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Floor Debate
April 12, 2011

[LB35 LB50 LB70 LB81 LB84 LB88 LB95 LB112 LB156 LB190 LB204 LB204A LB216
LB229 LB279 LB286 LB305 LB337 LB353 LB357 LB383 LB385 LB397 LB407 LB431
LB463 LB463A LB477 LB499 LB500 LB512 LB543 LB558 LB600A LB606 LB618
LB628 LB637A LB648 LB682 LB684 LB698 LR37 LR145 LR146 LR147 LR148 LR161
LR162]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-second day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Council. Please rise.

SENATOR COUNCIL: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Council. I call to order the sixty-second day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any messages, reports, or announcements?

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

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda.

CLERK: Mr. President, a series of confirmation reports, the first by Health and Human Services. Senator Campbell, I have the appointment of Thomas Incontro to the Foster Care Review Board. (Legislative Journal page 1089.)

SPEAKER FLOOD: Senator Campbell, you're recognized to open on your first confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues.

SPEAKER FLOOD: (Gavel)

SENATOR CAMPBELL: The Health and Human Services Committee reports favorably on the appointment of Thomas Incontro to the State Foster Care Review Board. The Health and Human Services Committee held a public hearing on March 17, 2011. Mr.

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

Floor Debate
April 12, 2011

Incontro appeared in person and answered questions from the committee. Mr. Incontro is a new appointment to the State Foster Care Review Board. He is an attorney, a graduate of Creighton University and Creighton University Law School, who has served exclusively as a guardian ad litem for over seven years. His law firm, Incontro Law, has been awarded a contract through Douglas County to represent abused and neglected children who are wards of the state as the guardians ad litem in juvenile court. They represent over 1,000 children as guardians ad litem in Douglas County. He has served in the Omaha Model Court Board and the Nebraska Family Collaboration Advisory Board. Mr. Incontro is a recent winner of a Metropolitan Child Advocacy Coalition awarded for outstanding work in the Omaha community and consistently striving to eliminate child abuse and neglect. I ask for your confirmation of the appointment of Mr. Thomas Incontro on the State Foster Care Review Board. Thank you.

SPEAKER FLOOD: Thank you, Senator Campbell. Members, you've heard the opening on the first confirmation report from the Health and Human Services Committee. Senator Lautenbaugh, you're recognized.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this nomination. I have known Tom Incontro for probably a couple of decades now. And his entire practice is dedicated to representing the needs of children and I believe his office performs that task, I don't want to say the best in the state, but I believe it to be the case. I know they're committed. I know they are more dedicated than anyone I can think of in an area where we need people dedicated to this type of work. I was pleased to be present when Mr. Incontro received his award earlier this year from the Child Advocacy organization and it was a great day and a much deserved honor, and I think he would be a stellar addition to the Foster Care Review Board and I would ask you to vote green and look favorably upon this appointment.

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. There are no other lights on. Senator Campbell, you're recognized to close on your confirmation report. Senator Campbell waives her opportunity to close. Members, the question before the body is, shall the confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 1145-1146.) 31 ayes, 0 nays, Mr. President, on adoption of the Health confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. Mr. Clerk.

CLERK: Mr. President, the second report from Health and Human Services involving the appointment of Mark Zimmerer to the Foster Care Review Board. (Legislative Journal page 1089.)

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

Floor Debate
April 12, 2011

SPEAKER FLOOD: Senator Campbell, you're recognized to open on your second Health and Human Services Committee confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the appointment of Mark Zimmerer to the State Foster Care Board. The Health and Human Services Committee held a public hearing on March 17, and Mr. Zimmerer appeared in person and answered questions. He is a new appointment to the State Foster Care Review Board. He presently serves as the director of the Northeast Nebraska Child Advocacy Center at Faith Regional Health Services in Norfolk, Nebraska. He developed the Child Advocacy Center in 2003, oversaw the center become nationally certified in 2004, and in less than two years secured funding to support the center and make the program 100 percent budget neutral. Mr. Zimmerer is a forensically trained child abuse interviewer and supervises forensic interviews, family advocates, and prevention specialists. He serves a multidisciplinary team and as medical team coordinator. As a part of his prior work experience, Mr. Zimmerer has worked as a protection and safety worker and supervisor for DHHS, and additionally, has served as a police sergeant for the Pierce Police Department. I ask for your confirmation of the appointment of Mr. Mark Zimmerer to the Foster Care Review Board. Thank you.

SPEAKER FLOOD: Thank you, Senator Campbell. There are no lights on. Senator Campbell, you're recognized to close on your confirmation report. Senator Campbell waives her opportunity. The question before the body is, shall the Health and Human Services Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1146.) 35 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR145, LR146, LR147, and LR148. Mr. Clerk. [LR145 LR146 LR147 LR148]

CLERK: Mr. President, a third report by Health and Human Services involves an appointment of Martha Carter (sic--Parker) to the Nebraska Child Abuse Prevention Fund Board. (Legislative Journal page 1089.)

SPEAKER FLOOD: Members, we now go to Senator Campbell for an opening on her Health and Human Services confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the appointment of Ms. Martha Parker to the Child Abuse Prevention Board. The Health and Human Services Committee held a public

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

Floor Debate
April 12, 2011

hearing on March 17, and Ms. Parker appeared in person and received unanimous approval from the committee. Mrs. Martha Parker has spent over 35 years volunteering in the Omaha community and working with young adults and children. Before her husband's death, Mrs. Parker assisted her husband in his service to the Antioch Church for 36 years. Mrs. Parker works with organizing and training group leaders to meet the needs of youth and young adults. Currently, she serves over 24 churches, assisting with women's programming, including parenting training. I ask for your confirmation of the appointment of Mrs. Martha Parker to the Child Abuse Prevention Board. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Campbell. We now turn to discussion on the Health confirmation report. Senator Council, you are recognized.

SENATOR COUNCIL: Thank you, Mr. President. I just wanted to rise in strong support of the appointment of Martha Parker to the Child Abuse Prevention Board. As Senator Campbell stated in her opening, Mrs. Parker has been actively involved as a volunteer in the Omaha community for at least three decades. She is someone who is committed to children and families, and I would urge your approval of this confirmation report.

SPEAKER FLOOD: Thank you, Senator Council. There are no other lights on. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity. The question before the body is, shall the Health and Human Services Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1147.) 34 ayes, 0 nays, Mr. President, on the...34 ayes, excuse me, 0 nays on adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. (Doctor of the day introduced.) Mr. Clerk.

CLERK: Mr. President, a fourth report from Health and Human Services involves the appointment of Shawn Kralik to the Rural Health Advisory Commission. (Legislative Journal page 1089.)

SPEAKER FLOOD: Senator Campbell, you're recognized to open on your confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the reappointment of Dr. Shawn Kralik to the Rural Health Advisory Committee...or Commission, I should say. The Health and Human Services Committee held a public hearing on March 24 to consider the appointment, and Dr. Kralik was there to answer questions and appear...or answered questions from

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

Floor Debate
April 12, 2011

the committee by telephone. He was approved unanimously by the committee. Dr. Kralik represents rural dentists on the commission. He attended Seward High School, the University of Nebraska at Kearney, and UNMC. Upon his graduation from UNMC in 2003, he started his dental practice in West Point, Nebraska. He was the only student in his graduating class interested in rural dentistry and participated as a student in the Rural Health Workers School Loan Program. Dr. Kralik is also active in the West Point community, serving as a board member for the chamber of commerce, the Knights of Columbus, and is a junior high basketball coach. I would ask for your confirmation of Dr. Kralik.

SPEAKER FLOOD: Thank you, Senator Campbell. There are no members wishing to speak. Senator Campbell, you're recognized to close on your confirmation report. Senator Campbell waives her opportunity. The question before the body is, shall the Health and Human Services Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1148.) 31 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. Mr. Clerk.

CLERK: Mr. President, a fifth report from Health and Human Services involves three appointments to the State Board of Health. (Legislative Journal page 1089.)

SPEAKER FLOOD: Senator Campbell, you're recognized to open.

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the appointments of Debra Parsow and Dr. Wayne Stuberg and the reappointment of Dr. Daryl Wills to the State Board of Health. The Health and Human Services Committee held public hearings on March 17 and March 24 to consider the appointments. All of the appointees appeared in person and answered questions from the committee, and they were approved unanimously by the committee. Debra Parsow is a business consultant working with employers to implement health promotion and health management to manage healthcare investment. She obtained her B.S. in community health education from UNO. She was responsible for managing companywide health services for ConAgra Foods for over 18 years. Her experience ranges through all aspects of health promotion, including value-based benefit plan design, implementing employee assistance programs, dependent care, and developing workplace violence policies. Mr. Wayne Stuberg currently serves as the associate director of education, the director of physical therapy department and motion analysis lab, and professor at the Munroe-Meyer Institute at UNMC. He obtained a B.S. in physical therapy, an M.S. in anatomy, and a Ph.D. in anatomy at the University of Nebraska Med Center. Dr. Stuberg is board-certified in pediatrics by the American

Floor Debate
April 12, 2011

Board of Physical Therapy Specialities. He has served as the past-president of the Nebraska Physical Therapy Association, as a consultant of the state of Nebraska on the Governor's Early Childhood Interagency Coordinating Council, and as a member of the Nebraska Department of Education Special Education Advisory Council. The final appointment is Dr. Daryl Wills. He is a doctor of chiropractic, serving in Gering, Nebraska, for over 30 years. Dr. Wills is a reappointment to the board and was recently elected as vice chair. He served as president of the American Chiropractic Association, president of the Nebraska Chiropractic Physicians Association, and chair of the Nebraska Board of Chiropractic Examiners. In 2005, he was awarded the American Chiropractic Association's Chiropractor of the Year. I would ask for your confirmation on these three individuals. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Campbell. Members, you've heard the opening on the Health and Human Services Committee confirmation report. There are no members wishing to speak. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity. The question before the body is, shall the Health and Human Services Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 1148-1149.) 34 ayes, 0 nays, Mr. President, on the adoption of the Health Committee confirmation report.

SPEAKER FLOOD: The Health and Human Services Committee confirmation report is adopted. Mr. Clerk.

CLERK: Mr. President, the next report is from Natural Resources and involves three appointments to the Environmental Trust Board. (Legislative Journal page 1093.)

SPEAKER FLOOD: Senator Langemeier, you're recognized to open on your confirmation report.

SENATOR LANGEMEIER: Mr. President and members of the body, thank you. I do have three individuals that have been reappointed to the Nebraska Environmental Trust Board. The first is Mr. Paul Dunn from Omaha, Nebraska. He showed up at the hearing on April 7, 2011. He is a reappointment. He is an employer...he is a recycling coordinator for the city of Omaha and represents the 2nd Congressional District. The second appointment is Ms. Gloria Erickson from Holdrege, Nebraska. She too came to the hearing which was held April 7, 2011. She is active in the family farming and cattle feeding operation in Holdrege, and is a reappointment. The third is Mr. James Stuart Jr., which came to us via teleconference on that same day, April 7, 2011. His hometown is Lincoln, Nebraska. He is the managing director of Cardinal Management LLC, and again is a reappointment, and represents the 1st Congressional District on the Environmental Trust. All three appointees were voted out of committee, unanimous, and

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

Floor Debate
April 12, 2011

stood the questions from the committee, and would ask for your favorable consideration to the three appointees back to the Environmental Trust. Thank you.

SPEAKER FLOOD: Thank you, Senator Langemeier. Members, you've heard the opening on the confirmation report. Senator Carlson, you're recognized.

SENATOR CARLSON: Mr. President and members of the Legislature, I stand in strong support of Gloria Erickson in reappointment to the Environmental Trust Board. She is an individual that understands crop agriculture. She understands livestock production. She's got a dedicated interest to the environment, to sportsmen, to hunting and fishing and trapping. She's got extensive knowledge of the impact of taxes, the effect of permanent easements, and she's just an excellent individual to serve on that board, and I'd appreciate your support of her reconfirmation. Thank you.

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Langemeier, you're recognized to close. Senator Langemeier waives his opportunity. The question before the body is, shall the confirmation report be adopted from the Natural Resources Committee? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1149.) 35 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. Mr. Clerk.

CLERK: Mr. President, the final report this morning is from Health and Human Services and involves the appointment of Carol Lomicky to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1128.)

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Campbell, as Chairman of the Health and Human Services, you're recognized to open on the confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President. The Health and Human Services Committee reports favorably on the appointment of Carol Lomicky to the Commission for the Deaf and Hard of Hearing. The Health and Human Services Committee held a public hearing on Ms. Lomicky, and she appeared in person and answered questions from the committee. She is a new appointment to the commission. Dr. Lomicky is a professor and associate dean of the graduate studies at UNK. She has had a hearing problem herself and one year ago received a cochlear implant. Ms. Lomicky will bring a new perspective to the commission with her life experiences, and I would like to add that she has published extensively and has taught at Oxford University in England. And

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

Floor Debate
April 12, 2011

we had an extensive conversation with her about her experiences and teaching performance, and it is very clear that UNK is very proud to have Dr. Lomicky on its staff. And so I would urge your confirmation of this appointment. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Senator Campbell. You have heard the opening on the confirmation report. The floor is now open for discussion. Senator Wallman, you're recognized.

SENATOR WALLMAN: Thank you, Mr. President. I stand in strong support. What a pleasant surprise to have an individual like that step forth to serve the state of Nebraska. And we was pleasantly, very pleasantly impressed. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Senator Wallman. Seeing no other lights on, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is, shall the confirmation report be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1150.) 33 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR LANGEMEIER: The report is adopted. Mr. Clerk, moving on to General File, LB600A. [LB600A]

CLERK: Senator Campbell offers LB600A. (Read title.) [LB600A]

SENATOR LANGEMEIER: Thank you. Senator Campbell, you are recognized to open on LB600A. [LB600A]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I will be brief. This is the bill that would authorize the spending that we talked about last week with regard to the long-term care facilities and their willingness to have a special assessment. It does not involve any General Funds, and every dollar assessed to the long-term care facilities will be returned to them. Thank you, Mr. President. [LB600A]

SENATOR LANGEMEIER: Thank you, Senator Campbell. You have heard the opening on LB600A. The floor is now open for discussion. Senator Heidemann, you're recognized. [LB600A]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I just want to get on the mike and have a conversation with Senator Campbell if she would agree to that. [LB600A]

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

Floor Debate
April 12, 2011

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB600A]

SENATOR CAMPBELL: Yes. [LB600A]

SENATOR HEIDEMANN: Just to ask you a few questions and then getting legislative intent more than anything else. The way I understand it, this tax is going to flow into a fund. Is that correct? [LB600A]

SENATOR CAMPBELL: That is correct. [LB600A]

SENATOR HEIDEMANN: And we will appropriate money out of that fund to supplement the provider rates that we already have, is that correct? [LB600A]

SENATOR CAMPBELL: That is correct. [LB600A]

SENATOR HEIDEMANN: And if for some reason the money isn't collected on our side or if the federal program goes away or is cut back and the money doesn't flow into this fund, even if there is an appropriation amount, if the money is not in that fund, the rates will go down by like amount. Is that your thought? [LB600A]

SENATOR CAMPBELL: That is correct. And Senator Heidemann, I appreciate your conversations with me off the mike and I do want to enter a statement into the record so that we all can be very clear, and I much appreciate, colleagues, Senator Heidemann's working with me on this issue. That statement should read into the record: Nothing in this act obligates the state General Funds to be substituted for enhanced federal financial participation or quality assurance assessment proceeds received by nursing facilities pursuant to this act in the event quality assurance assessments are discontinued for any reason set forth under this section. And I know that this statement is important for all of us to understand that we are not obligating General Funds today nor in the future. [LB600A]

SENATOR HEIDEMANN: Thank you, Senator Campbell. I think that was a very important thing to put into the public record and for our legislative intent. There was a little bit of concern, on my part at least, that if this federal program ever went away that there wasn't people that was accessing this money out of this fund that if it wasn't coming in from the federal level that we might be obligated to do that. After hearing what Senator Campbell read into the record, I think that's pretty much clear right now that there will be no obligation to the General Fund if there isn't money in this...where these taxes are going into this fund, the rates would be reduced by a like amount. And that's all I wanted to say. Thank you very much, Senator Campbell. [LB600A]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Seeing no other lights on,

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

Floor Debate
April 12, 2011

Senator Campbell, you are recognized to close. Senator Campbell waives closing. The question before the body is, shall LB600A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB600A]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB600A. [LB600A]

SENATOR LANGEMEIER LB600A does advance. Mr. Clerk, LB357. [LB600A LB357]

CLERK: LB357, a bill by Senator Ashford. (Read title.) Senator Ashford presented his bill yesterday, Mr. President. Upon its introduction, Senator Heidemann then moved to amend with AM1147. That amendment is currently pending. (Legislative Journal page 1138.) [LB357]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Ashford, you're recognized for 2 minutes to give us a kind of a reopening on LB357. [LB357]

SENATOR ASHFORD: Thank you, Mr. President. And as I believe we all are aware, this bill would give the cities of the state of Nebraska the option to go to the voters to raise sales tax up to 2 percent from 1.5 percent. Senator Heidemann has an amendment. There have been a number of great suggestions about moving forward with this bill. I know there's some discussions about amendments that can be discussed between now and Select File. But with that, I would give back the rest of my time. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Heidemann, you're recognized for 2 minutes to give us a brief opening on AM1147. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I bring to you AM1147. I think this is a very important amendment, an amendment that I'm very serious about. And I didn't talk a lot yesterday and I think I'm going to talk a little bit more today. This amendment will say that if you're going to access another half cent in sales tax, you can do that, but we want to make sure that you have that need, that you have that structural imbalance that says that you don't have enough revenue coming in. This says that you have to be at least 40 cents on your levy, out of 50, which is we're saying that you have to access 80 percent of the accessible property tax that the state has granted to you before you can go to the vote of the people for this extra half-cent sales tax. If anybody is familiar--and I'm going to talk a little bit about state aid to education this morning--anybody is familiar about state aid to education, there is a component in the state aid formula that does, in my mind, the same exact thing. And if it's okay for the state aid formula, I say it's okay for LB357, and I will probably push that point as we go on. But with that, I urge your support on AM1147. I think it's a very important component to LB357. If anybody has any questions, I will try to answer them.

Floor Debate
April 12, 2011

[LB357]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the reopening on LB357 and AM1147 offered to it. The floor is now open for discussion. Those wishing to speak, we have Senator Ashford, Utter, Wallman, Pahls, and Krist. Senator Ashford, you're recognized. [LB357]

SENATOR ASHFORD: Thank you, Mr. President. And I do oppose this amendment. As I mentioned, I think there are some good suggestions that I have heard on the property tax issue that are being formulated and will be discussed later in the debate, probably on Select File, of this bill. But a couple of comments on Senator Heidemann's amendment. I understand the intent; I think we all do. Cost containment, the revenue, access to revenue issues are important to discuss. However, if we were to pass this amendment, the bill would effectively be dead. It would preclude approximately 85 percent of the citizens of the state of Nebraska from accessing this local option sales tax prerogative that the Legislature would be giving it. Secondly, as we talked about, as we mentioned yesterday and discussed at some length, the state of Nebraska has, beginning in 1969, made the decision to allocate sales tax authorities to local governments and has done so, I think, theoretically, because local governments have a bead on what their citizens need and what their desires are for local governments within their areas. It really is a pure local control issue and the state has recognized that. And secondly, the policy of the state has consistently, consistently been since 1969, throughout LB1059 experience and the substantial increase in state aid to education. When I started in the Legislature, I think state aid was in the \$300 million range, and obviously we're now at \$1.6 billion. So the...and I think the property tax in my school district, when I took office in 1987, was around \$2. It's now \$1.20 or \$1.18. So there has been...it has been the strong, strong policy of this state to utilize sales tax appropriations through the state aid formula certainly to keep a lid on property tax. The same cannot be said for the cities. There has been an up and down sort of history on aid to cities. Most recently we have cut back on aid to cities in roads funding. We have cut back just generally aid to cities and to counties. We already give counties 2 percent local option to do public safety. And I will say that in my city I can't predict what our city council or city government would come forward with, but I would certainly hope that public safety would be high on the agenda. There are needs in the cities just as there are in the school districts. The difference is that state aid to schools, and rightly so, is 25 percent, whatever the percentage is, of our total General Fund budget. That isn't the case, obviously, with cities. These are obvious points that you all know. So I think, though, Senator Heidemann is prudent in asking questions about the needs for revenue on the local level. I get it. There doesn't seem, to me, to be any desire to increase sales tax. In fact, I remember years ago when we discussed this very issue, there was an amendment on a bill that I introduced to reduce state sales tax to allow the cities to increase their sales tax. So I think there have been debates all across the board on this issue. But I think, today, we're looking at very little, if any, aid to the cities, and no direct

Floor Debate
April 12, 2011

aid any longer, and that contrasts significantly with state aid to schools. And with that,...
[LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR ASHFORD: ...Mr. President, I would please urge that we not adopt this amendment but that we think about what Senator Heidemann is saying and that, as we get to Select File, some controls or some standards in this bill would be fine. And there are some excellent ideas out there right now. One involving property tax, one involving the plan itself. So let's...if I would urge you, please not to adopt this amendment and move the bill to Select File. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Utter, you're recognized. [LB357]

SENATOR UTTER: Thank you, Mr. President. Good morning, colleagues. I rise this morning to just remind you of some points, probably again, that I made yesterday and that I'm concerned what we're doing from a tax policy base. But I also have some other concerns, and I...and with deference to my colleagues who have said that this is not an increase in taxes, I kind of understand their argument and where they're going. I guess I call this a selective potential tax increase, and I think that's where it runs. But let me just say to you that the tax increases and high taxes stymie economic development in this state, and I think this enters into that picture. Tax increases and high taxes hinder the development of opportunities for our young people in this state, and I think this is a part of that overall picture. Our state has improved dramatically as a great place to do business. Our national ranking as a business-friendly state has improved significantly. We should all be very proud of that. We should not undo what we have done. And I understand the evil of property taxes. I don't like property taxes any more than the next person does, and the property taxes in this state are too strong. And Senator Ashford is probably going to be amazed at this next statement, but overnight I have, I think, maybe a half-cent increase in the sales tax might be a great idea--a great idea from the standpoint if the entire amount of that half-cent increase statewide were designated to reduce the property tax burden of this state. That it's not a selective thing; that it actually goes to reduce the tax burdens of people who are paying real estate taxes that continue to grow and grow and grow. One further note that is probably not going to happen in my time in this Legislature, maybe not even happen in our time, but we are doing something here with our tax base that we use to finance the activities of state government. We are putting a limitation on that tax base, and I think we started doing that when we first introduced, a number of years ago, the ability to go to a 1.5 percent local option sales tax. That took away a portion of the state's tax base. As we continued to increase that amount that it goes away from our state's tax base, we may place great difficulty on some future legislator. I think this also enters into the area where sometimes the Legislature can giveth and they can find great difficulty taketh away.

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

Floor Debate
April 12, 2011

Down the line, should we need to adjust taxes,... [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR UTTER: ...should we find the ability to adjust taxes, this--sales taxes--this puts a further restriction on the upward amount. By the same token, if we see a real great time coming in Nebraska and we've expanded our tax base to the point where we can reduce taxes, why, we'll be able to reduce the sales tax. But we won't be able to reduce, from a political standpoint, the sales tax options that we have granted to the cities of this state. And somewhere I think that we have to draw the line beyond which we will not go, beyond which we will not commit future Legislatures, beyond which we will not tie the hands of our future Legislatures in determining what the overall tax policy of the state is going to be. [LB357]

SENATOR LANGEMEIER: Time. [LB357]

SENATOR UTTER: Thank you, Mr. President. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Wallman, you're recognized. [LB357]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. I too am in strong opposition to this amendment. And most of us ran on local control, and if we haven't paid attention to what we've been voting on, lots of these problems are caused by us. The blame game: blame the local cities, blame the local mayors. The blame game starts here. We put demands on education like special ed; we never fully funded that. And I'm going to pick a little bit on education funding here. All these programs we put in place, well, we're paying 85 percent, 65 percent--but the number goes down to balance the budget on education issues; healthcare issues--and that's the big budget eaters. So we have to look at those and we do look at those. I used to be a treasurer of a school board. Costs kept going up--salaries, some; insurance rates, some; fuel costs went up. Everything keeps going up, and yet we take away local opportunities for cities and villages to do what they have to do. I didn't vote for this one bill that took this state aid away, possibly from the future times. That's done. Aid to prisons and all this stuff, it's done. And I told my local county boards, don't depend on that, when I got elected. They were going to build a new jail with state aid or thought they could pay for it. It didn't pass. So local entities make tough decisions just like we do. They do not have to put this in place. It's a choice by the voters. Whenever the voters can have a choice...and I talked to a farmer in Broken Bow that has some property in a valley. He says, look what you did to my taxes. And we did. So property taxes. A good friend of mine just bought a house on Table Rock Lake worth a lot of money--a little over \$1,000 property tax--and some land with it. Could you do that in Nebraska? I've never heard anybody complain to me about sales tax--never. Never in all my born days. Why is that? Former state

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
April 12, 2011

senators have told me: Once you get money in this building, keep it here. And we gave tax credits to local entities, to major corporations. That was a tax cut. We inherited the biggest budget surplus we ever had when I came in office...or second biggest. And it's gone. That happens. Economies go up and down. That's life. We can't survive on a level playing field. We need challenges. And, believe you me, this is a challenge for local entities and cities with their streets and highways. Do they need some help? If they do, let's give them an option and vote for LB357. Thank you, Mr. President. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Pahls, you're recognized. [LB357]

SENATOR PAHLS: Good morning, Mr. President and members of the body. Again we're at...we need to take a look at some of the data out there so we can make some, hopefully, some decisions that would benefit the taxpayer. As I look at the bonded rate and the nonbonded rate in the Omaha area, as a taxpayer I don't separate them out. Just to give you an idea, as I said yesterday, the nonbonded rate is .29, the bonded rate is .20, which is basically a combination of .499. Now, as a taxpayer, I don't look at each one separately. I look at the total rate and that's what I think Senator Heidemann ought to be taking a look at. In fact, I again urge all of you to start taking a look at some of the information from some of the different towns in your counties. I think you would be surprised. A number of the counties, of course, they do not have a bond. But those that do, you start adding up, it becomes a pretty significant figure for the local taxpayer to be concerned about. Now what I'm going...I gave you a handout. It talks about the state and Douglas County. Just trying to put everything here in perspective. Number one in the state, the property tax revenue, as you can see, it's almost \$3 billion. That comes from the...at the state level. Property tax, just in Douglas County, is \$807 million. Let's look at the total property valuation. I'm not going to read those figures to you, but again I'll just read the rough...you can just see the numbers in front of you. Sales tax revenue at the state level as compared to the state...the sales tax revenue in Douglas County. Let's take a look at the motor vehicle tax revenue and then let's take a look at Douglas County. As you can see, in Douglas County, again it's basically around a third. One thing I do not have down on this is the income tax. Overall, statewide, it is about \$1.5 billion in the...in Douglas County, it's half a billion. In other words it's about a third. What I'm going to have you do is take a look at how much the state and what Douglas County is held accountable for. Has it come to a point in Douglas County, have we hit the wall? That's the question I'm asking. I think we've hit the wall. That's why it's difficult for me to support this bill. If you look at the numbers, I think Douglas County, right now, is paying its fair share. Look at your own county and make a comparison at the state level and at the county level. I'm asking Senator Heidemann to take a look at his county, the data that I'm showing in front of you, take a look at what his county assesses the people, and then look at the state. If we all do that, then maybe you can see where I'm saying we need to have a sense of balance. We are a state, so we need to take a look at that, but we also ought to be fair. I don't think the residents of Omaha need to tax themselves

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

Floor Debate
April 12, 2011

some more. I think that's...we're asking, again, too much. That part I disagree with, Senator Ashford. They're seeking money but I think, right now, we've almost have them maxed out. So take a look at the information and make your decision from that. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Krist, you're recognized. [LB357]

SENATOR KRIST: Thank you, Mr. President and colleagues. I rise in opposition of AM1147 and in support, philosophically, to LB357, enabling the communities to put that half-cent sales tax to a vote in their local communities. I think that's the smart thing to do based upon all of the cuts that they have received during this legislative session alone. And I again I'll reiterate I've not always agreed with my own city or my own county in terms of the cutbacks that they have made, but I think that they have made some great strides in reducing the expenditure side and looking at where that money is going and making the significant cuts they need to. But I want to talk again this morning just to remind you how adamantly I feel against AM1147. I was wondering if Senator Heidemann would yield to some question. [LB357]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB357]

SENATOR HEIDEMANN: Yes. [LB357]

SENATOR KRIST: I see you were not here yesterday when I brought up this point, and I wanted to make it clear, and if there's any error in my statement I want you to correct me. What your amendment is going to do is target everyone who is at the top of their levy--or some of them have actually voted to go above the levy. That's a right for a citizen in the community in this state, their property tax levy. You're going to allow those folks who are at the top or above to take advantage of LB357. [LB357]

