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Floor Debate
March 18, 2013

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PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-fourth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Reverend Stephanie Ahlschwede of the United Methodist Ministries, Omaha, Nebraska, a friend of Senator Crawford. Please rise.

REVEREND AHLSCHEWEDE: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you. I call to order the forty-fourth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, Your Committee on Health and Human Services chaired by Senator Campbell reports LB344 to General File with committee amendments attached. That's all that I have, Mr. President. [LB344]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB613, a bill originally introduced by Senator Schumacher. (Read title.) The bill had originally been referred to the Executive Board, reported to the floor with committee amendments attached. Senator Schumacher opened on his bill. Senator Wightman presented the Executive Board committee amendments. Those amendments are pending. I do have other amendments to the bill, Mr. President. (AM467, Legislative Journal page 664.) [LB613]

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PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Senator Schumacher to summarize LB613 and refresh us. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In brief summary of LB613, LB613 is a proposal to form a Tax Modernization Committee to review the present mechanisms of taxation in the state of Nebraska and to modernize them where applicable. It will look at all areas of taxation: sales tax, property tax, income tax, occupation tax, and the various iterations of exemptions, credits, stimulus, and other things associated therewith as a matter of tax policy. The proposal, as it is under consideration for amendment, will include all members of the Revenue Committee, Chair of Appropriations, Chair of Health and Human Services, Chair of Education, Chair of Agriculture, Chair of Planning Committees. It's to meet as often as necessary in order to achieve its objectives. Originally one of the mechanisms of meeting was to include a state summit of some nature. That requirement, as I understand it in the amendment that's being proposed, is not mandatory but discretionary. It will look at six elements in grading the tax system: fairness, competitiveness, simplicity and compliance, stability, adequacy, and the interrelationship of the various components of the tax system. It will engage the public in a variety of ways so that there's full public disclosure, input, and transparency. It will report at the end of this year after doing its study and taking due note of prior studies and analyses done by the state of Nebraska in this area. The committee finally will, as proposed, also identify areas of concern that require further in-depth analysis and study. That's a brief summary, Mr. President, of LB613. Thank you. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Schumacher. Senator Wightman, if you would like to refresh us and summarize the committee amendment. [LB613]

SENATOR WIGHTMAN: Thank you. The committee amendment does rewrite the bill, change the intent language, change the membership of the committee so that it's made up primarily of the Revenue Committee with only one person from five other committees that would be the chairperson of that committee. Revenue Committee would serve...the Chairperson of the Revenue Committee would serve as Chairperson of the Tax Modernization Committee. We changed language regarding fairness language. The committee amendment strikes the specific requirements in the original bill that dictated just how the public would be engaged as a part of the study process by striking this language: The Chairperson of the Tax Modernization Committee will have flexibility in deciding how best to solicit public input. Section 6 of the bill adds new language clarifying that the Tax Modernization Committee has the authority to administer oaths, issue subpoenas, compel attendance of witnesses which they did not have under the original bill. In addition, the preliminary report required in the original bill is deleted. And finally, that the committee will continue to meet as necessary until December 31, 2015, and it would sunset at the end of 2015 unless reauthorized. It also adds the emergency clause. Thank you, Mr. President. [LB613]

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PRESIDENT HEIDEMANN: Thank you, Senator Wightman. Mr. Clerk, are there amendments to the committee amendment? [LB613]

CLERK: There are, Mr. President. The first amendment I have this morning to the committee amendments is by Senator Chambers, FA28. (Legislative Journal page 745.) [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, you are recognized to open on FA28. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, for the record I want to state what this amendment would do. It is very simple. On page 1 of the committee amendment, in line 4 I would strike the word "constantly" and insert "continually." The word continually means intermittently. On that same line, we have the word continually utilized and it's in this context, "requiring the need to continually review and update." So the tax...the economy is what is continually changing. So I would put the word "continually" in the place of "constantly." I think from what I had said last week it's clear that my intent is to take time talking about this bill, talking about some of the background shenanigans associated with it, the status of the Legislature, and the nature of the struggle between the Governor and the Legislature on this bill, what this bill deals with. This bill is not needed in order for the Legislature to conduct such a study. I'd like to ask Senator Wightman a question since he is the Chairperson of the Executive Board. [LB613]

PRESIDENT HEIDEMANN: Senator Wightman, will you yield? Senator Wightman, will you yield? [LB613]

SENATOR WIGHTMAN: Yes, I will. [LB613]

SENATOR CHAMBERS: Senator Wightman, the Legislature could conduct a study such as this without legislation. Is that true or is that false? [LB613]

SENATOR WIGHTMAN: Well, I would guess it's true that we could. We could do it probably through a committee other than the committee...the Executive Committee. [LB613]

SENATOR CHAMBERS: And a resolution could be offered which would have the same basic information that this statute has by way of giving direction as to how the study would undertaken. Is that true or false? [LB613]

SENATOR WIGHTMAN: Well, my opinion is that is true. However, without any legislation it would be far less likely that that would happen. [LB613]

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SENATOR CHAMBERS: This is...thank you, Senator Wightman. Members of the Legislature, this is done for a purpose with which I agree. That purpose is to demonstrate to the executive branch that the Legislature is an independent branch of government. That the issue of whether or not the taxing structure of this state will be revamped is a legislative prerogative. The Governor can recommend. The Governor can suggest. The Governor can even have people introduce legislation for him. But the final decision rests with this body in disregard of what the Governor may want. But we know that the Governor wields influence in any legislative assembly. I'm going to paraphrase Lincoln: Now we in this Legislature are engaged in a great civil struggle, testing whether this Legislature or any Legislature so conceived and so dedicated to the representation of the people can long endure when a Governor may choose to undermine or weaken that mission. I don't want to see the Legislature weakened. I'm going to do all I can to enhance its image as a tough, determined branch of this tripartite system of government. The Legislature is not coequal. The Legislature has paramountcy. The Legislature is the dominant branch. The Legislature enacts laws that will govern the other two branches in every area of their operation other than those set aside strictly by the constitution to be controlled by the judiciary or by the executive, respectively. We control the purse strings. The hand that feeds controls. The Governor cannot order us to appropriate money. The Governor cannot order us to pass his budget. He must use persuasion and political muscle. He must use intimidation. He must use political threats. He must use everything in the political arsenal of one side of a question as opposed to the other side of the question when you're trying to make your view prevail. In this apocalypse in a teacup about looking at revamping the tax system, I am not going to get caught in the little crossfire that has developed. My bill is suffering. When my bill suffers, I suffer. That should make you all happy so when you start killing my bills you think you're hurting me. But I can give a bone every now and then. That Revenue Committee wronged me. I do not brook wrongs patiently or with a forgiving spirit. You know what I say about the Governor's Office and the Legislature as speaking through the Revenue Committee? If I said something in the way that religious people do, there would be shock and horror because those words would be used on the floor of the Legislature. But since they are not a part of my active vocabulary, I will resort to literature, the bard: A plague on both of your houses for they have made worms' meat of me. You've heard the part about a plague on both of your houses, huh, but you didn't hear the other part and you don't read. So now I'm telling you what the rest of it is. They're not going to make worms' meat of me and get away with it. What we can do is carry on in the spirit manifested by the Revenue Committee. Bring those bills to the floor which would grant sales tax exemptions for special interest groups which are favored or which can muscle enough support on the floor to win and forget all of this smoke blowing about the modernization...a taxation modernization commission. That can be done because maybe nothing will result from it anyway. After the conclusions are drawn, after very careful analysis of all of the available data, nothing has to happen from it. Aesop I believe it was who talked about the mountain that rumbled and trembled and

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shook the whole island and people were terrified. Then the mountain gave birth to a mouse. There will be all of this smoke, all of this fire, all of the lightning and the thundering and nothing will happen. However, on the way to that bit of futility the Legislature has the opportunity to assert some type of authority, as it should. And whether the Legislature collectively as a body will stand up for the prerogatives of the Legislature, I shall because I'm a member of it. That's why John Donne said every man's death diminishes him because he is a part of humanity. No man, therefore, is an island. Each is a part of the main,... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...the mainland. You're part of humanity. So what happens to anybody is relevant and of concern to you. This amendment...I'm going to take a vote on it I think when I get there or maybe I won't. That's a good thing about being grown and not intimidated by anybody. You can do whatever, as the Beatles said, whatever you're big enough to do. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Dubas is handing out treats to celebrate the birth of her new grandson. Thank you and congratulations. Senator Krist, you are recognized. Excuse me, Senator Chambers, you are recognized. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. This is an opportunity to discuss the merits of this bill, if it has any merits, but whether you want to take the time as a body to discuss this bill, which some people feel is very important, you can do whatever you want to do obviously. But I like to remind people. I'm going to take the time that I should, in my mind, take in order to get my pound of flesh. And that came from one of Shakespeare's tales also, but I won't take the time to discuss it. When a point is reached where a collection of people exists and the glue that would hold that group together is either trust or it's based on trust, that trust must be maintained intact. I don't trust anybody on the Revenue Committee. Why shouldn't I say it if that's what I mean? I want it clear what I'm saying and why. I want it clear that this confusion, this chaos that came out of the Revenue Committee, as Rudyard Kipling said, like thunder across the bay, the sun rose up like thunder on the road to Mandalay. That's where that came from. "The dawn comes up like thunder." It came out of that committee like thunder 'cross the bay. People were amazed, they were stunned, they were shocked, they were astonished, they were horrified, they were mortified, and I was infuriated. If they hadn't placated all these other groups who were not a part of the Legislature and left my bill as the only one languishing, you wouldn't even have this discussion. Do you know why? Because I would have concluded that the Revenue Committee was serious when it talked about dealing with legislation that would do a comprehensive study by way of a Tax Modernization Commission. But they're going to give everybody else something and then give me the back of the hand. Why, they must be crazy if they think I'm going

