

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

Floor Debate
April 21, 2011

[LB54 LB63 LB84 LB137 LB177 LB252 LB283 LB305A LB305 LB345A LB345 LB357
LB360 LB382A LB382 LB384A LB386 LB387 LB575A LB575 LB637A LB637]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: (Recorder malfunction)...of the George W. Norris Legislative Chamber for the sixty-eighth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Schumacher. Please rise.

SENATOR SCHUMACHER: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Schumacher. I call to order the sixty-eighth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

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

ASSISTANT CLERK: I have no corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports LB54, LB84, LB177, LB637, and LB637A, all as correctly engrossed. I have reports from the Investment Finance Authority, those will be on file in our office; plus the listing of registered lobbyists for the current week. That's all that I have. (Legislative Journal page 1283-1284.) [LB54 LB84 LB177 LB637 LB637A]

SENATOR GLOOR: Thank you, Mr. Clerk. Speaker is recognized, Senator Flood.

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. One quick announcement as it relates to today's adjournment: We are going to quit at noon today and finish up for the week. We will adjourn at noon and finish up and we will be back Tuesday at 10:00 a.m. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Speaker Flood. Mr. Clerk, we now move to the first item on the agenda.

ASSISTANT CLERK: Mr. President, LB305A was introduced by Senator Larson. (Read title.) [LB305A]

SENATOR GLOOR: Senator Larson, you're recognized to open on LB305A. [LB305A]

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SENATOR LARSON: Thank you, Mr. President and members of the body. LB305A is the appropriations bill to LB305, which we had a lengthy discussion on a couple weeks ago which I much appreciated and appreciated its advancement. We did discuss the finances at that time and these are those finances. I'd appreciate a green vote. Thank you. [LB305A LB305]

SENATOR GLOOR: Thank you, Senator Larson. Are there members who wish to be recognized? Seeing none, Senator Larson, you're recognized to close on LB305A. Senator Larson waives. Members, the question is the advancement of LB305A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB305A]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB305A]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB305A]

ASSISTANT CLERK: Mr. President, LB382A was introduced by Senator Nordquist. (Read title.) [LB382A]

SENATOR GLOOR: Senator Nordquist, you're recognized to open on LB382A. [LB382A]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB382A would appropriate funds specific to LB382. As you remember, the underlying bill raises contribution rates for members of the state...or, excuse me, the school employees retirement plan and the State Patrol retirement plan. The A bill is specific to the State Patrol retirement plan. We increased their contributions to 19 percent and the employer, the state, also increased to 19 percent. So this bill represents the General Fund appropriation for that increased employer contribution. This has been kept in line with our budget that we're working on in Appropriations so it is...we are fully aware of that and have factored that in to our budget deliberations. I'd appreciate your support of LB382A. [LB382A LB382]

SENATOR GLOOR: Thank you, Senator Nordquist. Seeing no members wishing to be heard, Senator Nordquist, you're recognized to close. Senator Nordquist waives. The question is the advancement, members, of LB382A to E&R Initial. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB382A]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB382A]

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SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk.
[LB382A]

ASSISTANT CLERK: Next bill, Mr. President, is LB384A introduced by Senator Cornett.
(Read title.) [LB384A]

SENATOR GLOOR: Senator Cornett, you're recognized to open on LB384A. [LB384A]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. LB384A is a positive A bill for the reduction in the TERC Commission. The first year the budget would be reduced by \$74,515 because of the enactment date of October 1, and in the second year it would be reduced by \$99,354. The amendment that is following filed by Senator Heidemann, he was kind enough to file that for me--I thought I was not going to be able to be here on time because of a flat tire--I will have him explain that. But I urge the body's support of LB384A. Thank you. [LB384A]

SENATOR GLOOR: Thank you, Senator Cornett. Senator Heidemann, you're recognized to open on AM...excuse me. Mr. Clerk. [LB384A]

ASSISTANT CLERK: Mr. President, Senator Heidemann would offer AM1285.
(Legislative Journal page 1284.) [LB384A]

SENATOR GLOOR: Senator Heidemann, you're recognized to open on AM1285.
[LB384A]

SENATOR HEIDEMANN: Thank you, Mr. President. Fellow members of the body, I bring to you AM1285, nothing substantial here, just technical in nature. There was a mistake that was made on the A bill. We caught that; we corrected it. I introduced this on behalf of Senator Cornett because she was having technical difficulties getting here this morning. I will let her, though, explain what the amendment does. So if Senator Cornett would like the rest of my time, I will give it to her. [LB384A]

SENATOR GLOOR: Nine minutes thirty seconds, Senator Cornett. [LB384A]

SENATOR CORNETT: It's just what Senator Heidemann described. It's a technical amendment and I would appreciate the body's support of the amendment and the underlying A bill. And I will waive closing. Thank you. [LB384A]

SENATOR GLOOR: Thank you, Senator Cornett. Seeing no members wishing to speak, Senator Heidemann, you're recognized to close on the amendment. Senator Heidemann waives. The question is, shall the amendment, AM1285, be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB384A]

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ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of Senator Heidemann's amendment. [LB384A]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB384A. There are no members waiting to be recognized. Senator Cornett has waived closing. Members, the question is, shall LB384A be advanced to E&R Initial? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB384A]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB384A]

SENATOR GLOOR: The bill advances. We now continue with General File, Speaker priority bills. Mr. Clerk. [LB384A]

ASSISTANT CLERK: Mr. President, LB360 was introduced by Senator Cornett. (Read title.) The bill was read for the first time on January 13 of this year, was referred to the Revenue Committee. That committee reports the bill to General File with committee amendments. (AM369, Legislative Journal page 744.) [LB360]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB360. [LB360]

SENATOR CORNETT: Thank you, Mr. President and members of the body. Before I get to the heart of the bill, I wanted to thank Senator Langemeier and the Natural Resources Committee for all of the work that they did last year on wind. They passed a major bill that will incentivize the state of Nebraska for years to come and promote growth. With any major legislation and particularly new ideas which Senator Langemeier had with a nameplate capacity, a lot of times there's technical changes that need to be gone back and this is simply what LB360 and the underlying amendment are, are technical changes in the tax component of LB1048. LB360 is to clarify and change taxation of wind energy electrical generation facilities in Nebraska. The main focus of the bill is clarifying the property tax treatment of such facilities, but it also addresses a credit against the nameplate capacity tax for certain property taxes previously paid on wind energy generation facilities commissioned before July 15, 2010. That credit and the related property tax treatment of wind energy electrical generation facilities is the result of LB1048 which was referred to the Natural Resources Committee. As introduced, LB360 would strike the language added by LB1048, Section 10, which redefines trade fixtures to include all property used in the generation of electricity using wind as the fuel source, and it would clarify the property tax exemption enacted in 2010 in LB1048, Section 11, to only depreciable, tangible personal property and not to real property. As introduced, LB360 would also eliminate the credit against a nameplate capacity tax for certain property taxes previously paid on wind energy generation

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facilities commissioned before July 15, 2010. That provision needed clarification in order to distinguish the permissible exemption of depreciable, tangible personal property from the impermissible exemption of real property. LB360 provides an operative date of January 1, 2010, to remedy such complexities and contains a severability clause as well as an emergency clause. These are very important issues that we believe we have corrected with the bill and the underlying amendment. The underlying amendment, AM369, essentially rewrites LB360 to clarify the intent of the bill. Thank you very much. [LB360]

SENATOR GLOOR: Thank you, Senator Cornett. As the Clerk stated, there are amendments from the Revenue Committee. Senator Cornett, as Chair of that committee, you're recognized to open on the amendment. [LB360]

SENATOR CORNETT: Thank you, Mr. President and members of the body. As I stated before, essentially AM369 would reinstate much of the language stricken in the introduced version of LB360 by clarifying that property tax exemption applies only to depreciable, tangible personal property and that the credit against the nameplate capacity tax applies only to depreciable, tangible personal property taxes previously paid on wind energy generation facilities commissioned before July 15, 2010. AM369 also reinstates the stricken trade fixture language, the itemized list of personal property that may qualify as depreciable, tangible personal property for the purpose of property tax exemption and the credit against the nameplate capacity tax, all for the purpose of clarifying that depreciable, tangible personal property is the subject of the bill's property tax exemption and its credit against the nameplate capacity. AM369 also provides for a retroactive operative date of January 1, 2010, and it contains the severability clause as well as the emergency clause. When the changes become law, Nebraska's budding wind energy industry will have been built on the solid foundation established by the Natural Resources Committee in LB1048 and the tax policy principles and laws. Thank you for your consideration of LB360 and AM369. [LB360]

SENATOR GLOOR: Thank you, Senator Cornett. Members, we now move to discussion. Senator Langemeier, you are recognized. [LB360]

SENATOR LANGEMEIER: Thank you, Mr. President, members of the body. I rise in support of AM369 and I want to thank Senator Cornett and the Revenue Committee for working on the technical changes. As LB1048 went forward, there was some confusion that came up between different courthouses in the way they interpreted some of it and this, with AM369, we will have that clarified for them. And with that, we'd ask for your support of AM369 and then LB360. Thank you. [LB360]

SENATOR GLOOR: Thank you, Senator Langemeier. Senator Larson, you are recognized. [LB360]

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SENATOR LARSON: Thank you, Mr. President and members of the body. I do have some concerns about LB360. I think the underlying bill is a step in the right direction but I have some reservations with AM369 and I will be bringing an amendment on Select File. Last year with LB1048, the credit that LB360 originally strikes down but the amendment puts back in really hurt a lot of my constituents. It was built in with LB1048 with the knowledge that it was only going to affect one county and one wind farm, and that's in Bloomfield, Nebraska. And I know that Knox County has since sued the state of Nebraska over LB1048 on constitutional grounds, but I'm working for a solution that can be dealt with outside the courts. I just think it's wrong that we eliminate a credit that, you know...or put in a credit that shouldn't be there when we're adding new taxes, so I'm going to continue to work on my amendment between now and Select File. And I don't think I can vote for the committee amendment but I do think LB360 is a step in the right direction. I just hope we can change it a little bit moving forward. Thank you, Mr. President. [LB360]

SENATOR GLOOR: Thank you, Senator Larson. Seeing no senators wishing to be recognized, Senator Cornett, you're recognized to close on the committee amendment. [LB360]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Again, I urge the body's support of AM369. It is clarifying language for LB1048 which was passed last year that is such an important industry to our state. Thank you. [LB360]

SENATOR GLOOR: Thank you, Senator Cornett. Members, the question is, shall the committee amendment to LB360 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB360]

ASSISTANT CLERK: 35 ayes, 4 nays on the adoption of committee amendments. [LB360]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB360. There are no members in the speaking queue. Senator Cornett, you're recognized to close on LB360. [LB360]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB360 as amended would clarify the taxation of wind energy and electric generation in the state of Nebraska. I urge the body's support of the bill and thank you very much. [LB360]

SENATOR GLOOR: Thank you, Senator Cornett. The question to the body is the advancement of LB360 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB360]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill. [LB360]

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SENATOR GLOOR: The bill advances. Mr. Clerk. [LB360]

ASSISTANT CLERK: Mr. President, LB137 was introduced by Senator Lautenbaugh. (Read title.) The bill was read for the first time on January 7, referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments. (AM735, Legislative Journal page 856.) [LB137]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on LB137. [LB137]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. LB137 deals with postconviction relief appeals or postconviction relief attempts, if you will. Legislation imposes a one-year limitation on the filing of a motion for postconviction relief in criminal cases. Such a motion would have to be filed within one year of the date the judgment of conviction becomes final. Currently, there is no time limitation. Postconviction challenges are proceedings that are brought by people who have been convicted of a crime, sentenced to incarceration, and have already exhausted all their appeal options. They have proceeded all the way through what most people consider our criminal court system. Postconviction relief must be based upon denial or infringement of a convicted person's constitutional rights to a degree which renders the judgment of conviction void or voidable. However, the grounds for a postconviction proceeding must be of a nature that they couldn't have been raised during the appeal process. In most situations, the information required to determine whether such a claim exists is available immediately upon the completion of the appeal process. The vast majority of these claims allege ineffective assistance of defense counsel, which means the state has to defend the actions of the convicted criminal's original defense counsel. To be successful, the defense attorney's performance had to be so below par that it was considered constitutionally ineffective. This bill will align us with the federal system which has a one-year limitation for postconviction challenges through the use of habeas motions. LB137 does not affect Nebraska's motions for a new trial based upon newly discovered evidence or Nebraska's DNA Testing Act. At the time of the committee hearing, comments were made about exceptions for the one-year limitation proposed by this bill. The committee heard the concerns and added the exceptions in the committee amendment. And I should point out most of my comments are actually regarding the committee amendment which becomes the bill, not the underlying bill as introduced. The exceptions we added are patterned off the federal habeas statutes. The exceptions include a grandfather clause which provides a one-year window from the date this bill becomes law for anyone incarcerated or a period which any incarcerated person can still bring a postconviction relief motion. The remaining exceptions to extend the time limitation from one year from a list of events, these include the discovery of constitutional violations that weren't discoverable earlier, the removal of a state-created constitutional impediment which prevented the filing of the motion, and the date a new

