questions if I could? [LB551]

SENATOR FRIEND: Senator Howard, will you yield to a question? [LB551]

SENATOR HOWARD: Yes, I will. [LB551]

SENATOR HEIDEMANN: This is your priority bill? [LB551]

SENATOR HOWARD: It is my priority bill. [LB551]

SENATOR HEIDEMANN: So evidently it's important to you? [LB551]

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SENATOR HOWARD: Yes. [LB551]

SENATOR HEIDEMANN: As we go down the road--and I'm talking about next year, the year after that, three years, four years--history shows us that we're going to go through some tough times. You understand this will be an obligation in those tough times? [LB551]

SENATOR HOWARD: I would foresee this...unless there's a sunset effect on this, I would see that this would remain, yes. [LB551]

SENATOR HEIDEMANN: With...the original bill, I mean, it looked like it was going to cost us \$2 million a year, \$4 million over the biennium. It looks like now, with the Avery amendment, your cost could go up to estimated \$6 million, possibly \$7 million a year, \$14 million over the biennium. When we get into tough times, they have to be funded. This is going to be an obligation, an ongoing obligation that we are obligated to fund. And other things are going to have to be cut. And I don't want to pick on you by any means, but I know where your priorities are at, Senator Howard, and I'm telling you, when we don't have enough money to do everything, we are setting ourselves up not to do early child intervention to the point that you would like to; we will not be able to address the fetal alcohol syndromes, those type of things, like you would like to. And I don't want to pick on anybody, but we are looking at a possibility of \$14 million over the biennium of lost general revenue. And during tough times, this will be an obligation. And when things got to be cut, we don't know where we're going to cut them. And I just want to point that out. I don't want to pick on anything. Senator Howard looks like she wants to say something. I'll let the good senator have the rest of my time. [LB551]

SENATOR HOWARD: Thank you. I appreciate that. [LB551]

SENATOR FRIEND: Senator Howard, you have about 2 minutes and 30 seconds. [LB551]

SENATOR HOWARD: Thank you. I appreciate that. And I thank Senator Heidemann for allowing me to respond to his concerns. I would like to point out that frequently the issues that we look at cutting--and I refer to us as a body--are regarding child welfare programs. And I personally find that very concerning and frankly very offensive. We feel that we can do lesser for children than we do for, say, roads, and I don't agree with that theory. The message that comes through is, we'll cut funding to Meals on Wheels, we'll stop providing to those people that are less well off. Well, you know, that's kind of the way it goes. I don't agree with that. I think we have the obligation to take care of those who are less unfortunate (sic), to take care of those who are in need, to take care of those who are vulnerable, to take care of those who have been harmed, neglected, or abused. And to use this as a veiled threat regarding the funding formula, I find that very troubling, and I hope that's not the general tone that this body operates under. I hope

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that we remain objective about those issues that benefit the average person and protect the needy child. And with that, I thank you, and I thank Senator Heidemann for allowing me to say that. [LB551]

SENATOR FRIEND: Thank you, Senator Howard, and thank you, Senator Heidemann. Senator Fischer, you are recognized. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members. I'd like to continue with some comments Senator Heidemann just made. The Fiscal Office, in visiting with the folks over here under the balcony, LB551, the projection was it would be \$2 million a year. That's \$4 million for the biennium. They estimate that with Senator Avery's amendment now which opens this up to the rest of the state, would be \$4 million to \$5 million. I find it interesting that Senator Chambers isn't on the floor. I know he's listening in his office, but I do find it interesting he's not on the floor, because when my bill, LB305, and maybe I'm stirring up the hornet's nest, but he had concerns that the first year there would be \$7.7 million taken out of the General Fund for that sales tax for leased vehicles, and he billed himself as the defender of the General Fund during 16 hours of a filibuster against my bill. Now we're talking \$6 million to \$7 million out of the General Fund, and as Senator Heidemann said, that's a long-term commitment. Look at your green sheet. If you look at your green sheet, as Senator Heidemann was starting to point out, there's a number of bills that are on Final Reading and Select File, and you have the cost for those bills. I'm not going to pick on anybody here either, but go through the bills. Senator Mines has a bill: the Commercial Dog and Cat Operator Inspection Act. If I remember correctly, the fiscal note on that was \$200,000. Senator McGill has a bill: LB73, the school breakfast reimbursement. As I remember, on that one, it was \$260,000. We can go through these bills, whether it's State Patrol retirement, or any bills, including mine, and decide, what are our priorities. Obviously, we've passed those on to Select and Final Reading. Those are important bills; those are important issues. We all feel that our issues are important. We can't do it all. As a body, we're going to have to make some decisions here, because we can't do it all. I have my priorities, Senator Hansen has his priorities, Senator Howard has hers. Hopefully we can build some consensus and agreement. But with the passage of that last amendment, where this does open it up to the state, where it does go beyond the original focus of LB551, you have gone from a \$2 million bill to a \$6 million to \$7 million bill. From this point on, I am sorry to say, I cannot support LB551. Thank you. [LB551 LB73]