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to go along with that. And if they didn't know it was crazy, they're going to know it was by the time I get through. They're the ones who created the situation that exists here today. If somebody or the majority in this body don't like duels and I'm walking down the aisle minding my own business and somebody comes up and slaps me and I say, you want a duel? Choose your weapons and everybody else says, oh, don't have a duel. We don't like duels. Then he shouldn't have slapped me. But I'm going to respond. And I'm not going to be silenced because I have some chickenhearted colleagues on this floor who will mumble and mutter and grumble and then not bring it out on the floor where we should. The public has a right to know what is moving and motivating us. It should be a matter of public record. When you're running for office, you don't mind going out there and telling all these false promises that you make to the public. But when time comes to deal in a forum where you've been elected to deal, you're going to sit quiet or mumble out in a corridor somewhere. I don't do that. When I ran for reelection, I didn't beg for votes. I didn't want the aggravation of all that paperwork, so I did not organize a campaign committee. I didn't have a campaign chairman. I didn't beg for money. I didn't do any of that. And people were concerned... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...about whether I'd be reelected, said that there are some things I should do because all politicians do. I said, well, I'm not all politicians. I'm Ernie Chambers. And as Frank Sinatra say, I'll do it my way. And if my way is not good enough, then it's just not good enough. But I'm not going to change and I'm not...look around this floor. Who on this floor should I be afraid of individually or collectively? And that's the only thing that makes the cat get people's tongue, they are afraid. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Wallman, you are recognized. [LB613]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Revenue, appropriations, it takes money to run a state. And would Senator Hadley answer to a question, please? [LB613]

PRESIDENT HEIDEMANN: Senator Hadley, will you yield? [LB613]

SENATOR HADLEY: Yes, I will. [LB613]

SENATOR WALLMAN: Thank you. Senator Hadley, have you looked back when sales tax was first put into place how many exemptions there were then? [LB613]

SENATOR HADLEY: When it was first employed? [LB613]

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SENATOR WALLMAN: Yes. [LB613]

SENATOR HADLEY: Specifically looking at individual items, no. [LB613]

SENATOR WALLMAN: Okay. Thank you. I think there lies part of the problem, and I sponsored some legislation as well. And this weekend I talked to some people about exemptions. And some of these people were very willing to give up their exemptions if we cut the rate. And we should be able to if we do away with exemptions, and this was a nursing home administrator. So where are we going with this? We had definitely...we should put something on the floor, maybe we do shift some taxes because all we're ever doing in here is shifting. We're shifting to here and there and everywhere and it should be brought to the light, where are we going? A study sometimes does absolutely nothing and sometimes it does perform. So hopefully we get somewhere with this and it's a meaningful bill. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Is anyone else wishing to speak? Senator Chambers, you are recognized. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, what you ought to do is what you have the power to do and that's conduct this study without legislation. Nobody can stand on this floor and tell me why you need legislation to do this. There are some so-called conservatives who talk about the government having...consisting of too much bureaucracy, unnecessary spending, fat and waste in the budget. Is this study going to cost any money? I don't know. I don't even look at...they call them fiscal statements because that's not ordinarily what determines whether something like this will be voted in favor of or not. But the issue that exists between the Governor and the Legislature is based on pettiness. The Governor offered two bills. They were to do away with sales tax and just keeping income tax or do away with the income tax and keep a sales tax. Shows how little attention I paid. But in either case, it made no difference. The main...the only two sources that count for this state to derive revenue would be sales tax and income tax. So for the Governor, without having done any researching to bring a bill, it seemed like he was being irresponsible. But I told you all how that happened. He was kibitzing and made the suggestion and somebody took it seriously, so he said, then I'll offer the bill. They're so dumb over there. Give them anything. They'll run with it. Then some of his best friends who had supported him turned on him in midstream, and they said, we don't want this. We don't want this. And the politics began to come into play. The Governor, being a pragmatist, not wanting to be bloodied, knowing he had no chance to get the thing done in the way he wanted, told his water carriers, pull the bill. And his legislation that was proposed was pulled. His feelings were hurt. There are some in the Legislature who, for one reason or another, have their little feelings hurt. So now the hurt feelings in the executive branch and the hurt feelings in the legislative branch have resulted in the Legislature being made to look foolish again. How was the Legislature made to look foolish? I've said it but I'll say

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it again. The committee that addresses revenue matters for some reason lost its way. They dealt with Senator Schumacher's bill that was designed to create this commission. The matter was presented to the Executive Board, of which I'm a member, because any bill that deals with the internal operations of the Legislature will be heard by the Executive Board. That's how it got to the Executive Board instead of the Revenue Committee. It relates to the activities and functions of the Legislature. So not knowing that I was going to be stabbed in the back when time came to advance his bill, Senator Schumacher's bill, to the floor, I was one of those who voted yes. Had I known the skullduggery that was going on or that would go along, I would have voted no. There still would have been enough votes to bring it to the floor. But my position would not have been one of seeming to support a bill which now I am adamantly opposed to. [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: I'm adamantly opposed to the bill because it is the vehicle by which I am to be dealt with in a very dishonest, underhanded, sneaky, cowardly fashion. And I am responding in the way that you should come to expect me to respond when I'm dealt with in that fashion. I never have a lot of company along with me. I don't expect to have it because I will deal with issues that require being dealt with but which nobody else will deal with or people are very reluctant to deal with. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Conrad, you are recognized. [LB613]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I'm glad to continue the debate on LB613 this morning. And over the weekend really two primary areas of concern continued to concern me as I prepared for debate this morning. And I was hoping that Senator Schumacher and then, if we have time, Senator Chambers might answer some questions. But if Senator Schumacher, the primary introducer, would yield, I'd appreciate it, please. [LB613]

PRESIDENT HEIDEMANN: Senator Schumacher, will you yield? [LB613]

SENATOR SCHUMACHER: Yes. [LB613]

SENATOR CONRAD: Thank you, Senator. If you could briefly or as much time as you may need because I think we'll have it this morning, could you distinguish for this body what about this revenue study is different than previous comprehensive attempts or resulting studies in years past? [LB613]

SENATOR SCHUMACHER: There was three major studies in the past that have

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followed somewhat extraordinary paths in that they were just not conducted by the Revenue Committee. And those three studies, some of them went someplace and some of them did not. Some were cheap and some were very expensive. And it became pretty apparent I think if you look at revenue issues that a lot has changed in this country since our current three-legged stool of property taxes, sales taxes, and income taxes was constructed in the late 1960s. We are a highly service-oriented economy. We are a very mobile economy with people having the ability to move either their plants or their offices or themselves easily across state borders. State governments have begun to engage in the sort of almost a competition to the bottom in trying to outdo each other's ability to raise revenue. A lot has happened. And as that happened, we incrementally took exceptions and made adjustments and gave credits and deductions and incentives and that probably overly complicated our tax system and also may have made it unfair and uncompetitive. And it was something more than you could expect to be handled just in an interim study or a traditional activity by a committee. Furthermore, as we all know, any revenue decision, any attempt to alter the way we collect revenue or its predictability has dramatic effects on education, on human services, on what kind of money the Appropriations Committee can come up with, and on agriculture. So it is very important that our best resources in this body, represented by the Chairs of those respective committees, be part of the discussion of an overhaul of the revenue system, should it appear that one is absolutely necessary or even desirable. And also the Planning Committee represented by Chairman Harms has done a great deal of work trying to project out where our economy is going and what it might look like over the next 50 years, certainly an important member of this. So while theoretically, yes, the Revenue Committee could do a study, an interim study like so many that committees do; while the Legislative Council could convene all of us together and maybe should, in fact, that's part of... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR SCHUMACHER: ...this particular proposal that at least the Legislative Council be involved on one occasion. All these things could be done. A more formal approach, a more organized approach with a clear mandate from this body that is able to command far more attention from the media, far more attention from the public than what otherwise might be from a simple committee study. That type of extraordinary effort once every 50 years or so is called for and hopefully will put this state on a track of a good tax policy, in spite of the fact that we all hate taxes. [LB613]

