

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

Floor Debate
February 28, 2011

[LB57 LB81 LB159 LB164 LB165 LB181A LB191 LB210 LB228 LB257 LB278 LB281
LB309 LB314 LB329 LB333 LB368 LB370 LB389 LB399 LB421 LB463 LB471 LB474
LB543 LB556 LB604 LB642 LB663 LR47 LR86 LR87]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-sixth day of the One Hundred Second Legislature, First Session. Our chaplain today is Pastor Gail Neal of the Southern Heights Presbyterian Church in Lincoln, Nebraska, Senator Fulton's district. Please rise.

PASTOR NEAL: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Neal. I call to order the thirty-sixth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Urban Affairs Committee chaired by Senator McGill reports LB57 and LB309 and LB329 to General File with amendments. I have a hearing notice, Mr. President, from the Business and Labor Committee signed by Senator Lathrop. Those are the only items I have. (Legislative Journal pages 657-659.) [LB57 LB309 LB329]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda. Mr. Clerk.

CLERK: LB181A, Senator Larson, I have no amendments to the bill. [LB181A]

SENATOR GLOOR: Senator Larson. [LB181A]

SENATOR LARSON: Mr. President, I move that LB181A be advanced to E&R for engrossing. [LB181A]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB181A is advanced. Mr. Clerk. [LB181A]

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

Floor Debate
February 28, 2011

CLERK: LB333, Senator, I have E&R amendments, first of all. (ER33, Legislative Journal page 594.) [LB333]

SENATOR GLOOR: Senator Larson. [LB333]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB333 be adopted. [LB333]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB333. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB333]

CLERK: Senator Adams would move to amend with AM497. (Legislative Journal page 652.) [LB333]

SENATOR GLOOR: Senator Adams, you're recognized. [LB333]

SENATOR ADAMS: Thank you, Mr. President. Members, if you recall, what LB333 did was to move several programs that are currently funded with General Funds within the Department of Ed over to lottery dollars, unused lottery dollars. And also within that bill, there was a fee increase from \$55 to \$70 that would be imposed on teachers for certification and recertification which helps with investigations on the part of the Department of Ed. It came to my attention during the debate that day, that there is concern about the fee increase in the environment that we're in, and off the mike, after the session that day, there were others that came forward and said, we're concerned about fee increases. I'm concerned about fee increases on teachers right now as well. So we got back together as a committee, and what we are proposing that we do here is to take the fee back to the \$55, and instead what we would do is to tap into, again, unused lottery dollars for two years, and use \$124,000 of that to come over in place of General Fund dollars for the purpose of investigating these certification process. That's, in essence, what the amendment is. It keeps the fee at \$55. It doesn't increase it. We use lottery dollars to replace the General Fund necessary to do the certification process. Thank you, Mr. President. [LB333]

SENATOR GLOOR: Seeing no members wishing to be recognized, Senator Adams, you are recognized to close. Senator Adams waives. Members, the question is, shall the amendment to LB333 be adopted? All those in favor say aye. All those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB333]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB333]

SENATOR GLOOR: The amendment is adopted. [LB333]

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

Floor Debate
February 28, 2011

CLERK: I have nothing further on the bill, Mr. President. [LB333]

SENATOR GLOOR: Senator Larson. [LB333]

SENATOR LARSON: Mr. President, I move that LB333 be advanced to E&R for engrossing. [LB333]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB333 is advanced. Mr. Clerk. [LB333]

CLERK: Mr. President, LB81 by Senator McCoy. I have E&R amendments, first of all, Senator, Senator Cornett, excuse me. Senator Larson, I have E&R amendments, excuse me, Senator. (ER8, Legislative Journal page 430.) [LB81]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB81 be adopted. [LB81]

SENATOR GLOOR: The question is the adoption of E&R amendments to LB81. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB81]

CLERK: Mr. President, Senator McCoy, I had AM146, but I understand you want to withdraw? Mr. President, Senator Cornett would move to amend the bill with AM553. (Legislative Journal pages 659-660.) [LB81]

SENATOR GLOOR: Senator Cornett, you're recognized. [LB81]

SENATOR CORNETT: Yes, this is amendment to the Select File compromise amendment to LB81, the wheel tax bill. It contains grammatical changes and technical changes. First, several grammatical changes substitute the word "fee" for the word "tax" throughout certain parts of the bill so Section 14-1092 and 18-1214 will use the phrase "motor vehicle fee" rather than the phrase "motor vehicle tax." Secondly, the amendment's technical changes clarify and correct certain existing language in AM198, which rewrote LB81. Specifically, the amendment technical changes do the following: They clarify for the purpose of general occupation tax authority of cities of the metropolitan class set forth in Section 14-1091 that the phrase "limits of the city" does not include the ETJ, or the extraterritorial zoning jurisdiction of such a city, but for the purpose of wheel tax or fee imposed under the authority of Section 14-1092, the phrase "limits of the city" does include the ETJ of such a city for a two-year time period ending January 1, 2013. However, the provisions of the road-related services by the city within the ETJ is according to our state's Attorney General, the constitutional justification for allowing a city to impose such a fee or tax within its ETJ for that two-year time period.

Floor Debate
February 28, 2011

So any city that reaches into the ETJ for the purpose of imposing motor fuel tax or fees ought to remember that and abide then by it, even though it is not expressly stated in our statutes. Clarify for purpose of general occupation tax authority of cities of the metropolitan class set forth in statute, Section 14-1091 that such taxes may be imposed on any person within the limits of the city to raise revenue from such person and to license and regulate such person except as otherwise provided in Section 14-1091. Correct any inconsistency in the Bill Drafter's use of the language regarding the ETJ in AM198 by striking the phrase "a person residing within a ETJ" on page 3, line 7, and on page 4, line 17, and substituting the phrase "any individual whose primary residence or person who owns a place of business within an ETJ." To refresh everyone, the compromise amendment we have, and with this amendment, allows the city of...or eliminates the city of Omaha's ability or any city's ability to tax outside of its jurisdiction, which would eliminate the commuter tax, and it allows them to tax into their extraterritorial zoning jurisdiction until 2013. That was the compromised agreement, and I want to thank everyone that has been involved with this, particularly Senator McCoy and Senator Mello and Senator Council in working out the agreement. One of the other things that I want to clarify is, on General File we had talked about working with a commission. We have all agreed to, instead of setting up a commission, doing an interim study with the Transportation Committee on metro area transportation. With that, I urge the body to support the amendment. It makes technical changes that are needed defining the wheel tax fee, and the time period for the sunset. Thank you very much. [LB81]

SENATOR GLOOR: Thank you, Senator Cornett. (Doctor of day introduced.) We now move to discussion. Senator Krist, you are recognized. [LB81]

SENATOR KRIST: Thank you, Mr. President. Would Senator Cornett oblige me in a conversation on the mike? [LB81]

SENATOR GLOOR: Senator Cornett, would you yield? [LB81]

SENATOR CORNETT: I will be happy to. [LB81]

SENATOR KRIST: I'm assuming that this compromise is the same compromise that we talked about during General and that there's no deviation from what the city of Omaha has agreed to at this point and has consented with as well. [LB81]

SENATOR CORNETT: Correct, Senator Krist. My staff spent this week...the weekend working on the amendment to make the technical changes to define the language to clarify what the wheel fee was and what the ETJ was and that's what this amendment is. [LB81]

SENATOR KRIST: Okay. And when we talked about a commission, as I understand it

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

Floor Debate
February 28, 2011

now, we're not looking at staffing paid positions or outside...we're basically looking at a group of senators and potentially bringing in the consultants that we need. Would that also include the League of Municipalities and some of the mayors that have been so vocal in outside Douglas County areas? [LB81]

SENATOR CORNETT: Yes, it would. I talked to Senator Fischer last week. We're going to be doing an interim study with Transportation. And anyone that wishes to participate in that interim study to discuss metropolitan or transportation issues would be more than welcome to be at the table. [LB81]

SENATOR KRIST: Okay. Thank you, Senator Cornett. Mr. President, would Senator Fischer oblige me in a conversation on the mike, please? [LB81]

SENATOR GLOOR: Senator Fischer, would you yield? [LB81]

SENATOR FISCHER: Yes, I will. [LB81]

SENATOR KRIST: Senator, we have had discussions off the mike about increased transportation funds helping with the issue of road maintenance, in particular, major arteries, where Omaha and Lincoln and places like Grand Island that have an incredible amount of influx, and your commitment to me at the time was that these cities will see that transportation money, as we agree on where those critical arteries would be. Am I...I don't want to paraphrase what you said, but is that...? [LB81]

SENATOR FISCHER: I've always said, Senator Krist, that the Department of Roads has a priority system in place. That system, first of all, recognizes the needs of safety. Secondly, it is the needs of volume, congestion that we see on our highways across the state. So anytime and every time you see new construction being planned, which I hope will take place sometime in the future, we haven't seen too much of it in the past, but those priorities will always be considered. In that case, yes, the more populated areas of the state, the metro area, Lincoln with the South Beltway, those, in my opinion, would be the projects that will be at the top of that priority list. Also as a body, it is unconstitutional for this body to make any decisions on which projects are going to be prioritized or which projects are going to be built. [LB81]