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constitutional claim is recognized either by the U.S. or State Supreme Court. Nebraskans should be able to depend upon the finality of criminal convictions. This critical piece of legislation validates court decisions and brings closure to victims. Allowing delayed filings for several years frustrates case finality for the entire system, including victims, and allows for abuses such as frivolous, multiple filings, which significantly tax the system and intentionally delayed filings which are filed after important and relevant parties are no longer available to provide testimony in the postconviction challenge. We did have a good discussion about this bill in committee. Senator Council raised concerns which we did address through the amendment process. Senator Harr, as a former prosecutor, was there to help explain this because this is more his area than mine, I'll be honest. But I think with the amendment we've come up with a very good bill and an important bill and a bill that will help us bring some finality, where appropriate, to convictions where there are no remaining legitimate issues. I would urge your support of the bill, I would urge your support of the committee amendment, and I'd be happy to take any questions you might have. Thank you, Mr. President. [LB137]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of that committee, you are recognized to open on the amendments. [LB137]

SENATOR ASHFORD: Thank you, Mr. President. I'm going to give most of my time to Senator Harr, who has worked on this bill. Senator Lautenbaugh correctly outlined the process that we undertook in the Judiciary Committee to deal with the one-year, hard-line bar to these habeas corpus filings in state court and Senator Lautenbaugh is correct that the federal guidelines or federal postconviction, well, standards were discussed. We came up with, in the committee amendment, which really is the bill, the four exceptions that Senator Lautenbaugh has discussed in his opening. The committee voted 7 to 0 to support the committee amendments and to advance the bill with the committee amendments attached. And with that, Mr. President, I would relinquish my time, if he so desires, to Senator Harr. [LB137]

SENATOR GLOOR: Senator Burke Harr, 9 minutes. [LB137]

SENATOR HARR: Thank you, Mr. President, and thank you, Senator Ashford. This is an area of the law that I did do some work in. It's somewhat of a complex area of the law and very confusing. One of the last cases I worked on was a murder case from the early '70s, and in 2005 we were still working on postconviction relief. The defense attorney in that case was Governor Morrison. He literally was on his deathbed. We had to move the deposition time up because of that and that's not how the system is meant to work. It's not meant to be abused by...and it is currently being abused. This amendment and this bill helps clean that up. It helps protect those who have been wronged but it prevents abuse. It's a very good bill. I want to thank Senator

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Lautenbaugh for bringing this bill forward, for working with the Judiciary Committee, and I would urge anybody and everybody to support this bill. Thank you. [LB137]

SENATOR GLOOR: Thank you, Senator Harr. Members, you have heard the opening on LB137 and the Judiciary amendment, AM735. Are there members wishing to be recognized? Senator Carlson, you are recognized. [LB137]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to address a few questions to Senator Lautenbaugh, if he would yield. [LB137]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB137]

SENATOR LAUTENBAUGH: (Microphone malfunction) Yes, I will. Yes, I will. [LB137]

SENATOR CARLSON: Senator Lautenbaugh, is this your idea or did somebody else encourage you to bring this bill? [LB137]

SENATOR LAUTENBAUGH: I can unequivocally state this was not my idea and I forgot to mention that in the opening. I worked...I didn't work with the Attorney General's Office. The idea came to me with the Attorney General's Office. I worked with the committee to improve the bill. [LB137]

SENATOR CARLSON: Okay. Thank you. Do you know how many states have similar legislation? [LB137]

SENATOR LAUTENBAUGH: Specifically how many states I don't know, but I know we're designed to mirror or this bill is designed to make us mirror the federal system. [LB137]

SENATOR CARLSON: All right. Do you have an idea of the...if we go back in the past in Nebraska in specific cases, what percentage of cases would this prevent from causing a problem? I'm not sure I'm asking the question correctly. This represents a problem. That's what it's supposed to be. This is supposed to solve a problem. What percentage of cases end up in appeals and so forth starting a procedure after a year? Do you have any idea? [LB137]

SENATOR LAUTENBAUGH: As far as...well, I'm not sure how to measure it. I mean we could look at it as a percentage of cases that are legitimate postconviction versus ones that are just attempts to delay or if we're comparing a percentage to all criminal cases or appellate matters, I would have no idea how to answer that. I'd be happy to try to obtain a number for you but it would depend on what we were comparing to what. [LB137]

SENATOR CARLSON: Okay. Thank you, Senator Lautenbaugh. I'd like to address

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Senator Harr, if he would yield. [LB137]

SENATOR GLOOR: Senator Burke Harr, would you yield? [LB137]

SENATOR HARR: Yes. [LB137]

SENATOR CARLSON: You heard my last question to Senator Lautenbaugh. We hope that a law that's passed is necessary and does some good. What percentage or how many cases do you think this would help on and prevent from getting into procedures that are beyond a year? [LB137]

SENATOR HARR: That's a very good question. The majority of your postconviction relief cases are murder cases and I would say in almost every murder case there's a postconviction of inadequate assistance of counsel, and that's probably a good thing. What this does is it prevents...a lot of times what happens is there will be...and the most often used is inadequate assistance of counsel. But what will happen is once that's dismissed a prisoner will come forward with another claim of a constitutional violation and what it does is it mucks up the courts. So as far as preventing anybody, it wouldn't prevent anyone from having one bite at the apple. What it does do is prevent multiple bites at the apple that are worthless, that takes up courts' time. Attorneys have to be appointed. County attorneys have to spend...and the Attorney General's Office have to spend time looking over to make sure these appeals are accurate. Instead of on the first go-round making sure that you're doing everything you're supposed to do the first time, instead they'll say, well, let's just see what happens the next time. [LB137]

SENATOR CARLSON: All right. So you're just bringing up something, Senator Harr that is pretty interesting. Are you saying that in every murder case this procedure is followed so this would cut back on that? [LB137]

SENATOR HARR: It won't cut...well, in most, not all, but I would say most murder cases there probably is brought forward an inadequate assistance of counsel. If you have, for instance, the public defender, Tom Riley, you're not going to bring it because he knows what he's doing, but it is brought even in some of those cases just because you're sitting in jail, you have nothing else to do and you might as well see, try something, anything to get out. [LB137]

SENATOR CARLSON: So in your opinion, this is a bill that would perhaps save some dollars and... [LB137]

SENATOR GLOOR: One minute. [LB137]

SENATOR CARLSON: ...it would not deprive someone of their immediate access to the legal system. [LB137]

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SENATOR HARR: That is exactly correct. [LB137]

SENATOR CARLSON: So you think this is a good bill, Senator Harr. [LB137]

SENATOR HARR: I think it's a very good bill. [LB137]

SENATOR CARLSON: Okay. Thank you. Thank you, Mr. President. [LB137]

SENATOR GLOOR: Thank you, Senator Carlson and Senator Harr. (Visitors introduced.) Senator Lautenbaugh, you are recognized. [LB137]

SENATOR LAUTENBAUGH: Am I the only speaker in the queue, Mr. President? [LB137]

SENATOR GLOOR: There's one more person in the queue. [LB137]

SENATOR LAUTENBAUGH: Okay. Then I'll be very brief. There are 21 other states that have a similar law as this. It came to me during the interval there. And I'll yield the rest of my time back. [LB137]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Nelson. [LB137]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to address a question to Senator Burke Harr, if he will yield. [LB137]

SENATOR GLOOR: Senator Harr, would you yield? [LB137]

SENATOR HARR: Yes, gladly. [LB137]

SENATOR NELSON: Thank you, Senator Harr. I don't practice in criminal law at all. I know a little bit about it. I just had a couple questions to clear this up in my mind. Postconviction relief motions, are they...is there a certain type of motion that's considered a postconviction relief motion? [LB137]

SENATOR HARR: Yeah. What a postconviction relief motion is, is you have a trial. Based on the evidence that's found at a trial, generally there's an appeal. And this is when all the appeals are done and the sentence is final, that then oftentimes they'll review, a prisoner and/or if he has an attorney or many times they don't at this point, will review their record and say a certain constitutional right of theirs was violated and that constitutional right that was violated wasn't brought up at the trial, or also the other, with our amendment, there's been a change in the constitution, the interpretation of the

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constitution since the time of that trial. [LB137]

SENATOR NELSON: So these are mostly constitutional issues. Like what about ineffective counsel? Is that done at an earlier time? [LB137]

SENATOR HARR: Yeah, and that is a constitutional question because you have a constitutional right to an attorney, so yes. And that is what I would say the majority of postconviction relief cases are. [LB137]

SENATOR NELSON: So the way this bill would work, you're going to have to gather any motions you have on any issues, postconviction. You could put them all together in one motion, I suppose, and be heard at one time? [LB137]

SENATOR HARR: You'd have to bring them all at one time. That is correct. I suppose you could bring more than one, but you have to still bring them within that year. [LB137]

SENATOR NELSON: Okay. So those fail, two or three years go by and all of a sudden some new evidence comes up, such as DNA. Are you shut out at that time or you still have the ability to come in and ask for a new trial? [LB137]

SENATOR HARR: Well, that is...that, you could ask for a new trial. You'd have to have a hearing on that and ask for a new...because that's evidence that wasn't available at the time of the trial and that's something...that's a different animal. [LB137]

SENATOR NELSON: All right. [LB137]

SENATOR HARR: But, yeah, that is still available. [LB137]

SENATOR NELSON: Okay. All right. Thank you very much, Senator Harr. Thank you, Mr. President. [LB137]

SENATOR GLOOR: Thank you, Senator Nelson. There are no additional senators in the speaking queue. Senator Ashford, you're recognized to close on the committee amendment. [LB137]

SENATOR ASHFORD: Thank you, Mr. President. And again this bill will put a cap of one year on these postconviction filings unless one of the exceptions in the amendment that we've discussed here would be present. So, for example, the Beatrice Six case would be an exception. There would be a postconviction filing outside the year, as there was in that case, and that would be heard. So we're not precluding those types of actions for relief. And in our view, the exceptions do cover those critical areas that need to be covered and when we start putting hard and fast rules on postconviction filings. So with that, Mr. President, I would urge the adoption of AM735 and advancement of

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LB137. [LB137]

SENATOR GLOOR: Members, you've heard the closing on AM735. The question is, shall the committee amendment to LB137 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB137]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of committee amendments. [LB137]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB137 to E&R Initial. There are no senators wishing to be heard. Senator Lautenbaugh, you're recognized to close on LB137. [LB137]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'd be remiss if I didn't thank both the Attorney General's Office for bringing this concept to my attention and the committee for working so hard in making sure that we crafted a bill which adequately eliminates frivolous and abusive postconviction relief claims but still protects the rights of inmates to bring legitimate postconviction relief claims. This is an important bill. I thank the Speaker for prioritizing it as such. I think we had a good discussion this morning and I would urge your approval of the bill. Thank you. [LB137]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. The question is the advancement of LB137 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB137]

ASSISTANT CLERK: 42 ayes, 0 nays on the motion to advance the bill. [LB137]

SENATOR GLOOR: The bill advances. Items for the record, Mr. Clerk? [LB137]

ASSISTANT CLERK: I do, Mr. President. Senator Adams would offer an amendment to LB382 to be printed; notice of committee hearing from Natural Resources; new A bill by Senator Conrad. (Read LB345A by title for the first time.) That's all that I have. (Legislative Journal page 1285.) [LB382 LB345A]

SENATOR GLOOR: Thank you, Mr. Clerk. (Visitors introduced.) Continuing with General File, senator priority bills, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the next bill is LB386. (Read title.) The bill was read for the first time on January 13 of this year. It was referred to the Business and Labor Committee. That committee placed the bill on General File with committee amendments. (AM314, Legislative Journal page 1066.) [LB386]

SENATOR GLOOR: Senator Heidemann, you're recognized to open on LB386. [LB386]

