

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

Floor Debate
May 20, 2013

[LB3 LB22 LB34 LB99 LB194 LB195 LB196 LB197 LB198 LB199 LB200 LB212 LB266
LB298 LB299 LB308 LB326 LB341 LB357 LB384 LB384A LB402 LB405 LB406 LB410
LB476 LB536 LB556A LB556 LB563 LB568 LB568A LB577 LB581 LB613 LR22 LR230
LR231 LR232 LR233 LR234 LR235 LR236 LR237 LR238 LR239 LR240 LR241 LR242
LR243 LR244 LR245 LR246 LR247 LR248 LR249 LR250 LR251 LR252 LR253 LR254
LR255 LR256 LR257 LR258 LR259 LR260 LR261 LR262 LR263 LR264 LR265 LR266
LR267 LR268 LR269 LR270 LR271 LR272 LR273 LR274 LR275 LR276 LR277 LR278
LR279 LR280 LR281 LR282 LR283 LR284 LR285 LR286 LR287 LR288 LR289 LR290
LR291 LR292 LR293 LR294 LR295 LR296 LR297 LR298 LR299 LR300 LR301 LR302
LR303 LR304 LR305 LR306 LR307 LR308 LR309 LR310 LR311 LR312 LR313 LR314
LR315 LR316 LR317 LR318 LR319 LR320 LR321 LR322 LR323 LR324 LR325 LR326
LR327 LR328 LR329 LR330 LR331 LR332 LR333 LR334 LR335 LR336 LR337 LR338
LR339 LR340 LR341 LR342 LR343 LR344 LR345]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eightieth day of the One Hundred Third Legislature, First Session. Our chaplain for the day is Senator Johnson. Please rise.

SENATOR JOHNSON: (Prayer offered.)

SPEAKER ADAMS: I call to order the eightieth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

SPEAKER ADAMS: Are there corrections for the Journal?

CLERK: I have no corrections.

SPEAKER ADAMS: Are there messages, reports, or announcements to make?

CLERK: Mr. President, a communication from the Governor to the Clerk. (Read re LB3, LB99, LB299, LB384, LB384A, and LB476.) Confirmation hearing notice by Transportation and Telecommunications Committee. And a series of resolutions, Mr. President: LR230 and LR231 are by Senator Gloor, those will be laid over; LR232, LR233, LR234, LR235, LR236, LR237, LR238 by different members, all calling for interim studies. Those will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1419-1426.) [LB3 LB99 LB299 LB384 LB384A LB476 LR230 LR231 LR232 LR233 LR234 LR235 LR236 LR237 LR238]

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

Floor Debate
May 20, 2013

SPEAKER ADAMS: Thank you, Mr. Clerk. (Visitors introduced.) Members, before we proceed onto the first order of business on the agenda, I'd like to make an announcement about the tentative schedule for this week. Today we will plan our 6:00 to 6:30 adjournment time as we normally have done. I would like for all of us on Tuesday and Wednesday of this week to anticipate that we might have to run beyond that 6:00 or 6:30 time. And it would be my intention to try to announce each day how late we may have to go depending on the volume of work that we get done. On Thursday, as you know, it's the beginning of a holiday. However, on Thursday I'd like you to anticipate that we may have to run beyond the 1:00 hour in anticipation of getting some bills back from Bill Drafters before we adjourn on Thursday. So that tentatively is the schedule for this week. We'll now move to Final Reading. Members should return to their seats in preparation for Final Reading. Senator Hadley, for what reason do you rise?

SENATOR HADLEY: I would like a point of personal privilege.

SPEAKER ADAMS: Proceed.

SENATOR HADLEY: Most of you know that my dear friend and legislative aide Berri Balka passed away last night and I'll just take a minute. He was a good friend, had been a friend for 42 years. He introduced Marilyn and I. I stood up at his wedding. He was a great servant for the state of Nebraska serving not only as the insurance commissioner but revenue commissioner, and he was a great member of the legislative body. Thank you very much.

SPEAKER ADAMS: Thank you, Senator Hadley. Mr. Clerk, the first bill is LB196. [LB196]

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return LB196 to Select File for purposes of striking the enacting clause. [LB196]

SPEAKER ADAMS: Senator Chambers, you are recognized on your motion. [LB196]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to be taking some time today and maybe in days to come. I'm aware of the work that the League was doing, League of Municipalities was doing over the weekend, pressuring, hounding, intimidating senators, and they probably had a degree of success. So I intend to earn my money. But we can reduce the salary of any official during a new term, and whenever somebody is elected that's a new term. So we can reduce the salary of the senators. And by striking this enacting clause, it would take away all the money made available for salaries. And I think that it would be a very good idea if we do this. Now I handed out a rhyme that I'm going to read later on today when we get to another bill, LB308. But the days are dwindling down to a precious few. As

Floor Debate
May 20, 2013

matter of fact they have dwindled down and I have been good. And now I'm going to show that Mae West is somebody who influences my thinking. She said: when I am good, I'm good and when I'm bad, I'm better. So I've been good. Now I'm going to be better. All is fair in politics. And sometimes people outside the Chamber have inordinate influence on what goes on within the Chamber. As citizens, as lobbyists, they have the right under the constitution to try to do anything they can, even which is illegal. They can do that under the constitution, but there's a price to pay if you do it and it's illegal. They can do whatever they want to do. But those who succumb should remember this: I have a vote on the floor of the Legislature; I have a voice on the floor of the Legislature. The lobbyists don't. They are hired and they earn their money. So after they have gotten you to do what they want you to do on a particular measure, they cannot rescue you should there be repercussions. Sometimes it becomes necessary to just lay things out on the table so that it's clear what it is we are doing here. I cannot speak for anybody else, but I can speak for myself. I have never been intimidated out of doing something that I had done that I thought was appropriate at the time. Others of my colleagues have been intimidated. And I'm just wondering for those who are in favor of debating Medicaid how much difference there is really between you who want Medicaid and the Governor's position. He has political agendas, plural, and stopping Medicaid from being expanded is one of them. There are people who are not going to vote to repeal that sales tax authorization even though the sales tax hurts poor people. Those who say they are for the expansion of Medicaid say they're trying to help people who may not be exactly poor in the sense that I use the word but they're not well off. They cannot obtain medical care which is needed. Even if their children can obtain medical coverage under Medicaid, when the parents are ill there is illness in that household that affects everybody. Children who otherwise could be covered may not be taken to the doctor, may not be given those advantages and benefits that might be available under Medicaid for children of impoverished and not-well-off families. So on the one hand you talk very learnedly and well in behalf of expanding Medicaid coverage, but in the back of all of that are hospitals and other providers who are going to reap the benefits because the federal money does not go to the families. It goes to those providing the medical care, so there are big shots who will benefit from the Medicaid bill if the expansion occurs. There are big shots who get tax incentives, who get tax breaks, who get tax exemptions. But then when we talk about the poor who are inordinately negatively affected by the sales tax, suddenly there can come a compartmentalization in people's minds, in their ethics, in their morality. The poor on this hand, my left hand, are all right to be advocated for when you say you want a Medicaid expansion so that hospitals and other providers can benefit from the federal money that will be available for three years. The same poor I will take out of my left hand and hold them in my right hand and say do not tax them with a tax that is unfair, a tax that would make a child who is purchasing a toy pay the same rate as Warren Buffett who may be purchasing a Lamborghini. The child pays the same rate, but the poor child doesn't count when the child is my right hand. So if what's on my left hand and what's on my right hand would be considered a scale, the scales balance when the same amount is on each side. There's a pivot between the two. And

Floor Debate
May 20, 2013

when you put more on one side than the other, that side goes down and the other one goes up. It's like a teetertotter. But who are the ones in each hand? The same poor people, and they are used for political purposes by members of the Legislature. So a lobbyist who's been paid by municipalities will tell you don't let that sales taxing authority go away. And the same one who will vote to keep the taxing authority and burden the poor will be over here talking about expanding Medicaid coverage. For whom? Those who are not well off. We do not look at life as a seamless web. Life is like a continuum. And if it's a seamless web, whatever affects one part of the web on the far left side will be transmitted through that web and affect whatever is on the far right-hand side of the web. But politicians and...what do they call it, situationalists, situational ethicists, situational moralists will say, well, morality is relative. It depends on the circumstances. It depends on whose ox is being gored. And I listened to what people said when they were speaking for Medicaid expansion and I agree with what they said, although my motives might go deeper than theirs because I look at those people not just as the grist for the mill of those who will benefit by providing medical care for those who indeed need it. I look at those as human beings who are human beings all the time for every purpose. Black people... [LB196 LB308]

SPEAKER ADAMS: One minute, Senator. [LB196]

SENATOR CHAMBERS: ...are the ones who were not deemed property...were not deemed human beings but were deemed property. And it took an amendment to the U.S. Constitution to at least change that concept. Native Americans in the trial of Standing Bear were proclaimed to be human beings, it said, as far as the law was concerned. That could have meant human beings, period, or human beings in a limited sense. Human beings are human beings all the time. And I'm going to speak for those human beings who are not on this floor, who are not represented here other than by me. I do not say that I'll speak for the poor when it's convenient for Medicaid to provide money to providers, but I'm going to work against the poor... [LB196]

SPEAKER ADAMS: Time, Senator. [LB196]

SENATOR CHAMBERS: Thank you, Mr. President. [LB196]

SPEAKER ADAMS: But you're next in the queue. You can proceed, Senator Chambers. You're next in the queue. [LB196]

SENATOR CHAMBERS: Thank you, Mr. President. Who will speak for the poor when they die and are buried? Often they are unknown, unmourned, unloved, and in some cases unmarked. No indication that they had ever been on this earth. When Shakespeare wrote a play about a character who some people took to be a stereotype for a certain group of people, some words that that character spoke were similar to words that people will often speak when they're trying to advocate on behalf of those

Floor Debate
May 20, 2013

who are marginalized who are not just lower caste as in the Indian--India Indian--hierarchy, they are outcasts. They are stateless persons. But they say if you cut me, will I not bleed? If you inflict suffering, will I not feel pain? And people who are entitled to that basic human dignity which should be accorded to every human being must prostrate themselves. Already being oppressed, treated like less than a human being, must approach their moral and ethical betters and ask this question: If I am cut, will I not bleed? Why is it necessary to make such an appeal to those who are the moral superiors, the ones who write about ethics, who formulate moral laws, who build dogmas around morality and moral laws, and will say that morality is not relative. Morality can be based on an absolute. That's what they say but they don't believe it. But it sounds good just like it sounds good to say Jesus loves the little children; I follow Jesus, therefore, I love the little children. But your actions speak louder than words because that book said they draw nigh to me with their mouth but their hearts are far from me. Even the ones who protest about their religion will be backed up and put in fear, and they're the ones who are supposed to have access to that perfect love. And where does that love come from and what makes it perfect? Their god is love. And what does that book that proclaims God to be love also say? Perfect love casts out all fear. And why are you scrambling around like toothless mice? Because of fear, because you are afraid. Palpitations, night sweats, depression, self-condemnation. So you need a lot of noise and a lot of people and sometimes the assistance of John Barleycorn alcohol to help you make it through the night... [LB196]

SPEAKER ADAMS: One minute, Senator. [LB196]

SENATOR CHAMBERS: ...because you know that you're not what you ought to be, and you know why you backed off. Now there are some who were just hard-hearted from the beginning. They cannot be changed. They remain hard-hearted. But there are others who have talked the good game. Can they say, as old Paul the imposter said: I've fought the good fight, I finished my course, I kept the faith. Those words sound good but they mean nothing as sounding brass and a tinkling cymbal. Thank you, Mr. President. [LB196]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator, you are next in the queue, and this will be your third time. [LB196]

SENATOR CHAMBERS: Thank you. Mr. President, I'm going to read the language of the bill that I want to return and whose enacting clause I want to strike which would kill it. LB196, Section 1. "There is hereby appropriated (1) \$632,982 from the General Fund for FY 2013-14 and (2) \$632,982 from the General Fund for FY 2014-15 to the Legislative Council, for Program 1, for the payment of salaries of members of the Nebraska Legislature and the payments to be made as provided by Chapter 68, article 6. Total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$588,000 for FY 2013-14 or \$588,000 for

Floor Debate
May 20, 2013

FY 2014-15." What's the difference between a hyphen and a dash? Both of them are straight lines. One is shorter than the other or if you take the opposite point of view, one is longer than the other. But one thing is certain: If you lay them side by side or one above the other, they are not equal in length. So now if we take the morality which governs a person's life and the morality which dance and skips blithely off a person's tongue and you lay them side by side or one above the other, they are not of equal length, they are not of equal merit, they are not of equal value, they are not of equal virtue. And these are the kind of things that may as well be discussed on the floor of the Legislature. When the flag salute was said this morning, God was mentioned. When the prayer was made this morning, ethics and religion were brought into the Chamber, not by me but by others. So you should feel no offense, but I don't care if you do, at me talking about the things you bring into the Chamber. And when you or your colleagues or some invited preacher comes in here and invokes a deity and makes all kind of supplications and begging, a few political commentaries on the affairs of the day while talking to the big boy upstairs, excuse me, big man upstairs, you don't need to...well, you can do whatever you want to do obviously. But I'm going to talk about those things. And today because it's going to be for some people a gloomy day I'm going to take this motion to a vote. I've been cooperative. I've been helpful, more or less. But that changes. When we get down to the precious few days, that is my territory. [LB196]

SPEAKER ADAMS: One minute, Senator. [LB196]

SENATOR CHAMBERS: And when I get to close, I'm going to tell you all briefly and with some elaboration and some modifications a tale written by Robert Louis Stevenson called Dr. Geekle (phonetic) or Jekyll and Mr. Hyde. I pronounce it Geekle (phonetic) because some people when they hear Jekyll they think of Heckle and Jeckle, but they are not the same two. Thank you, Mr. President. [LB196]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator, you can close. [LB196]

SENATOR CHAMBERS: Thank you, Mr. President. And I may offer a reconsideration motion or I may just make a motion on all these bills. Robert Louis Stevenson wrote after the manner of his day about morality. And a question that was constantly asked: What is evil? What is the source of evil? Are human beings evil by nature? Do they become evil based on their environment? And all kind of questions like this. So Dr. Jekyll wanted to do some experimenting. So he got these compounds and put them together and he fixed this elixir and when he drank it, it separated his...the evil part of his nature from the good part. And the evil part was known as Mr. Hyde. And Mr. Hyde could have been in any legislature in the country. He was a schemer. He was a conniver. He was evil incarnate. But that was his nature, and throughout the story Mr. Hyde acted in accord with Mr. Hyde's nature. And whenever a creature acts in accord with its nature, its conduct can only be called good. It is bad only when that creature acts against its nature. So Mr. Hyde through the story did some bad things. Dr. Jekyll

Floor Debate
May 20, 2013

was aware of Mr. Hyde's existence. Mr. Hyde was clever and cunning and knew his way around the world; Dr. Jekyll didn't. Mr. Hyde was smallish, dwarfish, very hideous in appearance at first. But as he ranged about this world and dealt with human beings, his wickedness came into fuller flower and he actually became bigger. When he put on clothes that before he had to roll up so that his little legs would not be dwarfed in them, he didn't have to roll them up as far. Now before my time runs out, Dr. Jekyll felt that something had to be done about this Edward Hyde. And Edward Hyde would taunt Dr. Jekyll. What Dr. Jekyll had done was to rent rooms for Mr. Hyde so he'd have a place to go. In other words, so when Dr. Jekyll became Mr. Hyde he had a place to go. He had a tab at the taverns. He could do everything that Dr. Jekyll wanted to do but he couldn't do it as a doctor but as Mr. Hyde he did it. Because Robert Louis Stevenson wrote at a time when all crimes had to be punished and virtue had to triumph, he had to destroy Mr. Hyde. And this became clear to him because up to a certain point when he'd drink his elixir he could turn from Mr. Hyde back to Dr. Jekyll, and Mr. Hyde went along with the program. But then something happened and the elixir couldn't be made. He got all of the components but there must have been some contamination. The only way he could rid the world of Hyde was to also rid the world of Jekyll. And Jekyll was the one who unleashed Mr. Hyde. Mr. Hyde to me was a victim. I don't identify with the doctor; I identify with Mr. Hyde. People attach the words "good" and "bad" to whatever pleases... [LB196]

SPEAKER ADAMS: One minute. [LB196]

SENATOR CHAMBERS: ...them at the time. Mr. Hyde could not do other than what he did. Will water freeze at 32 degrees? Yes. Why? Because it's of the nature of water to freeze at 32 degrees. You don't say the water is wicked because when it froze it's ice and it's hard. No. You knew what it was going to do and you could anticipate it. The doctor could anticipate. But he, when people read that story, is the one who gets the sympathy and a bit of condemnation. But Mr. Hyde was the victim as is the case with most of these stories of good and evil. A so-called good person is the one who unleashes what is called evil. [LB196]

SPEAKER ADAMS: Time, Senator. [LB196]

SENATOR CHAMBERS: Thank you, Mr. President. [LB196]

SPEAKER ADAMS: Members, the motion before us is the return of LB196 to Select File. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, there's been a request for a roll call vote. [LB196]

CLERK: (Roll call vote taken, Legislative Journal page 1426.) 3 ayes, 45 nays, Mr. President, on the motion to return. [LB196]

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

Floor Debate
May 20, 2013

SPEAKER ADAMS: The motion to return fails. Mr. Clerk, we'll proceed with the bill. [LB196]

CLERK: (Read LB196 on Final Reading.) [LB196]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB196 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB196]

CLERK: (Record vote read, Legislative Journal page 1427.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB196]

SPEAKER ADAMS: LB196 passes with the emergency clause attached. (Visitors introduced.) We'll now proceed to LB197. [LB196 LB197]

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return LB197 to Select File for a specific amendment. (FA83, Legislative Journal page 1427.) [LB197]

SPEAKER ADAMS: Senator Chambers, you are recognized. [LB197]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the one-liner tells us that this bill appropriates funds for salaries for constitutional officers. This amendment, this motion, if adopted, would take away all of their salaries; there would be no money appropriated. And maybe they could sue the state and force the state to pay them. I don't know. I had not thought of that before. But I want Senator Karpisek to pay particular attention because included in this bill are salaries for judges--for judges, Senator Karpisek. Senator Karpisek has not been happy in recent days with activities by some judges. Senator Karpisek has alleged that some judges have lobbied against a bill which he is interested in having brought before the Legislature and enacted into law. I'd like to ask Senator Karpisek a question. [LB197]

SPEAKER ADAMS: Senator Karpisek, would you yield? [LB197]

SENATOR KARPISEK: Yes, I will. [LB197]

SENATOR CHAMBERS: Senator Karpisek, the number of that bill is LB22. Is that correct? [LB197 LB22]

SENATOR KARPISEK: Yes, it is, Senator. [LB197]

SENATOR CHAMBERS: Senator Karpisek, you didn't introduce that bill, did you? [LB197]

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

Floor Debate
May 20, 2013

SENATOR KARPISEK: No, I did not, Senator. [LB197]

SENATOR CHAMBERS: I wonder if people knew that you had not introduced the bill. Senator Karpisek, I pay attention to what goes on around here. I read bills and I read who introduces them. Now it has become in the minds of most people the Senator Karpisek bill. Senator Karpisek, I want to ask you a question. [LB197]

SENATOR KARPISEK: Of course. [LB197]

SENATOR CHAMBERS: Senator Karpisek, what did you do that put you in a position to be considered more or less the shepherd of this bill? [LB197]

SENATOR KARPISEK: I prioritized LB22. [LB197 LB22]

SENATOR CHAMBERS: Thank you, Senator Karpisek. That's all that I will ask you. Members of the Legislature, Senator Karpisek not only has been critical of judges that stayed. Omaha World-Herald wrote a long editorial that reached from the top of the page to the bottom of the page, taking Senator Karpisek's allegation very seriously and suggesting, without making a categorical statement, that judges who if they lobbied against his bill may have done that which judges ought not to do. And the World-Herald went on to lecture judges and tell them what their duties are. This bill is going to provide the salary for the judges that Senator Karpisek has a grievance against and other judges against whom there might be grievances if people knew more. Senator Karpisek did raise an issue that should be discussed. However, I don't know that I would reach the same conclusion that he did. But the fact that I would reach a different conclusion would not mean that Senator Karpisek is wrong and that I am right. When it comes to a matter of this kind, neither side may be right, but also neither side may be wrong. There are nuances involved. And I want there to be nuances in legislative activity, but the way I'm carrying on today is not based on nuance. It's not based on being subtle. I want it to be crystal-clear what it is that I'm doing. And while I'm in the neighborhood, I want to talk about extended debate versus filibustering. When that clique of senators undertook a filibuster against LB577, the Medicaid bill, they had a right to do it. When some, not the same makeup, filibustered my bill to abolish the death penalty, I stated at the beginning of the debate that they had a right to do that; that it is a tactic that I use. And I am opposed to following the lead that is being offered by the Lincoln Journal Star to reduce the number of votes required for cloture from 33 to 30. To show how little thought goes into the conclusions expressed by editorial writers, the mention was made that it takes 30 votes to override a Governor's veto and that ought to be enough to end debate. The two things are different. The debate that the Legislature engages in, whether it's what I would call extended debate or what others would call filibustering, that is the warp and woof of what the Legislature is about. And when a cloture motion is successful, that ends any and everything that can be said about that bill at that stage--no amendments,

Floor Debate
May 20, 2013

no debate, no motions, nothing. You cut off the legislative process. It ought to take more votes for the Legislature to do that, to stop that which it is created to do, than it would take to override a Governor's veto. By making 30 votes required, you're saying, by the constitution, that the Governor alone is the equivalent of 29 members of the Legislature or really 30. Thirty, that's enough to give him or her. But there should be no rule change, in my view, to alter the number of votes required to invoke cloture. Sometimes you win; sometimes you lose. But those who have a chance to win are those who pick themselves up, dust themselves off, and start all over again. The Legislature, as I've said, and the work that I do here is neither my wife nor my life. It's something that I do. And when I'm doing it, I do what I think is right. And that's why I cannot be bought off, I cannot be scared off or anything like that, but I can be bargained with. I can be bargained with. If you give me what I want and what you want does not violate a basic principle of mine, I will give you what you want, if it's within my power to do so, or I'll help you get what you want. And that's a part of what we do in the Legislature also. So I am this morning taking my time as a precursor to what I may or may not do during the precious few days that remain. Now if there is a bill on General File, I can get eight hours, unless they want to go against the tradition and follow the rule... [LB197 LB577]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: ...which was put in place to deal with me. An attempt to invoke cloture can take place at any point, and maybe you'll be forced to do it this session. That remains to be seen. My next installment will relate to the Governor. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Karpisek, you're next in the queue. [LB197]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I came in this morning still feeling a little bit like a porcupine, as Senator Chambers had said, and thought I'd throw a few quills his way, so glad that he got me involved so quickly. I did prioritize LB22; however, I did bring LB212, which was much the same bill as Senator Hadley's LB22. That met a great amount of resistance and I decided right away that that was probably not the way to go, nor would it go through the committee nor out here on the floor. After meeting with some attorneys on both sides of the shared parenting issue, I thought that we had a good amendment, probably nothing that Senator Chambers would agree to, because he's told me he wouldn't, but that's okay. I thought I'd talk to him afterwards. But then that's when the bar association came in and opposed things and I started hearing the judges were sticking their noses into it, and I got upset. And I haven't even yelled too much lately about this because I'm so upset. I'm past that stage. And now we're getting some feedback from other places. And Senator Chambers is right, we may or may not come down on the same side of that issue, and that's fine. But as I said on Thursday, Senator Chambers has been upset about his bills not coming out

Floor Debate
May 20, 2013

of committee and would do everything he could to get it out, and this afternoon we'll probably talk about it, and I said I would do the same thing on mine. But however, it seems like those rules aren't the same. Senator Chambers and I will probably, if he'll talk to me, talk about his effort on the state sales tax or the...sorry, not the state sales tax, the half percent, and we'll talk about it I hope. I do not support the judges' salary increase mainly for the fact that it's 10 percent in two years, which I think is far too much for anyone. I also do not support the raise just because of the way some of them have acted. And I know that's probably not fair to the ones that have not done, in my opinion, anything wrong, but I lost on that one and I'll probably lose on a few more. But as Senator Chambers just said, it's okay, get up, dust yourself off, and make another run at it. There's a few days left, but I'm not going to be done until we're done. That's the way it works here and that's fine. Senator Chambers is taking up some time because he doesn't like the way some things are going for him, I don't like the way some things are going for me, and we'll all get out of here in about ten days and think about different things. It's good to talk things out. We've come a long way this year. We've gotten a lot of work done. It's kind of like one of those good compromises where everybody goes home a little bit not happy. I will probably go home a lot not happy, but I'll come back one more time and try it again. Thank you, Mr. President. [LB197 LB22 LB212]

SPEAKER ADAMS: Thank you, Senator Karpisek. Senator Chambers, you're recognized. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, there's another critter but I'm not going to compare him to Senator Karpisek. I want him to be clear on that. I'm not even going to give its name, but there's an expression that applies to this critter because of the way it acts when it becomes very fearful. It falls over and tries to mimic death. I don't play possum. Oops! I don't roll over. I don't owe it to anybody on this floor. I get paid \$1,000 a month like everybody else. I come here every day, like everybody else, unless something intervenes that makes it impossible, impractical, not feasible. But I don't consider anybody better than me or above me. And I feel, however, a corollary that because of the way people make certain protestations about their morality and their ethics, they are people beneath me based on the standard they set for themselves. When I criticize things on this floor, what standard do I use? I use the standard that's broadcast in here--the Christian standard. What book do I go to? I don't go to The Communist Manifesto. I go to the "Holly Bible," which people pretend to believe, and that is what lashes you. There's a king. He said, your fathers were beaten with whips; I will beat you with scorpions. That was a certain type of whip, like a cat-o'-nine-tails with little chips of bone to add to the pain. And although it was said in the Old Testament, it was a presage to the New Testament, because the idea of inflicting as much pain and hurt as possible was the idea behind it. And wherever you find this religion, the torturers, the worst torturers on record were found during the Inquisition. And you know why so much was known about how they tortured people? They were like the Nazis who were carrying out their experiments during that period of

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

Floor Debate
May 20, 2013

time called the Holocaust. They were like technicians. They kept impeccable records. They wrote it down in books. And what they wrote about what they were doing to this group that they wanted to exterminate because they were subhuman, those words came back to bite them during the Nuremberg War Crimes Trials, their words which they wrote while they felt they were on top of the world, striding through Europe in their jackboots, their elite corps, the Waffen SS, with a death head as its symbol, terrorizing everything and everybody. But they were Christians too. They also were Christians. They kept their records,... [LB197]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: ...the scribes, the secretaries, the Christians who did not have enough charity to say lighten up on the terror and the torture. They not only wrote what happened; they described the screams, the agony, the writhing that these people were going through because of a difference of opinion. Oh, Christianity has started and waged many wars; it has never stopped a single one. The same can be said about other religions. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB197]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. On Senator Chambers' previous motion to return to Select File, our salary appropriation, I voted yes, and that was not just to see whether or not my green bulb worked. Generally, if you're hired to do a job and you don't do it, you shouldn't get paid. And we honestly have got to ask all of ourselves whether or not we're doing the job the people hired us to do in accordance with the rule that was laid down for us. And if you read through our constitution, which lays out our job responsibilities, it lays out how we're supposed to do those responsibilities. And we're supposed to do them by assembling here in the Chamber, looking at various proposals, and then, by a vote of 25 or more votes, if we are in agreement, approving the proposal, sending it on to the Governor, who has an opportunity to veto it. And then if we disagree, 30 votes rule. That's our job. Balanced against that is our responsibility to thoroughly debate an issue, seeking the truth thereof from both sides. As with all rights of debate or rights of anything else, for that matter, how we exercise common sense in deploying those rights is important. It is not the intent of the people that 17 people shall rule this body. It is our obligation, in response to our job description in the constitution, to bring things to the vote at the cessation of debate. And what we have now maybe is a worst of all possible worlds. If we don't vote to cease debate, then debate ceases anyway and we move on and somehow escape our responsibility to cast a vote, hiding behind the cloak of 17. That should not be. There are large issues involving much money and the people's lives that we are hired to make decisions on; and so far two of the big ones--the death penalty and Medicaid expansion--we are hiding under the desk. We should not be allowed to do that. We