SENATOR CONRAD: Very good, thank you, Senator. I appreciate that. And I did hit my light again because I anticipated that this may take a little bit longer than the original light. But I was hoping that Senator Chambers might yield to a question, please. [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, will you yield? You are up next in the queue, Senator Conrad. You can continue if you wish. [LB613]

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SENATOR CONRAD: Oh, thank you very much, Mr. President. [LB613]

SENATOR CHAMBERS: Yes, I will yield. [LB613]

SENATOR CONRAD: So I am on my second light at this point in time. [LB613]

PRESIDENT HEIDEMANN: Yes. [LB613]

SENATOR CONRAD: Okay, very good. Thank you for the clarification. Senator Chambers, as this body's senior member, are you surprised that the individual members who introduced the Governor's tax legislation and who prioritized different tax legislation have yet to weigh in on the debate regarding LB613? Does that fit with past practice of the Legislature or is it different from years past? If you'd like to respond, I'd appreciate hearing that historical context. [LB613]

SENATOR CHAMBERS: These things...the answer to your question is one that would not be answered categorically yes or no. It would depend on the circumstances existing at the time. If a person brings a bill about which there is a lot of confusion, consternation, or controversy, that person may not want to get into a discussion on a bill such as this. I cannot tell because I haven't been here, and I don't know these new people very well, long enough to know why they're not talking now. I have my own views, but I will give them as I proceed with my discussion, not in answer to your question. It just varies from issue to issue, session to session. But there is a reluctance on the part of many people, just speaking generally, to get involved in a matter that has become very controversial by virtue of issues that are collateral to that issue rather than directly on point. [LB613]

SENATOR CONRAD: Very good. Thank you, Senator Chambers. And with that, I'd yield the remainder of my time to Senator Chambers. [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, 3:18. [LB613]

SENATOR CHAMBERS: Thank you, Senator Conrad. Thank you, Mr. President. I think, and I don't blame them, that the body has decided they'll just wait me out. They'll see if I can talk for eight hours, but I only have to go two hours, well, not even two hours today. And if they want to give me eight hours on one amendment, then they're not going to get to vote on the bill anyway. Or by the time they vote on it, I will have gotten more than my pound of flesh. I will have gotten some internal organs. I will have gotten some arteries, a vein or two. I won't talk about a brain because I don't know if those are operational enough for me to want them. They don't serve the current owner that well so why should I take something that the owner doesn't even make use of or have confidence in? Not only will I get those organs, I may get some bones too. And, Senator

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Scheer, you know that the foot bone is connected to the anklebone; the anklebone is connected to the leg bone; the leg bone is connected to the knee bone; the knee bone is connected to the thigh bone; the thigh bone is connected to the hipbone; the hipbone is connected to the backbone; then flaring out from the backbone would be the rib bones; then you get to the shoulder bones or the scapula or the clavicle or the humerus or the radius or the ulna or the wrist bones or the flanges, otherwise known as fingers; then the neck bone, then the crowning bone of all, the head bone. Maybe I'll get all of that, but whether I get that or not, I'm going to get my time. And what ought to be discussed is why those bills that run counter to that study idea have been advanced by that committee. But you all are not going to call them to account. You're not going to ask the questions. You know why? Because you know that I will. And I will lift the heavy end of the log. I have stated that I'm concerned about the Legislature's image and how it conducts its business. And you all know that I will do what needs to be done if you won't because I'm the garbageman,... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...the trashman. I do all the things that nobody wants to do but which need to be done. And I'll do it. [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: And as we proceed, I'm going to ask the Chairman of the committee if he knows why his committee advanced those bills and let him tell us in his own words or determine that he's not going to answer the question or say that he doesn't know what's on anybody's mind when they vote a certain way. But I will ask him because he said, criticize him but don't criticize the committee because they're doing a good job. Well, it didn't take only his vote to put us where we are; it took the committee's vote. So I'll criticize the committee, but I'll ask questions of individuals. Thank you, Mr. President. Thank you, Senator Conrad. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers and Senator Conrad. (Visitors introduced.) Senator Carlson, you are recognized. [LB613]

SENATOR CARLSON: Mr. President and members of the Legislature, I want to make a statement here and then I'm going to ask Senator Schumacher if he would yield to a question. I think in tax policy in the state of Nebraska we would all agree that it needs to be as fair as possible, and fairness is difficult to come by. The tax policy should be as reasonable as possible. I think it ought to be as predictable as possible. I think our tax policy ought to be as easily understood as possible. I believe that our tax policy has to consider the policies of other nearby states. And I think our tax policy should have stability so interested parties have an idea of where we are, how long we're going to be there, and it enables those that have a concern about the tax policy of the state to plan

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ahead. And with that, I'd like to address a question to Senator Schumacher if he would yield. [LB613]

PRESIDENT HEIDEMANN: Senator Schumacher, will you yield? [LB613]

SENATOR SCHUMACHER: I will. [LB613]

SENATOR CARLSON: Senator Schumacher, in the statement of intent it reads that "the Tax Modernization Commission, the purpose of which is to continually review and recommend updates to Nebraska's tax code." Do you agree with some of the things that I've said that should be part of a tax policy in terms of stability and so forth? [LB613]

SENATOR SCHUMACHER: I do. [LB613]

SENATOR CARLSON: Then how do we deal with something that is "to continually review and recommend updates," and I think another word for updates is changes? [LB613]

SENATOR SCHUMACHER: Could you clarify your question as to... [LB613]

SENATOR CARLSON: Well, we both agree that stability is important so everybody understands it so we can plan ahead. A new business wants to come into Nebraska, they kind of know what to expect. An existing business in Nebraska wants to expand, they know what to expect out of the tax code. And then we change it and it upsets the applecart. So in the statement of intent, "the Tax Modernization Commission, the purpose of which is to continually review and recommend updates," that doesn't sound very stable to me. [LB613]

SENATOR SCHUMACHER: The original statement of intent reflected the original bill. And the original bill had this commission as an ongoing body in which they would sit back and monitor the situation so that as things began to develop and as responses were needed it could make appropriate recommendations. The amendment that is before us now does not have the continuing nature of this particular commission. In fact, it requires a report very quickly and then basically at the end of the second year, unless otherwise designated, the commission scales back its activities and, I believe, may even be eliminated. It shall continue until December 31, 2015. So basically, I think the modification made by the Executive Board is consistent with the point you're making. [LB613]

SENATOR CARLSON: All right. Thank you, Senator Schumacher. And I think there are existing businesses in Nebraska that are on hold right now. There are businesses that have given some thought to coming to Nebraska that are on hold or maybe they've decided to go elsewhere. But these are real concerns, and even going to the end of

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2015 is quite a period of time that I don't think we're going to see much development. So I appreciate your answer and certainly I know when we get an amendment that becomes the bill and it changes we don't have a statement of intent really to go along with it. But I think as this discussion moves forward we all need a better understanding of that. Thank you. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Carlson. Senator Hadley. [LB613]

SENATOR HADLEY: Mr. President, members of the body, I just want to give you a few things about the Revenue Committee this year. It's interesting because every bill that impacts revenue has a hearing on this floor. If it gets out of committee, it has a hearing. Every senator gets to press one of these buttons on it. So you ultimately have the final say-so like you do on all committees of whether or not we did the right thing, whether or not we did the right thing. It makes it sound like we have just spent our time kicking out bills. We...to my rough estimation, we kicked out 6 bills out of 85 that had a fiscal note on them. We kicked out 6 other bills so we kicked out about 12 out of 85 bills. I don't think that's a huge amount. I don't believe that that's like a drunken sailor. I think we did look at each individual bill. Now you can argue and say you shouldn't have done anything. I think I'm hearing that on the floor. Let me give you an example. If we decide to look at the appropriations process, would we stop all appropriations for the next year, all increases in appropriations for the next year? Do you want to stop TEEOSA increases next year if we look at appropriations? I just think I spent Friday on the floor explaining the six bills that all had a fiscal note and why I felt it was appropriate for us to push them out. Now you don't have to agree with that, and you will get very much a chance to push a red button. You could push a red button at the very end also. Like any other bill that comes to this committee, you could push a red button. Three of the bills have fiscal notes that are a year after next. I can't tell you what each of the introducers was in their mind. I can tell you what they told us. I can certainly defend the bill I brought. One of those bills is my bill, LB296, the College Savings Plan, that increases and helps Nebraskans put away money to try and save for their children to go to college. I will defend that. I will let the rest of my committee members, if they want to speak to why they felt their bill was important, why they felt their bill should have been prioritized, I would ask them to stand up and speak. Just for you...for me to stand and talk on someone else's bill, all I'm giving you is my idea as one of eight on that committee. I did that Friday. I talked about each of these six bills on Friday. I don't know whether you were paying attention or not, but I did talk about them. And I think you need to take that into account. If you think we didn't do a very good job, you get a chance to tell us that in the way you voted, just the way we tell every committee in here. If we don't think Appropriations does a good job, you can blow up the Appropriations bill on the floor. [LB613 LB296]