SENATOR FRIEND: Thank you, Senator Fischer. Senator Engel, you are recognized. [LB551]

SENATOR ENGEL: Mr. President, members of the body, I too do not support this. And I'll tell you what, you're talking about, in this amendment, "For purposes of this subsection, an area with a high concentration of poverty means an area in which the

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average poverty rate exceeds 20 percent for the total federal census tract or tracts or federal census block group or block groups in the area or within a reasonable proximity to the area when the area is located within the legal boundaries of a city of the metropolitan class." One question I have: How about other communities in Nebraska that qualify as far as the 20 percent poverty, such as South Sioux City, Lexington, Schuyler, and those areas? If you're going to do it for the metropolitan class, why can't you do it there? And another thing I'd like to bring up: Why not be up front with this? Why not come up with a separate appropriations bill in the amount of, I think this...10 percent of this, the new bill, would be about \$170,000. And of course, you could add on what they're already getting, and I think that would probably be another \$50,000 or \$60,000. Just be up front with it and have a separate appropriations bill, have it each year to accomplish this same thing, rather than using it as a carrot to get this bill passed, which I think is, personally, I think it's a bad bill. I again would go back to the original agreements. And I talked earlier about the survey. Everybody in Omaha is happy with it, and I think probably everybody out of state is happy about it. And a 1-cent property tax would take care of what they're getting. But as far as this portion of it, if it's going to be good for the metropolitan areas, it should be for the other. And I think if you keep this up, just like Senator Heidemann said, this is going to get totally out of hand and you're going to be talking about some huge, huge dollars that you're going to be obligated forever. And in the future years, I think you're probably going to run into some problems with that. So with that, I would turn the rest of my time over to the Chair. Thank you. [LB551]

SENATOR FRIEND: Thank you. Thank you, Senator Engel, for that time. Senator Pahls, you are recognized. [LB551]

SENATOR PAHLS: Mr. President, members of the body, I do know it is getting late, so I just have a couple of comments to make. I see Omaha probably is the engine of the state of Nebraska, so we do want it to prosper. In return, everybody else will also have positive influences on their part of the state. I live in the western part of the city of Omaha, but I go down to the river area at least once every week or two, and I tell you, that part of the town has really energized, and I think this amendment will help the north part of Omaha also to become more of a pleasant place to live and more benefits for the people. Right now, we're talking about schools. I see that as part of this as we're talking about the city of Omaha. I hear business men and women want to put money in for the children of need. We see the Qwest Center is moving along. And here's the ironic thing, because every once in a while in the past up here, people argue about TIF financing, which is a little off this. But look at the ConAgra. Before ConAgra was there, that land was valued around \$3 million. Now the tax value of that is I think close to \$80 million, because somebody was thinking a little bit ahead. This is what we need. And I will give the rest of the time. Thank you. [LB551]

SENATOR FRIEND: Thank you, Senator Pahls. Senator Loudon, you're next, and

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you're recognized. [LB551]