Floor Debate
May 20, 2013

should not be able to claim a paycheck for not doing what we're hired to do, and we should have a vote, and the Governor should have a chance to veto, and we should have a chance to override with 30 votes. We should debate, we should conclude debate in a reasonable way, and then we should vote. Until then, we should not be paid. Thank you. [LB197]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Chambers, you're in the queue, and this is your third time. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Thank you, Senator Schumacher. There are things that have got to be said on this floor, not in whispers in the corridors, not wringing hands but on this floor. Do you think I don't feel there's a price that may be exacted against me when I do what I do? I'm prepared to pay it, and you all will exact it against me. But what about the 17, quiet as mice? Punish them. They're punishing you. They have imposed a rule. But here's what I have to give them credit for: they're prevailing. They decided they're going to take charge and they have done it. Now they can't control me because nothing that I bring before this body means that much to me. I'll just come back. I'll outlast all of them. But it's your Legislature, not mine. Look at you! People like to say black people all look alike. When I look around and I don't have my cheaters on, you all look exactly the same to me. And when they show a stadium full of white people, they all look exactly the same. And now you're behaving like that bland group. There was a statement that a fellow wrote and his name might have been Dante and maybe it wasn't. People say the hottest--he may have said the darkest--places in hell are reserved for those who are neutral during the time of a moral crisis. If you consider an Italian or I-talian (phonetically) white like you, then a white man told you what's in store for you. Then you're going to get mad at me. And it's you, you've got the numbers but you don't have the backbone. But I have. And there's nothing you can take from me because there's nothing you gave me. I am self-sufficient. This Legislature, this legislating are things that I wear loosely. There are things that I do; they are not things that I am. What am I? I'll quote from that famous American philosopher, Popeye the Sailor Man, "I yam what I yam and that's all that I yam." But it's sufficient for the job. You won't find me sniveling around here, begging lobbyists. If Walt Radcliffe pops his finger, here's the way that thing goes. He says jump and you say how high. Uh-uh, that's the old days. When Walt pops his finger, you jump and you say, Boss, is this high enough? You think he respects you? You think those lobbyists who feed you respect you,... [LB197]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: ...a bunch of moochers? You think that? Carry yourselves like people with dignity and they will treat you the same way. And as members of the Legislature, with the job we have to do and are empowered to do, you should insist on that, but not just saying it, by doing it. We can do it. We can break that clique today. I'm

Floor Debate
May 20, 2013

not talking about my bill...on my amendment. That's a small thing. That's a peewee. But there's something much bigger. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Lathrop, you're recognized. [LB197]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. We have talked about LB22 and the judges on different occasions. We've talked about the bar association on different occasions, their lobbying activities. And it keeps coming up in the context of LB22. Now I want to say this: I supported LB22. Senator Coash and I worked with members of the bar and those who are concerned to try to find a middle ground. That didn't happen, at least not to the satisfaction of people who supported LB22. But I stand today because I've sat and listened to people criticize the bench and they've criticized the bar association, and I want to respond. You know, most of you are married, have been married, have been through it, some of you have been through a divorce, a number of people have. Half the people that get married will end up divorced. And so you'll end up in front of a district court judge and I got to tell you that there are a lot of things about divorce, the divorce process, especially when it comes to the custody of the children, that are ridiculously difficult, ridiculously difficult issues. You're asking lawyers to advocate for their clients, district court judges to sit and listen to it. A marriage that went 20 years and produced three or four children and now they don't get along well enough to cooperate in raising the children any longer, and a district court judge is going to be put in the middle to decide what do we do with the kids, what do we do with the kids. Now they are criticized. And I have to tell you, I was not approached by any district court judge. I don't know who the judge is that supposedly lobbied on LB22. But I'm going to say this about the lawyers who do this kind of work and the judges who are involved in deciding these cases. If we are going to do something with the custody of children, to change how that process is undertaken, don't you want to hear from the people who are sitting in the front row, day in and day out? And they don't enjoy these cases. They are heartbreaking for any person to sit through and watch kids get put in the middle of a fight between their parents. That's what we're talking about in LB22. And I appreciate the importance of noncustodial parents getting more time. I recognize the importance or the value to children who have more time with both parents, and that's why I supported the bill. But understand something. I am not critical of lawyers who do this work, nor judges for that matter who try these cases, speaking up about whether we're on the right path or not. They are the ones who have to make the call. They're the ones that have tried all of these cases that give them the experience. This isn't about them trying to favor moms over dads. They have something to say about it because they've sat in the front row and done it. When I first started practicing law in Douglas County, we had several different district court judges. We had them specialize, so there was like the criminal judge, then there was a civil judge, and then there was the domestic relations judge. They finally did away with it because no one wanted to be a domestic relations judge. They said, we got to share the pain. This is not something

Floor Debate
May 20, 2013

they enjoy. It's not something that they cherish or that they want to be doing. They'd rather be trying other types of cases. But understand something: They have a lot of experience. They have a lot to offer when it comes to what's good policy relative to sorting out parenting time, sorting out custody issues. And I have to tell you, standing on the floor and waving the red flag in front of Senator Karpisek,... [LB197 LB22]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thirty seconds. [LB197]

SENATOR LATHROP: ...I understand his commitment to that bill. And as I said, I supported it or, generally, the idea behind it. But I don't think we should be kicking the district court bench around if, in fact, they have been lobbying this--and I'm not convinced that they have--or the lawyers who do that kind of work. I don't know where else we'd get the best information about what's the right standard for putting the kids in one house or the other, or sharing the kids, as they must after they've decided they can't get along well enough to do it together. [LB197]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Time. [LB197]

SENATOR LATHROP: Thank you. [LB197]

SPEAKER ADAMS: Senator Chambers, there are no other senators in the queue. You're recognized to close on your motion. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I intend to keep us on these budget bills. So if you've got anything to say on other things, you may as well say it. But here's what I know. I'm Mr. Hyde. Dr. Jekyll floats around up here pretending to be something he's not. I've studied the Legislature and you'll get a better discussion of important issues when those are not the issues up for discussion. If we were talking about judges' salaries, certain things would not be said. Senator Schumacher made some very cogent remarks and they went to how we should function as a Legislature, and I agree with his view. But what has to be kept in mind: There's no compulsion in the constitution. He mentioned the commonsense way things ought to be done or how common sense ought to come into play. Show me one place in the constitution where it says a public official has to have common sense or any sense. Show me where it says an elected official has to know how to read, and a lot of white officials who couldn't read were stopping black people from voting because they couldn't read German. That's how the white people's constitution was imposed on my people. Somebody called it an agreement with Satan and a compact with hell, because it justified and protected slavery. So I have to look at what's in your constitution and take it

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

Floor Debate
May 20, 2013

with a grain of salt. But the way you all trample on it means you don't respect it as much as I do. But for people who have no hope in most situations, that paper is the only hope. So I'm going to from time to time make references to your constatooshun (phonetically), as George Wallace, a constitutional believer, called it, like I make references to your "Holly Bible." And what can you do to me? Isn't it frustrating when I'm immune to anything you can do, I'm impervious to anything you'd like to do? That's the most frustrating thing. Why, something like that can turn an ordinarily reasonable, rational person, whose name is Senator Coash, into Senator "Chaos." But that's life. Who said that life is always going to be solemn because the occasion is? What could be more solemn than a funeral? But there are those who preside over funerals who tell jokes at funerals, and there are people who laugh at funerals. And some people are happy that somebody has checked out of here. And everybody crosses their fingers and will look the other way when all those lies are told during a funeral. Maybe if some of those nice manufactured statements are said over somebody who's dead and can't hear it,...

[LB197]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: ...that person may have lived a little longer and been a little less unhappy. If you're going to lie over a corpse, lie to a living person. If you're going to play like you love the corpse, play like you love this person. You don't have to sleep with them. You don't have to eat with them. Just tell them something that might lighten the burden for them that day or that instant. Does it hurt you? Talk to a cricket and a cricket will tell you that it doesn't diminish me to play my song, but I might add something to the world so I'm better than a human being. I can give without diminishing myself at all, and it might even help somebody. But if it doesn't help, it's not going to hurt. This society has people who want to talk about morality and religion but they don't look at what it's all for.

[LB197]

SPEAKER ADAMS: Time, Senator. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Chambers has requested a roll call vote and the question is the return of LB197 to Select File. Mr. Clerk. [LB197]

CLERK: (Roll call vote taken, Legislative Journal pages 1427-1428.) 1 aye, 46 nays, Mr. President, on the motion to return. [LB197]

SPEAKER ADAMS: The motion to return fails. Mr. Clerk. [LB197]

CLERK: Mr. President, Senator, I assume...Senator Chambers would move to reconsider the vote just taken. [LB197]

Floor Debate
May 20, 2013

SPEAKER ADAMS: Senator Chambers, you are recognized to open on the reconsideration motion. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Senator Lathrop made some significant comments about judges, the judiciary, the administration of justice and so forth, and I think they were right on target. But I have criticisms of the court and I have a criticism of the Nebraska Supreme Court. I went to sit in on a hearing and there was somebody who indicated that once court started you couldn't come in. Once court started, you couldn't come in while court was proceeding. So the doors of the courthouse were, in fact, closed. That's wrong, in my opinion. They place themselves above other human beings. But I have another gripe. They should not have that invocation, God save this honorable court and the United States, or whatever they say. Why are they going to invoke God? And if I've got business before the court, I've got to sit and listen to that or I can't get in the courtroom. I'm going to offer a statute that I'm going to try to talk to the Chief Justice and make him see the point, and if he doesn't, I'm going to start bringing bills to do these things. You all are so self-satisfied and narrow-minded, you don't care if other people are offended and hurt by what you do. But you're offended by me, aren't you? This is your object lesson. I'm going to put you through what other people go through all the time and you don't even think about it. You lawyers, who take an oath to see that the law is upheld, you're going to follow your ethics; then you're going to compel somebody to sit through a religious invocation in order to be in court. If I don't want to be there when they say God bless this court, and that's not my attitude, then they shut the door and I can't come in. Why do I have to stand up when men in gowns walk into the courtroom? Are they more than I am? Are they above the law in a democracy? Are there classes, first class, second class, third class? Are the judges of a higher order than everybody else? What would happen if when the bailiff says, all rise, and you don't stand up? Are you in contempt of court? A court like that is worthy of contempt and you all won't speak up for it. You won't say anything about it because you don't think about it. You're white and everything goes your way. You're privileged. You're spoiled. You always have it your way. And because you have it your way, you think everybody else does. So what hurts somebody else you say, well, you should have been born white. Thank God I wasn't because I'd be just like the white people that I'm talking about now probably. But what you all don't understand, that the blood that courses through my veins is so potent, one drop of it would turn an otherwise white man into a black man. You don't know whether somebody sitting next to you, looking as white as you are, would be considered by America's definition to be a black person. We've had black people who passed all the time--that's what it's called--white, blonde, blue-eyed, and they sit around white people. That's why we know so much about you, because they sit there taking notes. And you think they're one of you. But there's a greater kinship they have to that group who, back in their ancestry, put some blood in their system and they will be loyal to that group because they don't want to be like the ones they look like. And we're the invisible people also--the butler,

Floor Debate
May 20, 2013

the servant, the janitor, the "unpeople"--and you talk like we're not there and we hear everything that you say. When you're looking for leaks of government documents, don't go seizing the phone records of the Associated Press. I shouldn't tell, but find out if there are any of those invisible black people serving coffee, playing the role of the underling who doesn't understand anything but knows more than what you know. So while we're talking about the courts and how wonderful they are, why should somebody have to stand up when judges come into the room? Why? And if the Chief Justice won't change that, I'm going to bring a bill next session, I promise. You all, some of you, may be aware that I had brought a lawsuit to get rid of a paid chaplain. Well, there's no paid chaplain, although the Supreme Court...Burger was the Chief Justice. It was a divided court. Some of them had sense. But I wrote a letter after he spearheaded that decision and I addressed it to Chief Justice Burger and the French fries. That's what I thought of the Supreme Court. They're just people. A man ain't nothing but a man. And when they've got to compel you by a rule to stand up to show respect, it shows they know they're not worthy of any respect. And they can deprive you of your rights under the constitution if you don't stand up when these jokers come into the courtroom. What are they talking about when they say, God save this honorable court? What God? That's an invocation. An invocation is a prayer. It's a supplication made to a deity. That's what that is. And I don't believe in what they believe in, but if I stay outside the courtroom until they get through and the doors close, then what happens? But do you all care? You don't even think about it. But I do and others do, and they watch and listen and hear and see. You get upset with what I'm doing. I can't even make you stay in this Chamber now when we're on Final Reading but not reading. You're free to walk around. If you're like Sheehy, you can even go call your sweetie if you want to. You can do anything you want to do. How many were shocked that this grown man liked women? How many of you were shocked? And if he thinks about her, he wants to talk to her. Because he doesn't know how to use ESP, so he picks up the telephone and he dials it, but he's dumb because he uses the wrong telephone. Or maybe his love just came tumbling down on him and he couldn't resist it; he had to talk to her immediately and grabbed the phone. Who doesn't understand love? Who doesn't understand how love will make a person act like he or she is crazy? Some people call love a form of insanity. So in the same way that Mr. Hyde acted in accord with his nature, why are you surprised when somebody whose mind is deranged by whatever love is acts in the way that a deranged person will? You honor and praise those in love, but poor Sheehy had to get out of the race for Governor. I wish that was the worst thing anybody who ever ran for Governor had done. Poor Sheehy, I didn't know him well. In fact, I'd have to say like somebody said about John Kennedy, John, we hardly knew ye. I hardly knew him. But I'll tell you one thing that I know, that people on the floor of this Legislature have to be prodded and provoked just to do what it is they ought to do and what they know they ought to do, and they want credit for having done it so why not do it? And if you don't want to be criticized for actions, don't place those actions. But even if you're falsely accused... [LB197]

SPEAKER ADAMS: One minute. [LB197]

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

Floor Debate
May 20, 2013

SENATOR CHAMBERS: ...in the newspaper or wherever, that's not the end of the world. And I'm having fun this morning. And that reminds me of a song that those guys out on the West Coast sang: She had fun, fun, fun till her daddy took the "T-bird" away. Well, nobody will take my "T-bird" away from me. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator Chambers, you are next in the queue. [LB197]

SENATOR CHAMBERS: Thank you. Members of the Legislature, in case you've forgotten, this is a motion to reconsider that earlier vote and that earlier motion was to deny salary to state officers, constitutional officers. Among that group would be the Governor. Every Governor, when an attempt was made to increase the salary of state officials, constitutional officers, would veto it because the Governor didn't want to seem that he or she was interested in getting a raise. Well, it wouldn't raise that Governor's salary, at least not during that term. But don't deprive others because you're trying to look virtuous when there's no virtue in the act at all. So the Governor is one person, and whether it's a lady or a man, that Governor can do things by reaching a decision and implementing it. We have to get at least 25 and in some cases more votes to get certain things done. Now the Governor, before he or she leaves office, will have done one or several things that people find offensive, so this is the time to get even. That's what the Kennedy boys' father, Joseph Kennedy, told them: Don't get mad; get even. So take away the Governor's money. But I know that this motion has no chance of being adopted any more than the other one did. And I just ran one person out of the queue. Some people don't realize how much attention I pay to things. There was a god called Janus who had a face in front and one in back, could see both directions at the same time, things coming and going. And I guess that's why the month January is called what it is, looking forward and looking back at the same time. But at any rate, we need to pay attention to things and not be so easily disheartened, so easily worn out. We started at 10:00. We have not been here two hours yet, not even two hours. Now think, and don't fib to yourself, how tired you are, how worn out you are. And I'm watching this and making note. And I'm ready to go to 11:59 p.m., and before we get to 11:59 a.m., and we started at 10:00 a.m., you're worn out. Why, are you going to let an old man wear you out like this in the morning? But I know about this time of the day your stomach starts to talking to you. I don't know if you read Dagwood in the funny paper, but the name of the comic strip is "Blondie," not Dagwood, "Blondie." And Dagwood was getting a checkup at the doctor and the doctor told him he was all right. Then he put the stethoscope on his stomach, because he knew Dagwood. He said, but I can hear a little whisper from your stomach saying it could really go for some anchovies and pepperoni about now. And when it showed Dagwood paying off the receptionist, just shelling out the money, he had the biggest smile from ear to ear. He said, I knew he was just kidding but it's nice to have a doctor who will work with you. Well, now I'm working with you. Work with me and work for yourselves. Wear me out. Make me stand up, but I do

Floor Debate
May 20, 2013

that anyway. Make me talk. [LB197]

SPEAKER ADAMS: One minute, Senator. [LB197]

SENATOR CHAMBERS: You said time? [LB197]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: Thank you. I could be bluffing you. Maybe I'm tired right now. Maybe it's all I can do to make it till noon. And when I go down to my office, for all you know I have some elixir that reinvigorates me. Or maybe I have one of those little things that they say if you drink this and you're an athlete, then you can win the 100-yard dash and all the other things they say it will make you do. You don't know, so challenge me. This is just one day out of the almost dozen days left, almost, because there are not a dozen days left. And if I decide to do like this every day, you're going to have to invoke cloture without going a certain number of hours, and I will have won again because I dictate what is... [LB197]

SPEAKER ADAMS: Time, Senator. [LB197]

SENATOR CHAMBERS: ...going to happen and how. Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Senator Chambers, there are no other lights on. You are recognized to close on your reconsideration motion. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President. And I'm not through...now on that bill I am, but the next one I have a motion up there that's been there for a little while. Senator Lathrop mentioned that he's heard criticisms of the judges, heard criticisms of lawyers, criticism of the bench and the bar. Well, I have some criticism of your Attorney General and I intend to discuss those things. I believe in transparency. I believe if a person runs an office and does some things that are shaky, and even violative of a federal law, then that person ought to speak up. And if what was done relates to a political activity, his chief deputy should not be speaking on behalf of the Attorney General, the chief deputy of the Attorney General speaking up and defending the Attorney General on a political issue. That doesn't ring a bell with you all because everything goes, but it doesn't go with me. So I've just been kind of warming things up. And I have other things that I'm going to say about your Attorney General. And if I have to offer ten motions on LB195, I'm going to get said what I want to say, and it's relevant because I want to cut some money out of the Attorney General's budget. He's not worthy of it and he hasn't discharged the duties of that office, in my opinion. And I'll tell you something else that I started to do but I didn't: check every agency of this state that gets federal money. And we won't stop it by legislation, but we will subtract that amount

Floor Debate
May 20, 2013

from the General Fund appropriation for that agency, because you don't want the federal money for Medicaid expansion but you want it for other things. Federal money is dirty when it will help people who need medical care that they can't afford, but it's clean when it's your agency. Senator Carlson is going to have a bill, he's got it up here. They want to leverage it to get as much federal money as they can. That federal money is dirty and you don't want that tax money because it comes from the people here, just like you say the money that would fund Medicaid comes from Nebraska taxpayers. They also pay taxes on that federal money that all these state agencies are getting, and if you read that blue book, you'd see how many of them are getting federal money. Would you agree to subtract that amount from the General Fund appropriation and tax the people only once when they pay it to the federal government? You're so worried about them paying it to the federal government when it would fund Medicaid. Some of the silliest things I've ever heard are stated on this floor and nobody will take issue with it except me. And you're not going to pay attention to me, but it's in the record. And people around the world are paying attention, because I get the word. I don't do all these things on computers, but other people get messages and they share them with me, and they wonder what kind of place is that where I'm located. They watch and they listen, and they hear some of the most asinine things said on this floor. [LB197 LB195]

SPEAKER ADAMS: One minute. [LB197]

SENATOR CHAMBERS: Because you sit here and you do and say these things as though this is the whole world and that there are not people mocking, scoffing, ridiculing, and talking about how backward Nebraska is and how nonsensical the things they say are. They're going to take all this federal money and even try to leverage it. If Senator Carlson's bill comes before us again, I'm going to see if there is any federal money in that water study. And if so, I want to cut it out because I don't think there should be any federal money for that, uh-uh, buddy. And it's too late for me to try to get any money out of the Attorney General's budget other than by what I'm trying to do with this amendment that I've got pending on LB195. When the claue of 17 or some of them were talking... [LB197 LB195]

SPEAKER ADAMS: Time, Senator. [LB197]

SENATOR CHAMBERS: Thank you, Mr. President. [LB197]

SPEAKER ADAMS: Members, you've heard the closing on the motion to reconsider. Mr. Clerk, there has been a request for a roll call vote. [LB197]

CLERK: (Roll call vote taken, Legislative Journal pages 1428-1429.) 2 ayes, 46 nays, Mr. President, on the motion to reconsider. [LB197]

SPEAKER ADAMS: The motion to reconsider fails. Mr. Clerk, are there any other items

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

Floor Debate
May 20, 2013

pending? [LB197]

CLERK: Nothing further to this bill, Mr. President. [LB197]

SPEAKER ADAMS: Mr. Clerk, would you read LB197. [LB197]

CLERK: (Read LB197 on Final Reading.) [LB197]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB197 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB197]

CLERK: (Record vote read, Legislative Journal page 1429.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB197]

SPEAKER ADAMS: LB197 passes with the emergency clause. (Visitors introduced.) Members, it is my intention when we return at 1:30 to continue on with Final Reading on the budget bills before we proceed to LB308. So we will return at 1:30 and continue on with wherever we're at on the budget bills, as well as the claims bill. Mr. Clerk, next bill. [LB197]

CLERK: Mr. President, LB195. Senator Chambers would move to return the bill to Select File for purposes of considering AM1441. (Legislative Journal page 1409.) [LB195]

SPEAKER ADAMS: Senator Chambers, you are recognized. [LB195]

SENATOR CHAMBERS: Thank you. And Mr. President, members of the Legislature, if I can't get everything I want to say on this motion, because I don't expect anybody to say anything, and I know the vote will be lost, I'm going to reconsider. If I can't get everything said then, I'm going to offer a motion to return and strike the enacting clause because I have some serious things to discuss. First of all, for the sake of the record, on page 18 of the Final Reading copy, strike line 22 and insert \$5,000,000. Currently the amount there is \$5,404,683. And the next one for FY 2014-15 will be \$5,000,000, and that will be a reduction from \$5,508,560. I want to keep the numbers round, at least on this page. But then when we go to page 19, I strike \$9,009,335 and insert \$8,604,652. Then the following period I would strike \$9,159,331 and insert \$8,650,771. Before I go into what I intended to say, if you happen to be looking on page 18, you will see that we're talking about a particular office, and that office would be in line 3, Agency 11, Attorney General. That office gets some federal money. On page 19, in line 1, \$1,602,547, then \$1,617,568. We should just--but I'm not attempting to do that--excise that amount from the General Fund appropriation, in addition to what I'm doing here. Don't give them the benefit of any federal money. Let them get the money but it's offset

Floor Debate
May 20, 2013

by a reduction of the same amount in what they get from the state General Fund. As I'm saying, again, I never heard anything so foolish as to say that we should not vote to expand Medicaid coverage when the federal government will pay the total cost for three years, and we have people standing on this floor saying, well, that's taxpayer money. We pay taxes to the federal government. They know it's foolish when they say it. But they've got no legitimate position. So they say something like all of a sudden they're concerned that money you pay in taxes to the federal government will come back to the state to expand Medicaid. Well, even if you don't vote to expand Medicaid, they're not going to give you the money back that you paid to the federal government. And what percentage of what you paid in taxes to the federal government will go to expand Medicaid in Nebraska for three years? You ever hear anything so silly in your whole life? But that's what we have to contend with on this floor. And it's why people around the world say this Legislature is looney. The World-Herald repeated an editorial that was in The New York Times condemning the corruption in legislatures all over the country and especially in New York. Then in a little parenthetical statement, something about some legislatures do well and they're efficient, and they mentioned Nebraska, which is a Unicameral. Nebraska is not efficient. You can get three years of federal pay to provide medical help needed for the people in this state. You think that woman would have said this is a sane legislature to reject that because they pay federal tax and they don't want their tax money paid to the federal government to go to the expansion of Medicaid in this state? She'd say Unicameral...I wonder if they meant unicorn because unicorns don't exist. But that's what's out there. So we ought to cut the federal funds from all these offices, but that's not what this amendment does. It's aimed...we've only got seven more minutes. I'm not going to go into it right now because I don't want to be cut off in the middle of this. I want to expatiate free o'er all the scene of the Attorney General's Office, and I intend to do it. We've got to get the budget bills passed today so we can get them to the Governor. All of those who will stay with me until 11:59 p.m., raise your hand. One, two, three...all the hands. Now all those who would like to see me stay on the budget bill until 11:59 p.m., raise your hand. (Laugh) There was a tentative one until his friend snatched his hand down and punched him in the side. I'll tell you what. I'm going to compromise with you. I will not even attempt to stay on the budget bills until 11:59. First of all, that would be the height of irresponsibility, and I'm not saying that trying to be funny. Anything that needs to be done with these bills should be done soon enough to get them to the Governor's Office so that whatever is going to be done or may need to be done in addition to what we do here today can be done. I had told the Speaker when the session first started that he should not get heartburn over anything that happens on this floor. He has experienced it, but not from the standpoint of the Speaker. It's one thing to be riding the coach and another thing to be the engineer or the trainmaster. There's a different perspective that you have. But I assured him, and we all would do the same thing: Everything that needs to be passed will be passed. That's one thing. But not everything that should be passed will be passed. And one of the things that should be passed is LB577. Now that is something which is worth more than all the rest of what we're contending with. But depending on how people mess over me this

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

Floor Debate
May 20, 2013

afternoon, they may lose one of their strongest supporters. Senator Schumacher, they just may lose one of their strongest supporters because they want a one-way street. They want me to suffer all these slings and arrows of an unkind fate they contrived for me. Then they want me, with the blood dripping from my hands in agony and excruciating pain, rise to a level of virtue where I say, despite the fact that you slay me, yet will I help you. Not here. That is not what I will say. But I let you know so if you want to stay away at the early part of the afternoon, you can although we will be on Final Reading. And if we don't have a quorum, we can't do anything. So at least 25 of us will be captured here. I'm going to say some things on the Attorney General, and like they give you a little trailer or streamer, I want to talk about his fine for violating federal law and how he put his chief deputy out there to cover for him. Then how a person who worked in the Attorney General's Office for nine years was just arrested for selling, I meant growing marijuana at home, growing...and when they found out about it... [LB195 LB577]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: ...then they fired her. But the one who speaks again, Mr. "Crookson," doesn't want to tell what kind of cases she handled. Now in the interest of transparency, isn't the public entitled to know whether her drug activity may have influenced the way she handled cases? But "Crookson" says we're not going to tell you. We're not going to let you know. So those are some of the things I'll talk about this afternoon. I know you want to hear it so come back and listen. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. Mr. Clerk, is there a motion on the desk? [LB195]

CLERK: Can I read some items, please? [LB195]

SPEAKER ADAMS: Yes, please. [LB195]

CLERK: Mr. President, study resolutions: LR239, LR240, LR241, LR242, LR243, LR244, LR245, LR246, LR247, LR248, all study resolutions introduced by a variety of members. All will be referred to the Executive Board. LR249 is by Senator Kolowski. That's a resolution that will be laid over at this time. And resolutions LR250, LR251, LR252, LR253, LR254, LR255, LR256, LR257, LR258, LR259, LR260, LR261, LR262, LR263, LR264, LR265, LR266, LR267, and LR268, Mr. President, all study resolutions. All will be referred to the Executive Board. Enrollment and Review reports LB568, LB568A, LB556, LB556A to Select File. Senator Kintner would like to add his name to LB308 as a coinroducer. (Legislative Journal pages 1430-1447.) [LR239 LR240 LR241 LR242 LR243 LR244 LR245 LR246 LR247 LR248 LR249 LR250 LR251 LR252 LR253 LR254 LR255 LR256 LR257 LR258 LR259 LR260 LR261 LR262 LR263 LR264 LR265

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

Floor Debate
May 20, 2013

LR266 LR267 LR268 LB568 LB568A LB556 LB556A LB308]

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB197 and LB196. Mr. Clerk for a motion. [LB197 LB196]

CLERK: Mr. President, Senator Nordquist would move to recess the body until 1:30 p.m.