SENATOR KRIST: Then you're telling me that it's incumbent upon the city and the counties to go back to the Department of Roads and establish what would be within this commission that we are talking about, arteries, major arteries that should be maintained. And then I use as an example, in the economic development in the Omaha area, the road that comes out of Eppley. It, obviously, would be counterproductive if that road would not be maintained into the major arteries of the interstate system to show people who are coming to this area for economic development, that we can take care of the infrastructure that they would be using. [LB81]

Floor Debate
February 28, 2011

SENATOR FISCHER: You won't ever hear an argument from me about... [LB81]

SENATOR GLOOR: One minute, Senators. [LB81]

SENATOR FISCHER: ...the need for our surface transportation system to be in excellent shape in order to draw more economic development to the state. I would say that the specific roads that you may be referring to in your area, I don't know if I'm intimately familiar with those, but I would assume that the city and county will work with the state Department of Roads as they always have in the past in order to have a collaborative effort to have those needs met. [LB81]

SENATOR KRIST: Thank you, Senator Fischer. I yield the rest of my time back. [LB81]

SENATOR GLOOR: Thank you, Senator Krist. (Visitors introduced.) Senator Krist, you're recognized. [LB81]

SENATOR KRIST: I would use this time to simply again highlight that LB81 came to this floor and I believe singled out the municipality, singled out Omaha. We came to resolution on what was...the majority of this body would have consented to and we reached a point of agreement. There...this is one of those that we talked about on Friday that had specifics to the Omaha area, and we're going to be debating again on those bills that have specifics to the Lincoln area and potentially to others. And I would go on the record at this point to say that I will support AM553. I will support LB81, and I would ask all of you to do the same. But I would also ask you again to maintain your score card and to be fair across the board on all of the issues that we are talking about. And I would also say on the record today, that I would hope that the city of Omaha would start some serious, serious annexation process so that they can absorb the ETJs prior to the sunset, because I think it will be devastating to the city if they don't move in that direction. But again, local control, local control, local control. That's not my job. I just think that it's looking at it from the outside, it's something that the city needs to focus on. And with that, I yield the rest of my time. [LB81]

SENATOR GLOOR: Thank you, Senator Krist. Senator Mello, you are recognized. [LB81]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Would Senator Cornett yield to a question? [LB81]

SENATOR GLOOR: Senator Cornett, would you yield? [LB81]

SENATOR CORNETT: Yes. [LB81]

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

Floor Debate
February 28, 2011

SENATOR MELLO: Senator Cornett, in AM553, in reviewing it, could you clarify in regards to the issue of residency, in regards to the time issue? I know that interested parties, primarily our conversations with the city of Omaha, have raised in regards to a six-month capacity. [LB81]

SENATOR CORNETT: I'd be happy to. The question was in regards to, how do you define residency versus use, and the six month refers to residency and not use in this amendment and the bill. So if you reside in the city, it does not apply whether you use a vehicle in the city or not, which takes care of the commuter tax issue but protects the residency issue. [LB81]

SENATOR MELLO: Thank you, Senator Cornett. And members of the Legislature, I agree with Senator Krist's assessment in the sense that I support AM553 and LB81 as the compromise that a group of senators came together on General File to make, to ensure that we could make adequate tax policy, but also look for long-term solution to dealing with regional infrastructure, financing, and cooperation. Which I believe, wholeheartedly, in Senator Cornett, in Senator Fischer and other members of the Legislature to help make that process happen through an interim study after we adjourn this year through next legislative session. Thank you. With that, thank you, Mr. President. [LB81]

SENATOR GLOOR: Thank you, Senator Mello. Seeing no further senators in the queue, Senator Cornett, you're recognized to close on your amendment. [LB81]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. I would urge the body to support AM553. It clarifies the technical aspect of LB81 to achieve the compromise that we agreed on. And I appreciate all the senators' time and hard work in reaching this compromise, and I urge you to support the underlying bill, LB81. Thank you. [LB81]

SENATOR GLOOR: Thank you, Senator Cornett. The question is, shall the amendment to LB81 be adopted? All those in favor vote aye. All those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB81]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB81]

SENATOR GLOOR: The amendment is adopted. [LB81]

CLERK: I have nothing further on the bill, Mr. President. [LB81]

SENATOR GLOOR: Senator Larson. [LB81]

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

Floor Debate
February 28, 2011

SENATOR LARSON: Mr. President, I move that LB81 be advanced to E&R for engrossing. [LB81]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those opposed say nay. LB81 is advanced. Mr. Clerk. [LB81]

CLERK: LB228, Senator, I have no amendments to the bill. [LB228]

SENATOR GLOOR: Senator Larson. [LB228]

SENATOR LARSON: Mr. President, I move that LB228 be advanced to E&R for engrossing. [LB228]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB228 is advanced. Mr. Clerk. [LB228]

CLERK: LB278, Senator, I have E&R amendments, first of all. (ER34, Legislative Journal page 615.) [LB278]

SENATOR GLOOR: Senator. [LB278]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB278 be adopted. [LB278]

SENATOR GLOOR: The question is the adoption of E&R amendments to LB278. All those in favor say aye. All those opposed say nay. The amendment is adopted. [LB278]

CLERK: I have nothing further on that bill, Senator. [LB278]

SENATOR GLOOR: Senator Larson. [LB278]

SENATOR LARSON: Mr. President, I move that LB278 be advanced to E&R for engrossing. [LB278]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All those opposed say nay. LB278 is advanced. Mr. Clerk. [LB278]

CLERK: Mr. President, LB368. Senator, I have no amendments to the bill. [LB368]

SENATOR GLOOR: Senator Larson. [LB368]

SENATOR LARSON: Mr. President, I move that LB368 be advanced to E&R for engrossing. [LB368]

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

Floor Debate
February 28, 2011

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All those opposed say nay. LB368 is advanced. Mr. Clerk. [LB368]

CLERK: LB399, Senator, I have no amendments to the bill. [LB399]

SENATOR GLOOR: Senator Larson. [LB399]

SENATOR LARSON: Mr. President, I move that LB399 be advanced to E&R for engrossing. [LB399]

SENATOR GLOOR: Members, you have heard the motion for advancement. All those in favor say aye. All those opposed say nay. LB399 is advanced. Mr. Clerk. [LB399]

CLERK: LB356, Senator, I have...LB556, excuse me, I have no amendments to the bill, Senator. [LB556]

SENATOR GLOOR: Senator Larson. [LB556]

SENATOR LARSON: Mr. President, I move that LB556 be advanced to E&R for engrossing. [LB556]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. LB556 is advanced. Mr. Clerk. [LB556]

CLERK: Mr. President, LB281, no E&R. Senator Howard would move to amend with AM409. (Legislative Journal page 660.) [LB281]

SENATOR GLOOR: Senator Howard, you're recognized. [LB281]

SENATOR HOWARD: Thank you, Mr. President. This is a simple amendment. I've discussed this amendment with Senator Karpisek. This came up in General File and I expressed my concerns then. We continue to work on this issue. The amendment, simply put, states the driver of the limousine or the bus checks the identification of each passenger who will consume alcohol in the limousine or bus to make sure such passenger is of legal age to consume alcohol. I think this amendment is important, and the reason that I wanted to have this discussed on the floor is, oftentimes, high schoolers will rent limousines as a part of their senior prom or their graduation or whatever special occasion it is. And I want to make sure that what we're doing here doesn't result in unintended consequences, and this limo or bus ride isn't looked upon as an island in which you can consume. I'm going to offer the remainder of my time to Senator Karpisek. [LB281]

Floor Debate
February 28, 2011

SENATOR GLOOR: Senator Karpisek, you have 5...8 minutes 55 seconds. [LB281]

SENATOR KARPISEK: Thank you, Mr. President and thank you, Senator Howard. As Senator Howard said, we have worked on this and I did say during General File that this was a concern and we would try to work on it. However, I don't think that AM409 really gets us to where we want to go. It states that they will check and make sure that each passenger is of legal age to consume alcohol. I don't know what the remedy is then if they are not of legal age to consume alcohol. Again these...the people that would be boarding the bus or the limousine would not be purchasing the alcohol from that company. It would be a "bring your own" type situation. I absolutely understand what Senator Howard is concerned about here, and I have a concern about it too. And as I told her, I've tried to think this through and tried to figure out who or how would be the one in charge to check that. As I keep thinking about it, it would be no different than...well, it would be different. (Laugh) I just can't find a good way to think about it to even compare it to. Again the limo driver or the bus driver would not be the one that has supplied the alcohol for the party. So who would be the one in charge to police that? I guess it goes back to just like if someone was going down the road in a passenger vehicle, there should not be an open container at all. And if there is, then they would get pulled over and get a ticket for such. Again I'm trying to think out other ways that this could be handled but I don't think that putting it in the driver's hands is the right place to put it because what would they do then? They could put a band on the minor's hand as we see going into a dance, but then the driver rolls the partition up in a limo and doesn't see back there anyway. So then, how do you know who is consuming it or not when there is someone that's of age in the vehicle? So I do understand Senator Howard's concern. I cannot really support AM409 though. Thank you, Mr. President. [LB281]

SENATOR GLOOR: Thank you, Senator Karpisek and Senator Howard. (Visitors introduced.) Senator Nelson, you are recognized. [LB281]

SENATOR NELSON: Thank you, Mr. President and members of the body. Would Senator Howard entertain a question or two? [LB281]