PRESIDENT HEIDEMANN: One minute. [LB613]

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SENATOR HADLEY: You will get your chance on every one of these bills. With that, thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Hadley. Senator Conrad, you are recognized and this is your third time. [LB613]

SENATOR CONRAD: Thank you, Mr. President, and good morning, colleagues. I'm glad I had a chance to visit after Chairman Hadley's, Senator Hadley's comments. A couple of points for clarification: I think that this discussion is not about good or bad. I think that's a simplistic synopsis of where we're at. The question that myself and other senators are asking is please provide a policy explanation as to consistency when considering this legislation. That's it. It's not a trick question. And I wholly, wholly concur with the Chairman that the rest of the committee has some explaining to do as well in regards to this vote. He has one vote on the committee. It doesn't just fall on his head. And I'm surprised that other members have yet to provide a policy explanation as to this consistency question that I continue to ask and I continue to await a response to because, again, it's not getting to the individual merit of any of those pieces of legislation. And that should be debated at another time going forward. But in consideration of a comprehensive tax study bill as proposed in LB613, I'm wondering how that squares with the other pieces of legislation that make dramatic changes to our revenue infrastructure and system that have been advanced this year. And again, it's not a question of good or bad. It's a legitimate policy question as to consistency that I will wait and continue to listen for explanations in that regard. Another point of clarification that I think is important to make is this isn't a battle between the Revenue Committee and the Appropriations Committee. I mean maybe it's good political theater to describe it or paint it as such. I certainly don't see it that way, but let's be clear. We have a constitutional duty to pass the budget. We do not have a constitutional duty to enact tax reform at any given point in time. That is a policy choice; that is a political choice; and I think there's merit to those endeavors. But we can't equate them from a constitutional perspective with the duties and obligations that we have as legislators. To do so is inappropriate and inaccurate. And we should have a debate on the contents of the budget. We should have a dialogue as to the thinking and the policy basis that individual members and the committee as a whole put forward when crafting a budget, and I hope that we do have that debate when it comes to the floor for consideration. So to conclude, just a couple of points: This isn't about good or bad. This isn't about Appropriations versus Revenue. This is about each of us doing our duty in moving forward, and part of that duty includes having a fair, concrete, and clear explanation as to consistency or the disparities that exist with a vote for LB613 and other major changes to our revenue system. Thank you, Mr. President. With that, I'd yield the balance of my time to Senator Chambers if he so desires. [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, 1:40. [LB613]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, thank you, Senator Conrad, I'm lost. Last Friday Senator Hadley defended his committee, and he did throw the cudgel down to the Appropriations Committee. He won't talk about the Governor. The Governor brought us here. The battle is not really between Revenue and Appropriations. It's executive versus legislative, and I'm going to keep focusing on that. And if Senator Hadley could read the minds of his committee members last Friday... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...well enough to defend the committee as a committee, then let him defend their bills, too, because he probably voted for some of them. He can tell why he voted for each one of those bills that undermines the purpose of that LB613. Now they didn't send that out here. The Executive Board did, and I voted for it. Had we known this, maybe I could have gotten enough votes to hold it in the Executive Board and not advance it. And then let us piecemeal our way through all of these tax bills as we've always done, as apparently we're going to do now. Senator Schumacher should just withdraw his bill or bracket it and let us proceed in the way the Legislature always has proceeded on these matters--one step forward, two steps back; a hop, step, and a jump; no logic, just whoever has got the most clout will get his or her way. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers and Senator Conrad. Is anyone else wishing to discuss floor amendment and talk on FA28? Seeing none, Senator Chambers, you are recognized to close on FA28. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this statement of intent doesn't talk about what the commission is going to do. It says that the Legislature is the one that will continually review. I'll tell you again what my amendment does. The first sentence in this proposal on page 1, starting in line 3 says, "The Legislature finds that the economy is constantly changing, requiring the need to continually review and update." I just want to coordinate those words, that since there's going to be the Legislature will continually review is because the economy is continually changing. That's what the amendment does. You can vote it up or down, doesn't make me any difference. But we're going to discuss it again because I'm going to watch and see which way the vote goes. And if the vote goes against me, then it's because I did not adequately persuade you. And I'll need additional time to make my point so I will have to discuss it yet again. And along the way, these important underlying issues ought to be discussed. When the Titanic sank, it hit an iceberg. I'd like to ask somebody who probably knows a lot a question. Senator K. Haar, may I ask you a question? [LB613]

PRESIDENT HEIDEMANN: Senator Haar, will you yield? [LB613]

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SENATOR HAAR: Certainly. [LB613]

SENATOR CHAMBERS: Senator Haar, you're aware of discussions about climate change and the impact it's having, the polar icecaps melting, and so forth. You're aware of those things? [LB613]

SENATOR HAAR: Yes. [LB613]

SENATOR CHAMBERS: You've heard of icebergs before? [LB613]

SENATOR HAAR: Yes. [LB613]

SENATOR CHAMBERS: What percentage of the iceberg do they always tell us is above the surface of the water? [LB613]

SENATOR HAAR: Just a little bit. [LB613]

SENATOR CHAMBERS: Do they say about a tenth or something like that if they give a percentage? [LB613]

SENATOR HAAR: I believe that's correct. [LB613]

SENATOR CHAMBERS: And the bulk of it would be where? [LB613]

SENATOR HAAR: Underwater, invisible. [LB613]

SENATOR CHAMBERS: Thank you very much. Members of the Legislature, the real issues are under surface, sub rosa, beneath the table. Nobody wants to look at it. But they think by looking away it goes away. If I wanted to be an illusionist and you all would cooperate with me, I can make this entire Chamber disappear, including myself. You know how I'd do it? I'd tell you, close your eyes. And to disappear means simply it's no longer visible. If you close your eyes, it's no longer visible. It disappeared. See what I could do, but you won't cooperate. But these issues that I'm talking about are not going to go away. And I'm going to keep talking about them, and I'm going to keep talking about the political realities that we confront when we talk about doing something like LB613 desires to do. And I'm going to keep suggesting that Senator Schumacher just pull this thing off the agenda. Will it go forward? Probably if he takes it to a vote. What form will it be in when it goes forward, if it does? Probably basically the form it's in now because I don't really care about what you might call the merits of LB613. It doesn't ensure that anything concrete is going to be done. Another study by the Legislature, I presume that the committee composed not of experts, they happen to be on that committee, will see the need to retain experts who do understand the subject matter far

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more thoroughly than probably most of us on this floor. So they're going to retain these people. We'll presume that they're competent, that they properly... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...analyze the issues, bring us to the proper conclusion, and then recommend what should be done, if that was a part of their charge. If that's not a part of their charge, they will turn their findings over to this commission. Then the commission will determine what kind of recommendations it ought to make, I presume to the Legislature. Then the Legislature will do what I'm doing now. You'll go through it bit by bit, argue it over, then decide not to do anything about that, but to respond to each special interest group that can manage to get a bill out here carrying an exemption for that group. Thank you, Mr. President. [LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. The question is, shall FA28 to AM467 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Please record, Mr. Clerk. [LB613]

CLERK: 26 ayes, 10 nays, Mr. President, on adoption of Senator Chambers' amendment to the committee amendments. [LB613]

PRESIDENT HEIDEMANN: The amendment is adopted. Items for the record, Mr. Clerk. [LB613]

CLERK: Thank you, Mr. President. Before we proceed to the next amendment, priority bill designations from the Speaker (re LB3, LB34, LB55, LB69, LB90, LB99, LB115, LB182, LB232, LB255, LB265, LB298, LB306, LB326, LB331, LB348, LB368, LB384, LB483, LB495, LB545, LB565, LB574, LB589, LB623). Appropriations Committee chaired by Senator Mello reports LB629 to General File with amendments. And I have resolutions from Senator Coash: LR103, LR104, and LR105. Those will be laid over at this time. (Legislative Journal pages 748-752.) [LB3 LB34 LB55 LB69 LB90 LB99 LB115 LB182 LB232 LB255 LB265 LB298 LB306 LB326 LB331 LB348 LB368 LB384 LB483 LB495 LB545 LB565 LB574 LB589 LB623 LB629 LR103 LR104 LR105]