SPEAKER ADAMS: Members, you've heard the motion. All in favor say aye. Opposed. We are in recess.

RECESS

SPEAKER ADAMS PRESIDING

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

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

SPEAKER ADAMS: Are there items for the record?

CLERK: There are. I have a report from the Health and Human Services Committee regarding LR22. It's been reported back to the floor for further consideration. And study resolutions LR269, LR270, LR271, LR272, LR273, LR274, and LR275; those will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1448-1455.) [LR22 LR269 LR270 LR271 LR272 LR273 LR274 LR275]

SPEAKER ADAMS: We return to discussion on LB195 and, Senator Wallman, you are next in the queue discussing AM1441. [LB195]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. What an interesting concept. If Senator Nordquist is here, I'd like to ask him a question. [LB195]

SPEAKER ADAMS: Senator Nordquist, would you yield to a question? [LB195]

SENATOR NORDQUIST: Yes. [LB195]

SENATOR WALLMAN: Thank you, Senator. Did we...how much money roughly do we get from the federal government to balance our budget? [LB195]

Floor Debate
May 20, 2013

SENATOR NORDQUIST: Oh, it is...I believe it's around \$2.9 billion in our...that we have appropriated federal funds in our budget. But I will look at the blue book, the blue budget book here to verify that, but I think it's \$2.9 billion. [LB195]

SENATOR WALLMAN: Thank you. And we as ag producers and if we have CRP or filter strips, I don't think I've ever been late that the government hasn't paid me. And so if we actually think the federal government is in trouble, why do we take the money? And so we have to carefully think. Senator Chambers brought out something very interesting here. And why should we need federal funds to help balance the AG's budget? Shouldn't we be able to do that ourselves? So I turn the rest of my time over to Senator Chambers. [LB195]

SPEAKER ADAMS: Senator Chambers, you are yielded 3:45. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Wallman. My motion...my amendment up there, and I will not take this one to a vote, it's to strike roughly \$400,000 from the Attorney General's budget, money that will come from the General Fund. And there are several issues that I want to touch on and I'm going to get right to them because I don't think there's transparency in the Attorney General's Office. And there might even be some questionable use of his chief deputy. This article is from May 14 and it was in the Omaha World-Herald. "Bruning fined for 'exploratory committee'. The Federal Election Commission has slapped Nebraska Attorney General Jon Bruning with a \$19,000 fine, saying he violated the rules and the intent of an 'exploratory committee'. The FEC ruled that Bruning knew he was going to run for U.S. Senate when he filed an 'exploratory committee' in 2010." By saying he knew it, it meant that he was disingenuous and false when he filed as though it were an exploratory committee when he knew he was going to run. He was not exploring. And the fact that he did know and that he was being dishonest is established by the following paragraph. "Bruning agreed to a settlement with the FEC last month." For him to agree to a settlement it means he accepted the allegation of the FEC that he knew he was going to run when he filed an exploratory committee, which meant he was not sure. And this article will tell what benefit he hoped to derive from it. "David Cookson, his chief of staff in the Attorney General's Office, downplayed the settlement, saying such fines happen all the time. 'It's really a technical, timing issue,' Cookson said." A \$19,000 fine is not a technical issue. When the Attorney General has violated the federal law, the chief deputy ought not try to downplay it and pretend it's just routine, there's nothing to it. This is the top law enforcement officer in this state. He prosecutes other people. He is almost rabid in seeking the death penalty; and he is so rabid in that regard, he has obtained death warrants at a time when executions could not be carried out. So for this man who is so rabid in trying to take somebody's life, even in violation of the law, commits a violation then wants to act like it's nothing, is a severe, in my opinion, flaw in his character and his concept of ethics. And I don't think that since this was a political matter involving a political committee and a political action his chief deputy ought not to

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

Floor Debate
May 20, 2013

have gotten involved and been his spokesperson in this regard. But the Attorney General and apparently Mr. "Crookson" also play fast and loose with the rules. Continuing: "Republican Deb Fischer beat Bruning in the U.S. Senate race last year. Bruning was one of the first major candidates to jump into the 2012 U.S. Senate race, launching an 'exploratory committee' in November 2010." [LB195]

SPEAKER ADAMS: Time, Senator. [LB195]

SENATOR CHAMBERS: "At the time, Bruning"... [LB195]

SPEAKER ADAMS: Time, Senator. [LB195]

SENATOR CHAMBERS: Oh, I'm sorry. [LB195]

SPEAKER ADAMS: I apologize for not recognizing when there was one minute left. Senator Krist, you are now recognized. [LB195]

SENATOR KRIST: Thank you, Mr. President. I rise for two points, the first of which is many of you may have seen the AFP mailings, e-mails that have gone out. And for the record, Senator Schilz is not here, but he had an amendment that went up on LB195 early on during this discussion, during the debate and it was a good debate, an honest debate. During that debate, Senator Schilz put up an amendment that changed line 11 and 12, strike each occurrence of \$115 million and insert \$122.5 (million). That would have made a difference, as you will recall, of about \$4 per household in \$100,000 bracket. Now AFP has found it their mission to go out and make sure that they talk about all the good boys and bad boys in the Legislature and there's 14 members that voted for this amendment. And in their mind, that means that the rest of us are not about reducing sales...or sorry, real estate taxes. There were present and not voting 18 folks. Now I've talked to several of you and I know why you didn't do it. I'll tell you why I didn't do it, because I think there's a much larger package than returning \$4 to the pocketbook of some of our taxpayers. And I think if we look at the TEEOSA formula, if we look at the other packages that we have looked at, and we look at the tax study that's coming out, this information that's coming from AFP, just for the record, state of Nebraska, this is a misinformation political statement and it wants you to believe that the rest of us don't want to return taxpayer dollars to you. This is classic Nebraska D.C. politics. This is why things don't get done in Washington, D.C., because every little tidbit is turned around and a spin put on them and AFP did it. I am personally...I was very much affiliated with AFP early on when my predecessor, Senator Mike Friend, was there. I think they stood for good things. Information that went out was complete information. I'd spell the word but I'll just say it again, complete information, not bits and pieces and misinformation. And I want to check at the end of the day when we vote on the total package and we do our tax reform in the next year where those 14 people stand in terms of actually returning taxes to the taxpayers. So I'm off of that soapbox, let

Floor Debate
May 20, 2013

me start on another one. We've talked several times and Senator Chambers has talked about not taking taxpayer, or not taking federal dollars in the state of Nebraska for a variety of reasons. Did you know that also AFP is supporting a movement that says or wants us to say we are not going to participate in "Obamacare"? How does that happen? How does it happen that we can just say we don't want to participate? Again, misinformation. It's the law. We don't have to do Medicaid expansion. We've already proven that that's not going to come to a vote this year. But how do we not participate in the ACA? How is that possible? I'm sure you're not going back and telling your constituents it's an optional program; we can participate or we don't have to. Again, misinformation. And my final point: If we're so worried about taking federal dollars, tax dollars that we sent to D.C. and now are coming back in one form or another, let's talk about the \$67 million--I said that correctly--\$67 million that is coming in, in federal money to change our own IT programs, data collection systems in the state that support the Affordable Care Act because those are mandated. I want somebody to stand up and say we don't want your \$67 million. We don't want those. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR KRIST: You see what a tangled web it is. Stop creating misinformation out there. Stop creating things that are blockage, a blockage to sensible discussion and debate and let's really have a discussion about what's on the table. Stop being obstructionists in some way so that we can be people who are leading the state forward in the way we're supposed to, and that's voting on things that need to be voted on. And I'm not talking about Medicaid expansion now so let's not go down that road. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Ashford, you're recognized. [LB195]

SENATOR ASHFORD: Thank you, members. I want to talk about a couple of items not related specifically to this motion to return. One has to do with the city sales tax option bill. Just to reminisce a bit about how that bill got to where it is today and why it's in front of the body with Senator Chambers' motion or amendment to the bill involving the alternative minimum tax, those of us who were here a couple three years ago when we started working on that issue, I think the goal was...there was always a bill introduced for years on raising the local option sales tax and it always failed. It always failed for a variety of reasons, and I'm sure Senator Chambers was involved in that. Before the first year that we introduced that and the second year when it eventually passed, we went through...and Senator Mello was involved in this, we went through a process of trying to think about a way that we could provide aid to the cities to deal with the loss of aid that they received out of the one pile of money that went to the cities during the recession. And the goal was to come up with some plan that would give the city some relief but not raise the sales tax rate. In Omaha, we have a specific problem where if we were to raise

Floor Debate
May 20, 2013

the sales tax rate today, because our base is so narrow, the tax, for example, on restaurants would be 10 percent, which is too much. So when we think about LB357, I think what's important also to remember is...and I'm not suggesting that we're going about things all wrong, but for many, many years here, we would get to these issues, these tax issues like LB357, the local option sales tax or Medicaid or whatever it was and we would get these bills on the floor and we'd work through them. I think there's plenty of opportunities with this local option sales tax to come up with some compromise that's not going to impact the people that Senator Chambers is talking about if we got it on the floor and worked through it. But that bill was never intended to start with...as an increase in sales tax as the only option. That's eventually what passed and it had restrictions on it. The city of Omaha City Council didn't even endorse the bill. So I think the lesson there is that LB357, what was LB357 ought to be on the floor. We ought to work through amendments. We ought to discuss different ways of doing it. Senator Harr has an excellent proposal dealing with turnback sales tax for some of the larger cities that would make sense as well. And I also want to talk generally about getting bills on the floor. I recall, and maybe I've been here too long, I don't think I have because I love this place and everybody in it. But I remember when we did LB775 and Senator Chambers will remember that, and I was sitting right in front of him. The most important bill Kay Orr and Vard Johnson, who was Chair of the Revenue Committee, the most important bill apparently to ever come before the Legislature and Senator Chambers was opposed to it and he fought it and he fought it and he fought it. But it passed. It passed because there were efforts made by all the parties to discuss the issues with Senator Chambers. And I remember sitting in front of Senator Chambers when Senator Landis came to Senator Chambers and he said, Ernie, can we just get a vote on this bill? Can we just get a vote on this bill? And Senator Chambers said, all right. And they got a vote on the bill and LB775 passed. And it would not have passed...how much time do I have, Mr.... [LB195 LB357]

SPEAKER ADAMS: One minute. [LB195]

SENATOR ASHFORD: It would not have passed had Senator Chambers not relented on that debate. And I also remember when, it's a smaller matter, but when we did the Civic Auditorium renovation we used the cigarette tax in Omaha. Senator Chambers was totally opposed to it. And we got to the final vote and Senator Chambers said, well, you don't have enough votes on this bill. I'll never forget it as long as I live. My mother was here that day. You don't have enough votes to pass that bill. So he went down to his office. Well, we got 25 votes to pass the bill and he came running up to me and he said, don't you ever tell me that again that you don't have enough votes on a bill. We had 25 votes and it passed. So I mean Senator Chambers, in my...and that's why I signed onto his bill because I believe there is a better way to deal with sales tax for cities that can give them the relief and not hit the poorest of the poor the hardest. So I think just so we get everything into context here, these bills need to be on the floor. They need to be discussed because we have a tradition of working them out when they

Floor Debate
May 20, 2013

get here. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Ashford. And, Senator Chambers, you're recognized. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. And I'm compiling a record here. I'm going to continue reading from this World-Herald column. "Bruning was one of the first major candidates to jump into the 2012 U.S. Senate race, launching an 'exploratory committee' in November 2010. At the time, Bruning sounded and acted like a candidate, saying he couldn't foresee anything that would stop him from a run. In fact, shortly after he opened the exploratory committee, Bruning sent out a fund-raising email that read: 'Please help me defeat Ben Nelson in 2012 by making a contribution today.' The Nebraska Democratic Party filed the initial complaint with the FEC, charging that Bruning had initially filed as an exploratory committee to give himself more time to hide the identity of his donors. Exploratory committees can be used to test the waters for a candidacy. One of the advantages of an exploratory committee is that politicians can raise money without having to report the names of their donors. However, once someone is an official candidate, he or she must file a full report. Cookson noted that Bruning's decision to initially run under the banner of exploratory committee delayed his obligation to file a full campaign finance report only by three months." This is where he's trying to downplay what the top person, who is the law official in this state, who has been involved in national politics before, he knew the significance of it. But instead of him coming out and facing this, he put "Crookson" out there to cover for him in a political situation by indicating that it doesn't make any difference. He just violated the law by three months. So what? That's why I want this record. People can judge for themselves, and I gave the date of the article if you want to read it, May 14, 2013. "If Bruning had filed as a candidate committee from the start, he would have had to file a full report on Jan. 31, 2011. As it was, he filed a list of his donors in mid-April of 2011. The question now becomes how will Bruning pay the fine. Federal election law allows Bruning to use money in his federal election coffers to pay the fine. However, his federal Senate committee had only about \$1,000 in its account as of the last reporting period. Bruning does have about \$417,000 in his state campaign war chest for his expected reelection bid for attorney general. But that money cannot be used to pay a federal election fine, according to Frank Daley, executive director of the Nebraska Accountability and Disclosure Commission. Cookson did not know how Bruning or his U.S. Senate committee planned to pay the fine." He knew everything else, didn't he? He knew why Bruning didn't file on time. He knew why he chose not to list his donors. But he doesn't know how the fine is to be paid. I think the Lieutenant Governor (sic) is playing fast and loose and putting employees in his office out there in a partisan, political issue and I think it's wrong. Is it against the law? I don't know. But you talk about the smell test and lawyers are told to avoid even the appearance of impropriety. Now this article is from May 18, headline: Ex worker in AG's Office is arrested. And that's the World-Herald. [LB195]

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

Floor Debate
May 20, 2013

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: "More than 130 marijuana plants were found at the home of woman who had worked as a litigation assistant in the Nebraska Attorney General's Office Nebraska State Patrol investigators said. Patrol officers on Wednesday searched the Lincoln home that" and I'm going to pronounce her name, which is spelled M-e-i-d-e-l-l, I'm going to pronounce it as Maydell (phonetic). "Kimberly Meidell, 38, shares with Eric Trost, also 38. The two were arrested on charges of possessing marijuana with intent to deliver." Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB195]

SENATOR ASHFORD: Thank you, Mr. President. I'm going to be very brief and give the remainder of my time to Senator Chambers. I always say that and then I don't, but I wanted to remark about...I wanted to comment about Senator...yeah, that is true. It's very true. I wanted to comment on Senator Lathrop's earlier points about LB22. LB22 does need to be debated on the floor. And I will just tell you that not because of any editorial in the World-Herald or certain comments about judges back and forth or whatever. I think the issue of equal parenting needs to be on the floor of the Legislature. We're going to spend time this summer working on it and get a bill out to this body so that it can be debated. It's very much worthy of debate. Senator Hadley, Senator Karpisek, and Senator Coash have worked on this bill and it needs to be out there. So...and I would just, as we get ready to have LB22 out here I just would implore the bar association not to change its position every two weeks on the bill so that we could actually sit down and have a good conversation about it and come out with something that's going to work. And with that, Senator Chambers, I would...if he so desires. [LB195 LB22]

SPEAKER ADAMS: Senator, you're yielded 3:40. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford. Continuing: "A Lancaster County jailer said Meidell and Trost remained in custody on Friday. On-line court records don't list the names of their attorneys." I hope they're not on the Attorney General's staff because this is...they're charged with crimes. And it would be wrong for him to put "Crookson" or somebody else out there as a front person in these criminal matters from the Attorney General's Office. Continuing: "An arrest warrant affidavit says that in addition to the marijuana plants more than a pound of marijuana and marijuana paraphernalia were found in the home. Meidell had worked at the Attorney General's Office for nine years but no longer. Deputy Attorney General David Cookson said Thursday that 'the allegation against Ms. Meidell are serious. Her employment has been terminated.'" He didn't say when. Continuing: "A spokeswoman

Floor Debate
May 20, 2013

for Attorney General Jon Bruning declined to discuss the nature of Meidell's work." Why always a spokesperson? Let the Attorney General, who is in charge of the office, speak. If he fired her, tell why, and people are entitled to know what kind of litigating she did. If she did that work for nine years, there should be a public disclosure of what cases she handled, the nature of the cases. And I'm going to write a letter to the Chief Justice about this issue, and he may not be the one to write it to. But I'm going to let him know that this is the kind of lack of transparency which casts additional shadows over the Attorney General's Office, the way he does business, and what is it they're trying to hide. If she handled litigation, that was not done secretly. If she filed briefs, her name would be a matter of public record. And nobody should have to comb through the files. The Attorney General should come clean. I believe he's a "Repelican." And right now "Repelicans" are attacking the President for not making certain information available to the public. And if it is information that should be available to the public, I don't care who is withholding it, from the President on down, something ought to be said. But where are the "Repelicans" right here in Nebraska? [LB195]

SPEAKER ADAMS: One minute, Senator. [LB195]

SENATOR CHAMBERS: Quiet as "meeses." And in case you don't know, there was a cat who used to say, I hate "meeses" to pieces. That's what "meeses" are, the plural of mouse. Continuing: "Court documents say that the marijuana investigation began in May 2012 when a State Patrol investigator got a tip about a man loading several bags of fertilizer into a sport utility vehicle registered to Meidell. The man later was identified as Trost, the documents say." And I'll stop because my time is just about up. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator Chambers, you are next in the queue. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. Continuing: "The investigator says in the documents that he went to Meidell's house three times last September to check the trash and found a paper towel with burnt residue that tested positive for THC, the active ingredient of marijuana. The documents also say that Lincoln Electrical System records showed that Meidell and Trost used two and a half times more electricity between January 2010 and March 2013 than others of a similar size house over the same period. People use high-powered lamps for growing marijuana indoors." I've got more, but those two issues that were covered in the media, and I think the Attorney General should come out of hiding. And as I said in my lawsuit against the deity that I made every effort to notify him and get him to come forth, including come out, come out wherever you are. That's what I say to the Attorney General. It's good enough for the deity; it's good enough for Jon Bruning. He can talk and talk and talk whenever it's to his advantage. Whenever some money comes to the state in a consumers' complaint filed by Attorneys General in other big states who did all of the work and he jumped in so that when the largess came by way of a fine Nebraska would get it. He has a very elaborate

Floor Debate
May 20, 2013

background for his press conference, and he tells how once again your consumer division of the Attorney General's Office has done thus and so. Well, now that we've flipped the coin, come clean, Mr. Attorney General, or stay away dirty. This is the kind of lack of transparency that leads to criticisms of the government. And I've heard people on this floor criticize a lack or absence of transparency. What about now? This is the "Repelicans," one of their top leaders running for the U.S. Senate, not complying with federal law, knew he was not complying; hiding the names of donors and nothing was said. And now that it's out there, nothing is said. "Repelicans" find it convenient on occasion to be blind, just as Democrats and people of any political persuasion will tend to do when one of their number has the cover jerked. But most of the bad scandals from Nixon on down happen to have been with "Repelicans." And here right in the state this kind of activity. I don't know of any reason, any valid reason why the Attorney General is withholding information about the kind of work done, paid for by taxpayers for nine years, by this druggie...isn't that what they would call one of our pages if he or she got involved and had this much marijuana, the druggies. What were they doing? Now a druggie was in the Attorney General's Office and what is that met with? Silence. That's why I say things on the floor that I say, not just about the legislators and the Governor, but these elected officials who get a free ride and I go after them because they spend so much time dropping the hammer on other people. The Attorney General wants harsher sentences, harsher punishments. He wants to compel people who have been convicted of certain crimes not allowed to go on the Internet. And when the federal judge struck that down, he had some negative things to say about how Nebraska goes about passing laws. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: This is the kind of thing that if we care about what the public thinks we ought to talk about it. But I'm the only one who will, and I'm not through yet. But I will stop at this point so I won't run over time. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator, there is no one else in the queue, and that was your third opportunity if you'd like to close. [LB195]

SENATOR CHAMBERS: Yes, I would. This is something that I wrote, and I'm going to try to read it rapidly. It was published by the World-Herald, July 22, 2011. No act by a lawyer could be of greater professional gravity and ethical consequence than deliberately withholding material facts from the Nebraska Supreme Court in a formal proceeding. Yet that's precisely what Attorney General Jon Bruning's Office did in obtaining from the Supreme Court an execution warrant April 21 setting a June 14 execution date for Carey Dean Moore. My review of mountains of documents and court filings and orders disclosed that communications between the Nebraska Department of Correctional Services and the U.S. Drug Enforcement Agency established as early as April 11 and 12 that state officials knew that sodium thiopental, one of the three drugs

Floor Debate
May 20, 2013

specifically named by law, would be unavailable for use in carrying out a judicial execution by lethal injection. The state's supply was to be seized and destroyed, due to having been imported without complying with federal law governing importation of controlled substances. State officials knew this at the time of obtaining the death warrant, but never disclosed it to the Supreme Court. The Attorney General's Office has never publicly rebutted this scenario and has strenuously resisted disclosing information relative to the purchase/procurement of sodium thiopental pursuant to requests by Moore's lawyer pursuant to the state open records law. The death warrant ordering an execution which the state knew could not be carried out amounted to a mock or sham execution. As such, it may constitute violation of both U.S. and international law banning torture, which includes "mental pain or suffering caused by or resulting from the unlawful threat of imminent death." The threat of death could not be more imminent than an execution date set by a death warrant issued by the Supreme Court. What could be more repugnant to the rule of law than a death warrant ordering a judicial execution that the state was incapable of carrying out? Mock/sham executions have been condemned even within the context of war. Unlike the iconic legendary shootout at the O.K. Corral where all participants knew what was cooking, this nefarious case is more akin to an ambush at the courthouse because the unsuspecting Supreme Court was victimized by a surprise sneak attack from a concealed position by slyboots and skullduggers lying in wait. When the state's highest court has to guess and wonder whether what is presented to it by the state's highest legal officer is what it purports to be, the dignity and integrity of judicial processes are undermined, and the very foundation of the system of justice is compromised. Such a regrettable and inexcusable turn of events requires expeditious remediation. All things considered, it may be appropriate to label this case The Attorney General and the Seven Dwarfs for the manner in which he craftily manipulated the seven members of the Supreme Court into a mere judicial backdrop against which was played out a tawdry melodrama to advance, in my view, his political ambition... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: ...to obtain a seat in the U.S. Senate. No legitimate, legal reason accounts for this fast shuffle dealt by his office to the Supreme Court. I'm going to put another motion up there so that I can finish what I've got to say on this matter. As I stated, I'm not going to bring this to a vote. But I want to have my motion up on the table so that there will not be a gap between when this is withdrawn and I have the opportunity to continue by way of an additional motion. Mr. President, although I would love to have the bill brought back and \$400,000 cut from that "scamp's" budget, it won't be done. So I withdraw that motion to return. [LB195]

SPEAKER ADAMS: So ordered. Thank you, Senator Chambers. Mr. Clerk for a motion. [LB195]

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

Floor Debate
May 20, 2013

CLERK: Mr. President, Senator Chambers would move to return LB195 to Select File for purposes of considering an amendment that would strike Section 2 from the bill. (FA84, Legislative Journal page 1455.) [LB195]

SPEAKER ADAMS: Senator Chambers, you're recognized to open on your motion. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. And when I finish what I'm going to say and read about the Attorney General, I think, therefore I am. But what I really was going to say, I think that I'll probably be through messing with the budget bills. But I'm going to finish that statement that I was reading from. Maybe, though, Three Blind Mice may even be more suitable as a title since the Supreme Court, the Douglas County Attorney, and Moore's attorney were all three kept in the dark. Finally, this episode is analogous to one addressed by the Supreme Court of Nebraska in the case of State v. Joubert where then Attorney General Don Stenberg asked the court to set an execution date while a federal stay was in place. The Supreme Court then stated, "The Attorney General asks us not only to perform a useless act, he asks us to perform a lawless one. The legal barriers that exist to protect against the unlawful execution of a death sentence separate the unlawful killing by a person and the lawful killing by the state. If the law is not given strict adherence, then we as a society are just as guilty of a heinous crime as the condemned felon." That's what the Supreme Court said about former Attorney General Don Stenberg. And none of the "Repelicans," in fact nobody else said anything about it except me. I have to be the gatekeeper of you all's constitution and you all's court system. But I'll do it. Who will call the Attorney General to account? I shall. And I want to read an editor's note, and this appeared, remember, July 22, 2011. This is March 20, 2013, and this is what "Crookson" said at that time. An official with the Attorney...and the World-Herald put this in as an editor's note: An official with the Attorney General's Office said in June in a June 30 news story that he did not think it was necessary to inform the Nebraska Supreme Court about the problem. Chief Deputy Attorney General David Cookson said the office was confident that the state would either obtain a new supply of sodium thiopental or be able to rectify the problem with the drugs already purchased by the June 14 execution. "As a result, we had nothing to inform the court," he said. "We felt we were in a position to have the drugs." They haven't got the drugs now and they never could get those drugs and carry out that execution. And here is something that the Douglas County District Court said in response to an issue raised by Carey Dean Moore in a postconviction application. He felt that Attorney General Jon Bruning should have been sanctioned for having tried to carry out the sham execution when he knew they didn't have the drugs. I'm going to read from this letter I had sent to General Bruning: Consider, General, how the Douglas County District Court characterized your behavior in its December 21, 2011, order dismissing death row inmate Carey Dean Moore's motion for postconviction relief. Wrote the court at page 21, "Notwithstanding fairly persuasive proof that the Department of Correctional Services obtained controlled substances of unknown

Floor Debate
May 20, 2013

efficacy of a foreign distributor and manufacturer, not inspected, registered, or approved by the FDA or DEA and a lack of transparency and candor. Even with the Nebraska Supreme Court and the Douglas County Attorney's Office by your office beginning on January 21, 2011, and such acts require accountability, it is not available through postconviction relief." And I'm going to read that letter. Here is where a court condemned the Attorney General's Office for lying to the Supreme Court and to the Douglas County Attorney's Office, and you all think I'm bad because I talk about it, huh. If I'm bad for talking about it, what do you think about the rascalion who did it? Lied to the Supreme Court and tricked those judges into issuing a death warrant, which they, with great shame and embarrassment, had to withdraw because they had been deceived by the Attorney General. And he tried a second time subsequent that to get the court to issue a death warrant when they again did not have the drugs to carry out the execution. And you all talk against the death penalty like you do because you don't know anything. You won't read the cases. You don't read how corrupting this penalty is. The courts have talked about it. It has corrupted the Office of the Nebraska Attorney General. And I'm the only one who will do something about it. The ethics of a judge indicate that when a judge is aware that an attorney has violated his or her ethics, or a judge has, the judge is to say something. If lawyers become aware of it, they are to say something. And who has to do it? I, the state's favorite reprobate, whom they love to hate, I have to take what they have written to establish ethical standards and see that they're applied. Are people afraid of the Attorney General? Is he above the law? I don't think so, but I'm going to find out if the Counsel for Discipline of the Nebraska Supreme Court will think that he's about the law. And if a condemnation of his lack of candor and honesty in an official order by a Douglas County District judge is not enough to show that this man violated his ethics, then it means no lawyer should be punished again for anything. But I'm going to read this letter, then I'll be through with this bill and with the budget bills. And I might even die before we get to LB308. But since I know you all's prayers are not listened to, it's not likely that I'm going to die, and I will not do so willingly. I plan to be around here for a while. Now, you know what I ought to do? I ought to have grabbed my chest and started gasping and shaking and trembling. And they'd say, "Um-hum, God's killing him. Thank God. Thank God," instead of saying, "Lord, spare his sinful soul till he can get converted and ask for pardon for his sins." And then two of them will be sitting back there saying, "And you know, he's going to burn in the hottest part of hell." And they'll be so happy about it. It's all right to say that if it's true, but you don't have to take such delight in it. The Lord doesn't even take delight in a sinner perishing. But then, that's right, you all don't see eye to eye with the Lord. But let me read this letter. It's dated January 10, 2012. And the Attorney General, I believe, may have been in the midst of running for something or other. But anyway. Attorney General Jon Bruning. Regarding the state's involvement in unethical, slash, unlawful procurement of sodium thiopental for use in judicial executions. Dear General Bruning. Unfolding events impel me to write. First, you calculatingly withheld material information from the Nebraska Supreme Court... [LB195 LB308]