SENATOR HEIDEMANN: We, as a state, have given cities and counties and even schools the ability to access so much money in property tax. I look at LB357 and I say to myself, are these cities having a structural imbalance? That's the first question that we need to ask ourselves. And then, why do they have a structural imbalance? Because you can have a revenue imbalance and you can have a spending imbalance. I think that's a question that we've never even asked ourselves here yet. So once we start to ask that question and find out if it is on the revenue side, why don't they access the property tax base before we... [LB357]

SENATOR KRIST: I think that's a valid... [LB357]

SENATOR HEIDEMANN: ...before we increase their taxes someplace else. [LB357]

Floor Debate
April 12, 2011

SENATOR KRIST: Thank you, Senator. I think that's a valid question for us to ask, maybe privately, with the folks who have been elected to represent those individual cities and subdivisions, political subdivisions. But I'm not sure of that, unless we're talking about total revenue reform, tax reform, here today, that we should be judging whether or not they are in balance. I think that's up to them. And I would point out that what AM1147 will do, it will take 85 percent of a population in Nebraska and it will force--force--the mayors and the village communities and leadership to raise their property tax to the top of the levy. Now I can't cast a vote that, in essence, means that I'm telling those political subdivisions: here's a great tool that you could use, it's called LB357; you may not want to use it. I know there's a lot of people in Omaha that don't want to use it and I don't think that they're going to vote for it, honestly, and I've got a lot of feedback in that direction. But I've also heard from a lot of other outstate folks who are at the top of their levy who would like to see LB357 added to their bag of tricks, if you will, their tools. So I just can't vote for an amendment that would force--force--the political subdivision and the leadership to raise their property tax to take advantage of that if they had to, and I think that's where I'm at. And I will listen carefully, if I can be convinced otherwise. I'm open-minded, but right now that's the way I see it. [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR KRIST: If you want to take advantage of LB357, you're going to have to raise your taxes. Boy, what a statement that's sending down to the political subdivisions, isn't it? We decided that you're not doing everything you need to do; we've decided that you're in imbalance. We've decided; we've decided. The 49 of us do not run every one of those 500-plus political subdivisions out there. Give them an option, folks. Unless there's something I'm missing, AM1147 says just that. For 85 percent of the population of Nebraska, in order for them to take advantage of a half of a percent sales tax, you have to raise your own property taxes. Thank you, Mr. President. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Cornett, you're recognized. [LB357]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I rise in support of the underlying bill and in opposition to the amendment. Yesterday, the numbers that I gave you were the 2009 numbers on the percentage of people that this bill would affect, and that was close to 16 percent. The 2010 and '11 numbers actually show that it would be 59 percent of the cities that would not be included...or 59 percent, pardon me, of the cities; 313 cities would be affected by this amendment or would qualify under this amendment out of the 522, but the population that represents is actually closer to 15 percent than the 16 percent. We're talking about enacting an amendment, as Senator Ashford said, that would basically gut the bill. We would not be affecting the majority of the people that need help in this state in regards to either not having property tax increased or having the option of a sales tax. Senator Mello and

Floor Debate
April 12, 2011

Ashford and I are working on an amendment for Select File that will have a property tax reduction component to it, along with sunset. We had talked about sunset in committee, but if we put a sunset on at the state level, depending on the term of years, it would make it difficult if not impossible for a municipality to bond. But what we are looking at is on the ballot, when the voter has the right to choose to vote for a sales tax increase or not, it will say what the project is for, which is already a component of LB357. But besides saying what LB357 or what the sales tax increase would be under LB357, it spells the number of years that it would be for. So if a smaller community wants a swimming pool, they could enact it for five years. If a larger community has a very large infrastructure project, they would put on the ballot the number of years that the sales tax would be in effect, based on bonding. Senator Fischer was very, very much in favor of a sunset in the committee, and we ran into this issue there in regards to bonding. But I believe if we put it on the ballot and allow the municipality to determine when its own sunset would be, that we would meet the requirements needed for bonding. With that, I urge the body to oppose AM1147, support the underlying bill, and we will be bringing those amendments on Select File. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Cornett. (Visitors introduced.) Continuing with discussion on AM1147 offered to LB357, those wishing to speak, we have Senator Carlson, Karpisek, Ashford, Howard, Avery, and others. Senator Carlson, you're recognized. [LB357]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Not being here yesterday, I'm going to cover some things that probably were discussed, but that's the nature of what we do and so I'm going to proceed with what I want to say. First of all, talking about property tax: who pays it? The overwhelming majority are Nebraska citizens that pay property tax. Visitors don't pay property taxes. Now, Nebraska income taxes: who pays them? The overwhelming majority are Nebraska citizens. Sales tax: who pays it? Everyone. All property owners; all who pay state income taxes; all who cross our state; all who visit for a short or extended period of time in our state, and they do this every time they come. They use our roads, they use our streets, they enjoy our parks, they enjoy our events. And we as a Legislature, in a sense, I believe have tied one arm behind our counties' and municipalities' backs when we cut state aid. Now, if we don't give them some taxing authority, I think we tie the other arm. It's kind of hard to negotiate. It's kind of hard to work. It's kind of hard to plan with both arms tied behind your back. It makes it tough. But the other concern that I have is, when do we focus on controlling spending rather than figuring out how to raise more revenue? We, as government, cannot fund everything. Everything is not an entitlement. There must be limits. There must be a balance. We shouldn't be Scrooge and we can't be Santa Claus. The balance that we try and strike is very difficult. And on this issue, we certainly all want to make the right decision, and I'm listening very carefully to the testimony as we debate this bill. Thank you, Mr. President. [LB357]

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

Floor Debate
April 12, 2011

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Karpisek, you're recognized. [LB357]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I brought up yesterday that my main problem with the bill is people that don't live in one of the bigger cities going there to get our essential needs that we can't get at home. Senator McGill brought up the fact of coming in and paying for what we use while we're here, and that is a great point. And it did get me thinking a little bit. I still feel the same way, but she does have some points. I still feel, though, that in rural Nebraska we can't go always buy a suit or buy some of the things that we have to come to Lincoln or Omaha to get. Senator Nelson brought up yesterday that anywhere in my district, the bigger towns, you would probably still pay this tax. True. But not on things that we can't get there. We have to come to the bigger city to get those things. I don't feel that I need to pay another half a percent tax to come in to spend my money in Lincoln. Yes, we come into the football games, we come in to do those sort of things, but we leave a lot of money here already--a lot of money. There's things that we do all the time that we come to Lincoln for that we just can't do at home. And we spend a lot of money. We leave a lot of our money here. We talk...we've heard that this could be a property tax decrease. I don't believe that's going to happen unless it's written into the bill. I don't think that anybody is going to lower property taxes because of this bill. And if they do, again it goes back to my point of someone else paying the property taxes here in Lincoln or wherever this is. Then when I come to buy what I can't get at home, I'll be helping lower property taxes here--which I still don't think is going to happen. I guess another question I have is, why only half a percent? If that's what we're talking about and this is the answer, why don't we go another...let them do another 1 percent or 5 percent? It's up to the voters. Let's send that out there. I don't know. Again, I'm on the fence on this bill and I wish that I would land on one side or another. I've been trying to think it over. I do still have a hard time thinking that a lot of people are going to come to town that don't get the benefits from this, especially if it's property tax relief, which again I don't think will happen. I do support the amendment. I feel that if we're trying to give them tools, they have a tool. I don't like raising property taxes either and I don't think that's a great idea. But if it's going to go for that city, the people live there, then they can work on that. I don't know what else to say on this other than I don't think that it's right. I think there might be a mismatch across the state for awhile--not long, probably--on what we can do. The half a percent, sure, it's going to help small towns, but how much? How much of their... [LB357]

SENATOR LATHROP PRESIDING

SENATOR LATHROP: One minute. [LB357]

SENATOR KARPISEK: Thank you, Mr. President...how much of their sales are actually taxable, and how many people come in from out of town to help with their property tax

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

Floor Debate
April 12, 2011

relief or their sales tax? Not as much as have to come to the larger cities. Someone mentioned yesterday that we've been our own undoing, going to the big box stores and those things, and not spending money at home. I couldn't agree more. And I hope that rural Nebraska thinks about that and does use what they have now. Thank you, Mr. President. [LB357]

SENATOR LATHROP: Thank you, Senator. Senator Ashford, you are recognized. [LB357]

SENATOR ASHFORD: I apologize, Mr. President. [LB357]

SENATOR LATHROP: It's quite all right. [LB357]

SENATOR ASHFORD: The...thank you for the conversation. This amendment will kill the bill, but I do believe that there is room to discuss this issue. And there is a way, I believe, that we can take the issue of local control and mesh it with the concerns raised by Senator Heidemann, in a balanced way, and I pledge to do that. And I know Senator Cornett, who is the expert, and she has the experts on the Revenue Committee who are working on some language that we can think about. But what I don't want to do here is I don't want to rush into an amendment, particularly, on General File without some thought. We do need to address the property tax issue in this bill. The other issue that I would like to address maybe a little more fully on Select File is an issue that's of concern to me, is making sure--and actually Senator Fulton raised it yesterday--and that is the issue of cost containment and spending. As cities across the state have these conversations about taxation, obviously they're going to have conversations about spending. You don't have a conversation about taxes unless you have a conversation about spending--where should the...what needs should be addressed, what collaborative...? Senator Schumacher has made a good case, not only on this bill but on several bills prior to this, that we need much more interlocal collaboration throughout the state of Nebraska. This kind of bill that brings to the cities a carrot, really, and in the form of the opportunity, with voter approval, to raise the sales tax, can also be a catalyst for discussions about interlocal collaboration. And that's something that we can strengthen on Select File in this bill. I would...I don't want to belabor the point, but I would, in great deference to my friend Senator Heidemann, and in deference to his concepts that he's bringing, his idea that he's bringing to us, this is different from state aid. You can draw some similarities but it's essentially different. The history of state aid versus the history of aid to cities and counties is entirely different. I think we need some time to mesh those concepts, between General File and Select. Let's not rush this issue. I would urge, at this point, that we reject this amendment, and not stop the discussion really, and then move the bill hopefully to Select File, and in the interim time you have my pledge that we will address these issues in a meaningful way. Thank you, Mr. President. [LB357]

Floor Debate
April 12, 2011

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Howard, you're recognized. [LB357]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Ashford would yield to a question, since he's available and here, we will have a... [LB357]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB357]

SENATOR ASHFORD: Yes. [LB357]

SENATOR HOWARD: Thank you, Senator Ashford. [LB357]

SENATOR ASHFORD: I hope I have some more questions like yesterday. [LB357]

SENATOR HOWARD: Yes, we will. That worked out for us, didn't it? You know, I've given this a lot of thought since we talked yesterday, and I know for a lot of people this is a tough issue. I think we're so fortunate in Nebraska that we have a low sales tax compared to so many places, and we don't tax food and I think that's the way we should continue to look at this. But I'm wondering, one of the things that occurred to me is I don't know how much effect people purchasing on-line will be having on the general sales tax revenue, Senator Ashford. Do you have any concern about that or do you have any projection? I think back to when we put a taxation on gas and we expected that would bring an adequate amount of revenue in, but now, with the price of gas escalating, people are really trying to conserve their trips and their gas usage. Do you think that the on-line purchasing is going to cut into our sales tax revenue as time goes on? [LB357]

SENATOR ASHFORD: It already has, and will until we resolve it on the federal level. And, yes, and I know we've...there have been some inroads into that issue. But certainly...and it's a good analogy. There is no question that property tax is a more stable...if you're a budget person, you know how much property is in your area and you can tax it as you see fit, considering the lids and so forth. But that's always been the case. And I suppose that's why, historically, Nebraska funded all government with property tax, because you can find it. It was not a...it was only when they tried to, you know, with personal property tax and you couldn't find it, that (laugh) they started to look at sales tax. That's a good point though, Senator Howard. [LB357]

SENATOR HOWARD: Well, I look at what's happened, and you can see kind of an evolution. The big book stores came in, the Borders, the Barnes and Nobles, and so many of the little moms and pops that couldn't survive, and now the Barnes and Nobles

Floor Debate
April 12, 2011

are struggling and the Borders have virtually sold I would guess a majority of their stores because they can't survive with the on-line purchases. So many people are going to sites like Amazon and whatever. I just...it concerns me in the future if we're looking at a solution that may not be what we expect it to be, and yet we're faced with few alternatives to the problem. [LB357]

SENATOR ASHFORD: And I think that's wise counsel. I think the critical point here, at least in our city, is if we have that conversation locally about what tax base should be accessed at what point, I think it will enable the citizens to be more involved, for one thing, in the discussion. I think that's going to be powerful for Omaha and I'm certain it would be for other cities. I think we should do it. We should give the city more of a stake in the outcome on spending and taxes, by voting, and I think this does this. But I think that conversation clearly has to be part of it, because we have to resolve the, on a federal level, the issue of collecting sales and use tax. Now technically, you're supposed to pay... [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR ASHFORD: ...pay your tax to the state you live in, on an on-line sale, but I know that's not very oft done, so. [LB357]

SENATOR HOWARD: Well, that's true. I don't think people voluntarily do that. [LB357]

SENATOR ASHFORD: No. [LB357]

SENATOR HOWARD: But I hope that in some way we're able to address the change in technology and purchasing to keep up with what we need in terms of revenue without putting any undue burden on the citizens of our state. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Avery, you're recognized. [LB357]

SENATOR AVERY: Thank you, Mr. President. I want to specifically address AM1147. Senator Heidemann has said that his amendment is the same mechanism as the local effort rate in the school aid formula. We do say to school districts that they must levy up to 95 percent of their levy authority, or school aid is reduced. AM1147 requires cities to levy a minimum of 40 cents before they could go to the voters with a request to increase the sales tax by a half cent. One objective of this feature is, in fact, similar to the TEEOSA formula, and that is the effort to encourage some equalization in the property tax levies across the state. So in that sense the two are similar. However, there is one key difference. TEEOSA involves huge General Fund appropriations--about half...well, very close to about 30 percent of the entire state budget. LB357 does not do that. This bill merely authorizes cities and towns to take a specific plan to the voters to approve a

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

Floor Debate
April 12, 2011

half-cent increase in the local sales tax. So it does not impact the General Fund. So that's a key difference between TEEOSA and what we are trying to do with LB357. It's a big difference and I think that's a key difference that we need to keep in mind. And I think that Senator Heidemann would like to answer that so I'll yield the remainder of my time to him. [LB357]

SENATOR LANGEMEIER: Senator Heidemann, 3 minutes 10 seconds. [LB357]

SENATOR HEIDEMANN: Thank you, Senator Avery. I was actually in a different conversation. Was there a question to me or...? [LB357]

SENATOR AVERY: No, I was yielding you time to respond to what I just said about the differences between TEEOSA and AM1147. [LB357]

SENATOR HEIDEMANN: I was in a different conversation so I wasn't able to actually listen to your conversation, so I apologize for that. I do appreciate the time. If it's all right with you, I might actually talk a little bit about why I think, then, that there is a correlation. I'm not for sure what you all said, but underneath the state aid formula, if they are not at 95, there's a...it's called minimum levy adjustment. And this actually saves the state \$20.5 million a year. They say, if you don't access your property tax up to the point of 95 cents, we start penalizing you. And all I'm saying, with AM1147, there is no penalty here. We're just saying we're going to grant you access...we're going to grant you access to a half-cent sales tax, if you--if you--are at 80 percent of what we have given you access to on property tax, which is actually less. When you look at it, the state aid formula is at \$1.05; 95; that's 10 cents. That's what it is with AM1147: 10 cents less. But under the state aid formula it's about 10 percent. Under AM1147, we're only making them access 80 percent. And I think it's fair and reasonable. I wish we had more time to talk about how this affects everybody across the state, and I would like to have a conversation with Senator Adams and I'm not going to be able to do that because I don't think I can get somebody to yield me time on time that's already been yielded. But before this conversation is over, it's my intent to have a conversation with Senator Adams about how this affects York,... [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR HEIDEMANN: ...Omaha, Lincoln, Broken Bow, Valentine, Scottsbluff, and everybody else. And I think maybe it's a conversation that we ought to have before this bill passes or whatever happens to this bill. There's one more thing I want to say before I get off the mike. I have read it in the paper, I've heard it on the floor that the state of Nebraska has cut all aid to cities. Not true. We still have the Municipal Equalization Fund. There is \$17 million that goes out in that fund to cities. Underneath LB383, we did cut \$10.9 million that we did give to cities, but I want to point out we're still giving them \$17 million. Now I ask counties what they get. They don't get anything more from the

Floor Debate
April 12, 2011

state. Cities do. If we want to be thinking about helping somebody because we cut their aid, maybe we ought... [LB357 LB383]

SENATOR LANGEMEIER: Time. [LB357]

SENATOR HEIDEMANN: ...to be thinking about the counties. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Avery. Senator Ken Haar, you're recognized. [LB357]

SENATOR HAAR: Mr. President, I call for the question. [LB357]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1147? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB357]

CLERK: 16 nays, 14 nays to cease debate. [LB357]

SENATOR LANGEMEIER: The motion to cease debate does not advance. We return now to discussion on AM1147. Senator Heidemann, you're recognized. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I would like to get Senator Adams on the mike and have a little bit of discussion. There's more things I probably would like to talk about. One is how we deal with the minimum levy adjustment in state aid. But we got into a conversation off the mike about equalization for cities, and I would like to continue on, on the mike, with Senator Adams, with that, if he would yield some time, Mr. President. [LB357]

SENATOR LANGEMEIER: Senator Adams for a question. [LB357]

SENATOR ADAMS: I'll yield. [LB357]

SENATOR HEIDEMANN: Senator Adams, we had a conversation about where we was headed here; maybe this could go into other places. Do you agree with me that there's a lot of little smaller entities, cities, villages, across the state of Nebraska that are at 40, 45 cents, 50 cents--you throw their bonds on that and some of them are at 90 and \$1--that actually do have a structural imbalance and they have no place else to go. They don't have sales tax because there's not enough sales tax revenue that they could ever gather to make any difference. Should we have a bigger discussion in this state as far as revenues coming in to cities and about an equalization factor with cities, as we do with schools? [LB357]

Floor Debate
April 12, 2011

SENATOR ADAMS: Yeah, in response to your question, the first part of it is I would imagine that we have, I'm going to speculate that the majority of our villages and cities are pushing up against that maximum. I've got them in my district. And at the same token, I'm going to be straight up with you, I also have larger communities--I don't want to call them cities, but larger communities--in my district that have a much lower property tax rate, probably as much because of sales tax as anything else. [LB357]

SENATOR HEIDEMANN: But the smaller communities can't access sales tax because they don't have the businesses that actually would garner those sales taxes, but they still have the needs. I mean you talk about needs in the state aid formula, whether it be sewers or water or streets. [LB357]

SENATOR ADAMS: You're right. [LB357]

SENATOR HEIDEMANN: And where do they turn? [LB357]

SENATOR ADAMS: It's just on a smaller scale. They turn to property tax. [LB357]

SENATOR HEIDEMANN: Property tax and what else? And property tax. [LB357]

SENATOR ADAMS: Sales tax, if they have an entity that will generate anything, or some of the small communities it may be keno dollars, which probably don't amount to a whole lot. [LB357]

SENATOR HEIDEMANN: But my point being, a lot of times it isn't sales tax, it isn't keno. They don't have anyplace else to go. If they have streets or waters or sewers, they bond. And how do they pay those bonds off? [LB357]

SENATOR ADAMS: They're going to pay it with property tax, or if they're revenue bonds, through their water bills. [LB357]

SENATOR HEIDEMANN: A lot of times it is...if we see cities around the state of Nebraska that are at 60 and 70 and 80 cents, a lot of times it is property tax, because they would have to triple, quadruple, and do more to their sewer fees and water fees, and eventually they say no to that, too, and they just go back to property tax. Are we addressing any of those equalization concerns with LB357? [LB357]

SENATOR ADAMS: You know, quite honestly, you know, we could look at the whole history of what we have done to levies, prior Legislatures have done. But what you're trying to do here, in effect, is a kind of equalization theory. Now it parallels what we do in TEEOSA, as you well know, and we had that discussion off the mike, it's not necessarily a dollar for dollar exact mirror of what we do. But what you're saying here is, in effect, before a city could access it, we want them to have more of their property tax

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

Floor Debate
April 12, 2011

valuation in the game. That...taking that statement right there and bumping up against our philosophy with TEEOSA,... [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR ADAMS: ...there it is. We want schools to have more, and the 95 cent minimum levy adjustment you've referred to, we have in a sense said to schools, we want you to have more of your own property tax valuation in the game. [LB357]

SENATOR HEIDEMANN: Are you a local control guy? I was just listening to Senator Wallman when he was on the mike, and he kept going back, we need more local control, more local control. Are you a local control guy? [LB357]

SENATOR ADAMS: Probably as much as anybody else in here. Try to be. And we vacillate on every issue, Senator. [LB357]

SENATOR HEIDEMANN: Then maybe we ought to just take the levy lids off on schools or on counties and cities, and let them go. [LB357]

SENATOR ADAMS: That would... [LB357]

SENATOR HEIDEMANN: That's local control. [LB357]

SENATOR ADAMS: That would be an option. Not a very popular one, but that... [LB357]

SENATOR HEIDEMANN: And if we did that for schools, if you take the lids off, what's that do to state aid to education? [LB357]

SENATOR ADAMS: Well, it would depend on how you want to formulate it. It would really help out. [LB357]

SENATOR HEIDEMANN: I think LB357 brings up broader questions that maybe... [LB357]

SENATOR LANGEMEIER: Time. [LB357]

SENATOR HEIDEMANN: Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Smith, you are recognized. [LB357]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. You

Floor Debate
April 12, 2011

know, this is a really a tough issue and, you know, I'm really kind of racking my brain. I've been all over this issue but I have fallen in complete support of LB357. You know, I heard Senator Hadley yesterday talk about how he and Senator Utter are normally attached at the hip on issues, and on this particular issue he's separated in his position. I know for myself, I have a deepest respect for Senator Heidemann and I tend to agree with his tax philosophy and where he comes down on the majority of issues. On this particular one, though, I feel as if I'm not going to be able to be attached at the hip with Senator Heidemann. Unfortunately, I suppose that means I am attached at the hip with Senator Hadley. But I believe that this is an issue of local control and local responsibility and I would like to see that particular mind-set, that concept explored and pursued beyond just this bill, but on bills that we're going to be addressing in the remaining days of the Legislature. I do believe in local control. I do not like taxes. I believe taxes are a drain on economy. I believe it's a drain on business development. I believe it's harmful for families to be able to do the things that they need to do, so I do believe in limited taxes. I do believe in that. And it was interesting to hear Senator Wallman earlier say that he has never heard anyone complain about sales taxes. I guess I'm honored to be the first person to complain about sales taxes to Senator Wallman. I do not believe that we need to be increasing taxes. However, a sales tax...I hate to even say it this way, but it's preferred over a property tax increase. And I'm concerned about the property tax increase implications on this amendment. Once again, this is a local control issue. For those that say this is going to increase taxes that leaders in the communities are going to use this, LB357, to increase taxes, I would go back to what Senator Nelson was saying yesterday and that is not absolute. I mean, it does have to go before a vote of the people. And I have great confidence and faith in the citizens of Nebraska and the citizens of the communities that I represent and that my colleagues represent. I believe that they have the good sense to understand what is good for their communities, what's bad for their communities, and I believe that they will make the right decisions as a body. So for that reason, I have to oppose AM1147, but I do support LB357 reluctantly, once again, because I am not an advocate for tax and tax increases, but it returns to local control. And I would like to yield my remaining time to Senator Krist, if Senator Krist would like that time. [LB357]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Smith. Senator Krist, you have 1 minute 30 seconds. [LB357]

SENATOR KRIST: Thank you, Mr. President and thank you very much Senator Smith for the balance of your time. I was not going to speak again on AM1147, and I pretty much was convinced I wasn't going to speak again on LB357 because I think I've said everything I needed to say. But the discussion that came on the mike between Senator Heidemann and Senator Adams is intriguing. It's intriguing because it is total tax reform philosophy. It's something that can't be done one bill at a time. I think it was day 15 or

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

Floor Debate
April 12, 2011

16... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR KRIST: ...I stood here and said, we're redesigning the entire revenue tax system in the state of Nebraska one bill at a time. I still find AM1147 discriminates against the local control issue and I would urge you to vote against AM1147 and support LB357. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Krist. Senator Pahls, you're recognized. [LB357]

SENATOR PAHLS: Thank you, Mr. President and members of the body. It did me good when I heard Senator Heidemann now start talking about the nonbond rates in with the bond rates. At least we're starting to recognize that there's more than just a part of the picture that we should be talking about. I agree with Senator Krist when he says, what we're doing is we're attacking our tax policy one bill at a time, it's a patchwork. Everyone of us gets up and makes a little bit of a comment and there's truth in our statements. [LB357]

SENATOR CARLSON: (Gavel) [LB357]

SENATOR PAHLS: And apparently we do need to take a look at the total picture and today's probably not the day. And I think Senator Utter also had that same comment that we ought to start taking a look at what we're all about. And when Senator Smith says he doesn't care for taxes, I agree with that. I mean, none of us are going to probably stand up and say we agree with taxes, but then we want services. So there's a balance there that we need to be thinking about. That's the part that concerns me. I'm not for this amendment. In fact, I'm not for the bill. And the reason being is, I think we have taxed the people, I'm using Douglas County, enough. And I'll just go over those figures again. Right now we are collecting \$807 million on property tax. We are collecting \$432 million, I'm using round numbers, on sales tax. We're collecting \$40 million on motor vehicle tax. We're collecting \$500 million, almost a half a billion, on income tax. Have we hit the wall? Now I know this is where we're going to give this so the people can vote for that, which is a positive thing in the bill, but again to me, the amendment is sort of a in-your-face amendment. I think there's a difference between management and leadership and I see this as management. And I'm hoping that some day we can talk about tax policy on what I call a visionary or leadership model, instead of on the "advantagement" model is when you get down in the weeds and you try to poke at each part of every bill to find that little weakness that, hopefully, that bill will collapse. Let's move up a little bit higher up on the level of thinking, and talk about what's good for not only Douglas County or Omaha or for the state. That's why we probably need to take a strong look at our policy overall. And now that I just have a little

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

Floor Debate
April 12, 2011

bit of time, I'm going to divert a little bit from this bill. Yesterday, when I was making some comments about truancy, I'm very glad people out there are listening because I had a few school districts contact my office wanting to know where I happened to get that information. So there are people out there listening to what we're saying. And I hope to the taxpayers of Nebraska, and right now the taxpayers of the city of Omaha, you take a look at and analyze all the property taxes you're paying, all of the sales taxes, all the motor vehicle taxes, all of your income taxes, and make a comparison of what you're paying as to...also to what your neighbors outside of your immediate area are paying. That's what I'm looking for is a balance, a balance of this. And every once in a while it does go, you know, the scale of justice does move one way or the other, and I'm just simply saying, let's balance this out and help the city of Omaha, perhaps by not just saying tax yourself some more. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Pahls. Those senators still wishing to speak include Christensen, Harms, Ken Haar, Ashford, and Wallman. Senator Christensen, you're recognized. [LB357]

SENATOR CHRISTENSEN: Thank you, Mr. President. I basically have my question answered. I was talking to Senator Cornett on the mike as I didn't read in the language where there was any sunset provision. She said that would come on Select. I still struggle with this bill a little bit on the standpoint where we're increasing taxes, and maybe not tightening our belt as we need to do. But anyway, I'll be anxious if this bill goes forward to see the sunset provisions because I think it definitely has to be tied to different projects if we're going to authorize something like this and be able to have an end date to it. Because if it doesn't, it's set up like the bill currently is, it will be a perpetual tax because even where it mentions proposed use of the revenue, it could be just for economic development. It would be a perpetual tax. We'd never get out of it. And as we see in many things, even when we put a sunset on it, they quite often come back to be renewed all the time. And that's why I think if it is a sunset due to a certain project will work much better because then it ends each time, not a tax that can be renewed very easily by a city board or city this way. So again, I'm just very concerned about this bill. It affects everyone of us when we travel across the state and spend dollars and I think it's a concern. I only have one city in my whole district that's up against their levy and...because they've been very cautious with it. I appreciate that very much, but at the same time understand the struggles that Lincoln and Omaha have trying to prepare for the future with different projects this way. So I have enjoyed the debate. I'll continue to listen, and thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Harms, you're recognized to speak. [LB357]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition of this LB357. I do support the amendment, but I'm not going to vote for the bill.