SENATOR LOUDEN: Thank you, Mr. President and members of the company. I would like to follow up somewhat on what Senator Pahls has said. He talks about ConAgra was \$3 million, and now it's an \$8 million valuation. So therefore, why are we talking about taking state money to do this? Omaha's levy is quite low: 23 cents or so. Douglas County, their levy is somewhere around 24. A 1-cent levy would probably raise the \$2 million that they were wanting for just that area. Omaha and Douglas County have a very high valuation. They would have no problem raising that kind of money. We have counties all over the state that are at their maximum level, but yet here you have a county that's not even quite half of their level, and yet they're wanting the state to come across with some of their sales tax money to pay for bonding issues and the Qwest Center. Now, I have no problem with the Qwest Center. It's a nice facility and it probably does quite well for the city of Omaha, and I think it's a great deal. But the thing has to pay for itself, and Omaha does have the resources and the money to pick this thing up. There is no point in going to the state of Nebraska and taking funding out of it that goes for operating the state of Nebraska. It isn't like we're doing a Meals on Wheels or economic development. This is something that betters the community in that one area, probably does something for the entire state; I agree to that. But this is something that can be paid for locally by either Douglas County or Omaha. There's plenty of resources in that area. The valuation is high enough in those areas to take care of this. And I really can't support legislation to go and get funding and use some of our state sales tax revenue to fund this thing. There isn't any process that would be more in need of money than what you think you're doing on this. This is something that doesn't have to be done probably. And if it does need to be done, then there's local funding that can take care of it. So with that, I think it was something that we've had this served up to us every year, I think every year that I've been down here, I think we've had something come about that either the Qwest Center or a baseball stadium or something like that was supposed to be done and they were wanting to find a way for state funding to do it. Omaha has the money to do it, so I think...I have no problem with them doing it. If they want to go ahead with it, go ahead. But I don't think we need state funding to do it. And I certainly will not support AM1332 or the underlying bill, LB551. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Louden. Senator Mines, you are recognized. [LB551]

SENATOR MINES: Thank you, Mr. President, colleagues. I don't believe Senator Heidemann is in here. I didn't push my light until he got done asking questions of Senator Howard. I had trouble following his logic, but I think his point was, we make decisions in this body based on what's important to the state and what we can afford. And he used examples of Senator Howard's passion for caring for children and those that can't care for themselves. And I was going to ask Senator Heidemann about a bill that he introduced, LB159. And evidently, he's got priorities that are different than the

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rest of us. Frankly, my priorities are different than his. But when he starts describing that we need to make decisions, and when times get tough, you know, we may have to cut back on programs, supporting children and supporting others, I was going to ask Senator Heidemann about LB159 that he introduced earlier this year. This is a bill that would provide a sales tax exemption on repair...and by the way, this would be a cost to all of Nebraskans, but Senator Heidemann wanted to have an exemption on repair or replacement parts, and depreciable repair parts for agricultural machinery or equipment: his passion. Now, as I read the fiscal note on LB159, Senator Heidemann is not opposed to giving a sales tax exemption on farm equipment repair to the tune of \$16 million. Senator Heidemann, could I have him yield to a question, please? [LB551 LB159]

SENATOR FRIEND: Senator Heidemann, will you yield to a question? [LB551]

SENATOR MINES: Senator, is it fair to say that your passion lies in agriculture? [LB551]

SENATOR FRIEND: Senator Heidemann, will you yield to a question from Senator Mines? [LB551]

SENATOR HEIDEMANN: Yes. I got in a little bit late, so I haven't been able to listen to the whole conversation, but... [LB551]

SENATOR MINES: Senator, I'm trying to draw an analogy between your questioning of Senator Howard and how during tough times we would have to eliminate some programs in Nebraska. You didn't selectively say what programs those would be, but you inferred that some of the programs she supports might be affected. My question to you, Senator, is, if LB159 were advanced and adopted, that would eliminate sales tax on agricultural depreciable replacement parts to the tune of \$16 million, would that hold true with your bill as well, Senator? [LB551 LB159]

SENATOR HEIDEMANN: Sure. If that bill would have passed and if you're looking at tough times coming, this legislative body very easily could go back and undo LB159, bringing that \$16 million back. If we pass LB551, it's an obligation that we are obligated to fund. [LB551 LB159]

SENATOR MINES: But I'm not talking about LB551. I'm talking about your analogy with Senator Howard about funds that you referred to: some of the programs that she supports and that she cares about. And my analogy to you, Senator, is, you have introduced legislation, as well, and to narrow down someone on, Senator Howard's opinion and passion for different issues, you, sir, have passions for different issues, as well. And I'm just highlighting the fact that you've introduced a bill that would cut state revenue by \$16 million, and then we would also have to look at cutting other programs to accommodate your bill, which fortunately isn't out of committee. Thank you, Mr.