Floor Debate
May 20, 2013

SPEAKER ADAMS: One minute, Senator. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President...in order to obtain a death warrant setting the date for the execution of Carey Dean Moore, which could not be carried out for lack of sodium thiopental, one of three drugs required by law for lethal injection. And he knew this, because the protocol according to which it would be used had to be passed on and approved by him and the Governor before it could be adopted. Now--continuing the letter--now you are trying to obtain the court's approval to use unlawfully acquired thiopental to execute Michael Ryan. The death penalty is a bad cause and manifests a powerful, corrupting influence throughout the criminal justice and judicial systems. In the present controversy...I'll stop now, Mr. President, because I don't want to be in the middle. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. And you are next in the queue. Your time begins. [LB195]

SENATOR CHAMBERS: Thank you, Mr. President. In the present controversy, it has led you, as the state's highest legal officer, to embrace and act upon the corrupt and corrupting notion that the end, which is an execution, justifies any means, including use of unlawfully acquired sodium thiopental--there's litigation in federal court about this even to this very day, and this letter was written in January of 2012--thereby corrupting your own personal ethics and integrity, which in turn has led you willy-nilly to brazenly and shamelessly attempt to bamboozle the Nebraska Supreme Court again and prevail upon it to corrupt and compromise the integrity of the judiciary itself as well as the judicial process. Asserted Thomas Paine in his publication, "The American Crisis, II": A bad cause will ever be supported by bad means and bad men. If credence be accorded your characterization of resistance to your duplicity as being a circus sideshow, then you are both the ringmaster and the main attraction. For it was you who started the show by conduct marked by craftiness, disingenuousness, obscurantism, obfuscation, and cold-blooded, calculating political expediency that would make Machiavelli blush either with pride or shame. Consider, General, how the Douglas County District Court characterized--and I'm going to read this again, in the context of this letter--how the Douglas County District Court characterized your behavior in its December 21, 2011, order dismissing death row inmate Carey Dean Moore's motion for postconviction relief. Wrote the court at page 21: Notwithstanding fairly persuasive proof that the Department of Correctional Services obtained controlled substances of unknown efficacy of a foreign distributor and manufacturer, not inspected, registered, or approved by the FDA or DEA, and a lack of transparency and candor even with the Nebraska Supreme Court and the Douglas County Attorney's Office by your office beginning on January 24, 2011, and such acts require accountability, it is not available through postconviction relief. And, by the way, there is no statute of limitations on unethical conduct by an attorney. Continuing: Are you able mentally to digest those sentiments, Mr. Circus Ringmaster? Who shall initiate the accountability process alluded to by the court? Who shall call the

Floor Debate
May 20, 2013

Attorney General to account? We'll just have to wait and see what happens, won't we? The Good Book admonishes against being among those who, quote, make haste to shed blood, unquote. That's at Proverbs 1:16, an admonition you seem to have ignored in that quest that he has to hastily execute somebody. You seem to be counting on the death penalty, that bad cause, to transmogrify into the beneficent goose that will lay for you the golden egg of a seat in the U.S. Senate. Manifesting the difference between a judicial temperament and a tawdry political expediency, the Supreme Court has made clear its concern about avoiding doing anything, within the context of carrying out a judicial execution, that could cause irreparable harm... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: ...to the integrity of the judicial process. That was in State v. Moore, 273 Neb. 495, at page 498: did not want to act hastily or intemperately. The court declared: We simply are not permitted to avert our eyes from the fairness of a proceeding in which a defendant has received a death penalty. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Chambers, you are next in the queue. [LB195]

SENATOR CHAMBERS: And this is my third time? [LB195]

SPEAKER ADAMS: Yes, sir. [LB195]

SENATOR CHAMBERS: Thank you. You publicly fulminated like a political hack delivering a harangue to a mob on a street corner or in a field with a burning cross rather than as the state's highest legal officer. You said, quote: I think it's outrageous that the conversation continues to be about the method of execution as opposed to the brutal murders committed by Michael Ryan and Carey Dean Moore, exclamation point, which he supplied in his statement, unquote. What else should the conversation be about when the state proposes to make use of unlawfully acquired death drugs? Judges and other mature persons interested in lawful, civilized proceedings are obliged to be concerned about all aspects of how the state goes about killing its citizens. Still, the court is not unmindful of the existence of people such as yourself. Quote: It is a natural reaction for some to be rid of an admitted murderer. That was what the court said in the Moore case. We are nonetheless required to ensure the integrity of death sentences in Nebraska, said the court. And to do so, we must adhere to our heightened obligation to ensure the lawful and constitutional administration of the death penalty, unquote. So--continuing with the letter--so the conversation must embrace the entire killing process, particularly when fraud underlies the state's procurement of an essential death drug. General, as the state's highest legal officer, you also have a heightened obligation, which is not met by your lack of candor and transparency. Although you have

Floor Debate
May 20, 2013

made it excruciatingly obvious...the Nebraska rules...oh, that he's going to be a politician first. The Nebraska Rules of Professional Conduct have governance over your behavior as a lawyer, particularly in your obligation to be candid when dealing with the courts. And I cited Rule 3-3.3. At hearing, to your flawed moral and ethical posture that the end justifies the means, you are vociferously justifying and defending the state's complicity in obtaining sodium thiopental through a scheme involving fraud and deception by the state's drug supplier--I should perhaps say, drug dealer--without which the drug would not have been obtainable from the manufacturer and rightful owner. You have documentation of the manufacturer's intent that the sodium thiopental it produces is in no case to be made available to any American state for use in a judicial execution, thus the necessity for the state's drug supplier to perpetrate his fraud. Your drug supplier, as you know, tricked the manufacturer into believing its product would be used in Africa solely as a medical anesthesia. Nebraska's paying public funds over to this deceitful miscreant for unlawfully acquired drugs in this nefarious fraudulent scheme is akin to money laundering by criminal drug cartels. Because of the past history of being unable to procure any sodium thiopental domestically or internationally, you, as the state's lawyer... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR CHAMBERS: ...and being deeply involved in trying to get the execution show on the road, had an ethical obligation to inquire into precisely how the slippery miscreant, your drug supplier, got his grubby hands on the death drug. And I'll be able to wind it up during my close, probably. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. And there are no other senators in the queue. You're recognized to close. [LB195]

SENATOR CHAMBERS: Thank you. Rule A-1.0, in talking about terminology: "Reasonably should know," when used in reference to a lawyer, denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question, which underscores a lawyer's duty not to be willfully blind. You are a willing and admitted aider and abettor, which is no surprise in view of your belief that the end justifies any and all means whatsoever. As a prosecutor, you know, or should know, that if an individual obtains a legally usable controlled substance illegally, criminal sanctions attach. This should apply to a greater degree to the state and its highest legal officer, upon whom rests an even greater obligation to eschew being a party to an unlawful drug transaction spawned by fraud, duplicity, and greed. When the state's highest legal officer, who is sworn to uphold the law, chooses instead to circumvent or violate that oath by an end run around the law, the law and its processes are brought into contempt thereby. Whether I get through or not during my time, this will be the end of what I'll read. Acting in concert with a fraud feator who has obtained a controlled substance by way of fraud and deception is reprehensible, inexcusable, and warrants the calling to account all who

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

Floor Debate
May 20, 2013

played any part in the tawdry, unlawful scheme that tarnishes the integrity and image of the state of Nebraska. How can the state engage in punishing individuals who commit fraud when the state itself is complicit in fraud? Are you, General, above the law and therefore exempt or excused from any obligation to obey and honor the law, as are ordinary men and women? Your drug supplier, in addition to being a liar, is a thief. Lying and stealing go together like cold ham and potato salad. A thief cannot pass good title to what he has stolen. Since he's a thief, the state is his fence. When caught with the goods, he or his fence must give them up to their rightful owner, in this case the manufacturer. General, all of us who graduated from law school were drilled as to the meaning and significance of, quote, BFP, unquote, bona fide purchaser without notice. It appears from your behavior regarding the purchase of goods ill gotten that you have forgotten the meaning of that term. As noted, you had reason to inquire into how the miscreant got his hands on the sodium thiopental. Declared Sir Walter Scott in "Marmion, VI Introduction": Oh, what a tangled web we weave when first we practice to deceive. General, the web you've woven enmeshed even the Nebraska Supreme Court and the Douglas County Attorney's Office, as stated the judge...as pointed out by the Douglas County District Court in the Moore motion. Your obdurate persistence in maintaining an untenable moral, ethical, and legal position in this sordid debacle serves to verify and validate Thomas Paine's contention in "The Age of Reason, I,": It is with a pious fraud as with a bad action, it begets a calamitous necessity of going on. How long shall you go on, General? And that is all that I will read because I know my time is up. Why should I do this? [LB195]

SPEAKER ADAMS: One minute, Senator. [LB195]

SENATOR CHAMBERS: It's not my job. No other senators do it. Nowhere that you read the duties of an elected official will you find a requirement to do what I do. My standards are higher than those set forth in the law and in the ethical codes. But the public needs to be shielded and protected, and nobody else will do it. I told you I'm like the garbageman, I'm the trash collector. I'm dealing with the garbage and trash in this case. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Chambers, you're recognized. [LB195]

SENATOR CHAMBERS: I withdraw that motion. [LB195]

SPEAKER ADAMS: So ordered. Is there anything on the bill, Mr. Clerk? [LB195]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB195]

SPEAKER ADAMS: The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB195]

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

Floor Debate
May 20, 2013

CLERK: 35 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB195]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB195]

CLERK: (Read title of LB195.) [LB195]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB195 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB195]

CLERK: (Record vote read, Legislative Journal page 1456.) 46 ayes, 3 nays, Mr. President, on the passage of LB195. [LB195]

SPEAKER ADAMS: LB195 passes with the emergency clause attached. We'll now proceed to LB198. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB195 LB198]

CLERK: 39 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB198]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB198]

CLERK: (Read title of LB198.) [LB198]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB198 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB198]

CLERK: (Record vote read, Legislative Journal page 1457.) 42 ayes, 3 nays, 4 present and not voting, Mr. President. [LB198]

SPEAKER ADAMS: LB198 passes with the emergency clause attached. We'll now proceed to LB199. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB198 LB199]

CLERK: 39 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB199]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB199]

CLERK: (Read title of LB199.) [LB199]

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

Floor Debate
May 20, 2013

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB199 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB199]

CLERK: (Record vote read, Legislative Journal page 1458.) 49 ayes, 0 nays, Mr. President, on the passage of LB199. [LB199]

SPEAKER ADAMS: LB199 passes with the emergency clause attached. We'll now proceed to LB200. [LB199 LB200]

CLERK: (Read LB200 on Final Reading.) [LB200]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB200 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB200]

CLERK: (Record vote read, Legislative Journal page 1459.) 49 ayes, 0 nays, Mr. President, on the passage of LB200. [LB200]

SPEAKER ADAMS: LB200 passes with the emergency clause attached. We'll now proceed to LB194, and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB200 LB194]

CLERK: 39 ayes, 4 nays, Mr. President, to dispense with the at-large reading. [LB194]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB194]

CLERK: (Read title of LB194.) [LB194]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB194 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB194]

CLERK: (Record vote read, Legislative Journal page 1460.) 49 ayes, 0 nays, Mr. President, on the final passage of LB194. [LB194]

SPEAKER ADAMS: LB194 passes with the emergency clause attached. We'll now proceed to LB536. [LB194 LB536]

CLERK: (Read LB536 on Final Reading.) [LB536]

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

Floor Debate
May 20, 2013

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB536 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB536]

CLERK: (Record vote read, Legislative Journal pages 1460-61.) 46 ayes, 0 nays, 3 present and not voting, Mr. President. [LB536]

SPEAKER ADAMS: LB536 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB195, LB198, LB199, LB200, LB194, LB536. Items for the record, Mr. Clerk? [LB536 LB195 LB198 LB199 LB200 LB194]

CLERK: Thank you, Mr. President, I do. I have an amendment to LB402 by Senator Schilz to be printed and a series of study resolutions, LR276 through LR297. Those will all be referred to the Executive Board for consideration. That's all that I have, Mr. President. (Legislative Journal pages 1461-72.) [LB402 LR276 LR277 LR278 LR279 LR280 LR281 LR282 LR283 LR284 LR285 LR286 LR287 LR288 LR289 LR290 LR291 LR292 LR293 LR294 LR295 LR296 LR297]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Mr. Clerk. We now proceed to senator priority bills, LB308. [LB308]

CLERK: Mr. President, LB308, a bill originally introduced by Senator Schumacher. (Read title.) Senator Schumacher presented his bill to the body on Thursday, May 16, Mr. President. Senator Schumacher presented his bill. Senator Hadley opened on the Revenue Committee amendments. (AM583, Legislative Journal page 711.) Those committee amendments are pending. Senator Chambers had offered an amendment to the committee amendments, specifically, AM1413. (Legislative Journal page 1386.) That amendment lost on a vote. Senator Chambers (sic) has moved to reconsider that. Or Senator McCoy--excuse me--has moved to reconsider the vote taken with respect to AM1413, Mr. President. [LB308]

SENATOR GLOOR: Given the time that's passed since the debate on this bill, Senator Schumacher, would you give us a brief review of LB308? [LB308]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. LB308 deals with the repeal of the alternative minimum tax computation. Quite simply, the alternative minimum tax computation has taxpayers figuring their taxes using the normal rules and then using some rather complicated alternative rules, and they get to pay whichever comes up more. The AMT dates back to the 1960s, to a time when the federal tax rate was 70 percent. It was designed to put a minimum tax on tax dodgers

Floor Debate
May 20, 2013

making greater than \$1 million per year by using a complicated tax system that added back in things called tax preferences, which were basically very complicated things called tax shelters. It crept into Nebraska law because back in the '70s, when we were implementing our tax law, we used a system of piggybacking onto the federal concepts. The federal law has long since been amended to virtually eliminate tax shelters which were the cause of the AMT to begin with. Now even President Obama agrees with the GOP that the federal tax law should be retired. In Nebraska, it lingers on in a complicated form that's prone to miscalculation. It targets, basically, nonwealthy Nebraskans making more than \$75,000 a year. It, in effect, taxes extraordinary medical expenses, residential mortgage interest that is not used to purchase or improve the home but is used for second-mortgage financing of expenses, and it also targets miscellaneous itemized deductions, mostly unreimbursed employee business expenses. Also caught in its unintentional net are qualified options to buy into an employer's business and large charitable gifts. In both those last cases, the taxpayer can avoid the tax by spreading the options or the gifts out over a period of time. But sometimes unwary taxpayers don't think about those things and, instead, do it in one lump act, and that clips them. This is a tax which basically has outlived its usefulness and should be retired. Thank you. [LB308]

SENATOR GLOOR: Thank you, Senator Schumacher, both for the brevity of your review and the detail. Senator Hadley, as Chairman of the Revenue Committee, you are recognized to give the body a brief review of the Revenue Committee amendments. [LB308]

SENATOR HADLEY: Mr. President, this amendment was passed unanimously by the Revenue Committee. It is actually a bill that Senator Krist put in. It deals with operating loss carryforwards. Right now the state of Nebraska allows an operating loss to be carried forward five years. This is not consistent with what is going on across the country. The federal IRS code gives 20 years. There are something like 26 states that give 20 years. There are only four or five states that give five years. It allows, especially, a startup business that has losses in the first years of operation a chance to offset those losses against future profits. I would ask you for a green vote on the amendment. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Senator Chambers, would you give the body a brief review of AM1413, please? [LB308]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I will be very brief and to the point. This amendment would...it incorporates the language of LB266, which is the bill I introduced. And it had a hearing before the Revenue Committee. Its purpose would be to repeal that local option sales tax that was enacted into law last year. That is what the amendment consists of. That's what it would do if adopted. And I will say more on it when I'm recognized in the regular order. Thank you,

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

Floor Debate
May 20, 2013

Mr. President. [LB266 LB308]

SENATOR GLOOR: Thank you, Senator Chambers. And, Senator McCoy, your motion to reconsider, a review, please. [LB308]

SENATOR McCOY: Thank you, Mr. President and members. I offered up this motion to reconsider what I believe to be an important substantive amendment at the end of the day on Thursday. There were a number of members who were absent. I believe that all members are present and accounted for today, as I assumed they would be, and that was the reason for the reconsider motion. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator McCoy. Members, you have heard a review of LB308, the committee amendment AM583, AM1413, and the motion to reconsider. We now return to debate. Members in the queue: Carlson, Johnson, Ashford, Nordquist, and Crawford. Senator Carlson, you're recognized. [LB308]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Last Thursday on this floor, I think I made a mistake. I could have stayed silent and not said anything. I've chosen not to do that. We make our own decisions on each vote, and some issues end in a very close vote, very difficult votes. That's part of the process, and we're here to make decisions on difficult as well as easy issues. As I grew up I was taught that if you believe you've made a mistake, admit it, try to correct it, and move on. That's my intention today. Now many of us believe that the federal government is too big and too far-reaching in mandating laws to the states. Many of us feel the federal government is too heavyhanded on healthcare and other health issues. We now have reason to wonder about operation policies of the IRS. A constituent called me last week, in tears, thinking that she had been harassed by the IRS because she and her husband had given some money to some conservative causes. Immigration, I believe, we have a terrible federal policy. Our federal system makes it too easy for the intentional illegals to hide and survive. Those good families who try to go through the immigration procedures legally find it scary, frustrating, intimidating, and nearly impossible to be accepted, while those who sneak in seem to suffer no consequences. I know. I've tried to help some families, really good, deserving families that have been trying for 13 years. Many of us think that states should have more freedom to govern themselves. We generally prefer local control. And if local control is a good thing, then I believe we ought to lead by example, we ought to practice what we preach, and we have our actions follow our talk. Thursday, I voted to abolish the half-cent sales tax as an option for municipalities around the state. Last year I believed that LB357 was a good bill. I voted for it. I think it made good sense with two high bars to clear before it was possible: first of all, a supermajority of the city council; secondly, a vote of the people. That's an example of local control. I think we must allow people to help themselves. In the past we gave state aid to cities and then took it away so that we could balance our budget. We passed LB357; now we try to take it away. Omaha, Lincoln, other cities near Omaha, Fremont,

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

Floor Debate
May 20, 2013

Columbus, Norfolk, Grand Island, Hastings, Kearney, Holdrege, Lexington, North Platte, Ogallala, Scottsbluff, Chadron, and others benefit greatly from a city sales tax. In this last year smaller communities like Alma passed the one-half-cent sales tax because they thought it was the right thing to do. Many others will probably make a future decision to use the half-cent sales tax. I really don't see a big risk to allowing local cities to have the opportunity to tax themselves. [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR CARLSON: If they make a mistake in implementing it, they suffer the consequences. I don't think big brother at the state level should decide this. We already try to tell local communities whether or not they can add hospital beds, whether they can add long-term care beds. Holdrege passed a bond issue last week for a new elementary school by a vote of the people. Will the state eventually tell communities whether or not they can build a school? It could happen. I will vote against reconsideration and, if reconsideration passes, I'll vote against AM1413. I've prepared AM1460 to AM583 to LB308, if needed and if appropriate. That would abolish the one-half-cent sales tax in cities of the metropolitan class but leave it as currently in LB357 for all other cities in Nebraska. [LB308]

SENATOR GLOOR: Time, Senator. [LB308]

SENATOR CARLSON: Thank you. [LB308]

SENATOR GLOOR: Thank you, Senator Carlson. (Visitors introduced.) Senator Johnson, you are recognized. [LB308]

SENATOR JOHNSON: Thank you, Mr. Speaker and members of the Legislature. I'll follow up pretty much on what Senator Carlson has been talking about. Serving as mayor, I was not, of course, on the floor when this was enacted last year and did not participate in the debate. When you talk about city taxes, we're talking primarily property tax and the local sales tax, the one-and-a-half cent that's out there...or the cent that's out there. And then there's occupation tax and some others. That's been pretty critical because there's not a true process for citizen input, I don't think, into occupation tax and excise taxes. So that's not used too much. I know it's kind of frowned upon in some communities. The state aid, of course, is removed. Five cities have placed this on a ballot. Three cities have approved it. Two communities, the members have voted against it. I think the system is working. It is local control, and three approved and two have not approved it. So the question is to repeal or not to repeal this particular legislation. Senator Carlson talked about the process--I will not go through that--the 70 percent approval by the council and then a vote of the citizens. We know that there's going to be a tax study coming up, and this might take the direction that it would affect this bill. If it does, so be it. So why are we looking at doing something with this now?

Floor Debate
May 20, 2013

Well, there's a couple reasons for that. We have three cities that are already collecting that one-half-cent option sales tax. We would need to do something different, I believe, to protect them, which could be done. But I believe what we need to look at is leaving this bill, this law, in place. Cities do need a different...a better way, a more open agenda, as far as providing funding for their projects. Property tax in the rural areas, if you talk about agriculture, has increased tremendously. Property tax within communities, within city limits, villages, cities of the first and second class especially, have seen a pretty flat tax growth. We've had not a lot of growth in those communities and we've just not seen any additional revenue from the property tax. This needs to stay in there. The second reason, or the real reason I believe it should stay there is cities do need funding. It's up to them to decide how much and what vehicle they're going to use and...not what vehicle they're going to use but what they're going to use it for. And if we take this away, they're going to have to start all over again, I think, after the tax study to convince this body that they need different sources of funding. If we leave LB...if we vote against AM1413 and vote against the reconsider the action, we'll leave it in place. It protects those three communities that already have passed the option sales tax. And it does send a signal to us in the Legislature next year and years after that, that the cities do need an additional vehicle in order to offset the sales tax, or the aid that they received the from the state when they lost that a few years ago, and need to work on infrastructure. I do know, in a couple situations where some of the people that have... [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR JOHNSON: ...gained on the property tax have retired, moved into municipalities, and probably built a new house, and they're asking for infrastructure. They're asking for additional services that that city might not have had before. We definitely need another option for the cities. The half-cent option sales tax is working. I will be voting against the reconsider and against AM1413. Thank you, Mr. Speaker. [LB308]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Nordquist, you are recognized. [LB308]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise and I want to explain why I oppose the reconsideration motion and the underlying amendment. But first I want to talk...address a little bit about what we heard last week during the debate. We had a few members say, we can get rid of this, we have other things coming down the pipe, we've got a tax study and that's going to take care of our problems, or, we're going to broaden our sales tax base and cities are going to be flush with revenues because of that. And that's very concerning to me and I want to say, let's just hold on there a minute, because we saw this year what happened when we had a bill put in that broadened the sales tax base. Nebraskans resoundingly rejected it. They said no to a

Floor Debate
May 20, 2013

sales tax on prescription drugs. They said no to a sales tax on healthcare, like hospital beds. They said no to a sales tax on university dorm rooms. You saw the...and I was certainly very vocal about my opposition to that plan to begin with, also, because it was a tax shift from...it would shift the tax burden from the wealthiest Nebraskans, like Warren Buffett, and put the burden on people who rely on necessities like prescription drugs and hospital bedrooms and people who are trying to afford higher education for their families. So to think that somehow this next year we're going to...well, if we get rid of this, we're going to be able to simply broaden the sales tax base, it's going to be that easy. It's not. And I think that's what we need, certainly, to keep in mind. But Senator Johnson raised a perfect point here about what are the alternatives to doing this. We are simply giving cities an option here by a supermajority vote of the city council and a vote of the people. But what are the alternatives? In Omaha we saw alternatives being increased property taxes in 2010 and 2011, increased wheel tax. And we've heard people talk about their concern over the regressivity, the regressive nature, of the sales tax that we're talking about here. Well, folks, property taxes are regressive too. You don't pay a higher property tax levy as your property value goes up or as your income goes up. Whether you live in a shack on the river or a chateau, you're paying the same property tax levy. And how about the wheel tax that happened to my constituents in Omaha, and everyone in Omaha's wheel tax, when that went up? That was to pay for infrastructure, which is what we could have taken this to a vote of the people and they could have chosen whether this was the option they wanted, instead of a wheel tax. The wheel tax is a flat fee. It went from \$35 to \$50. Whether you're driving a Ferrari or a Ford Pinto, you're paying \$50. That is even more regressive than a sales tax. You're paying a flat \$50 regardless of your income, regardless of the value of the property you own, the value of your automobile. It's flat. If you're paying sales tax, you're going to pay a different amount if you shop at Brooks Brothers versus WalMart for your clothing. The wheel tax is perfectly flat. So if you're concerned about the regressive nature of this, I think you need to think about the alternatives. There's no doubt that cities have needs. We've heard the story of Norfolk. They need...they're up against their levy. They need to bring in a pipeline, natural gas pipeline, to spur economic development. The alternatives? They can't go any further on property taxes. Maybe they could come up with an occupation tax of some sort. [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR NORDQUIST: In Omaha, it was, we needed money to repair our roads. I think Lincoln also did a wheel tax that is very regressive also. I think we allow cities to have this option by a supermajority vote of their governing body and taking it to a vote of the people. And to say we're going to get rid of it and shift and come up with some magic plan next year that broadens the sales tax base, if it's anything like the plan this year, I won't be on board with it, I'll tell you that, and I think a lot of other people in this body won't be on board with it. So thank you, Mr. President. [LB308]

Floor Debate
May 20, 2013

SENATOR GLOOR: Thank you, Senator Nordquist. Senator Crawford, you are recognized. [LB308]

SENATOR CRAWFORD: Thank you, Mr. President. Colleagues, I stand in opposition to the motion to reconsider and in opposition to AM1413. Some on this floor have argued that AM1413 is a tax cut. It is not a tax cut. AM1413 is a local control cut. Passing AM1413 does not give any current taxpayers a break. Passing AM1413 tells them that we do not trust them to make the best decision for their communities. The local option sales tax can only happen when a supermajority of elected council members vote for it and a majority of taxpayers vote for it in a general or primary election. There has to be very strong and widespread community support for this sales tax to be put in place. Bellevue, in my district, illustrates this point. The city did not adequately make the case and the sales tax did not pass. Let me repeat: This amendment does not cut anyone's current taxes. As Senator Chambers has said, where a local option sales tax has passed, it will be grandfathered in. If we want a lower tax burden for our citizens, we should cut those taxes that we set and that we use for state purposes and not take the easy road of snatching taxing authority from another level of government. The city portion of sales tax, even in a city that approves the half-cent option tax, is less than a third of the sales tax we collect. We need to develop meaningful tax cuts that make sense in an overall plan for a fiscally responsible, competitive, and equitable tax system. And I look forward to our tax study to get to that important task. I share Senator Ashford's hope that we will broaden our sales tax base in a way that is fair and equitable and that, as a result, we'll be able to reduce our sales tax rates. I appreciate Senator Chambers' longstanding concern about the regressiveness of the sales tax and his work to get groceries exempt to make the sales tax less regressive here in Nebraska. There are other reforms we could consider to reduce the regressiveness of the sales tax that I hope we will discuss as part of our tax study. However, none of those changes are in place now and none of them are certain. To repeal the local option sales tax now would be like tearing down the old bridge across the river because someone has come out and shown us drawings of how wonderful a new bridge could be. You don't tear down the old bridge until the new one is built. It is particularly important to keep that old bridge when, just a few years ago, the state closed all the other nearby bridges to balance the budget. We have a constitutional responsibility as members of the state Legislature to make sure that our statutes establish a good foundation for effective local governance. We are the ones that set the parameters. This is not a game. This is not a campaign. It is our constitutional duty to ensure that municipalities and other local governments have the legal tools and local control that they need to govern our communities, urban and rural, across the state. The local option sales tax is one of the tools that we need to continue to provide to our municipalities until or unless we replace it with more effective ones. I am committed as a state legislator to support the work of our local governments. LB581 that I brought this year is the down payment on a long-term agenda... [LB308 LB581]