Floor Debate
April 12, 2011

Colleagues, have we forgotten what the public has said to us? When all of us came here, what was happening on the federal side? They were saying they wanted less involvement of government. They wanted streamlined government. They wanted to be more transparent. They wanted to give up and control the expenditures. We have not made that decision in this great state. I've listened to the debate quietly. I've listened to the debate of what people have said in here. And colleagues, I'm telling you that I'm not convinced that in any of these cities and any of these counties as they are today, that they are going to be hurt. That they're going to close their doors. What it's going to force them to do is put together long-range planning. Show me what they're going to cut. Show us what's going to be done. Show us that they're going to be able to streamline this government. That's what people want. All this does is gives them the opportunity, if they want, if the public wants to bail it out. And until I can actually see what it has done, I don't think I can support this. Colleagues, the other thing I want you to understand, I went to my chamber of commerce last night and said, put out on your e-mail, what does the public want? What do the people of your membership want? This is a situation that I'm not sure where I want to be. That material and information is now starting to flow in. I'm here to tell you coming from the heart of the public, they're saying, you know what, I don't know if we want to do this or not. And you know why? Because they've not seen what the impact is to their community. They've not had the opportunity to understand, is their government going to be streamlined? What are they going to give up? Do you know any of that? I don't think you do. And until you can see that in a year or so, why do you want to do this? Now I understand that there are some other amendments that might make this a lot easier to handle, and I'll wait until those amendments come out, but I'm not going to support this on General. I may change my views on Select. I'm waiting to see what the public says that I represent. Why don't you just go to your chamber? Why don't you just go to the public there and ask them what they think? Why don't you find out before you take a position? You know, sometimes we come here and sometimes we go to the federal...our colleagues on the federal side forget who they represent. We begin to think we represent ourselves. We don't. We represent the public. And why don't you just go back, and if you've got a chamber of commerce or you've got a body in your community, ask them what they think. Ask them to survey quickly. With technology, you can get it instantly, colleagues. Why don't we find out in your communities and your cities and your counties exactly what the public thinks about this issue? I've done that. I'm waiting for those replies. I might change my views on this, but right now I cannot support it the way it's written. I'll have to wait to see what the amendments are, and how those amendments impact the public, and whether we are really going to have property tax relief. You know, by going by sales tax, colleagues, some of the same people are paying the same bill. It's just easier to pay it on the penny side than it is on the property tax side. And I hope you will take these things into consideration, and I hope you go a step further and ask the people that you represent what they really think, and then make your decision based on that. Mr. President, I would yield whatever time I might have left to Senator Heidemann. [LB357]

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

Floor Debate
April 12, 2011

SENATOR CARLSON: Thank you, Senator Harms. Senator Heidemann, 1 minute 15 seconds. Senator Heidemann waives. Mr. Clerk, for an announcement. [LB357]

CLERK: Mr. President, some items, thank you. Enrollment and Review reports LB463, LB463A, and LB500 to Select File. Senator Carlson would like to print amendment to LB698. New A bill: Senator Adams offers LB637A. (Read by title for the first time.) Senator Mello offers LR161. That will be laid over. And I have a communication from the Executive Board regarding designations of Speaker major proposals (re LB84 and LB397). That's signed by Senator Nelson as Vice Chair of the board. And, Mr. President, a conflict of interest statement, Senator Hansen. That will be on file in the Clerk's Office. That's all that I have. (Legislative Journal pages 1151-1153.) [LB463 LB463A LB500 LB698 LB637A LR161 LB84 LB397]

SENATOR CARLSON: Thank you, Mr. Clerk. Continuing with our debate on LB357 and AM1147, Senator Haar, you're recognized. [LB357]

SENATOR HAAR: Ken Haar, right? (Laugh) Okay, thanks. Mr. President and members of the body. I oppose AM1147 and support LB357. The city I know really well is Lincoln. I served on the City Council for eight years and about 65 percent of my district is Lincoln. And the city of Lincoln is not a Santa Claus, but the city of Lincoln has good parks, swimming pools, actually roads that are pretty good but they need repair, and it's because of some of the amenities of the city of Lincoln that people like to move to Lincoln. Lincoln consistently is one of the best places to live in the country. And so Lincoln is not a Santa Claus but it is providing the kind of things that the people of the city of Lincoln want. Now I handed out a couple charts. The first one and it's a bar graph. I should have added the word Lincoln city property tax rate. I want to show you what happened to the property tax rate between '94 and 2010. It went from .52 to 28.8. And by the way, I was on the council from '89 through '97, so I had a little bit to do with that. But the person who probably had the most to do with it is Senator Johanns. He was mayor from '91 through '98 and he consistently ran, and I supported that, ran on reducing property tax. And, in fact, that happened. And the city of Lincoln...then I'd like you to look at the second chart I handed out. It's a pie graph. I love charts. And you can see that now the sales tax...you know, kind of a goal, at least a policy goal in the past has been for cities. Now for schools it's different. Schools are funded by property tax. Maybe that needs to change, I don't know. But for cities and state government we've talked about a third, a third, a third. And right now, it's not too bad in the city of Lincoln, a third, a third, a third. So the city of Lincoln is...does have a plan. The city of Lincoln does have a strategic plan. I've helped develop that at times, and the city of Lincoln is streamlining government. They have been consolidating senior centers, they have been closing swimming pools, they've cancelled after school programs in some cases, which would keep kids off the streets. And these are not even easy changes. The city of Lincoln has been streamlining government. And I can't speak for Omaha directly, but I would like to speak for Ashland. They wrote me, the city administrator of the city of

Floor Debate
April 12, 2011

Ashland says...asks for support of LB357, with changes the Legislature has made to state aid, Ashland is looking at revenue loss of approximately \$20,000. This may not seem like a large amount, but to the citizens in Ashland it is. For the city to continue to offer the same services we will need to look at other revenue sources. And the city of Ashland is not Santa Claus either. I can attest to that. It seems to me the tax policy we've been working at in this session is to give less state aid to cities... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR HAAR: ...and I think...thank you. In that toolbox, or in my case the tool bucket, we need to give them the tool that's talked about in LB357. And my good friend Senator Harms started his conversation with a quote, if the public wants, and this bill very clearly, LB357, builds into, if the public wants, because they get to vote. This is not something the city council can enact or whatever. It's, if the public wants. And I come down strongly on this issue on the side of local control. Cities are not Santa Claus. Most...Lincoln, I can speak for Lincoln, has strategic plans. They're streamlining government, and I think we're tying the second hand behind their back. Thank you very much. [LB357]

SENATOR CARLSON: Thank you, Senator Haar. Those still wishing to speak: Senators Ashford, Wallman, and Nelson. Senator Ashford, you're recognized. This is your third time. [LB357]

SENATOR ASHFORD: Well, that's got to be a thankful point. I didn't...thank you, Mr. President and I don't have much to add. We are working on an amendment to this bill and, hopefully, that will...no amendment solves all the concerns, but I think will solve some of them. I think, again, the argument that I hear most often and it's a legitimate one is, what if we need the money and...or that we don't want to start a precedent. Those are extremely important points and my sense is that we won't necessarily be creating a precedent anymore than we did in 1978 when we increased the local option sales tax to 1.5 percent, nor anymore than we did in 1969 when we initiated the local option sales tax. The state from time to time doesn't have the money to give out in state aid that it would like to do and certainly this year state aid was reduced substantially. And I agree with Senator Heidemann that there is state aid still going out in various forms to cities. I get it. And possibly, the precedential decision we made on state aid a few years ago is the one we shouldn't have made. That we shouldn't have gotten into the business of giving General Fund dollars directly to cities and counties because of the situation we found ourselves in this year. It creates an expectation. It's money coming out of the General Fund budget. It's money that isn't going into other things like roads or education, the university, whatever it may be, prisons. This, though, again and we all know it, it doesn't need to be restated, though it could have a fiscal impact going forward, it obviously doesn't have an A bill, it is not money coming out of the General Fund in the short term, and we cannot assume that all 500 or so cities in the state are

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

Floor Debate
April 12, 2011

going to increase their sales tax. My guess is the citizens will, in some cases, like was exhibited by some of the testimony at the hearing, will want to build a swimming pool or some sort of a water park and they will have the ability to go to their citizens and raise some money to do that, and it would not have to come out of property tax. I think that's a legitimate kind of thing that citizens need to feel a part of. Local option sales tax is a good idea. It is exercised prudently. Nebraskans are conservative. They don't like increased taxes, but they will vote to increase taxes on themselves if they see something coming back that they can be proud of. In our city there are many examples, and in all your cities there are many examples. And that's what I was trying to get to yesterday when we talked about the little contributions the state was making to small communities across the state out of the turnback fund. Cities with 500 people are just as proud of their community center, or their hundred year old Victorian home, or historical society, as I am of the Qwest Center. I mean, it doesn't matter what the building is. It's the pride that we have in those things that make our cities and counties great, great places to be. We can make those local decisions but it takes money to do so. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR ASHFORD: I don't see...I don't really see...I get the point that is being raised over and over again about the General Fund budget. This money is not coming out of the General Fund budget. We have taken money from...that was coming out of the General Fund budget and bringing it back in this year to meet our obligations. So I think we should be careful about some of the state aid going forward that isn't for schools because it does create this cliff. So with that, I would urge, again, I...that we not adopt AM1147, and move on to some other amendments that we're thinking about. Thanks. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Wallman, you're recognized. [LB357]

SENATOR WALLMAN: Question. [LB357]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB357]

CLERK: 31 ayes, 0 nays to cease debate, Mr. President. [LB357]

SENATOR CARLSON: Debate does cease. Senator Heidemann, you're recognized to close on your amendment. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I am going to bring AM1147 to a vote. Some people think that this was a discussion

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

Floor Debate
April 12, 2011

point. I'm very serious about this. If...and I've said it before, if they need to access sales tax, fine. Let's let them go down that path, because if you have a structural imbalance and it's on the revenue side, and you need more access to tax base, and if you want it to be sales tax, okay, let's go down that path. But all AM1147 is saying is, use all your resources first. And not even all of your resources, 80 percent of the property tax base, we're saying, 40 cents out of 50. And when you get to that point, then you can go to the vote of the people and say, we need more, we need more of a revenue base. We have a structural imbalance. It's on the revenue side. You convince your people that it's not on the spending side, and you go to the ballot and you can get that extra half cent. All we're asking underneath AM1147 is, use the resources that the state has already granted to you. It's fairly simple. I think it's good policy and I would encourage you and urge you to vote for AM1147 to LB357. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Heidemann. Members, you've heard the closing on AM1147. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB357]

CLERK: 10 ayes, 25 nays, Mr. President, on the amendment. [LB357]

SENATOR CARLSON: The amendment is not adopted. (Visitors introduced.) The Legislature will be at ease for a moment. Members, we return to debate on LB357. Those wishing to speak: Nelson, Ken Haar, Heidemann, Ashford. Senator Nelson, you're recognized. [LB357]

SENATOR NELSON: Thank you, Mr. President and members of the body. I had gotten in queue to address the amendment from Senator Heidemann and ask some questions on that. That, of course, was not approved so that kind of ends my discussion there. I do stand in general...in support of LB357 with some reservations. I look at it, as has been said by many here before, that this is putting it to a vote of the people. I did not think that we should require people to get up to the .40 on a \$100 before they needed to vote on that issue. That's moot now. I would encourage your vote now in favor of LB357 so that we can move on, unless, of course, there are amendments that will make this a better bill. I would give the remainder of my time to Senator Ashford if he wants to speak at this time. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Ashford, 3 minutes 50 seconds. [LB357]

SENATOR ASHFORD: Thank you, Senator Nelson. And just to reiterate a bit here, I understand that there is an amendment that I haven't read all of, but it...regarding property tax fund that Senator Mello has come up with and we'll see what that is. I, again, would urge the body to move this bill to Select File, allow us some time to think about the issues that have been raised, all of which have been very good ones, and

Floor Debate
April 12, 2011

come back to the body with some other ideas. I don't like doing tax policy on the fly, particularly. And it would seem to me that if we could have some time between now and...I don't...a vote of the people on taxation and spending should not stop at General File in my view. I mean, giving the people an opportunity to vote...you can't vote...the voters are not going to agree to raise taxes anywhere in this state unless spending is part of the discussion. There's no way. Our...the citizens of our state, our constituents, we know them. There's no way that they're going to vote to increase any tax anytime unless there is a commensurate attention paid to spending. That's just not going to happen and to assume that it is, it's just not realistically. It doesn't reflect the values of our state. It will not happen. Again Senator Schumacher has brought a great...I think one of the critical points here, we need to encourage local governments to cooperate together to become more efficient. And that's hard for us to do here because it's always viewed as a mandate when we say we want you to merge your governments or whatever it is, they...the local governments say, well, that's our decision, not your decision. Well, fine, okay. But if we give to the voters, the citizens of our individual communities, big or large, medium, whatever it is, the opportunity to have that discussion, how can that possibly hurt us? How can that possibly be a bad idea? It doesn't seem to me as it is, that it would be. And again, Senator...and again, we have created the policy. It goes back 35 years. We need to be prudent about it and not enlarge it unnecessarily or unreasonably and I don't think we are here. It is unlikely that...I don't know how many cities would take advantage of this, maybe half, maybe a third. Who knows? Who knows? But it is not going to be a run at the bank. There's going to be thorough discussion on the local level. That's where it needs to happen on issues of spending. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR ASHFORD: And I know that's what's going to happen. And we all know that because we are all Nebraskans and we know how our constituents think about these things. We're going to be debating the CIR here for several weeks. That's an issue that involves costs. You know, how do we do labor negotiations, collective bargaining, and still think about costs containment? That's what that debate is going to be about. That's what we talk about all the time. That's what local governments will talk about. Simply put, we have a policy in place. I'm asking that we enlarge that capacity by a half a percent. That is not, in my view, imprudent. There will be a discussion on spending in every jurisdiction where this comes up for a vote. I just can't believe there wouldn't. And every vote that takes place will be close. And that's the way we operate in the state and that's the way we should operate. There has been... [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR ASHFORD: ...there are needs in the cities that should be addressed. Thank you. [LB357]

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

Floor Debate
April 12, 2011

SENATOR CARLSON: Thank you, Senator Ashford. (Visitors introduced.) Senator Heidemann, you're recognized. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. My amendment didn't pass, so now we're going to talk about LB357 and my concern with that. I have serious concerns if LB357 passes that you are eroding the state sales tax base. And I've heard people comment that that's not so. But as far as I'm concerned, if times would get tough or tougher than what we see them already, we was able to make it through these tough times and it's some of the toughest times that we've seen for...you can go back years. We was able to do it because the federal government come in and said, we're going to help you out. We was able to do it because we had the foresight in this body to have over \$600 million in our Cash Reserve. And you put that all together and we was able to make this work. But we went to a place that a lot of people weren't comfortable with. So now you put yourself in this position that we didn't have that Cash Reserve and the federal government didn't come in and help us out, we would have had to drive a lot further. We would have had to cut a lot more. There would be either less programs or less funding for those programs. State aid to education without the Cash Reserve transfers and without the \$234 million, I believe that came from the federal government, would have been at what level? What I'm trying to tell you here, if that wouldn't have been there and in future when we give this away, this half cent away, and we come into those tough times, what is the opportunity for us if we're at 7.5 percent to get another half percent and hit that magic 8 percent level. If we don't think the political will is to take it from 7.5 to 7.5 percent right now, if times get tougher and we actually do need that money, what is the opportunity for us to be from 7.5 to 8 because when people here that 8 percent figure, they're going to say no. This, to me, from this point on, LB357 is trying to protect education, and it's trying to protect provider rates down the road, because we might not have that fallback position next time of Cash Reserve unless we build it up, if the federal government decides we can't keep spending money all the time and we're not going to be able to help you out this time. This to me is eroding the state sales tax base that eventually we might need, we might have to access, that we will have to have the political will to say, we need this. We've cut enough. We can't do anymore. And for that reason I stand up and oppose LB357. [LB357]

SENATOR CARLSON: Thank you, Senator Heidemann. Senator Ashford, you're recognized. [LB357]

SENATOR ASHFORD: Waiting for Gadot. I mean, it's sort of waiting for the next amendment. (Laugh) I can't wait to see it. I think it has something to do with property tax. Let me...is there someone that knows about the amendment here? Senator Mello, is he around? Look at...I...how many speakers do we have on the...in the queue? [LB357]

Floor Debate
April 12, 2011

SENATOR CARLSON: Six. [LB357]

SENATOR ASHFORD: Okay. If Senator Mello was here I would ask him about the amendment. I believe it has something to do with creating a property tax fund, which is fine. I think that what we need to do again is...there are significant bills in this session. This is one of them. Not because it's mine, but because it's been 33 years since we've addressed the issue that are moving over to Select File. And we are going to have a CIR debate which is going to be a difficult debate at best, and it's going to tax us, and it's going to be, I think, a very important debate for our state but it's coming up and it's going to take a long time. What I would ask all of you to do at this point is to advance this bill to Select File. It would give us an opportunity to look at other amendments and ideas regarding the sales tax. And there are some legitimate ones, I pointed them out. Senator Schumacher has some very good ideas. Senator Adams and Senator Heidemann are raising the issues regarding the integrity of the General Fund. And those are important points. We do have many needs in our state. I think, and I know I'm sounding redundant, but again what we try to do here and have done throughout the years is be balanced and prudent. This is not a raid on the General Fund. It's not a raid on provider rates. It's not a raid on any of those things. It is a response to needs that our constituents, our mayors, have addressed to us. We already give this half cent or 2 percent sales tax option to the counties to do law enforcement. We are simply asking that the cities be given the same opportunity to raise their sales tax from 1.5 percent to 2 percent. It is not out of balance. It is not way out there. It is not radical. It is not a tax increase. A tax increase would be... [LB357]

SENATOR CARLSON: (Gavel) [LB357]

SENATOR ASHFORD: ...raising the sales tax on the state level. A tax increase would be raising the income tax rates for individuals or corporations in the state. Those are tax increases. What this is, in its simplest form as we know, is providing to the cities an opportunity to expand a program which has...does now exist, has existed for over 35 years. It is...I believe the cities, the mayors have made the case that giving them the opportunity to raise the sales tax by this half a percent to the level the counties already have, is not out of balance or out of whack. It is not a tax increase. And if someone says in a campaign or in some flyer that you voted for a tax increase, I'll tell you what, if they want to call this a tax increase in a political flyer, they're going to find a tax increase somewhere else, because unfortunately, that's where political campaigns have gone. This is not a tax increase. It's giving the voters an opportunity to have a conversation about spending, about the vision for each city that it has about its future, giving them the means to arrive there. It's an opportunity, as Senator Schumacher suggests, to have a conversation within the region to talk about intergovernmental... [LB357]

SENATOR CARLSON: One minute. [LB357]

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

Floor Debate
April 12, 2011

SENATOR ASHFORD: ...cooperation. I honestly think it is...what I think the see changes net...what I think our citizens are asking for, our constituents, is they want to be more participatory in the process of governing, of governance. This is a real opportunity to give them that opportunity to engage in a conversation about governance, and about how they govern themselves in their cities. I honestly don't see a negative to that. And I understand Senator Heidemann's concern over the General Fund. That's his job and he should be concerned. But this is not a raid on the General Fund, it is not a raid on the General Fund, it is not a raid on the General Fund. It is a continuation of a policy that we have put in place and it is a prudent expansion of that program. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford. Those still wishing to speak: Lathrop, Cornett, Mello, Nordquist, Utter, and Fulton. Senator Lathrop, you're recognized. [LB357]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I stand in support of LB357 and I find it interesting to listen to people who stand up and say we should have a big discussion on tax policy because this is what happens when we don't. I'll take some of you back to a time before you got here and some of us that were here, and we set up a property tax rebate program. We had some extra money sitting around. And we had the rainy day fund, as we've come to call it, flush with money. And we were trying to decide what to do for the taxpayers. And Senator Raikes, who was a very thoughtful member of the Revenue Committee, said, take the half cent sales tax that we promised to give back and give it back to the people. And he did that from the back row of this Chamber and I listened to him and I said, that makes an awful lot of sense because at some point we're going to need that half cent on a bad, bad, bad day and in a deep recession we may need it. And it really gets to what Senator Heidemann is saying, which is, we may need a half cent some day. Well, we went in a different direction, probably for short-term reasons. And now probably all wish that we would have followed Senator Raikes' advice. I think about it a lot, almost every time people stand up and start talking about tax policy. Well, that's not the only occasion though. We passed LB383. And when we passed LB383 the skids were greased and it was moving and a lot of you people had been talked to you before we passed it, and everybody did it because it seemed to be the thing to do, and a few of us stood up and said, this is going to have property tax implications in the cities and the counties. And we didn't listen. You don't have to. I'm not always right. It's just one person's idea, but it does. And then we had an occupation tax bill and we moved that. And we had a commuter tax thing and we moved that. And we are taking...look, you can giggle about...you can giggle about a restaurant tax and say, what are they doing with that? The cities are running out of options. Okay. And what they've asked for is an opportunity to talk to their citizens. This isn't going to happen because the mayor wants it to happen, and it won't happen because the city council votes for it. It will only happen because the

Floor Debate
April 12, 2011

people agree to it. And trust me, no one is inclined to agree to a property...or a sales tax increase unless somebody puts something in it for them, property tax relief, you name it. But it isn't going to happen because somebody hoodwinks the taxpayers. They're not going to vote for it. I think the only way LB357 ever turns into a half cent sales tax increase is if someone in a very thoughtful way approaches the taxpayers and says, there's something in it for you because the mood about not raising taxes isn't just in here, in here reflects people's mood. And as Senator Ashford said, LB357 isn't a tax increase at all. It more likely represents relief from property tax increases that are going to come in the wake of bills like LB383. So let's permit the cities an opportunity to talk, to have a dialogue about spending, to have a dialogue about tax policy with their taxpayers, and if they can't sell it, then it sits on the books and it never gets used. [LB357 LB383]

SENATOR CARLSON: One minute. [LB357]

SENATOR LATHROP: But they may well say, we'd rather have this come from sales tax than from property tax. All right, mayor, we're on board if you will lower our property taxes. That's a choice the taxpayers want and Senator Ashford's exactly right. They want to participate in this process and they will have a voice, and they will have a vote, and this won't happen unless they agree to it. But for those who frame this as a tax increase bill, I will tell you that it is a property tax relief measure. A property tax relief measure. And we ought to afford the opportunity to the cities to sell it to their people if they want it, and if they don't, nothing happens. Nobody's taxes change. It makes eminent sense. I'm looking forward to Senator Mello's amendment that addresses, maybe, in a more specific way... [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR LATHROP: ...property taxes. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Lathrop. Mr. Clerk, for an amendment. [LB357]

CLERK: Mr. President, Senator Mello would move to amend with AM1176. (Legislative Journal page 1154.) [LB357]

SENATOR CARLSON: Senator Mello, you're recognized to open on AM1176. [LB357]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Throughout the debate yesterday and today there's been a good amount of conversation and discussion that's focused on what local governments would do if the voters so chose to increase their taxes. And Senator Lathrop, as a...I think as a very thoughtful warm-up to AM1176, rightfully describes what many of us see LB357 as,

Floor Debate
April 12, 2011

which as currently with the amendment, AM1176, only further emphasis the focus on property tax relief. Earlier this session we've had bills, LB383, LB81, the occupation tax bill regarding telecommunication's occupation taxes, that limited ultimately what government could do at the local level. And it also laid out the understanding that more than likely that we would put an overreliance on property taxes for them to provide the services that they need to provide. Society has a price and I think we all understand that. And that price is paid for by taxes. In discussing LB357 over the last two days, Senator Ashford, I think, has done a very noble job of laying out the basic argument that we should give the taxpayers the option to determine their future when it comes to tax policy. AM1176 takes that a step further. The focus has been property taxes in multiple conversations this session both from an Appropriations Committee perspective on the Property Tax Credit Fund as well as LB383, amongst others. What AM1176 does it requires that local governments, if voters approve an increase in their local option sales tax, that a minimum of 5 percent of that revenue is prioritized for property tax relief. Some municipalities such as the city of Omaha and others have discussed putting that further. Possibly to a third of that tax revenue if it was passed by voters. This amendment simply codifies concretely that property tax relief will be a component when voters decide to increase the local option sales tax. It's not an either or, it will happen. If you choose to increase one tax, another tax will be reduced. In my mind that's good tax policy. And I think it helps us as a state and as local governments relieve the burden that's placed on local governments to utilize property taxes. But as Senator Lathrop mentioned, there's overarching arguments in discussion points that evolve around the role of government and the role of taxation. Some will try to lay claim that no matter what we do in LB357, we're raising taxes. I beg to differ. Senator Cornett will also bring an amendment on Select File that essentially sunsets this local option sales tax, further emphasizing that this is a special authority we're providing local governments for purposes that are outside of their existing tax authority. But in that same sentence, we're also emphasizing that this Legislature and that this state is prioritizing property tax relief with AM1176. [LB357 LB383 LB81]

SENATOR CARLSON: (Gavel) [LB357]

SENATOR MELLO: Colleagues, society does have a price and the question that we have been debating the last couple of day is, how do we pay for that price? Do we pay for it through local property taxes? Do we pay for it through sales taxes? What role does the state have in our sales tax structure, and income tax structure have on that price of society, particularly local governments? And I would make the argument that it's a partnership. And this is not a new argument. It's an argument I made both on LB682 last week. It's an argument I made on LB383. And Senator Schumacher, I think, took that argument to another level, which we in a changing global economy in a time where we know government needs to change, government needs to reform, needs to reinvent itself, we have an opportunity here to also look at our tax structure and do the same thing and provide an incentive to local governments to be a partner in that with the

Floor Debate
April 12, 2011

state. I believe AM1176 does that because we are providing a unique incentive for local governments to reduce their property taxes by adopting AM1176 to LB357. I think Senator Cornett's amendment, she'll bring on Select File, only strengthens that partnership as we emphasize this is not the traditional ability just to raise local taxes. That's the easy route. That's the easy way to govern. We know that, or at least some of us do, and acknowledge it openly. That's why we don't have a tax increase in our state budget. It's the easy way to govern in these times, raise taxes. That's not what LB357 does. It provides local governments a unique opportunity to lower one tax, provide enough funds with the support of the people for special projects, special purposes that they vote on. If we took that concept and elongated to other policies that we debate as a Legislature, we would have by far one of the most engaged citizenry in the world because every tax issue would involve the voters. It wouldn't just involve your city councils. It wouldn't just involve your county boards, and it wouldn't just involve your Legislature. I hope, as we continue this conversation, the underlying premise is focused on property tax relief. That's something that I discussed with Senator Ashford for a while now on LB357. It's a priority of mine. It has been a priority of mine and I think it's a responsible thing to do regarding LB357, that as well as including a sunset provision. It's the responsible path forward allowing local governments and the citizenry of the state to decide their future. Also understanding that we emphasize and value the arguments that people make on the overreliance of property taxes, both urban and rural. And that's why we're making it part of this bill. I urge you to adopt AM1176. Thank you, Mr. President. [LB357 LB682 LB383]

SENATOR CARLSON: Thank you, Senator Mello. Members, you've heard the opening on AM1176. The floor is now open for debate. Senator Cornett, you're recognized. [LB357]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I had originally mentioned the premise of Senator Mello's amendment and had suggested to him that we wait to Select File just for drafting issues. AM1176 may need some technical corrections between now and Select File, but the underlying principle is a very sound one that we allow...if the cities enact this, that a percentage of it has to be used to lower property tax. In the Revenue Committee, property tax is the one thing we hear most about, the things people dislike the most. I've got a study here that was provided to me...oh, it's a poll, pardon me, called the Nebraska poll, which was conducted last year. And the primary...I'm going to read to you: The primary purpose of this addition of the Nebraska poll was to determine the views of Nebraska voters on a variety of issues. The breakdown, the addition of the Nebraska poll was a survey of registered voters only. Respondents indicated they were registered as Republicans by 50 percent, Democrats by 34 percent, Independents by 12 percent, and 4 percent did not respond to the questions. Respondents were asked to identify what they thought was one of the biggest problems in Nebraska today. A plurality of respondents, 32, indicated the economy followed by taxes or spending, also followed by government, healthcare,

Floor Debate
April 12, 2011

crime, education, and a variety of other responses. Nine percent indicated they didn't know what the problems were. About three-fourths of the respondents, 74 percent indicated they would vote for allowing cities to access additional revenue sources other than property taxes, and use sales tax to help attract businesses and create jobs with a local vote of the people. This bill includes that. Nearly two-thirds or 63 percent of the respondents indicated they would vote for allowing cities to increase their local sales tax up to an additional half cent to maintain streets and roads with a local vote of the people. [LB357]

SENATOR CARLSON: (Gavel) [LB357]