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SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I bring to you LB386. LB386 would connect Nebraska college students with targeted industries by financially assisting companies willing to provide paid internships in an effort to retain these students in Nebraska upon graduation. Eligible companies would be able to apply to the Department of Economic Development for job training grants to assist in hiring interns as long as the internship did not previously exist. The intern must be paid at least the federal minimum wage and work at least 200 hours in a 12-week period but not more than 1,000 hours in a 50-week period. Eligible companies are those that are categorically eligible to apply for benefits as a tier 3 project under the Nebraska Advantage Act and would include business categories such as research and development, data processing, and manufacturing. A business would not have to create 30 new jobs in order to qualify for grants under this program but they would have to be in one of the categories which are eligible to apply under that tier. This is further clarified in AM1258, which I have offered and I will be discussing shortly. To be eligible, an intern would have to be a junior or senior in a four-year institution or their second year at a community college. The job training grant may be up to the lesser of 40 percent of the cost of the internship or \$3,500. If in a distressed area, the grant may be up to 60 percent of the cost of the internship or \$5,000, whichever is less. A distressed area is defined as a municipality, county, or the committee amendment actually limits the counties to those with a population of less than 1,000, also an incorporated area within a county or a census tract that has an unemployment rate that exceeds the statewide average, has a per capita income below the statewide average, or has a population decrease between the two most recent censuses. Eligible companies cannot apply for more than two grants for the same intern and are not to be awarded more than five job training grants in any 12-month period. Just let you know the amendment that I will be offering increases the total amount of grants that a company can be awarded to a total of ten but not more than five in one location. The department is to assure equitable distribution of the grants in all geographic areas of the state to the extent possible. Under LB386 the Nebraska internship program will utilize \$1.5 million from the Nebraska Job Training Cash Fund in each of the next two years to provide grants to private businesses that create new intern positions. The grants will be used to share the costs of an intern's salary. This bill allows us to make an investment in our future work force using existing resources. In late 2009 a decision was made to contract with the Battelle Technology Partnership Practice to conduct a strategic planning study for statewide economic development efforts. Among other things, the study found that businesses are concerned with the lack of workers with high skills. We also hear from recent college graduates that they can't find jobs in Nebraska and are moving to other states. It appeared there was a disconnect between Nebraska work force and the industries that need them. The purposes of LB386 is to remedy a situation by connecting Nebraska students who are nearing graduation with a business and industry that are looking for skilled employees. Internships allow students to gain valuable professional experience, showcase their skills, build their resumes, and network, but

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most importantly research has shown that internships create lasting connections between students and the region. In one recent survey of college graduates in the Philadelphia area, 64 percent of students who intern locally chose to stay in that region after graduating. Furthermore, pertaining to the nonnative segment, those who interned were twice as likely to remain after college than those who did not. The Department of Economic Development estimates that LB386 could stimulate approximately 700 new internships in Nebraska over the next two years. The passage of LB386 would represent a significant step toward the goal of retaining more graduates in Nebraska. Nebraska's future rests with our young people. We must take advantage of the talent that we have in the state to do everything that we can to prevent our graduates from leaving Nebraska to pursue employment elsewhere. LB386 addresses this issue while also addressing the need for a skilled and experienced work force for businesses in Nebraska. LB386 was advanced from the Business and Labor Committee with no dissenting votes. No one testified against this bill at public hearing. I urge you to vote favorably on the committee amendments, on my amendment that I will have to the committee amendment, and the advancement of LB386. If you have any questions, I would be happy to try to answer them. Thank you. [LB386]

SENATOR GLOOR: Thank you, Senator Heidemann. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Cook, as Vice Chair of that committee, you're recognized to open on the committee amendment. [LB386]

SENATOR COOK: Thank you, Mr. President. I rise on behalf of Business and Labor Committee to introduce AM314 to LB386. This committee amendment, which was proposed by the Department of Economic Development, makes two changes. It clarifies that a distressed area includes counties with fewer than 100,000 inhabitants, and also the definition of "intern" is clarified to include two-year college students that have completed at least half of the credit hours needed to complete an associate's degree, and Nebraska residents attending out-state colleges must meet the same academic level as students attending in-state institutions. Specifically, the students must have achieved either a junior or senior level status. Thank you, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Cook. Mr. Clerk, there is an amendment to the committee amendments. [LB386]

ASSISTANT CLERK: Mr. President, Senator Heidemann would offer AM1258 to the committee amendments. (Legislative Journal page 1276.) [LB386]

SENATOR GLOOR: Senator Heidemann, you're recognized to open on your amendment to the committee amendments. [LB386]

SENATOR HEIDEMANN: AM1258 changes the operative date from July 1 to June 1 to allow the program to get up and running right away. It also allows companies to have up

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to ten internships with a maximum of five at any one location. It also clarifies which companies are eligible to apply. This is to address some concerns that we had heard in this body. The intent is we don't have to create 30 jobs and it's actually eligible to apply for benefits and tier 2, 3, 4, and 5 are all the same for the purpose of this bill. I urge you to adopt AM1258 to the committee amendment. [LB386]

SENATOR GLOOR: Thank you, Senator Heidemann. We move to floor discussion. Senator Hadley, you are recognized. [LB386]

SENATOR HADLEY: Mr. President and members of the body. I stand in support of both amendments and the underlying bill. Without trying to bore you, I've had about 35 years of experience in working with internship programs at the university level. This is an exceedingly important part of an education process. This is the part where students get a chance to go out to the real world, practice their skills, learn new skills, come back to the classroom with more and improved knowledge. It is also a chance for the employer to have students come out and help them. And to be honest, it is also a chance for the students to look at companies and companies to look at students. It is a problem of keeping our best and brightest in Nebraska. This kind of program does that. It encourages students to find internships in Nebraska and it encourages Nebraska businesses to have student internships. If you were to go to your district and talk to some of your businesses that have an internship program, you would be amazed at how many of their current employees came to them as a part of an internship program. Schools, colleges, and universities use this as a selling tool to recruit students that they have active, important internship programs. So without a doubt, this is an important part of the puzzle, the pieces that we're trying to put together for economic development in our state. We have to give...we want our best and brightest to stay in Nebraska. We want them to have the opportunity to find meaningful employment, make a contribution to our state. And without a doubt, I would hope that you would vote green for both amendments and the bill. Thank you, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Hadley. Mr. Clerk for an announcement. [LB386]

ASSISTANT CLERK: Mr. President, the Government Committee will hold an Executive Session at 10:00 in Room 2022. [LB386]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Burke Harr, you are recognized. [LB386]

SENATOR HARR: Thank you, Mr. President. This bill, I like it, I like it a lot. I think we have to address keeping the best and the brightest in Nebraska. We had a committee hearing on this, I'm on Business and Labor, and it had unanimous support testifiers. Afterwards, there was an amendment to the bill, not based on any of the testimony, and

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this is, I remind you, an internship bill, and what the amendment did...does, is it changes the qualifications of where the businesses can be, and this is...I've had this discussion on LB387 where the amendment basically moves...disqualifies the majority of Douglas County, and I have a problem with that. It's the equivalent of taking a line...going to Grand Island, taking a line north and south and saying the whole population west of there, sorry, you don't qualify and I do have a problem with that. We have a different definition for Douglas County than we do the rest of the state. That being said, I have worked with the Department of Economic Development and I had some other concerns. They've been very accommodating. They've been very good to work with. I appreciate all they've done and I wholeheartedly endorse AM1258. And I would ask if Senator Heidemann would yield to some questions. [LB386 LB387]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB386]

SENATOR HEIDEMANN: Yes. [LB386]

SENATOR HARR: All right. So now we have this new amendment and its confusing. Let's say there's a...let's call...there's a bank in Omaha, we'll call it Second National Bank, and Second National Bank is located downtown and it has branches throughout the city. Would an intern who...the headquarters are downtown but the internship would be out at, hypothetically, 115th and Dodge. Would that intern qualify under this program? [LB386]

SENATOR HEIDEMANN: I'd say it would go back to the location, and I might be wrong and if I'm wrong I'll have to come back and correct it, but it should be the location, which would mean if it's not in the distressed area it would still...it would qualify but for a lesser amount. It would still, yes, it would qualify because you can qualify across the state. [LB386]

SENATOR HARR: Okay. So if Johnny...let's call her...let's say Jane, Jane works for Second National Bank and John, both. They both are interns. They do the exact same job for the exact same company. One works in the distressed area downtown and one works at 115th and Dodge, the nondistressed area. They would be paid...the company would be reimbursed differently. Is that correct? [LB386]

SENATOR HEIDEMANN: Yes. [LB386]

SENATOR HARR: Okay. Now that's my problem when we start this. The emphasis of this bill is interns and yet we're kind of bastardizing the intent because we're saying...the focus should be on the student and on the kid. It shouldn't be on where a business is located and we're discouraging kids, businesses from hiring as many people as possible and as much as where their need is within the company. If their need is out at 115th, we should be encouraging that company to hire the kid, period. Now we're encouraging

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them to have them downtown. I know that's a little confusing because I have them doing the same job but maybe they have two different jobs and it's still within the same company. I like the bill; I like it a lot. I think the emphasis needs to be on who the kid is... [LB386]

SENATOR GLOOR: One minute. [LB386]

SENATOR HARR: ...and not where the company...and I shouldn't say kid and I apologize, where the student is and not where the company is. I think it should be based on what the student's finances. Well, I grew up in west Omaha. I had all the abilities to and connections to get an internship. Someone growing up in north and south Omaha may not have those connections and that's why I think this bill is so important. It gives those kids, students, an opportunity to work in a business that they may not otherwise have, and that's what I would like to see this bill do. That being said, I do support the underlying bill. Thank you very much. [LB386]

SENATOR GLOOR: Thank you, Senator Harr. (Visitors introduced.) Senators wishing to be recognized are Howard, Carlson, Harms, and Pahls. Senator Howard, you are recognized. [LB386]

SENATOR HOWARD: Thank you, Mr. President and members of the body. When I became interested in becoming a social worker the second year of college, I was fortunate enough to have an internship with what was then the Douglas County Department of Social Services, and I certainly found that to be interesting. Even though it was paid very little money then, I certainly learned a lot. I wonder if Senator Heidemann would yield to a few questions. [LB386]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB386]

SENATOR HEIDEMANN: Yes. [LB386]

SENATOR HOWARD: Thank you. I understand that this is really focused toward business but I'm...reflecting on the experience that I had, I'm wondering if agencies are included such as the Department of Health and Human Services. [LB386]

SENATOR HEIDEMANN: I don't believe so, no. [LB386]

SENATOR HOWARD: So this wouldn't be available to people that are working either in the department or with a private agency with the department. [LB386]

SENATOR HEIDEMANN: I think like a provider maybe it's a possibility that they would qualify. I would have to look in that. [LB386]

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SENATOR HOWARD: How would you know? [LB386]

SENATOR HEIDEMANN: Well, I think as long as they would qualify for the tier, and it doesn't mean they have to create new jobs, it's just as long as they could qualify underneath that tier they should be able to qualify then. [LB386]

SENATOR HOWARD: So if, for example, one of the private agencies, one of the two lead contract agencies qualified under a tier, then they would be able to have an intern and be reimbursed for that intern. But then, again, it would depend on the location of their facility. Is that correct? [LB386]

SENATOR HEIDEMANN: I think to help maybe clarify this, I just got handed a list of qualifying business categories. Would you like me to read that because... [LB386]

SENATOR HOWARD: That would be helpful. [LB386]

SENATOR HEIDEMANN: Okay: research and development, scientific testing; data processing, telecommunications, insurance, financial services; manufacturing; distribution, storage, warehousing, transportation; headquarters would be administrative; targeted export service which is 75 percent outside Nebraska; or the U.S. government, including cloud computing, software development, computer system design, product testing services, guidance for surveillance system, technology licensing data center, Internet Web portal; retail sales of tangible personal property, and retail sales if 75 percent or more of the sales are outside Nebraska. I think what you're asking me, from what I could read right there and I can look more into this, probably they wouldn't be able to, at least at this time, qualify,... [LB386]

SENATOR HOWARD: That's what it sounds... [LB386]

SENATOR HEIDEMANN: ...but I can get back to you on that if I'm wrong. [LB386]

SENATOR HOWARD: Thank you. That's what it sounds like to me too. When you read through the list, I don't see anything or I don't hear anything in that list that would qualify for a direct service or any sort of human services agency. So these would be purely businesses outside of the state's ownership or management. These would be independent, privately owned--that's the term I'm looking for--privately owned businesses that we will be subsidizing their internship program. How much is this going to cost us? I know you are an expert on the financial figures. [LB386]

SENATOR HEIDEMANN: I was off to the side a second. I didn't realize I was still... [LB386]

SENATOR HOWARD: We were still talking. [LB386]

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SENATOR HEIDEMANN: ...getting...yes. (Laugh) [LB386]

SENATOR HOWARD: I was still talking. [LB386]

SENATOR HEIDEMANN: I apologize for that. What was the question? [LB386]

SENATOR HOWARD: How much is this going to cost us? [LB386]

SENATOR GLOOR: One minute. [LB386]

SENATOR HEIDEMANN: We're accessing some money from the Job Training Cash Fund. It's \$1.5 million a year for the next two years, and I think they're going to sit back and look and see how we're doing at that time. It's hopefully...and it's anticipated that this will be a good thing that we'd be able to continue on, but at the present time it's just \$1.5 million out of the Job Training Cash Fund. There's no General Fund money involved. [LB386]

SENATOR HOWARD: To subsidize a private agency, basically, or a private business. [LB386]

SENATOR HEIDEMANN: I don't think...I don't want us to think that this is a business (inaudible) bill. To me, this is an internship bill. To me, I'm doing this to help young kids, give them an opportunity to start thinking that they can stay in Nebraska and to make partnerships. To me, this isn't about businesses. It's about young kids being able to find jobs in Nebraska. [LB386]