SENATOR GLOOR: Senator Howard, would you yield? [LB281]

SENATOR HOWARD: Absolutely. [LB281]

SENATOR NELSON: Thank you, Senator Howard. Thank you for bringing this amendment, but I do have a question of you. We...you and I see this in Omaha all the time, the limousine gliding by and they're on their way to a prom or their way from the prom and you know that they're high schoolers. But under your amendment, if the driver does check and finds that someone is under age, what then? I mean, are they ejected, the individuals under age, or is drinking by anyone on the limousine banned at that time? [LB281]

Floor Debate
February 28, 2011

SENATOR HOWARD: You know, Senator Nelson, I think you hit the nail on the head, basically. This amendment doesn't address that and I don't have an answer for you on that. What this amendment does is, or tries to address, is that we don't have an unintended consequence from Senator Karpisek's bill. You and I both know high school students are a pretty smart group and I don't want to see a situation where...because we haven't addressed this in particular, that they do regard it as a loophole in the law. Like I say, I don't have an answer to the "what next" part of it, but I think that there is an issue and I'm glad to have the conversation to try to address it. [LB281]

SENATOR NELSON: Are you thinking that the fact that if we do pass this amendment, and the knowledge on the part of the students or the young people, if they do know what the law is, would just cause them to keep people or students that are 18 or under just off of the limousine? [LB281]

SENATOR HOWARD: I wouldn't see that happening. It's, I'm sure, a matter of cost. [LB281]

SENATOR NELSON: All right. Well, I just have some reservations about putting something in that we really can't enforce or is going to be difficult to understand. So I thank you for your answers to my question. [LB281]

SENATOR HOWARD: Thank you. [LB281]

SENATOR NELSON: Thank you, Mr. President. [LB281]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Dubas, you are recognized. [LB281]

SENATOR DUBAS: Thank you, Mr. President. Would Senator Karpisek yield to a question, please? [LB281]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB281]

SENATOR KARPISEK: Yes, I will. [LB281]

SENATOR DUBAS: Thank you, Senator Karpisek. I'm trying to pull up the previous discussion that we had on this bill and I'm not doing a very good job, so we, very well, could have discussed this the first time around. But in regards to underage...in regards to minors. Okay, if a limousine driver gets pulled over for some reason and there are underage drinkers in the vehicle, is the driver liable for that? Is the company liable? This kind of goes to the question that Senator Nelson was just talking about right now. Did we talk about that before? [LB281]

Floor Debate
February 28, 2011

SENATOR KARPISEK: The way I understand it, the driver would not be the one that would be ticketed, but the minors that are in possession would be, or if there would be someone of age in there, then they would be ticketed with procuring. So again, it goes back to, if it was in a house, there was a house party or if you're going down the road and have an open container...say, it's a house party, the police come there, they ticket the people who are underage, and they would also ticket the people who are the procurers. [LB281]

SENATOR DUBAS: I thought we had had this discussion before but I just couldn't remember it. Thank you very much, Senator Karpisek. [LB281]

SENATOR KARPISEK: Thank you. [LB281]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Karpisek, you're recognized. [LB281]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Senator Dubas asked me the questions that I was going to bring up, but I think this goes to an enforcement issue. There...I did have legal counsel find out that you have to be 18 for a binding contract. I was hoping that maybe it would be higher for that and then it would kind of be a moot point. But it is an enforcement problem. If it's a problem, an issue, I guess I should call it rather than a problem, but if they would be pulled over, a policeman, someone sees a group of high school students getting in a limo with alcohol or getting out of a limo and obviously have been drinking, you would contact the police just as you would if you saw someone with an open container going down the road, or if you see someone who is swerving and seems to be under the influence. I think it goes to the same point. And again, I absolutely understand what Senator Howard is trying to get at here. The issue is, this is happening right now. People are getting in buses, chartered buses and limousines, and having alcohol in them. It's illegal, but it's happening, whether they're of age or not. So this, at least, makes the people who are of legal age not be breaking the law. We could change this to say that the alcohol would have to be provided by the limo company or the bus company. Then we would have the talk about carding people. However, I really don't like to go that way because then I feel that the companies will be able to charge whatever rate they want for the alcohol. It gets them into a license situation that I think would just cause kind of a nightmare with the Liquor Control Commission on who is licensed, who is not. If you have one limo company that is, one that isn't, I think that that would really make it even harder to figure this whole thing out. So again, I do understand Senator Howard's issues. I will...we will look at them still before Final Reading. I don't know how else to get at this other than, it's happening now. This is no different than if it was in a house or on a street or anywhere else. So for that reason, I will have to not support AM409. Thank you, Mr. President. [LB281]

Floor Debate
February 28, 2011

SENATOR GLOOR: Thank you, Senator Karpisek. There are no additional senators wishing to be recognized. Senator Howard, you are recognized to close on AM409. [LB281]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Again I had wanted to bring this to the floor for discussion purposes. I think that we're all aware, we've all had the experience of dealing with unintended consequences in bills. I think we've...there's an issue here. And thank you, Senator Karpisek, for certainly being aware of that and acknowledging that. But there's an issue here regarding underage drinkers that could come back and be an issue we have to deal with in the future. So I appreciate your support for this amendment. Let's see if there's any interest in it. Thank you. [LB281]

SENATOR GLOOR: Thank you, Senator Howard. Members, the question is, shall the amendment to LB281 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Howard, for what purpose do you rise? [LB281]

SENATOR HOWARD: I hate to do this to you so early in the morning but I'll request a call of the house. [LB281]

SENATOR GLOOR: Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye. All those opposed vote nay. Record, Mr. Clerk. [LB281]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB281]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Avery, Pankonin, Lathrop, Cornett, Campbell, please return to the Chamber. Senator Lautenbaugh, please return to the Chamber. Senator Howard, how do you wish to proceed? [LB281]

SENATOR HOWARD: Call-in vote is fine. [LB281]

CLERK: Senator Nordquist voting yes. Senator Mello voting yes. Senator Avery voting yes. Senator Cook voting yes. Senator Carlson voting yes. Senator Nelson voting no. Senator Flood voting no. [LB281]

SENATOR GLOOR: Senator Howard, I would recommend a roll call vote. [LB281]

SENATOR HOWARD: Thank you, Mr. President. I'll request a roll call vote. [LB281]

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

Floor Debate
February 28, 2011

CLERK: (Roll call vote taken, Legislative Journal page 661.) 19 ayes, 25 nays, Mr. President, on the amendment. [LB281]

SENATOR GLOOR: The amendment fails. [LB281]

CLERK: At this time, Mr. President, I have nothing further on the bill. [LB281]

SENATOR GLOOR: Senator Larson. The call is raised. Senator Larson. [LB281]

SENATOR LARSON: Mr. President, I move that LB281 be advanced to E&R for engrossing. [LB281]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those opposed say nay. LB281 is advanced. Mr. Clerk. [LB281]

CLERK: LB314, Senator, I have no amendments to the bill. [LB314]

SENATOR LARSON: Mr. President, I move that LB314 be advanced to E&R for engrossing. [LB314]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB314 is advanced. Mr. Clerk. [LB314]

CLERK: LB164, Senator, I have no amendments to the bill. [LB164]

SENATOR LARSON: Mr. President, I move that LB164 be advanced to E&R for engrossing. [LB164]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB164 is advanced. Mr. Clerk. [LB164]

CLERK: LB257, Senator, does have Enrollment and Review amendments. (ER35, Legislative Journal page 622.) [LB257]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB257 be adopted. [LB257]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB164. All those in favor say aye. Or excuse me, LB257. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB257]

CLERK: I have nothing further on LB257, Senator. [LB257]

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

Floor Debate
February 28, 2011

SENATOR LARSON: Mr. President, I move that LB257 be advanced to E&R for engrossing. [LB257]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB257 is advanced. Mr. Clerk. [LB257]

CLERK: LB210, Senator, I have no amendments to the bill. [LB210]

SENATOR GLOOR: Senator Larson. [LB210]

SENATOR LARSON: Mr. President, I move that LB210 be advanced to E&R for engrossing. [LB210]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB210 is advanced. Mr. Clerk. [LB210]

CLERK: LB471, no E&R. Senator Mello would move to amend, AM565. (Legislative Journal pages 661-663.) [LB471]

SENATOR GLOOR: Senator Mello, you are recognized to open on LB471. [LB471]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM565 would amend the provisions of LB57 as amended by the Urban Affairs Committee into LB471. LB57 is one of two bills that I introduced this past session as a result of LR469 interim study before the Urban Affairs Committee dealing with various economic development tools available to municipalities. The Local Option Municipal Economic Development Act, commonly referred to as LB840, authorizes cities and villages to collect and appropriate local sales tax dollars and property tax dollars for economic development purposes after voter approval. More than 50 Nebraska communities have voted to create LB840 programs since 1991 and these programs have been highly successful, especially in smaller communities. AM565 seeks to modernize the LB840 statutes by changing two current restrictions on the use of LB840 funds. First, the bill would redefine qualifying business to allow cities with populations over 10,000 to use LB840 funds for retail development. This restriction currently prevents the cities of Omaha and Lincoln as well as nearly half of our first-class cities from using this economic development tool on retail projects. Second, AM565 would modify the strict dollar caps that currently limits the city's ability to finance multiple projects using LB840 funds. These caps are currently set at \$3 million annually for a city of the metropolitan or primary class, \$2 million annually for a city of the first class, and \$1 million annually for a city of the second class or village. While it is unlikely that a smaller city or village will approach the \$1 million threshold, at least one first-class city is regularly up to the \$2 million cap each year. Both, the only metropolitan class city, Omaha, as well as the