SENATOR CORNETT: The majority of the respondents, 58 percent, indicated they would vote for allowing cities to increase their local sales tax up to an additional half cent to pay for public safety programs like police, fire, utilities, with a local vote of the people. Most respondents, 89 percent, indicated they would prefer a local vote to determine what should be done in their own community over having others tell them what to do. Ladies and gentlemen, overwhelmingly, we hear complaints about property tax. The amendment has a component to lower...for the cities that utilize this to lower property taxes. Municipalities now can go to the people and say, if we have a project, or if we have something unfunded, or if we need to do something, here's an option other than property tax. The amendment to follow on Select File will put a sunset in. There was some unclarity, apparently, when I said earlier and it was probably my fault, that what I'm going to put as an amendment on Select file is that on the ballot when the people decide whether they're going to approve a project or not, it will specify what the project is, and it will put a sunset or an end to when the sales tax will stop. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR CORNETT: So you want a swimming pool in your municipality and you don't want to raise property taxes, and your people want someplace for their children to go play in the summer, you put it on the ballot. They vote for it and they know how long they're going to be paying for it. This gives our citizens the right to choose. Choose if they want to do an infrastructure project, choose if they have an unfunded project whether they want to go to property tax or sales tax. This puts control in the hands of the people. With that, I urge you to support the AM1176 and the underlying bill, LB357. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Nordquist, you're recognized. [LB357]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to echo some of the thoughts of Senator Lathrop, Senator Cornett, and thank Senator Mello for bringing this amendment forward. I once heard government described as simply what

Floor Debate
April 12, 2011

we choose to do together as a people. And I trust the people of this state to make the right decision, to make the right choices, when this is put before them. This will give them the ultimate choice, control over what they want to do, what they think is right for their community. Whether it's in Scottsbluff, or whether it's in east Omaha, I think this puts the power in the hands of the people. Talking to folks in my district, certainly knocking doors, I'm sure it's the same everywhere else, number one is property tax, property tax, property tax. This piece that Senator Mello is running, I think, will give the voters the ability to choose where they want their tax base at. Whether they want to shift some of that burden, a property tax burden over to sales tax. I think that's a decision we should give local subdivisions, cities, to make that choice. The second piece, and I think this is absolutely critical for me in the district that I represent in Omaha, I've been hearing it more and more from restaurateurs is the restaurant tax. And there's a lot of concern over that. And in Omaha's ordinance, which put the restaurant tax in place, there's a provision that that would sunset if the voters choose...if we were to give them the authority to go forward and the voters would choose a half cent sales tax increase. There are a lot of small businesses in my district being affected by that restaurant tax, and I think the voters, therefore, should have the say whether or not they want to enact a half cent sales tax with property tax reduction, and it would also sunset the restaurant tax. Listening to folks in my district, I think that's exactly what they want and without the provision, without the property tax provision, and without the sunset, I don't think I would support the underlying bill. But going forward with a property tax offset and a sunset, I think that is in line with what I am hearing from my constituents, and I think they should be given the choice to choose the pathway forward. Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Fulton, you're recognized. [LB357]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Mello yield to a question? [LB357]

SENATOR CARLSON: Senator Mello, would you yield? [LB357]

SENATOR MELLO: Yes. [LB357]

SENATOR FULTON: Thank you, Senator. On the amendment in line 5, if a city were to okay, give approval for this increased sales tax, your provision would provide that 5 percent of that revenue would be utilized for offsetting property taxes. So I'm following you thus far, correct? [LB357]

SENATOR MELLO: Correct. [LB357]

SENATOR FULTON: Why wouldn't that five be 100? [LB357]

Floor Debate
April 12, 2011

SENATOR MELLO: I think, Senator Fulton, and this is a minimum of 5 percent, and once again we'll have some technical changes that we want to make on Select. And I was just talking with Senator Ashford about that. That defeats the purpose, I think, of the option of providing voters the choice of whether or not they want to increase taxes on themselves to pay for road infrastructure, street financing, an arena, you name the project that they want to pay for. I'm using this new increased authority. To use it exclusively for property taxes, I think defeats the purpose of providing voters that choice. I'm more than willing to negotiate and look at providing more...a larger minimum than 5 percent, but I think we want to provide that local option to the local voters to decide where they want to put their priorities. [LB357]

SENATOR FULTON: Okay. Thank you, Senator. That's...I appreciate that straightforward answer. And the way I look at this, I had not had my mind made up yesterday. This is one of these issues that in principle, I'm not opposed to it in principle because the voters would have a say. Where I became more engaged is when I recognized that we were talking an awful lot about tax policy and not about spending policy. I appreciate that Senator Ashford has tied the two together because I think they are inextricably tied together. One can't have a discussion about tax policy, an intelligent discussion about tax policy, without understanding what the taxes are utilized for. So let's take the step back here, or let's go up high, 10,000 feet. If we were to move LB357 forward, we would be providing another mechanism, another mechanism for cities to utilize in the paying of their responsibilities. But it is just that. It is another mechanism. Another mechanism by which taxes can be gleaned, all for the purpose of an expenditure. Is our tax policy, going forward, causing us to take our eye off the ball? Now I support what's going on in AM1176, the principle of what's going on in AM1176, and I'll probably support it. I don't know, however, that that causes me to say that I'm going to, therefore, support LB357. I think we are all...and I don't mean this in a pejorative sense, I don't mean this to be a...sound bad. I think this is what's happening. I think we are being lulled to sleep. We engage these tax policies with the idea that we're going forward in a way that's acceptable to the people, which is important. But what we lose sight of is the expenditure. What necessitates taxes are expenditures. So we would, if we adopted AM1176, which I think is a good idea, which could cause LB357 to be... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR FULTON: ...supported by enough to move forward, we would be increasing the amount of money taken from the people in exchange for decreasing the property taxes by a little bit. In other words, if you're paying \$10 in property taxes, and we pass this forward, we're going to take \$10 in sales taxes, in additional sales taxes from you, but when we do that \$10 of additional sales taxes, we're only going to take \$9 of property taxes from you. That might sound good, but mathematically what's happened is we've gone from spending \$10 to \$19. Do you see? We're being lulled to sleep by our

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

Floor Debate
April 12, 2011

tax policy. It's the expenditure. It's the expenditure which dictates the necessity of our taxes. We must be very careful in how we put forward our tax policy because I fear the very thing that we're trying to get after is only exasperated. [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR FULTON: Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Fulton. (Visitors introduced.) Senators still wishing to speak include Ashford, Wallman, Karpisek, Dubas, and Mello. Senator Ashford, you're recognized. [LB357]

SENATOR ASHFORD: Thanks, Mr. President. And there are only a few speakers in the queue, so possibly we can get a vote on this amendment before lunch and then get back to the bill. I think Senator Fulton's comments are dead-on. The...this is a debate about spending and the...as I mentioned before, the...in many ways, that we're going to be dealing with spending from here on out with the Appropriations bill, with the CIR bill. How do we determine the appropriate mechanisms to keep a responsible standards for public employee wages? That's a cost issue. The Appropriations bill is a cost issue, obviously, spending issue. And as Senator Fulton has said, I think this is, as well. And I agree, I think that they are inextricably connected to taxes and you can't...it's a trite statement, but lowering taxes is a function of efficient government. It's a reward for being good and efficient at managing a budget no matter what kind of business you're in. And certainly government is part of that. So make no mistake about it, this is not being...certainly as the sponsor of the bill, I did not bring this this time nor did I bring it in 1991 as a way of increasing taxes. I brought it as a way of looking at, within a community, how we best budget and appropriate our money and be more flexible in our tax policy. That's the reason for the bill. I'm going to go...give the rest of my time. Maybe Senator Mello has done this amendment so he may want to speak and then we can, hopefully, get on to vote on the amendment. Thank you, Mr. President, if he wishes to have the time. [LB357]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Mello, 3 minutes. [LB357]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. To some extent I think Senator Fulton's comments are not lost on anyone, but I would also say, you know, in the words of Oliver Wendell Holmes, taxes are the price we pay for a civilized society. So to one extent, this is not just an issue of raising taxes, it is an issue of spending and expenditures, but both of those components are part of our form of government. That is the civilized society that we live in as a state, as a local government, and as the United States of America. So to make sure we give a full perspective of that, we have limitations, some more than others in regards to what local governments can spend. And the issue is...and I've always looked at LB357 not as an

Floor Debate
April 12, 2011

ability to provide local governments the ability to spend more, it's the ability for them to review their own tax policy, to review what they want to prioritize as a local government in the sense of choosing to exercise local option sales tax with a vote of the people more than the reliance on property taxes. That is the underlying argument with LB357. And unless we're willing to put forth bills or legislation that restricts dollar amounts that local governments, depending upon their size, can spend, and we want to limit the growth of our local governments and municipalities, that's an entirely separate issue. And I want to make sure that we don't combine both of those issues under the guise of what we're trying to do under AM1176 or LB357. None of us in this body currently serve as a duly elected state senator and city councilman, or duly elected state senator and mayor. Local governments are elected by the vote of the local people to manage and effectively govern that local government, to make tax policy for that local government, to provide critical services for that local government. What we are providing them is an opportunity for... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: ...that local government and the citizenry to determine if there's a better way to manage, a better way to govern locally. That's what we're doing by adopting AM1176 is we're moving the reliance away in tax policy at the local level from property taxes to a vote of the people for a local option sales tax increase. It's the option. The voters ultimately decide. We as the state senators do not decide, the Governor does not decide. It's the vote of those citizens who live within that municipality to make that determination. I urge the body to adopt AM1176. It's fiscally sound policy that further emphasizes our desire to prioritize property tax relief. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Mello. Senator Wallman, you're recognized. [LB357]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. It's almost like being in church in here how quiet it gets for tax policies, and I think way back, under Caesars, what are Caesars was mentioned in the good book. And looking at little articles here, thanks to Senator Haar, about Australia. What's the matter with America? Voter apathy. This bill encourages, I think, voter participation. And are some communities going to abuse this? I don't think so. I used to be a member of a township board. We levied our taxes to keep up our roads. We did not over levy funds for our local areas, and maybe too low. So now if you're in Australia, guess what? You don't vote, you have to pay a fine. Twenty bucks. And you'd better have a good excuse for not voting. Maybe it's time for America to have something like this, or the state of Nebraska, encourage people to vote. The voting booth is important for us. And so like Senator Sullivan mentioned about the watchfulness of the citizens, and I think this bill does that with this amendment. And I would urge a green vote on both. Thank you, Mr.

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

Floor Debate
April 12, 2011

President. [LB357]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Karpisek, you're recognized. [LB357]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Would Senator Mello yield, please. [LB357]

SENATOR CARLSON: Senator Mello, would you yield? [LB357]

SENATOR MELLO: Absolutely. [LB357]

SENATOR KARPISEK: Thank you, Senator Mello. I'm trying to do some quick math here and I'm trying to do it on my cell phone and I'm not very good at either one. But I am trying to look at my home county. Do you have one of these handouts anywhere? Probably not. Anyway, what I'm trying to get at is, for some of these counties it doesn't look like they even collect any sales tax, but anyway, my home county the local sales tax is roughly \$800,000. So if we were to go up a half a percent on that, was what we're talking about, correct? Half a percent? [LB357]

SENATOR MELLO: Correct. [LB357]

SENATOR KARPISEK: All right. So that would be about...on \$800,000, if I'm doing it right, about \$375,000. Then we would take 5 percent of that and put it toward property tax reduction. [LB357]

SENATOR MELLO: A minimum of 5 percent, yes. [LB357]

SENATOR KARPISEK: Okay. So then if I got my math right again, we're at \$18,750, which we have property taxes levied of \$18 million, if that's correct. So if that's what we're doing, we're taking \$18,000 off of \$18 million. Does that sound even...? [LB357]

SENATOR MELLO: I'm trying to get your numbers as well, Senator Karpisek, so I'm trying to gauge here the numbers... [LB357]

SENATOR KARPISEK: I'll be honest. I'm trying to stall on this because I don't think we should vote on this before lunch. I think we need to look at it a little closer and I know you would probably like to get a vote, but I'm trying to catch up. But let's just go over again, half a percent sales tax increase, correct? [LB357]

SENATOR MELLO: Correct. [LB357]

SENATOR KARPISEK: And then 5 percent of that for property tax reduction? [LB357]

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

Floor Debate
April 12, 2011

SENATOR MELLO: Yes. I will reiterate, a minimum of that. [LB357]

SENATOR KARPISEK: Minimum. And who would set that? [LB357]

SENATOR MELLO: The city council would put that amount in front of the voters when they voted on the half cent increase. [LB357]

SENATOR KARPISEK: Okay, it would be included right on the... [LB357]

SENATOR MELLO: It would be included in the language on the ballot. [LB357]

SENATOR KARPISEK: On the ballot, okay. Thank you, Senator Mello. I just...it's great to talk about property tax reduction. I don't know and I know I heard Senator Mello say that he's not tied to the 5 percent, that it could be more. Even if my numbers...if my numbers are right and we go to 10 percent, then we're talking \$36,000 on \$18 million. It doesn't seem like enough to me to talk about this. And then all that is, is a tax shift. I don't know that that's exactly the way we want to try to sell this as property tax reduction. I listened to Senator Fulton talk about...how he talked about the numbers and he's much more of a numbers whiz than I am, but I think he...it's kind of what I'm following, too, is that it would actually increase by whatever percentage rather than actually decreasing...it would increase the total amount. I think we're onto something here talking about property tax reduction. I don't know that this is the way to do it. I have to go back to my previous comments about people not living in the city then coming and spending their money and spending their sales tax money to decrease sales tax in the town that they don't live in. Is that right? I don't know. I tend to think that on this issue I hear a lot of the larger city people... [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR KARPISEK: Thank you, Mr. President. A lot of the larger city people being in favor of this and maybe not so much of the rural. And I think that that's getting back to...and I'm not saying everyone, but I think it's getting back to my initial assessment of people from the rural are going to come in and spend even more money in the urban. And we already do that. We come in and spend the one and a half right now. Does going up to two make it any better? It does if you're...depends which side of that coin you are. And I also realize we're talking about half a percent. It's not going to break anyone to come in and spend another half a percent on a suit, or whatever they can't get at home. But I do think that we need to look at this a little bit more than...before we vote. Thank you, Mr. President. [LB357]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Dubas, you're recognized. [LB357]

Floor Debate
April 12, 2011

SENATOR DUBAS: Thank you very much, Mr. President, colleagues. I, too, like many other senators have been sitting and listening very intently to this debate because it is a very important one when we're talking about tax policy. That's one of the major responsibilities of the Legislature and we should give it very deliberative discussion and thought. We're talking about many issues throughout this particular debate on this particular bill. We're talking about local control, which I'm an advocate for. We're talking about the budget challenges that we are facing at the state as well as at the local level, and how our local governments spend their money. And I've been on the record about this before and will go on the record again. I know my local governments are working very hard to be efficient and good stewards of the taxpayer dollars. But we're also talking about, through this bill if we go this route, shrinking our state tax base. And I think that's something we need to approach with a great deal of caution. We're also talking about shifting taxes, and I think if you talk to most people, say property tax, sales tax, many people would say they would prefer to pay the sales tax. It's a little less painless. It's a tax they can choose. If they don't want to buy the product, then they just don't buy the product. But we're still talking about moving money around here, not necessarily that it would be a tax increase, but I do think we're kind of shifting things around. I also believe that sales tax is a regressive tax and those who are in the middle and lower income brackets tend to be hit harder with these types of sales taxes. I've also heard when other communities have put sales tax increases on the ballot, one of selling points for that tax...sales tax increase goes to what Senator Karpisek just said. We can get people from outside of our community to help us pay for this particular project. I know in my little community I can't get everything that I need in Fullerton as much as I would like to and as much as I try to do all my shopping in Fullerton. I just can't get everything done there. So I do have to rely on the larger communities around my area and even Lincoln and Omaha to get some of the things that I need. So while I might be supporting through my sales tax dollars in coming to these communities, things that I would like to enjoy also, it's still something that I don't get to have a lot of interaction with that decision. I think Senator Mello's amendment is taking us in the right direction but I still do have some questions and concerns. So would Senator Mello yield to a question, please. [LB357]

SENATOR CARLSON: Senator Mello, would you yield? [LB357]

SENATOR MELLO: Absolutely. [LB357]

SENATOR DUBAS: Thank you very much, Senator Mello and thank you for your work that you've done on this. I'm going to kind of pick up where Senator Karpisek left off. I'm not going to get as detailed going into the numbers, but I think the concept of what he was trying to ask goes along with the same Property Tax Relief Fund that we already have in place. And is it really meaningful relief and when we look at smaller communities who aren't going to generate the amount of dollars like a Lincoln and

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

Floor Debate
April 12, 2011

Omaha would through a potential increase in the sales tax, would they really feel that property tax relief? [LB357]

SENATOR MELLO: Well, I think, Senator Dubas, I think the way it's drafted now it sets a minimum. It doesn't set a maximum and I think that ultimately is left up best to your city council members and your mayors of your local communities to determine. They could use the whole half cent if they so choose to reduce property taxes, all 100 percent if they choose to do that because that language would be placed on the ballot. I think for us to provide that...for us to provide, I would say, some strong guidelines, so to speak, on where we want to see the priorities of the local governments to be, I think putting a minimum amount on property tax relief is better than saying this could only be used for property tax relief knowing that a community such as Fullerton might have a significantly different need to look to raise their local option sales tax compared to the city of Omaha. [LB357]

SENATOR CARLSON: One minute. [LB357]

SENATOR MELLO: So I think it's...the number, as I discussed with Senator Karpisek, is negotiable. I prefer 10 percent. If there's people who want to discuss further, I just want to make sure that if the body so chooses to move forward with this mind-set and this perspective that we keep...we keep in the back of our minds that various sizes of municipalities have different needs and need different flexibility for their local governments to work. [LB357]

SENATOR DUBAS: How would you see this program being administered? Would we run into some administration challenges or additional costs through putting this into place? [LB357]

SENATOR MELLO: Once again, the way it's listed is that essentially the local government just needs to provide, set aside a percentage, minimum percentage, if it passes by a vote of the people that would reduce the amount that we're bringing in property taxes. So there's some language that we're looking at that the city of Norfolk actually provides. They have a citizen advisory board that looks at local property taxes and sales taxes in trying to provide their own little equalization. [LB357]

SENATOR CARLSON: Time. [LB357]

SENATOR MELLO: Thank you, Mr. President. [LB357]

SENATOR DUBAS: Thank you. [LB357]

SENATOR CARLSON: Thank you, Senator Dubas and Senator Mello. Members, you note that at 11:55 we're to return to Select File for a committee priority bill. Mr. Clerk.

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

Floor Debate
April 12, 2011

CLERK: Mr. President, LB95, Senator Campbell has a priority motion that would be to bracket the bill until January 4, 2012. [LB95]

SENATOR CARLSON: Senator Campbell, you're recognized. [LB95]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I rise today on behalf of the Health and Human Services Committee to speak regarding this motion. During the first round of debate on LB95, I indicated that I had received a letter from Governor Heineman relative to the bill. The following is an excerpt from the letter and you are receiving a copy shortly: To accommodate the LR37 review of the child welfare/juvenile services system I have asked Director Reckling to cooperate with the committee and provide you with any information you may need during this process. I have no doubt he will do so. I have also directed Mr. Reckling to refrain from contracting with a new lead agency in any of the other three Department of Health and Human Services service areas: western, central, or northern, until June 1, 2012, in order to provide the committee with adequate time to complete a thorough and thoughtful review of the Families Matter reform initiative. For these reasons I respectfully request that the Legislature not proceed with a formal statutory moratorium. The HHS committee met last Friday and is pleased the Governor has concurred with the committee in setting forth the moratorium for these service areas. This will bring stability to these areas which are still working through issues remaining due to the departure of boys group...Boys and Girls Home last October. It will also afford time to complete the work outlined in LR37, and the Governor has directed cooperation on this effort as well from the Nebraska Department of Social Services. And the committee can continue study of accreditation as proposed by Senator Howard in the original LB95. The Health and Human Services Committee appreciates the support of all of you, our colleagues, on LB95 and the Governor's letter. Your commitment to the safety, well-being, and permanency for all Nebraska's children sets the goals for the work ahead. Mr. Speaker, I ask you to hold LB95. [LB95 LR37]

SENATOR CARLSON: Thank you, Senator Campbell. Mr. Clerk, items for the record.

CLERK: Mr. President, Enrollment and Review reports LB600A to Select File. Senator Council would like to print an amendment to LB190. Senator Lathrop, as Chair of Business and Labor, would request unanimous consent, Mr. President, to conduct his hearing scheduled for tomorrow in Room 1524, as opposed to Room 2101. (Legislative Journal pages 1154-1155.) [LB600A LB190]

SENATOR CARLSON: No objections? So ordered.

CLERK: Mr. President, a priority motion: Senator Adams would move to recess the body until 1:30 p.m.

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

Floor Debate
April 12, 2011

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried. We recess until 1:30.

RECESS

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Record, please, Mr. Clerk.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have none.

SPEAKER FLOOD: Thank you, Mr. Clerk. We proceed to the item on our agenda that we left at 11:55 a.m. this morning, that being Senator Ashford's LB357 and the consideration of AM1176. Senator Heidemann. [LB357]

SENATOR HEIDEMANN: Thank you. I was off to the side here for a little bit so excuse me so as to get my thoughts together. I want to say that I am in opposition to LB357. I don't have the right papers in front of me, so we're going to have to wing this a little bit. As I look at LB357, it's a bad bill. Some people are thinking let's put AM1176 on there and we're going to make it a little bit better. If you have something that doesn't look right, doesn't smell right, if you put a little sugar on it, it still doesn't look right and still probably doesn't smell right. So you can put AM1176 on to LB357 and I still don't think it's a good bill. The other thing that I want to address, and I listened to Senator Wallman talk about it several times when he was talking about is we need local control, local control, local control. This is what this is about. And then the last time I heard Senator Wallman stand up and say, local control, he even mentioned that he's for AM1176 and I find that very curious. Because underneath AM1176, we actually have the Legislature, the state of Nebraska, telling a local entity what they're going to do with part of this sales tax. And that actually is the opposite argument about local control. If you like local control, there's no reason that you would want to vote for AM1176 because it is the state, the Legislature dictating what you're going to do with part of this sales tax receipt. The other thing that I want to point out once again, you hear this tax increase. I've heard it's not a tax increase. If you give somebody the ability to get more revenue from sales tax, it's a tax increase. It's...you hear on the floor it's from a percent and a half local option to 2 percent. You know, that doesn't sound too bad. But I will tell you if you let them go from a percent and a half to 2 percent, that's a 33 percent tax increase that

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

Floor Debate
April 12, 2011

they can have at the local option, a 33 percent tax increase. And that's what you will be voting for. If you think it's important, if you think that's the direction and the path that we need to go, fine. I just want to make sure everybody aware of what this is going to be perceived of and sold at certain levels. Thank you. [LB357]

SPEAKER FLOOD: Thank you, Senator Heidemann. Senator Schumacher, you are recognized. [LB357]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. Just some observations here on this particular amendment, AM1176. It says that a half a...we have a half a percent sales tax option and 5 percent of that is going to go to this property tax relief fund. The amendment is unclear whether that's a minimum of 5 percent or it's just a mandatory 5 percent that's stuck at 5 percent. Regardless of that, I was playing with the calculator and I started putting in numbers--a half a percent, .05, a--.005. And 5 percent of that, .05, and that comes out to .00025. So out of \$1,000 in sales, we're going to get a whopping quarter to go to property tax relief, and that doesn't even seem like real numbers. Plus when we put this on the ballot under the amendment, you have got to say on the ballot, "The creation of a property tax relief fund shall be included in the question in the description of the proposed use of the revenue to be collected from the increase." So you get to put an ad on the ballot that says property tax relief and all the property tax relief amounts to is 25 cents out of \$1,000 in purchases. And this, to the extent that does sell the thing and make it go down smoother at the ballot box, we are then encouraging a shift by the cities from property taxes to sales taxes, being mindful that we at the state level are prohibited by the constitution from levying a property tax. So we are...we can't access what they vacate. Maybe the county board can and the NRD and anybody else who vacates...or is in the property tax business can if the city vacates some property tax headroom can step into that, but we can't. And we still may need some money for things. Now this bill and this type of idea to shift some of the ability to sales tax has some seeds of a remake of government, of a true reinvention in the context of our times. But there's so much more that needs to be done in order to incorporate other ideas that have been talked about. Now I stand opposed to AM1176. I think that it's not meaningful, particularly with the ballot question bred in with it. As far as LB357, perhaps we can advance that and then deal with that over the summer sometime on the bigger issues that are lurking in the background. But as is, this doesn't seem to be good policy. It doesn't seem to take a global perspective on anything. And it's an ad hoc move to try to just create some taxing authority. Thank you, Mr. Speaker. [LB357]

SPEAKER FLOOD: Thank you, Senator Schumacher. Senator Fischer, you are recognized. [LB357]

SENATOR FISCHER: Thank you, Mr. President and members. I stand in opposition to Senator Mello's amendment for many of the reasons that Senator Heidemann brought

Floor Debate
April 12, 2011

up. This is the state telling local political subdivisions how they should spend this sales tax. Yet in this bill we're giving them the option, with a vote of the people, to implement this sales tax. Along with that, they have to explain to their citizens what they're going to use it for. I think that's very open. I think that's appropriate. I do not think it's then appropriate for us to come in and mandate that they use it for a particular function and maybe their local people don't want it used for that. I would assume most of them would. I hear, as everybody else in this body, I hear about property taxes. Is that our job? Is it our job in this body to offer property tax relief? Is it the job of state government to collect sales tax, to collect income tax, and then disburse it to political subdivisions around the state in order that they may have property tax relief? I think that's a question for another day. But I do believe it plays into this amendment. I was on a school board for over 20 years. If you want to affect property tax relief for your local community, I suggest you run for the school board because they're the biggest users of property tax, especially in my area where we don't get a lot of state aid to schools. I have many districts where 80 to 89 percent of their general fund budget comes from property tax. So if you truly want to affect the property taxes that your citizens pay, you need to be on a school board. To a lesser extent, you need to be on a city council. You need to be on a county board. You need to be on an NRD or a fire district. Those are the reasons that I'm against this amendment. Five percent doesn't have an effect, in my opinion, at all. Ten percent doesn't have an effect on property taxes, in my opinion, at all. Are we offering this amendment to make a statement? Are we offering this amendment to make a bill better in your opinion? I don't believe it accomplishes either of those goals. I don't think it's enough to make a statement if you're looking for property tax relief. It may be symbolic, but it has no effect. So I am opposed to the amendment. I think if we're addressing sales tax and a local option for cities, that's what we need to be talking about. Thank you, Mr. President. [LB357]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Bloomfield, you are recognized. [LB357]

SENATOR BLOOMFIELD: Thank you, Mr. President. Ladies and gentlemen, can we spell smoke and mirrors? That's what this amendment is doing. It's taking what I perceive to be a bad bill and making it worse. We're going to tax you over here, but we're going to give you back a little bit over here. Let's not play games with this. This whole thing needs to either go away or be pushed back a year until we can look at it. I like sales tax over property tax, but not in this setting. This to me just doesn't make any sense. Thank you. [LB357]

SPEAKER FLOOD: Thank you, Senator Bloomfield. Senator Utter, you're recognized. [LB357]

SENATOR UTTER: Thank you very much, Mr. President, and good afternoon, colleagues. I appreciate very much what Senator Heidemann has been saying, and I

Floor Debate
April 12, 2011

certainly agree with what he says. I appreciate that Senator Mello is trying to make this bill better, but I think it misses the mark. And I have to stand this afternoon opposed to AM1176 because frankly I don't think 5 percent of a half a percent really does very much. I talked with Senator Mello about increasing that to a substantial amount, but I didn't gain a lot of interest there. I will tell you that I'm not certain that even increasing the amount that...of property tax relief that is contained in this measure, I'm still not sure that it makes it a good bill. Because frankly, I am still concerned about the overall aspects of the policy that we are creating down the line may not affect me in my time in this Legislature, may not affect any of us in our time in this Legislature, but one of these days we are creating a potential problem with the state's tax base. I remember very clearly when I came here the first time and we were going through our orientation and Senator Raikes was one of the presenters. And he said, let me just tell you new senators one thing that I think is extremely important and that is do not give away your tax base. And I've kind of kept that in the back of my mind as we have went down the trails in this Legislature. And I think, in fact, we are giving away part of the state's tax base with this bill. Thank you very much, Mr. President. [LB357]

SPEAKER FLOOD: Thank you, Senator Utter. Senator Hadley, you are recognized. [LB357]

SENATOR HADLEY: Mr. President, members of the body, I had decided yesterday I had said everything I wanted to say. But being a true senator, I just can't stay away from the mike. I have this thought: What would happen if the United States Congress had the ability to tell Nebraska what we could and couldn't do as far as tax policy? What would happen if the United States Congress said, we're thinking, you know, your income tax erodes our base for a federal income tax so you can only charge 3 percent of the federal income tax? [LB357]

SPEAKER FLOOD: (Gavel) [LB357]

SENATOR HADLEY: Or we're thinking about a value-added tax so we want you to reduce your state sales tax. Or they tell us, we want to put a spending lid on what you can spend out in Nebraska. Of course they can't do that, but wouldn't that cause you some shudders if you think about that? That's what we're trying to do here with our local government. We're trying to control them. I stand opposed to AM1176 because we want to give them choices, and here we're telling them that part of it has to go to property tax relief. I would hope that most citizens would tell their government that if you put this on the ballot it should include property tax relief, but maybe it doesn't have to. I would also make a little bit of a convoluted argument that by raising the sales tax, the potential of raising sales tax through a vote you do hold down property taxes. Because if you don't have the ability...if you get the money through the sales tax through a vote of the people, you may not have to raise property taxes to fund the same thing. So again, I stand opposed to AM1176 and in favor of LB357. Thank you, Mr. President. [LB357]