SENATOR HOWARD: But these won't be state agencies. [LB386]

SENATOR HEIDEMANN: They will not be. [LB386]

SENATOR HOWARD: Does your amendment increase the cost? [LB386]

SENATOR HEIDEMANN: No. [LB386]

SENATOR HOWARD: Okay. Thank you. [LB386]

SENATOR GLOOR: Thank you, Senator Howard. Senator Carlson, you are recognized. [LB386]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Again, if Senator Heidemann would yield, I'd like to ask him a question. [LB386]

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SENATOR GLOOR: Senator Heidemann, would you yield? [LB386]

SENATOR HEIDEMANN: Yes. [LB386]

SENATOR CARLSON: You've done this but I'd ask you to do it again. Clarify what the importance is of AM314 or, excuse me, AM1258. [LB386]

SENATOR HEIDEMANN: It changes the date from July 1 to June 1 to allow the program to get up and running right away. And the other part is we got contacted late that there was some companies that wanted to be able to access this and they actually says they have more locations in the state of Nebraska, so they wanted to be able to access five internships per location instead of five per company. And we got to thinking about it. They actually talked about four different locations. I thought that went just a little bit too far. I cut it in half and said, yeah, we can have up to ten internship per company and they can spread them out over the locations, and they have to do it at least two locations. So you have--I'm just going to throw this out, it's not a company that had contacted me--you would say Cabela's is in Sidney and in Omaha. They would be able to actually access five and five. We did it for that purpose. [LB386]

SENATOR CARLSON: Could they put three, three, and four when you include Kearney? [LB386]

SENATOR HEIDEMANN: Yes. Yes. [LB386]

SENATOR CARLSON: Okay. Okay. Thank you, Senator Heidemann. I think that amendment encourages the possibility of splitting these internships up so that they're not concentrated necessarily where the population is concentrated. I think that's important. I think another thing that the amendments do is check to make sure there's academic progress made before somebody can be eligible for an internship, and that's important because that goes to those that are apt to be successful, apt to finish their schooling. And we know from prior experience with our community colleges that those students that enroll there and earn a degree tend to stay in that area. Now rural Nebraska is losing population. Distressed areas in the state are losing population. That's not good for Nebraska. That's not good for rural Nebraska. It's not good for rural distressed Nebraska. It's not good for urban Nebraska. It's not good for urban distressed Nebraska. And the best situation for Nebraska is for healthy urban and rural economies and communities, and we need to be doing everything that we can to encourage that this happens. We want more productive residents in rural Nebraska. We desperately need more productive residents in distressed areas in Nebraska, and I believe that LB386 and AM314 and AM1258 are steps in the right direction, so let's support these efforts to make this happen. Thank you, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Harms, you are recognized.

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[LB386]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of the amendments with the underlying bill, LB386. One of the things that we need to keep in mind, that when you have an apprenticeship program established for students at a university or four-year college, it's important to realize that a lot of students who are in the process of getting an education to specialize in a specific field sometimes has some doubt about whether or not this is really what they want to do, and they're spending a great deal of money to get this education. These apprenticeships really will confirm to that student, you know what, this is a good thing for me; I think I do want to work for businesses or companies. Without that, a lot of students will go through four years or five years of their education and get to the end and all of a sudden realize, you know, this is really not suited for me, and in turn have lost a lot of dollars and end up not being happy, the parents aren't happy. So these apprenticeships and internships are critical. Now I do not think that these apprenticeships or internships will create businesses for us in rural Nebraska or urban Nebraska. I think some of the issues that we've got before us now and what the Department of Economic Development is doing is going to encourage, hopefully, growth in rural Nebraska, growth in the development of rural Nebraska, stressed areas. And I think it's important for us to remember that if we're going to keep people, young people, our brightest students from leaving Nebraska, what will keep them there and keep them in this great state are jobs. I look at my own community. I saw my children go through the whole educational process. A couple have their master's. One is working on her doctor's degree. One has a bachelor's degree. The concern is for them, when they get to the end and they want to stay in Nebraska, do you have a job for me; I would like to live in rural Nebraska, I would like to live maybe in Holdrege or Scottsbluff, wherever it is, but do you have a job for me? I've gone through four, five, six, maybe eight years of education; do you have something for me? I think that, to me, is a critical issue that Nebraska has to answer, and I think when we get through with this issue of dealing with reorganization of our counties and we start to address the issues of where our senators are going to be placed, when we're done with redistricting I think this Legislature needs to concentrate on what are we going to do to rejuvenate, to redevelop, to retrain, to reeducate, or whatever it is, rural Nebraska, because our crisis in the next decade will not be in urban America. It will be in rural Nebraska. And so I know I've deviated a little bit from this bill but I want you to understand that after we get through all these other issues this year, this Legislature in the future is going to have to concentrate on this. They're going to have to make sure that we have the right programs to bring businesses and companies into rural Nebraska, to find a way that we can create cottage industries to be successful, and a way that we can create programs that will...in our communities that will attract businesses there. So I do rise in support of this and I do believe it's extremely important, extremely important for the student, not only for, of course, the business or the company but the student, the one that's going to benefit from this, and they will be able to determine from this point whether they're in the right field or not in the right field. So I

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would urge you to support this and also encourage you to keep in mind that once we're through with... [LB386]

SENATOR GLOOR: One minute. [LB386]

SENATOR HARMS: ...thank you...with redistricting, this Legislature in the future needs to concentrate on what are we going to do to address the issue that we're going to be confronted with, and that's the exodus of people leaving rural Nebraska for a better job or jobs in urban America. So thank you, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Harms. The chair recognizes Senator Krist. [LB386]

SENATOR KRIST: Thank you, Mr. President and colleagues. Would Senator Cook yield to a question or two? [LB386]

SENATOR GLOOR: Senator Cook, would you yield? [LB386]

SENATOR COOK: Yes, I will. [LB386]

SENATOR KRIST: Senator, thank you. I just want to be clear with Senator Burke Harr's analogy. In order to qualify for the internship money, a business must be located, as I understand the amendment, in a blighted area or a distressed area. Is that correct? [LB386]

SENATOR COOK: That is my understanding, yes. [LB386]

SENATOR KRIST: Okay. And that particular testimony was not heard during the initial hearing? [LB386]

SENATOR COOK: The language that you see in the committee amendment, testimony highlighting those particular issues, were not heard in the original hearing when we had that in January, I believe. It is the result of some conversations that took place and, as I mentioned in my opening, the result of input from the Department of Economic Development. [LB386]

SENATOR KRIST: So DED brought this to the committee through Senator Heidemann, who introduced it, and then after you heard testimony and decided to go forward, an amendment was brought by the agency asking you to exempt--reverse discrimination, if you will--a particular part of the state from actually applying for those funds? [LB386]

SENATOR COOK: Yes, sir, that is what occurred, as I understand it. [LB386]

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SENATOR KRIST: So anyone who's listening, I want you to understand that it was the agency itself that drew a circle or a ring around a part of the city of Omaha and said those people are not eligible, yet the rest of the state is. [LB386]

SENATOR COOK: That is my understanding. I've seen Senator Burke Harr has a map that he shared that actually was used and part of testimony for another bill, but it kind of demonstrates how the lines that are drawn through the committee amendment fully leave out a good portion, perhaps as much as half, of the state's population. [LB386]

SENATOR KRIST: Thank you, Senator Cook. I think this causes me to pause and ask the question, I wonder why some of us in the Omaha area do feel like we're being singled out on occasion for different pieces of legislation. Does it give you pause, members, colleagues? I don't know that I have the will, the strength, or the number of amendments that it would take to carve out parts of Grand Island, Scottsbluff, Kearney, and I don't think that would be fair to the students, to the young people, the pages who are sitting here who would be eligible to go out and get that internship job. I know from family experience that the internship that my son received at First National Bank was a wonderful opportunity for him and I'm not sure, and in my case the example brings very close to home the fact that if he was not in the downtown area, if he was at a branch in someplace else in Omaha, the bank would not have the advantage to offer the advantage to that student. Maybe we should talk about where the student is from. Would that bring it to home? [LB386]

SENATOR GLOOR: One minute. [LB386]

SENATOR KRIST: A student couldn't be offered an internship program with this kind of funding if he or she came from an income level that was above a certain point. It seems funny. It seems strange. It seems unfair, and I know that word is used...should not be used in this context, but it doesn't seem equitable to me that we are disadvantaging businesses that could offer these kinds of internship programs in order to advantage other businesses outside that ring to have the program. Thank you, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Krist. The senators remaining in the speaking queue are Howard and Lautenbaugh. Senator Howard, you are recognized. [LB386]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And thank you, Senator Krist. I think that really sums up many of my concerns as well. And also thank you, Senator Carlson, who raised some very good questions regarding the criteria for the student. Is it going to be based on grade point or, as Senator Krist asked, will there be some financial ability or lack of ability to fund this? Will there be some factors that enter into this? I am really groping with this bill. One of my major concerns is who's going to monitor the quality of these jobs? You know, are they going to be make work?

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Are they going to be thank you for coming this summer and here's all the filing that needs to be done that hasn't been done over the past however many months? That's not really going to teach anybody too much. I think there's some details left out of here, not only the eligible...the restriction on the eligible locations in Omaha but also who's going to be responsible for determining which students are eligible. Is it going to be the businesses? Will there be some criteria put forth for those businesses that they would have to meet? I think back also there are many, many jobs that interns would like to do, for example, in the Ombudsman's Office right here. Those students aren't going to be paid for an internship. It's going to be thanks for doing the work, we hope you got something out of that position. At the Med Center, they're not included in this list, and probably the Med Center also has the location going against them. I'm not quite sure how distressed 42nd and Pacific might be or 42nd and Leavenworth is where they're located. But I think there are a lot of questions about this bill and there's certainly a lot of money at stake here. This is over \$1 million that we're looking at. It's going to affect certain businesses in certain parts of the state and I have a very big problem with that. Thank you. [LB386]

SENATOR GLOOR: Thank you, Senator Howard. There are no members in the speaking queue. Senator Heidemann, you're recognized to close on your amendment to the committee amendment. [LB386]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Pretty much the committee amendment just changes the date from July 1 to June 1 to get everything up and running a little bit faster. It also allows, I had explained on the mike before, it allows up to ten internships with a maximum of five at any location. So if a business has multiple locations across the state, they could have three, three, two and two, or five and five, just spread out a little bit. I would urge you to adopt AM1258 to AM314. Thank you. [LB386]

SENATOR GLOOR: Thank you, Senator Heidemann. Members, the question is, shall the amendment to the committee amendment to LB386 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB386]

ASSISTANT CLERK: 30 ayes, 2 nays on the adoption of Senator Heidemann's amendment to the committee amendments. [LB386]

SENATOR GLOOR: The amendment is adopted. There are no members in the speaking queue. Senator Cook, you're recognized to close on the committee amendment. [LB386]

SENATOR COOK: Thank you, Mr. President, and good morning again, colleagues. In the meantime, I've gotten some additional clarification on the committee amendment. And to clarify our understanding from what we learned in the original hearing and what

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you might read on the computer, if you look at your green copy of the bill on page 3, lines 14 through 18, it does show that a business, let's call it the Second National Bank of Omaha with headquarters in downtown Omaha, would still be eligible but at a different rate of eligibility for reimbursement or credit. So the packaged group of, say, Broken Bow or Cedar Rapids or a community bank internship would be eligible at a different rate. So I wanted to clarify that and offer that as a closing, and ask you to please adopt the committee amendment, AM314. Thank you very much, Mr. President. [LB386]

SENATOR GLOOR: Thank you, Senator Cook. The question is, shall the committee amendment to LB386 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB386]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the committee amendments, Mr. President. [LB386]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB386 to E&R Initial? There are no senators in the speaking queue. Senator Heidemann, you're recognized to close on LB386. [LB386]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I think we've had a good discussion on LB386. I think this is a good bill. When this bill was brought to me I jumped on board right away because I thought this was a good way to bring students in that go to our higher education. And a lot of times, we've seen it time and time and time again, that once they graduate they're gone. They go to the West Coast, they go south, they go to other places for employment, for opportunities. With this bill, LB386, we're going to show them, in their last two years of higher education and even before that if they're just doing an associate degree, we're going to show them that there are opportunities here. We are going to show businesses that there are people here that they can hire that are good, qualified, capable people. To me, this is all about...it isn't...to me, this bill isn't about really business. To me, this is about keeping young kids in the state of Nebraska that will become good citizens. So with that, I urge your advancement of LB386 to Select File. Thank you. [LB386]

SENATOR GLOOR: Thank you, Senator Heidemann. The question is the advancement of LB386 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB386]

ASSISTANT CLERK: 35 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB386]

SENATOR GLOOR: The bill advances. Items for the record, Mr. Clerk? [LB386]