Mr. President, the next amendment I have is by Senator Chambers. Senator, I now have FA29, "Page 1, line 7 strike ', intended and otherwise,.'" (Legislative Journal page 745.) [LB613]

PRESIDENT HEIDEMANN: Senator Chambers, you're recognized to open on your amendment. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, if I really wanted to see this bill pass, some of the things that I'm doing now are exactly

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what I would do. But I'm just taking time now. If you see value in it, vote for it as you did the last one. And maybe if something is worked out where the Revenue Committee will put my bill out on this floor, then I will become just an ordinary member of the Legislature, debate the bill, offer changes that I think will improve it. But until that happens, I'm going to offer changes, but not substantive. These are designed to improve the bill. For the record, on page 1, line 7, I would strike the words "intended and otherwise." I don't like surplusage in the statute. Language should be dealt with carefully by the Legislature. We should seek to be clear and precise. And I don't see where anything is added to this statement of intent by the words "intended and otherwise." Now let me give you context in which these words occur. This Legislature would find that state, county, and other local tax policies are interdependent and that there are consequences. They put "intended and otherwise" which is what I would strike. If you strike that, it would say, and that there are consequences that need to be studied when adjustments are made to the state and so forth to the tax laws. We don't need to put into the statute the kind of verbiage we employ when we're in a discussion. We often see the cliché, unintended consequences. We don't have to put that kind of legislation in the statute. This statement of intent, these findings don't even need to be here. They really say plenty of nothing. But I think with this language it says a little too much about nothing. So I would strike the words "intended and otherwise." How does the Legislature know that? It doesn't have to. It goes without saying. It's self-evident that when you are undertaking a comprehensive or semicomprehensive or an extensive change to a system which is fluid, which is changeable, you cannot anticipate at the beginning every possible consequence or result that will flow from the work that was done. Some will be intended. You expect all of them will be intended. But if there are some that are not intended, then those fit into the otherwise category. They add nothing to the statute. When I finally get out of this Legislature for the last time, if I'm not put into the crematorium--and despite the wishes of many people, I'm not going to hasten that day--I would try to get a job where I'm paid a dollar per page to start at page 1 of Volume 1 of the Nebraska statutes and read word for word every single section of every single statute to improve grammar, syntax, s-y-n-t-a-x, without in any way affecting the sense of what is intended and try to make of the statutes a repository of good, clear, concise language. And since the language in which the statutes are written in Nebraska is English, it would be a text or exhibit that English instructors could show their students to let them see how responsible people who enact laws respect the language, recognize the power, the potency of words. And therefore, they select words that say what they mean and will mean what they say. So if you have confidence that the people putting these words in place mean what they say, you don't even have to know that by going into their mind, just look at the words. What do the words mean? Then that's what the ones who put those words there meant. That's not the case. We will have proposals before us and the introducer will say, that's not what I meant. When that horse racing thing comes up again, that monstrosity, how many times have there been changes in it because it's not ready? The people who bring this trash to us have no respect for us as individuals, no respect for our processes, no respect for the Legislature. So what do

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they care how atrocious that which winds up in the statutes will be? They don't even read the constitution. How do they care what's put in it as long as they can get something that provides their special interest group some kind of way to get more money? We are the representatives of the people. We in a sense are the keepers of the flame. We should do a better job than we have done. What I would do if I were not so miffed and offended right now, instead of going word by word, phrase by phrase, clause by clause, I would rewrite this section about findings. It would be clearer, more concise, and it wouldn't take as much space. There is a method of writing where you just...whatever comes into your head you just let it flow and you just write. And it's up to other people to figure out if there was any sense behind what you were writing. And each person who comes to it will impart to what they read what they bring to it. It's like the trumpet. You can push the valves down, the music goes round and round, then you point to the end and you say, and it comes out here. But nothing is going to come out of that trumpet that the one playing it does not put into it. When we are looking at the construction of legislation, we have the opportunity to make it what it ought to be. There are bills right now that relate to education, but not education in the sense of what our students are going to learn in the classroom, but how much are you going to pay teachers, how much state aid are you going to give. But the ultimate goal should be to impart useful, meaningful, essential information to the students who sit in these classrooms now taking up space, marking time because often the person in front of the classroom is incompetent as a teacher. That teacher should be an example of what is being taught. And we as legislators enacting legislation about education should reflect in what we put together what we think education should be about. This stuff is so poorly written in a lot of instances... [LB613]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR CHAMBERS: ...I don't know why you...you fail to use ain't. Why don't you put ain't? Ain't is a utility word. It serves all purposes. It can be speaking with reference to the first person, the one speaking; the second person, the one spoken of; the third person, the one spoken to. Or is the third person the one spoken of? You know that. I ain't, he ain't, you ain't. It fits all of them. And whether you know it or not, that word is used in some of the best English literature. It is used, but illiterate people say that it's a bad word, it doesn't have the right pedigree, it doesn't have the right history because they don't know where words come from. So maybe we ought to start employing that word and restore it to the dignity to which it is entitled because... [LB613]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Chambers. Senator Schumacher, you have five minutes. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. Lieutenant Governor. Members of the body, I rise for two particular purposes; one, to highlight the actions of the Revenue Committee on the bills that we voted to the floor, which have a fiscal note fairly minor in

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the context of four thousand million (sic) dollars, but nevertheless a fiscal note. And secondly, to hopefully, as long as we're going to be talking here, begin to discuss tax philosophy and the pros and cons of the various types of taxes, which if this LB613 passes will be a subject of statewide discussion. We advanced LB573 that basically dealt with a tax break that was originally thought to extend to any operation that had five shareholders. Well, there's a thing called an ESOP in which employees who are going to be shareholder owners of a company gather together and there's a whole bunch of them. And the Department of Revenue was counting them as only one instead of more than five, thus they were disqualified from the program. And I believe that was a reversal of position and interpretation by the Department of Revenue so basically the Legislature was saying, no, when we said five we meant you to look to five in substance. We advanced the College Savings Plan, \$1.2 million fiscal impact in '14-15 to help kids go to school. Pretty hard to say that has anything to do with the study or the overall overarching philosophy that we're going to be looking at for taxes. We advanced a wind energy bill. Personally, I had a little heartburn on it, but I did vote to advance it. And the reason for voting for advancing it is because there are leases out there. There is a company that is ready to build, more than one company ready to build these wind turbines which supposedly are in the interest of green energy and basically says without it they're not going to build here. If they don't build here, we don't get any sales tax and that's \$7 million of smokescreen, doesn't exist to begin with. Should we call their bluff? Maybe, maybe not but that's a decision that's going to happen this year for that company long before this particular study would be completed. So we bring that to the body for your discussion. LB308, alternative minimum tax and net operating loss carried forward. Those are two tax bills, two tax concepts rather. Net operating loss deals with whether or not you can take credit a few years into the future for a loss you took in your business. Well, every year we delay on that somebody, in my opinion, is unfairly denied taking advantage of a loss they genuinely suffered. AMT, a very misunderstood concept, that causes people with more than \$75,000 worth of income as a family to have very dire consequences if they are penalized for not having caught this highly technical matter. And as a practical matter, it's an \$8 million item that causes us to be looked at crossways for purposes of our attractiveness as a state. And it flies in the face of almost every principle outlined by the Executive Board in their amendment to LB613. Angel investment credit, that's a \$2 million item. We passed angel investments a couple of years ago. We trimmed it back by \$2 million because it was a particular item that... [LB613 LB573 LB308]

PRESIDENT HEIDEMANN: One minute. [LB613]

SENATOR SCHUMACHER: ...we couldn't afford at that point. And ag repair--ag repair we heard evidence that said agricultural machinery dealerships along our borders were closing. When they close, we're not going to get any sales tax off of them, whether or not we have tax on repairs. And once they close, they are a blow to the local economy, to people that they employ, and they're never going to reopen again. Those people are