Floor Debate
April 12, 2011

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Ashford, you are recognized. [LB357]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I'm going to yield the majority of my time to Senator Mello, who I understand is going to withdraw his amendment. I think what we need to do again is move forward on General File and think about the various issues that have been raised. Senator Cornett has raised a great issue about putting a requirement that the cities place a sunset on these various initiatives on the ballot. That's a great idea. It makes sense. In the end, though, this...Senator Heidemann, in all due respect, LB1059 was a tax increase. That was an increase in sales and income tax specifically designed to increase state aid to schools with the result being a substantial reduction in property tax, and that is, in fact, what happened. I think if we go back to 1994, well, actually 1991 when that bill passed, I believe 1991, that was the largest increase in sales and income tax in the history of the state and it was...other than the initial decision in 1968 to implement a sales and income tax. Those are tax increases. And those decisions were made by the Legislature with the specific intent to fund education, certainly in the case...well, in both cases, but certainly LB1059 and also put a cap or a lid on the increase in property taxes throughout the state. And everyone has to look at their own area, but certainly there has been a significant reduction in property tax in much of...many of the areas of the state as a result of LB1059. So those are increases in taxes. It is not an increase in taxes by the state to ask to give to local subdivisions the authority to sort out their own spending and tax policy. It simply is not the case. It is not a tax increase. It is not a tax increase under any classic or neoclassical or standard of defining a tax increase. This is not a tax increase by any name. But with that, Mr. Speaker, I would, if he so desires, give the rest of my time to Senator Mello. [LB357]

SPEAKER FLOOD: Senator Mello, 2 minutes, 30 seconds. [LB357]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, and I appreciate the time, Senator Ashford. In talking with Senator Ashford, Senator Cornett, and others who are heavily involved in LB357, after I'm done speaking here I'm going to withdraw this amendment, AM1176, not because I don't believe in it because what we're going to do is bring a better amendment on Select File that has a significantly higher amount that also ties in with their spending lid so that we tie in some of the, I think...I don't know if you want to call them arguments or points of interest that others have raised in regards to the spending component as well as the tax relief component that this premise, what is AM1176, tries to do. Unfortunately, I just generally disagree, though, with some of the comments on the floor from Senator Heidemann and Senator Fischer that allude that this is meaningless on surface because a minimum of 5 percent doesn't mean that a city, if they so choose to adopt, even though I'll be pulling this, cities could adopt a half cent sales tax increase and reduce their entire reliance on property

Floor Debate
April 12, 2011

taxes, which the city of Oshkosh had done with their current sales tax...local option sales tax authority where they didn't pay property taxes as a municipality. So that is a complete option where once again AM1176 takes a different tack on it of setting a floor instead of setting a ceiling. But we'll have that debate on Select File because at the end of the day those of us who argued against the property tax increase that will come from LB383, amongst other bills,... [LB357 LB383]

SPEAKER FLOOD: One minute. [LB357]

SENATOR MELLO: ...there's an opportunity for us to provide that property tax relief under LB357. We'll just do it with I think a greater, more succinct, and well put together amendment on Select File. With that, Mr. President, I'd like to withdraw AM1176. [LB357]

SPEAKER FLOOD: AM1176 is withdrawn. Turning to discussion on LB357, Senator Louden. [LB357]

SENATOR LOUDEN: Thank you, Mr. President and members. As I listen to the discussion this morning and into the afternoon, this bill or this amendment here really isn't enough money, I think, as some of the senators have stated, to do any good for anything. I mean you're talking about some of these counties where they have maybe \$17,000 worth of sales, well the other 5 percent for property tax would be, you know, maybe \$1,500. And so I think that's of no value, that half a percent. Besides nowadays, many of these towns when they put in their sales tax part of that money was used to offset property taxes. Some of the towns that I'm familiar with there was a certain percent of that sales tax money is used to lower their property tax. So that's part of the reason some of the people that come in and trade there fuss about that because actually the money they spend there is used to lower the property tax in town. Well, when the towns vote that sales tax in, more or less they can do whatever they want to unless it's something like that LB840 money or something like that. But at the present time, I don't think there's anything in there that says that what they have to spend the sales tax for. So I think this amendment that we were working on is of no value, and I'm glad to see that we're out of it now. As far as the bill, the reason we're here with LB357 is because we choked cities and counties to death with some of our other legislation earlier in the year, and I'll rail about LB383 again. But there again, this is what's triggered the whole thing. We would have been further ahead to pay that money and then do our own sales tax and have control over it. So I think this is the reason we're going to probably have to work with LB357 and some of the other bills that come up to fund some of these cities and counties is because we've taken away most of their funding. So somewhere along the line where they don't have funding they're going to have to do something. They've cut services, most of them have. They're finding other ways. And as we know, some of the bigger cities got quite creative on what they were doing with their occupation taxes and everything. So as we've shut all of that down, you

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

Floor Debate
April 12, 2011

got an option here. You can either give them a little bit of a half cent sales tax or else we can shut them down and I guess let them survive if they can. Thank you, Mr. President. [LB357 LB383]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Wallman, you are recognized. [LB357]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, members of the body. Thank you, Senator Schumacher and Senator Heidemann, for his comments. I looked over the amendment again, and I'm pleased that he withdrew the amendment. It doesn't make much sense if you're for local control. And I appreciate the comments made here today, lots of interesting things discussed. Taxes are always very, very emotional issues for most people that pay them. Some people don't pay any taxes so they don't care. I pay taxes. Everybody in this body I'm sure pays taxes so we care. And the best we can do is hope it goes to a good place. Do we affect property taxes in here? Amen. We've done it forever. When we put rules, guidelines, standards on for different entities, we have affected property taxes. And if those that say in rural area that you don't get any benefit from this, I live in a rural area. I get benefits from the cities, whether it be from education, libraries, sporting events, all these things affect rural Nebraskans, and we're all Nebraskans. And somebody is going to get more advantage maybe of this than the other person, that's the way it is. Life isn't always a bowl of cherries. Life isn't always fair. But I appreciate the Revenue Committee and Senator Ashford for bringing this forth. And if they can make it some better, more palatable to the rest of the body, so be it. Thanks, Mr. President. [LB357]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Ashford, you are recognized. [LB357]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I see Senator Nelson has his light on. Do you want my time, Senator Nelson? I think I've probably said all I need to say. [LB357]

SPEAKER FLOOD: Senator Nelson, will you accept Senator Ashford's time? [LB357]

SENATOR NELSON: Yes, I will accept the time. Thank you, Mr. Speaker. Fellow members of the body, I'm going to catch Senator Karpisek before he takes off again. I missed an opportunity this morning because I couldn't see him on the floor. I would like to engage a little bit of conversation with Senator Karpisek and perhaps get him off the fence and on the side of LB357. So will the Senator yield? [LB357]

SPEAKER FLOOD: Senator Karpisek, will you yield to a question from... [LB357]

SENATOR KARPISEK: Yes, I will. [LB357]

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

Floor Debate
April 12, 2011

SPEAKER FLOOD: Actually, I'm not going to permit this line of questioning because you're technically on Senator Ashford's time, Senator Nelson. [LB357]

SENATOR NELSON: Is it possible to ask questions of any other senator then? [LB357]

SPEAKER FLOOD: I'm going to allow you to ask questions, but you can't yield Senator Ashford's time to another senator. [LB357]

SENATOR NELSON: Oh, certainly. That's not what I intended, no. Thank you, Mr. Speaker. [LB357]

SPEAKER FLOOD: Senator Karpisek, will you yield to a few questions from Senator Nelson? [LB357]

SENATOR KARPISEK: Yes, I will, but I thought I was off the hook. [LB357]

SENATOR NELSON: (Laugh) Well, you're not really on the hook, Senator. We had a little discussion off the floor, and I'm interested in your conversation, your concern about having to go into places like Lincoln and Omaha to buy certain items that you can't get in the smaller communities. What, for instance, would you go into Omaha to buy? [LB357]

SENATOR KARPISEK: Well, into Lincoln or Omaha I think sporting events you have to go there; a suit, I'm not real sure that I could get a suit in my district. I've been trying to think about other things since yesterday, but. [LB357]

SENATOR NELSON: All right. Well, speaking for Omaha, we'd be glad to have you come into Omaha and buy a suit. And let's just say it was a fairly decent suit that was worth \$500 and this is where you had to go to buy it. If we had a vote of the people in Omaha and they raised the tax by another one-half a percent, that would mean that would cost you on a \$500 suit another \$2.50. [LB357]

SENATOR KARPISEK: Correct. And when you said another, you are exactly right because I'm already paying the 1.5. [LB357]

SENATOR NELSON: It would be an additional \$2.50. [LB357]

SENATOR KARPISEK: Correct. [LB357]

SENATOR NELSON: But there isn't anyplace else for you to go and I'm going to suggest that if you do come in to Omaha and watch the newspapers and things you're going to find sales at 40 percent off, 50 percent off. So what you save there is going to

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

Floor Debate
April 12, 2011

be considerably more than the \$2.50 that you might have to pay... [LB357]

SENATOR KARPISEK: I think it's obvious you never owned a business and ran percent off, Senator, because that's not how that works. [LB357]

SENATOR NELSON: (Laugh) All right. But if you're going to have to go to a larger city to buy something, then you're going to have to. And my suggestion is that perhaps \$2.50 isn't going to make a difference, and it would benefit the people of Omaha, and it would certainly benefit the state of Nebraska because you went in there and you purchased something, and we're going to get 5.5 percent sales tax on that. [LB357]

SENATOR KARPISEK: And then, but then that took away disposable income from my hometown. [LB357]

SENATOR NELSON: If you're not able to... [LB357]

SENATOR KARPISEK: If I'm spending more sales tax in Lincoln or Omaha, then it took away from my disposable income that I spend at home. [LB357]

SENATOR NELSON: That's true. But you couldn't buy the suit in Wilber or Crete or anyplace else. All right. [LB357]

SENATOR KARPISEK: So that means that I should pay more because I can't buy it there. [LB357]

SENATOR NELSON: Well, that's just the way life is (laugh) and that's... [LB357]

SENATOR KARPISEK: I think that's my point and you're helping me make it, Senator Nelson. I appreciate it. [LB357]

SPEAKER FLOOD: One minute. [LB357]

SENATOR NELSON: All right. All right. Thank you, Senator. Quick question for Senator Utter if I may ask. [LB357]

SPEAKER FLOOD: Senator Utter, will you yield to a question from Senator Nelson? [LB357]

SENATOR UTTER: I will. [LB357]

SENATOR NELSON: Thank you, Senator Utter. Very, very quickly, you said that Senator Raikes said something that not to give away the tax base. How...could you just explain briefly how we'd be giving away our tax base and kind of elaborate on that a

Floor Debate
April 12, 2011

little bit if we let the people of Omaha vote on raising a half a percent and they do?
[LB357]

SENATOR UTTER: Senator Nelson, I think there's an upward limit as to what the sales tax can be in this state. And while this may not be an immediate thing this year, there's an upward limit as to how high the sales tax can be... [LB357]

SPEAKER FLOOD: Time, Senators. [LB357]

SENATOR UTTER: ...as we...thank you, Mr. President. [LB357]

SENATOR NELSON: Thank you, Senator Utter. Thank you, Mr. Speaker. [LB357]

SPEAKER FLOOD: Senator Pahls, you are recognized. Senator Pahls waives his opportunity. Senator Brasch, you are recognized. [LB357]

SENATOR BRASCH: Thank you, Mr. President. Thank you, body. One of my neighbors asked, so when are you going to get a turn to talk on the floor? I thought maybe it was time I stood up again. My staff did phone calls throughout the district and one came in yesterday, the mayor of West Point. She is in favor of this, of LB357. However, in calling the other mayors and some farmers, one of the communities has no sales tax, but they might want it just in case they need it. Another one is very concerned because they're saying--and this is true for a lot of our district--the average age is 57 years old. It's that many are elderly in the community. They're on limited funds. They are concerned about any raises in sales tax. They currently do have a sales tax, they're not sure, but again maybe just in case they need it. Another mayor said that they already have a 1 percent sales tax and they'd welcome another half percent. They weren't aware that they had the ability already to go another half percent. Speaking with a couple farmers in our district, very strongly oppose. They think that this is taxation without representation and that they really don't have a vote in what happens on Main Street with their taxes. They believe that this is a way for the towns and not a way for the counties or the people in the rural communities. Taking my turn to speak today, I do know this is a very difficult decision. The larger urban or metropolis, they do face challenges. What I wonder is if there's perhaps a group of angel investors focused on the infrastructure in Omaha where their vested interest is to help with the infrastructure with, you know, any of the needs in the roads or the sewage, things like that. In our smaller communities, we have learned how to survive. We do that. We need a community center, we work together. The companies all provide funds. The local people provide funds. We've learned to take things very slowly in our needs. We recognize what our wants our. We realize what our needs are. I do rise basically to oppose LB357 even though one of our communities does support it. Thank you. [LB357]

SPEAKER FLOOD: Thank you, Senator Brasch. Senator Bloomfield, you're recognized.

Floor Debate
April 12, 2011

[LB357]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members, we're told repeatedly this is not a tax increase. This is not a tax increase. This is not a tax increase. There are cities that are reluctant to raise taxes. They probably wouldn't put this tax in. I wonder if that reluctance is why the lodging tax in Omaha is now 18.16 percent. That doesn't show a lot of reluctance to me. Thank you. [LB357]

SPEAKER FLOOD: Thank you, Senator Bloomfield. There are no other lights on. Senator Ashford, you are recognized to close on LB357. [LB357]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I do, and I know we hear this a lot, but I do greatly appreciate the discussion because it is...we have had a discussion about taxes, tax policy, and spending and how it interrelates. We need to do more of it, and I think that the discussion has been helpful in framing the issues. But I would just summarize this way. Senator Cornett referenced a poll that was done in 2010. The results of the poll would indicate that 74 percent of Nebraskans would vote for allowing cities to access additional revenue other than property taxes and sales taxes to help attract business and create jobs. Approximately 63 percent of respondents said they would favorably be disposed to raising sales tax as an economic development tool or for the reduction in property tax. In my view, this is an issue, a classic issue of taking a policy that the state has engaged in for a number of years, 35 years, expanding it slightly to address the issues of 2011, a time when we have gone through a period of reductions in aid to cities in a variety of different ways, certainly most recently in this session. But I think most importantly at the end of the discussion where I fall and where I fell when I introduced this bill this year and also in 1991, the first time I introduced it, was that I think the decisions that the cities make and the counties make--and remember also, members, that the counties have 2 percent sales tax authority right now. It exists; they have it. The counties may exercise that right to, that option to raise their sales tax and it's in statute. It was passed by this Legislature. It was a continuation of existing policy that this Legislature has engaged in over the years. So this bill does the same for cities. I am thoroughly and utterly convinced as we talk about issues that come across this agenda, we so often talk about what our citizens want or don't want and what is appropriate for our constituents. We say it every day several times a day. This is a real way that we can give our constituents an opportunity--in the county right now because they can raise sales tax to 2 percent if they wish, but certainly in the cities with this bill--to engage in a discussion about a real discussion and vote on decisions that impact their daily lives and the future of their cities. It is a real, a real reflection of what I think this Legislature does and tries to do every day is to try to understand what our constituents want and what is the best policy for our state. But in this case, we're giving our constituents the opportunity to make that critical decision, that budgetary decision that we're not making it for them, we're not making it instead of them, but we're giving our constituents in all of our cities the opportunity to make the decisions we make

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

Floor Debate
April 12, 2011

here in the Legislature. It's not a mandate. It's not a requirement to raise taxes. [LB357]

SPEAKER FLOOD: One minute. [LB357]

SENATOR ASHFORD: It's not any of those things. And if we really want to get into a tough discussion, let's sit here and discuss whether or not to raise state taxes. That's a tough, that's a tough decision. That's a tough decision. That's when you start talking about raising taxes, and I've been here for those discussions and they're tough. This is not that discussion. I appreciate all of the suggestions. We're going to think about amendments on Select File. I strongly urge that we advance this bill, keep this discussion going. It's important. Thanks, Mr. Speaker. [LB357]

SPEAKER FLOOD: Thank you, Senator Ashford. For what purpose do you rise, Senator Ashford? [LB357]

SENATOR ASHFORD: A call of the house first of all and then a roll call vote in reverse order. [LB357]

SPEAKER FLOOD: Okay. Members, there has been a request to place the house under call. Members, the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB357]

CLERK: 42 ayes, 0 nays to place the house under call, Mr. President. [LB357]

SPEAKER FLOOD: 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 Coash, Fulton, Conrad, please return to the floor and check in. Senators Coash, Fulton, and Conrad, please return to the floor and check in. The house is under call. All members are present or otherwise accounted for. Members, the question is, shall LB357 advance to E&R Initial? There has been a request for a roll call vote in reverse order. Mr. Clerk, please read the roll. [LB357]

CLERK: (Roll call vote taken, Legislative Journal page 1156.) 27 ayes, 14 nays on the advancement, Mr. President. [LB357]

SPEAKER FLOOD: LB357 advances to E&R Initial. I do raise the call. Mr. Clerk, we now turn to Select File, 2011 committee priority bills, Price division. The first bill is LB70. Before we proceed to LB70, Mr. Clerk, do you have any items for the record? [LB357 LB70]

CLERK: I do, Mr. President. Thank you. A new resolution, LR162, is by Senator Janssen. That will be laid over. And your Committee on Transportation reports LB353 to

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

Floor Debate
April 12, 2011

General File and LB216 to General File with committee amendments attached. That's all that I had, Mr. President. Thank you. (Legislative Journal pages 1156-1161.) [LR162 LB353 LB216]

SPEAKER FLOOD: Thank you, Mr. Clerk. Mr. Clerk, LB70. [LB70]

CLERK: Mr. President, LB70, Senator Larson, I have E&R amendments first of all. (ER70, Legislative Journal page 1039.) [LB70]

SPEAKER FLOOD: Senator Larson for a motion. [LB70]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB70 be adopted. [LB70]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB70]

CLERK: I have nothing further on LB70, Senator. [LB70]

SPEAKER FLOOD: Senator Larson for a motion. [LB70]

SENATOR LARSON: Mr. President, I move that LB70 be advanced to E&R for engrossing. [LB70]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB70 advances to E&R for engrossing. Mr. Clerk, LB286. [LB70 LB286]

CLERK: LB286, Senator, I have no amendments to the bill. [LB286]

SPEAKER FLOOD: Senator Larson for a motion. [LB286]

SENATOR LARSON: Mr. President, I move that LB286 be advanced to E&R for engrossing. [LB286]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB286 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB477. [LB286 LB477]

CLERK: LB477, Senator, I have Enrollment and Review amendments. (ER71, Legislative Journal page 1039.) [LB477]

SPEAKER FLOOD: Senator Larson for a motion. [LB477]

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

Floor Debate
April 12, 2011

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB477 be adopted. [LB477]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB477]

CLERK: I have nothing further on LB477, Senator. [LB477]

SPEAKER FLOOD: Senator Larson for a motion. [LB477]

SENATOR LARSON: Mr. President, I move that LB477 be advanced to E&R for engrossing. [LB477]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB477 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB499. [LB477 LB499]

CLERK: LB499, Senator, I have E&R amendments. (ER74, Legislative Journal page 1039.) [LB499]

SPEAKER FLOOD: Senator Larson for a motion. [LB499]

SENATOR LARSON: Mr. President, I'd move that the E&R amendments to LB499 be adopted. [LB499]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB499]

CLERK: LB499, I have nothing further on the bill, Senator. [LB499]

SPEAKER FLOOD: Senator Larson for a motion. [LB499]

SENATOR LARSON: Mr. President, I move that LB499 be advanced to E&R for engrossing. [LB499]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB499 advances to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2011 committee priority bills, the Larson division. We begin with LB407. [LB499 LB407]

CLERK: LB407, Senator, does have Enrollment and Review amendments. (ER61, Legislative Journal page 962.) [LB407]

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

Floor Debate
April 12, 2011

SPEAKER FLOOD: Senator Larson for a motion. [LB407]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB407 be adopted. [LB407]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB407]

CLERK: I have nothing further on LB407, Senator. [LB407]

SPEAKER FLOOD: Senator Larson for a motion. [LB407]

SENATOR LARSON: Mr. President, I move that LB407 be advanced to E&R for engrossing. [LB407]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB407 advances to E&R for engrossing. Mr. Clerk, LB112. [LB407 LB112]

CLERK: LB112, Senator, first of all I have Enrollment and Review amendments. (ER72, Legislative Journal page 1039.) [LB112]

SPEAKER FLOOD: Senator Larson for a motion. [LB112]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB112 be adopted. [LB112]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB112]

CLERK: Senator Lautenbaugh, AM908. [LB112]

SPEAKER FLOOD: Senator Lautenbaugh, you're recognized to open on AM908. [LB112]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I would ask to withdraw this amendment at this time. [LB112]

SPEAKER FLOOD: AM908 is withdrawn. Mr. Clerk. [LB112]

CLERK: Mr. President, Senator Coash would move to amend with AM1141. (Legislative Journal page 1133.) [LB112]

Floor Debate
April 12, 2011

SPEAKER FLOOD: Senator Coash, you're recognized to open on AM1141. [LB112]

SENATOR COASH: Thank you, Mr. President. Good afternoon, members. Just to give you a quick review of what LB112 does, we passed LB112 on General File several weeks ago and we did that thanks to the Transportation Committee's prioritization of this bill. This bill clarified a question given to the Attorney General with regard to Public Service Commission and their oversight over transportation services provided by contractors and providers to Health and Human Services. LB112 was a...remains a clarification bill that the committee amendment took care of and during that debate Senator Lautenbaugh had brought an amendment to address a concern that was not necessarily addressed in the original LB112 or the committee amendment. What I bring before you is AM1141 which clarifies one last concern that was brought to me by the transportation industry, the service providers who this would affect, and the department. I'm happy to say AM1141 satisfies all three of those concerns. Briefly, what AM1141 does is it adds another definition of services which is on page 1, lines 3 through 15, which is defined as licensed care transportation services, and then later on in the amendment it goes to exempt that type of service from PSC regulation. There was also additional language added at the suggestion of the Public Service Commission that states when the commission revises its regulations to establish the certificate requirements for licensed care transportation services providers, the commission shall establish insurance requirements for those providers that are consistent with insurance requirements established by HHS for attended services, residential care transportation services, and supported services providers. Those are all the definitions and the exemptions that we adopted on General File. The intent here was to have the motor vehicle insurance requirements for licensed HHS providers to be substantially similar to those that the department has already established for its contracted providers. So in essence again, colleagues, AM1141 adds a definition that needed to be added to take care of some remaining providers and then exempts it later in the statute. Colleagues, don't underestimate the power of this bill. The fiscal note should this bill not pass is still hanging out there until we get this across the finish line. I would remind the body of some of our discussion on LB112 which stated that if we don't pass this there will be significant costs to the department and providers, and this goes up into the millions. LB112 continues services as they have been prior to the Attorney General's Opinion and LB112 clarifies those opinions. The amendment that I brought forth today further clarifies some concerns. And again, this amendment was worked on and agreed to by all parties involved, including the department, the Public Service Commission, and the providers. I want to address, before my time is up, some concerns that have been floating around from the insurance lobby, and first of all let me state that there is nothing in LB112, the committee amendment that was already adopted, or the amendment I brought for you today that changes anything with regard to insurance requirements prior to the Attorney General's Opinion last year. So I find any concern that the insurance lobby brings now convenient as they did not bring these concerns, as this is the way

Floor Debate
April 12, 2011

that things have operated since the department has contracted with providers. And just to put my colleagues at ease, per our Nebraska Administrative Code, the following safety requirements already apply to vehicles operated to serve people under the Division of Children and Family Services. Vehicles must be kept at all times in proper physical and mechanical condition, equipped with operable seat belts, turn signals, lights and horns; equipped with proper child passenger restraint devices as required by law when transporting children; and equipped to provide comfortable temperature and ventilation conditions. In addition, the Nebraska Administrative Code, the following safety requirements apply to vehicles operated to serve clients under the Division of Developmental Disabilities. Drivers must have knowledge of state and local traffic rules, be willing and capable of assisting disabled drivers into and out of their vehicles and to and from parking spaces when required. They will ensure the safety of individuals in transporting, have appropriate driver's license, training in first aid, CPR, and meeting the needs of the specific individuals, and may not deny transportation due to lack of adaptive equipment. In other words, colleagues, we are putting services under HHS where it belongs and, where appropriate, oversight under the Public Service Commission. LB112 is the clarification that we need in order to continue services as they have been through...since we've started to provide any type of services, including transportation, through contracts of HHS. So I would ask the body's adoption of AM1141 and movement of LB112. Thank you, Mr. President. [LB112]

SPEAKER FLOOD: Thank you, Senator Coash. Members, you've heard the opening on AM1141. Senator Howard, you are recognized. [LB112]

SENATOR HOWARD: Thank you, Mr. President and members of the body. This bill has always troubled me from the initial presentation and I received an e-mail from an insurance carrier and I think that the information he's provided here is certainly worth your hearing and I'd like to have it in the record. I'm going to quote this: When you are considering the pros and cons of the bill--that's LB112--please do not forget the significant negative impact its passage could have upon the employees and the most vulnerable clients they've been entrusted to safeguard. If an employee is deemed to have acted as a livery by his or her insurance carrier after an at-fault accident while transporting Health and Human Services clients, all their personal assets and possibly those of their family could be at risk. This would be particularly onerous if the vehicle was owned and insured by a relative who had no idea of how it was being used. And then he went on to give an example of a farm family from Ogallala who is proud to have their daughter going to the university. She has been working for one of the lead contracting agencies part-time to help meet expenses and then she was in an accident at which she is at fault while she's transporting a Health and Human Services client. Mom and Dad had no idea what she was doing or that it was an excluded use of their car when they gave that car to her to drive. Because the car is in their name and the daughter was driving it with their permission, they could be held personally liable for all the damage and the injuries caused by the accident. They would not have the legal

Floor Debate
April 12, 2011

backing of the insurance policy any longer so they would have to suffer the legal expenses personally and, if ruled against, could even lose their farm or their life's savings. Also, the mechanical and physical condition of the vehicle's operated by the employees may not meet the safety standards imposed by the PSC. Do you want the Health and Human Services' clients riding in vehicles with questionable safety issues? A PSC-regulated carrier is subjected to specific safety standards and regular physical inspections to ensure those standards are enforced. Required limits of liability coverage is another huge issue. The state standard minimum liabilities are only \$25,000/\$50,000/\$25,000 (unless this bill is approved). A PSC-regulated carrier is required to have \$1,500,000 limit on all operated vehicles which amount would protect the Health and Human Services clients and the general public better. Could the state be held liable for knowingly allowing transportation of Health and Human Services clients in vehicles with standard minimum limits after the alternative has been discussed? I think this is an important matter for us to consider. I'm not an insurance expert but I've certainly come to respect the importance of having adequate coverage for any situation, and I think a situation where someone has been allowed to transport Health and Human Services clients is of particular concern. He ends his e-mail by saying: In my opinion, the general public, the lead agency employees, and the very individuals the state Health and Human Services and the lead agencies are trying to protect will be placed at greater risk if LB112 is passed in its form. I urge each senator to consider amending LB112 and require the lead agencies, which this bill is currently intended to shelter, to be subject to PSC regulation. I felt this is a... [LB112]

SPEAKER FLOOD: One minute. [LB112]

SENATOR HOWARD: Thank you. I felt this is important to bring to your attention. I know all of you have received a copy of this e-mail. I think you should give it serious consideration. Thank you. [LB112]

SPEAKER FLOOD: Thank you, Senator Howard. There are no other lights on. Senator Coash, you are recognized to close on AM1141. [LB112]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I do want to respond a little bit to the same e-mail that Senator Howard was reading from. One of the things I want to make sure, since we are reading this on the record, for the benefit of the record and for Senator Howard, the example of the family farm from Ogallala is an example. This isn't a real case. As I read the e-mail, and I've got the same one, it says "picture a family farm." Doesn't say this happened; it says picture it. Colleagues, one of the things that this insurance carrier is trying to point out is the insurance requirements. Well, I have in front of me the insurance requirements that the department puts on their providers: \$100,000 for bodily injury--that's a lot; \$500,000 for bodily injury by disease; another \$100,000 for another bodily injury; \$2 million for general aggregate. The point here, colleagues, is that the department is the best...is taking care of this. We don't have