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President. Thank you, Senator Howard...or, Senator Heidemann. [LB551]

SENATOR FRIEND: Thank you, Senator Mines and Senator Heidemann. Senator Fischer, you are next, and you are recognized. Thank you, Senator Fischer. Senator Fischer waives her opportunity to speak. Senator Ashford, there are no other senators wishing to speak. You are recognized to close on AM1332. [LB551]

SENATOR ASHFORD: Thank you, Mr. President. I will ask for a call of the house when I get finished here. But the point of this amendment is straightforward. As I mentioned in my opening, the need to enhance attractions near in the downtown area on the north and south side of Omaha, to enhance opportunities for the Qwest Center, is important. And I would urge that the body advance AM1332. And I would ask for a call of the house, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Ashford. Members, there has been a request for a call of the house. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB551]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB551]

SENATOR FRIEND: Members, the house is under call. All unauthorized personnel please leave the floor. All senators please report to the Chamber. The house is under call. Senator Nelson, Senator Harms, Senator Hansen, could you check in, please. Senator Johnson, Senator Dierks, Senator Pankonin, Senator Raikes. Thank you. Senator Ashford, for what purpose do you rise? [LB551]

SENATOR ASHFORD: We can go ahead, Mr. President. [LB551]

SENATOR FRIEND: Members, the question is, shall AM1332 be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 28 ayes, 2 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB551]

SENATOR FRIEND: AM1332 is adopted. [LB551]

CLERK: I have nothing further on the bill, Mr. President. [LB551]

SENATOR FRIEND: I do raise the call. Back to discussion of LB551. Senator Flood, I see no...Senator Fischer, you are recognized to speak. [LB551]

SENATOR FISCHER: Thank you, Mr. President and members. As I stated at the

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beginning of this debate on LB551, I do support the original bill. I think there is a situation dealing with the Qwest Center that needs to be addressed. Senator Engel and I don't agree on that, because I think the state needs to step forward, so Senator Engel and Senator Chambers and I don't agree on that. But I do support LB551 as it was originally introduced. I cannot support it now. When I last spoke, I mentioned the cost. It's \$2 million for the Qwest Center, and according to the Fiscal Office guy standing right under the balcony over here, with the Avery amendment that opens this up to the rest of the state, you're looking at another \$4 million to \$5 million. The rest of the state already benefits with that 30 percent. The Qwest Center gets 70 percent; the rest of the state benefits with that 30 percent. Yes, there are projects that are not being done in the rest of the state. They apply for the money; the money is not there. The money can never be there for every project that people want to do. The people can never be there at the state level or at the local level or in your own home for everything you want. Let's look at what is needed. I don't have a vendetta against Lincoln. Senator Avery knows that I grew up in Lincoln. My mother is watching on TV right now. Mother, I do not have a vendetta against Lincoln. This is my home, too. But for heaven's sakes, the state cannot keep stepping up to fund different projects that we all feel are worthwhile, but that may also be on somebody's wish list. I feel LB551 was appropriate, but as I said, in the condition it is in right now, I cannot vote to advance it. If it advances, I hope to have amendments on Select File. Thank you, Mr. President. [LB551]

SENATOR FRIEND: You're welcome. Thank you, Senator Fischer. Senator Ashford. Senator Ashford waives his opportunity to speak. Senator Chambers, you are next and you are recognized. [LB551]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this bill started out...strike that. A man named Robert Louis Stevenson wrote a story titled Dr. Jekyll and Mr. Hyde. Dr. Jekyll began to conduct certain experiments because he wanted to see if he could separate the bad from a person's nature, from the good. It's a moral play, a moral story. So Dr. Jekyll put together his various compounds, and when he drank it, there was a change in him. He became Edward Hyde. Edward Hyde was a shrunken, very strange-looking creature. And when Dr. Jekyll became Mr. Hyde, the clothes, naturally, were too large. Mr. Hyde began to do very terrible things. Mr. Hyde was aware of Dr. Jekyll; Dr. Jekyll became aware of Mr. Hyde. And a struggle developed between them. Dr. Jekyll ultimately became very distressed about what he had done, because Mr. Hyde had a taste for human blood. He killed people, he did a lot of wicked things, like the typical Christian. So a point was reached where Dr. Jekyll could no longer, by an act of will, return to his former state as the doctor and banish Mr. Hyde. When problems would arise, Dr. Jekyll knew that Edward Hyde was much better at handling these situations. He was innovative. He was cunning. To make a long story short--you ought to read the story and see how it turned out--but in those days, righteousness always had to be rewarded; wickedness always had to be punished. But Dr. Jekyll himself did not survive, and you need to read the story to see why. This bill