Floor Debate
May 20, 2013

SENATOR GLOOR: One minute. [LB308]

SENATOR CRAWFORD: Thank you, Mr. President...to revisit cuts made to our city and county governments, to consider what we need to do as a body to ensure adequate funding for local functions. However, until we get to that important work of strengthening local revenues and our important work of modernizing our tax structure, we must keep the one-half-cent sales tax option on the books. I urge you to vote red on the reconsideration and on AM1413. [LB308]

SENATOR GLOOR: Thank you, Senator Crawford. Senators in the queue: Chambers, Avery, Smith, Davis, Scheer, and others. Senator Chambers, you are recognized. [LB308]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I can hear the Chamber...I meant the League of Municipalities at work. I can see the fingerprints of Walt Radcliffe. And I'm going to collect mine on various bills that come up, bills that I thought were all right. And now that I look at them, I don't think so. And some of the help that I gave people in trying to, what I thought, improve bills didn't really do that. I'm like Senator Carlson. I thought at one time it was good, but now I changed my mind. And in the same way he changed his, I'm changing mine. And we're going to see what happens the rest of the session. I'm not going to give warning. I'm not going to give notice. I'm just going to do whatever seems the right thing, to me, to do. But I'll tell you one thing: As I stated--and I meant it--the other day, don't any of you all who came to me for help before, don't come to me for anything, not anything. When you think you can get something, here you come. Then it becomes something different. Now Senator Crawford there comes from a city where they turned it down, so she says, leave it on everybody else. Senator Carlson, I don't know what he's going through, but we'll find out if and when he presents a motion or an amendment. But I think this is a good turn of events and it's good that it happened toward the end of the session. I'm just going to read something that I had said in 1933 (sic--1993), when I, through extended debate...and it didn't have to go too long because Omaha tried to do it near the end of the session. It seems that my fate and Senator Ashford's fate have been linked because he was trying to get a half-percent increase in the sales tax in Omaha for some projects, like an auditorium and the Henry Doorly Zoo, and I was able to defeat that. But here are a few paragraphs from an article from the World-Herald, June 4, 1993. That's right, '93. The mayor, Morgan, said Thursday he appreciated Chambers' interest in the sales tax. But the mayor added, I am not appreciative of what he did by not allowing us to have the vote. Chambers said he was only sticking up for the poor. They would pay the increased sales tax, he said, but cannot afford to attend events at the auditorium or the Henry Doorly Zoo. About \$2 million of the sales tax proceeds would be used to enhance parking at the zoo and Rosenblatt Stadium. Quote, they want to saddle the poor with taxes for benefits they will not enjoy, Chambers said. For a person with no discretionary income, going to the zoo would be like being able to take a rocket ship to Saturn. The

Floor Debate
May 20, 2013

thing that makes a sales tax so regressive on the poor is that both a minimum-wage worker and a business executive pay at the same rate, Chambers said. Quote, it's far more burdensome on the poor than...on the poor person than the rich person. I'd like to ask Senator...oh, Senator Nordquist is gone? I'd like to ask Senator Nordquist a question because he was talking about all these other regressive taxes, if he'll answer. [LB308]

SENATOR GLOOR: Senator Nordquist, would you yield? [LB308]

SENATOR NORDQUIST: Yes. [LB308]

SENATOR CHAMBERS: Senator Nordquist, if Warren Buffett buys a Mercedes-Benz in Omaha, what would be the rate of sales tax he would pay, if you know? [LB308]

SENATOR NORDQUIST: Right now, I would assume, it's 7 percent on automobiles. I think it's the same sales tax rate. [LB308]

SENATOR CHAMBERS: Whatever it is,... [LB308]

SENATOR NORDQUIST: Yeah. [LB308]

SENATOR CHAMBERS: Is that what you say? [LB308]

SENATOR NORDQUIST: Yeah. [LB308]

SENATOR CHAMBERS: Okay. Now if a child went into a store and bought a toy, what rate of sales tax would the child pay? [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR NORDQUIST: Seven percent. [LB308]

SENATOR CHAMBERS: Is that the same that Warren Buffett would pay, same... [LB308]

SENATOR NORDQUIST: Same percentage but not dollar amount, yeah. [LB308]

SENATOR CHAMBERS: And you feel that it's okay to charge the child the same rate as the rich person? [LB308]

SENATOR NORDQUIST: Oh, I certainly support a progressive income tax and would support that, yeah. [LB308]

Floor Debate
May 20, 2013

SENATOR CHAMBERS: No, but I'm asking you this because you said you support this proposal that is already on the books where you can add a half percent...a half-cent sales tax. [LB308]

SENATOR NORDQUIST: I support it rather than looking at the alternatives, which, if we're talking about a half cent for infrastructure versus a flat wheel tax, that is as regressive, if not more. [LB308]

SENATOR CHAMBERS: Are you in favor of this money being used for nonpublic purposes? [LB308]

SENATOR NORDQUIST: I wouldn't be. But even if a...if someone wanted to propose that, it would have to go to a vote of the people and be approved. [LB308]

SENATOR CHAMBERS: I think my time is up, right, Mr. President? [LB308]

SENATOR GLOOR: Just now. [LB308]

SENATOR CHAMBERS: Thank you. [LB308]

SENATOR GLOOR: Thank you, Senator Chambers, Senator Nordquist. Senator Avery, you are recognized. [LB308]

SENATOR AVERY: Thank you, Mr. President. I am going to state my intentions to vote no on this motion to reconsider because I do oppose AM1413. I supported this legislation last year, as did 29 other of you. And I have not heard any convincing arguments last week or today that would lead me to change my mind. You recall that the LB542 (sic--LR542) process that we underwent two years ago was a painful process, and it was one that led us to the difficult decision to cut aid to cities as well as to counties. And what this did, of course, was limit their ability to fund essential services. This law, in 2012, is still needed to give cities another revenue option so they don't have to raise property taxes. I know, from my district, at least, that the property tax is the most unpopular tax that we have in this state. We can avoid additional pressure on the property tax in these cities by maintaining the law that we passed with so much difficulty last year. The law in question sets a very high threshold for cities that might want to use it, as Senator Crawford mentioned. It requires a minimum of 70 percent approval by city councils, and then the tax goes to the public in the form of a referendum. And if they decide they want the tax themselves, then so be it. They, at least, are a part of the decision. The city's job will be to convince the voters that the tax they are proposing is, in fact, needed. So far, only five cities have tried to exercise this option. Three of the five said yes; the other two said no. This is prudent legislation. It has not been abused. In fact, it seems to be working very much the way that it was intended, putting the power to decide in the hands of the people. The argument that now is the right time to repeal this

Floor Debate
May 20, 2013

law because we have a comprehensive tax study planned for later this year is unconvincing to me. This planned tax study makes exactly the opposite argument, in my mind. Because we have this comprehensive tax study upcoming is why we ought not now to be making major changes in a tax policy of the one that is in question. I think that this is something we ought to be very careful about. Leave the tax structure alone. Let the tax study commission make their recommendations. I also want to comment a bit on the procedure here. It is, obviously, true that pulling a bill out of committee that the committee has not decided to advance is permitted within the formal rules. But I ask the question, should we be doing this? And I've asked that question to myself many times because it is so rarely used. And I think it ought to be rarely used. It should be reserved for circumstances in which... [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR AVERY: ...this body has an overwhelming support for a bill that is being held up by a handful of people in a committee. I don't think this particular amendment rises to that level. And the reason that I am worried about this kind of procedure is that it can potentially weaken our committee process which is so important to the orderly functioning of this body. So I am going to oppose the motion to reconsider. We had a vote last week on this and it failed, and I think that's where it ought to stop. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Avery. Senator Smith, you are recognized. [LB308]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I did not vote on AM1413 last week. I was present and not voting and I wanted to get on the mike this afternoon and explain my reasons for not voting. I am certainly conflicted on the option sales tax. Last year there were some pretty intense discussions. In fact, I recall, right down in the front, in that center aisle, myself and Senator Ashford and Senator Lathrop having some pretty harsh and intense discussions on this sales tax. And I don't think I was particularly in their good graces last year. But now we've moved down this path and we have cities in Nebraska that have begun to make plans for their use of this option sales tax, cities in my district. And I believe that those cities and developers that are looking to create projects in those jurisdictions are looking for certainty, certainty for their investments, and the cities are looking for certainty in order to attract those developments. And I believe, at this point in time, this would not be a good move to repeal this option sales tax. Once again, just last year I would probably have been on the other side of this because it was not in place yet. It is now in place, and cities like the ones I represent are beginning to put projects into place, developments into place, that are dependent upon this. And so, as I said before, I'm quite conflicted. But I, at this point, am opposed to supporting the amendment, AM1413, and the reconsider motion. Thank you, colleagues. Thank you, Mr. President. [LB308]

Floor Debate
May 20, 2013

SENATOR GLOOR: Thank you, Senator Smith. Senator Davis, you're recognized.
[LB308]

SENATOR DAVIS: Thank you, Mr. President and members of the body. You might know that I was sick last week, last Thursday morning, but I did watch the debate on television at home and was extremely surprised that a bill that last year was overridden by the Legislature almost failed. But there's been some discussion here this afternoon about some issues, and I think it's just pertinent that we maybe talk about that a little bit. I've heard Senator Johnson and Senator Avery make some good points, and I'd like to add a few other things. You all know that I represent a huge geographic district which is extremely rural. We have a lot of people that live in the country out there and, yes, there are a lot of poor people that live in the country. It's not a bunch of landed gentry. There are a lot of people that just barely get by. They live out in the country, they go to town, and they pay sales tax when they get to that town. They pay sales tax to North Platte, to Alliance. They even pay sales tax in Hyannis on anything they purchase. And the revenue that's generated through that sales tax doesn't go to help them in the county or in their school district. It goes to help that city. To me, that's a problem. We have people who are forced to pay the tax but who get no benefit out of it. And let's be honest, comrades and colleagues, a lot of this revenue is going to Lincoln and Omaha where a lot of our rural people end up going for vacation or for medical emergencies or just to buy items because in a lot of our rural communities, there's just not much retail there. So to a point, we need to look at this whole tax situation again, and I'm hoping that's what we're going to do in our tax study here over the next few months. We heard lots of talk about TEEOSA in debate on the school aid bill. And I never heard anybody...I've heard a lot of people say it's unfair, the way the formula is structured, that people out in rural Nebraska aren't paying their fair share and the homeowner in Imperial isn't paying the same rate as one in Lincoln. Well, there are reasons for that, folks, and part of the reason is that the burden in rural Nebraska is carried by property tax on farmers and ranchers. We pay the bulk of the taxes in rural Nebraska. But I haven't heard anyone say what I think is a solution for state aid to education and that is devote some sales tax revenue towards state aid to education on the district basis. Let a district assess a sales tax to help cut some of the cost. So I'd like to see that done and I'm going to propose that in one of my resolutions today. You heard Senator Johnson and Senator Avery both talk about how sales tax gives property tax relief to people, and that's certainly true. It doesn't give that property tax relief to those folks who live in the counties, aren't living in the communities. My own...one of my communities, Gordon, Nebraska, I looked at their taxes when I was doing my campaign, found out that the property taxes have barely gone up on city homes. The income that city has is coming from sales tax, and that's the way they're funding things. So it's a little bit of something that we need to look at. I've always said that one of the things that we need is a broad low tax in Nebraska on different things, not something that's prohibitive and destructive. We've left out one of the largest blocks of wealth in Nebraska, and that's the intangible tax. We've got

Floor Debate
May 20, 2013

extremely wealthy people in the state, and a low tax on intangibles might be a good thing. We had the Revenue Committee in Hyannis some years ago. When I made that presentation, they all just went white and said, oh, my gosh, Warren Buffet would never stand for that. But, you know, let's talk about fairness. A lot of this is about fairness. So now, all that said, I'm not going to vote to support this motion because we're having a tax study this year. There's no one who's going to have an election before the end of that session next year. [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR DAVIS: Thank you, Mr. President. And so it would be counterproductive for us to remove this tax at this point when next year it may need to be...it can be removed next year. But I would hope the body would consider what I've said. And it's some thought that I've put into this for some time because we need equity. We have to get that done sometime. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Davis. Senator Scheer, you're recognized. [LB308]

SENATOR SCHEER: Thank you, Mr. President. I rise in opposition to the reconsideration of AM1413. I voted against it on Thursday, or on Friday, and I will plan to do so again today. If you look at the sales tax proposal, it is the most restrictive proposal that I believe this Legislature has enacted in relationship to a sales tax for local communities. We've heard all the parameters that a community must go through in order for that to be enacted and it's quite...it's overbearing. And still some communities have been able to be successful, and rightfully so. It was not meant to be easy. It was meant to be hard. It was meant to be a serious question. Senator Chambers had made the comment on Thursday that it didn't make any difference; we could do away with it now because there wasn't going to be an election. Well, the fact of the matter is, it is on the books. And those communities that worked hard to establish that are now making plans. You just don't go in front of a community and say we want a half-cent sales tax and, when you say yes, we'll decide what we're going to do with the money. There's a lot of time and consideration and thought on what they're using those dollars for. It might be new lighting. It might be new roads. It might be new plumbing; could be a multitude of things. But it's just not off the top of the hat to please give us some money and we'll figure out what to do. And if we take it off the books now, and even if we put it back on a year from now, that stops the process. How can you plan for something that's not there? I'll make a commitment that if the Tax Commission comes back with that this local option sales tax is not an appropriate form of funding for communities, I'll stand right up and support Senator Chambers and anyone else to do away with it, but not now, not here. It was enacted, we should leave it alone until the Tax Commission makes those determinations on what is the best form to move forward. As Senator Ashford said, maybe some of that is doing away with exemptions, could possibly be. Could be with

Floor Debate
May 20, 2013

reducing the rate on your income tax, could be. No one has talked about inheritance tax, that's another one. We're going to be looking at property tax. Senator Davis just gave us a comment in relationship to trying to utilize, perhaps, county levies or city levies to help offset property taxes for schools. All those are valid comments, certainly something that should be looked at. But to do away with something right now that is functioning, is restrictive, because we think it might not be needed is wrong. It's in place for a reason. It's got the restrictions for a reason. We need to let it have its day and let us move forward with the Tax Commission to look at what is the best route to take. Planning takes time. Let's not take that away from the smaller communities. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Scheer. Chair recognizes Senator Christensen. [LB308]

SENATOR CHRISTENSEN: Thank you, Mr. President. I've heard the discussion that it's going to end up putting it on the property tax if we don't. I had a discussion with Alma, it was mentioned earlier, they called me wanting me to change my position and I dug into a lot of questions with them. I said, what's your objective here, because they're one of the three communities that already have it in place and I don't disagree that they should have an ability to continue because they voted it on. But I said, why did you put it on sales tax? He said, because we want to get the money from people outside of town. And I said, where do you expect to get that from people doing it outside of town? And he said, restaurants. Well I said, you chose the wrong tax for it. He said, what do you mean? I said, occupation tax on food. I said people aren't going to leave for food. You put it on sales tax and I've had several people already said they've quit going to Alma to buy stuff and they're going to do more on the Internet because it's tax free. You want to keep driving people to the Internet and kill your small businesses, keep jacking that rate up on them. That's the best thing you can do to kill the small towns. If that's your objective, kill the small towns, just keep doing it because that's where that one is going, folks. If they really believe they got to have that tax, that occupation tax side of it, put it on food. You ever look at a Lincoln receipt when you go buy food in town? You go to a restaurant, you got the arena tax, you got food tax, you got the city 2 percent...or a cent and a half tax. Before you're done you're spending over 10 percent. You put a 20 percent tip on; it's 30 percent now over the posted price. When is enough enough? I'll guarantee you, you give the cities the rights to put on two more cents, they'll take it, they'll find a way to spend it. I've never seen a government yet that couldn't spend more money, including this one right here. Name me a government that can't spend more money. And I ask you, when is enough enough? Is there a spot there's enough? Is there a spot it's too much? Evidently not. I just think you want to think about it. Who's your largest...if you're from a rural community, rural senator, please listen: Where's the number one tax revenue coming right now? People buying inputs or tractors, machinery, high-dollar technology? There's a lot of people trade every year or every other year. Do that lease and to pay that taxes. That's why every city...Imperial is one of

Floor Debate
May 20, 2013

them, just as soon as they got the city sales tax put in, boom, they moved their boundaries out and took in all the implement dealers. Why? Because that's easy revenue. Let's get the farmers. Think about it, rural senators. If you like this tax, you're liking taxing your farmers. I can't believe the number of rural senators standing up and saying, well, we've got to have this, it's local vote. It's just like voting on a school bond issue. Who pays for it? The property tax owners that own the land. [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR CHRISTENSEN: And it's voted on and passed by whom? The city people. Ag senators need to pay attention to what they're doing here. Think about what you're doing to your constituents. If you represent largely ag, I'm speaking to you right now. Think about what you're doing. You are setting it up to let the city people vote to increase the sales tax to put it on that farm machinery that have no vote. Think about what you're doing here. It's not the direction we need to go. Send people to the Internet, kill the small town businesses, tax the farmers that can't leave, that's what we're after here. Isn't that what we're doing here? You can't tell me this is to save property tax or do anything else, because it's not. [LB308]

SENATOR GLOOR: Time, Senator. [LB308]

SENATOR CHRISTENSEN: Thank you. [LB308]

SENATOR GLOOR: Thank you, Senator Christensen. Senators wishing to speak: Wallman, Bloomfield, Murante, Chambers, Karpisek, Johnson, Harms, and Christensen. Senator Wallman, you are recognized. [LB308]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. It is interesting to hear Senator Christensen as always. And I, too, am a rural farmer and I, too, pay city sales tax. And do we always like it? No, but the cities provide us things we just don't have in rural Nebraska. We can go to movies; we can eat in restaurants and all these things. Does it cost us? Sure. But we have entertainment there and we have to keep up our parks, our children can play in the parks and some cities are having trouble keeping their parks in place. And so, you know, I take our grandkids to the cities to the parks and who are paid by somebody. There is no free lunch. And so is this a panacea? No. Taxes don't like to be paid by anybody. But I think it's a civic duty and, you know, the multimillionaires, they do get more of a break here, but we decided last year to cut income tax in here. So we took some aid away from the cities and counties and villages and townships and there won't be very many bond issues passed today in today's environment. My township has tried it several times to pass a bond issue, fix the roads, gravel more...you know, fix the bridges, all these things, and can't get it done. So we're going to do the same thing to our small towns? I'd hope not. And I'm against to reconsider. Thank you, Mr. President. [LB308]

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

Floor Debate
May 20, 2013

SENATOR GLOOR: Thank you, Senator Wallman. Senator Bloomfield, you are recognized. [LB308]

SENATOR BLOOMFIELD: Question. [LB308]

SENATOR GLOOR: Do I see five hands? I do. The question is, shall the debate on the reconsider motion...shall debate on the reconsider motion cease? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? [LB308]

SENATOR BLOOMFIELD: I'd like to ask for a call of the house. [LB308]

SENATOR GLOOR: There has been a request to call the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB308]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB308]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Kintner, Senator Christensen, please record your presence. Senator Bloomfield, how do you wish to proceed? [LB308]

SENATOR BLOOMFIELD: Call-ins would be fine. [LB308]

SENATOR GLOOR: Call-ins are the request. [LB308]

CLERK: Senator Lautenbaugh voting yes. Senator Ashford voting yes. Senator Murante voting yes. Senator Larson voting yes. Senator Brasch voting yes. Senator Sullivan voting yes. [LB308]

SENATOR GLOOR: Record, Mr. Clerk. [LB308]

CLERK: 26 ayes, 9 nays, Mr. President, to cease debate. [LB308]

SENATOR GLOOR: Debate on the motion to reconsider ceases. Senator McCoy, you're recognized to close on your motion to reconsider. [LB308]

SENATOR McCOY: Thank you, Mr. President and members. Again, I offered this reconsider motion last Thursday as we neared adjournment for the weekend, and knowing full well there were a number of members who were not with us and not present at the time. The vote was a close one and I would ask for your reconsideration

Floor Debate
May 20, 2013

and I would yield the balance of my time to Senator Chambers. [LB308]

SENATOR GLOOR: Senator Chambers, 4 minutes 35 seconds. [LB308]

SENATOR CHAMBERS: Thank you, Senator McCoy. Thank you, Mr. President. And I will not need the full four minutes. I'm looking at the list of how we voted last time. It could seem from those who spoke against the bill that now there's overwhelming opposition and a shift. The only one who voted to adopt the amendment, who voted against it, who said he'll vote against it is Senator Carlson. Five or six other people spoke and they had either voted against the amendment or had not voted at all. So their votes, in effect, were no votes anyway. None of them changed their vote. The only one who voted for the amendment and said he's not able to do it now was Senator Carlson. So I hope those who voted for adding the amendment will stick with that. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator McCoy and Senator Chambers. Members, the question before us is, shall AM1413 be reconsidered? All in favor vote aye; all opposed vote nay. Have all voted who care to? Senator McCoy. [LB308]

SENATOR MCCOY: Mr. President, I would ask for a roll call vote in reverse order, please. [LB308]

SENATOR GLOOR: Mr. Clerk, call the roll. Reverse order please. [LB308]

CLERK: (Roll call vote taken, Legislature Journal pages 1472-1473.) 22 ayes, 25 nays, Mr. President, on the motion to reconsider. [LB308]

SENATOR GLOOR: The motion to reconsider does not pass. Raise the call. [LB308]

CLERK: Mr. President, the next amendment I have to the bill, LB308, Senator Krist, AM1458. (Legislative Journal pages 1473-1474.) [LB308]

SENATOR GLOOR: Senator Krist, you're recognized to open on your amendment. [LB308]

SENATOR KRIST: Thank you, Mr. President; good afternoon, colleagues, and hello Nebraska. This amendment is the same amendment that is currently filed on LB613. It puts a moratorium on all taxes, any new taxes that would be sent at the city level, including the one we just talked about. It's pretty simple. I believe, honestly, earnestly, that we will do a comprehensive study in both the area of revenue taxation and exemptions and we will do a study as a legislative body that will look at TEEOSA and the formula. And I think between the two, our political subdivisions need to slow down, take a deep breath, and not incur an additional commitment or decide to put the money

Floor Debate
May 20, 2013

someplace where they needed to put the money and then not be able to fulfill their obligation. In saying that it's simple, it is that simple. It is simply saying where you are today is where you will remain. And I believe that it's smart business for them to slow down. I know that there are some cities that are currently in final preparation for expansion and for a development area. I know La Vista is one of those. And although I can sympathize, empathize with the construction and redevelopment of some of those areas, I spoke to the mayor this morning, I do understand that city planning involves years of preparation in terms of making things happen. But I have to say that, for example, and I've made this comment on the mike several times, as an example, if you are in the process of putting tax on tobacco, hypothetically, and donating that money to the medical center, that's currently in place and this will not disturb it. However, what happens in 2014 when the tax study, the revenue study, the exemption study comes back and says that is not a proper tax for a political subdivision? How do they then make their commitment good? Should we take that away? And rest assured, if the statute...if our reconsideration of the tax study rests at a point where the tax revenue system and exemption system is going to be revamped, they may have an issue getting the same money for the same cost. I think it's prudent to slow down and take a deep breath and let us look at this whole thing. With that I would ask you for your consideration and I look forward to the debate. Thank you, Mr. President. [LB308 LB613]

SENATOR GLOOR: Thank you, Senator Krist. Speaker Adams, you are recognized. [LB308]

SPEAKER ADAMS: Thank you, Mr. President. Members, there are a lot of interim studies being filed today, appropriately so. I just want to remind you that today is the deadline by adjournment today and the only exception to that are an interim study from a committee and that must be turned in by the end of the session, before sine die. So, if you have interim studies that need to get done, get them up to Revisors, get them back and get them in by adjournment today. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Speaker Adams. Members, you've heard the opening on AM1458 to the committee amendment. We now move to floor debate. Senator Chambers, you are recognized. [LB308]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Krist a question. [LB308]

SENATOR GLOOR: Senator Krist, would you yield? [LB308]

SENATOR KRIST: Sure. [LB308]

SENATOR CHAMBERS: Senator Krist, you said this is, in effect, a moratorium. [LB308]

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

Floor Debate
May 20, 2013

SENATOR KRIST: That is correct. [LB308]

SENATOR CHAMBERS: But it would allow those three little towns that already have the tax to retain them? [LB308]

SENATOR KRIST: Yes, sir, because there's no legislation that takes it away from them at this point, so it's in statute. [LB308]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I will support what Senator Krist is doing and I'm not going to mess with Senator Schumacher's bill. He agreed to let me try to hitch a ride and I'm not going to do anything to slow up the movement of his bill. I can't say that about the others. And because I'll need time to look at them, I'm just going to start putting indefinite postponement motions on the bills that I see, and then when we get to them I will make a decision about whether I'll carry them through or not. But since the practice now is to let those outside the glass do a lot of determining...I remember when Senator Sullivan and some people were upset when they were trying to get the school bill done, and they were concerned about people on the outside doing too much. But that's a part of the process. Everything that has happened so far, even the negative results that have befallen me are all a part of the system. But an additional part of the system is that some people react to what happens and that's what I'm going to do in my own time...well, let me change that...in my own way on your time. On your time. And I think what I'm going to do is...I said I won't read from the telephone book, so far I never have, or read recipes, but that might be what I'm going to do the next time when a bill comes up that I don't like. I'll have to get a telephone book from one of the cities and just go down and read names out of the telephone book until my time is up if that's what I decide to do. But I definitely will not take that last vote lying down. I have the same amendment that I'm offering to a bill that Senator Hadley has. Now he's going to oppose it. So I will oppose his bill. But I will have my pound of flesh one way or the other. There are people who have not supported other legislation that I'm in favor of who supported my amendment. And my memory, like they say in football, if you're a quarterback and you throw an interception, your memory has to be short. My memory is short. It starts with this vote against my proposal and moves forward. Whatever happened prior to that where some individual had voted contrary to the way I had wanted him or her to vote and I had made up in my mind that when we got into the last few days I'd fix them. Well, they're clear now. Their slate has been wiped clean. But from this point on, because we only have about 11 days, let's say I take eight hours on each bill that comes up on General File. How many days will we be here? Well, the Speaker is going to have to keep us here late. [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR CHAMBERS: Otherwise you're not going to get anything done. But since we

Floor Debate
May 20, 2013

can only live in the instant, and Senator Krist has a proposal which is essential, I'm going to support his proposal. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB308]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Again, I appreciate that Senator Chambers was able to have a vote on his bill. And just to show the good guy that I am, I even voted for his bill, even though he's the main one holding up my bill in the Judiciary Committee. So when Senator Chambers wants to tell us about how fair he is and all those sort of things, I think I'll tell him I'm just as fair at least. I did try to get him to change his mind in...for me voting for his bill, but he knew that he was in trouble. So I asked him if I could ever get him in a corner, but he said no. But I'll keep trying to do so. I really had meant to shut my light off, but while it was on, I thought I would just try to poke the bear just a little bit because I know he's not happy about his vote coming out the wrong way, but I'm ten times more mad not even to get a vote on my bill. I was going to yield the rest of my time to Senator Krist if he would like it, but...I see that he's coming. Mr. President, I would yield the remainder of my time to Senator Krist. [LB308]

SENATOR GLOOR: 3 minutes 35 seconds, Senator Krist. [LB308]

SENATOR KRIST: I won't take that whole amount of time. I just think if we're going to prepare ourselves for a quality tax study in the future and that if that tax study eliminates the possibility of doing things down the road or changes the status of things down the road, that we would allow ourselves to become involved with it, we should take a deep breath and I think this goes a long way to do that. So with that I'll yield the rest of the time back. [LB308]

SENATOR GLOOR: Thank you, Senator Karpisek and Senator Krist. Senator Ashford, you are recognized. [LB308]