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

Floor Debate
April 12, 2011

to put it within the purview of the Public Service Commission. I want to read a quote from our Fiscal Office. If we don't adopt this bill, this is what the cost of LB112, should it not be approved, be to the state of Nebraska: The Department would be required to then pay for transportation costs based on Public Service Commission rates either to the current Children and Family Services or DD providers who agree to become certified. This would increase the cost of services, is estimated at \$18 million. So, colleagues, we could...should we choose not to adopt this amendment and the underlying bill, we got to come up with \$18 million because we'll all of a sudden ask the transportation industry to come in and do family services work, and that's not what we want. Again, I got the same e-mail that you all got from the insurance lobby or this insurance provider, and I will tell you that they never had a problem with the past 30 years that we've been doing services like this. It's only now that we have a bill that could keep things going as they have been that they find an opportunity to now say, hold on a second, Legislature, we need to do something different so that providers no longer can be the provider of services, but we need to have providers of services and then transportation. Colleagues, the transportation providers don't want to be providing Children and Family Services, and those who provide Children and Family Services don't want to have to go out and find somebody to drive foster children and people with disabilities around. This bill keeps services under the purview of HHS and transportation under the services of the Public Service Commission. That's where those two things belong. LB112 clarifies that. Thank you, Mr. President. [LB112]

SPEAKER FLOOD: Thank you, Senator Coash. Members, you've heard the closing on AM1141. The question is, shall AM1141 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB112]

CLERK: 37 ayes, 0 nays on adoption of Senator Coash's amendment. [LB112]

SPEAKER FLOOD: AM1141 is adopted. Mr. Clerk. [LB112]

CLERK: I have nothing further on the bill, Mr. President. [LB112]

SPEAKER FLOOD: Senator Larson for a motion. [LB112]

SENATOR LARSON: Mr. President, I move that LB112 be advanced to E&R for engrossing. [LB112]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB112 advances to E&R for engrossing. Mr. Clerk, LB305. [LB112 LB305]

CLERK: LB305, Senator, I have Enrollment and Review amendments first of all. (ER75,

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

Floor Debate
April 12, 2011

Legislative Journal page 1039.) [LB305]

SPEAKER FLOOD: Senator Larson for a motion. [LB305]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB305 be adopted. [LB305]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB305]

CLERK: I have nothing further on LB305, Senator. [LB305]

SPEAKER FLOOD: Senator Larson for a motion. [LB305]

SENATOR LARSON: Mr. President, I move that LB305 be advanced to E&R for engrossing. [LB305]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB305 advances to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2011 senator priority bills, LB385. [LB305 LB385]

CLERK: LB385. I have no E&Rs. I do have other amendments. Senator Mello, first of all, Senator, I have AM865 in front of me. (Legislative Journal page 902.) [LB385]

SPEAKER FLOOD: Senator Mello, you're recognized to open on AM865. [LB385]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM865 is a compromise that was developed between Senator Heidemann, Senator Utter, the Speaker, and myself which ultimately does two things and, unfortunately, we are going to be waiting a little bit till we get a different amendment that I will substitute for AM865 because it has a critical component attached that Senator Utter and myself had just discussed. But the underlying premise of the amendment will be the same, which is AM865 strikes the funding under the current Low-Income Energy Assistance (sic) Act for the next three fiscal years and reassumes the funding at a solid, appropriated amount instead of basing it off sales tax turnback. The current law as it exists now allows public power districts to turn back 5 percent of their sales tax to this fund and have that matched by the state. What we do under AM865 is that for the next three years, to help realize the budget savings that's needed for the preliminary Appropriations budget that we will present to the body in a couple weeks, is that we zero out the funding for this biennial budget and then we reassume the amount of funding to \$250,000 a year, or roughly a quarter of a percent of the sales tax that public power would be eligible to put back for five years, and it sunsets in 2019. Senator Utter just talked with me about finding a way. I generally agree with Senator Utter's

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

Floor Debate
April 12, 2011

perspective on looking to sunset programs so that we have a tendency to be able to review the efficiency and effectiveness of government programs, and since this program will essentially have five full years of implementation starting in 2014, I agreed with Senator Utter that it would be wise for us to sunset it, have a Legislature at that time be able to provide them an opportunity to determine whether or not they want to continue the program at its current funding level at that point in time. So with that, Mr. President, I'd like to thank Senator Utter for his willingness to look at other options on LB385 and primarily looking at the option here that was presented by Senator Heidemann and the Speaker. Once again, in compromises usually no one leaves happy but the underlying program is still kept intact. It's greatly reduced and it provides a sunset now or will provide a sunset so that we have five full years to determine the effectiveness of the Low-Income Energy Assistance (sic) Act. And so with that, Mr. President, once again I'd like to thank Senator Utter, Senator Heidemann, and the Speaker for their willingness to find a solution on this issue. Thank you, Mr. President. [LB385]

SPEAKER FLOOD: Thank you, Senator Mello. Members, you've heard the opening on AM865. Senator Utter, you are recognized. [LB385]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. Someone once said that making legislation is kind of a messy business and I guess it is because, as Senator Mello has just stated, not everybody leaves entirely happy but compromise is an important part of this process. And I will tell you that after long consideration and visiting with my colleagues and visiting with Senator Mello, who I respect, have agreed to the amendment that he proposes. And certainly I thank him for adding the sunset provisions there because I think it is incredibly important that this body not enact programs that continue the funding on into perpetuity without taking a good, close look at what they're really accomplishing. This, the funding for this bill, even though it only takes a part of the sales tax revenues that the public utility collects, I will tell you that the funding for this bill is paid entirely by Nebraskans. Doesn't make any difference whether it comes from the sales tax revenues that they pay to the utility or whether it comes from the utility's funds that are used to match. In our public power state, everything that is introduced there is Nebraskans' money. So let no one make a mistake about it. This money all comes from Nebraskans to fund this program. It isn't money that comes from Washington, D.C., or down from the heavens. But that said, I have agreed to accept the compromise on this legislation. I thank Senator Mello for being a gentleman and helping work this out and we'll go on down the road with it. Thank you very much. [LB385]

SENATOR ADAMS PRESIDING

SENATOR ADAMS: Thank you, Senator Utter. Senator Heidemann, you're recognized. [LB385]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. I'll

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

Floor Debate
April 12, 2011

just say a few words about the amendment, about the bill. I actually was supportive of LB385 but through the process and through working with Appropriations, it was very important that LB385 move in some fashion and that we recognize the savings that was in LB385 at least during this current biennium because there was \$4.6 million per year in savings underneath LB385. Underneath AM865, those savings will still be there. We will access those savings to make things work in this budget period but the compromise being Senator Mello gets his little piece of the pie and in year four, I believe, according to the amendment, the program comes back in some smaller fashion. So if we're not going to get everything underneath LB385, I think it's important then that we move the amendment to the bill and then move the bill forward, because without the bill the Appropriations Committee and this body will have a \$9 million gap to fill and that's something that we don't want to have to try to probably do at this point of the game. So I would encourage you to support AM865. I think there's an amendment right now actually that's being drawn up that will even make things just a little bit better yet, and then when they get adopted I encourage you to support LB385. Thank you. [LB385]

SENATOR ADAMS: Thank you, Senator Heidemann. Senator Mello, there are no other in the queue. You are recognized to close on the amendment if you're ready. [LB385]

SENATOR MELLO: Mr. President, can I approach the desk real quick? [LB385]

SENATOR ADAMS: (Visitors introduced.) Mr. Clerk. [LB385]

CLERK: Mr. President, Senator Mello, given activity up here, I understand now, Senator, you would like to withdraw AM865? [LB385]

SENATOR MELLO: Yes, Mr. President. [LB385]

CLERK: And, Senator, would that be true also of AM1175, withdraw? That was the other one you had filed earlier, Senator. [LB385]

SENATOR MELLO: Yes. Yes. [LB385]

CLERK: Okay. Thank you. Mr. President, Senator Mello would move to amend the bill. Senator, this is the amendment you just gave me, AM1184. (Legislative Journal pages 1162-1165.) [LB385]

SENATOR MELLO: That is correct, Mr. Clerk. [LB385]

SENATOR ADAMS: Senator Mello, you're recognized to open then on your amendment. [LB385]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I stated

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

Floor Debate
April 12, 2011

in my opening before, we were waiting for an amendment that had a sunset provision included, which AM1184 does have a sunset provision, a five-year sunset provision that would end July 1, 2019, knowing that the act essentially starts being funded through the budget process, through the Appropriations process the next biennial budget, not this current one as we use the savings but the biennial budget ahead of that. So with that, I'd urge the body to adopt AM1184. Thank you, Mr. President. [LB385]

SENATOR ADAMS: Thank you, Senator Mello. There are no other senators wishing to speak at this time. Senator Mello, do you have anything to add in closing? Senator Mello waives closing. Members of the body, AM1184 to the bill, all those in favor vote yea; all those opposed, nay. Has everyone voted that wants to? Record, Mr. Clerk. [LB385]

CLERK: 29 ayes, 1 nay, Mr. President, on the adoption of Senator Mello's amendment. [LB385]

SENATOR ADAMS: Amendment is adopted. [LB385]

CLERK: I have nothing further on the bill, Mr. President. [LB385]

SENATOR ADAMS: Senator Larson for a motion. [LB385]

SENATOR LARSON: Mr. President, I move that LB385 be advanced to E&R for engrossing. [LB385]

SENATOR ADAMS: All in favor of the advancement indicate by saying aye. Opposed, nay. The bill advances. Mr. Clerk. [LB385]

CLERK: Mr. President, the next bill is LB35. Senator Larson, I have no E&Rs. Senator Lautenbaugh would move to amend, Senator, AM1154. (Legislative Journal pages 1165-1166.) [LB35]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body, and thank you, Senator Harms, and your courtesy for allowing me to proceed in this way. What this amendment basically does is attach another bill to this bill. The bill we're attaching via an amendment deals with towing. This was heard in the Transportation Committee and advanced out. Some background is in order. This is an example of what happens under existing law. We had a tower responding to a tractor-trailer accident at the entrance to the westbound scales along the interstate. A Pepsi beverage truck had jackknifed, blocking both lanes due to black ice. The tower hooked up the tractor-trailer and towed it to the Pepsi warehouse at Exit 177. When he pulled into the warehouse, the State Trooper was behind him and he was ticketed for bypassing the 179 exit and being overlength which at the time was 95 feet and he was 108 feet. The original bill

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

Floor Debate
April 12, 2011

introduced was based upon a Missouri law that created for the same purpose, to prevent hindering the quick and safe removal of wrecked vehicles from the roadways. There was initial opposition to this bill from the State Patrol and Department of Roads, and I'm happy to say we've worked with them with the Governor's PRO Office to come to this amendment that is before you. The amendment does the following: Section 1 and 2 allow the length and weight statutes to be ignored for a disabled or wrecked vehicle on the highway system, all state and local highways, that is towed by a wrecker or tow truck to a location for repair or to a point of storage. This means the entire vehicle can be moved without breaking down the vehicle or a combination of vehicles to be legal. Section 3 allows the length and weight statutes to be bypassed for a single vehicle that is disabled or wrecked to be towed, this means from anywhere to anywhere. Section 4 allows the length, height, and width, and weight statutes to be bypassed for a vehicle or combination of vehicles on the highway system that is disabled or wrecked that is permitted by NDOR for overheight or overwidth to be moved to the first and nearest place of safekeeping and must then be broken down to legal or get single-trip permit from the NDOR so that they can control the route and not have that vehicle or combination of vehicles caught in a construction zone or hit a bridge. NDOR defined a wrecker or tow truck as per the original language and added language that makes the towers liable for any injury or damage if they exceed any of the restrictions. In addition, NDOR required the towed vehicles be hooked to the wrecker with the brakes and brake lights. This is an important bill and I, again, appreciate Senator Harms allowing me to attach this to the underlying important bill. These both deal with overweight limits and I think they are both good for business in Nebraska and good for safety if we think it through, and I would urge your support of this amendment. [LB35]

SENATOR ADAMS: Thank you, Senator Lautenbaugh. Senator Harms. [LB35]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of AM1154 and LB35. I think that this is about the only bill we've got that really comes across our board that would allow this to happen. I think it's an important bill. Quite frankly, I believe it will save lives. So I would ask you to support AM1154 and then later support LB35. I would yield the rest of my time to Senator Lautenbaugh if you need it. I guess he doesn't need it, so thank you, Mr. President. [LB35]

SENATOR ADAMS: Thank you, Senator Harms. Senator Lautenbaugh, you have some extra time if you choose to use it. [LB35]

SENATOR LAUTENBAUGH: I'm waive, Mr. President. [LB35]

SENATOR ADAMS: Thank you, Senator. There are no other...oh, there is. Senator Pirsch, you're recognized. I'm sorry. [LB35]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wonder if

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

Floor Debate
April 12, 2011

Senator Lautenbaugh could briefly comment on what the overall goal of his bill...well, let me ask you this. This is a bill idea unto itself that is now being incorporated as an amendment into LB35. Is that correct? [LB35]

SENATOR ADAMS: Senator Lautenbaugh, will you yield? [LB35]

SENATOR LAUTENBAUGH: Yes, I will. And yes, it is. The underlying bill is LB353 that was advanced by the Transportation Committee. And essentially the purpose of this is we've struggled where we have larger vehicles--buses, fire trucks, that type of thing, even larger on this instance, a Pepsi truck--that need to be moved and need to be moved to a place of safety both for the owner of the goods and for the rest of the motoring public. This would allow the vehicles to be so towed and remove them from the highways that much more quickly. [LB35 LB353]

SENATOR PIRSCH: Thank you very much for that statement. So up until this point in time though that cannot take place, is that right, because these larger vehicles are not permitted currently under law? [LB35]

SENATOR LAUTENBAUGH: There were issues with timely removal and permitting involved, yes. [LB35]

SENATOR PIRSCH: Was there a policy reason? Were these specifically excluded in the past or just overlooked? Why don't we have this on the books already? [LB35]

SENATOR LAUTENBAUGH: We have sort of a watered-down version of it but it did not go far enough with larger vehicles, and this is to correct that circumstance. [LB35]

SENATOR PIRSCH: Okay. Thank you for your comments. That's all I have. Thank you. [LB35]

SENATOR ADAMS: Thank you, Senator Pirsch. Senator Lautenbaugh, there are no other senators in the queue to speak. Senator Lautenbaugh. [LB35]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Briefly, again, I would urge you to vote green on this. It is an important safety measure. I do thank Senator Harms for allowing us to hitch our vehicle to his bill, so to speak, and I would urge you support. [LB35]

SENATOR ADAMS: Thank you, Senator Lautenbaugh. Members, the amendment, AM1154, before us, all those oppose indicate so and all those who would support it indicate with yea. Are there any other senators that wish to cast a vote? Record, Mr. Clerk. [LB35]

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

Floor Debate
April 12, 2011

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB35]

SENATOR ADAMS: The amendment passes. [LB35]

CLERK: I have nothing further on the bill, Mr. President. [LB35]

SENATOR ADAMS: Senator Larson. [LB35]

SENATOR LARSON: Mr. President, I move that LB35 be advanced to E&R for engrossing. [LB35]

SENATOR ADAMS: You've all heard the motion. All those in favor say aye. Those opposed, nay. Motion carried. Mr. Clerk. [LB35]

CLERK: Mr. President, the next bill, LB204. Senator Larson, I have Enrollment and Review amendments first of all. (ER64, Legislative Journal page 999.) [LB204]

SENATOR ADAMS: Senator Larson, you're recognized. [LB204]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB204 be adopted. [LB204]

SENATOR ADAMS: You've heard the motion. All in favor say aye. Opposed? Motion carried. [LB204]

CLERK: Mr. President, Senator Karpisek would move to amend with AM1071. (Legislative Journal page 1090.) [LB204]

SENATOR ADAMS: Senator Karpisek, you're recognized to open. [LB204]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I will withdraw my amendment here. I just wanted to thank Senator Council and the Catholic Conference for working together with us on this bill. So everything in my amendment will be in Senator Council's amendment. And I do appreciate that we are going to include the parochial schools in her bill. And parts of it that I don't feel that need to be in there are not, and Senator Council will take care of that. So, Mr. President, I would like to withdraw AM1071. Thank you, Mr. President. [LB204]

SENATOR ADAMS: The amendment withdrawn. Mr. Clerk. [LB204]

CLERK: Senator Council would move to amend with AM1177. (Legislative Journal pages 1167-1171.) [LB204]

Floor Debate
April 12, 2011

SENATOR ADAMS: Senator Council, you're recognized. [LB204]

SENATOR COUNCIL: Thank you, Mr. President. Just as a reminder, LB204 is the bill to require that all children prior to entering kindergarten as a part of their immunization requirement be screened for blood-lead poisoning. And I think it needs to be clarified that there are blood-lead screenings and there are blood-lead testing. And blood-lead screening is a process by which a medical provider obtains information from the parent or guardian of a child to determine whether or not the child is at risk of blood-lead poisoning. If the child is not at risk of blood-lead poisoning, the child ordinarily is not subjected to a blood-lead test, which most often takes the form of a finger prick. If, however, the information provided by the parent or guardian indicates that the child is at high risk of blood-lead poisoning, a test would be required and evidence of that test would have to be presented before the child could be enrolled in kindergarten. As Senator Karpisek stated, he introduced an amendment that would require for LB204 to apply to all schools. The initial draft of LB204 did apply to all schools, but at the suggestion of the Education Committee the bill was amended before advancement to General File by exempting them. After Senator Karpisek introduced his amendment to include the private and parochial schools, I had the opportunity to sit down with representatives of the parochial schools. I want to thank Jim Cunningham and Jeremy Murphy. We spent quite a bit of time together going through their concerns with the bill and I think...I believe I'm authorized to state on their behalf that with the amendments that are reflected in AM1177, while they would prefer not to be subject to this requirement, they are not opposing it with these amendments. And just to go through briefly and to advise what the amendment does, and I want to point out at this time too, it also addresses...I don't see Senator Gloor or Senator Sullivan, but Senator Gloor and Senator Sullivan and myself, we received some concerns through e-mails from school nurses that were concerned about the additional administrative responsibility of trying to determine whether a child had had the blood-lead test between the ages that were set forth in the original draft of the bill. If you will recall, the original draft of the bill required that the blood-lead test be conducted between age 18 months and four years. Well, the primary objective of LB204 is to have children screened and, if necessary, tested for blood-lead poisoning before reaching age six with the optimum age for those tests being conducted being ages 12 months to four years. So the AM1177 on page one of the bill deletes the reference to after 18 months and just simply require that the child have undergone a blood-lead test before the age of six years. Right before the bill came up on the agenda, I had occasion to have another conversation with Mr. Cunningham wherein he raised a potential problem of not only interpretation but application in the instance where a child comes to enroll in kindergarten for the first time at age six. And so I have filed a floor amendment so that eventually page one of the bill will simply require each student entering kindergarten to have undergone a blood-lead test. So as long as they've had the test before they enter kindergarten, it will satisfy the requirements of LB204. In terms of making...trying to make some provision for ensuring

Floor Debate
April 12, 2011

that the children get the test as early as possible, AM1177 includes a new sentence on page two which states that parents and guardians are strongly encouraged to have their children tested for elevated blood-lead levels after the age of 12 months and before the age of four years. So, hopefully, with that clarification, it addresses the concerns expressed by the Catholic Conference as well as a concern expressed by school nurses. Another concern expressed by the Catholic Conference is that currently under the immunization statutes, it's only school districts that are required to inform the parents and guardians of all potential kindergartners of the immunization requirements, which means that parochial and private schools don't have that duty to send out letters to potential kindergarten parents because the assumption is that if the child lives in the school district, they'll enroll in the school district and so the burden is placed on the school district. As originally drafted, LB204 would have imposed an obligation on private and parochial schools to send...to inform parents of the blood-lead testing requirement. Under AM1177, we insert the word "district" that makes it clear that it's the school district that has to provide the information to the parents of incoming kindergartners of the immunization requirement as well as the blood-lead testing requirement. Although it wasn't discussed at any great length, I had had a conversation with some representatives of medical providers with regard to the provision that would allow a child to be enrolled without evidence of a blood-lead test in the case where the child had been assessed as not being at high risk of being exposed to blood-lead poisoning. So AM1177 now provides that the statement to be provided by the doctor is a statement that the child has been assessed by the doctor, and that assessment occurs when the doctor goes through the series of questions. That the child has been assessed as being at very low risk for elevated blood-lead levels based upon information provided by the parent or guardian. So it's been amended to make it clear that the medical provider is basing his or her assessment on information provided to the medical provider in response to the series of questions that are set forth in the bill. And at this time, I'd like to thank Senator Schumacher for pointing out another error that is being corrected in AM1177. In the list of questions to be asked in the determination of whether or not a child is at very low risk, prior to the last question there was an "or," and Senator Schumacher correctly noticed that and noticed that it should be an "and" because in order to be at very low risk, all of those questions have to be answered in the affirmative. So it's not an "or," it's an "and." And with that, and with the change, with the amendment reflected in the floor amendment that I have filed, I believe that I have addressed all... [LB204]

SENATOR ADAMS: One minute, Senator. [LB204]

SENATOR COUNCIL: ...of the concerns that have been raised by those who did express concerns, and those were the private and parochial schools after Senator Karpisek filed his amendment, school nurses and administrators and medical providers. I think what is reflected in AM1177 as...with the minor amendment that will follow on my floor amendment, that we have an excellent bill that moves the state of Nebraska

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

Floor Debate
April 12, 2011

forward in terms of its efforts to eliminate childhood lead poisoning and its effects on the academic achievement of young people in this state, and I urge your advancement of AM1177. [LB204]

SENATOR ADAMS: Thank you, Senator Council. Mr. Clerk. [LB204]

CLERK: Mr. President, Senator Council would move to amend her amendment with FA16. (Legislative Journal page 1171.) [LB204]

SENATOR ADAMS: Senator Council, you are recognized to open on FA16 to AM1177. [LB204]

SENATOR COUNCIL: Yes, thank you again, Mr. President. And briefly, as I indicated, upon further discussion with representatives of the parochial school, it was correctly pointed out that we could see a situation where a child is enrolling in a Nebraska school in kindergarten for the first time at age six. And the bill required that the child had to have had...undergone blood-lead testing before reaching the age of six. What the floor amendment does is just strike the phrase "before the age of six years" and so all it says is that this state shall require each student entering kindergarten to have undergone blood-lead testing, period. And then under AM1177, it has added the statement that parents and guardians are strongly encouraged to have their children tested for elevated blood-lead levels after the age of 12 months and before the age of four years. So I would urge the body's advancement of the FA16 to AM1177, advancement of the amendment, and then the advancement of the bill. Thank you very much, Mr. President. [LB204]

SENATOR ADAMS: Thank you, Senator Council. The Chair now recognizes Senator Krist. [LB204]

SENATOR KRIST: Thank you, Mr. President and members of the body. I was wondering if Senator Council would yield to a question. [LB204]

SENATOR ADAMS: Senator Council, will you yield? [LB204]

SENATOR COUNCIL: Yes. [LB204]

SENATOR KRIST: Could you talk about the funding mechanism of the actual testing. Does it go back to the home district whether the parochial school resides in that district or not, or does it fall back to a federally funded program? How is it paid for? [LB204]

SENATOR COUNCIL: Okay. Funding blood-lead testing and the way the bill was constructed, Senator Krist, was since children have to undergo a series of immunizations and a series of doctors visits as a part of their well baby exam, EPSDT,

Floor Debate
April 12, 2011

and let blood-lead screening and if necessary testing is a part of that, the bill provides that the cost of the blood-lead testing shall be borne by the parent unless the child is eligible for Medicaid or CHIP. [LB204]

SENATOR KRIST: Okay. Thank you very much for that explanation. I have a bill that's sitting in Revenue, LB50, that addresses assisting in the financial stability of our parochial and private school systems. And I applaud Senator Karpisek for bringing this issue forward because it's just as important that those 30,000 plus that are in an elective private school system, be it parochial, Christian, Catholic, whatever, of which my children were in, it's important that we extend that to those children as well. Thirty thousand of them across the state that...whose parents have elected to fund their education in a different way, yet their health concerns and their issues in terms of OT/PT and some other concerns are taken care of by the state as it is our responsibility. Thank you, Senator Karpisek, for bringing that point forward. Thank you, Catholic Conference, for standing up to make it happen, and thank you, Senator Council, for your hard work in this effort. It is, after all, one of the reasons that our education system suffers with that unknown level of lead that could be affecting learning potential and we need to find out early if we're going to correct those issues because after a certain age it's almost insurmountable. Thank you, Mr. President. [LB204 LB50]

SENATOR ADAMS: Thank you, Senator Krist. The Chair now recognizes Senator Louden. [LB204]

SENATOR LOUDEN: Thank you, Mr. President and members. Would Senator Council yield for questions? [LB204]

SENATOR ADAMS: Senator Council, will you yield to Senator Louden? [LB204]

SENATOR COUNCIL: Yes, sir. [LB204]

SENATOR LOUDEN: Senator Council, I understand what we're doing here and I think it's probably a good idea. What I'm wondering about on page two of your AM1177 in lines 14 and through 16 there, it says, otherwise provided that does not comply with this section shall not be permitted to continue in school until he or she so complies. Now is that a constitutional question there? I mean, just because they have a high blood-level (sic), you can't keep them out of school. Just because they can have immunizations and file an affidavit and you can't keep them out of school, and I see that's already in your amendment. So I'm wondering why that paragraph is in there and if that's really necessary and if that should be deleted to make this a little bit more possibility that there won't be a constitutional challenge on it? [LB204]

SENATOR COUNCIL: And, Senator Louden, if I could direct your attention to the bottom of page six and the beginning of page seven of AM1177, it specifically provides

Floor Debate
April 12, 2011

that a student may be provisionally enrolled, so we're not talking about keeping kids out of school. They can be provisionally enrolled as long as they are scheduled to undergo a blood-lead test. And that is found on page seven and it was written to parallel what we do when children arrive to enroll for kindergarten and don't have their immunizations. We provisionally enroll them with the understanding that they have begun or are in the process of receiving their immunizations, so. [LB204]

SENATOR LOUDEN: I know, but I don't think there's any place in statute that says that if they don't have the immunizations they can't continue in school. They said they have to have the immunizations or else they can file these affidavits. Isn't that the way I understand some of this? I'm just questioning whether this paragraph should really be in the bill and if it has...will create a problem in there with the legislation or in statutes in the future. [LB204]

SENATOR COUNCIL: No, and in terms of the affidavits, Senator Louden, those affidavits go to nonreligious reasons for not complying with the immunizations. And it's my understanding that those principally address the situation in the home school setting. But as I say, in any event, the statute does allow the way it's written for various affidavits to opt parents out of having to submit evidence of a blood-lead test. So if there are religious objections to the blood-lead test, if the blood-lead test is deemed to present any harm to the child or in more instances than not, Senator Louden, children will be assessed as not being at high enough risk to require a blood-lead test. [LB204]

SENATOR LOUDEN: Okay. Then you evidently don't have any problem with paragraph four in Section 2. Is that because you're trying to refer to 79-222? [LB204]

SENATOR COUNCIL: Yes. [LB204]

SENATOR LOUDEN: Okay. Okay. Thank you, Senator Council. [LB204]

SENATOR COUNCIL: Thank you. [LB204]

SENATOR LOUDEN: Thank you, Mr. President. [LB204]

SENATOR ADAMS: Thank you, Senator Louden. The Chair now recognizes Senator Campbell. [LB204]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Council entertain a question? [LB204]

SENATOR ADAMS: Senator Council, will you yield? [LB204]

SENATOR COUNCIL: Yes. [LB204]

Floor Debate
April 12, 2011

SENATOR CAMPBELL: Senator Council, I certainly do support LB204, but I was asked a question off the mike and I think we want to make sure we're very clear. In the amendment it talks about every child should be tested. Doesn't that mean every child has to be screened, or do you actually have to then do the screening, and even though you don't have any of the criteria, you still have to go through the test? [LB204]

SENATOR COUNCIL: Well, and that's why the statement that's required, Senator Campbell, to be sure that the child has been screened. So you either present evidence of a blood-lead test or that you have gone through that assessment that shows that you are at very low risk of lead poisoning and that's the statement that's to be signed by the physician based upon the parent or guardian's answers to those screening. So if the child is screened, they're not at high risk of blood-lead poisoning, all the parent has to do is bring in a statement to that effect and the child is enrolled. [LB204]

SENATOR CAMPBELL: Thank you, Senator Council. That certainly clarifies the question that we had because we have a number of areas of the state where there probably wouldn't be as great a risk of that and the screening should take care of it. Thank you, Mr. President. [LB204]

SENATOR ADAMS: Thank you, Senator. Senator Hadley, you're recognized. [LB204]

SENATOR HADLEY: Mr. President and members of the body, I'll be short on this. Last week we debated TEEOSA and went through and there are 91 nonequalized school districts in the state. And I happen to have three of them in one county and I had an interesting phone call from the superintendent. And he made the comment, he says, Galen, you know, you take all my money away and then you send me more requirements. [LB204]

SENATOR ADAMS: (Gavel) [LB204]