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going to continue to go across the border to South Dakota, Kansas, or Iowa so that had some urgency with it, all of which for your consideration you can push green or red on. There are literally dozens upon dozens upon dozens of bills that we held because this study was in the works and was going to be presented to you. And every one of you could make an argument that, hey, advance my bill or I'm going to try to hold things up. But we got to move together, folks, and we got to accomplish the objectives for which we are elected and we have to actually take control of the fate of this state and do what we need to do as a Legislature. [LB613]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Schumacher. Senator Chambers. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm mighty tempted to join the issues that Senator Schumacher raised, but I will have other amendments that allow me to get more into that. Right now I'm offering minor amendments that go to language to demonstrate that this statement of findings could have been done better, and in my view it ought to be done better. I think this bill is going to pass in the same way that if you go to a doctor and you got kidney stones, sometimes they can make that pass also even though there can be considerable pain involved. So look at this as a kidney stone. Dr. Chambers is in charge. The kidney stone will pass but there might be a little inconvenience to the patient before that occurs. This language that exists in the statement of intent talks about consequences, intended and otherwise. Have any of you read this language before now; do you read the bills that come before us--rhetorical questions to which I expect no answer. But each of us was sent here because we told people that we understand lawmaking and we're going to do it competently. If this were submitted by a student to an 8th grade English teacher, there would be red marks everywhere. But we are the masters of education because we spend the money and we talk about education. But we don't talk about that which the word "education" pertains to. We talk about the word itself. It used to be called aid to schools. Then I ridiculed that much...so much they started talking about aid to education. Without the students, there is no purpose to these schools. And with the students, the only purpose seems to be to provide jobs for a lot of people, not all, who are incompetent. George Bernard Shaw stated: Those who can, do; those who cannot, teach. And because of some work that I did with the U.S. Office of Education, I traveled around, did some consulting when I was a much younger man and I visited colleges and schools of education where they trained the trainers of teachers. So I added to George Bernard Shaw's statement which says: Those who can do, teach; those who cannot teach...those who cannot, teach. And my addition: Those who cannot teach, teach teachers. The ones who might like to be a mathematician can't cut the mustard, so he or she tries to teach math. Somebody who is not able to teach math will get a job at one of these schools or colleges of education. They are infested with former school board executives, officials, administrators, but no ability demonstrated to teach somebody how to teach. [LB613]

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB613]

SENATOR CHAMBERS: And you wind up with people in these schools, in front of classrooms, cheating these children. And there are those who feel that protecting a teacher's job is more important than the students being taught. It's like saying every time a person goes under the knife at this hospital for surgery, the person dies. But the surgeon needs a job so we don't care about the patients who have died and will die. We want that surgeon, to keep a job, to keep doing the butcher work. Get him a...thank you, Mr. President. [LB613]

SENATOR GLOOR: Thank you, Senator Chambers. Senators in the speaking queue: Burke Harr, Conrad, Schumacher, Adams, and Bloomfield. Senator Burke Harr, you're recognized. [LB613]

SENATOR HARR: Mr. President, members of the Legislature, we are here to debate LB613 and the amendment in front of us. We have been distracted lately with what I will refer to as a tiff, and not tax increment financing but rather members of other committees upset with what the Revenue Committee is doing, and I'm not quite sure why. I'm not sure if this is a Revenue versus Appropriations fight. We are appropriating, if that's what you want to call it--you say any time we give a tax break we're spending money--less than 1 percent, and that's not a lot. Yes, it is substantial. But I'm not quite sure why people are attacking our committee. We will have a chance and each member of this body will have a chance to look at each bill one by one and decide whether we made a good decision or a bad decision. I agree with some; I disagree with some of the decisions of our committee. But I've never seen one committee attacked in such a way to say that everything you do is bad. We don't...I have never heard anyone attack Appropriations and they only pass out one bill. I've never heard an attack like that on Education, go down the line, Transportation. I mean we can go piece by piece, one by one. Folks, we're here to debate bills. We're not here to debate how committees come up with or let out bills. So let's talk about the bills. If you have a problem with the philosophy behind it, do it on that bill. Let's not just overarching attack on one committee. Now, yes, we have LB613. And is it necessary? Probably not. Could we do it without this legislation? You bet. This was in reaction to LB405 and LB406, which were brought to Revenue, which, to his credit, the Governor asked us to pull back. He realized and we realized we can do better and this is trying to do and find a way to do better. But we can do it without this legislation. Now passing out pieces of legislation, you're going to hear one by one why they're good or why they're bad. We live in a modern world. We can't sit back and say no taxes, no tax breaks, nothing changes for a year. The world doesn't stop because we decide we're going to do a study. The world of business continues to keep going. And if we do stop, business won't and business will

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pass us by. We are in a very good spot right now as a state, but there's only one way to coast and that's downhill. And so we need to keep pumping. We need to keep peddling. Can we slow down to take a break and to look at where we are and look at the landscape? Definitely. Do we need to reassess? Yes. Have we failed to reassess in the past? I would say, no, but it's also good to maybe catch your breath a little and look, but you can't stop completely. The bills we passed out of committee are largely passed without any opposition. There will be some. There are 3-2 votes, there are 7-1 votes or, excuse me, I think it's 4-3 votes and a 7-1 vote, and on the 7-1 I was the one, and I'll get up and talk about why I think it was bad. But that's the committee structure. That's what we as a body have chosen to do. If you have a problem with the committee structure, that's your problem, because you need to address that at the proper time and not on the floor like this. I am in support of LB613. [LB613 LB405 LB406]

SENATOR GLOOR: One minute. [LB613]

SENATOR HARR: Thank you. But is it the end-all, be-all to tax policy? Will we be a better state just because of LB613? No, I'm not that naive. But I do think we need to quit attacking a committee as a whole. If you have a problem, I would ask that you...you can ask me a question about it and I'll be willing to explain it, but let's do it at the right time, in the proper manner. Thank you. [LB613]

SENATOR GLOOR: Thank you, Senator Harr. Chair recognizes Senator Conrad. [LB613]

SENATOR CONRAD: Thank you, Mr. President. And again, good morning, colleagues. I rise to thank Senator Schumacher for at least providing an explanation as to his votes, because, as everyone knows who is engaged in this process, if you're not a member of a committee you're not privy to the discussions at the committee level in Executive Sessions. So by asking questions, that's one way that we can educate ourselves and the public at large, which is critical to our work as being a good legislator. Again, I think that it's a very disappointing, I guess, and strange result that rather than defending their actions or providing a policy explanation, people, members of the Revenue Committee, continue to wring their hands and decry personal attacks. I mean there couldn't be anything farther from the truth. And to suggest that we are losing focus and that we must only look at bills individually that are before us rather than the context of what has been introduced, what has been advanced, and what is pending, that's also a ridiculous notion, colleagues. Because if that were the case, then it would be inappropriate for any legislator to look at any bill with a fiscal note, behind or in front of the bill that's currently before us. And we know there's a finite amount of money left for the floor, whether it's in a preliminary budget or in the final budget. So what that would result in would be whichever bills that had a fiscal note that just happened to be first in the process then should be passed, regardless of anything that's pending afterwards that I think may have more or less merit. It just doesn't make sense, from the practice or the rules or the

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province of this Legislature. So members can continue to punt, so to speak, or to wring their hands and decry nonexistent personal attacks. They can use their time at the mike however they wish to. But at least Senator Schumacher provided a policy explanation as to his votes as a committee member and how that squares with LB613. I think it's particularly curious, considering that members of the committee are happy to run to the media and to fight these battles in the newspaper but unwilling to defend their personal choices and their votes on the floor of the Legislature. So with that, thank you, Mr. President. I'll continue to listen. [LB613]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Schumacher, you are recognized. [LB613]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're going to discuss this particular bill and the underlying tax policy of the state for a little time here, so maybe it would be good if we made good use of our time. And we're going to have to deal with the tax issue. It's not going to go away. We know fundamentally we start out with we've got 1.8 million people and we've got to come up with four thousand million (sic) dollars a year from them. And we have principally now the mechanisms of property tax, the principles of income tax, the principles of sales tax, and then at the local level you throw in a little creativity with the occupation taxes. All of those have particular advantages and disadvantages that we should all become conversant with. And now, in this context of this discussion, may be a good time for folks to let us know your feelings. Whether it's a Revenue Committee decision, a Legislative Council decision, a Tax Modernization Commission decision, no matter which way we put it, it's by basically a legislative decision that we have got to make and we're not going to escape from making. Now Senator Chambers has made it known that he has some rather strong feelings about his bill, LB266, which would get rid of the .5 cent sales tax authority that we debated and for cities under very limited circumstances that we debated last year. I think I interpret some of that as meaning very strong feelings against the utilization of the sales tax and the reasons why. Would Senator Chambers yield to some questions? [LB613 LB266]

SENATOR GLOOR: Senator Chambers, would you yield? [LB613]

SENATOR CHAMBERS: Happily. [LB613]

SENATOR SCHUMACHER: Thank you, Senator Chambers. Am I correct in thinking that you have a fundamental philosophical objection to the imposition of further sales taxes? [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR SCHUMACHER: And could you share with the body, what is it about the

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sales tax in comparison to maybe some of the other tax options we have that is so bad? [LB613]

SENATOR CHAMBERS: The sales tax is what's known as a regressive tax. Regardless of a person's ability to pay, there's a flat rate that everybody pays. Little Orphan Annie pays as much as Daddy Warbucks. Whenever a sales tax is put in place, it unproportionately falls on the poor. Those of us who are poor do not have discretionary income. We spend everything we have for necessities. With the exception primarily of food, everything we purchase takes a sales tax. If that .5 cent is added, that will be 7.5 percent that everything we spend is taxed, everything that we've got. Some people are not in that position. So in effect, we who are poor are taxed at a higher rate than anybody else, whether we can afford it or not. And it literally means on occasion not being able to get a quart of milk or a loaf of bread. So as long as the sales tax falls on the poor as hard as it does, I will oppose any increase in that tax. [LB613]