SENATOR ASHFORD: Thank you, Mr. President. I too support Senator Krist's amendment. I think it's an example of what happens when we get out on the floor and start talking about issues, even though Senator Chambers' motion did not succeed, we have an amendment here that I think helps. I want to...and it does give us an opportunity to come back with a tax bill next year and I hope we do it that will address some of these inequities in the sales tax area and that will ease the burden on cities which was the reason for LB357 in the first place. I do want to just reflect a bit on what the city of Omaha did with LB357 in 2011 and 2012 is they supported the idea of LB357 in order to reduce or to eliminate the restaurant tax. And they passed a resolution that indicated that the half cent...half a percent sales tax increase was acceptable to the council provided that it would reduce this restaurant tax. Well, we're a year into this now

Floor Debate
May 20, 2013

and there has been no effort by anybody on the city of Omaha's side, and I realize this bill has much greater application, this law does, than the city of Omaha, but at least on the city of Omaha's side the idea was that this effort would be...LB357 would be utilized by the city to reduce what is an onerous tax, really, 9 percent tax on restaurant sales that really does hit the poor. And the idea in LB357, the amendments that we put on LB357, that provided for the city of Omaha that a portion of the half of a percent sales tax be used to reduce an existing tax or fee was specifically to address the issues that Senator Chambers has raised on his amendment, and that is to not overtax people who can least afford it. And that's exactly what we did in LB357. Unfortunately, the city of Omaha chose not to utilize this mechanism, has not chosen to utilize this mechanism to reduce the restaurant tax which is extremely regressive on the poor. So with that, I applaud Senator Krist; I think he's absolutely right on the mark. I am hopeful that...and I'm confident that Senator Schumacher's efforts will result in a broadened tax base that will significantly benefit the cities without raising taxes, will provide tax revenue for the cities that they do not now have without raising taxes. And even though...and the reticence, I think, that cities have shown to utilize this in the last year doesn't mean it's not a good idea to use sales tax to address a city's concerns, but I think it is a reluctance to raise a sales tax to meet the needs of cities. And even though there are cities, and I fully understand that, and I am supportive of efforts by cities to do enterprising and innovative projects, but I'm much more supportive of a tax code that will allow those cities to do that in a way that does not raise sales tax. In fact, I've been discussing with Senator Chambers, and I think it's certainly within the realm of possibility that in this tax study we can reduce the state sales tax, hopefully, possibly, that will, amongst other taxes, that by broadening the base. I mean, that to me makes incredible sense and does relieve the average taxpayer and also the taxpayer that is poor, where this sales tax burden... [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR ASHFORD: ...is a burden; that we can, if possible, reduce the state sales tax, something that we haven't done for some while. I know we've done it before. And it's well worth looking at. So this is...Senator Krist has done a...brought us an excellent amendment that does create, I think, the pathway that we were looking for to do many things, one of which is to do what Senator Chambers has talked about for 38 years and that's to reduce the tax burden on the poor. And I know that our efforts in this tax study will take those issues into consideration. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Chambers, you're recognized. [LB308]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Krist a question. [LB308]

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

Floor Debate
May 20, 2013

SENATOR GLOOR: Senator Krist, would you yield? [LB308]

SENATOR KRIST: Absolutely. [LB308]

SENATOR CHAMBERS: Senator Krist, this is the only amendment that you have pending? [LB308]

SENATOR KRIST: Yes, sir. [LB308]

SENATOR CHAMBERS: Thanks. That's all I will ask you. I'd like to ask Senator Carlson a question. [LB308]

SENATOR GLOOR: Senator Carlson, would you yield? [LB308]

SENATOR CARLSON: Yes, I will. [LB308]

SENATOR CHAMBERS: I think of a song by a guy named Buffett. He said: wearing my flip flops, stepped on a pop top. I'd like to ask Senator Carlson a question. Senator Carlson, you have an amendment pending, don't you? [LB308]

SENATOR CARLSON: I'm sorry, I didn't hear you, Senator Chambers. [LB308]

SENATOR CHAMBERS: Senator Carlson,... [LB308]

SENATOR CARLSON: Yes. [LB308]

SENATOR CHAMBERS: ...you have an amendment pending, don't you? [LB308]

SENATOR CARLSON: Yes. I thought you were going to ask me something about sandals. [LB308]

SENATOR CHAMBERS: (Laughing) No. Why I would ask you a question about sandals? Why would I ask Senator Carlson a question about sandals? I'm not in the New Testament talking about the foot gear of the disciples and other people, Senator Carlson. But at any rate, I think...I saw a copy of your amendment. It said, strike the Chambers' amendment. Is that true? [LB308]

SENATOR CARLSON: Yes. [LB308]

SENATOR CHAMBERS: Okay, since the amendment was not adopted, that would not be a part of your amendment. [LB308]

SENATOR CARLSON: No. [LB308]

Floor Debate
May 20, 2013

SENATOR CHAMBERS: Somebody said you wanted to just eliminate from that amendment and it would say, "strike Chambers." Is that true or false? [LB308]

SENATOR CARLSON: I have not given that any thought at all. [LB308]

SENATOR CHAMBERS: Okay. Now what would your amendment offer? [LB308]

SENATOR CARLSON: This amendment would say that the half-cent sales tax could be used by any incorporated municipality other than a city of the metropolitan class. [LB308]

SENATOR CHAMBERS: Thank you, Senator Carlson. Members of the Legislature, that sounds like a good amendment to me. And I'm going to see what the vote will be. There's a new mayor in Omaha who has made it clear that the tax is not going to be used. Senator Johnson will say, well, just because she said it's not going to be used doesn't mean you shouldn't leave it on the books. Senator Smith got kind of shaky, but he wasn't for the amendment anyway. So I'm going to see what happens on Senator Carlson's amendment. It had been generally agreed that some kind of moratorium should be put in place once it was determined that this tax study will take place. And I'm not going to say any more on Senator Krist's amendment. I wanted to be sure that his dealt only with the moratorium. Had it incorporated what Senator Carlson talked about, I would have voted for it too. But I wanted to be sure just what it is that's before us today. Thank you. [LB308]

SENATOR GLOOR: Senator Crawford, you're recognized. [LB308]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in opposition to this amendment for the same reasons that I discussed, basically, when we were talking about the sales tax amendment. It's our responsibility to provide those tools for local government, for financing and development. And unless and until we replace those existing tools with ones that are better, it's important that we not put a moratorium on one of those key tools that's used in many of our communities. And I feel that perhaps the misuse of this tool, perhaps, in one metropolitan city has caused some in this body to feel there should be a moratorium on it for all cities. And so I would just ask you if you are for local control, and if you are for local control on the last vote, if you are for waiting for the tax study on the last vote, then I think that it's appropriate that that logic applies to this amendment as well and I would ask you to consider a no vote on this amendment. Thank you. [LB308]

SENATOR GLOOR: Thank you, Senator Crawford. Senator Nelson, you are recognized. [LB308]

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

Floor Debate
May 20, 2013

SENATOR NELSON: Thank you, Mr. President, members of the body. Sorry to be at a distance. I did not anticipate Senator Crawford speaking quite that briefly. (Laugh)
Thank you, Senator Crawford. I'd like if Senator Krist would entertain a question or two. [LB308]

SENATOR GLOOR: Senator Krist, would you yield? [LB308]

SENATOR KRIST: Sure. [LB308]

SENATOR NELSON: Thank you, Senator Krist. Section 4 is what you're changing here in your amendment. Could you tell me how you view this as...well, let me back up. What occupation taxes do we have in Omaha right now, if you know? [LB308]

SENATOR KRIST: Well, I know we have one on tobacco and we are collecting money from the city of Omaha from the taxpayers and donating that to the University of Nebraska Medical Center. I know that we have, in terms of an occupation tax, we have a restaurant tax. We also by definition in the statute have a hotel/motel tax and I think part of that is based upon the occupation tax statute. So there are many that we have in Omaha. [LB308]

SENATOR NELSON: So your amendment here would place a moratorium on those taxes. I mean, they would continue to exist or could they no longer be enforced? [LB308]

SENATOR KRIST: Whatever is in force right now continues to be in force. If anybody is thinking about doing something different, there's a moratorium on any new taxes or change of rate to taxes. [LB308]

SENATOR NELSON: So if another type of tax, I'm reading: any occupation tax imposed by a governing body and approved by the registered voters, part of the effective date of this shall continue to be imposed. Well, if an occupation tax was proposed, for instance, in Omaha in the next six months and it were sent to the voters, that would be a nullity under your amendment? [LB308]

SENATOR KRIST: That would be...I'm sorry, say that again, that would be a what? [LB308]

SENATOR NELSON: It would be nullified. They couldn't go ahead...they can't do anything more in the way of occupation taxes. [LB308]

SENATOR KRIST: They can't do any more and they can't add to in percentage anything that is currently in place until the moratorium is over. [LB308]

Floor Debate
May 20, 2013

SENATOR NELSON: All right, thank you, Senator Krist. [LB308]

SENATOR KRIST: You bet. [LB308]

SENATOR NELSON: I appreciate it. Members of the body, I think I would stand then in an opposition to AM1458. I think...yes, we do have a new mayor and we have, to a certain extent, a new city council in Omaha and I'm not saying that they're going to do anything new and different, but I think options shall still remain available to them. And I'm thinking of the Crossroads shopping center area which is in my district which I might say is in desperate need of change and improvement and renovation. And if the citizens of the city of Omaha, one way or another, felt that they wanted to pay an additional tax to help that come to pass, I wouldn't want to deny them that possibility. They probably would not. There would probably be another avenue used of some sort. But in any event, inasmuch as we refuse to reconsider Senator Chambers' amendment, and this amendment is, in many ways, similar, a little more narrow, I think we ought to also refuse to accept this amendment in light of the fact that things can stay the same, at least cities will have options, whatever their size until we complete our complete tax study and decide... [LB308]

SENATOR GLOOR: One minute. [LB308]

SENATOR NELSON: ...how we're going to handle taxes, whether it be more through sales tax or some other type, so that property taxes can be reduced. There can be exemptions of that sort to increase the revenue that we need to do the basic things that we need to do here in the state of Nebraska. And a lot of the proceeds, the tax, although from other sources, it does come from Omaha and Lincoln that helps us do that as the state of Nebraska for our citizens as a whole. So with that I would stand in opposition to AM1458. Thank you, Mr. President. [LB308]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Carlson, you're recognized. [LB308]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I know that we are discussing Senator Krist's amendment. However, I have one that would say that any incorporated municipality other than a city of the metropolitan class could continue with the half-cent sales tax. And I intend to be able to introduce that on Select File. There are 14 senators with an Omaha address and here I am from District 38 with this kind of an amendment and I'm very concerned about what the senators from Omaha feel about this and would like to discuss it with them prior to Select File. And so, Mr. President, with your permission I would...and I don't know if it's appropriate right now, I would withdraw my amendment. [LB308]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Krist, there are no members

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

Floor Debate
May 20, 2013

remaining to speak. You are recognized to close on AM1458. [LB308]

SENATOR KRIST: To sum up where I think we are, I believe that we've been very serious and calculated about either LB613 and/or...and I apologize, Senator Chambers, the name of your...or the number of your LR, I forget right now, but in any event, either the LR or the LB613 will do the same thing and put a tax study in place that will look at our taxes, it will look at our tax base, it will look at real estate, at property tax, at sales tax, at occupation tax across the board, and very appropriately, and I think the Governor was very clear on LB405 and LB406, and Senator McCoy was as well, study the exemptions that are, in my opinion, out of control across the state, or at least not in control, maybe not out of control. I would welcome the chance to talk to Senator Carlson about his amendment because being from Omaha, I can tell you that there are several things that the past city council and past administration did that were not, in my mind, appropriate because they didn't go to a vote of the people in some cases, because they were a regressive tax in others, and because, quite frankly, taxing something that is not under their authority to tax. This is not to answer Senator Crawford's concern. This is not about a bad city doing something bad and everybody else gets punished, I just think it's time that we take a deep breath, step back, look at the total taxation and the total exemption program and go forward after the tax study and, potentially, the interwoven TEEOSA study are completed. With that I would ask you for a green vote on AM1458. [LB308 LB613 LB405 LB406]

SENATOR GLOOR: Thank you, Senator Krist. Members, the question is, shall the amendment to the committee amendment to LB308 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Krist, for what purpose do you rise? [LB308]

SENATOR KRIST: A call of the house, please. [LB308]

SENATOR GLOOR: Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB308]

CLERK: 32 ayes, 0 nays to place the house under call. [LB308]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Lathrop and Nordquist, please record your presence. Senator Christensen, please return to the Chamber and record your presence. Senator Krist, how do you wish to proceed? [LB308]

SENATOR KRIST: Roll call vote, regular order. [LB308]

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

Floor Debate
May 20, 2013

SENATOR GLOOR: Members, the question is the adoption of AM1458 to the committee amendment. Mr. Clerk, please call the roll, regular order. [LB308]

CLERK: (Roll call vote taken, Legislative Journal page 1475.) 20 ayes, 15 nays, Mr. President, on the amendment. [LB308]

SENATOR GLOOR: The amendment fails. Raise the call. Mr. Clerk, items for the record. [LB308]

CLERK: Mr. President, bills read on Final Reading earlier today were presented to the Governor at 3:07 p.m. (re LB195, LB198, LB199, LB200, LB194, LB536). I have a series of resolutions, LR298, LR299, LR300, study resolutions that will be referred to the board. LR301 is a resolution by Senator Price; that will be laid over at this time. LR302 through LR307 are study resolutions; those will be referred to the board. LR308, a resolution by Senator Wallman; that will be laid over. LR309, study resolution; LR310, and LR311 are Senator Wallman resolutions; both will be laid over at this time. I also have an amendment to be printed to LB308 by Senator Carlson. (Legislative Journal pages 1475-1486.) [LB195 LB198 LB199 LB200 LB194 LB536 LR298 LR299 LR300 LR301 LR302 LR303 LR304 LR305 LR306 LR307 LR308 LR309 LR310 LR311 LB308]

SENATOR GLOOR: Members, you'll note on your agenda at 4:30 we move to General File, Speaker priority bills, Howard division. Mr. Clerk.

CLERK: Mr. President, LB298, a bill by Senator McCoy. (Read title.) Bill was introduced on January 17, referred to Judiciary; bill was considered on the floor on May 2; committee amendments were adopted at that time. There was an amendment to the bill by Senator Chambers...I'm sorry, committee amendments were adopted. I do have an amendment to the bill, Mr. President. [LB298]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator McCoy, you're recognized to open on LB298. [LB298]

SENATOR McCOY: Thank you, Mr. President and members. It's been a couple of weeks since we last discussed this legislation. And I would just very simply update the members again on what this bill does. This is a...I won't call it a follow-up bill to LB19 from two years ago, but in some ways it is very similar. This bill is something we've been working on for a great deal of time with law enforcement and with the forensic community in attempting the best way we know how to address not only the synthetic cannabinoid issue that is creating a tremendous amount of heartache in families and schools across our state, but also the drugs referred to as Smiles, which in some ways are...in many ways are like LSD. And this, as you note, as you look through this legislation, it's a humbling bill, in some ways, for me because it's very complicated with a lot of chemical names that I struggle to pronounce, as probably many of us do. I

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

Floor Debate
May 20, 2013

believe this bill to be very important and I appreciate that Speaker Adams made it a Speaker's priority bill this session. I think there are a number of families across this state, along with a lot of schools and school administrators that are anxiously awaiting, hopefully, a successful passage of this piece of legislation. It's my hope, as many of you heard the story of Tyler, it's my hope that the young people who are using these drugs really understand just how dangerous they are. It was mentioned when we talked about this earlier on General File by a number of members that they hoped schools would do programs to raise awareness of these drugs and just how deadly they can be. That's my hope also. This legislation doesn't address awareness programs like that, but I hope that schools and families take that initiative across the state to help raise awareness. We're certainly doing everything that we can. I know there's probably going to be some questions at some points this afternoon along this and I'll do my very best to answer them. Thank you, Mr. President. [LB298]

SENATOR GLOOR: Thank you, Senator McCoy. Mr. Clerk for an amendment. [LB298]

CLERK: Mr. President, the first amendment I have to the bill this afternoon is by Senator Chambers, FA74. (Legislative Journal page 1255.) [LB298]

SENATOR GLOOR: Senator Chambers, you're recognized to open. [LB298]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, as Senator McCoy stated, it's been awhile since we were on this bill, but my amendment would go to page 11. And what is being discussed in that language...oh, my amendment would be on page...I meant line 6 on page 11, I would strike the two words "some form" and insert "a recognized method." What is being discussed here are various compounds, the structures, and other parts or derivatives and almost anything that could come from something that is harmful. And that is not a scientific statement of what is going on here. But because we're talking about a testing method, or a way to analyze these substances to determine whether they fall within the wide range of items which will be banned. I don't think we should just say "some form" of scientific testing, there should be a recognized method. There are different means, methodologies, and protocols for testing different types of substances. So whatever is the realm of scientific testing that will be involved in making these determinations, the method utilized should be recognized in that area of testing as being valid. So I'd like to ask Senator McCoy a question. [LB298]

SENATOR GLOOR: Senator McCoy, would you yield? [LB298]

SENATOR McCOY: I would. [LB298]

SENATOR CHAMBERS: Senator McCoy, is it clear, at least, what I've said the intent of my amendment is? [LB298]

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

Floor Debate
May 20, 2013

SENATOR McCOY: Yes, Senator, it is and I have my light on as well, I don't want to take up any of your time, but I think that perhaps the verbiage that you're using may be better than what was used before. In any way, shape or form, it doesn't really change the substance of what we're after. But I can talk more about it on my own time if you'd like. [LB298]

SENATOR CHAMBERS: Thank you. And that's all that I would have to say on it and probably all I'll have to say on this bill. Thank you, Mr. President. [LB298]

SENATOR GLOOR: Thank you, Senator Chambers. Senator McCoy, you're recognized. [LB298]

SENATOR McCOY: Thank you, Mr. President and members. I support FA74, I think it's fine. I really don't think it probably changes the substance of the bill a whole lot. In any testing that's done on one of these substances, the state must do what is called a Daubert hearing where they look at what testing is done to make sure that it's recognized and it's a recognized scientific method. So perhaps it's just a matter of how it was drafted. To Senator Chambers' amendment, I think in practice what Senator Chambers is mentioning is already done already anyway; but in order to recognize that in statute, I'm happy to support FA74. Thank you, Mr. President. [LB298]

SENATOR GLOOR: Thank you, Senator McCoy. Are there other senators wishing to be recognized? Seeing none, Senator Chambers, you're recognized to close on your amendment. Senator Chambers waives. Members, the question is, shall the amendment to LB298 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB298]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB298]

SENATOR GLOOR: The amendment is adopted. [LB298]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB298]

SENATOR GLOOR: Discussion continues on the advancement of LB298 to E&R Initial. Senator Chambers, you're recognized. [LB298]

SENATOR CHAMBERS: Thank you. Members of the Legislature, you didn't read my amendment did you? You took my word for what I said, didn't you? You know what you adopted? LB266, my amendment to repeal the local option sales tax. Haven't I told you to read before you vote? I'm kidding. (Laughter) [LB298]

Floor Debate
May 20, 2013

SENATOR GLOOR: Thank you, Senator Chambers. Are there other senators wishing to be recognized? Seeing none, Senator McCoy, you're recognized to close on the advancement of LB298 to E&R Initial. [LB298]

SENATOR McCOY: Thank you, Mr. President and members. And I certainly won't belabor the point, but I do appreciate Senator Chambers reading through the bill, however difficult it is, because it is very complicated language, and offering up a suggestion to the underlying legislation. I talked about on General File the Smith family from Bellevue and their son Tyler that tragically took his own life as a result of use of these drugs. You know, there aren't very many opportunities, I don't think, that you have a chance to meet a family that is willing to look through their grief and recognize that some good can come of something that is the absolute worst possible thing that anyone can ever imagine to happen to their family, but they're doing just that. And I talked about earlier on General File that they have begun a public awareness program to not only honor the life of their son Tyler, but to, hopefully, educate other young people on why they shouldn't for any reason use these drugs. It's my hope that with the advancement of LB298 it helps with that effort in some way however small or large it may be. I hope we don't have to come back in future sessions and address this topic again, but, members, I commit to you that this is the second time we've brought such legislation and if need be we'll do it again because there are lives at stake and it is an important issue. And just since we talked on General File, a couple of weeks ago, the Drug Enforcement Agency in Washington, D.C., has seen fit to ban several of the substances on a federal level that we are talking about in LB298. So change is underway, hopefully at a national level, not just here in Nebraska. So with that I would thank the members' indulgence on this important topic and ask for your advancement to Select File. Thank you, Mr. President. [LB298]

SENATOR GLOOR: Thank you, Senator McCoy. Members, the question is the advancement of LB298 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB298]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB298. [LB298]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB298]

CLERK: Mr. President, LB34 is a bill by Senator Hadley. (Read title.) Introduced on January 10; referred to the Revenue Committee; advanced to General File. There are Revenue Committee amendments pending, Mr. President. (AM650, Legislative Journal page 753.) [LB34]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Hadley, you're recognized to open on LB34. [LB34]

Floor Debate
May 20, 2013

SENATOR HADLEY: Mr. President, members of the body, LB34. First I'd like to thank Senator Burke Harr for a lot of work he did this summer on this project, the Department of Revenue, and the Speaker for prioritizing this. LB34 is the Department of Revenue's cleanup bill with regards to the Nebraska Advantage Act, commonly known as LB312. It simplifies and clarifies terms that have been problematic for both taxpayers and the department. It also imposes some new structure and accountability around the department's approval process for application. The first part deals with the definition of taxpayer. Current law specifies the form of businesses that may qualify under the act as a corporation, partnership, limited liability company, cooperative as exempt under IRC 521, limited cooperative association, or joint venture. LB34 replaces the specific forms of businesses and replaces them with the term "entity." This prevents pass-through entities from being unintentionally disqualified or held to a different standard than the businesses specifically listed in the current law. Current law excludes from the definition of taxpayer, political subdivision and organizations exempt under IRC 501(a). LB34 provides a definition of political subdivisions that are excluded from qualifying as a taxpayer for clarification purposes. The definition includes a group of political subdivisions that form a joint public agency or organized through an interlocal agreement or other method of joint action. Current law excludes pass-through entities if more than 20 percent of the owners are either political subdivisions or exempt organizations. LB34 eliminates the 20 percent requirement. Combined with the definition of political subdivisions has greatly reduced the amount of time the department and taxpayers spend trying to verify ownership without precluding any public/private partnerships are expanding benefits under the program. We changed the definition of "year." LB34 changes this from the taxable year of the taxpayer to calendar year. This definition has been used for administrative convenience, but led to confusion and incorrect calculations by taxpayers. New definitions allow both the department and taxpayers to use IRS W-2 data to calculate employment numbers. This is much simpler. New definition prevents shortchanging taxpayers who have a short tax year due to an acquisition, corporate restructuring or other event. Also simplifies the tracking of credits earned and used for both the department and taxpayers. We changed "interdependency." Original purpose was to prevent gaming of the system; for example, a taxpayer including unrelated business activities and locations of the same project to meet employment and investment requirements. Current law requires taxpayers to document that each location is dependent on the other and therefore part of the qualified business activity. LB34 does not remove this from the requirement but creates a rebuttable presumption in favor of the taxpayers. When the taxpayer's application includes every location in the state that is involved in a qualified business activity, the locations are all presumed to be interdependent. The burden then shifts to the department to establish that they are not interdependent. Next disclosure, projects are allowed to be transferred under current law with certain restrictions. LB34 allows the Tax Commissioner to disclose to the acquiring taxpayer information about the project including previous benefits received to reasonably determine the future benefits or liabilities of the project. According to the taxpayer, more than one-third of all projects are

Floor Debate
May 20, 2013

transferred during the life of the project which can last as long as 15 years. Current disclosure laws do not allow the Tax Commissioner to disclose this information to the acquiring taxpayer. We changed employment calculations. Current law only defines hourly employees, but does not define salary employees. Businesses vary in their definition of a salaried employee: 35 hours, 40 hours, 42 hours, etcetera. LB34 stipulates that a salaried employee is counted as a 40-hour employee. This standardized the employment calculation for new employees and wage levels. Eliminating reporting requirements. The current law requires the commissioner to include in the annual report and taxpayers to report the total number of employees aggregated by industry group in the state on the last day of the calendar quarter prior to the application date. LB34 removes this requirement. As noted previously, the department and taxpayer will utilize IRS W-2 data to the extent necessary for employment calculations and reporting purposes. I want to emphasize, this LB34 has no fiscal impact on the state or cities. And just in summary, it amends the definition of taxpayer to fix the inconsistent treatment of what we call pass-through entities. Pass-through entities are basically any business form other than a C corporation in which income losses and tax attributes pass through to the shareholders, members, or partners. Two, it changes the definition of "year" from taxable year of the taxpayer to calendar year which greatly clarifies many key time frames under the act. Three, it clarifies the rules for statewide projects. Four, it allows the Tax Commissioner to disclose project information to a purchaser of a project. Five, it simplifies the employment calculation. Six, it eliminates the unnecessary reporting requirements. The changes in the bill only apply to application filed on or after the effective date of the bill. It neither expands or limits the current application. Thank you, Mr. President. I would encourage a green vote on LB34. [LB34]

SENATOR GLOOR: Thank you, Senator Hadley. As the Clerk stated, there are amendments from the Revenue Committee. Senator Hadley, as Chair of that committee, you're recognized to open on the committee amendments. [LB34]

SENATOR HADLEY: Thank you, Mr. President and members of the body. The amendment detail application approval deadline. There has been some frustration expressed by the business community regarding the length of time it takes to receive approval of an application and to execute a signed agreement. I very much appreciate Mr. Ewald's looking into this and coming up with the proposed amendment to help the taxpayer. AM650 requires the Tax Commissioner to act within 180 days of receiving the application or it is deemed approved. If the taxpayer requests additional information to make his determination, the 180-day period is tolled until the information is received. The taxpayer and the Tax Commissioner can also agree to extend the 180-day period. Within 100 days after approving the application, the taxpayer is required to prepare and mail the written agreement to the taxpayer for signature. Senator Burke Harr studied the issue over the interim and brought this amendment forward. The committee's most recent annual report shows 339 applications from 2006 to 2011; 143 agreements

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

Floor Debate
May 20, 2013

signed, 2007 to 2011; 33 qualified projects, 2006 to 2011. The median period of time between the date of application and the date for all agreements signed is 318 days through December 31, 2011. I would appreciate your green vote on AM650. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Hadley. Mr. Clerk for an amendment. [LB34]

CLERK: Mr. President, Senator Chambers would move to amend with AM1410. (Legislative Journal page 1382.) [LB34]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your amendment. [LB34]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is an attempt to add LB266 to this bill. This bill, LB34, amends the Nebraska Revenue Code. It talks about these credits that can be...it talks about income tax and sales tax refunds, and nothing could be more appropriate than a bill such as this for me to offer mine to remove the local option sales tax. That's what my amendment that I'm proposing would do. This amendment is going to be like Dracula. I don't care how you kill Dracula in the movies whether it's running water...or let me just make it general, a vampire. Garlic, none of that works. Crosses, none of it. But in some movies it does. And unfortunately, some people who are not well-versed in the arcane art of disposing of supernatural wicked creatures will confuse a vampire with a wolfman, and they shoot him with a silver bullet and he laughs. The vampire laughs. And they try to use garlic to run off a werewolf. So what LB266 represents is something that is going to continually be discussed during this session. Every opportunity I have I'm going to make that effort and I'm going to bring it before the body. Senator Hadley is not surprised that I'm offering this amendment. Rather than catch anybody off guard or by surprise, I had it printed some time ago. And I'm not going to go away on this issue. The list of voters was made by the Clerk. So all I can say is, not that I made the list, but I'm checking it twice and thrice. And it's too bad in one sense that it's so late into the session that this matter arises not for the reason some of you might think. For my purposes the less time that remains in the session the better. People are going to start panicking. They're going to start worrying about whether their bill will come up at all. They're going to say it should because it's important. Well, mine is important too. So you don't always get what you want. And thus far I have not gotten what I want. So I have to compensate. I have to...let me quote from one of those poets. He had Lucifer saying: It is a solace to the wretched to have companions in grief. And that has been stylized and simplified into the maxim: misery loves company. So I am going to allow you to share with me what I've gone through. You have bills that means something to you. They don't mean that much. You have to accept the fate that befalls your bill in the same way I accept the fate that befalls mine. You have another opportunity, maybe not this session but next session. And maybe some things that slid through this session will not be allowed to slide