Floor Debate
February 28, 2011

only primary class city, Lincoln, do not currently have LB840 programs, and increasing the \$3 million limit would make this a useful financing tool, a more attractive option to both of these cities. AM565 would increase all the caps by \$2 million each. AM565 would not eliminate all the current statutory restrictions on LB840 funds. Cities would still only be able to appropriate funds up to the total amount approved by voters. And while there would be a higher dollar limitations, cities would still not be able to exceed their four-tenths of 1 percent of their taxable valuation in annual appropriations to their LB840 program. With that, I'd be happy to take any questions, Mr. President. [LB471 LB57]

SENATOR GLOOR: Thank you, Senator Mello. Moving to discussion, Senator McGill, you're recognized. [LB471]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I rise in support of AM565. This was Senator Mello's bill that was originally LB57. We amended it in committee and advanced it out a week or two ago. We did make some changes to the bill. Originally, Senator Mello's language said that he would remove all caps from the eligible funds, and we decided it would be best to keep caps in place for now, maybe revisit this issue in a year or two to see how cities, especially Papillion, are doing in terms of reaching that cap once again. The cap is below what would be eligible for them to use still, so they could potentially hit a cap and still have funding they'd like to be able to use. We feel it was best to just put a new cap in that was a little higher, see how the projects go, see what kind of growth that does come along with it, and then revisit it in a few years, and see if there is a need to take caps off entirely. I urge your support of this amendment. Thank you, Mr. President. [LB471 LB57]

SENATOR GLOOR: Thank you, Senator McGill. Senator Karpisek, you're recognized. [LB471]

SENATOR KARPISEK: Thank you, Mr. President. Would Senator Mello yield to questions, please? [LB471]

SENATOR GLOOR: Senator Mello, would you yield? [LB471]

SENATOR MELLO: Yes, Mr. President. [LB471]

SENATOR KARPISEK: Thank you, Senator Mello. Senator Mello, does...would this have any effect on the smaller communities at all? [LB471]

SENATOR MELLO: Senator Karpisek, this would provide some of our smaller cities and municipalities, primarily the first-class cities and second-class cities, a higher threshold in regards to their ability to finance projects. Currently, right now, they're at a \$1 million and \$2 million threshold and this would increase both by \$2 million. [LB471]

Floor Debate
February 28, 2011

SENATOR KARPISEK: But this isn't like a state fund where people go to get the money. It's each individual community with their own LB840 funds, correct? [LB471]

SENATOR MELLO: You are correct, Senator Karpisek. It's a voter-approved process to initiate a LB840 program and any changes to the LB840 program after adopted, even with the AM565 to LB471, would require a voter approval. [LB471]

SENATOR KARPISEK: And that's...I was just going to point out that LB471 does change a couple of ways that cities can raise money for the LB840 funds, but those would have to even be revoted on by the vote of the people if they already have LB840 funds in place. And is that how you understand that and you support that also? [LB471]

SENATOR MELLO: That is...Senator Karpisek, you're correct. That's my understanding of both LB471, AM565, which is LB57, and I would agree with both concepts. [LB471 LB57]

SENATOR KARPISEK: Okay. Thank you, Senator Mello. I just want to make sure that the body understands that this does not harm any smaller communities by taking money or making it harder for them to get the money. It just increases the cap that communities could, in fact, put into their LB840 funds, correct? [LB471]

SENATOR MELLO: You are correct, Senator Karpisek. In no way does AM565 hurt local communities or smaller communities of the second- or first-class designation. It only provides them more flexibility to utilize their LB840 program. [LB471]

SENATOR KARPISEK: Thank you, Senator Mello. And I will support AM565. I think it does help our communities, especially right now when they're facing budget shortfalls to try to bring in some more money for local economic development. Thank you, Mr. President. [LB471]

SENATOR GLOOR: Thank you, Senator Karpisek. The Chair recognizes Senator Fulton. [LB471]

SENATOR FULTON: Thank you, Mr. President. Would Senator Mello yield to a question? [LB471]

SENATOR GLOOR: Senator Mello, would you yield? [LB471]

SENATOR MELLO: Yes. [LB471]

SENATOR FULTON: Senator, I'm not too familiar with this program. I have some familiarity with it. I've got a...want to ask you some questions, I guess, on your AM565,

Floor Debate
February 28, 2011

though. The...let's see, I think it's...I'm looking on my gadget here, so I think it's page 3 of your amendment and start in line 14. Are you with me? [LB471]

SENATOR MELLO: Yes. [LB471]

SENATOR FULTON: What was the...so we're changing the threshold from \$3 million to \$5 million for cities of the metropolitan and primary class. Correct? Are we on the same page here? [LB471]

SENATOR MELLO: You are correct. [LB471]

SENATOR FULTON: Okay. What is the...what was the original rationale? I mean, why was it a \$3 million in the first place? [LB471]

SENATOR MELLO: You know, Senator Fulton, in all honesty, I think it was an arbitrary number that when they created LB840, they set, I think, a little bit lower thresholds with the...without the knowledge of knowing the success that communities would have utilizing LB840, and they set the cities of the metropolitan and primary class at \$3 million which, because of that low dollar amount or lower dollar limitation, neither one of those municipalities have yet to be able to create a program. [LB471]

SENATOR FULTON: Okay. So that is...and that's fine. There has to be a number chosen somewhere and so it sounds like \$3 million was the chosen number. We're going to be increasing that to \$5 million. Does this all...again my unfamiliarity with the LB840 process, this is all subject to a vote of the people, correct? [LB471]

SENATOR MELLO: What's that Senator Fulton? I'm sorry. [LB471]

SENATOR FULTON: This...if we were to change the threshold from \$3 million to \$5 million, it doesn't change anything with respect to the people expressing themselves through a vote. [LB471]

SENATOR MELLO: No. It purely changes the dollar amount on the current cap that municipalities can go up to to utilize the LB840 program. And with the extension, or I would say the raising of the cap, if municipalities are at their current cap right now and they choose to go over the cap or go up to this new cap, that would still also require a vote of the people to do that. [LB471]

SENATOR FULTON: Now why would a...I guess, I'm trying to follow why we're choosing \$5 million. And just to let you know, I don't have any burning opposition to this amendment, but I'm trying...we're putting forward something in the statute, I'm trying to figure out the rationale as to why. So \$3 million was a chosen number. It was a number chosen out of prudence and so that means that there was some...there's a lower

Floor Debate
February 28, 2011

number was not desirable to some, a higher number was not desirable to another. So we're going to choose \$5 million. Why wouldn't we make it \$10 million? [LB471]

SENATOR MELLO: Senator Fulton, in the spirit of cooperation, LB57, which is AM565, originally removed the caps, all caps, because there were two other safeguards currently put in place under LB840 regarding the four-tenths of 1 percent of all property valuation that a city can go up to to utilize funds for LB840. To some extent, in conversations with the committee, the Urban Affairs Committee and committee members, it was expressed that it might be a better approach to take this route, which is AM565, which simply increases the limits. It doesn't eliminate them, so to speak, and we will be revisit the issue in the future if more municipalities continue to hit that limitation. [LB471 LB57]

SENATOR GLOOR: One minute. [LB471]

SENATOR FULTON: Can you express why...I guess, why is there any...what would be the argument given against eliminating any caps? So I'm trying to find out what it is that we're making a decision against. If someone were to come in and say that that \$5 million ought to be \$10 million, what's the argument against that? I guess, what danger is posed to the public, if indeed they get to vote on it anyway, where is the concern here? Why would we not want to make it, you know, \$10 million or higher? [LB471]

SENATOR MELLO: Senator Fulton, I think that's a very valid question and I think it might be worthwhile to talk...or redirect that question, I think, to Senator McGill, who was...who helped kind of negotiate this compromise on LB57. Obviously, my original intent was to eliminate all limitations and caps because there are other safeguards and limitations put in place in the program. But once again, I think in the spirit of cooperation of trying to find a common ground where we can modernize this program with the dollar limitations, I chose to the compromise and agree with the compromise put forward by the Urban Affairs Committee. [LB471 LB57]

SENATOR GLOOR: Time, Senators. [LB471]

SENATOR FULTON: Thank you. [LB471]

SENATOR GLOOR: (Visitors introduced.) Senator McGill, you're recognized. [LB471]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I'm going to try to attempt to answer Senator Fulton's question. Right now, I have a page making some copies to pass around that lists at least for the first-class cities their valuations and what's eligible for them to use under LB840. Right now, a city has to vote to allow LB840 to take place in their municipality and LB840 only applies to one-fourth of a percent of sales tax revenue. So many of them wouldn't even be able to hit \$10 million,