SENATOR SCHUMACHER: Thank you, Senator Chambers. Then continuing along that line of thought, there are a couple different things I guess we have as options on sales tax. We could reduce or eliminate it. We could expand it across things that are not now taxed and impose it as a lower rate. Or we could rely on it more heavily by actually increasing the rate. Could you discuss with us a little bit as to whether or not you think broadening the base and lowering the rate is advantageous as compared to leaving it the way it is right now? [LB613]

SENATOR CHAMBERS: Senator, when you talk about broadening... [LB613]

SENATOR GLOOR: One minute. [LB613]

SENATOR CHAMBERS: ...the base, that would go to exemptions. Some people don't realize that things such as bull semen is exempted from the sales tax. There are a lot of other things that are exempted which do not benefit the people who are struggling to make it in this society. They benefit one particular industry or a segment of that industry which is for the purpose of making profit, exclusively for the purpose of making profit either for the entrepreneur or for investors. So those people couldn't care less about who is harmed, as long as their ox is not being gored. But every time I see somebody else exempted out of paying sales tax, somebody else is going to have to pay it. And even when they look at it only among businesses, when you structure exemptions or these benefits and incentives to go to the largest outfits, such as... [LB613]

SENATOR GLOOR: Time, Senator. [LB613]

SENATOR CHAMBERS: ...Cabela's and others... [LB613]

SENATOR GLOOR: Time. [LB613]

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SENATOR SCHUMACHER: Thank you. [LB613]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Schumacher. Senator Adams, you are recognized. [LB613]

SPEAKER ADAMS: Thank you, Mr. President. And, Senator Schumacher, you got the dialogue going. I'm going to ask Senator Chambers some additional questions, if he'd yield. But before we get to that point, I heard earlier today we could not do this, and that's true. We could not. We could have done it in the form of a resolution or the reality is the Revenue Committee could just simply, within their jurisdiction, do what this is asking. So why is it up here? I'll give you my opinion; that's all it's worth. Taxes and tax policy is a legislative prerogative. And in my opinion, what we are doing with this is sending a message that it is our prerogative to determine the proper tax policy. That does not exclude anyone from chiming into the argument about what is or is not appropriate tax policy. But those forces are on the outside. Here we are. And I'll go so far as to say before we as a body really engage it's the jurisdiction of the Revenue Committee to focus on tax policy for us, which is another reason why I supported this, because in the beginning there was all sorts of people going to be involved. This brings it home. It says the Revenue Committee is going to make recommendations to this body, the Legislature, to decide appropriate tax policy. Why in the form of a potential statute rather than a resolution? I think it elevates the importance of what we're doing and it elevates that same concept again that this is the domain of the Legislature. In the end, I have no idea what the Revenue Committee will report back to us. They may come back and say we don't need to do anything. They may come back and say we need a complete overhaul. And I'm going to assume, and I know Senator Hadley and the Revenue Committee will do this, they're going to look at everything. That's my expectation. Income tax, sales tax, property tax, they all ought to be part of the mix. And when we come back here next year, there are time lines in this, too, which I think is important, because I think we should have expectations upon ourselves, upon the Revenue Committee, and I think our citizens do have expectations. We're laying them out in here. Senator Chambers, would you yield to a question? [LB613]

SENATOR GLOOR: Senator Chambers, would you yield? [LB613]

SENATOR CHAMBERS: Yes, I will. [LB613]

SPEAKER ADAMS: Senator, I know that Senator Schumacher has already asked you the question that I had on my mind, but I'm going to come back to it again. Specifically your bill in Revenue that you have concerns about was designed to do what again? [LB613]

SENATOR CHAMBERS: It would nullify the authority for municipalities, by way of a vote

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of the people, to impose an additional .5 percent on the sales tax. [LB613]

SPEAKER ADAMS: And if I heard you correctly, and it's always been my understanding and education that a sales tax, in contrast to an income tax, is regressive versus progressive. Is that your understanding? [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SPEAKER ADAMS: And therefore, it has a disproportionate impact on people of lower income. I think you've already stated that but am I thinking right? [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SPEAKER ADAMS: Do you believe, and then I'm going to end it here, do you believe that sales tax in some shape or form needs to be part of our mix,... [LB613]

SENATOR GLOOR: One minute. [LB613]

SPEAKER ADAMS: ...our revenue mix in this state? [LB613]

SENATOR CHAMBERS: It must be. [LB613]

SPEAKER ADAMS: Thank you, Senator. And, you know, this is the kind of discussion that we will be having throughout the course of this session. Senator Hadley has described bills that will be coming before us and every one of us is going to have the opportunity to press red or green on those bills. For whatever reason, you may vote the way you do because it may be regressive, it may be too progressive, it may be whatever. You'll have your opportunity. I'm not questioning why the Revenue Committee sent those bills out, but we're going to have to discuss them. And we're going to have to have a discussion this year and again next year on the very things that we're talking about right here--what is the proper mix of taxes and to what level? Thank you, Mr. President. [LB613]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Adams. Senator Bloomfield, you are recognized. [LB613]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Chambers a question or two, if I could. [LB613]

SENATOR GLOOR: Senator Chambers, would you yield? [LB613]

SENATOR CHAMBERS: Yes. [LB613]

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SENATOR BLOOMFIELD: Senator Chambers, I missed the bill number when Senator Schumacher mentioned it a little bit ago about what your bill is, that this contention is all about. Can you give me that number, please? [LB613]

SENATOR CHAMBERS: I don't remember the number myself. [LB613]

SENATOR BLOOMFIELD: Okay. I'll hunt it down later. Your source of aggravation, as I understand it, with LB613 is in fact that your bill didn't make it out of committee. Am I pretty close to that? [LB613]

SENATOR CHAMBERS: You're correct. [LB613]

SENATOR BLOOMFIELD: Okay. Thank you. And we're looking at your floor amendment taking out the words "intended and otherwise" on line 7 of the opening statement. I guess this could be a yes or no question, if you would choose to go there. Given your current frame of mind, if that were not in there would you now be attempting to put it in? [LB613]

SENATOR CHAMBERS: I didn't get the...I didn't get what you asked me. [LB613]

SENATOR BLOOMFIELD: If, given your current frame of mind and your aggravation with the committee, if "intended and otherwise" were not in here, in the order of consuming time, would you be attempting to put that language or similar language into the bill? [LB613]

SENATOR CHAMBERS: No, I'm not interested in cluttering. I'm interested in decluttering or making more precise and clear. [LB613]

SENATOR BLOOMFIELD: But if your bill would have come out of committee, you wouldn't have done any of this. [LB613]

SENATOR CHAMBERS: Oh, I would have discussed...if my bill had come out of the committee? [LB613]

SENATOR BLOOMFIELD: Yes. [LB613]

SENATOR CHAMBERS: I said it several times. I'd be discussing this bill as I do any other bill, doing what I could to improve it because...and I stated it before the Speaker did that I think this is an activity the Legislature should engage in. I think the bill should pass and I think the Legislature should take control of this issue. I've said all that. And the reason I can't get to that and make it like any other bill is because I was stiffed in the way they handled my bill as opposed to the way they handled other bills and certain representations that had been made to me. [LB613]

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SENATOR BLOOMFIELD: Okay. I will get that bill number and study it a little harder. Thank you. [LB613]

SENATOR GLOOR: Senator Carlson, you are recognized. [LB613]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In our discussion this morning, we know that words do have meaning and words are important. Now I'm opposed to FA29 and I may introduce a floor amendment to clarify a meaning to LB613 and AM467. I would like to address Senator Chambers, if he would yield. [LB613]

SENATOR GLOOR: Senator Chambers, would you yield? [LB613]

SENATOR CHAMBERS: Yes, I will. [LB613]

SENATOR CARLSON: Senator Chambers, many times you quote the truth and I think there will come a day when the truth will make you free and whole. Now I want to ask you, because I think you've said this, what is the fairest tax that we could have in Nebraska? [LB613]

SENATOR CHAMBERS: You mean of the types of taxes that are available? [LB613]

SENATOR CARLSON: Yes. [LB613]

SENATOR CHAMBERS: The income tax. [LB613]

SENATOR CARLSON: The income tax being a fair tax, do you believe that anyone who earns income should pay some income tax? [LB613]

SENATOR CHAMBERS: No, because I think in line with what you call that truth, and you're talking about the "Bibble," you call it the Bible, so much in the Old Testament and the New Testament is spent in talking about how the poor are to be taken care of and given consideration, even when the poor are strangers within your gate. And when you don't take care of the poor, you have not taken care of that one you worship. So there are certain people from whom if you take anything it's an oppression and an injustice, because there are so many who have plenty with which to contribute to the overall betterment and uplift of society. So the poor should never suffer. [LB613]