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started out, in my opinion, as Mr. Hyde. It was bad from the beginning. So what should we say? "Mr. Hyde and the Wolf Man," if the Wolf Man is worse than Mr. Hyde. Let me then draw a different analogy. You have a horse with a little jockey on it, and that's the way horse races are run. Now you have a little horse with a great big jockey on it. From what Senator Fischer told us, the state of the bill now is three times as monstrous as it was at first, from \$2 million to \$6 million. And that little horse is just struggling. You all are going to have to decide whether this is a good thing for the state. The area of the city that I'm concerned about was cut into the pie, not by increasing the amount that the state will lose by virtue of this bill, but by taking some of what Omaha is going to get from the bill: 10 percent. If the bill passes, the area of Omaha which always has been ignored should get something out of it, and it will. But the facts remain the facts. [LB551]

SENATOR FRIEND: One minute. [LB551]

SENATOR CHAMBERS: This bill is going to shrink the tax base of the state. That's what it is going to do. If you think that is a good thing, you'll support it. If you think it is a bad thing, you won't. If you thought the bill in its original form was bad, the bill in its current form is worse, far worse. So why would I say this if the area of the city where the people live about whom I'm concerned would get something out of this bill? There are issues that are transcendent, and this is one of those that people need to think deeply about. If you obligate the state to do something, then the state is going to have to do it, as it has been paying through the nose to these corporations... [LB551]

SENATOR FRIEND: Time. [LB551]

SENATOR CHAMBERS: ...who prevailed on the state. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Senator Chambers, you are next to speak, so you may continue. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. These corporations which have prevailed on the state to give them tax breaks. You know why there's a problem in the inner city of Omaha now when it comes to adequate funding for the schools? When I was down here fighting against those sales tax breaks, income tax breaks, property tax breaks, all kind of breaks for the corporations, they were able to erect huge, impressive edifices, and people who weren't aware of what the state had given away will look at those buildings and say, there should be a large enough tax base there to fund the schools. But you gave it away. And at the time I was fighting against it, OPS didn't say anything, the mayors went along with it, the county board, everybody in Omaha. And I fought against it, and naturally, I lost. But there are consequences to be borne, and they are being borne to this day. The state took on obligations, and the ones who originally were here, other than myself, no longer are, but the damage they did lives on after

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them. You need to think deeply about what it is you're undertaking to do. There are two more stages of debate. Frankly, I didn't think Senator Avery's bill, his amendment, would be adopted. That's why I subtracted from his amendment, or extracted, the items I wanted and got them added individually. The lobby has been very, very busy and has been very, very effective. And there will come a point in this session--we got ten days left--people are going to be whining and crying and talking about this plan, that plan, this group that needs help, that group which needs help. And you can think back to what you're doing here. I fought hard against LB305. I'll continue to fight it, to what extent I really can't say now, and LB305A. But you all need to start thinking about some of these other bills, because I'm not going to do all of your work for you. And you know you're going to be whining. Some of you are thinking of bills now that carry an A bill, and you may not get what you want. And you'll stand up here and try to persuade people to do the right thing. That's not going to get them to vote the way you want them to vote. You have to show them that there's some money in the pot. But you gave \$10 million away for training, with the assistance and the leadership of the Appropriations Committee. And one of the companies gouged the public for over \$300 million, and you all gave them \$360,000 for training. Just throwing money at them, Nelnet, just throwing the money away. And then you insist, well, this is for economic development. That is the abracadabra; just hook economic development on it. But you need to think. Act in haste, repent at leisure. You have time to do what is prudent and what is appropriate. I have not liked LB551, although I signed on to an amendment... [LB551 LB305 LB305A]

SENATOR FRIEND: One minute. [LB551]

SENATOR CHAMBERS: ...that I understand was adopted. LB551 will not get my vote. I mean it. And you all are going to talk about you're state senators, and you're looking at what is in the best interest of the state. I can't buy that. That's not true. Look at LB551 in the condition that it's in. You didn't think deeply about that. You didn't think about the state. You didn't think about the need of a tax base for the state to have. Somebody told me that gas in Omaha is \$3 and almost 50 cents for a gallon. And people are crying. I used to drive by a filling station and every stall was full, whatever you call those little places at the pump. Now they're like ghost towns. Nobody is in the filling station except the people in those little huts where they sell everything else. [LB551]

SENATOR FRIEND: Time. [LB551]

SENATOR CHAMBERS: And I understand that now they're eating the food so they won't starve. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Chambers, you are next, and this is your third time on the bill. [LB551]

SENATOR CHAMBERS: Thank you, Mr. President. If you insist, I shall speak again.