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ASSISTANT CLERK: Mr. President, one item: Senator Fischer has an amendment to LB357 to be printed. (Legislative Journal page 1286.) [LB357]

SENATOR GLOOR: Thank you, Mr. Clerk. We continue with General File, senator priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB575 was introduced by Senator Price. (Read title.) Bill was read for the first time on January 19, referred to the Education Committee. That committee reports the bill to General File with committee amendments. (AM955, Legislative Journal page 1059.) [LB575]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Price, you're recognized to open on LB575. [LB575]

SENATOR PRICE: Thank you, Mr. President and members of the body. Today LB575, as you heard, would create the Military Children Education Opportunity Act. I brought this bill to help facilitate the sometimes difficult transition that the dependents of military members have when they're moving from duty assignment to duty assignment. The bill was heard in the committee and was advanced out of the committee with a unanimous vote, and with the committee we worked and have come up with an amendment that will replace the bill, and I'm very grateful for the committee's assistance in this effort because what we need to do is the best and that our military members, their families deserve the best. And Senators Cornett and Adams have worked, and their staff, have worked tirelessly to get this bill in the best shape it can be. And with that, I would yield my time to Senator Adams for the committee amendment. [LB575]

SENATOR GLOOR: Thank you, Senator Price. Senator Adams, would you consider this your opening on the committee amendment? [LB575]

SENATOR ADAMS: I will. Members, what we have done in the committee amendment is to, in effect, take Senator Price's bill that he had introduced and we have taken Senator Cornett's bill that she had introduced, LB63, which by the way she has introduced more than once in the Education Committee, to officially and formally create the Military Compact. We've taken LB63 and it becomes, in effect, LB575 through committee amendment. The essence of the amendment is this. Nebraska is one of a few states that does not officially belong to the Military Compact, and I'm going to yield time to Senator Cornett here in just a moment and allow her to go into the details of what the compact does. Senator Price has touched on it. The essence of it is this. Military families are mobile. They move. And when they come into our state, we need to ensure, and the Military Compact does that, ensure that as their children transfer from one school district in one state into our state that their educational rights are protected, that there are no huge bumps in the road for them; so that if they come in as a senior from North Carolina, they come into Bellevue as a senior; if their credits in North

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Carolina were valid, their credits when they get here to Millard are valid, immunization records, the list goes on. And though already in statute we have many of these things, it doesn't meet the standard of BRAC asset. This will do that. So what the committee amendment does is to take LB63, Senator Cornett's bill, which puts us into the Military Compact. The other thing it does is to make...is to create language that makes it possible for private donations to go into a cash fund here at the state to offset the cost of this program. That's the essence of it. And, Mr. President, I'm going to yield the rest of my closing time to Senator Cornett so she can go into details about the compact. [LB575 LB63]

SENATOR GLOOR: Senator Cornett, 7 minutes and 45 seconds. [LB575]

SENATOR CORNETT: Thank you, Mr. President. Thank you, Senator Adams. First, I would like to thank Senator Price for allowing me to place my bill into his. His bill addressed the same issues but wasn't as comprehensive. I introduced this bill originally two years ago, and it made it to the floor of the Legislature, and I put a hold on my own bill because of the fiscal note at that time and the uncertainty of the finances for the state. And since that time I've been working on finding funding for this and we'll discuss that further on the A bill. But to the bill itself, LB575, as amended with the committee amendment, would ratify the interstate compact on educational opportunities for military children on behalf of the state of Nebraska. When I originally introduced this bill only 11 states were members of the compact, with 12 others having legislation. When I introduced the bill again this year, 35 states were members of the compact, and since the bill's introduction, another state has become a member of the compact. The interstate compact on educational opportunities for military children...the purpose of the compact is to put in place commonsense solutions, and the removal of educational barriers the military children and their families face when they move from one base to another. Quite frankly, many of the proposals in this legislation are best practices for school districts in Nebraska. So you may ask, why do we need this legislation? It puts into law what we believe and says to our military families in all other states that we believe in doing what is right for our military families and children. Some of the provisions in the legislation allow military families to enroll in school when they arrive and accept their hand-carried records until the official school transcripts arrive. They provide military families the opportunity to be eligible and participate in athletics and extracurricular programs even if they arrive in the middle of a school year. Allow children 30 days from the date of enrollment to obtain required immunizations. Allows children who have already started kindergarten or first grade in another school district to continue their schooling regardless of their age. What that means is, some state's have different age requirements for entering school. Provide an additional excused absences for a student whose parent is returning or preparing to deploy. Allow for a power of attorney to be acceptable relative to the guardianship of a military child. Allows students who have transferred in the middle of a senior year and unable to complete the graduation requirements in the state of Nebraska, to complete his schooling here and

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receive his high school diploma from his previous state or school that he was in. What that means is, different states require different number of credits to graduate. If they are unable, because of our credit system, to achieve the number of credits, they are still allowed to graduate but they will graduate with a diploma from their previous school district. Military families move on an average of every three years and they don't get to choose when or where they move. So a lot of times children have to go to new schools in the middle of the school year. The interstate compact would help everyone know what the rules are from state to state. Now that is why we should do it for the military families. Why we should do it for the state is, this is one of the issues that the government looks at when they look at what's called BRAC, base realignment and closure, and why states have been moving towards the compact. One of the things that they look at in the waterfall is how they treat the military spouses and family and what services are provided. And by being a member of the compact, not only do we help the children of the military who are now members of our state, but we also help the state protect ourselves from base realignment and closure. I believe Senator Avery is going to speak a little bit more to that issue. It was something we talked about in one of our special committees. With that, I urge the body to adopt AM955 and the underlying bill LB575, and I want to thank Senator Price and Senator Adams for all of their help on this bill. Thank you. [LB575]

SENATOR GLOOR: Thank you, Senator Cornett, Senator Adams and Senator Price. Senator Avery, you are recognized. [LB575]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. As Senator Cornett indicated, this is an issue that's been around this Legislature now for several years. In 2008 this body approved the creation of a task force to study the base realignment and closure process and to see if there were things that the state of Nebraska could do to protect its existing military assets and to, perhaps, even enhance and expand its military assets because the base realignment and closure process offers opportunities but it also carries a lot of risks. We have in the state of Nebraska an economy that is related to military activity that is in excess of about \$3 billion. In Offutt alone, we have about 13,000 employees. It's very important that the state of Nebraska do everything within its power to make the state military friendly in order to protect that very large component of our economy. The base realignment and closure process is fairly well-defined in federal law. When the Defense Department decides they're going to go into another phase of realignment and closure of bases in order to achieve efficiencies in military operations, once the process starts they look at the areas where they are considering changes in, or realignment of their military assets, and if they see vulnerabilities, if they see things that are not being done, or things that need to be altered, then that is a mark against that state. And in many cases, it can be an important part of a decision to close a base, or to reassign personnel from that base to another base. So we have to be careful in this state that we do not jeopardize that important part of our economy. Once your base or your military asset is on the list for closure, it is

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almost impossible to get it off. So you have to take action before the process starts in order to protect those assets, and that is what we were trying to do in 2008. In 2008 when we convened that task force, we included in our list of recommendations a recommendation that Nebraska join the Military Impacted Schools Association, which is in AM955. That is an association that had its origins actually in the Bellevue area going back to, I believe, 1986. About 11 states now participate. It is important, I think, that Nebraska do this as well, and I urge you to support AM955, and then the underlying bill, LB575. Thank you, Mr. President. [LB575]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Krist, you're recognized. [LB575]

SENATOR KRIST: Good morning, Mr. President and colleagues. Again two entirely different subjects that I'd like to talk to you about. The first is a carry-on from Senator Avery's introduction on the BRAC. Those of you who were here in the past two sessions when we've talked about the BRAC will remember that we're talking about over \$25 billion, that's "b", billion dollars worth of income into the state of Nebraska based upon just the Offutt Air Force Base area alone. The BRAC is something that is final. It takes that business away. And if you think I'm misquoting it as a business, I will tell you that in our study and participation in trying to BRAC-proof Offutt Air Force Base in some of our military installations, the greater Omaha Chamber of Commerce in asking for outside council on what to do, how to grow businesses, that firm, independent firm came back and said, the largest business...the number one business that you do not want to lose in this state is Offutt Air Force Base. This measure, AM955, and the underlying LB575, which the amendment replaces, actually goes a long way towards telling people outside the state and then the DOD BRAC process how important we think it is to have that base and those military families here in the state of Nebraska. Second, on a very personal note. Having moved with my family over eight times in ten years and then finally settling in, I will tell you that one of the most devastating things that can happen to a young man or woman is when they're torn away from friends and family, friends and extended family, friends and friends, and taken to a new place, a new country, a different language. And coming to a school and not fitting in because you don't have the right credentials, or the right qualifications, or it takes too long to qualify you and get you involved with all the things you need to happen. Fortunately, my guys were very well taken care of in that effort, but I know families, children who are not. This is an extremely, extremely important part of the family move process making sure that the children of our soldiers and sailors and airmen are taken care of when they get where they need to be. Please vote green on AM955 and on LB575 for our military families. [LB575]

SENATOR LANGEMEIER: Thank you, Senator Krist. Seeing...Senator Utter, you're

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recognized. [LB575]

SENATOR UTTER: I want to just take a moment here and very briefly tell you I've been lobbied very heavily on this bill. And that effort came from out of state, came from my daughter who is a wife of a career military man, and they have two small children that have been shuttled hither and yon to go to school and make the changes that we expect of our military people. And I think this is a move in a good direction. My daughter, Denise, has talked to me even before this year about how important that it is that we can ease the education transition for her children from school to school. And so I think this is a good bill. Thank you, Mr. President. [LB575]

SENATOR LANGEMEIER: Thank you, Senator Utter. Now, seeing no other lights on, Senator Adams, you're recognized to close on AM955. [LB575]

SENATOR ADAMS: Thank you, Mr. President and members. I'll keep it very short. Remember what we're doing here. The committee amendment is, in effect, Senator Cornett's bill, LB63, that we have rolled in putting Nebraska in the military compact and creating a methodology whereby private donation can come into this and be the funding source for it. Thank you, Mr. President. [LB575]

SENATOR LANGEMEIER: Thank you, Senator Adams. You've heard the closing on AM955. The question for the body is, shall AM955 be adopted to LB575? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB575]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments. [LB575]

SENATOR LANGEMEIER: AM955 is adopted. We return now to discussion on LB575, the bill itself. Seeing no lights on, Senator Price, you're recognized to close on LB575. [LB575]

SENATOR PRICE: Thank you, Mr. President and members of the body. I'd like to express my deepest and most sincere appreciation to the body, to Senator Adams and Senator Cornett, for the green lights, for the support. This is truly your way of showing the support to the military members, their families, and for all the sacrifices they make for our country. I look forward, as we move through the process, to getting this done and being able to tell these, the fine Americans and their children that we actually deeply do care for them. With that, I'll yield back my time, and I'd ask all the members to vote green on this bill. Thank you. [LB575]

SENATOR LANGEMEIER: Thank you, Senator Price. You have heard the closing on LB575. The question for the body is, shall LB575 advance to E&R Initial? All those in

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favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB575]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB575]

SENATOR LANGEMEIER: LB575 does advance. Mr. Clerk, LB575A. [LB575 LB575A]

ASSISTANT CLERK: Mr. President, LB575A was introduced by Senator Price. (Read title of LB575A.) [LB575A]

SENATOR LANGEMEIER: Senator Price, you're recognized to open on LB575A. [LB575A]

SENATOR PRICE: Thank you, Mr. President and members of the body. This is the legislation that follows the bill. Obviously, since the bill was changed with the committee amendment, LB63, which is Senator Cornett's, I would like to give her the opportunity to explain the details and intricacies of the bill and would yield the remainder of my time to Senator Cornett. [LB575A LB63]

SENATOR LANGEMEIER: Senator Cornett, 9 minutes 30 seconds. [LB575A]

SENATOR CORNETT: Thank you, Mr. President and members of the body. And again, thank you Senator Price and Senator Adams for all the work you've done on this, and particularly Senator Adams' staff and my own. Over the course of the last two years with having to have held my own bill and pulled it from the agenda because of the fiscal note on it at the time, we have with the community set up a community foundation to establish a fund to pay for the costs...the yearly costs of LB575. It will be paid to the Department of Education to a cash fund. If you look at the fiscal note, it shows that it will be \$27,000. That includes the amount of staff that would be required to administer the program, plus the state of Nebraska to be a part of the compact has to contribute \$1 per student, military student, every year to the compact. Nebraska has approximately 8,000 military students this year. These costs will be covered by the foundation, so if...I want everyone to look at the fiscal note, see that there is a fiscal note, but understand a foundation has been established in the Bellevue community by the businesses and the military veterans to pay to be a member of this compact. With that, I urge the body to support LB575A and understand the work and effort that the community and our military have put into making us a member of this compact. Thank you. [LB575A LB575]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on LB575A. The floor is now open for discussion. Seeing no lights on, Senator Price you're recognized to close on LB575A. Senator Price waives closing. The question for the body is, shall LB575A advance to E&R Initial? All those in favor vote yea; all those