Floor Debate
February 28, 2011

for instance. In fact, we're raising...I've got the second-class cities in front of me, since the page took the first-class one, and while we're raising their ability to \$3 million and maybe that just because we chose to raise all of them by \$2 million since in the past it was just that \$1 million increment from three, two, to one, we went ahead and bumped them all up by two. But looking at the second-class city, there's only one...okay, one, two...two cities that even have \$1 million that would qualify, and those are Aurora and Gretna. Otherwise they're one...or four-tenths of a percent or below \$1 million that's even eligible under LB840. So their cap is much higher than it needs to be. However, when we were looking at Papillion, they have \$5.3 million that is eligible when you just look at the .4 percent of a...the sales tax. We decided not to...or to pick a number that was still below what they had eligible, which is \$5.3 million, and move them to \$4 million so we could see how that extra \$2 million would help with the thought of maybe removing the cap in the future so they could utilize all \$5.3 million that they're using. So this was something that we worked out. Senator Schumacher had some concerns about just totally removing the cap, so we felt that to put some cap in place, but just raise it, would be fair to allow Papillion to continue to grow. If you want to change some of the smaller cities, the second-class cities, since it looks like at the most \$1 million is what they have eligible, most are a lot lower than that, then we could look at keeping that cap lower if you'd like. But we just felt this...to mirror the increments of the past would be a good thing. As far as I know, the caps that were put in place in the first place were rather arbitrary. So we're just trying to move them up a little bit to give cities a chance to use a little bit more of that funding where they do have that growth, and see how it goes, and then reevaluate the caps again in a year or two. Thank you, Mr. President. [LB471]

SENATOR GLOOR: Thank you, Senator McGill. Seeing no further senators wishing to speak, Senator Mello you're recognized to close on your amendment. [LB471]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I appreciate the on the mike dialogue with Senator Karpisek and Senator Fulton. And I thank Chairwoman McGill and members of the Urban Affairs Committee of working this piece of legislation over to a mutually agreeable compromise. AM565 simply changes the cap limitations for the LB840 program and provides a little bit more flexibility for our local economic development programs for all of our cities, not just our larger, but also our smaller cities across the state, and I urge the body to adopt AM565. Thank you. [LB471]

SENATOR GLOOR: Thank you, Senator Mello. Members, the question is, shall the amendment to LB471 be adopted? All those in favor vote aye. All those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB471]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB471]

SENATOR GLOOR: The amendment is adopted. [LB471]

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

Floor Debate
February 28, 2011

CLERK: I have nothing further on the bill, Senator Larson. [LB471]

SENATOR GLOOR: Senator Larson. [LB471]

SENATOR LARSON: Mr. President, I move that LB471 be advanced to E&R for engrossing. [LB471]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those opposed say nay. LB471 is advanced. Mr. Clerk. [LB471]

CLERK: LB159, Senator, I have Enrollment and Review amendments. (ER36, Legislative Journal page 628.) [LB159]

SENATOR GLOOR: Senator Larson. [LB159]

SENATOR LARSON: Mr. President, I move that LB159 be advanced to E&R for engrossing. [LB159]

CLERK: No, E&R amendments, Senator. [LB159]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB159 be adopted. [LB159]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB159. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB159]

CLERK: Senator Ashford, or Senator Schumacher, excuse me, would move to amend with AM470. (AM470, Legislative Journal page 640.) [LB159]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on your amendment. [LB159]

SENATOR SCHUMACHER: Thank you, Mr. President. This is a rather commonsense amendment to the particular proposal that we have. It basically amends language which now reads in substance, a municipality and a county shall have the power to finance projects for use as a nonprofit enterprise. Such projects may be located within, without, partially within or partially without of the municipality or county. This particular amendment then goes on to add the language that provided for any project located without the municipality or county, such municipality or county shall find that a reasonable relationship exists between such municipality or county and the project borrower or other party or parties to the financing agreement. This is principally

Floor Debate
February 28, 2011

designed to eliminate forum shopping so that the Scotts Bluff County girls club could not go solicit the city of, or village of Cornlea for its endorsement on a bond. I think this is reasonably important that there be some skin in the game on the part of the issuing municipalities, some relationship between the charity who wants to use its trademark in order to borrow money, and the municipality that is letting them use its trademark. In the existing bill, you actually probably could, if you wanted to be a small town, make some money, by letting charities use your trademark. The reason for this entire legislation is to basically make it easy for charities to borrow money at a lesser interest rate and thus, at the expense of the federal government because the lesser comes from the fact that people don't have to pay taxes on the interest like they do if they were not being borrowed under the auspices of a city or a county. It adds additional risk though, because when you borrow money under the trademark or of a city or a county, under this legislation in totality, you, in essence, are relying upon the good faith and the skill and the expertise of the banking and bonding and underwriting industry not to screw up and let money to a charity who perhaps is unstable or could become unstable or who could get sloppy down the road after the bond is issued. So what I'm trying to do with this particular legislation, since I'm generally nervous about this bill and giving our city and county trademarks to charities to issue bonds under their trademark, is to say, gosh, at least let's have some nexus. It just doesn't make sense for us to be in a position where we're having a charity with no nexus, no connection to a community to be using that trademark, and trying to limit a little forum shopping and try to protect the security and legitimacy of the securities that are being issued. That's all, Mr. President. [LB159]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator McGill, you're recognized. [LB159]

SENATOR MCGILL: Mr. President and members of the body, I simply rise in support of AM470. This was an issue that we discussed in committee. I know, on General File, I talked about how we had been working with Senator Schumacher to make sure all of his concerns, and very good valid concerns, were being met. I can't speak for all of the committee but I speak for myself as the Chair saying that this is a good amendment we worked out, and I hope that we can get everyone's support. Thank you, Mr. President. [LB159]

SENATOR GLOOR: Thank you, Senator McGill. Senator Harms, you're recognized. [LB159]

SENATOR HARMS: Thank you, Mr. President. Senator Schumacher, would you yield, please? [LB159]

SENATOR GLOOR: Senator Schumacher, will you yield? [LB159]

Floor Debate
February 28, 2011

SENATOR SCHUMACHER: Yes. [LB159]

SENATOR HARMS: In your amendment, on line 3, you talk about you need to find a reasonable relationship. That causes me a little bit of a problem because I don't know what "reasonable" is. What's reasonable for you is not going to be reasonable for me. How do you define that and how can we actually defend this in law? What does reasonable mean here? [LB159]

SENATOR SCHUMACHER: I think when you take it to the next level and try to subdivide the word reasonable, we probably would need a much more involved amendment and much more involved process than is contemplated, at least at this stage of the bill. Reasonable, the intent of this is to at least put...eliminate the ridiculous situation of a city with no connection letting its trademark be used for a charity in a remote location, which could happen because the city could actually make money by being the front for charities if they wanted to. This is not in the existing legislation. In fact, it expressly says you don't have to have any connection in the existing legislation. [LB159]

SENATOR HARMS: Well, the point I'm trying to make is, I don't know how to define reasonable. Regardless of what we say, what I feel and what you feel may be two different things and I think this is a...with the word "reasonable" bothers me just a little bit in this amendment. I don't know colleagues or anybody else's thoughts are, but I don't know how you can defend that or you can define it unless you actually say what reasonable means. [LB159]

SENATOR SCHUMACHER: I think in several...in court cases and in a lot of legislation and a lot of laws, the term "reasonable" applies. This, at least, puts a focus and makes that local body say, okay, what connection does this particular charity have with us. And can this whole process become problematic? You bet. A lot more problematic, but at least...with not an effort to at least beginning to address this. Certainly, very problematic if we aren't requiring at least some connection or at least some effort to make a connection. [LB159]

SENATOR HARMS: Well, thank you, Senator. Thank you, Mr. President. [LB159]

SENATOR GLOOR: Thank you, Senator Harms. There are no further senators wishing to be recognized, Senator Schumacher, you are recognized to close on your amendment. Senator Schumacher waives. Members, the question is, shall the amendment to LB159 be adopted? All those in favor vote aye. All those opposed vote nay. Have you all voted? There has been a request to place the house under call. The question is, shall the house...record, Mr. Clerk. [LB159]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Schumacher's

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

Floor Debate
February 28, 2011

amendment. [LB159]

SENATOR GLOOR: The amendment is adopted. [LB159]

CLERK: I have nothing further on the bill, Mr. President. [LB159]

SENATOR GLOOR: Senator Larson. [LB159]

SENATOR LARSON: Mr. President, I move that LB159 be advanced to E&R for engrossing. [LB159]

SENATOR GLOOR: You have heard the motion. Those in favor say aye. All those opposed say nay. LB159 is advanced. Mr. Clerk. [LB159]

CLERK: LB191, Senator, I have E&R amendments, first of all. (ER37, Legislative Journal page 636.) [LB191]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB191 be adopted. [LB191]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB191. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB191]

CLERK: I have nothing further on LB191, Senator. [LB191]

SENATOR GLOOR: Senator Larson. [LB191]

SENATOR LARSON: Mr. President, I move that LB191 be advanced to E&R for engrossing. [LB191]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those opposed say nay. LB191 is advanced. Mr. Clerk. We move to Final Reading. Members, I would request you return to your seats for Final Reading. Mr. Clerk. [LB191]

CLERK: Mr. President, with respect to LB474, Senator Nordquist would move to return the bill for a specific amendment, AM417. (AM417, Legislative Journal page 623.) [LB474]

SENATOR GLOOR: Senator Nordquist, you are recognized to open. [LB474]