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How will you vote? Ten years from now it won't make any difference because you won't be here. The state can go to Hades in a handbasket and you won't care, because you don't care about that while you are here. Think. Think. What have you got a brain for? What have you got a conscience for? You know there are people who masquerade as liberals before they got in the Legislature, and they got here and now they're as conservative as anything you find, because there's a certain group they want to run around with, want to rub elbows with, be partners with. And all that stuff they talked about in terms of advocating for the poor, advocating for the marginalized, all that's out the window now. They are just like this Legislature. This Legislature is them. These are their people. And what they really have been all the time is showing itself now. They had to put on a front to get a job, and they misled people. And at the time when we need to take a principled position, we don't take it. The words "state senator" flows very easily off the tongue and out of the mouth. I have a stake in the bill, but not an s-t-e-a-k, meaning that I'm going to feed my ego, I'm going to forget my primary duty and responsibility as a state senator. If the bill passes, will I make sure that the money goes to north Omaha that's in the bill? I certainly shall, because I'm a pragmatist. But right now we're in a position to do that which is right. We ought to ask for a roll call vote, and those who are for this bill, instead of saying "aye," you should say "guilty, guilty, guilty." Senator Adams: Guilty. Senator Aguilar: Absent. Senator Ashford: Guilty. Senator Avery: Guilty, guilty, guilty. (Laughter) And that is the way it's going to go right down the board. And then when we get to those bitter days that I know are going to come, I know they're going to come, and some of you all who have been around here long enough know it also, but you push that out of your mind because it's not happening today, right this minute. Is this bill going to help the state of Nebraska? You're going to reduce the state's tax base and thereby you help the state. Is that your reasoning and your logic? Senator Mines pointed out how Senator--head of the Appropriations Committee--Senator "Hiding Man," how Senator "Hiding Man" has decided on a bill that will give some sales tax exemption. But when he's on his hobbyhorse for the committee: Oh, I'm not for that, we can't have that; look at this and look at that and look at the other, but don't look at what I got in my back pocket, because it contradicts everything coming out of my mouth. I'm not like you all. I don't have to remember what I said this morning, because I'm going to say basically the same thing. My principles are not like the dime store or the supermarket, where whatever the traffic will bear is what I do and what I provide. You all are marking yourselves. You know what each other is. You know how far you can trust each other,... [LB551]

SENATOR FRIEND: One minute. [LB551]

SENATOR CHAMBERS: ...and how much you can't trust each other. But we shall see what we shall see. However the vote turns out today does not mark the end of the story. Ten days left. That's not even the length of a special session. If you all want to get on the wrong side of me--and I'm not going to tell you that this bill will do it--get on the wrong side of me, you all are going to get tired of staying here till midnight before I will.

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You'll be telling Senator Flood, I can't stay here that late. But you will if you're going to try to beat me. And I don't know if ten days, 12 hours a day, is enough time, because you all will get tired, you all will get weak, and the lobby will beat your brains out as they did on this bill. This is the lobby's bill. They won. They whipped you. Where are all those good new senators who were going to show the way? Where are they? They're not in evidence, because they're not thinking. They are sheep. You are sheep. [LB551]

SENATOR FRIEND: Time. [LB551]

SENATOR CHAMBERS: And I'm not going to be among those who make you think that you're something that you're not. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Flood, there are no other lights on. You are recognized to close on LB551. [LB551]

SPEAKER FLOOD: Thank you, Mr. President. Senator Chambers gave a nice speech about guilty pleas. He forgot, during the rights advisement, each defendant has the right to plead no contest, as opposed to pleading guilty. I guess I plead no contest. I fully support this bill. I support the bill as amended, and I hope you do too. Thank you, Mr. President. [LB551]

SENATOR FRIEND: Thank you, Senator Flood. Members of the Legislature, you have heard the closing on LB551. The question is, shall LB551 advance to E&R Initial? All those in favor please signify by voting aye; all those opposed vote nay. Have all senators voted who wish to? Record please, Mr. Clerk. [LB551]