SENATOR HADLEY: And it just kind of hit me that we have to be careful how many requirements we put on school districts and such as that from here. It seems to me that if a school district is having a problem in this area, that maybe they're the ones that should look into it and handle it. Thank you, Mr. President. [LB204]

SENATOR ADAMS: Thank you, Senator Hadley. Seeing no other senators in the queue, Senator Council. [LB204]

SENATOR COUNCIL: Thank you, Mr. President. You can ignore my light because I'll address Senator Hadley's comments in this, my closing on the floor amendment. And Senator Hadley, during the course of the consideration of LB204 and the course of the amendments that you see, that question of burden upon school districts was something

Floor Debate
April 12, 2011

that was carefully reviewed. And if you carefully look at what's required by LB204, there's nothing required of a school district that's currently not required of them with regard to immunization. And that is, if a child comes into that school district that called you and did not have the card that the physician gives that child's parent saying that they've had their immunizations, and that same card will now say they've had their blood-lead test, or they haven't had their blood-lead test, LB204 does not require school districts to do anything more than what they would have to do if the child lacked immunizations. This bill doesn't require school districts to conduct blood-lead tests. It requires school districts, in the information that they're currently required to send out to the parents of incoming kindergartens, to add a statement that says, and by the way, they should be tested for blood-lead poisoning. And when they go to their physician, their physician will undertake the screening that Senator Campbell referred to, and if the child doesn't need a blood-lead test, all they have to do is sign a statement to that effect and hand it over to the school nurse or whoever the administrator is that enrolls kindergartners in that district. So...and I find it to be, you know, nonpersuasive to take LB204 and try to use that as the basis for a criticism that the state puts more burdens on school districts without providing them with the appropriate level of state aid. Again, LB204 is intended to be a measure that is preventive as well as an intervention method, and that is to ensure that children entering kindergarten are entering kindergarten in the best possible condition to learn. And the medical research shows that children who have been exposed to high levels of lead are not in the best position to learn. And, in fact, the research shows that those children, in more cases than not, have suffered and will continue to suffer developmental disabilities. And because a child who is suffering from lead poisoning does not exhibit any outward, real outward indications of that blood-lead poisoning, the only way to determine whether the child has been poisoned is through a blood-lead test. And as the bill is constructed, if that child tests above ten micrograms per deciliter of blood, then it puts into operation the intervention methods that the Education Committee was looking for last year when the bill was introduced. And that intervention method is for the Department of Health and Human Services to advise the parent or guardian of the availability of services through the Department of Education for children under the age of six who have medical conditions that could have an effect on brain development. I have had the pleasure of discussing LB204 with the county health... [LB204]

SENATOR ADAMS: One minute, Senator. [LB204]

SENATOR COUNCIL: ...the county health officials representing most of the 93 counties in the state of Nebraska. Some of you may have attended last week the breakfast hosted by the public health officials and during that breakfast they were all very supportive of the LB204. In fact, I meant to bring it up here, I received a card from the official that represents, I think, it's Thayer, Fillmore, Gage, it's about six counties, who expressed her support for LB204 and what we are attempting to accomplish here. And with that, Mr. President, I would urge the advancement of FA16. Thank you. [LB204]

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

Floor Debate
April 12, 2011

SENATOR ADAMS: Thank you, Senator Council. You've heard the closing on FA16 to AM1177. All in favor indicate with yea; all opposed, nay. Senator Council, for what do you rise? [LB204]

SENATOR COUNCIL: The fact I might have to request a call of the house, Mr. President. [LB204]

SENATOR ADAMS: There has been a request for the call of the house. All of those in favor indicate with yea; all opposed, nay. Record, Mr. Clerk. [LB204]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB204]

SENATOR ADAMS: The house is under call. All nonexcused members please return to the Chamber. Unauthorized staff, we'd ask you to leave the floor. Members, please check in. Senator Christensen, could you record your presence. Senator Fulton, Senator Coash, Senator Conrad, the house is under call. All members are present and accounted for. Senator Council, how would you wish to proceed? [LB204]

SENATOR COUNCIL: Machine vote. [LB204]

SENATOR ADAMS: Senator Council, would you accept call-ins? [LB204]

SENATOR COUNCIL: Yes. [LB204]

SENATOR ADAMS: Mr. Clerk. [LB204]

CLERK: Senator Conrad voting yes. Senator Nordquist voting yes. [LB204]

SENATOR ADAMS: Record, Mr. Clerk. [LB204]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Council's amendment to her amendment. [LB204]

SENATOR ADAMS: Thank you, Mr. Clerk. We now move to AM1177. Senator Nelson, you are recognized. We will raise the call. [LB204]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to ask a question or two of Senator Council, if she would yield. [LB204]

SENATOR ADAMS: Senator Council, would you yield? [LB204]

SENATOR COUNCIL: Yes. [LB204]

Floor Debate
April 12, 2011

SENATOR NELSON: Senator Council, I'm going to jump ahead to the fiscal note here while we're on your amendment and I'm looking at revision one of March 29, 2011. I don't know if you have that there. I just want to be clear on this. In your testimony earlier you said that the bloodletting or the blood-testing is not going to be necessary in all cases that there will be a screening. Is that correct? [LB204]

SENATOR COUNCIL: Yes. [LB204]

SENATOR NELSON: All right. You know, I'm not sure that the fiscal notes then reflect what you're telling us here in the bill as amended by AM1177. In order for the test to be covered by Medicaid, a physician must order the test as medically necessary. Assuming that all tests will be medically necessary, then it gives the estimated fiscal impact. Opting out of the testing would not be feasible within the constraints of the requirements as a medical profession would be required to sign off on a statement verifying stringent requirements. The criteria are considerably stricter than the ones to opt out of the immunization requirements. Could you comment on that? Is that accurate? [LB204]

SENATOR COUNCIL: And no, it's not accurate, Senator Nelson. And I had hoped we could avoid this discussion again. The requirements for a physician for a child not to require to be blood-lead tested, the questions that are in LB204 are virtually the same questions that Medicaid, under the Department of Health and Human Services regulations, require a physician to ask. So the physicians under LB204 are making the same assessment that the physicians would make under ordinary Medicaid circumstances. But in light of that statement, which I don't agree with, in light of that statement, AM1177 provides that the assessment, that they don't have to give the test if the child is assessed at being at very low risk based upon the parent's answers to the questions. The department was taking the position that the way the bill was originally written that doctors wouldn't want to say that they made that determination, so that's why AM1177 says that they have assessed the child based upon the information provided by the parents in response to the questions that they would have to ask now under Medicaid guidelines. [LB204]

SENATOR NELSON: But those are referred to as stringent requirements and that bothers me a little bit. I'm just saying, you talk about this card where either they've had a blood test or they've had a screening and the basis of the screening shows that probably it's not necessary to do that. Are doctors going to be doing that by and large? Are we going to...if they are, then that's going to affect the fiscal note. We're going to have considerably less expense, I would think. [LB204]

SENATOR COUNCIL: Well, Senator Nelson, you've taken the words...we will have considerably less expense. When you say...I take strong exception to the Department of Health and Human Services reference to "stringent." I passed out, when the bill was

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

Floor Debate
April 12, 2011

originally introduced, the guidelines that Medicaid providers are required to go through now on blood-lead testing. What's stated in LB204 is no different. In fact, it asks one less question than they're currently required to ask under Medicaid regulations. So it's not a stringent requirement. [LB204]

SENATOR ADAMS: Senator Nelson, you have 1 minute. [LB204]

SENATOR NELSON: All right. Thank you, Senator Council. I look at the Fiscal Analyst comments and it is assumed that blood-lead tests for 8,300 children will be covered by HHS. So I would suppose in light of Senator Conrad's comments that that estimate is much larger than we're actually going to be talking about. And I guess we can discuss that, or if necessary, when we address the A bill. Thank you, Senator Council. Thank you, Mr. President. [LB204]

SENATOR ADAMS: Thank you, Senator Nelson. Senator Council, you're next in the queue. [LB204]

SENATOR COUNCIL: And if there are no other lights on, Mr. President, I'll use this as my closing. But when we do get to the A bill, Senator Nelson, what the fiscal note reflects is what the Department of Health and Human Services told the fiscal department. And during the course of the hearing, that same point was raised that last year when this bill was introduced, the Department of Health and Human Services took an even more, in my opinion, intransigent position by suggesting that under this bill they...that Medicaid providers would have to test every single Medicaid child. And my response was, if you think this would make them test every Medicaid child, why aren't you insisting that they test every Medicaid child now? Because this bill requires them to do nothing more than DHHS is supposed to require Medicaid providers to do now. So if it's \$51,000 more, then it should be \$51,000 more now because this bill doesn't provide any different requirement on Medicaid providers. And when the A bill comes up, the way...there's an amendment to the A bill that says it won't be just a flat appropriation, it will be on a reimbursement basis. So if DHHS has to incur additional expense associated with this, it will be reimbursed as it incurs that expense as opposed to an outright appropriation to them of \$51,000. And with that, I would urge passage of AM1177. [LB204]

SENATOR ADAMS: You've heard the closing on AM1177. Members, all those in favor vote yea; all those opposed, nay. Are there any other senators wishing to cast a vote? Record, Mr. Clerk. [LB204]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Council's amendment. [LB204]

SENATOR ADAMS: The amendment is adopted. [LB204]

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

Floor Debate
April 12, 2011

CLERK: I have nothing further on the bill, Mr. President. [LB204]

SENATOR ADAMS: Senator Larson for a motion. [LB204]

SENATOR LARSON: Mr. President, I move that LB204 be advanced to E&R for engrossing. [LB204]

SENATOR ADAMS: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Mr. Clerk. [LB204]

CLERK: Mr. President, LB204A. Senator, I do have E&R amendments first of all. (ER63, Legislative Journal page 1000.) [LB204A]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB204A be adopted. [LB204A]

SENATOR ADAMS: You've heard the motion to adopt the E&R amendments. All in favor say aye. Opposed? The motion carried. [LB204A]

CLERK: Senator Council would move to amend with AM1053. (Legislative Journal page 1171.) [LB204A]

SENATOR ADAMS: Senator Council, you're open. [LB204A]

SENATOR COUNCIL: Yes, thank you, Mr. President. Just continuing with my discussion with Senator Nelson, what AM1053 does is rather than an outright appropriation of \$51,000 to Health and Human Services for what they've projected to be the additional costs to them associated with LB204, AM1053 simply provides that for the reimbursement of Health and Human Services for costs, additional costs that they would incur as a result of the passage of LB204. And as I indicated to...in response to Senator Nelson's questions, it is my belief that based upon past practice and past undertakings, if children are screened as they should be, that there would not be necessity for DHHS to expend the entire \$51,000. And if you agree or believe what has been said in terms of the number of children who are at risk of blood-lead poisoning, then you also should not have any concern about DHHS's accessing the Health Care Cash Fund in any significant amount to cover the obligations imposed by LB204. And with that, I would urge the body's passage of AM1053. [LB204A LB204]

SENATOR ADAMS: Thank you, Senator Council. Senator, there are no other senators in the queue. Senator Council waives closing. Members, this is AM1053 to LB204A. All in favor say aye or indicate aye, and opposed, nay. Are there any other senators wishing to vote? [LB204A]

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

Floor Debate
April 12, 2011

SENATOR HAAR: I sat down in the wrong chair and voted for... [LB204A]

CLERK: What, what...tell me, Senator, what are you saying to me? I'm sorry. What are you...? [LB204A]

SENATOR HAAR: That Senator Dubas did not vote. That is correct. Okay. [LB204A]

SENATOR ADAMS: Record, Mr. Clerk. [LB204A]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Council's amendment. [LB204A]

SENATOR ADAMS: The amendment is adopted. [LB204A]

CLERK: I have nothing further, Mr. President. [LB204A]

SENATOR ADAMS: Senator Larson for a motion. [LB204A]

SENATOR LARSON: Mr. President, I move that LB204A be advanced to E&R for engrossing. [LB204A]

SENATOR ADAMS: You've heard the motion. All in favor say aye. Opposed? The motion is adopted. Mr. Clerk. [LB204A]

CLERK: LB431, Senator, no E&Rs. Senator Hadley would move to amend with AM1169. (Legislative Journal page 1172.) [LB431]

SENATOR ADAMS: Senator Hadley, you're recognized to open on your amendment. [LB431]

SENATOR HADLEY: Mr. President and members of the body. It's a very simple amendment. It adds the emergency clause to LB431. Thank you, Mr. President. [LB431]

SENATOR ADAMS: Thank you, Senator. Senator, there's no one else that wishes to speak. Do you want to close? Senator Hadley waives closing. Members, you are aware of what the amendment is. All in favor indicate with aye; opposed, nay. Any senators still wishing to vote? Record, Mr. Clerk. [LB431]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Hadley's amendment. [LB431]

SENATOR ADAMS: The amendment is adopted. Senator Larson for a motion. [LB431]

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

Floor Debate
April 12, 2011

SENATOR LARSON: Mr. President, I move that LB431 be advanced to E&R for engrossing. [LB431]

SENATOR ADAMS: Members, all those in favor of the motion indicate by saying aye. Opposed? Motion carried. Mr. Clerk. [LB431]

CLERK: LB558, Senator, E&R amendments pending. (ER65, Legislative Journal page 1005.) [LB558]

SENATOR ADAMS: Senator Larson for a motion. [LB558]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB558 be adopted. [LB558]

SENATOR ADAMS: Thank you, Senator. You've heard the motion. All in favor say aye. Opposed? Motion carried. [LB558]

CLERK: I have nothing further on that bill, Mr. President. [LB558]

SENATOR ADAMS: Senator Larson for a motion. [LB558]

SENATOR LARSON: Mr. President, I move that LB558 be advanced to E&R for engrossing. [LB558]

SENATOR ADAMS: You have all heard the motion. All in favor say aye. Opposed? Motion carried. Mr. Clerk. [LB558]

CLERK: LB156, Senator, I have no amendments to the bill. [LB156]

SENATOR ADAMS: Senator Larson for a motion. [LB156]

SENATOR LARSON: Mr. President, I move that LB156 be advanced to E&R for engrossing. [LB156]

SENATOR ADAMS: Members, you have all heard the motion. All in favor say aye. Opposed? Motion carried. Mr. Clerk. [LB156]

CLERK: Mr. President, LB512, the next bill. Senator, I have Enrollment and Review amendments first of all. (ER68, Legislative Journal page 1007.) [LB512]

SENATOR ADAMS: Senator, you're recognized, Senator Larson. [LB512]

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

Floor Debate
April 12, 2011

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB512 be adopted. [LB512]

SENATOR ADAMS: Members, you've heard the motion. All in favor say aye. Opposed? Mr. Clerk. [LB512]

CLERK: Senator Lautenbaugh would move to amend, AM1179. (Legislative Journal pages 1172-1174.) [LB512]

SENATOR ADAMS: Senator, your open on your amendment. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I brought this amendment because it is a solution to a bill that we heard in Judiciary Committee, although it is not what I would call the same as the bill we heard in Judiciary. In Judiciary, we sought to address or a bill was brought to us that sought to address the problem of adequate signage. As the matter now stands, if you have a concealed carry permit, you can be barred from certain public places, offices and whatnot, as long as a sign is conspicuously posted on the door. Well, what we struggled with in committee and the bill that was proposed, proposed that a specific sign that, if memory serves, at least the example we were given was in black and white and red and fairly large be placed on every door and that would constitute conspicuous signage. Now there was resistance to this, with myself included, and the reason for that is, well, fairly obvious. You look at a place like Oak View Mall, where there are several entrances, multiple, multiple, multiple doors; do you need this large sign posted on every door to effectively ban concealed carry or disallow people from carrying their concealed weapons in the mall? Some would say, no, that was overkill to require that signage and all small business owners to put that up. But the problem is under current law I believe we go the other way. The conspicuous requirement is not defined in any way and what we have is a circumstance where there may be 15 doors in a row where you enter Dillard's at Oak View, to continue using the example, and on one of the doors there might be a tiny sign with a gun with a red circle and slash through it and, you know, say no weapons allowed. And if you go into Dillard's and you have your concealed carry, you don't enter the right door, you aren't going to know you've run afoul of that particular restriction on that particular property. The problem arises that if you do run afoul of it, it is a level of misdemeanor sufficient to disqualify you from having a concealed carry permit. So this is a problem we need to address and my amendment very simply says if you don't see the sign or if the sign is posted, you must, if you are caught with a concealed carry weapon, be asked to leave the premises. There are problems with that approach as well. Once you're asked to leave, if you don't then you are guilty of violating the provision. It also seeks to make the violation a lesser misdemeanor, something on I believe on the order of a trespass so that it does not affect your concealed carry eligibility. It seems to me either one of those might address this issue. I'll be honest. In talking to at least one of my fellow committee members, he is

Floor Debate
April 12, 2011

not in favor of this approach and I have indicated that I was not necessarily planning on taking this to a vote today. And then we had some issues arise with other amendments on this bill and, since I had been remarkably quiet for two days in historical terms, I thought I would stand up and talk about this amendment for a while, while we got other things worked out, and I'm not sure where we are on that. But I would urge you to consider this. We'll see where it takes us. If this isn't something we address this year, I do at least want to alert us to the problem, fact that it is out there, and we need to strike a balance between the rights of property owners not to have overblown and garish signage on every door to effectively disallow concealed carry but also not to make any technical violation of the signage provision an occasion where you lose your right to concealed carry. So there is an issue here and a problem we must deal with. I've thrown out a solution with this amendment. I'm confident there's at least one other light on so we'll see where this takes us. Thank you, Mr. President. [LB512]

SENATOR ADAMS: Thank you, Senator Lautenbaugh. Senator Lathrop, you're recognized. [LB512]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm the other light on and I want to talk about this a little bit and express my concerns. It's an interesting history that Senator Lautenbaugh gave to relate that we had a bill in the Judiciary Committee and the bill, I think Senator Christensen put it in and it would have required on every place where somebody, an office building or a mall, that doesn't want concealed carry on their property would have to put up a sign, that's 8.5 by 11 that shows a handgun on it, on every single door. So if you're going into Dillard's at Oak View in Omaha, you would have to look at...Dillard's would literally, if that bill would have passed, literally would have had to post an 8.5 by 11 picture of a handgun with a line through it and it even prescribed or required that the State Patrol prescribe what that sign should look like, and it was obnoxious. It was obnoxious. There's nobody that would want to put it up there. And a couple...one guy came in who was a little fuzzy on what happened to him and he said, boy, I didn't see the sign and the next thing I know I'm in trouble. Okay. So that was not a good solution. And Senator Lautenbaugh is suggesting, well, I got another solution which is you can, as a property owner, put a sign up that says, don't bring a handgun concealed into my property, but it doesn't work until you've asked the guy, you catch him first and then you ask him to leave. It's kind of an ironic way to approach the problem that Senator Christensen was going to approach with a bunch of ugly signs, which is people that run a business, people that run a business, whatever it is, have every right in the world to say, I own the place, don't bring a concealed carry on. And that was part of the law that we passed. Now what we would do is say you not only...not only do you have to put a sign up but you got to catch them with the gun and then you have to ask them to leave and until those two steps happen they're not guilty of anything, and I think it's silly. The law requires that the sign be conspicuous and I can tell you that years ago, I've been practicing law for 30 years, first 5 or so I did a good deal of criminal work, and one of the issues is going to be in any

Floor Debate
April 12, 2011

case where someone is being charged with carrying a concealed carry on to a property that's posted is was the sign conspicuous. If it wasn't and no one could see it or they put a Christmas tree or a Christmas decoration over the sign, it's not conspicuous, you have a defense, no problem. This is...I can't help but acknowledge the irony of the guy who stood up here and talked about a property owner ought to be able to smoke on his...or let people come in and smoke and be the advocate for private property rights, and now the guy who puts a sign up that says don't bring your handgun in here under your shirt is saying you have to get caught with it and then be told to leave before the rule is effective. I think it's bad policy and I think that a private owner...and I have to tell you my office building, I didn't have anything to do with it, but there's a sign at the front door and you can't miss it and it says no concealed carry. And you see them all over town and they're in malls. They are in malls. And this would let you walk into a mall with a gun under your jacket or wherever you conceal it and until somebody sees you with it and asks you to leave, there's no consequence. And that is a... [LB512]

SENATOR ADAMS: One minute. [LB512]

SENATOR LATHROP: ...radical departure from what the rule is right now. It is not a proper solution for or an alternative to Senator Christensen's signs which would be problematic for someone who runs a business, particularly if you're Dillard's and you have 12 doors across the front of your business. All 12 of them would have had to have a sign. So I'm going to encourage you to oppose AM1179. I really...I have to tell you that we have a lot of gun bills that come through, and hopefully the Chair will have an opportunity to talk about that, but we have a lot of bills that deal with handguns and generally we're there in Judiciary Committee with reasonable relaxations of the law as it relates to concealed carry and guns. But this I think is a step too far over the line and I would encourage you to oppose AM1179. [LB512]

SENATOR ADAMS: Thank you, Senator Lathrop. Senator Christensen, you're recognized. [LB512]

SENATOR CHRISTENSEN: Thank you, Mr. President. Just clarify a little bit about what the law is right now and that is a business owner can choose not to allow them but not post it. Then he has to ask them to leave and there's no crime permitted unless he...they are asked to leave. That is one of his options. The other option is to post it and the law just says in a nonconspicuous (sic) manner. And what my bill, LB88, I believe it was, stated was you had to have a sign every 12 foot and it was recommended to be 8.5 by 12 because that was the recommendations that the State Patrol had on their Web site for people that wanted to post it. And so that's what I introduced that Senator Lathrop graciously said how ugly it was, and I offered to the committee to go down to 5 by 7 or I would work with them on that, and I wasn't able to get the bill brought forward. And so again, I just wanted to clarify that I have tried a couple different avenues. You can look at LB88 yourself if you'd like to. There is two different options for business

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

Floor Debate
April 12, 2011

owners right now and what this amendment would be that Senator Lautenbaugh has just brought this afternoon that I found out about is just an alternative to make sure that someone doesn't lose their license for missing it. If someone else disagrees with what this...how unobtrusive a sign is, we showed in the committee a number of signs that is pictured different places, and I don't know how a judge would rule on what is nonobtrusive...or a conspicuous sign, sorry, and...because we had them where it said no smoking, four or five other things, and the bottom line says no concealed carry. I wouldn't expect many people to see that. And then we had those that were posted on one side and you'd go clear across 12 doors and it wasn't there. So some entrances were marked, others were not. And so that was the idea of that original bill. I understand the reasoning Senator Lautenbaugh has brought this. It is definitely a good alternative to the bill I introduced, so I'll be glad to listen and answer any questions that the body would have. Thank you, Mr. President. [LB512 LB88]

SENATOR ADAMS: Thank you, Senator Christensen. Senator Lautenbaugh, the Chair recognizes you. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. The next amendment is ready to go and it very simply adds a bill by Senator Burke Harr that would allow armed, I believe, off-duty police officers to be retained at events by the schools and that is the next amendment. And so in light of the...what I said initially about this and the hate e-mail I'm getting about what a beautiful day it is outside, I will cheerfully withdraw my amendment at this time. [LB512]

SENATOR ADAMS: Thank you, Senator Lautenbaugh. Amendment is withdrawn. [LB512]

CLERK: Mr. President, Senator Christensen would move to amend with AM1186. (Legislative Journal pages 1174-1176.) [LB512]

SENATOR ADAMS: Senator Christensen, you're recognized. [LB512]

SENATOR CHRISTENSEN: Thank you, Mr. President. This is an amendment that just simply reads: the possession of firearms by a peace officer or other duly authorized law enforcement officers when contracted by a school to provide school security or school event control services, can possess a concealed carry permit. This is an actual bill, I believe it was LB618, Senator Burke Harr introduced, and he had asked to put this on to my bill and I talked to the Judiciary Committee. With their approval, they did pass it out of committee. Since he had to be gone today with sick kids, I said I would introduce this. This is the reason Senator Lautenbaugh introduced the previous amendment, to buy us a little time till drafting had this done. It is a bill...or an amendment now in this case to LB512 that I support. It was supported in committee by the NRA, by the schools, by the police departments, and I think it is a great option that we can add on to here to allow

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

Floor Debate
April 12, 2011

individual schools, if they choose, to add additional private security on to their school property. So if there's any questions, I'd be glad to address them as they come up, but I'm going to ask you to add AM1186 on to LB512 and pass them both. Thank you, Mr. President. [LB512 LB618]

SENATOR ADAMS: Thank you, Senator Christensen. Senator, there are no other senators in the queue right now. Do you wish to close on this amendment? Senator Christensen waives closing on AM1186. All those in favor indicate voting yea; opposed, nay. [LB512]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Have all those voted who wish to? Record, Mr. Clerk. [LB512]

CLERK: 29 ayes, 0 nays, Madam President, on the adoption of Senator Christensen's amendment. [LB512]

SENATOR SULLIVAN: The amendment passes. [LB512]

CLERK: I have nothing further on the bill, Madam President. [LB512]

SENATOR SULLIVAN: Senator Larson for a motion, please. [LB512]

SENATOR LARSON: Madam President, I move that LB512 be advanced to E&R for engrossing. [LB512]

SENATOR SULLIVAN: The question is the adoption of the E&R...the advancement of the bill, LB512. All those in favor say aye. Opposed? It advances. Mr. Clerk. [LB512]

CLERK: Madam President, LB337. Senator, I have Enrollment and Review amendments first of all. (ER66, Legislative Journal page 1011.) [LB337]

SENATOR SULLIVAN: Senator Larson for a motion. [LB337]

SENATOR LARSON: Madam President, I move that the E&R amendments to LB337 be adopted. [LB337]

SENATOR SULLIVAN: The motion is for the adoption of the E&R amendments. All in favor vote...signify by saying aye. Opposed? Motion is adopted. [LB337]

CLERK: I have nothing further on that bill, Senator. [LB337]

SENATOR SULLIVAN: Senator Larson for a motion. [LB337]

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

Floor Debate
April 12, 2011

SENATOR LARSON: Madam President, I move that LB337 be advanced to E&R for engrossing. [LB337]

SENATOR SULLIVAN: You've heard the motion. All in favor signify by saying aye. Opposed? The bill is advanced. [LB337]

CLERK: Madam President, the next bill, LB628. Senator, first of all, I have Enrollment and Review amendments. (ER67, Legislative Journal page 1011.) [LB628]

SENATOR SULLIVAN: Senator Larson for a motion. [LB628]

SENATOR LARSON: Madam President, I move that the E&R amendments to LB628 be adopted. [LB628]

SENATOR SULLIVAN: You've heard the motion. All those in favor say aye. Opposed? Amendments are adopted. [LB628]

CLERK: Senator Bloomfield would move to amend with AM1049. (Legislative Journal page 1026.) [LB628]

SENATOR SULLIVAN: Senator Bloomfield, you're recognized to open on your amendment. [LB628]

SENATOR BLOOMFIELD: Thank you, Madam President, members. AM1049 simply adds to the bill that Senator Cook introduced that whoever the vehicle be given to not be a relative of anyone on the board that has given it away. It's a very simple, easy bill. It just keeps the graft a little more limited. That's really all I have to say to it. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Bloomfield. The Chair recognizes Senator Cook. [LB628]

SENATOR COOK: Thank you, Madam President. Good afternoon, colleagues. I rise in opposition to AM1049 to LB628, but I thank Senator Bloomfield for paying attention and reviewing the bill. In short, I am opposed to the amendment because we've had lots of discussions in the last few weeks and few days and even few hours about local control, and about offering our political subdivisions, and the people who are elected to represent their constituents and constituencies on the local level, offering them that room to govern as they choose close to the constituent. So while I understand the impetus for the amendment, I stand opposed to it. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Cook. Senator Bloomfield, you're

Floor Debate
April 12, 2011

recognized. [LB628]

SENATOR BLOOMFIELD: Thank you. My whole concept behind this is that we really ought not to be giving away public property in the first place. And the idea that we give it to a nonprofit organization didn't bother me so much, but when we learned that nonprofit could then in turn pass it on to an individual, I suddenly had real problems with it. And all this amendment does is attempt to limit who that individual might be, that we don't give it to the board member's sister. That's all I can say about it. I think the amendment needs to be on there to prevent anything untoward going on. Let's put it that way. We simply shouldn't be...if we're going to give away vehicles, we shouldn't be giving them to relatives. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Bloomfield. Senators wishing to speak are Karpisek, Pirsch, and Fulton. Senator Karpisek, you're recognized. [LB628]

SENATOR KARPISEK: Thank you, Madam President and members of the body. I stand in support of AM1049. Whether there is any real concern here or not, I think the perception could be that someone could get the vehicle by being connected, if you will. I think that this does at least make people okay with the fact that maybe we're going to give it away, but it's not a tied-in deal, it's not who you know, not what you know, those sort of things. I agree with Senator Bloomfield that I do have some reservation on this bill on giving away something that the taxpayers money paid for, but I think that Senator Cook has the right idea of helping people out and giving a vehicle that isn't worth a whole lot of money to help someone out. I do think, again, perception can be reality and Senator Bloomfield's amendment helps that situation. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Karpisek. The Chair now recognizes Senator Pirsch. [LB628]