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

Floor Debate
May 20, 2013

through next session. My list does not go away. I'd like to ask Senator Hadley a question or two. [LB34 LB266]

SENATOR GLOOR: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes, I will. [LB34]

SENATOR CHAMBERS: Senator Hadley, you said this is a Revenue Department bill, correct? [LB34]

SENATOR HADLEY: Yes, that's correct. [LB34]

SENATOR CHAMBERS: And you described it as a cleanup bill for the Revenue Department, is that true? [LB34]

SENATOR HADLEY: That's correct, sir. [LB34]

SENATOR CHAMBERS: Do they have a bill, to your knowledge, of this kind practically every year or periodically? [LB34]

SENATOR HADLEY: I think they do. I would say periodically. [LB34]

SENATOR CHAMBERS: Had it not been for the fact that the Revenue Department wanted such a bill, would you have brought this bill? [LB34]

SENATOR HADLEY: That is a possibility, because Senator Harr worked real hard this summer to bring up a number of these items and we had a committee composed of senators and citizens working on a number of these items, Senator Chambers. [LB34]

SENATOR CHAMBERS: And Senator Harr is a person whose judgment you have confidence in. [LB34]

SENATOR HADLEY: Very much. [LB34]

SENATOR CHAMBERS: So if he had brought this to you and had made no reference to the Revenue Department, he would have been able to show you that on its merits this bill should be enacted into law whether the Revenue Department had sought it or not, is that correct? [LB34]

SENATOR HADLEY: That's correct. That's correct. [LB34]

SENATOR CHAMBERS: Thank you. I would like to ask Senator Harr a question or two. [LB34]

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

Floor Debate
May 20, 2013

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: Senator Harr, were you requested by the Department of Revenue to work on this bill? [LB34]

SENATOR HARR: No. [LB34]

SENATOR CHAMBERS: You brought it up on your own. [LB34]

SENATOR HARR: I brought up not LB34, but I brought up a similar bill on my own, but it had a fiscal note on it. But it contained all the issues that are in LB34. [LB34]

SENATOR CHAMBERS: And why was this bill taken instead of yours, did you say? [LB34]

SENATOR HARR: Because this is revenue neutral, it has no fiscal note. Mine had a fiscal note. [LB34]

SENATOR CHAMBERS: Yours would have cost money in other words. [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: So this one took all of that away while still accomplishing what you were hoping to accomplish with your bill? [LB34]

SENATOR HARR: It didn't accomplish everything I wanted, but a large portion, yes. [LB34]

SENATOR CHAMBERS: You had to take what you could get? [LB34]

SENATOR HARR: Yes, sir. [LB34]

SENATOR CHAMBERS: And this is a trimmed down version of what you wanted. [LB34]

SENATOR HARR: Well, I would say what the committee that I formed wanted, but yes. [LB34]

SENATOR CHAMBERS: So even though you get this, you're not really getting all that you want. [LB34]

Floor Debate
May 20, 2013

SENATOR HARR: Want might be a...yeah, that I think would make the bill better, yes. [LB34]

SENATOR CHAMBERS: I don't understand that answer, I'm going to ask it again. Are you getting all that you wanted in LB34? [LB34]

SENATOR HARR: As compared to my bill, right? [LB34]

SENATOR CHAMBERS: Yes. [LB34]

SENATOR HARR: Um, no. [LB34]

SENATOR CHAMBERS: What are you not getting in this bill? [LB34]

SENATOR HARR: Oh, boy, it's been a little while since I looked at my bill. So I had a little different way of handling interdependency. Although in retrospect, I do like the way...the Revenue Committee handled it better. I had... [LB34]

SENATOR CHAMBERS: So on that score, this is giving you, basically, what you wanted in your bill? [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: Okay. [LB34]

SENATOR HARR: The one thing that I would have liked to have had that is not in LB34 that I would have liked is for those who do E-Verify, that it goes from the date the person is employed, not from the date that you do the E-Verify check. [LB34]

SENATOR CHAMBERS: Now, what does E-Verify stand for? Does that stand for Ernie? [LB34]

SENATOR HARR: No. [LB34]

SENATOR CHAMBERS: What does it stand for? [LB34]

SENATOR HARR: I believe it stands for electronic or electric. [LB34]

SENATOR CHAMBERS: And what is being verified? [LB34]

SENATOR HARR: E-Verify means to confirm. [LB34]

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

Floor Debate
May 20, 2013

SENATOR CHAMBERS: And with reference to your bill, did you have E-Verify in your bill? [LB34]

SENATOR HARR: I did have E-Verify in my bill. [LB34]

SENATOR CHAMBERS: And it's not in this bill? [LB34]

SENATOR HARR: It is not in this bill. [LB34]

SENATOR CHAMBERS: Would that have cost money? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: And to whom would it have cost money? [LB34]

SENATOR HARR: The state of Nebraska. [LB34]

SENATOR CHAMBERS: And how would that have cost them money? What would they have had to do that cost money which they can do under LB34 that does not cost money? [LB34]

SENATOR HARR: Okay. Well, what it is, is that when an employee is hired, you are required to E-Verify them from the date of employment if you want to receive Nebraska Advantage Act money. So you may hire an employee in January and say I'm not going for Nebraska Advantage Act; but come December you realize you've hired enough people or you met the requirements, so at that point you E-Verify the person. So the person has been working for you since January, but they only get credit for their employment from the date the employer E-Verifys them with the state. [LB34]

SENATOR CHAMBERS: Now what is happening with LB34? [LB34]

SENATOR HARR: LB34 doesn't address that issue. It just says that...it continues with the current practice which is December when you E-Verify the employee. [LB34]

SENATOR CHAMBERS: No matter how long before that that person had been working? [LB34]

SENATOR HARR: That is correct. [LB34]

SENATOR CHAMBERS: That time is not available for use in determining the largesse that the employer would receive. [LB34]

SENATOR GLOOR: One minute. [LB34]

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

Floor Debate
May 20, 2013

SENATOR HARR: That is correct. [LB34]

SENATOR CHAMBERS: Now...oh, he said one moment. That's all that I will ask you right now because the time is going to run out. [LB34]

SENATOR HARR: Okay. [LB34]

SENATOR CHAMBERS: And, Mr. President, that's all the time I'll take on this turn. Thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Harr, you are next in the queue. [LB34]

SENATOR HARR: Thank you, Mr. President, members of the body. So background is, last summer I was looking at...well, we passed LB775 about 20 years ago and the Nebraska Advantage Act about 8 years ago, and I think it's very important that we look at these bills and we say...and we look and see what's working and what isn't working and what can we improve. We give away...well, that's the wrong word, duh, tax. The Nebraska Advantage Act refunds a lot of money and we want to make sure--again this is the taxpayer's money--that it is done in a fair and equitable manner. And we want to make sure that those companies that are trying to take advantage of the Nebraska Advantage Act are also able to take advantage of the act. So what we found was there were a number of years in there where no one was receiving any money so we had to figure out what wasn't working. And so the two things we found were, there was a difficulty in interdependency and definition of businesses. This does a very good job of addressing interdependency. And then we found some other little issues that businesses who try to take advantage of Nebraska Advantage Act have a problem. Among those we saw was that the review period was entirely too long. So what we tried to do was to shorten that review period. And that's what this bill does. It also deals with the issue of interdependency. It's a very good bill, if you buy the underlying assumption that the Nebraska Advantage Act creates jobs for Nebraska. If you do not buy that assumption, you will not like LB34 because it makes that bill better. But that's why I came in. At first I was a little upset with LB34, to be quite frank, because I'd done all this work over the summer and all of a sudden the Department of Revenue, who wasn't working with me, although I asked them specifically to work with me, refused. They come in with their own bill and ironically it's very similar to mine. So they knew what the problems were right away. So I was very angry and frustrated, but again keeping my eye on what the goal is which is to make the Nebraska Advantage Act better, I was okay with LB34 and turned around and I voted it out of committee and along with the Revenue amendments. Again, if the goal is to make Nebraska Advantage Act better and easier to use for those attempting to create jobs in Nebraska, this is a very good piece of legislation. And so I fully back LB34 and the Revenue amendments. Thank you,

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

Floor Debate
May 20, 2013

Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Harr. Senator Chambers, you're recognized. [LB34]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Harr a couple of questions. [LB34]

SENATOR GLOOR: Senator Harr, will you yield? [LB34]

SENATOR CHAMBERS: And this is in order that I can get some information. By the way, that amendment that I have pending, I'm going to pull it for now and apply it on Select File. I will not put the body through that right now. And this may not be the appropriate time to do it, but if I just have to withdraw it and then refile it, I will do that. But if I can just make that declaration. [LB34]

SENATOR GLOOR: So ordered. The amendment is withdrawn. [LB34]

SENATOR CHAMBERS: Thank you, because I do want to discuss this bill with Senator Harr. Senator Harr, with the way this bill is drafted, will companies receive under this bill what they would not receive without it? [LB34]

SENATOR HARR: Good question. I think the answer is...and I don't know if you're going to like this. I think companies are clearer going in what the requirements are of them and what the requirements are not of them. So they may receive more or they may receive less, but they go in having a better understanding of what the Nebraska Advantage Act is. [LB34]

SENATOR CHAMBERS: Now based on what you said, no requirements are being loosened or altered by LB34. The requirements themselves remain the same. Is that correct? [LB34]

SENATOR HARR: Yes. The big issue that LB34 deals with, I believe, is interdependency, as far as if you have two companies that create jobs, are they interdependent with each other or are they completely separate entities. If you want, I can elaborate... [LB34]

SENATOR CHAMBERS: Currently, they would not be...well, yeah, what happens currently that will be different under LB34? [LB34]

SENATOR HARR: Okay. So currently, let's say you have a company out there that one is a dry cleaning company and one is a delivery company, and they're owned by the same parent company. And the dry cleaning company creates eight jobs and the

Floor Debate
May 20, 2013

delivery company creates three jobs; so you create 11 jobs. The minimum right now is you have to create at least, I think...and I believe it's you have to invest a million dollars and create ten jobs. So the question is, are those two businesses interrelated or independent enough, if that delivery company is delivering for the dry cleaning company, that you can count both of them together as 11, or is it one company created eight and one sub created three? And so there's always...you always had to prove that these two companies were related, which created a big delay. So now what it is, is the presumption is these two companies shall be related,... [LB34]

SENATOR CHAMBERS: Whether... [LB34]

SENATOR HARR: ...but they may not be. [LB34]

SENATOR CHAMBERS: Go ahead. Even if there is not...how much...if you could say there's a percentage of work being done by the two of them, what percentage of this delivery company's delivering would have to be based on whatever it's delivering for the dry cleaning company? Could they deliver...could 3 percent of their deliveries comprise what they get from the dry cleaning company and 97 percent somewhere else, but since they're owned by the same outfit they are viewed as one for purposes of determining the total number of jobs in order to get these benefits? [LB34]

SENATOR HARR: Great question, and I don't have the answer to it. So it's fact-specific, you're right. So before the company would have had to have proven that they were related, and I would argue they aren't if it's only 3 percent; but now we switch the burden to the department has to now prove that they aren't related. And I would think 3 percent...if you're only doing 3 percent for the dry cleaning company, you probably aren't related, interdependent. [LB34]

SENATOR CHAMBERS: But should some standard be established... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: ...because I think this is a substantial change... [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: ...from the way things are. You're giving somebody the opportunity to bring in additional basis to get these benefits which may not be there now. [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: So what is the standard to determine that they are interrelated

Floor Debate
May 20, 2013

other than just that they're under an umbrella of ownership? [LB34]

SENATOR HARR: And there are definitions of interdependency in the rules and regs currently. And I didn't know I was going to be quizzed on it, but I can get you those definitions of what the Department of Revenue looks at for interdependency. [LB34]

SENATOR CHAMBERS: Now when a company is supposed to get a sales tax rebate, they don't have to claim it if...what is the period of time that can elapse before they claim these refunds? [LB34]

SENATOR HARR: Um... [LB34]

SENATOR CHAMBERS: I mean, is there a number of years within which they have to make the claim or they lose some of them? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR GLOOR: Time, Senators. Thank you, Senator Chambers and Senator Harr. And members, to be clear, we have now returned to discussion on the committee amendment AM650. Senator Hadley, you're next in the queue. Senator Hadley waives. Senator Chambers. [LB34]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Harr, what is the number of years that a person can have these refunds pending before any of that is dropped off and they can no longer...? [LB34]

SENATOR HARR: I would yield. And the answer is I don't know. I was looking around... [LB34]

SENATOR CHAMBERS: You did a lot of work on this, didn't you? [LB34]

SENATOR HARR: Well,... [LB34]

SENATOR CHAMBERS: I haven't done any work, but the question occurs to me. [LB34]

SENATOR HARR: Yeah. So I did it last summer, and my short-term memory isn't as good as my long-term. I was looking for Senator Schilz because I know this was an issue that affects Ogallala a lot. But there is a term that you have to ask for that, and I... [LB34]

SENATOR CHAMBERS: But the company can allow the amount of this refund to build up, then on whim say I want to file a claim, give me my refund. And must the refund be given? [LB34]

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

Floor Debate
May 20, 2013

SENATOR HARR: If you meet the criteria as determined... [LB34]

SENATOR CHAMBERS: Yes, you meet it all, and the refund would come from the city. [LB34]

SENATOR HARR: It comes from the state and the cities, yeah. [LB34]

SENATOR CHAMBERS: But let's take the cities' part,... [LB34]

SENATOR HARR: Okay. [LB34]

SENATOR CHAMBERS: ...because some cities might grouse and say, well, can you spread...let us pay you over a period of time, because if you want it all right now, we really can't come up with it without great inconvenience. That could happen, couldn't it? [LB34]

SENATOR HARR: It has happened in the past, yes. [LB34]

SENATOR CHAMBERS: Hum. And what happened? How was that worked out? [LB34]

SENATOR HARR: Well, we changed some legislation to expand the period of which you can pay it off; but it is an issue. [LB34]

SENATOR CHAMBERS: Now is it in the discretion of the city to spread it over a period of time, or is it up to the company to decide to spread it over a period of time? [LB34]

SENATOR HARR: I...you know, I can't give you an answer definitively. I'm not sure. I think it's up to the city but I can't give you an answer on that, because I didn't focus on that portion of the bill when I was looking at it. But I can work on getting you an answer and will get you an answer. [LB34]

SENATOR CHAMBERS: How long will it take you to get an answer? [LB34]

SENATOR HARR: Um, well, I would have to... [LB34]

SENATOR CHAMBERS: By when? Select File, as they always say? [LB34]

SENATOR HARR: What's that? I could probably get you something hopefully still today. We have an hour and a half. [LB34]

SENATOR CHAMBERS: Yeah. But see, I won't be allowed to just hold the mike open for an hour and a half unless I'm going to be indulged by the Speaker. Can we stand at

Floor Debate
May 20, 2013

ease for an hour and a half until we get this answer? Otherwise, I'm out in the cold.
[LB34]

SENATOR HARR: Yeah, yeah. [LB34]

SENATOR CHAMBERS: Maybe I can offer amendments and motions to give you time to get the answer, because I genuinely am interested. And the question is, so you understand what I'm asking, if this...if the time during which this refund can be spread out, is it in the discretion of the city to say we're going to spread it out over this period of time, or is it up to the company to say spread it out? And if it's up to the company, could they say I don't want it to be spread out; in fact, I'm pulling up stakes to get out of here and I want my money now? Is there anything as far as you know where if a company decides it's going to go out of business but it has this refund coming, that it could still get it, even if from this point on they're not going to be doing business either there or they won't have the number of employees; do they lose what they have coming to them at that point? [LB34]

SENATOR HARR: Okay, I will look up those questions...or answers to those questions.
[LB34]

SENATOR CHAMBERS: You don't tell me these are good questions like people say when somebody else asks the question. Are these good questions? [LB34]

SENATOR HARR: I don't have the answers to them, so they're probably pretty good.
[LB34]

SENATOR CHAMBERS: Are they worthy of being answered? [LB34]

SENATOR HARR: Oh, definitely. [LB34]

SENATOR CHAMBERS: If I didn't ask these questions, look around the Chamber.
[LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: Do you think anybody else would have asked a question?
[LB34]

SENATOR HARR: I don't know. Senator Murante looks pretty excited. [LB34]

SENATOR CHAMBERS: Was that my third time, Mr. President? [LB34]

SENATOR GLOOR: That was your second, Senator. [LB34]

Floor Debate
May 20, 2013

SENATOR CHAMBERS: Oh, okay. And my time is up for this one? [LB34]

SENATOR GLOOR: You have 50 seconds left, Senator. [LB34]

SENATOR CHAMBERS: Thank you. That's all I'll ask you, Senator Harr. Members of the Legislature, as the day wears on and we've discussed something, it's easy to become fatigued. But we cannot do that. We have a job to do. Now, I've worked harder than all of you on these other issues. You all have been able to just sit still and hope that somebody else will say something and I had to fend you all off. I'm not fatigued mentally, so why don't you pay attention to these important subjects? There's old Senator Nordquist there, young Senator Nordquist. When he thought that he was going to upset some cities by not doing what they and Walt Radcliffe wanted him to do, he was bright-eyed, bushy-tailed, and very full of... [LB34]

SENATOR GLOOR: Time, Senator. Thank you, Senator Chambers. And correction, Senator Chambers. That was your first time on the committee amendment. Senator Hadley, you're recognized. [LB34]

SENATOR HADLEY: Yes. I just wanted to make a comment. Thank you, Mr. President. Just a couple of quick points. One is that the Advantage Act is set up that companies have to earn the tax rebates that they get. This is not just a gift. It's not an exemption. And they have to earn that. And this is different than some states give just outright exemptions. They have to meet the...depending on which tier they're in, they have to meet the employment requirements, they have to meet the amount of money they put into the project, many different criteria, before they get the refund of their sales tax and some of the payroll taxes. And I think, Senator Chambers, we did work on the cities' problems, and we heard a couple of bills over the years in Revenue, and it's a cash flow problem. The cities can handle it if they know enough in advance. The idea is, is that they have gotten excess sales taxes previously, because a company has met the criteria for spending within that city. So the city got excess sales tax. Sometime, at sometime later, the company meets the criteria to get a refund. In the past, the Department of Revenue just said on the beginning of a month they said to the city basically we're going to take X dollars away from you this month. So it really caused...wreaked havoc on the cities to come up from a cash flow. So we decided to basically, if the cities wanted to, the state would basically bankroll them during a calendar year so that they didn't have the problem of having to come up with that money or finding out that they weren't going to get the money the first of a month. So it's a cash flow problem that the cities have that we tried to rectify in the Revenue Committee. Senator Schilz had another bill that was not prioritized that would give them 12 months. Right now, there can be some concerns about when that refund comes during the year. But I would say this, that cities should know that something is coming. For example, I'll use Kearney as an example. We worked very hard, the state, the city, the county, to

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

Floor Debate
May 20, 2013

keep the Buckle in Kearney with their 400 employees, their investment. Well, the city of Kearney knows that there was some kind of Advantage Act put into play but they just don't know when that's going to occur. So the refunding type is a cash flow problem, not trying to hurt the cities by cheating them out of any money or anything like that. It's strictly a cash flow problem. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Chambers, you're recognized. [LB34]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. Let me engage Senator Hadley in a discussion. [LB34]

SENATOR GLOOR: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: Senator Hadley, to simplify it if I can, without misstating what you have said, a company is entitled to a refund, and the city doesn't have the money on hand to make the refund, to give the refund. Is that correct? [LB34]

SENATOR HADLEY: That's correct. [LB34]

SENATOR CHAMBERS: Well, with all this talk before of local control, Senator Crawford, the cities don't seem to be doing a very good job of it, do they? We can find all kind of excuses for them, can't we. But when they blunder, then the state comes in to bankroll them, to use your terminology, and help them through this cash flow problem. Isn't that true? [LB34]

SENATOR HADLEY: That's correct, because they don't...they do not know which company...because of the laws involving privacy, they don't know which company got...would potentially get a refund nor the amount of the refund. So they're caught... [LB34]

SENATOR CHAMBERS: But the companies...oh. The companies are delivering on their end of the deal based on what the state law is. And they're entitled to this refund, aren't they? [LB34]

SENATOR HADLEY: That's correct. [LB34]

SENATOR CHAMBERS: But the cities don't have it because they haven't paid attention or kept records or something, isn't that correct? [LB34]

SENATOR HADLEY: I would say that a good city, when they see spikes in sales tax,

Floor Debate
May 20, 2013

they should try to figure out what might have caused that spike in sales tax. [LB34]

SENATOR CHAMBERS: But the body is so concerned about the cities and their local control that they'll put a sales tax on the poor. But when they look out for somebody, Senator Crawford, it's for these elected officials in the city whom you all are so worried about. You're always concerned about them. You will bankroll them. You will help them out. They're not poor. They're poor in terms of doing their job, keeping records, bookkeeping, calculating. They ought to get Senator Larson. He put together a logarithm to determine the value of certain pieces of art by looking at what it might have brought in a number of markets; then when it's to be sold by Sotheby's, they can set a value on that art. Well, if that can be done on art, these cities that are getting the benefits from these companies coming there and delivering on their part of it ought to be held to a standard, and they ought to be kept with their feet to the fire like a student who has to pass an exam by scoring a certain number of points. A person who is poor and doesn't have the pennies that it would take to purchase something, and those pennies are added by the sales tax, the merchant doesn't say we'll bankroll you and we'll give you this and you pay us when you can, or go get the state to give you some money. Always this body is concerned about these cities, not people. You lie when you say you're concerned about people. You're not. What do you say? The cities, the municipalities, the subdivisions. What about the people, the people who live there, who work there, who provide the salaries of these people who are not doing their job? Senator Johnson is sitting there worried about the cities. Senator Nelson is worried about the cities. All of you who spoke against my provision are worried about the cities, not the people. Who votes for you? The suckers who you can trick and make think you're interested in their welfare. They're not going to follow these kind of debates. You all know it and you count on it. But these lobbyists can put the screws to you and you will turn your back on the people. Then the ground is not even cold where you left your guilty footprints, and here we are talking about where cities did not exercise due diligence and somebody who is entitled to something can't get it because of the cities. The people are not the ones who passed these laws. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: The people are not the ones who put together these complicated calculations that have to be undertaken. The Legislature did it and they did it for these big companies, the ones you all love, the ones you kowtow to, the ones you bow down to and turn your back on the people. You ought to be ashamed of yourselves, but you have no shame. And you know what I'm talking about is true. Then you won't even pay attention to these discussions you ought to be listening to. This is your area. Talking about taking care of the big shots, making it easier for them, allowing two companies owned by...I've got another question I want to ask but I don't have enough time. How much time do I have, Mr. President? [LB34]

Floor Debate
May 20, 2013

SENATOR GLOOR: Seventeen seconds. [LB34]

SENATOR CHAMBERS: How many? [LB34]

SENATOR GLOOR: Seventeen. Thirteen seconds. [LB34]

SENATOR CHAMBERS: That's all for now. Thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB34]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I did work over the interim with Senator Harr in trying to get a grasp on what was going on with the tax credit programs. I kind of came to the conclusion that we had kind of a schizophrenic system. On one hand we had some tax programs which were passed by the Legislature intended to be very attractive, and when we passed those programs we, as we often do, do not exactly tell the Department of Revenue what we want and we leave a lot open to interpretation. And a lot of the interpretation can be on very fine technical points, such as what a work week you use to figure whether somebody is fully employed and things of that nature. That being the case, the Revenue Department, whose job it is is to collect money and squeeze blood out of every turnip out there, got to be fairly, fairly picky in its interpretation and application. And you had companies who were...thought they had met the standard because they had enough workers, but all of a sudden were a worker short of 500 workers, I think in one case, that they were supposed to hire; and they got denied the entire thing. And in that respect, what Senator Harr attempted to do was try to give some structure and some definition along the lines of what seemed to be fair to those companies that had applied and were going to claim these particular credits. Now all that being said, these credits amount to big money. Whether they ever will be claimed by a company or not is hard to say, but we are looking at a tremendous amount of money that we have promised to people if they meet the requirements. There's a thing now that the Revenue Department has on incentive programs. I'll be happy to provide any of you that ask with a link, but I haven't figured out how to send a link or where to send it off of the iPad here. But just for example, it shows a tax credit balance...and I take this to mean what conceivably, of all the claims are met and all the programs are met in the year 2021, in the neighborhood of \$721 million. I've been sure that that number is not the number that we can expect to pay out because these folks will not meet the standards that we've set along the way. But it appears here that tax credits will start to expire in 2017. If they haven't claimed by then, they lose them. But I would encourage us to take a look at those particular numbers because those are major commitments if they were to occur. They do provide an anomaly for cities because cities get the money up front when the sales tax is paid; and then when the company is in the position to make a claim or it has been approved to make a claim, they can come in with a surprise for the city that requires them to come

Floor Debate
May 20, 2013

up with the cash. And I think there's a provision, whether it's in statute or regulation, that allows that to come up with the cash to be spread over 12 months. This particular measure tries to deal with some of those underlying technical difficulties that make it difficult for a war between a taxpayer and the Department of Revenue for the taxpayer to win. In fact, if most of us were to sit as judge, we'd say, you know, they've earned the credit. That being the case, the very nature of these animals are something that, boy, this tax study, which is apparently going to have a lot to study, is going to have to look at, because we are dealing with significant money, significant ways of using tax credits to undo taxes that are imposed to be attractive... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR SCHUMACHER: ...and to be fair. But underlying this is why this Revenue Committee, in all of its evilness and grandeur, advanced this bill, because we're trying to iron out some of these difficulties that exist and probably our fault for not being clear enough as to what we wanted to begin with. But we learn from our mistakes. And Senator Harr has taken a great deal of time to try to figure out at least how to iron out some of these difficulties. Thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Burke Harr, you're recognized. [LB34]

SENATOR HARR: Thank you. When I hit the light, I was trying to answer Senator Chambers' questions. I believe the majority of them have been answered, and I will yield some time at the end to the senator if he wants. But we talk about the cities, the cities, the cities. Well, if you recall, this Nebraska Advantage Act was kind of imposed on the cities. So what you had was we decide we as a state, in our benevolence, that we are going to give...incentivize businesses to expand in Nebraska, which is good and great. But then what we did was we said, oh hey, we'll give you a sales tax return. Cities, you're on the hook. We didn't ask them. We demanded it of them. And, you know, you hope a good corporate citizen is going to be up-front and tell their town, city, municipality, whatever, hey FYI, we're buying a lot. You hope a good city is seeing, well, we've got a real uptick; we better see where this is coming from, and you plan for it. And there's a lot of money. I think it's \$5 million or \$6 million a year the city of Omaha gives back through the Nebraska Advantage Act that again was imposed on them by us--an unfunded mandate. So what you had were some smaller towns that had a huge tax rebate that was due. So we came up and what we said was, if it's over 25 percent of your total...of the budget, sales tax, we're going to give you some time. The state will cover it and then, cities, you'll pay back the state. And that's what this is. In addition, if a business receives this money and later doesn't live up to the terms, we can go back and get that. So if the payback...if you're saying you're going to do something over seven years and you only do it after a year, and you disappear, we're going to get six-sevenths of it back. And the Department of Revenue is pretty good, darn good, at getting money