CLERK: 28 ayes, 7 nays, Mr. President, on the advancement of LB551. [LB551]

SENATOR FRIEND: LB551 does advance. Mr. Clerk, LB551A. [LB551 LB551A]

CLERK: LB551A, Mr. President. It's a bill by Senator Flood. (Read title.) [LB551A]

SENATOR FRIEND: Senator Flood, you are recognized to open on LB551A. [LB551A]

SPEAKER FLOOD: Mr. President, this is the A bill accompanying the mainline bill, LB551. I'm sure it will see some change on its way to Select File, given the amendment that was adopted. I would urge your support of LB551A. Thank you. [LB551A LB551]

SENATOR FRIEND: Thank you, Senator Flood. Members of the Legislature, you've heard the opening on LB551A. The floor is open for discussion. Senator Chambers, you are recognized. Senator Chambers waives his... [LB551A]

SENATOR CHAMBERS: Mr. President,... [LB551A]

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SENATOR FRIEND: Senator Chambers, you are recognized. [LB551A]

SENATOR CHAMBERS: Thank you very much, Mr. President. Members of the Legislature, this is the A bill. This may be the going away bill; not tomorrow, but today bill. You all thought you were getting out of here at 5 p.m., didn't you? You all don't have plans, do you? You're not going to eat with any lobbyists, are you? You're going to go celebrate because they whipped the stuffings out of you here today? You ought to be ashamed of yourself. I feel so superior sometimes; I just do. You know, if I was going to do something, I'd tell you what I'm going to do, I'm going to roll over and play dead because they met my price, and I'd tell you. But I'm not going to stand up here and be sanctimonious and say, oh, this is going to help the state, this is economic development for everybody. That's not true, and you know it and I know it. But the difference between me and the rest of you is that I'm not going to roll over and play dead. And I will keep us here for a while, although a motion to adjourn is a priority motion and I probably could not make you all feel sympathetic enough toward me to vote against adjourning, but to just see if we could stay here, on the spur of the moment, not till 11:59; that's unreasonable. Ten o'clock; ten o'clock; who will stay with me till 10 o'clock? Thank you. I see a majority. (Laughter) This is the crucial part of the bill. I'd like to ask Senator Ashford a question. [LB551A]

SENATOR FRIEND: Senator Ashford, will you yield to a question from Senator Chambers? [LB551A]

SENATOR ASHFORD: Yeah. [LB551A]

SENATOR CHAMBERS: Senator Ashford, I appreciate that enthusiastic response. How much money is appropriated under this A bill? [LB551A]

SENATOR ASHFORD: You know, Senator Chambers, you tell me, because I've lost...I don't have... [LB551A]

SENATOR CHAMBERS: Oh, let me ask the Speaker then. It's his bill. [LB551A]

SENATOR ASHFORD: With the...I believe it's \$1 million...I don't know, Mister... [LB551A]

SENATOR CHAMBERS: Will it fund the Lincoln amendment? [LB551A]

SENATOR ASHFORD: No. [LB551A]

SENATOR CHAMBERS: So then you'd have to amend the A bill to accommodate the Lincoln amendment, is that right? [LB551A]

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SENATOR ASHFORD: That's correct. That's correct. [LB551A]

SENATOR CHAMBERS: If the A bill were to be advanced in its present form, it would be a misrepresentation of the status of the underlying bill, isn't that true? [LB551A]

SENATOR ASHFORD: I believe that's correct, Senator Chambers. [LB551A]

SENATOR CHAMBERS: If we left the original bill... [LB551A]

SENATOR ASHFORD: Well, it's not a misrepresentation, because it would have to be...it would not include the... [LB551A]

SENATOR CHAMBERS: It would be an inaccurate reflection of the underlying bill. [LB551A]

SENATOR ASHFORD: It would have to be amended on Select File, that's correct. [LB551A]

SENATOR CHAMBERS: So if we did not add more money to this bill, what is in the underlying bill could not be paid for. Is that true? [LB551A]

SENATOR FRIEND: I'm sorry, Senator Chambers. Was that a question for...? [LB551A]

SENATOR CHAMBERS: You can answer it if you'd like. [LB551A]

SENATOR FRIEND: You would not like that. Senator Ashford. [LB551A]