SENATOR NORDQUIST: Thank you, Mr. President and members. I make this motion to return LB474 to Select File for a specific amendment. This bill redirects the pension

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

Floor Debate
February 28, 2011

fund reports from political subdivisions to be sent to the Auditor's Office rather than the Retirement Systems Committee. We...currently, the Auditor has to prepare a written report on every financial report it receives. We amended the bill on General File with committee amendment which would have exempted these reports from that requirement. This amendment is simply a suggestion from the Revisor's Office. They had constitutional concerns about the way it was drafted, that we amended the bill by implication rather than the specific statute. So this just corrects the concern from the Revisor's Office. I'd appreciate your support of the motion and the amendment. Thank you. [LB474]

SENATOR GLOOR: There are no senators wishing to be recognized. Senator Nordquist waives closing. Members, the question is, shall LB474 be returned to Select File for amending? All in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB474]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB474]

SENATOR GLOOR: The motion passes. [LB474]

CLERK: Senator, AM417. [LB474]

SENATOR GLOOR: Senator Nordquist, you're recognized to open. [LB474]

SENATOR NORDQUIST: Thank you again, Mr. President. This amendment is simply a correction from the Revisor's Office and I'd appreciate your support of the amendment. [LB474]

SENATOR GLOOR: Seeing no senators wishing to speak, Senator Nordquist, you're recognized to close. Senator Nordquist waives. Members, the question is, shall the amendment to LB474 be adopted? All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB474]

CLERK: 44 ayes, 0 nays, Mr. President, on adoption of the Select File amendment. [LB474]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. Senator Larson, you're recognized. [LB474]

SENATOR LARSON: Mr. President, I move that LB474 be advanced to E&R for engrossing. [LB474]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB474 is advanced. Mr. Clerk, items for the Journal. [LB474]

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

Floor Debate
February 28, 2011

CLERK: Thank you, Mr. President. Priority bill designation, Senator Cornett, LB642. Hearing notice of Transportation and Telecommunications. Revenue Committee reports LB389 to General File with amendments, and LB642, General File with amendments. Executive Board reports LR47 back to the Legislature for further consideration. New resolutions: Senator Carlson, LR86; Senator Utter, LR87, both will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 664-667.) [LB642 LB389 LR47 LR86 LR87]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the next item on the agenda, General File, LB165. [LB165]

CLERK: LB165, Mr. President. It's a bill by Senator Fischer relating to the Nebraska Municipal Telecommunications Service Occupation Tax Act. The bill has been discussed on both February 24 and 25. Committee amendments were offered by the Revenue Committee. When the Legislature left the issue, Senator Avery had pending AM527 as an amendment to the committee amendments to LB165. (Legislative Journal page 653.) [LB165]

SPEAKER FLOOD: Senator Fischer, you are granted 2 minutes to advise the Legislature of the content of your bill. [LB165]

SENATOR FISCHER: Thank you very much, Mr. President and members of the body. As you remember from our discussion last week, the green copy of the bill is not in effect, but with the Revenue Committee amendment, AM316, the following changes were made to the bill: It defines telecommunications service; it caps the telecommunications occupation tax at 6.25 percent; if a municipality wants to override the cap, they have to put the issue to a vote of the people; the municipality can only request to increase the rate by .25 on every override. That's the basis for the committee amendment. We had also discussed on Friday, members of the Revenue Committee with members of the Lincoln delegation, specifically with Senator Avery, about working on a compromise. Hopefully, we would come before the body today with that compromise. We do have something worked out and I will let Senator Avery and Senator Cornett speak to that. Thank you, Mr. President. [LB165]

SPEAKER FLOOD: Thank you, Senator Cornett (sic). Senator Avery, I believe the committee amendment has been spoken to by the introducer of the bill briefly in her opening. You are granted 1 minute to update the Legislature on AM527 to AM316. [LB165]

SENATOR AVERY: Thank you, Mr. President. You will recall that what I was trying to

Floor Debate
February 28, 2011

do was to preserve as much of Lincoln's occupation tax that is currently in ordinance as I could with the amendment AM527. There have been objections raised to the inclusion of equipment in the occupation tax that Lincoln levies, so I was taking that out. Other objections were raised about the broadening of the definition of services, so we've spent a good deal of time over the weekend talking about that and how we could narrow that definition. After getting to the floor today, we met with Senator Cornett and we talked with Senator Fischer and we now have an agreement that will be reflected in an amendment to be filed by Senator Cornett when she is ready. [LB165]

SPEAKER FLOOD: Time, Senator. Thank you very much. Senator Cornett, as we turn to discussion on AM527 to AM316 under LB165, you are recognized. [LB165]

SENATOR CORNETT: Thank you, Speaker Flood and members of the body. First of all, I would very much like to thank everyone from the Lincoln delegation and Senator Fischer for all of their hard work on this bill. We were able to come to a compromise this morning, fully recognizing what limiting the occupation tax in any way can do to a municipality. We took...we looked at the occupation tax in regards to the wheel tax, which we heard earlier, and determined as a matter of policy that certain taxation was not favorable, and we eliminated taxing outside of a municipal boundary and we allowed Omaha the ability to transition. And basically, what this amendment will do is treat Lincoln the same as we treated Omaha, since we are taking something away from them and allowing them to transition over a period of a year and a half, so it will be one complete budget cycle. We are going to sunset it the same as we did in LB81, January 1, 2013. I'm waiting for a copy of the amendment now and I will file that as soon as I receive that. And I appreciate everyone's cooperation and I can't tell you how helpful everyone has been and how helpful Mayor Beutler has been. Thank you very much. [LB165 LB81]

SPEAKER FLOOD: Thank you, Senator Cornett. Senator Avery. [LB165]

SENATOR AVERY: Thank you, Mr. President. I request that AM527 and AM556 be withdrawn in order to move directly to a discussion of Senator Cornett's bill or her amendment that is next in the queue. Thank you. [LB165]

SPEAKER FLOOD: Without objection, AM527 and AM556 are withdrawn. You may continue. You have 4 minutes 39 seconds. [LB165]

SENATOR AVERY: As has already been said, the Lincoln delegation has gotten together with Senator Cornett and Senator Fischer and we have reached an agreement and that agreement is reflected in the amendment that... [LB165]

SPEAKER FLOOD: (Gavel) [LB165]

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

Floor Debate
February 28, 2011

SENATOR AVERY: ...has been filed or soon will be filed. What this does is it allows the occupation tax that is currently in place in Lincoln to stay in place until 2013. That will give the city plenty of time to adjust to absorb the shock of losing that source of revenue. Let me also say something about the nature of what we've been doing. It was what I was pleading for on Friday and that is that we understand the nature of a compromise. It is important in this body that we come together and find common ground. That's what we have done. This is not wholly satisfactory to Lincoln, neither is it wholly satisfactory to all the members of the Lincoln delegation, but that's the nature of compromise. We are all a bit unhappy but none of us are completely unhappy. I don't think that Senator Cornett and Senator Fischer are completely happy with this either, but that is what we are about here--finding some common ground, giving up something to get something. That is the way we do business. If we don't learn to do that or if we can't do that, then it seems to me that it's going to be difficult for us to get through this session. We have a lot of tough issues facing us and we're going to need to be willing and able to compromise in order to get those things done. So with that, Mr. President, I would ask that we move to AM316 and I would urge your support. I'm sorry, let me correct that, AM316 has already been filed. I don't know what the number is on the amendment that Senator Cornett has. [LB165]

SPEAKER FLOOD: Thank you, Senator Avery. Mr. Clerk. [LB165]

ASSISTANT CLERK: Mr. President, Senator Cornett would offer AM503. (Legislative Journal pages 668-670.) [LB165]

SPEAKER FLOOD: Senator Cornett, you are recognized to open on AM503 to AM316. [LB165]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. Again, I briefly described this amendment earlier. It's very simple. It follows what the amendment, AM316, the Revenue Committee put forward, but what it does is it allows Lincoln the time to transition and to budget for the removal of the taxation on equipment. I urge the body to support AM503 as an amendment to AM316. It is a compromise that was worked out with the city of Lincoln and the Lincoln delegation and Senator Fischer. And thank you for your time this morning. [LB165]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on AM503. Senator Coash, you are recognized. [LB165]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. I appreciate all the work that's gone into all of this and I think, as Senator Avery mentioned, that we've arrived at a compromise and I'll certainly ask the body to adopt AM503 and the underlying bill. What we've got here, colleagues, is a situation where we've got our local municipalities addicted to money and what this does is it, to use the

Floor Debate
February 28, 2011

analogy of a drug addiction, AM503 is kind of a rehab, so we're going to allow them to wean off of this money and decide how else...what other drug that they're going to latch on to so that we can move forward as a city that has depended on this money and we can't depend on it anymore, and I'm going to support that. But we need to give the...we need to give the city some time. And I appreciate very much the work of the Revenue Committee in working with us on this bill and will encourage the body to adopt the amendments and underlying bill. Thank you, Mr. President. [LB165]

SPEAKER FLOOD: Thank you, Senator Coash. Senator McGill, you're recognized. [LB165]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I simply rise in support as well of AM503. I'm very happy with the outcome we've had today. It mirrors what we did with Omaha earlier this session. And I look forward to continuing discussions from now until the end on various forms of taxes and the limitations we're putting on them this session. Thank you, Mr. President. [LB165]