SENATOR PIRSCH: Thank you, Madam President, members of the body. I have a question I would just pose to Senator Bloomfield, if he would yield. [LB628]

SENATOR SULLIVAN: Senator Bloomfield, would you yield for a question? [LB628]

SENATOR BLOOMFIELD: Yes, I would. [LB628]

SENATOR PIRSCH: And it's not so much a question regarding the concept, it's the overall concept itself, just a definitional concept. With respect to your amendment it says, the governing body shall not authorize such donation if any employee of the charitable organization or any proposed recipient of the motor vehicle from the charitable organization is an immediate family member of any member of the governing body. What is it...when you use the term "immediate family member," for the record,

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

Floor Debate
April 12, 2011

what's your intent there? And by that I mean, do you mean just brothers, sisters, cousins, uncle, how far down? [LB628]

SENATOR BLOOMFIELD: My original bill said "related." This is what came back from Bill Drafting. I guess in my mind it would take care of brothers and sisters and children and mothers and fathers. I suppose if you're a second cousin, you're probably home free. [LB628]

SENATOR PIRSCH: Yep. And we do have other statutes to deal with conflicts of interest, I think this body has addressed within the last couple of years by the use of the term "immediate family member." Do you mean to piggyback then on that definitionally then, or do you just want...I mean, is it just the plain and ordinary meaning of the term "immediate" that you want to use at this time? [LB628]

SENATOR BLOOMFIELD: I don't quite understand your question, but... [LB628]

SENATOR PIRSCH: Well, I guess what I'm...what ultimately may come into question. If this amendment is incorporated in the bill, the bill is passed, and years from now somebody's brother-in-law is the recipient of such a motor vehicle, and the question is put to the court, is this permissible or impermissible, brother-in-law, and they'll look to the term "immediate family member" and wonder is that such a relationship that you mean to capture it within this amendment. Nephew, brother-in-law, I can think of a number of different familial relationships. I'm just trying to get you...since you're bringing forward the amendment, what your understanding of that term "immediate family member"...what type of relationships are you trying to capture? [LB628]

SENATOR BLOOMFIELD: There again, if you're giving it to the brother-in-law it would be going, I assume, also to the sister, which to me would be immediate family. I would think that would be precluded. I do believe that as this is written that if you get down to a nephew or a niece they are probably good to go. [LB628]

SENATOR PIRSCH: Okay. Well, thank you for clarifying that. I do appreciate that. I would yield the balance of my time to Senator Bloomfield, should he wish to use it. [LB628]

SENATOR SULLIVAN: Senator Bloomfield, you have one minute and...Senator Bloomfield waives. Senator Fulton, you're recognized. [LB628]

SENATOR FULTON: Thank you, Madam President. Would Senator Cook yield to a question. [LB628]

SENATOR SULLIVAN: Senator Cook, would you yield? [LB628]

Floor Debate
April 12, 2011

SENATOR COOK: Yes. [LB628]

SENATOR FULTON: Senator, is the concern with AM1049 some...is it...are you opposed to it in principle or is it a process? Maybe you could elaborate some more on your opposition. [LB628]

SENATOR COOK: My opposition is certainly not philosophical. We certainly don't want to provide an opportunity for people to defraud nonprofit or a local subdivision of materials that the taxpayers have purchased. That's not my opposition. My opposition is one more related to the fact that, as we've discussed many times this session, words mean something. And as we add words to our statute, we've already had a question raised right now about what is a...the immediate family. For example, I have members of my immediate family who do not have the same surname. Could they appear and take advantage of this? And it also continues with an idea that I have about people's participation in...with charitable organizations and with state resources when they are in need. My overarching belief is that people do not, by and large, show up to rip off the organization. I think I mentioned that when we talked about LB543 with the SNAP program. So my opposition is really more related to not having this sort of language in statute, which first of all, based on what the amendment sponsor just says, he had a different word, Bill Drafters send him back the word "immediate family" and we've already had conversation in the last few minutes about what that might mean. So that's where it's coming from. [LB628 LB543]

SENATOR FULTON: Okay. Thank you, Senator. I mean, I think Senator Bloomfield encapsulates a lot of what I have been thinking on this, I just haven't gotten up to speak about the bill. And the same with Senator Karpisek. This AM1049 captures a principle here that I'm in favor of and I'll be in...I'll support AM1049. I don't know whether I'll support LB628 going forward and that could just be a matter of, you know, just we have different positions on it. But we should communicate to the public that those things which have been funded or purchased with taxpayer dollars, we've put in place provisions which would disallow any funny business. I guess that's the quickest way to say this. So I don't know whether the language passes the test of any...passes any jurisprudence tests, but it seems pretty clear to me what "immediate family" members are. So I'll support AM1049. I thought it was appropriate to allow Senator Cook an opportunity to respond and if Senator Cook would like the remainder of my time, I would yield it. [LB628]

SENATOR SULLIVAN: Senator Cook, you have 1 minute and 51 seconds. [LB628]

SENATOR COOK: Thank you, Madam President and thank you, Senator Fulton. I understand your position on AM1049. And again I think it just starts from a place of when it comes to funny business, how many other of our statutes reflect our lack of interest in funny business. Once again when I argued in favor of the SNAP bill, I offered

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

Floor Debate
April 12, 2011

the example of the LB775 application and the application that people had to complete, the 30 pages for food benefits. My opinion is that there are a lot more hoops and flaming hoops, bells and whistles, stops along the way for people who are living in poverty or trying to work themselves out of poverty... [LB628]

SENATOR SULLIVAN: One minute. [LB628]

SENATOR COOK: ...then there are for others who receive many, many, many, many more resources from the state or from local subdivisions. Also what I would like to remind the body is that LB628 is a "may" provision. A political subdivision "may" offer this to a nonprofit incorporated in the state of Nebraska. It is not a mandate by any stretch of the imagination. So it would be up to each of the local subdivisions as to whether or not they even wanted to offer this to a nonprofit within their community. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Cook. The Chair now recognizes Senator Howard. [LB628]

SENATOR HOWARD: Thank you, Madam President and members of the body. If Senator Cook would yield to a question. [LB628]

SENATOR SULLIVAN: Senator Cook, would you yield for a question? [LB628]

SENATOR COOK: Yes. [LB628]

SENATOR HOWARD: Thank you. Senator Cook, in reading this and reading the amendment, my first response was that you are not attempting to micromanage the agency that would receive the vehicle, that you're leaving it really to their processing and their procedures to make the best decision possible regarding awarding the vehicle to a family or individual. Is that true? [LB628]

SENATOR COOK: Absolutely. I have not used that word, but we've talked about that on the floor a number of times this year already and our response is not consistent. What I'm attempting to do is to absolutely leave what we talk about, local control. Once again, LB628 is not a mandate. It is permissive language to permit a local subdivision to become...to engage with a nonprofit. I would also like to add in terms of micromanagement that as we've discussed before, nonprofit associations have volunteer boards that are legally liable for the decisions that they make. So in my experience as a board member or board trustee, they make very careful decisions. And my perception is that board members in smaller communities, where I'm thinking people know who is related to whom, would be that much more careful. Thank you, Senator Howard. [LB628]

Floor Debate
April 12, 2011

SENATOR HOWARD: Well, I can certainly appreciate that. And again what comes to my mind is a situation where, take example you would be on the board as you described, and you have a relative, a family member who is a foster parent and really desperately needs a reliable vehicle to continue doing foster care and providing transportation, as we've discussed transportation by foster parents earlier on the floor today. And this bill would put that foster parent in a position of disadvantage simply by fact that you were on that board and related to that person, which I think would certainly negate the value of supporting an individual trying to do the right thing in our society in taking a child that certainly needs a good example and loving family. [LB628]

SENATOR COOK: Yes, thank you, Senator Howard, I agree. And when you made that statement, it reminded me of our process here in the Legislature. We heard earlier that Senator Hansen has offered a...I believe a disclosure of a conflict of interest. And there are a number of us in here who have business relationships and even personal relationships where we would want to make that known and that's part of our process here. And what I'm imagining, and know from my direct experience as a member of a nonprofit board, that people will proceed wisely and be just as good stewards of the vehicle as the political subdivision was. [LB628]

SENATOR HOWARD: Thank you, Senator Cook. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senators Howard and Cook. Those senators wishing to speak are Campbell, Pahls, Pirsch, and Council. Senator Campbell, you're recognized. [LB628]

SENATOR CAMPBELL: Thank you, Madam President. Colleagues, I'm trying to sit here and remember a situation when I served on the county board in which if this question came up, and the amendment here says, any employee or any family member. And I'm trying to remember a situation of which I would not have been required by a conflict of interest statutes not to declare that my husband or my son or my daughter worked for or were involved with that agency. I can't think back. I filed a number of conflict of interest statements during the time I served, and I think it might behoove us to think here about whether we don't have in the conflict of interest statutes the kind of protection that Senator Bloomfield may be looking for. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Campbell. The Chair now recognizes Senator Pahls. [LB628]

SENATOR PAHLS: Thank you, Madam Chairman. You know, I can see where Senator Bloomfield is coming from and I can see where Senator Cook is coming from. We're looking for safeguards and as the Chair of the Banking, Commerce and Insurance, I have the opportunity to have access to people who commit fraud because I read some

Floor Debate
April 12, 2011

of the insurance journals, etcetera, etcetera. You know, we can set up all kinds of safeguards. They're there right now. If fraud is going to happen, it won't...by the best of people. They'll do a good job. Think of Enron. Think of why we have Dodd-Frank now at the federal level because they're making people jump hoops because what happened to probably a lot of your stocks. So I think we can become paranoid about safeguards. I truly believe that this is really an insignificant amount of monies compared to some of the past fraud actions have occurred. So although I do agree with you, Senator Bloomfield, I think I can support Senator Cook without this additional safeguard for this bill. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Pahls. The Chair recognizes Senator Council. [LB628]

SENATOR COUNCIL: Thank you, Madam President. And again appreciating the concern that Senator Bloomfield is attempting to address by AM1049, I, too, rise in opposition. And it's quite frankly because I think it goes farther than is necessary to accomplish what I understand to be Senator Bloomfield's objective. As I read AM1049, it would prevent a donation if any employee of the charitable organization has a relationship with a member of the governing body. And we're talking about some charitable organizations that do have significant number of employees. Those who are in a position to handle a vehicle donation program ordinarily aren't the small, not-for-profits with two or three employees. We're talking about several employees and I think there has to be some connection to the decision-making that is occurring. And the mere fact that, for example, the person who is in charge of the food pantry at a non-for-profit happens to be the sister of a member of the governing body, I don't think that that should disqualify the entire not-for-profit organization from receiving that donation because more likely than not, the person who is in charge of the food pantry is not the person who is making executive decisions that could have some impact on what happens to the vehicle. I guess I can understand a little more so what's represented in the amendment in terms of the ultimate recipient being a family member of a member of the governing body. I think that is something that could give some cause to raise an eyebrow, but to simply be any employee of a not-for-profit who receives a donation from a governing authority, who may have a member who is an immediate family member, I think goes too far, and puts too much constraint and doesn't really get to the core because that's not a person...I mean, not every person in that not-for-profit organization is going to be an employee who is in a position to have any kind of executive management decision making. I think it goes farther than necessary to achieve what I don't dispute is a noble objective. But I think, as Senator Pahls mentioned too, when you're looking at the value of the property here, to deny the entire organization an opportunity to benefit from such a donation because just the mere fact of that familial relationship, without there being any indication that the family member who is employed by the not-for-profit has any influence at all in the decision making of the not-for-profit, I think goes too far. And for that reason, I won't be able to support AM1049 and would

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

Floor Debate
April 12, 2011

urge my colleagues to oppose it. [LB628]

SENATOR SULLIVAN: Thank you, Senator Council. Seeing no other senators wishing to speak, Senator Bloomfield, you're recognized to close on your amendment. [LB628]

SENATOR BLOOMFIELD: Thank you, Madam President. Senator Council mentioned the possibility that a sister would be serving on the food bank board or whichever board it was she mentioned. I contend that having a sister serve on that board would influence the board members that are, in fact, giving away that vehicle, and that is the precise reason I brought this amendment. The sister may have the greatest intent to help people with it, but the idea that she may get special consideration, whether intentionally or not intentionally from her sister that serves on that county board, is what I think we need to stop with this. I guess we're calling such things funny business now. Intentional or nonintentional, this amendment helps prevent that and that's all I ask to do with this, and I ask your support on it. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Bloomfield. The question is, shall the amendment to LB628 be adopted? All those in favor vote aye. All those opposed vote nay. Senator Bloomfield, for what purpose do you rise? [LB628]

SENATOR BLOOMFIELD: I fear we better have a call of the house. [LB628]

SENATOR SULLIVAN: There's been a request for a call of the house. All those in favor of placing the house under call vote aye. All those opposed vote nay. Record, Mr. Clerk. [LB628]

CLERK: 30 ayes, 0 nays to place the house under call. [LB628]

SENATOR SULLIVAN: 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. Senator Pankonin, Senator Conrad, Senator Carlson, please report and record your presence. Senators Carlson, Conrad, would you please report to the Chamber and record your presence. All members are present or accounted for. Senator Bloomfield, how would you like to proceed? [LB628]

SENATOR BLOOMFIELD: Do a roll call in regular order. [LB628]

SENATOR SULLIVAN: Mr. Clerk. [LB628]

CLERK: (Roll call vote taken, Legislative Journal pages 1176-1177.) 25 ayes, 9 nays, Madam President, on the amendment. [LB628]

Floor Debate
April 12, 2011

SENATOR SULLIVAN: The amendment is adopted. We raise the call. [LB628]

CLERK: Senator Bloomfield would move to amend with AM1048. (Legislative Journal page 1026.) [LB628]

SENATOR SULLIVAN: Senator Bloomfield, you're recognized to open on your amendment. [LB628]

SENATOR BLOOMFIELD: Thank you, Madam President and members. AM1048 says, purely, that when the subdivision does give away the vehicle, they have to put a notice in the paper letting the public know that they gave it away, what it was worth when they gave it away, and who they gave it to. We're going to hear that that is all covered in the minutes of the city meetings or the county meetings, or whatever, and it well may be. But I question that you would find it if you would be glancing over the legals as I myself often do, if it's buried deep inside the minutes of a city, besides Omaha or anywhere else that you're going to find that. If it's printed separately, you've got a lot better chance of noticing it, and John Q. Public knows where you gave his vehicle away to. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Bloomfield. Senator Cook is in the queue to speak. Senator Cook, you are recognized. [LB628]

SENATOR COOK: Thank you, Madam President. I rise in opposition to AM1048 for the following reasons. When the amendment was introduced, we've been working on this all along with Douglas County representatives and also the Association of County Officials, and what they reminded us is, in these economic times this would add an additional financial burden to political subdivisions by requiring them--and this is mandatory language--by requiring them to place an ad, we are adding to the costs of their operation. So again I rise in opposition to AM1048 in addition to being a fiscal burden to the political subdivision it is a duplicative of the notes that are available, the minutes, the official minutes of the meeting which are available in paper, on-line, and available already from the political subdivisions. So with that, I ask that you not support AM1048 to LB628. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Cook. Those senators wishing to speak are Schumacher and Council. Senator Schumacher, you're recognized. [LB628]

SENATOR SCHUMACHER: Thank you, Madam Chairman. In fact, I wish this particular amendment had been before the last one. It might have made the last one unnecessary. This is simple transparency. If a governing body is going to give away something, something that it probably could have sold for a few dollars, but for some public policy reason because it's a charity, because it's a goodwill gesture to another country perhaps, which we'll speak about in a minute, they choose to make a donation

Floor Debate
April 12, 2011

of this particular vehicle. The public should know that this donation has been made and the reason for the donation being made. That's about the only effective deterrence you have for somebody just getting overly generous with the public's money. And if the public is in agreement that this is a good charity, a good cause, they will not raise Cain about it. I think that it particularly is necessary in light of Senator Krist's proposed amendment to take the value of these vehicles down to \$1,500. At the committee hearing there was some testimony that some of the public power and utility districts have old bucket trucks, and they have some program where they donate them to some international thing that I'm not quite sure I understand, but apparently they do. There's probably a pretty fair guesstimate that an old bucket truck is worth more than \$1,500. And as a result of that, the only protection we would have, assuming we don't pass Senator Krist's \$1,500 limit, would be the public raising Cain, the cost of the ad is de minimis. It isn't a big thing--\$30--if they're giving away a \$1,500 or \$2,000 car, the public's right to know, seems to me, is served by a little ad in the newspaper that calls attention to it and provides the ultimate check and balance on any abuse in the system. So I rise in support of this particular little notice in the paper when somebody gives some of our public assets away, and it is probably the public's way of having a check and balance and also weighs a little bit on the mind of the public official, and is a real good controlling element as far as the actions of these boards. We don't need this thing to turn into a scandal when it's meant to be a charity. Thank you, Madam Chairman. [LB628]

SENATOR SULLIVAN: Thank you, Senator Schumacher. The Chair recognizes Senator Council. [LB628]

SENATOR COUNCIL: Thank you, Madam President. And I certainly appreciate the concerns or the objective of transparency, but I also question why there is a belief that it's not transparent when there is a public record. My recollection, any time there is a donation sale, that the records of the meeting of that body have to contain the information that is reflected in AM1048. So I guess that's my concern about transparency. I mean, how far is it that the expectation is for governing bodies to place its public on notice of its actions? We talk a lot about public complacency and these minutes; the open meetings law requires that these kind of decisions be reflected in the minutes of that body's public record. But I'm not overly concerned about that, but I do have a question for Senator Bloomfield if he would yield. [LB628]

SENATOR SULLIVAN: Senator Bloomfield, would you yield for a question? [LB628]

SENATOR BLOOMFIELD: Yes, I would. [LB628]

SENATOR COUNCIL: I'm looking at the language of the amendment. I guess I'm just wondering. I can understand that the name of the charitable organization; I can understand the make, model, and value of the vehicle. But for the life of me, I don't

Floor Debate
April 12, 2011

understand why the location where the donation occurred is relevant. Could you...what's the intent there? [LB628]

SENATOR BLOOMFIELD: Well, in my mind what it would do is to keep, let's say Wayne County, my home county up there, from possibly giving the vehicle to someone in Cherry County or Douglas County. If we're going to give away the public property that the taxpayers up there probably paid for, let's keep it within the county. It kind of, again, gives us a little stabilization to that to make the people giving the vehicle away a little more accountable to the people who bought the property in the first place. [LB628]

SENATOR COUNCIL: Okay. Well, your amendment says you have to state the name of the charitable organization. And doesn't that provide information as to where the vehicle went? I mean what I hear you saying is if the vehicle is given to a charitable organization, then somehow the governing body has to know, in advance, to whom or how the charitable organization is going to use that donation so they'll satisfy your desire to know where that vehicle ultimately ends up. I don't know that the language that you have in here accomplishes that. If the charitable organization is a charitable organization located in Cherry County, then the statement of the name of the charitable organization is going to provide you with that information. The way the language is drafted, it seems to suggest that if the car was delivered on Third and Pine Street, that that's what the notice has to say. That's the location where the donation occurred. [LB628]

SENATOR BLOOMFIELD: No. We would be donating the car or the vehicle to the charity; not to the individual at Third and Pine. We would be giving it to an organization in, preferably, if it's a Wayne County vehicle, to Wayne County. If it's a Douglas County vehicle and we're giving it away from Wayne County, the people in Wayne County... [LB628]

SENATOR SULLIVAN: One minute. [LB628]

SENATOR BLOOMFIELD: ...should know it went to Douglas County. If it went to Cherry County, they should know that it went to Cherry County. [LB628]

SENATOR COUNCIL: Well, I appreciate your response, but I don't think the language of the bill accomplishes that in terms of any...if you want to talk about transparency and funny business, I mean if I go to the Douglas County impound to pick up a vehicle that has been donated to me, I would expect the Douglas County Board, in response to your amendment, to say the location of the donation occurred at the Douglas County impound, and I guess that's the point I'm trying to make to you. Where delivery occurs is different than where the vehicle may end up. And the fact that you have the name of the charitable organization, you have the make... [LB628]

Floor Debate
April 12, 2011

SENATOR SULLIVAN: Time, Senators. [LB628]

SENATOR COUNCIL: Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senators Council and Bloomfield. Senators wishing to speak are Campbell and Cook. Senator Campbell, you're recognized. [LB628]

SENATOR CAMPBELL: Thank you, Madam President. Would Senator Bloomfield yield to a question? [LB628]

SENATOR SULLIVAN: Senator Bloomfield, would you yield? [LB628]

SENATOR BLOOMFIELD: Of course. [LB628]

SENATOR CAMPBELL: Senator Bloomfield, as I read the amendment, I'm somewhat quizzical as to why you would choose 30 days after the fact, when the public...what can the public do 30 days after the fact? Why wouldn't it be more important to require some specific notice at a public hearing or on their agenda? Because if I found out 30 days later, I would have to say, well, what can I do now? [LB628]

SENATOR BLOOMFIELD: Well, what you can do now, particularly out in our small counties, is visit with your commissioners and make sure it doesn't happen again. Burn me once, your fault; burn me twice, my fault. [LB628]

SENATOR CAMPBELL: I guess, colleagues, I would rather that any notice to the public--and certainly agendas have to be posted and printed in whatever form each of the counties across the state do that--but I would rather say this needs a public hearing. There needs to be at least two weeks' notice given to the public so that if Senator Haar happened to be out in his area and he wanted to complain or come forward and say, I don't think that we should be selling this, then that's fair and he can come forward to the county board and say that. My concern with the amendment is that I do not think that it provides the kind of transparency and notice to the public that we would expect 30 days after the fact. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Campbell. The Chair recognizes Senator Cook. [LB628]

SENATOR COOK: Thank you, Madam President. Thank you, colleagues. Building on the idea that was just brought up by Senator Council, I would like people to refer, if they could, to the green copy of LB628, because this also came up in our conversation in committee. And while this proposed amendment, to which I am still opposed, AM1048 asks that the location at which the donation occurred be listed, it appears to me to be inconsistent with the specification that the donation be made to any charitable

Floor Debate
April 12, 2011

organization described in Section 503(c)(3) of the Internal Revenue Code. That is incorporated pursuant to the Nebraska Nonprofit Corporation Act. I'm using the example, I had a brief conversation with someone this afternoon who is a staff person at the Salvation Army in Omaha. Well, as we all are aware, most of us are aware, the Salvation Army is an international organization. And I just have, again my overarching philosophy is that I have perhaps a little bit more faith in elected officials like ourselves. Some of you in here have been county officials and members of city councils and even been public power commissioners. I have a little bit more faith that they would not try to get something over on the nonprofit or the proposed end user. So I'm opposed to AM1048. I think that it potentially dismantles the original purpose, which is to make this an option for a county, city, village, or public utilities governing body--not a mandate but an option for that governing body. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Cook. The Chair now recognizes Senator Howard. [LB628]

SENATOR HOWARD: Thank you, Madam President and members of the body. If Senator Cook again would yield to a question, a conversation possibly. [LB628]

SENATOR SULLIVAN: Senator Cook, would you yield? [LB628]

SENATOR COOK: Yes, Madam President. [LB628]

SENATOR HOWARD: Thank you, Senator Cook. I have to ask you, do you think with this amendment that it could possibly lead to the unintended consequences of someone reading in the paper where this is published and seeing that a donation had been made of a vehicle? They're in need of a vehicle; they contact the agency, and they said, listen, I really need a vehicle. You know, that's not the intention here but yet I could see where agencies could get these calls and then they're put in a tough situation. The reason I ask you this is, some years ago, at Christmastime, I donated bicycles to my neighborhood associations in the district. And sure enough, when people learned of that, they called and had very worthy causes for bicycle donations. But I couldn't possibly do all of that. So I'd just like your thoughts on whether this could lead to that sort of a situation. [LB628]

SENATOR COOK: Absolutely, Senator Howard. I can identify that, along with many other unintended consequences, of this being incorporated into the statute. Not only do I think that that could be an additional burden, potentially, for the nonprofit or the charitable organization for which they're not staffed up, perhaps it is a special project that a committee or the board of trustees has identified for a one-time-only experience. I'm thinking of something that I learned about last fall in Omaha which was a one-time experience. It's not something that this organization is going to do every time, but they got something donated from a private person and wanted to pass it along to a mother

Floor Debate
April 12, 2011

who had previously been walking, leaving her home at 5 a.m. to walk to classes about 8 or 9 miles away from her home. So I can see that as an unintended consequence and would reinforce my opposition to AM1048. I'd also like to highlight the point that Senator Campbell made in terms of people, like why are we waiting 30 days? I think we all know, as public officials, I happen to have worked in advertising and public relations for the bulk of my career. Even when things are spelled out to the letter, there are misunderstandings, and miscommunications happen. And I ask that the body not adopt AM1048 to LB628. We want to potentially remove a barrier to people entering the work force. It is an option for a city, county, or public utility. It is not a mandate. Thank you, Madam President, and thank you, Senator Howard. [LB628]

SENATOR SULLIVAN: Madam President, is there time left? [LB628]

SENATOR SULLIVAN: Yes, you have 1:48. [LB628]

SENATOR HOWARD: If Senator Cook could use the time, I'd be glad to give it to her. [LB628]

SENATOR SULLIVAN: Senator Cook, you're yielded. [LB628]

SENATOR COOK: Absolutely. And it is warm in here and late. I've indicated my opposition to the previous amendment, and that was adopted. I'm opposed to this one as well for similar reasons. I recognize that many of you might believe that you have constituencies that are fearful that somebody is going to walk away with a nickel. But I bring up the point that I brought up here before, is that people walk away with millions and millions and millions of dollars, and you push that button green so fast it would make your head spin. I happen to believe that poor people mostly want to work. I happen to have identified, with the help of... [LB628]

SENATOR SULLIVAN: One minute. [LB628]

SENATOR COOK: ...a gentleman who is in this year's Leadership Omaha class, one tiny idea that might help us actually get more money eventually into the tax base. So with that, I'll ask you again to not vote...to vote red for AM1048. Thank you, Madam President. [LB628]

SENATOR SULLIVAN: Thank you, Senator Cook. The Chair now recognizes Senator Avery. [LB628]

SENATOR AVERY: Thank you, Madam President. I just want to point out that this amendment is redundant and unnecessary. The current open meetings law requires, at the front end, that the public body provide notice in minutes. This is an additional burden that they have to provide notice, not only at the front end but at the back end as well. I

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

Floor Debate
April 12, 2011

think it would be seen by most public entities as unusually burdensome and they would probably opt not to even take advantage of this bill. I urge you to vote against it since it is unnecessary. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Avery. Seeing no other senators wishing to speak, Senator Bloomfield, you're recognized to close on your amendment. [LB628]

SENATOR BLOOMFIELD: Thank you, Madam President. Members, part of what again was brought up here is why this amendment is here. We need to let people know what we're doing with their property. If we're going to give vehicles away that John Q. Public paid for, it is incumbent on us to let them know who we gave them to, and if possible, where they're going. Again going back to Wayne County, if Wayne County gives a vehicle to the Red Cross, they ought to print in there that it went to the Red Cross of Wayne County or that it went to the Red Cross of Douglas County or Cherry County so that people will know where their property is going. I commend Senator Howard for giving away the bicycles. But bear in mind, those were her bicycles. They were not public property. What we're engaging in here is giving away public property and I believe we ought to be accountable when we do it. Thank you. [LB628]

SENATOR SULLIVAN: Thank you, Senator Bloomfield. The question is, shall the amendment to LB628 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Bloomfield, for what purpose do you rise? [LB628]

SENATOR BLOOMFIELD: I would like a call of the house. [LB628]

SENATOR SULLIVAN: 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. [LB628]

CLERK: 31 ayes, 1 nay to place the house under call. [LB628]

SENATOR SULLIVAN: 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. All those senators are present or accounted for. Senator Bloomfield, how would you like to proceed? [LB628]

SENATOR BLOOMFIELD: Let us proceed with a roll call, regular order. [LB628]

SENATOR SULLIVAN: Roll call vote in regular order. [LB628]

CLERK: (Roll call vote taken, Legislative Journal page 1177.) 12 ayes, 26 nays, Madam President. [LB628]

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

Floor Debate
April 12, 2011

SENATOR SULLIVAN: The amendment fails. Mr. Clerk, items for the record. Excuse me. We raise the call. [LB628]

CLERK: Amendments to be printed: Senator Flood to LB463; Senator Krist, LB606; Senator Christensen, LB648; Senator Karpisek to LB279; Senator Krist, LB628; Senator Schilz, LB684; Senator Langemeier, LB229. (Legislative Journal pages 1178-1180.) [LB463 LB606 LB648 LB279 LB628 LB684 LB229]

And a priority motion. Senator Flood would move to adjourn the body until Wednesday morning at 9:00 a.m.

SENATOR SULLIVAN: You've heard the motion to adjourn. All those in favor say aye. Opposed. We are adjourned.