SENATOR ASHFORD: I just want to answer the question,... [LB551A]

SENATOR CHAMBERS: Sure. [LB551A]

SENATOR ASHFORD: ...if I could, Senator Chambers. [LB551A]

SENATOR CHAMBERS: Sure. [LB551A]

SENATOR ASHFORD: And I...the...there is no A bill reflecting the \$1.7 million, or what the anticipated revenue would be, inasmuch as the money doesn't come into the General Fund. So the actual A bill for either bill would be a minimal amount, I believe it's \$50,000, and that would probably not change. [LB551A]

SENATOR CHAMBERS: And what is that for? [LB551A]

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SENATOR ASHFORD: For administering the fund, I believe. [LB551A]

SENATOR CHAMBERS: And it wouldn't cost any more to administer it with the Lincoln amendment than it would without the amendment? [LB551A]

SENATOR ASHFORD: That's correct. I don't...well, there might be a slight increase, but it would be minimal. [LB551A]

SENATOR CHAMBERS: So we don't really need this A bill. What agency is going to administer this bill? [LB551A]

SENATOR FRIEND: One minute. [LB551A]

SENATOR ASHFORD: The bill is administered by...I believe it's in the Treasurer's Office. [LB551A]

SENATOR CHAMBERS: Do you think the Treasurer's Office could absorb the cost of...? [LB551A]

SENATOR ASHFORD: The Department of Revenue. I'm sorry, Senator Chambers. [LB551A]

SENATOR CHAMBERS: Excuse me? [LB551A]

SENATOR ASHFORD: Department of Revenue. I'm sorry. [LB551A]

SENATOR CHAMBERS: Do you think the Department of Revenue could absorb the cost of this bill if we did not attach an A bill? [LB551A]

SENATOR ASHFORD: Yes. [LB551A]

SENATOR CHAMBERS: So then why do we need an A bill? [LB551A]

SENATOR ASHFORD: I believe this...the Department of Revenue...the Revenue Committee amendments reflected a \$50,000 A bill, and they would have to tell you what that's for. It's for cost of administration. Would they be able to do it? I assume they would be able to. [LB551A]

SENATOR CHAMBERS: We know they would be able to do it. This is not going to hire any new employees, is it? Is this going to hire some new employees? [LB551A]

SENATOR ASHFORD: No, it's not, Senator Chambers. [LB551A]

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SENATOR CHAMBERS: So it's not creating another job in the Revenue Department? [LB551A]

SENATOR ASHFORD: No, it's not. [LB551A]

SENATOR CHAMBERS: They're going to have to buy more paper? [LB551A]

SENATOR ASHFORD: Paper would be a big thing, probably. [LB551A]

SENATOR FRIEND: Time. [LB551A]

SENATOR CHAMBERS: \$50,000 worth? Thank you, Mr. President. [LB551A]

SENATOR FRIEND: Thank you, Senator Chambers and Senator Ashford. Mr. Clerk, you have items for the record? [LB551A]

CLERK: I do, Mr. President. A bill read earlier today, LB198, was presented to the Governor at 4:37 p.m. Enrollment and Review reports LB334 as correctly engrossed. A new A bill. (Read LB641A by title for the first time.) Amendments to be printed: Senator Raikes to LB456; Senator Flood to LB551; Senator Synowiecki, LB542; Senator Raikes, LB342. A series of study resolutions: LR196, Senator Janssen; LR197, Senator Cornett; LR198, Senator Loudon; LR199, LR200, Senator Ashford; LR201, LR202, LR203, LR204, LR205, LR206, LR207, LR208, Senator Johnson. Senator Flood would like to add his name to LR144 as coinroducer; Senator Preister to add his name to LB343. (Legislative Journal pages 1606-1615.) [LB198 LB334 LB641A LB456 LB551 LB542 LB342 LR196 LR197 LR198 LR199 LR200 LR201 LR202 LR203 LR204 LR205 LR206 LR207 LR208 LR144 LB343]

And, Mr. President, I do have a priority motion. Senator Adams would move to adjourn until Wednesday morning, May 16, at 9 a.m.

SENATOR FRIEND: Members of the Legislature, you've heard the motion to adjourn until Wednesday, May 16, at 9 a.m. All those in favor please signify by saying aye. All those opposed say nay. The ayes do have it. We are adjourned.