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opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB575A]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB575A]

SENATOR LANGEMEIER: LB575A does advance. Mr. Clerk, LB252. [LB575A LB252]

ASSISTANT CLERK: Mr. President, LB252 was introduced by Senator Cornett. (Read title.) The bill was read for the first time on January 11 of this year. It was referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments. [LB252]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Cornett, you're recognized to open on LB252. [LB252]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I introduced LB252 to provide partial relief from the new 10 percent federal excise tax on businesses in Nebraska that provide indoor tanning services. Due to the enactment of the new 10 percent federal excise tax on indoor tanning services imposed by Congress in the 2010 Affordable Health Care Act, Nebraska's indoor tanning service business now collect from their customers and pay over to the federal and state authorities up to 17 percent of gross receipts from indoor tanning services sold to customers. Ten percent federal excise tax, up to 7 percent Nebraska state and local sales tax. The new federal excise tax, coupled with longstanding state and local sales tax, places an unprecedented excise tax burden on these businesses. LB252 would help relieve affected Nebraska businesses from this inequitable federal excise tax by exempting them from Nebraska state and local sales tax on admissions to indoor tanning services that are also subject to the new 10 percent federal excise tax. The new federal excise tax is especially erroneous because it is arguably a step towards an imposition of a national sales tax. The potential loss of jobs and taxable income in indoor tanning industry, due to the new federal excise tax scheme, may have less than desirable consequences for Nebraska state and local tax systems, especially the state's income tax system. Furthermore, on October 2010, a study entitled "The Economic Gains from the State of Nebraska Sales Tax Exemption on Tanning Services," which was produced by the University of Nebraska Lincoln Bureau of Business Research and Growth Associates found that without a Nebraska sales tax exemption, for indoor tanning services to help offset the negative effect of the new federal 10 percent excise on indoor tanning services, there would be a reduced economic activity and employment impact to the overall Nebraska economy. The report states: The annual economic impact would be a \$2.9 million decline in economic activity, including a negative impact of \$1 million on employee compensation and proprietor income. It also notes that all across Nebraska industries, that would be a loss of the equivalent of 49 full-time jobs given this

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decline in income. In light of those findings, LB252 would help restore and save jobs in Nebraska and preserve taxable income attributable to Nebraska's indoor tanning industry, while mitigating the onerous burden of the new 10 percent federal excise tax on Nebraska's indoor tanning businesses, and their customers who bear the full burden of paying such taxes. Clearly, the new 10 percent federal excise tax on indoor tanning services is inequitable. Due to the federal tax administration difficulties, some businesses that provide indoor tanning services are exempt at the federal level from the new tax, including businesses that provide phototherapy services and certain health club memberships that include indoor tanning services in their club membership fee. Federal tax administration difficulties made it necessary for the IRS to issue regulations governing the tax exemptions from membership of health clubs, regulation section 49.500B-1T(b)(3) was issued only 20 days before the new federal tax became operative. It applies to the qualified physical fitness facilities that provide access to indoor tanning services for the club fee-paying members. The inequitable nature of that tax exemption is apparent from the IRS's determination that access to such indoor tanning services is incidental to the membership's clubs' predominant business and that any amount included in the membership fee for access to the club's indoor tanning services would be difficult to calculate and administer. Due to the such federal tax administration difficulties, the IRS decided that not any amount paid to such membership club is not a payment for indoor tanning services, and that the new federal excise tax on indoor tanning services will not be imposed by the IRS on membership fees paid to such health clubs. In light of all that, state Legislatures should now keep their minds open and their minds aware of the federal government has already taken a significant step towards imposing a national sales tax. And to its own discredit, it encroaches on the area of taxation that has traditionally been an area of taxation for state and local governments only. You will hear arguments today against the exemption, not based on whether it's equitable or not, but on the health concerns with tanning. They...government did not say that...we are not saying that...we're not discussing the issue of the health benefits or negative benefits of tanning. We're talking about the tax issue and whether it is equitable or not. When you have the same service being provided at a number of different types of businesses but only one is being taxed for that service at a rate differently than the others, you have an unequitable situation in our tax structure. With that, I urge the body to support LB252, and I believe that Senator...I want to thank Senator Smith for prioritizing it, and I believe he has an amendment filed on it. Thank you. [LB252]

SENATOR GLOOR: Thank you, Senator Cornett. (Visitors introduced.) Mr. Clerk. [LB252]

ASSISTANT CLERK: Mr. President, Senator Smith would offer AM1286. (Legislative Journal page 1287.) [LB252]

SENATOR GLOOR: Senator Smith, you're recognized to open on your amendment to

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LB252. [LB252]

SENATOR SMITH: Thank you, Mr. President and good morning, colleagues. I am rising to introduce AM1286 to LB252. And I'd like to start out by just talking a little bit about my reason for prioritizing LB252, and then conclude with what I believe the advantages of amending that bill with AM1286 would be. My purpose in rising is to represent the interest of small businesses in Nebraska, small business owners. Small businesses today have difficulties facing them, probably the least of which is competition. Of course, they have macro- or microeconomic conditions in issues affecting them, affecting their ability to remain in business. And they also have regulations that all businesses face, of course, throughout the United States, but also right here in Nebraska. But then again, they have competition. And it would be great if it was only that competition that they had to face each day as they went to work and created jobs, but it's not. This particular group of small business owners are primarily female owned. Many of them are single parent. The tanning business is a fairly low-margin business. There's not a lot of money to make. And that's why this excise tax on them is particularly harmful, and makes it more difficult for a very difficult business already. They are very price sensitive. Consumers use their discretionary income, primarily, to have these services. And I have the highest regards for these small business owners. Hopefully, many of my colleagues have had an opportunity to meet them in the Rotunda over the last couple of weeks as they came down to visit. They're not seeking a handout from government necessarily. They're willing to invest. They're willing to take the risk as businesses, as the private sector businesses do each and every day, not only in Nebraska but across the United States. They create additional revenues to the state through their investments, through the payroll that they work hard to meet each and every week, and then through the jobs that that multiplier effect has on our communities. And they're willing to pay their fair share of taxes. And they contribute heavily to the income of Nebraska through their taxes. This is about representing or preserving these jobs and protecting these small businesses from a fate that would eliminate these businesses from our communities. And it would eliminate the benefits they provide to our communities. Something that Senator Cornett read, and it's worth reading again, is that the University of Nebraska Bureau of Business Research concluded the federal tanning tax, that excise tax of 10 percent, will have an annual negative impact on Nebraska economy of \$3 million and a loss of 49 jobs. Now we're already well beyond these dire industry predictions. We began 2010 with 220 Nebraska tanning facilities and today there are 177. That's a 20 percent decline in only one year, 43 salons were closed. Most tanning salons employ five to eight people, a loss far beyond the 42 jobs...job losses that are predicted. There are two...to this bill, AM1286 provides a sunset on LB252. I'm willing to approach this in a very constructive and reasonable manner. We know that there's a fiscal note on this, and the members of the Revenue Committee were generous enough to allow this bill to come out of committee to be able to have a discussion on the floor. And going into it, knew that it was going to be an uphill climb, an uphill battle, but I, nonetheless, wanted to be able to represent these small business owners. I understand there's a difference

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of opinion on the fiscal note, and on the health implications, and I want to talk about those in just a moment. But this amendment provides a sunset of two years, so that's very fair. We understand we don't know what's going to be out there beyond two years, but we want to sunset this and just provide a lifeline to these small businesses that they can continue on for another day, continue on to create their jobs and employ and make their payroll. Health, as far as the health concerns go, I just want to leave it that it is legal, much like alcohol and tobacco. And I do not necessarily put it into those camps because there's equal evidence of the benefits of sun and tanning as there are against. There's equal evidence of the benefits as there are against the use of tanning. So you can weigh and you can look at those and make those decisions for yourself. But it is legal, and it's an individual's decision to use these services, once again, because it's legal. And I might also add that tanning businesses often receive referrals from dermatologists, from professionals in skin care to take care of various skin illnesses. But once again, it's legal, colleagues, and we're harming this group of business owners if we do not throw them a lifeline. Then the other item is the fiscal note. There is slightly under a \$1 million fiscal note on this. But as I read before, you know, if you look at the potential impact of 43 jobs at \$3 million, extrapolate that out, I mean, we have well over \$100 million at risk in revenues from these businesses and economic impacts in the state of Nebraska. There's well over 1,600 jobs at risk here because, once again, if we do not throw this group of businesses a lifeline, I don't know if we're going to see these businesses continue on for the long-term, and the end result would be much worse for tax revenues for Nebraska. Again, once again, I find it a great privilege and honor to represent these small business owners that are working diligently day in, day out to make it in our society, to provide jobs, to provide taxes to the state of Nebraska so we could provide services to those less fortunate. And I also have the highest regards for my colleagues on the Revenue Committee that voted this out. I understand the difficult situation that they are in because there's a fiscal note, but I appreciate them very much allowing me the opportunity to prioritize this bill and to speak on its behalf. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Smith. Members, we now move to floor discussion. Members in the queue include Nordquist, Utter, Fischer, Conrad, Hadley, Krist, and others. Senator Nordquist, you are recognized. [LB252]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in strong opposition to this legislation and to the amendments, the amendments brought by Senator Smith. We cannot separate the decisions we make here in the fiscal side from the health side. If we advance this legislation, we would be taking a step, a legislative step, to incentivize behavior that, according to all credible evidence, is unhealthy. That's what we would be doing. And we would be doing that in a time that we are coming out of the deepest budget shortfall we have ever seen. So when we're at the bottom of the bottom trying to carve out of a \$900 million budget shortfall, we're going to take a legislative action to incentivize unhealthy behavior? Yes, it's legal. Smoking and alcohol

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are legal, but we don't take a lot of actions around here to incentivize those. We charge higher taxes on those items because we know they're unhealthy. And I think it's important that we get the facts on the record about the health implications before we talk about the fiscal thing. My brother is an oncologist. I'll leave it at that. We've had a lot of discussions about this and he sent me a statement from...it's the American Society of Clinical Oncology which represent 28,000 cancer specialists in this country, and says it supports the IRS regulations to create a 10 percent consumer tax on tanning services to help prevent the deadly skin cancer associated with tanning beds. As cancer doctors, again 28,000 cancer doctors...if you want to dispute them, you're more than welcome to. We support every effort to reduce the cancer burden in the U.S. just as taxes on tobacco products led to steep declines in smoking and lung cancer rates, a tax on tanning beds could have a major impact on U.S. melanoma rates, especially among young people. Melanoma is the deadliest form of skin cancer causing 8,700 deaths in the U.S. every year, one every hour. Incidents of disease is rapidly rising, especially among women. According to the American Academy of Dermatology, melanoma incidents is increasing by 4 to 6 percent annually, and is the second most common cancer for young adults age 15 to 29. We support any policy that spares people from preventable cancers like melanoma. A tanning bed tax will help reduce the burden of melanoma and other skin cancers in the U.S. That's the voice of 28,000 cancer experts in our nation. But we can look at other experts as well. The National Cancer Institute says that radiation, whether from sun or artificial sources such as sun lamps and tanning bed, increases the risk of developing skin cancer. In July, 2009, the International Agency for Research on Cancer, part of the World Health Organization, concluded that tanning devices that emit UV radiation are more dangerous than previously thought, and they increase the risk to...from probably carcinogenic to certainly carcinogenic. I could go on, but again I understand that the federal government took an action and there may be an inequity there. Call or write your Congressman. But I don't think it's right for us, again, as we're coming out of a deep budget hole, to expend money to incentivize unhealthy behavior. But on the equity issue. Are we going to respond to every federal tax policy with a state tax policy that equals it out? How about homeowners who carry an interest and get their interest...or carry a mortgage and get their interest deducted? What about those poor homeowners that don't carry mortgage... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR NORDQUIST: ...and don't get their interest deducted? Are we going to enact state law to give them something to help them out because that doesn't sound very fair to me. That's the way we could do that. But we're talking about a million dollars a year, folks. I don't know where that's coming from. I know it's not on the bottom line of our status sheet. We've done our best to balance the budget. We've made deep cuts and we're sitting on a few hundred thousand dollars on the bottom line right now. With \$65 million in the cash reserve, if this bill goes forward, we are transferring money out of the

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cash reserve to support this policy. That's what we would be doing. I don't know how many of you want to go below \$65 million in the cash reserve. The Appropriations Committee is not comfortable going below that amount. This is...this is a policy that I think would be wrong for the state of Nebraska. [LB252]