SPEAKER FLOOD: Thank you, Senator McGill. Senator Conrad, you are recognized. [LB165]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I would like to echo some of the sentiments already addressed thus far by Senator Cornett and others who have spoken on the topic. Indeed, this amendment does represent a compromise towards a pathway forward for this body on what has been a very difficult issue to deal with. But I do want to make clear that just because we have fostered a political compromise in the present sense, there are real policy considerations that remain to be addressed and I am hopeful that the local municipalities, the League of Municipalities, members of the Legislature, particularly on the Revenue Committee that have had an opportunity to look at these various issues surrounding occupation tax and otherwise, will continue to talk and continue to dialogue once this bill continues to move through our process because I think that some of the concerns expressed during debate last week indeed do remain. I am supporting this amendment and I think it is an important pathway forward, but it doesn't truly address some of the serious and significant policy considerations that underlie this issue. I think that we can find common ground, indeed, on trying to provide parameters for the local tax burden, but we also must recognize that our partners in local government do need flexibility in order to achieve their many important obligations. And I know we will have an opportunity to look at other proposals related to local governance and impact later in this session and I'm hopeful we'll be able to increase the amount of tools and flexibility our good partners in local government need to have to carry out their important work. And please note that we have been able to secure a political compromise on both LB81 and LB165, but I think it's important to remember, and I've said many, many times on this mike and continue to believe it in my heart of hearts, we are indeed a statewide economy and we

Floor Debate
February 28, 2011

all care very deeply as state senators about the welfare and well-being of our great state, but we have to be mindful of the fact that when we tie the hands or overburden two of our largest and most vibrant communities--Omaha and Lincoln--that has impacts for rural Nebraska. Conversely, when rural Nebraska is in need of assistance, I believe it is our duty, because of that shared economy and economic interest, to work with our colleagues from an urban perspective in order to find parity and equity so that our state can benefit as a whole and move forward. So I did just want to clarify the record that policy considerations do indeed remain, but this is in fact a political compromise that helps us to forge a pathway forward. Thank you, Mr. President. [LB165 LB81]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Conrad. Those wishing to speak: Senators Wallman and Campbell. Senator Wallman, you're recognized. [LB165]

SENATOR WALLMAN: Thank you, Mr. (sic) President, members of the body. Is this a good amendment? Probably it's a compromise but is it good? What are we doing to our cities? Telling them how to finance their business in here, and we take away money for healthcare issues and we dump more on them, whether it be schools or cities or municipalities. Is it good policy? I don't think so, but that's what we're doing. So is this a compromise we can live with? I suppose it has to be. But do we have the courage to change our tax structure in here? Probably not. Should we? Probably should. I always appreciate Senator Pahls's comments on sales tax, but we put limits on sales tax. We put limits on about everything in here. So I hope Lincoln can survive with this and vote as you wish. Thank you, Mr. President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Wallman. Senator Campbell. [LB165]

SENATOR CAMPBELL: Thank you, Madam President, and good morning, colleagues. I will be very brief. I support AM503 and particularly want to thank Senator Cornett and the Revenue Committee for keeping the conversations open with the delegation from Lincoln. It was a good discussion and I think this is a good amendment to where we are right now. I would have to say that I think we need to be particularly vigilant as we go ahead and look at occupation taxes and how they affect the cities and the composition of their revenue. Cities have property tax, they have occupation taxes, but they also have sales tax, and it would seem to me we need to keep in mind that total body of revenue as we take a look at occupation taxes. Thank you, Madam President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Campbell. Senator Cornett has waived closing on her amendment to the committee amendments. The question is, shall the amendment to the committee amendment to LB165 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB165]

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

Floor Debate
February 28, 2011

CLERK: 42 ayes, 0 nays, Madam President, on adoption of the amendment. [LB165]

SENATOR SULLIVAN: The amendment is adopted. We'll now go back to the Revenue Committee amendments. Senator Cornett, you are recognized to close on the committee amendment. [LB165]

SENATOR CORNETT: Thank you, Madam President, members of the body. I just want to clarify what the Revenue Committee amendment does is it sets the rate, maximum rate for an occupation tax on telecommunications, at 6.25 and it eliminates the tax on equipment. With the amendment, we allow the cities to transition until January 1, 2013. I urge the body to support AM316 and the underlying bill, LB165. And again, I thank all of the people involved in the compromise. [LB165]

SENATOR SULLIVAN: Thank you, Senator Cornett. The question is, shall the committee amendment to LB165 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB165]

CLERK: 42 ayes, 0 nays on the advancement of LB165... [LB165]

SENATOR SULLIVAN: The amendment is adopted. [LB165]

CLERK: ...or adoption of committee amendments. Excuse me. [LB165]

SENATOR SULLIVAN: Oh, excuse me. The amendments are adopted. We'll now proceed to the discussion of the advancement of LB165 to E&R Initial. The Chair recognizes Senator Conrad. [LB165]

SENATOR CONRAD: Thank you, Madam President. Colleagues, I did try to get my light on and I missed the vote a little bit on consideration of the committee amendment, but I did just want to clarify the record. I am supporting the bill and the compromise that has been forged. But one of my main policy concerns really is more of a, I guess, procedural issue that has been presented as a substantive issue as well as evidenced in the committee amendment. There's no question that the issue surrounding the caps related to occupation tax were fairly presented at the committee level, but I do have some reservations surrounding the definitional aspects contained in the committee amendment which I don't believe really had an opportunity for a full and fair debate at the committee level and, indeed, made a dramatic change from the bill as originally proposed, and those definitional issues should be the subject of a continuing dialogue, I think, at the state level and with our partners on the local level. So thank you, Madam President. [LB165]

SENATOR SULLIVAN: Thank you, Senator Conrad. Seeing no other senators wishing to speak, Senator Fischer, you are recognized to close on the advancement of LB165.

Floor Debate
February 28, 2011

[LB165]

SENATOR FISCHER: Thank you, Madam President and members. I, too, would like to thank everyone for their work on the bill. I would especially like to thank the Revenue Committee members who did work diligently on the committee amendment, who did discuss this bill, and it has been a policy discussion. This is my first year on Revenue and I have to say I am pleasantly surprised because the members on this committee, they are looking at broader issues, they are looking at policy, and I appreciate those discussions and I am enjoying my time serving on the committee. I would like to thank the Lincoln delegation for working on a compromise so that we can move this policy bill forward, and I would especially like to thank my staff and the staff of Revenue Committee for working hard to get these amendments put forward and to get information to the Revenue Committee. With that, I would urge you to advance LB165. Thank you. [LB165]

SENATOR SULLIVAN: Thank you, Senator Fischer. The question is the advancement of LB165 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB165]

CLERK: 44 ayes, 0 nays on the advancement. [LB165]

SENATOR SULLIVAN: The bill advances. Mr. Clerk, the next bill. [LB165]

CLERK: LB543. It's a bill by Senator Cook. (Read title.) Introduced on January 18 of this year, referred to the Health and Human Services Committee for public hearing, the bill was advanced to General File. I do have an amendment to the bill, Madam President. [LB543]

SENATOR SULLIVAN: Senator Cook, you are recognized to open on LB543. [LB543]

SENATOR COOK: Thank you, Madam President, and good morning, colleagues. I stand before you as the introducer of LB543, which advanced to General File by unanimous vote of the Health and Human Services Committee. I want to thank the committee for its support of the bill thus far. In these historically difficult economic times, we as policymakers must take a look for new ways to organize government. LB543 does just this. Here's what the bill does. LB543 requires that the Department of Health and Human Services create a plan for Nebraska to better share information about the Supplemental Nutrition Assistance Program, or SNAP, with potential applicants and current participants. Additionally, LB543 enables Nebraska to leverage existing funding with contributions from nonprofit agencies for the purpose of conducting outreach and application assistance activities for the Supplemental Nutrition Assistance Program. Nebraska should have an outreach program for nutrition assistance. Nebraska should allow nonprofits, who are willing to finance the outreach program, to contribute. LB543

Floor Debate
February 28, 2011

creates this policy. Again, LB543 enables Nebraska to leverage existing funding with contributions from nonprofit agencies for the purpose of conducting outreach and application assistance activities for the SNAP Program. This policy sets up an innovative, cost-neutral means to assist Nebraska families struggling with hunger. Currently, only 64 percent of Nebraskans eligible for SNAP benefits are taking advantage. This is an unfortunate reality. LB543 will result in better nutrition and lessen hunger for our most vulnerable constituents. Advancement of the bill will positively impact Nebraska in several ways. First, LB543 will enable public-private partnerships to promote SNAP benefits to individuals interested in the program. Currently, one in ten Nebraskans struggle with food insecurity. This means that one in ten Nebraskans do not know where their next meal is coming from. SNAP is our state's first line of defense against hunger. Connecting individuals in need of assistance to this program promotes the health and well-being of low-income families, the elderly, and people with disabilities. An additional benefit is that SNAP also has a positive impact on Nebraska's economy. Every \$1 of federally funded SNAP benefits results in \$1.79 put into the local economy. Second, the information and assistance activities under the proposed plan will contribute to the quality of applications submitted to the Department of Health and Human Services and to the applicant's understanding of the process. This promises to decrease processing time and burden on the agency. Third, LB543 can contribute to the success of ACCESSNebraska--our state's new model for processing public benefits using on-line applications, partnerships with community-based organizations, and call centers. The ACCESSNebraska initiative has developed relationships with community organizations to serve as application points for clients. Local offices have closed and decreased hours, and community-based organizations are stepping up and serving new roles in the dissemination of information about public benefits. This bill will help draw down federal resources to contribute to the success of these initiatives at both the state and nonprofit levels. Finally, this bill will contribute to the long-term sustainability of state and nonprofit efforts. The federal SNAP outreach option provides ongoing, uncapped matching funds for this work. Initiatives are already in place that would qualify for matching funds, and the Department of Health and Human Services may utilize a portion of the matching funds to cover administrative costs. Therefore, the resources needed to implement the plan are available. If such resources are unavailable, the bill does not require implementation of the plan. And with that, Madam President, I would urge the body to advance LB543 to Select File. Thank you. [LB543]