SENATOR CARLSON: Okay. So the income tax is the fairest tax and I don't know that either one of us know at what point a person begins to pay taxes with earned income, but it must be at some point that would happen. Now do you have a suggestion? How could the sales tax become a fair tax? [LB613]

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SENATOR CHAMBERS: I don't really think it can be as long as people who are poor pay the same amount as Mitt Romney, President Obama, the DuPont family, and all the other rich people such as Bill Gates and Warren Buffett. [LB613]

SENATOR CARLSON: All right. [LB613]

SENATOR CHAMBERS: And it's not a hard or even a close question for me. [LB613]

SENATOR CARLSON: All right. We go back to the income tax and I think both you and I will agree to this. If the income tax is a fair tax, and I think it is, then we do have a point where people begin to pay the income tax. Would you agree with that? [LB613]

SENATOR CHAMBERS: When you say where people begin, you mean they make a certain amount of income. [LB613]

SENATOR CARLSON: Yes. [LB613]

SENATOR CHAMBERS: Yes. And if you want to do something, because we don't want it to be arbitrary, studies of all kinds have been undertaken to establish what constitutes poverty in this society. Nobody who is impoverished, based on the government's own findings, should have to pay any taxes. [LB613]

SENATOR CARLSON: All right. [LB613]

SENATOR CHAMBERS: Taxes being paid is not something that constitutes or determines whether or not a person is patriotic or loyal to a government. There should be a level below which nobody in a society should be allowed to fall, especially in a society where there is so much incredible wealth concentrated in the hands of so few. [LB613]

SENATOR CARLSON: All right. Let's go back to the sales tax because in the income tax there's a certain level above which people should pay. That's your opinion and... [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR CARLSON: ...I'm not disagreeing with that. [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR CARLSON: Sales tax, there should be an income level then above which people pay the sales tax and... [LB613]

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SENATOR GLOOR: One minute. [LB613]

SENATOR CARLSON: ...below which they maybe get a refund? [LB613]

SENATOR CHAMBERS: No, there should be certain items on which a sales tax will be assessed. They used to call it a luxury tax and it's based on the notion that a luxury is something not only that you don't need but you have plenty of extra discretionary income to spend on something that is not essential but often just for display. [LB613]

SENATOR CARLSON: Senator Chambers, do you believe that groceries should have a sales tax? [LB613]

SENATOR CHAMBERS: No, and I did all I could to help get the tax off food. [LB613]

SENATOR CARLSON: And I agree fully with you. You and I will be together on that. Okay. Thank you, Senator Chambers, for your response to these questions. What it brings up is it's difficult to have a tax policy that works for everybody, and that's why we're doing what we're doing. Thank you, Mr. President. [LB613]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Krist, you're recognized. [LB613]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I wasn't going to participate in the discussion. I thought, you know, we're going to spend eight hours on this one way or another because Senator Chambers has decided we're going to spend eight hours on it one way or another. So I decided once again I'm going to put a few things on the record. I had a bill in front of the Revenue Committee. The bill number is LB474. You can take a look at it on your gadget. You can see the individual items that are there. You can see that...the amendment to LB474. After careful consideration, I took Sections 1 through 3...or recommended that they be taken off because they had directly affected the NRD. And I think the NRD is using the occupation tax as this Legislature gave it the authority to do. And let me be very clear. This Legislature gives the authority for the rest of the state to exercise their taxation. We gave the NRDs that responsibility and they've executed admirably. Therefore, I removed 1 through 3. The roundtable discussions that I had myself, along with tax experts around for the year, almost a year, prior...actually more in tune to a half year, I'm sorry, about six months, led me to believe that there are other parts of the occupation tax that are not being executed nobly or in an admirable way. And I think we dealt with that last year on this floor well by saying that if you are going to go outside a vote of the people for an occupation tax, there would be a limit; that each state...or each city, dedicated by its size or predicated by its size, would have a limit. In the case of the city of Omaha, is my city, I can talk about my city, is \$6 million. They

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decided as a council and as a mayor, their leadership decided that they wanted to tax a product that was up to the state to excise tax--that tax would be tobacco--and to donate that money to the University of Nebraska Medical Center. I don't have an argument with the Medical Center building a new cancer research facility. I was one of the votes that gave them \$50 million last year, 5-0, \$50 million towards that project. And we've already reviewed whether we all knew what was going to happen after they got their money or not. I don't think that's important or germane to this discussion. What I do think is important is that there are two ways to control politicians that are out of control. One way is for us as a Legislature to again look at those local political subdivisions and make sure they're executing their taxing authority within the limits of the law and, to some extent, with moral conviction. The other way is to make sure they're not there to make those decisions in the future. So if you're from the city of Omaha and you're looking forward to the elections coming up on the 2nd of April, I want you to take particular note of what I'm about to say. If you're in District 1, Peter Festersen decided that he was going to put a tax in place with his vote and take \$6 million a year for ten years and do something with it. For at least the first \$35 million, he was going to give it to the University of Nebraska Medical Center to build brick and mortar. If you're in District 2, Ben Gray did the same thing. Ben probably doesn't have a dog in this fight because, quite frankly, he doesn't pay taxes to begin with. District 3, Chris Jerram, Chris decided to do the same thing with your money. [LB613 LB474]

SENATOR GLOOR: One minute. [LB613]

SENATOR KRIST: District 4, Garry Gernandt, and District 6 (sic), Tom Mulligan, the president, decided to do the same thing. So when you go to the ballot, I want you to keep in mind that these politicians decided to use the gray area in the occupation tax and tax tobacco in the city and give that \$6 million to the University of Nebraska Medical Center to build brick and mortar. Think about that. Think about the fact that they could have limited it to just six years and taken \$35 million, \$36 million by my math. But they decided to go all the way to ten. And then they came into the committee hearing and told the Revenue Committee, trust us, trust us, we're only going to take \$35 million. Think about that when you go to the polls. Thanks. [LB613]

SENATOR GLOOR: Thank you, Senator Krist. There are no senators remaining in the queue. Senator Chambers, you are recognized to close on your amendment. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, what I'm doing now is what I would be doing were I not in the frame of mind, as it has been described, that I'm in now due to certain actions that I've discussed, which I won't reiterate now. I believe in improving legislation which is going to be enacted into law. I read what is presented to us. I see additional changes where the language can be improved, it can be made clearer, more precise. We can eliminate unnecessary words. And I'm just doing a little of it here. This is a serious amendment. It won't hurt my

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feelings if you don't adopt it. But it takes unnecessary language out of the statute. What would I be doing if my bill were advanced? First of all, it would not be dealt with this year because I had said I would not prioritize it. It would be up there with the other bills that the committee chose to advance. I would then turn my attention to trying to improve the bill, and instead of taking it one item at a time, I might write out a series of changes that I think ought to be made. If somebody looked at that amendment and saw parts of it they didn't like, they could ask that there be a division of the question and everything go except what they thought needed more discussion. And it can be done in that way. There's a way to address any and every thing that we're going to try to do, but I have not deceived or misled you. I explained, and Senator Harr or anybody else who wondered why I was criticizing the committee as a committee, what it would take to get me out of this frame of mind, if anybody was interested in doing so. But if nobody is interested in doing so, I will deliver what I promised, contrary to the way I sometimes am dealt with. This amendment would remove unnecessary words that modify the word "consequences." "Consequences" is a word that includes anything that flows from what preceded it. So there's no need to say "intended or otherwise." "Otherwise" is very indefinite. We don't need to put that into the statute. To show how collegial I can be when the day is about to end, I'm not even going to take my full 5 minutes. That is my closing. I hope you will vote to adopt this amendment. Thank you, Mr. President.
[LB613]

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question is, shall the amendment to AM467 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB613]

CLERK: 29 ayes, 2 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB613]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk for announcements. [LB613]

CLERK: I do, Mr. President, thank you. Your Committee on Revenue, chaired by Senator Hadley, reports LB96 to General File; LB34 to General File with amendments; and LB348, General File with amendments. Agriculture, chaired by Senator Schilz, reports LB583 to General File with amendments. Senator Price would like to print an amendment LB434. Senator Karpisek offers LR106; that will be laid over at this time. Name adds: Senator Lathrop to LB133; and Senator Murante to LB266. (Legislative Journal pages 753-759.) [LB96 LB34 LB348 LB583 LB434 LR106 LB133 LB266]

And, Mr. President, Senator Coash would move to adjourn the body until Tuesday morning, March 19, at 9:00 a.m.

SENATOR GLOOR: Members, you've heard the motion to adjourn until tomorrow morning at 9:00 a.m. Those in favor say aye. Those opposed say nay. We stand

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adjourned.