SENATOR GLOOR: Time, Senator. Thank you, Senator Nordquist. Senator Utter, you are recognized. [LB252]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I'm rising this morning as a member of the Revenue Committee. And in that committee, we considered this bill. And I have to tell you that as a courtesy to Senator Smith, I agreed to vote it out of committee so that we could have a discussion on the floor. That's the discussion that we're having now. I wanted to make it clear in no uncertain terms there is no way that I can support this bill. And the reason is, is that I don't think that we can be put in a position of every time the administration in Washington, D.C., does something that we presume is unfair, that we take an equal and opposite position in Nebraska to eliminate that damage that was done in Washington, D.C. And I will tell you that I am certain that there is some inequities in this in the way they passed the increase in the taxing, the tanning tax down. And I'm also...I'm very...I have deep feelings for the businesses that are being...unfortunately, are being subjected to this tax and what it's doing to their bottom line. Beyond that, though, I don't see that there is anyplace in our state budget or in our makeup of feelings in Nebraska, that as sorry as we are for what this does, that we can be the savior of some unfortunate thing that the administration back in Washington, D.C., passed down to the people that run the businesses in this industry. And it is unfortunate. It's a Washington, D.C., mandate that has put an unequal, unfair tax on those people. There's no question about it. However, it's also a mandate that I don't think that we as citizens or we as a state can correct. I don't think we should correct it. And it would set a precedent, an unfavorable precedent if we did. So make no mistake about it because I voted this out of committee, as a favor to Senator Smith, that there is any way that I can support this bill even with Senator Smith's amendment on it, which certainly limits the impact of it. So I urge you to vote red on the amendment, and on the bill, and not advance it beyond this point. Thank you very much. [LB252]

SENATOR GLOOR: Thank you, Senator Utter. Senator Fischer, you're recognized. [LB252]

SENATOR FISCHER: Thank you, Mr. President and members of the body. As you see on the committee statement, I, too, voted this out of committee with the same understanding that Senator Utter had. It was to have the discussion on the floor of the impact of actions at the federal level and how those are affecting us here at the state level. It was never, never with the understanding that we would be putting any money into this because that could be that black hole that would just consume us if we would

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proceed down that road. The purpose was to have the discussion on General File. All of us on Revenue Committee and all of us in here know the importance of small businesses. We all support our small businesses. They drive our economy. That's not the discussion that the Revenue Committee had on this bill. I do not support Senator Smith's amendment. I believe Senator Coash has an amendment that deals with the Wyuka Cemetery, that if this amendment fails, we will move on to that. And I believe that will be a very helpful discussion and I look forward to that discussion, and possibly supporting Senator Coash as we move on and learn about that issue. We can't afford this. All of us know that. If the revenue forecasts are up, that doesn't mean that we can start passing bills like this to look for ways to spend that money. I don't often agree with Senator Nordquist, or maybe I do more than I want to admit, (laughter) but we do need to look at the cash reserve. That's been one of my concerns as I looked at the preliminary budget. I believe it's \$60 million, \$65 million that's in the cash reserve. If the forecast is up, I am supporting putting every dollar into the cash reserve. That's where that money needs to go. We need to put every dollar in that forecast to the cash reserve that will help us in the future in meeting the priority needs of the state. So to my good friend, Senator Smith, this is certainly not personal, but our understanding was that we would advance the bill, have the discussion as Senator Cornett was doing on the implications at the federal level, and how they affect us here at the state. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Fischer. Senator Conrad, you are recognized. [LB252]

SENATOR CONRAD: Thank you, Mr. President and good morning, colleagues. I also rise in opposition to AM1286 and LB252 for many of the reasons that have already been carefully advocated on behalf of by my colleagues, including Senator Nordquist, Senator Utter, and Senator Fischer. And I'll tell you, I'm heartened to hear the thoughtful commentary by both Senator Utter and Senator Fischer in terms of how this legislation made it to our agenda today, and some insight from the committee process because that, indeed, is always helpful. And it definitely takes a different posture and a different perspective when it is clear that this is meant to be for discussion purposes only. And I hope that, indeed, that is the intent of this morning's debate. Senator Nordquist and Senator Fischer both covered very well, I think, the implications related to the existing budgetary status and fiscal and financial realities and that was really where I wanted to make sure to spend the majority of my time and my comments. Looking at the fiscal note on LB252, and I think Senator Smith already indicated such, there is a significant revenue loss associated with this, colleagues. And that's something that we have to be very, very careful and considerate of as we move forward. No question, the Revenue Committee has a difficult job in sorting through the various and worthy legitimate proposals that come before them, and trying to balance those proposals, those requests for a tax relief from our citizenry with our economic reality and our revenue needs to take care of our critical human services. And again, since this is just for discussion

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purposes, I think it takes on a very, very different posture and tone, but each piece of legislation that we put forward, and particularly those with significant impacts on revenue and spending, needs to be looked at, I think, in terms of the priorities that we set as a state. And when you look at our tax code, it says what we incentivize, what we don't incentivize, and it does indeed make a lot of difficult choices. But even under these difficult economic climate, which I know brought with...caused many senators to pause for concern before bringing additional tax relief bills this year. I know it did for myself and many others just looking at the bottom line saying, it's the wrong time to move forward on tax relief bills this year for a variety of reasons. There were still some introduced and I was looking just at the subject index of the different bills pending before the Revenue Committee this year that's available on our Web site, and again, make no mistake, the Revenue Committee has a very, very difficult job in sorting through these different options. But in talking about priorities, if we were to give support to this amendment in this legislation, we in essence would be saying that we prioritize a tax break for tanning salons more so than we do for very worthy programs, like Senator Hadley's brought forward, a tax exemption for health clinics. I brought forward a bill this year to try and provide tax relief to qualified student organizations that are engaged in charitable endeavors. There was a situation that was brought to my attention by constituents at the University of Nebraska. A student group came together to raise money to...for relief in Haiti and had a dance. Well, they charged admissions to that dance and then were... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR CONRAD: ...thank you, Mr. President...then were subject to sales tax. And if there's anything we do in our tax policy, I think it should be to encourage our citizenry to engage in charitable endeavors. That definitely, to me, would be a higher priority than providing a tax break for tanning salons. So without getting into the pros and cons of whether or not tanning is good for you or bad for you, I think the research speaks for itself, and discerning consumers can make those decisions. But I do want to thank the Revenue Committee members who have spoken on this and made clear their position, and I look forward to hearing more about the debate. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Hadley, you are recognized. [LB252]

SENATOR HADLEY: Mr. President and members of the body. I concur completely with Senator Utter and with Senator Fischer. I'm a member of the Revenue Committee, and it was my understanding we were going to vote this out to have a discussion about broad tax policy and the role of the federal government in tax policy, so I'm going to follow through with my part of that commitment. And I'm going to talk about the role of the federal government impacting state tax policy. And I think that's a low road that the federal government is going down. If they're going to...we talked about this in the past. If

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they're going to start looking for revenue sources that crimp the state of Nebraska's revenue sources, I think that is an absolutely terrible way for them to go about it. I feel very sorry for the tanning industry. But folks, what happens if it's the fast food industry next year that they decide to put a 10 percent excise tax on? Are we going to help the fast food industry out or other industries that come down? This is an area that must be handled by our federal delegation to insist that the tax policy be as neutral as possible as far as the state and the state individual businesses are concerned. That was my understanding of why we're hearing this bill on the floor today, that's why we're talking about it today. If there was a different understanding, myself, Senator Utter and Senator Fischer, who sat in and talked about that understanding, must have heard something differently. Because I will guarantee you, at least for the three of us, would have not voted this out of committee without that understanding. So I ask for a no vote on both the amendment and the bill. And I would support Senator Coash's amendment that he is going to come up with later. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Hadley. Mr. Clerk, items for the record. [LB252]

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB283 as correctly reengrossed. Committee on Enrollment and Review reports LB305A, LB382A, LB384A, all to Select File. And Senator Conrad has an amendment to LB345 to be printed. (Legislative Journal pages 1287-1288.) [LB252 LB283 LB305A LB382A LB384A LB345]

SENATOR GLOOR: Thank you, Mr. Clerk. Senators in the speaking queue are Krist, Howard, Wallman, Cornett, Adams, Avery, and others. Senator Krist, you're recognized. [LB252]

SENATOR KRIST: Thank you, Mr. President and colleagues. Good morning, and as we draw near to our adjournment at noon, let me wish all of you a safe and happy holiday in this weekend. I, like many of you, have been lobbied on this subject and did a little research on my own. And the reason that we are here today talking about this is because in the eleventh hour we're trying to fund a healthcare reform act and literally in the eleventh hour, it was decided that the lobby for the botox and the cosmetic surgery folks was so strong, so very, very strong that that tax was not evenly distributed amongst those pharmaceutical luxuries, I guess, I'll call them. But, in fact, that the lobby for the health tanning industry was so weak that they should attach the 10 percent tax to it. I feel very bad, very sad for the tanning industry, not just because of what the federal government has done, but because of what we're doing inside the state in terms of the equitability of the tax. It is absolutely true that the same tanning bed used for different purposes in different places is taxed differently. Walk over with a prescription to a tanning bed and you're not taxed. Can I have a gavel, please? [LB252]

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SENATOR GLOOR: (Gavel) [LB252]

SENATOR KRIST: Thank you. I think it's important to understand that this isn't an inequity and that our internal tax revenue policy in the state needs to be looked at. If a tanning bed is a tanning bed is a tanning bed, and it comes from the same manufacturer, and has the same serial number on it, and it's being taxed at a different rate, because I want to versus I have to, then that's wrong. That's really where the revenue and internal taxation process in the state of Nebraska can help this industry. If you think about it, if you're using your combine in field A, you pay a 30 percent tax on it. But if it's in field B, you only pay a 10 percent tax on it, or you can depreciate it more if it's in field C. I'm trying to put that in an agricultural framework because that's what we've talked about most of the session to bring it home to an actual example of how unfair this tax is spread across the state of Nebraska and the United States. And what happens at the federal level when they need to fund something in the eleventh hour that they shouldn't have funded to begin with? My opinion. In my opinion, as someone we all love, used to say. But I have one more point to make on the mike today and I hope, I hope, I hope, that I don't offend anyone, but here goes. I submitted a resolution to the Executive Committee to go for a vote of the people to change the length of our sessions to 45 days and 60 days. And you know what? If we weren't voting things out of committee to talk about them on the floor, we might be more selective about what we talk about on the floor. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Krist. Senator Howard, you are recognized. [LB252]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I think most of us were here yesterday when LB84 was discussed and probably most of us were here the day before when it was discussed, a day and a half on Senator Fischer's bill on the roads. And there were those of you that voted to support that bill. Now if you can stand on this floor today and feel the right thing to do is to take almost a million dollars out of our revenue stream the first year, and over a million dollars out of our revenue stream the second year, what you're basically doing is undermining Senator Fischer's bill and making it all that much harder for her to work to get the funds that she needs for the roads. I just...we need to stop and look at how one thing we do impacts the other. Now make no mistake about it, I didn't vote for Senator Fischer's bill. Senator Fischer and I are close friends and I truly value that, but I don't believe we have the money to fund her bill. But I'm not going to be dishonest with her and say, I support your bill and yet I, you know, because I think this is a good idea, I'm going to remove this revenue stream. And I'm sorry, you're going to have even a harder fight to get that money. I think we owe it to Senator Fischer, we owe it to LB84, to be honest about these things. We can't give up this amount of revenue coming in. Maybe this is a good cause, I don't know. I don't use tanning beds. But I can tell you, and I mentioned it before, that my extended family has a service station in Benson in Omaha. And I know that there's a fee

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for disposing of your old used tires. You come to the station, you need new tires. Yeah, we're going to tell you, you need new tires. And we're also going to tell you when you leave off your old ones, it's going to cost you to get rid of them. Now everybody that drives a car, and that's probably all of us here, we don't like paying extra money to have something gotten rid of. We're not even going to use it anymore but we're going to have to pay for that. Now I'd say to you, there's a real good case for taking off a fee, a disposal fee. I can't go along with this. I'm not even going to get into the issues of how dangerous this is healthwise because I think if any of you pull up anything on the Web you're going to find out there's some real warnings about using tanning beds. You know, if you own a tanning company you can probably come in and say, this is for your health. I don't agree with that. I think it's a practice that really should be closely monitored and I have a lot of concerns about...especially teenagers using tanning beds. But aside from that, giving a special exemption to one group of people, nobody else, but one group of people, really goes against what we've tried to do in this body. Fairness is a big issue here. I can't support this bill. I am so surprised this even came out of committee. When I started down here 2005, one of the major things that I heard on the floor was, we need to let the committees do their work. That's not what happened in this case. I'm opposed to the amendment. I'm opposed to the bill with all due respect to Senator Smith. I'm not going to be voting for this and I really hope you all consider the impact this will have on revenue in the state and bills that we want to fund. I'm going to leave you with a closing thought. I went to Appropriations for a very small amount of money, \$250,000... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR HOWARD: ...thank you...which I wanted to see utilized in a way that would help moms who were coming off chemical dependency, drugs, alcohol, and yes, were into prostitution. Help those moms and keep those children with those moms, keep those kids out of foster care. No, we have no money. We have no money for that. We have no money to keep those women from going into jail, which is a dead end, and then back out on the street when they're released from jail. We have no money to keep those kids with them so they're not going into our foster care system, which is not where you would want a child of your own to have to be even for a brief period of time. It's so disruptive to that child's life. We need to send a message and that message is, no, on LB252. Thank you. [LB252]