SENATOR SULLIVAN: Thank you, Senator Cook. There are no committee amendments. Mr. Clerk, are there other amendments? [LB543]

CLERK: Senator Nordquist would move to amend, AM540. (Legislative Journal pages 670-671.) [LB543]

SENATOR SULLIVAN: Thank you. Senator Nordquist, you're recognized to open on your amendment, AM540. [LB543]

Floor Debate
February 28, 2011

SENATOR NORDQUIST: Thank you, Madam President and members of the body. I introduced LB663, which is now AM540, to take advantage of an option made available under federal law which allows state eligibility workers to eliminate the asset test in the Supplemental Nutrition Assistance Program, thus, simplifying and streamlining the administration of the program within our Department of Health and Human Services. The USDA has been encouraging states to take advantage of this option to improve SNAP operations. Thirty-six states have eliminated the asset test entirely, including a significant number over the past year. Currently, there's a fairly in-depth screening process for eligibility for SNAP benefits. For households to be eligible for the program, DHHS staff has to evaluate a household's eligibility based on assets, incomes, deductions, employment requirements, and special rules for elderly or disabled. Under current limits, households may not have more than \$2,000 in countable resources, such as a bank account, or \$3,000 if at least one of the members is 60 or older or disabled. Certain resources are not counted but rules and regulations are very detailed as far as what is included and excluded in the determination of eligibility, so complicated in fact that the rules and regs covering eligibility determination for SNAP is 66 pages long. The administrative simplification in AM540 is particularly important at a time when we are implementing ACCESSNebraska and simultaneously proposing cuts to the Department of Health and Human Services FTEs, especially in the Economic and Family Support division which is responsible for making eligibility determinations. Under our LR542 report, it explained that budget cuts and...explains the budget cuts and explicitly states: Reducing staff in this budget will have an impact on the completion of the functions described above that were performed by staff in determining eligibility for economic assistance programs that include SNAP. We are taking the department's...at this time we are asking the department to do more with less. I think AM540 is an effort to provide them with tools that they need to do their job and maintain a high level of quality in determining benefits. While AM540 eliminates the asset test, it maintains the income eligibility limits, citizenship and residency requirements. Households will still have to be under 130 percent of poverty limits, which is about \$30,000 a year for a family of four. This amendment is...and the bill, which was LB663, is not about substantially expanding access to the program but, rather, about streamlining the administration of the program. The USDA, as I said, has been pushing states to do this. Their associate administrator of SNAP said recently that in times of rising caseloads and shrinking state budgets, expanded categorical eligibility can benefit states by simplifying policies, by reducing the amount of time states must devote to verifying resources, and by reducing errors. She also goes on to say we believe that increasing the number of states that implement broad-based, categorical eligibility will benefit families hurt by economic crisis, promote savings among low-income families, and simplify state policies. By passing AM540 we will be helping the department deliver food assistance benefits in a more efficient and effective manner, while we can at the same time bring more federal dollars into our economy and help struggling families put food on the table. I'd appreciate your support of AM540. [LB543 LB663]

Floor Debate
February 28, 2011

SENATOR SULLIVAN: Thank you, Senator Nordquist. Those wishing to speak: Harms, Campbell, and Wallman. Senator Harms. [LB543]

SENATOR HARMS: Madam President, colleagues. Senator Cook, would you yield, please? [LB543]

SENATOR SULLIVAN: Senator Cook, would you yield? [LB543]

SENATOR COOK: Absolutely. [LB543]

SENATOR HARMS: Senator Cook, I support your bill but I have a concern and that is on page 4, actually 11 through 17. How are you going to monitor this, because my experiences with Health and Human Services maybe just haven't always been the best? But you've given them some options to get out of this project, so how are you going to monitor that to make sure that they actually implement this? You talk about sufficient amount of funding from private or grant sources. What if they don't pursue that? How are you going to monitor it to determine whether or not this is actually being done? I have concerns about the fact that they may not do this, and if their caseload is even close to being too high, which I've already seen that's true in about every category you look at, they're not going to do this. So how are you going to put the strength behind this to force this to happen, because it is a good bill? But I don't know if you're going to get it done this way. [LB543]

SENATOR COOK: All right. Thank you very much, Senator Harms. In terms of forcing the agency, we've got the agency's support to follow through with the rules, once the rules and regs are promulgated. How that happens, I really...we didn't really delve into that in our committee analysis of the bill. What I would presume, and someone can correct me, is that the agency would follow through on the implementation in the same manner that they do with other public-private partnerships administered among other programs within the agency. [LB543]

SENATOR HARMS: I hate to say this but we've already had a number of experiences with Health and Human Services and promulgating rules and regulations, I mean there's legislation that we introduced seven years ago and they have never dealt with the promulgated rules and regulations, they've never made those adequate. And so my concern for you is, you've got a piece of legislation here that most likely nothing is going to be done with it. Unless we force their hand to make sure they do this, this will just be another bill that will pass by and they will not, I promise you, they will not do this. [LB543]

SENATOR COOK: Um-hum. All right. Well, my thought at this point is for us to perhaps work on an amendment that might strengthen the language in terms of enforcement or

Floor Debate
February 28, 2011

advance it at this point with Senator Nordquist's amendment and work on that enforcement piece between now and Select File. In response to your issue related to the agency's enforcement or follow-through with other bills and proposals and programs, there's nothing within this bill that would speak to those programs and enforcement of those. What I would offer is that we perhaps take some time to strengthen it. I do know that there are agencies at the ready who are already doing this sort of thing, so perhaps there's an opportunity for the agency to become encouraged by the agencies that are already poised to plug in their time and the ones that have already shown that they have done outreach for the program. [LB543]

SENATOR HARMS: Well, thank you, Senator Cook. I did...I brought up the other agencies that we have dealt with, I mean the Health and Human Services in regard to other legislation only to give you as an example. Okay. There's more than one that we have viewed through Performance Audit Committee that makes it very clear that not only there's seven years on one, five years on another. They just simply haven't done it and that's my point here. If you're going to want this encouraged to have done in a very good bill, you're going to have to force them to the table, period,... [LB543]

SENATOR COOK: All right. [LB543]

SENATOR HARMS: ...or you're not going to get it done. So I thank you for your views. I'd like to have Senator Nordquist yield, please. [LB543]

SENATOR SULLIVAN: Senator Nordquist, would you yield? And 1 minute remaining. [LB543]

SENATOR HARMS: Oh, thank you, Madam President. Senator Nordquist,... [LB543]

SENATOR NORDQUIST: Yeah. [LB543]

SENATOR HARMS: ...in regard to my concerns, I know you've been involved over the last four years with Health and Human Services. What has been your experience in regard to things like this, in regard to creating something that says they don't have to have...they don't have to implement the plan, only if they can find sufficient funding? Well, that's an out. [LB543]

SENATOR NORDQUIST: Yeah. [LB543]

SENATOR HARMS: And secondly, would they even promulgate the rules if they do it? My experience has been no. [LB543]

SENATOR NORDQUIST: Yeah, we've certainly had those discussions and I think you're right that a lot of times they're not as responsive as they should be and I think we

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

Floor Debate
February 28, 2011

need to look at ways to strengthen the Legislature's oversight on their promulgation of rules and regulations. [LB543]

SENATOR HARMS: Well, in fact, we are doing that in the Performance Audit Committee. That will be instituted next year; we'll bring it forward. But my concerns here are...simply is the fact that I don't think this will work. I'm sorry. I think it's a great bill. [LB543]

SENATOR SULLIVAN: Time, Senator. [LB543]

SENATOR HARMS: Oh, thank you, Madam President. [LB543]

SENATOR SULLIVAN: Mr. Clerk, items for the record?

CLERK: Senator Pankonin has selected LB421 as his priority bill for this session. Executive Board reports LB604 indefinitely postponed; that report signed by Senator Wightman. Revenue Committee reports LB370 to General File. Senator Howard would like to add her name to LB463. (Legislative Journal page 671.) [LB421 LB604 LB370 LB463]

Madam President, a priority motion: Senator Wallman would move to adjourn the Legislature until Tuesday, March 1, at 9:00 a.m.

SENATOR SULLIVAN: You've heard the motion. The question is, shall the body adjourn until 9:00 a.m. tomorrow morning, Tuesday, March 1? All in favor signify by saying aye. Opposed? We are adjourned.