SENATOR GLOOR: Thank you, Senator Howard. (Visitors introduced.) Senator Wallman, you're recognized. [LB252]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Senator Krist brought up an interesting thing, Senator Howard. Are we about...we're picking on the lower economic status here probably. Independent businesses try to make it on their own. Would Senator Schumacher answer to a question. [LB252]

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SENATOR GLOOR: Senator, would you yield? [LB252]

SENATOR SCHUMACHER: Yes. [LB252]

SENATOR WALLMAN: Thank you, Senator. Are you familiar with tax policy on medical things, medical issues? [LB252]

SENATOR SCHUMACHER: No, I'm no expert on medical tax policy. [LB252]

SENATOR WALLMAN: But if you called this light therapy, would it still be taxed, you think? [LB252]

SENATOR SCHUMACHER: Depends how close you were standing to the light. [LB252]

SENATOR WALLMAN: So there's, you know, like different venues you can use and stuff...thank you, Senator...different venues we can use to tax things or exempt ourselves from taxes. Our tax code is mighty complicated whether you're a farmer or business person. The better accountant you have, probably the better time you'll have with your taxes, hopefully. So Senator Smith, he took courage to bring this out, and the committee members also, and so we should thank him for doing this and the committee also. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Cornett, you are recognized. Senator Cornett waives. The Chair recognizes Senator Adams. [LB252]

SENATOR ADAMS: Thank you, Mr. President. Members, I'll keep this very brief. If you look on your computer you'll see that I was the one member of the Revenue Committee that said no. And as a result I feel compelled maybe to say something about that right now. Although, if you've been listening to those things that have already been said, it's been said. Can't afford it. Right or wrong, we can't afford it. I would tell you in my time on the Revenue Committee we hear 65, 75 bills a year, and you all know, I would guess, what the greatest percentage of those are. Exemption, exemption, exemption, sales tax exemption, income tax credit, something. And every one of those groups brings a very compelling argument. What's happening in the other states. The list goes on of all the arguments that they make. And particularly in the Revenue Committee as we have been anticipating this revenue, ugly revenue picture that we're in, there are times in the Revenue Committee it almost feels like we have this great big red button up there and we just keep hitting it because we can't give away revenue, and we can't. We also try very hard to look at tax policy when we make our decisions. I'm not going to take time at the mike and talk about federal healthcare, or whether these folks were treated fairly by federal healthcare, or somebody else or somebody else or somebody else. We can't afford this. The argument can be made, well, competitive advantage, competitive advantage. The health club may have a tanning bed in it, and we do charge

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an admission tax on, I believe, on that entrance fee to the health club. Competitive advantage. Is it...I guess what I'm trying to say is that if we were to grant this exemption, if we could afford it and we granted the exemption, we're next? Competitive advantage. Senator Dubas, I believe you've brought bills about sales tax exemption on farm parts because of border bleed. So do we start there? And then where and then where and then where? Competitive advantage. We can't afford it. They're in a bind. Other businesses are as well. And is it because of our tax policy, or because of the way that they've structured their business, or the way they're marketing their business? I don't know. We certainly can't fix all of those things from here. And certainly not in this context. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Adams. Senator Avery, you are recognized. [LB252]

SENATOR AVERY: Thank you, Mr. President. I heard on the mike a few minutes ago a comment that compels me to take an opportunity to speak. I believe it was Senator Hadley who said the Revenue Committee wanted a discussion of the role of the federal government in determining Nebraska's tax policy. Great. Let's have that discussion because there is a bigger issue involved in the federal government's tax policies that affect us and our tax policy. The Revenue Committee knows that because I took them a bill to deal with it. When Congress last December passed a new tax law to extend the Bush tax cuts, they included in that bill a feature called a bonus depreciation. Now what that means is that businesses that buy equipment this year can completely deduct or depreciate all of the costs of that, 100 percent in one year. Because Nebraska's tax policy is coupled with the federal tax policy, that costs Nebraska \$63 million, \$63 million. I had a bill before the committee that would have decoupled Nebraska from that depreciation feature. And we could have had a debate in this body about \$63 million, not a \$800,000. We're trying to close a budget gap of a billion dollars or nearly a billion dollars and we let the federal government tell us without any debate in this body, without any discussion at all, tell us that we're going to have to adopt a bonus depreciation that will cost us \$63 million. Well, folks, the committee indefinitely postponed that bill. We don't get to have that discussion but we discuss this one. That doesn't make any sense to me. Now I've got it off my chest, so I will yield the rest of my time to Senator Coash. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Senator Coash, 2 minutes 27 seconds. [LB252]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Avery. Colleagues, we've had a good debate so far on tanning and tax and the federal government. I've got to shift the debate a little bit. You're going to notice two amendments that I filed to this bill having to do with Wyuka Cemetery, which is the cemetery here in Lincoln, but it is not Lincoln cemetery, it is Nebraska's cemetery. There was a response from the Attorney General, from the trustees at Wyuka saying that they are...although they are a

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state agency and they are a nonprofit agency, they do not have a tax exempt status. They've never paid taxes, but we need to clarify in the law that they don't have to moving forward. So I have two amendments filed, colleagues, and please listen carefully because how these amendments go is going to depend on how we vote on Senator Smith's amendment. And what I'm going to ask my colleagues to do is this. If you think LB252 is good policy, vote for this amendment. If you think LB252 with or without the amendment is bad policy, vote against this amendment. We need to know where we are on this and the two amendments that I have filed... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR COASH: ...thank you, Mr. President...one guts LB252 and inserts the tax exemption for Wyuka, one adds to it. However the body decides to go with this bill, I'm going to implore the body to add my bill on to this. So I'm going to ask my colleagues, how you're going to vote on this bill, vote on the amendment so that Senator Cornett will understand where she is on this bill so we can move forward in that way. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Coash. Senator Smith, you are recognized. [LB252]

SENATOR SMITH: Thank you, Mr. President. I'm glad that I'm able to stand back up one more time before the session ends for the day. It looks like we're going to continue this likely next week, but...given that the Speaker wants to be out here by noon. But I just want to clarify and I do appreciate the...I very much value the diversity of thought and ideas. And the thought and ideas that have been exchanged, even on this...on my amendment and on this bill. And I just want to be very clear to my colleagues on the Revenue Committee, and I'm hoping that Senator Fischer and Senator Hadley and Senator Utter and other members of the Revenue Committee are present in the Chamber so they hear this. I concur with them entirely and I think that they've been very consistent in what they've communicated that they were willing to allow this bill out of the committee to be able to have the discussion on the floor, and have the discussion on the floor about the effects of federal mandates. And I really very, very much appreciate them doing that. And my purpose was to put a personal face on the impacts of these heavy-handed federal regulations on businesses today. I'm a small business owner. I know many of you in this room are small business owners. Maybe it's ag industry, maybe it's banking, but small business today and business today is under attack. And my purpose in bringing forward this amendment, and prioritizing this bill, was to be able to put a personal face on what this is doing to our country. If we do not stand up and protect the interest of our private sector, we will not have the funds to provide for the social services that we vote on day in and day out in this session. I appreciate what my colleagues have said here today and have exchanged. I appreciate very much the Revenue Committee and what they have said. I believe they've been

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good to their word and I concur with everything they have said. I do not disagree one bit with what they have said, but at some point we have to stand up and protect our private sector. Without the private sector we cannot fund government. Please, colleagues, keep that in mind as you consider other legislation in days to come. I appreciate my colleagues that are consistent in their votes in the way they think through these issues, particularly those that are fiscally minded. Those members of the Revenue Committee, I believe they have been consistent throughout this session in the way they have voted and the way they have stood up and spoke. And I want to be the same way. I want to be consistent that I am an advocate for the private sector and for business today. Thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Smith. (Visitors introduced.) Senator Pirsch, you are recognized. [LB252]

SENATOR PIRSCH: Thank you, members of the body. I'm a member of the Revenue Committee and I supported bringing this issue before this body here today, not just for the purpose of a general discussion of federal tax policy, in particular the inequities of such, but I believe also as a matter of good process. With respect to procedure, I feel strongly that each elected official in this body, notwithstanding the need for committees to generally act as a filter, we have 800 bills that are introduced each year, it would be impossible timewise for each one of them to be debated here on the floor in front of us, all 49 of us senators. Notwithstanding that, I think we should be able to bring at least one heartfelt idea actually to this floor for consideration, a chance for that concept to be heard in this body, whether it actually is viewed as a good idea, or by the body as a whole, or whether it turns out to be a bad idea and is rejected by the body as a whole. You cannot have a marketplace of ideas unless and until those ideas have a chance to be presented. And so, you know, Senator Cornett has introduced this bill, and Senator Smith feels so strongly about it that he has used his one and only priority designation on this bill. Obviously, he was elected by the people of his district and so I think it's altogether right and proper that we do have this discussion here today in front of the body as a whole. And so I do recognize a lot of the issues and problems that have been spoken of earlier here today with respect to the ability of the state to go about rectifying unfair treatment that the federal government imposes. And that is worthy of debate and consideration, and so I look forward to having further discussions as we start back next week as well, and I thank you for your time. [LB252]

SENATOR GLOOR: Thank you, Senator Pirsch. Senator Coash, you are recognized. [LB252]

SENATOR COASH: Thank you, Mr. President. Almost lunchtime, members. (Laughter) We're going...looks like we're going to take a vote on Senator Smith's amendment before we adjourn for today, and I want to talk about that here in a moment. But I do want to talk about my upcoming amendments just so the folks have a clear

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understanding of what is coming. It looks like it will be next week. Wyuka Cemetery, which is here in Lincoln, is not a Lincoln cemetery. It is a state cemetery. It is controlled by five trustees who are appointed by the Governor. These trustees report Wyuka's employee retirement plans to the retirement board. They file annual receipts and expenditures with the executive branch and my amendment will clarify that they are a tax exempt organization as they are both a state agency and a nonprofit agency. Wyuka was created in 1869 and is the property of the state. They provide many free services to citizens across the state including free burial space for any veteran, free burial space for babies. It is a state landmark and has a lot of historical elements to it. It is not funded with state tax dollars. Income from burials, funeral services and goods, such as urns and caskets, fund Wyuka, and income from the facilities. Wyuka is very similar in the way it is structured to the Nebraska State Fair Board. My amendment...both of my amendments clarify that they can continue to not pay taxes. And I want to be clear for my colleagues. They've never paid taxes so we're not...we're not saying you were tax exempt...or you weren't tax exempt and now you are. They never pay taxes. This is clarification language. Colleagues, I want...it's very important for those two amendments. We're only going to do one of them that we make a clear policy decision on Senator Smith's amendment. I would ask my colleagues if they're supportive of the concept of exempting tanning services, that they vote for Senator Smith's amendment. If you're not supportive of exempting tanning services, don't vote for that because we need to have clarity as to how this body wants to move forward. If it's going to move forward, we need to have that clarity. Thank you, Mr. president. [LB252]

SENATOR GLOOR: Thank you, Senator Coash. There are no senators remaining in the queue. Senator Smith, you're recognized to close on your amendment. Senator Smith waives. Members, the question is, shall the amendment to LB252 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who wish to? Record, Mr. Clerk. [LB252]

ASSISTANT CLERK: 7 ayes, 17 nays on the adoption of Senator Smith's amendment. [LB252]

SENATOR GLOOR: The amendment fails. [LB252]

ASSISTANT CLERK: Mr. President, the next amendment I have is from Senator Coash. Senator, AM1112. [LB252]

SENATOR GLOOR: Senator Coash, you're recognized to open on your amendment. [LB252]

SENATOR COASH: Thank you. I would like to withdraw that amendment. [LB252]

ASSISTANT CLERK: In that case, Mr. President, Senator Coash would offer AM1097.

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(Legislative Journal pages 1288-1291.) [LB252]

SENATOR GLOOR: Senator Coash, you're recognized to open on AM1097. [LB252]

SENATOR COASH: Thank you, Mr. President. Good afternoon, once again, colleagues. Stand by. [LB252]

SENATOR GLOOR: Mr. Clerk. [LB252]

ASSISTANT CLERK: Mr. President, just some items to print. Senator Coash, we'll print your amendment, AM1097. Name adds: Senator Krist would like to add his name to LB575; Senator Pirsch to LB137, and Senator Pirsch to LB575. [LB252 LB575 LB137]

And Mr. President, a priority motion. Senator Lautenbaugh would move to adjourn the body until Tuesday morning, April 26, at 10:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until Tuesday at 10:00 a.m. All in favor say aye. All opposed say nay. We are adjourned.