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

Floor Debate
May 20, 2013

that is owed them. So I don't want the misconception out there that we are giving money to these corporations and then they just hit the road and run and disappear. Nothing could be further from the truth. Again, this is taxpayer dollars; so we have to be very careful. I appreciate the questions from Senator Chambers because I think we...Senator Kintner would agree with me, these are the taxpayer dollars; we have to be careful what we do with them and how we redistribute them. We want to incentivize and encourage businesses to come to Nebraska. That's what this LB...what Nebraska Advantage Act and the clarification language in LB34 does. But what we also want to do is make sure everyone knows the rules of the road, and that's what we're trying to do. And if you meet the rules and those criteria, and you play by the rules, we want to make sure that you get what you have coming to you. Now, you may not agree with the underlying Nebraska Advantage Act. What you can't argue with is how well our economy is doing right now, and I think the Nebraska Advantage Act has something to do with it. It may be the landmark piece of legislation of this administration. I don't know. History will tell us that. But what I can tell you is, it is working. I know Senator Chambers has some concerns, so I'm going to go ahead and yield the remainder of my time to Senator Chambers. [LB34]

SENATOR GLOOR: One minute 35 seconds, Senator Chambers. [LB34]

SENATOR CHAMBERS: Thank you, Senator Harr. Thank you, Mr. President. And I'm very disappointed in my colleagues. I am. We're talking about giving away taxpayers' money. And I know Senator Harr pointed out, as did Senator Hadley, that there are criteria that must be met. You've got to play by the rules. But we're changing the rules. I know people really don't care. Not every senator. But, in general, the senators don't care about this area of the law. That's why you make it hard for me. Look, when I go to the restaurant, they look at my gray hair, they look at my gray whiskers. They look at all these lines and wrinkles and bumps that you all have put on me through worry and working with you, trying to improve you and your minds. And you know what they say? When somebody has lived as long as you have, that entitles him or her to some consideration. But when on top of that, something constructive for society has been done, even more is offered. So we'll take 2 percent off what your bill will be for this meal you're going to buy. They give me an old folks concession. Why don't you all give me the consideration, considering my age, to pay attention to what we're talking about? Young people shouldn't be tired. Young people shouldn't have their mind wandering. You agreed to come here and work. Look how many empty seats there are here. [LB34]

SENATOR GLOOR: Time, Senator. [LB34]

SENATOR CHAMBERS: Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Chambers. Mr. Clerk for an amendment.
[LB34]

Floor Debate
May 20, 2013

CLERK: Senator Chambers would move to amend the committee amendments, Mr. President. (FA85, Legislative Journal page 1487.) [LB34]

SENATOR GLOOR: Senator Chambers, you are recognized to open on your amendment to the committee amendment. [LB34]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I'm going to show you that I'll pay attention to what's happening even after I suffer a devastating defeat on the floor of the Legislature. Devastating. Any of the rest of you would be in your office licking your wounds and crying. Maybe you'd slip off somewhere and get a shot of Old John Barleycorn because you can't take it. But as old as I am, I stay here trying to be an example to you youngsters. You need to see the way the job ought to be done, and I'm trying to show you. My amendment would be found on page 1 of the committee amendment. Here is the language I'm messing with. Beginning in line 20, it says, in new language, "If a taxpayer's plan includes every location in the state that is involved in a qualified business activity, then all of the taxpayer's locations are presumed to be interdependent." I don't like presumptions. Not when you're giving away the taxpayers' money. So here's what I would do. In line 21, starting with the word "all," I would strike all of that language in line 22 through the word "be" on page...all on line 21 and strike all the language on line 21 beginning with "all" through the word "be" on line 22. And instead of there being a presumption, it would say, "The taxpayer..."--I'll read it exactly the way I put it up there. I'm better organized than the cities, because at least, eventually, I can find the paper I'm looking for. It would say, "The taxpayer may be permitted..." And you might would rather have the word "shall." "The taxpayer may be permitted to establish that all of the taxpayer's locations are interdependent." The taxpayer is the one who's got a plan. I'd like to ask Senator Harr a question or two as we go along. [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yes, I will. [LB34]

SENATOR CHAMBERS: Senator, this taxpayer is the one who's going to seek these benefits under this Advantage Act, is that true? [LB34]

SENATOR HARR: That is correct. [LB34]

SENATOR CHAMBERS: And I'm doing that so they won't think we're just talking about an ordinary person paying taxes. That taxpayer in this context is a term of art that applies to this bill and it has that specific meaning. So the person who is going to put this plan in place may be of a mind to include all of the locations that he or she has which are doing business, are interdependent enough to total up the number of

Floor Debate
May 20, 2013

employees in all of them cumulatively, and thereby qualify for these benefits. Rather than give the presumption, since the one who is putting in the plan is trying to get some taxpayer money, then it should behoove that individual to establish that all of these locations are interdependent. Does that seem unreasonable to you? [LB34]

SENATOR HARR: That is how it is currently written. Not the bill. The statute, as it currently is, would be...is what you described, where the burden is on the taxpayer to prove interdependency. [LB34]

SENATOR CHAMBERS: So then they changed the current law to require a presumption. [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: Can you tell me what the rationale was for that other than making it easy for somebody to raid the public treasury--well, you choose a different selection of words--to get these benefits. [LB34]

SENATOR HARR: To get the benefits. Exactly. So again, when we looked at, we saw there were two real problems. I'm not going to take up too much time, but one of the problems was interdependency. And so when we looked at businesses that are independent, at the end of the day the vast majority were found to be interdependent but because...again this is taxpayer dollars, the Department of Revenue was doing what it should in saying that, well, you have to prove it to us. So what we said was, what this LB34 does is it switches the burden to say you are presumed; however, if it is so terrible or even questionable, then the department can make that decision. But the burden is on the department. So the public policy reason was to make interdependency easier, because, to be quite frank with you, I don't know why interdependency is in there. If one company creates ten jobs, why does it matter if the two businesses are interdependent? That's the question I want to know...the answer I want to know. [LB34]

SENATOR CHAMBERS: Senator Harr, when the...because everybody talks about the taxpayer's money. The rules of this game...first of all, this game exists only because the Legislature chose to create the game. The Legislature set out the rules. If you want to play, you should play by the rules. And rather than loosen the rules, let those who have every capability comply with the rules. If they put the plan together and they have employees or personally have the expertise to do that, then let them establish that there's interdependence among all of these entities that it wants to use to justify getting this taxpayer money. If it doesn't matter how many jobs, where the jobs are created, why don't we just say if I'm a private person and I hire Senator Johnson to cut my grass and Senator Schumacher to shovel my snow and Senator Bloomfield to oversee them and Senator Wallman to watch Senator Bloomfield, and on around...and this is to simply it. I know enough money wouldn't be created. But why would it have to be any kind of

Floor Debate
May 20, 2013

businesses? Just let somebody collect a lot of people who want to work. Here's what I'm trying to get at: There has to be a framework, a structure within which this person operates who is trying to get the benefit of public money. And if that person is too lazy or too unwilling to play by the rules, then don't let that person get in the game. Either the rules have meaning or they don't. But I go back to what I was saying during my earlier rant as some people will call it. We always want to take care of the big shots. Senator Crawford is not worried about the fact that you're going to change the rules to make it easier for the big shots, because that's the ones that the Legislature are concerned about. The business of America is business, and General Motors can prove it. But that is not the business, in my view, of the Legislature. You are always talking, especially these conservatives in here, about being good shepherds of the...well, they call it stewards, of the taxpayers' money. Where are they now? Are their brains too numbed to pay attention to what's happening here? It's being made easier, Senator Brasch, if you're here, to take taxpayers' money. But you think, when you consider taxpayers, I guess, that big shots ought to be excused from having to comply with the rules. Senator Harr, if I want to claim that I have an income tax return coming, why can't I just take a piece of paper and write I earned \$1,000; \$650 were taken out; there's no way anybody should have to pay that, so this is the return that I want; and turn that piece of paper in and I get that money from the state? Why don't they just let me do that? [LB34]

SENATOR HARR: Well, because the burden may be on...the Department of Revenue would look at that and say that doesn't meet the burden. And so the presumption is on you...well, again, you wouldn't meet the level. It's a rebuttable presumption, so you probably wouldn't meet that level. [LB34]

SENATOR CHAMBERS: But they don't change the rules to say that this form that they say I've got to fill out now doesn't have to be filled out anymore. That's too hard. So we're going to let you take a piece of paper and write it out in crayon,... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: ...and we'll give you the return as though you had filled out one of these forms. Here's what I'm getting to: I don't see it as burdensome to require a person who wants to get taxpayer dollars to have to show that these entities that he or she owns completely are interdependent. And if that's too heavy a burden, then they're not really interdependent, in my view. But that's what my amendment would do. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on FA85 to AM650. Senator Price, you're recognized. [LB34]

SENATOR PRICE: Thank you, Mr. President and members of the body. In reading the bill, I'd like to...I'm not sure who to address, whether it's Senator Harr or the Committee

Floor Debate
May 20, 2013

Chair. But I'm going to go with the Committee Chair and see if Senator Hadley would yield. [LB34]

SENATOR GLOOR: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR PRICE: Thank you, Senator Hadley. Not speaking directly to FA85 but to the underlying amendment, on page 3, subparagraph (5), starting on line 11 through 23, in reading it, I almost need to do a wiring diagram to understand the 180-day periods in there. A particular question right now is starting roughly on line 22 where it says "the prescribed one-hundred-eighty-day period, the application shall be deemed approved." So in other words they're saying if the Tax Commissioner doesn't respond to the submitted application with a query, it would be deemed accepted. Is that correct? [LB34]

SENATOR HADLEY: That is my understanding, Senator. [LB34]

SENATOR PRICE: Okay. But prior to that we talk about the interplay between the party and the Tax Commissioner, where we're saying you have 180 days from the submission, and that 180-day clock will restart every time the Tax Commissioner has a question that they ask. But then when I get back down, it said "the prescribed." Which one is prescribed? I mean, I'm confused. And that's maybe me because I'm not a tax guy, but we go through a lot of discussion of 180 days, and there's a new 180-day any time there's a question or it can be extended when both parties agree to an extension. And then at the end of that it says and the prescribed period, if you don't answer, it's deemed. I'm...does prescribed somewhere in law, is that already covered to tell you how to walk through this maze? [LB34]

SENATOR HADLEY: I'm sorry, I don't understand your question. [LB34]

SENATOR PRICE: My question is, and I see Senator Harr would like to...if you don't mind, I'm going to address Senator Harr and then if I have to, I'll get back to you. Would Senator Harr yield to a question? [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR PRICE: Okay, I'm going to restate it real quick. The 180-day... [LB34]

SENATOR HARR: I got it. [LB34]

SENATOR PRICE: Well, I want to restate it and make sure I got it, okay? [LB34]

Floor Debate
May 20, 2013

SENATOR HARR: Okay. [LB34]

SENATOR PRICE: The 180-day period by which the Tax Commissioner, if he doesn't respond back to the applicant that it's going to be good, it says the prescribed one. If they've been involved in two or three interplays, now we're at some point in the future, which one is the 180-day? I foresee that an applicant can say, well, that was within the first 180 days, and now we've extended it on through other things. So which one is applicable? [LB34]

SENATOR HARR: Okay. So you have 180 days, and the idea is we don't want these out there forever. We do this in criminal law. We say you have a right to trial within 180 days. But very similar to criminal law, to simplify this so it doesn't sound so confusing, is if you file a motion, that stops the clock. So when the Department of Revenue files a motion and says...well, it doesn't file a motion but sends out a letter that says we have a question regarding this application, that stops the clock of that 180 days. And then during that time it takes to answer, the clock tolls, which means no time is counted. Once that is...the department responds, then...or excuse me, once that individual responds and the department receives it, the clock starts up again. Because there isn't a reason that this shouldn't be processed within 180 days. If the department is doing what they're doing and they're okay with this--obviously, this was brought by the department--they are okay with having that 180-day time limit in there. It keeps businesses on top and it keeps...it makes sure that those who have money owed to them because they have met the rules of the game, as it's described by Senator Chambers, get the money that's due to them. [LB34]

SENATOR PRICE: Thank you. But in covering that, isn't this the... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR PRICE: ...isn't this the plan that they agree on, not...they've already...see, if they've already agreed on a plan, then there's no time clocks, are there? This is the building of a plan that gets agreed upon by the Tax Commissioner. [LB34]

SENATOR HARR: Umm, and I'll talk to you about this off mike, but what happens is you make an application and then you have 180 days for the department to determine whether you have met that application or not. And... [LB34]

SENATOR PRICE: So there's no standing application? You just...I go through a year and it happens, so now I apply? It's not something I applied for first and went through a year and proved it? [LB34]

SENATOR HARR: Well, when you make a...yeah, there is a continuing. But when you

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

Floor Debate
May 20, 2013

make your final application and say, all right, done, I want my money,... [LB34]

SENATOR PRICE: Okay. [LB34]

SENATOR HARR: ...you have 180 days to respond. [LB34]

SENATOR PRICE: Okay, thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Price and Senator Harr. Senator Chambers, you're recognized. [LB34]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I had marked the language that Senator Price brought up, but for a different reason. Mine dealt with...and then I'm going to get back to my amendment. In line 20, on page 3, starting with the word "if," where "If the Tax Commissioner fails to make his or her determination within the prescribed one-hundred-eighty-day period, the applications shall be deemed approved." Here's the answer that I don't know that Senator Price was given. Are we talking about 180...and I'm asking Senator Harr the question. Senator Harr, if you will yield? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR GLOOR: Senator Harr, will you yield? [LB34]

SENATOR CHAMBERS: Is this 180-day period the time within which all of this activity has to take place; or when the Tax Commissioner makes a contact and you tolled the running of that 180 days, does a fresh 180 days begin from that point? [LB34]

SENATOR HARR: If...yes. If the commissioner asks the question, is there a new 180 days? No. It's just like it would be in criminal court: the clock starts from wherever you left off. [LB34]

SENATOR CHAMBERS: If there was...it if was at 79 days and the question is asked, then the next day, even without a response, then the request is deemed granted, correct? [LB34]

SENATOR HARR: No. So no, what we don't want is a company out there running the clock for that whole period and saying I'm just not going to answer it and we're going to get to 180 days to give me my money. So what happens is, is if they ask...the commissioner asks the question on day 79, the clock stops at day 79 until that company responds and the director receives that answer. When he or she receives that answer, you go to day 80. And then they... [LB34]

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

Floor Debate
May 20, 2013

SENATOR CHAMBERS: And it's deemed...it's deemed approved. [LB34]

SENATOR HARR: No, no. You're on day 80 so now you still have 180 days. [LB34]

SENATOR CHAMBERS: Oh, 180. [LB34]

SENATOR HARR: Or 100 days, excuse me. [LB34]

SENATOR CHAMBERS: Well, I meant 179 days. [LB34]

SENATOR HARR: Okay, so if you're...so if the commissioner waits until day 179 to ask a question... [LB34]

SENATOR CHAMBERS: Yes. [LB34]

SENATOR HARR: Well... [LB34]

SENATOR CHAMBERS: Because it doesn't occur to the commissioner. The commissioner is no more competent than these cities that don't know that they've got to hold some money back to pay these refunds to people. You have to allow some incompetency there at the state level too. But for whatever reason, let's say that it's the 179th day that the commissioner asked the question,... [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: ...and it's a legitimate question. [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: Then the next day is the 180th day. [LB34]

SENATOR HARR: Yeah. [LB34]

SENATOR CHAMBERS: And the commissioner has not gotten...the commissioner has not made a determination in those hours between the 179th day and the expiration of the working time of the 180th day. Then the application is deemed approved. [LB34]

SENATOR HARR: Two things could happen. Number one, the commissioner could go to the applicant and say, hey, my rear is on the line; can we ask for an extension--which is allowed--and say give me another 20 days, give me another... [LB34]

SENATOR CHAMBERS: And I say no. [LB34]

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

Floor Debate
May 20, 2013

SENATOR HARR: And you say no? [LB34]

SENATOR CHAMBERS: I've read the law. [LB34]

SENATOR HARR: Chances are that commissioner is probably out of a job. [LB34]

SENATOR CHAMBERS: Well, the commissioner could reject the application though. Wouldn't that be a response? [LB34]

SENATOR HARR: Ahh, and they do that in federal...that's what we do in Social Security on the federal level. So then they could reject it, you're right, and then appeal it... [LB34]

SENATOR CHAMBERS: And then you have... [LB34]

SENATOR HARR: ...and then it could be won on appeal. [LB34]

SENATOR CHAMBERS: But the idea is that it's not an automatic deeming of acceptance of the application. [LB34]

SENATOR HARR: No, you're right. A smart applicant... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR HARR: ...a smart commissioner would say, I reject it, even though it could be the best application in the world, just to have time to review it. It could be appealed and during that appeal process anything could happen. [LB34]

SENATOR CHAMBERS: And that's why people have lawyers to do it. The language, I think, should not talk about it being deemed. But that's a different amendment. What I'm talking about here is removing the presumption. I don't see in the original language of LB34 where language about a presumption was stricken. And maybe I haven't had time enough to find it, Senator Harr. [LB34]

SENATOR HARR: So, and I'm up pretty soon and I can answer that for you. And that's what I plan to talk about is currently how the statute is written is that a company has to prove interdependency, and the burden is on the company to prove that. And as I understand it, the reason interdependency initially existed was we wanted to avoid a large company and organic growth. So the reason we did this... [LB34]

SENATOR GLOOR: Time, Senators. [LB34]

SENATOR HARR: And I'll... [LB34]

Floor Debate
May 20, 2013

SENATOR GLOOR: Thank you, Senator Chambers and Senator Harr. Senator Hadley, you're recognized. [LB34]

SENATOR HADLEY: Mr. President, I'd like to go back to Senator Chambers' floor amendment. I believe that Senator Chambers' floor amendment takes the situation back to where we're at right now, which means that the taxpayer, if there's a question about interdependence, it's up to the taxpayer to prove that they are interdependent. The language that's in the actual bill, which is on page 4, lines...the end of line 14 through line 17, talks about that if they include all of the businesses in the state, every location, it is presumed to be interdependent, which is a rebuttable presumption, which from my very small legal background shifts the burden back to the Department of Revenue to prove that they are not interdependent. So I think, Senator Chambers, your amendment actually makes it the burden is shifted...is the way it is currently now, on the taxpayer, to prove if there is a question. And I believe LB34 shifts that burden to the department if they feel that there is not interdependence. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Harr, you're recognized. [LB34]

SENATOR HARR: And that is why he is the Committee Chair and I am not. That is exactly right, said very succinctly. This just takes us back to where we are. So the reason interdependency exists in the first place, as has been told to me, I wasn't in the Legislature like Senator Ashford was, when LB...or yourself, Senator Chambers, when LB775 was passed. But as I understand it, it was introduced because we wanted to avoid the issue of interdependency...or excuse me, organic growth. So you have a large company, GE, who comes in and hires a whole bunch of people but none of the businesses are related to each other. But when you take the aggregate of all those businesses, it's enough to meet the criteria of the Nebraska...well, that of LB775. That language was continued forward into the Nebraska Advantage Act. And so the idea of why we keep interdependency in there is again because we want to make sure that the business that sector is growing and you're creating it for that sector, you're not just organic growth across the board. But it creates a problem for businesses and for the department as far as determining what is interdependent and what is not. And as I said, it takes a while to approve, but the vast majority of the time the department turns around and says, yep, they are interdependent. So what we decided to do...or excuse me, this was not my amendment or my bill. I had a different formula in my bill. But what the department tried to do, and I don't necessarily disagree with it, is just to switch the burden to themselves. These again are the people who are doing the work. This was brought by Senator Hadley on behalf of the Department of Revenue, and the Department of Revenue is happy to take on that additional burden, because they can smell when something is a little bit afoul; and so that's how we got to the interdependency to where it is today. And with that I would yield the remainder of my time to Senator Chambers. [LB34]

Floor Debate
May 20, 2013

SENATOR GLOOR: Senator Chambers, 3 minutes. [LB34]

SENATOR CHAMBERS: Thank you, Senator Harr. Thank you, Mr. President. But here's what I am saying: We are formulating a policy. I am not going to have my judgment determined by what's convenient for the Department of Revenue. I am looking at what the public would be entitled to. It is not the department's money that's being spent. It is the public's money, the taxpayer's money. And the department may decide that it's easy for the department employees to just say we'll take what they tell us and let it be. But at least, even if that's what you're going to do, because when we put something in the statute, we cannot be there looking over everybody's shoulder to make sure they follow it. We at least set a standard and we say this is what's going to have to be met before you get taxpayers' money, and you can do this because it's your operation. Since you control everything, you can point out the lines that converge, that intersect, that cross each other, to show that there is genuine interdependence and we want you to put that in your plan. Then if anybody...a taxpayer can inquire for information, isn't that right? A taxpayer can inquire. So if the taxpayer looked at this information, there it would be right there, where the company showed that there is an interdependence among all these far-flung operations or parts of its operation that they, in fact, are interdependent. This is one project that is qualifying as one project for this money, the amount of money put in, the number of employees, the salary, and everything else that might be required. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: If the department is going to say we will set up all of those standards, we will let the presumption be here that it's interdependent. Well, this company is ConAgra. We're not going to bother ConAgra, so we'll just let the presumption stand. This is Mutual of Omaha. This is one of Warren Buffett's companies. We'll let the presumption stand. They don't have to establish anything. And in their application based on this, they don't have to establish it. Just declare that all these entities are interdependent, that's all. And they can get their hand into the treasury. But when it comes to ordinary people, there's a much higher standard. There's a low standard in taking the money from them because they'll take money from children buying a toy. They'll take the same money from that child that Warren Buffett pays. So I'm saying you make it too easy on these companies. You feel so sorry for them. [LB34]

SENATOR GLOOR: Time, Senator. Thank you, Senator Chambers. Senator Crawford, you're recognized. [LB34]

SENATOR CRAWFORD: Thank you, Mr. President. I just wanted to ask a couple of questions. And first though, I had asked this question of Senator Hadley off the mike, so I'll go ahead and just get it on the record, if that's...if Senator Hadley would yield for a

Floor Debate
May 20, 2013

moment? [LB34]

SENATOR GLOOR: Senator Hadley. Would you yield, Senator Hadley? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CRAWFORD: I just wanted to clarify. We were talking a bit about the provision about when cities need to pay back the money, sales tax money. And I just wanted to clarify, it's my understanding that that provision of the law is not at play in LB34 or any of the amendments. Is that correct? [LB34]

SENATOR HADLEY: That is absolutely correct, Senator Crawford. [LB34]

SENATOR CRAWFORD: All right. Thank you. So I do have some questions about the parts that are at play, and I guess I'll direct my questions to Senator Harr. [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CRAWFORD: So what I wanted to understand, and I understand...and what I think we would be most concerned about is a business coming in and then being able to qualify by just going out and finding other businesses that have some new employees, and so they qualify when they're not really creating new jobs but just going out and accumulating businesses or getting mergers to be able to say that, oh, now we have 11 jobs. I'm going to find a friend with a business who happened to hire two people last year, and we're going to merge so we have now 11 jobs to qualify. So are there any protections against that in terms of the definition of a qualified business activity or the application process that would prevent someone from doing that merging after the fact, or some other strategy like that to, you know, to qualify for the benefits? [LB34]

SENATOR HARR: Yes. Thank you for that question. So you can't just go out and buy a company that has...let's say you go buy a company for a million dollars and they have ten employees. That doesn't qualify you for the Nebraska Advantage Act. What you have to do is have an investment in your company that you own, and you have to create ten new jobs. So it can't be just jobs you acquire through a merger and acquisition. And you have to be able to prove that, hey, these are new jobs, and that gets back to what we talked about earlier with the E-Verify and you have to say here is the date this new employee joined the company and here is, I proved, E-Verify, legal citizen, and this person is working here validly. [LB34]

SENATOR CRAWFORD: All right. Thank you. So the standard of a new job is still relatively high. This just changes...well, the interdependency standard changes, or the

Floor Debate
May 20, 2013

burden of proof changes, I should say; not the standard. Right. [LB34]

SENATOR HARR: Yeah, you'd have to (inaudible). [LB34]

SENATOR CRAWFORD: And I'm new to this so maybe you can explain the concern about organic job growth. Why would we be concerned about that? [LB34]

SENATOR HARR: Well, because the idea behind the Nebraska Advantage Act is we want to encourage, incentivize new businesses...or businesses to make new investments in the state. So if I am selling widgets and my business is going great and, you know, every year it grows at 5 percent, we don't really...you know, Nebraska Advantage Act is not incentivizing you. You're going to grow to meet the demand. What we want you to do is go out and create new jobs and say we're not going to just sell widgets; we're going to sell widgets, and widgets with gidgets. And so these special widgets with gidgets are our new investment and we're going to go out and create new jobs. We're trying to incentivize new investments. Not investments just because, hey, business is going well and we can continue to grow. [LB34]

SENATOR CRAWFORD: So the point is not just new jobs but we want new jobs in particular sectors, so particular types of business, and that's what we're trying to drive. [LB34]

SENATOR HARR: Not necessarily, although it does...we do have different tax incentives for different businesses. What we want to do is incentivize new growth that is outside of organic growth is what I would say. [LB34]

SENATOR CRAWFORD: Right. But why do we care if that is a driver, a delivery person or a dry cleaner? [LB34]

SENATOR HARR: Well, so if your business is growing at a steady...at that same store, you're growing at 5 percent a year. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR HARR: Thank you. Again, at 5 percent a year, and that's good and that's great and that's grand, but now we say, hey, 5 percent. Now imagine if I opened ten stores, think of how much more tax revenue we would get. So we provide tax incentives for you to go out there and open ten stores and to invest new money and to create...invest a million dollars and to create, at a minimum, ten jobs. Instead of just kind of slowly growing, we're going out there and saying, take that risk; let's try to get more tax base for the state of Nebraska and more businesses and more jobs. Jobs, jobs, jobs. That's what this all about at the end of the day: creating jobs. [LB34]

Floor Debate
May 20, 2013

SENATOR CRAWFORD: Okay. So I want to make sure I'm creating jobs. By keeping it in the dry cleaning, I'm going to really push you to get those jobs in the dry cleaning but...and not let you count the delivery jobs, because that, the incentive is you're really going to push and create more jobs in the dry cleaning area in that example. [LB34]

SENATOR HARR: I think so. [LB34]

SENATOR CRAWFORD: All right. [LB34]

SENATOR HARR: I think, if I understand you correctly, yes. [LB34]

SENATOR CRAWFORD: All right. Thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Crawford and Senator Harr. Senator Price, you're recognized. [LB34]

SENATOR PRICE: Thank you, Mr. President and members of the body. In looking it over and talking with Senator Hadley a little bit, I think I have a better grasp. The first thing I wanted to say here is in campaigning my first time out, I may have regaled you with this tale before, but in my first time out I do remember stopping by a house and then giving my spiel about how we're going to cut, cut taxes by gaining efficiencies in government. I think that's a pat answer to say you don't have a clue. But now with a little bit more of a clue, one of the things I was told, and I was educated by this constituent, was it's amazing how many tax breaks we give to anything else other than people. I know that helping businesses has a secondary and tertiary benefit to people. You know, having a business there, to have a job is always a good deal. And to that I have no argument. But we do so little for people. But that having been said, the concept of a toll is where I get tripped up on this. Would Senator Hadley yield to a question? [LB34]

SENATOR GLOOR: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR PRICE: Senator Hadley, thank you for coming by and explaining it to me, but do we use the word "toll" in this capacity elsewhere in this act? [LB34]

SENATOR HADLEY: I do not know, Senator Price. [LB34]

SENATOR PRICE: Okay, thank you very much for your time. Ladies and gentlemen, basically what they're saying is we just stopped the clock right now and then we will go back into it. I still think it could be problematic, but I understand what they're doing there. But the next question, and Senator Harr is gone so I'm going to have to ask Senator Hadley again to yield. [LB34]

Floor Debate
May 20, 2013

SENATOR GLOOR: Senator Hadley, would you yield to another question from Senator Price? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR PRICE: Thank you, so much, Senator Hadley. When we talk about, in paragraph 5, line 14, we talk about how a communication, a question could be sent by the Tax Commissioner via electronic means or mail, like snail mail. What...is there any chance in that narrow use of language that both might be sent out and they might not both be sent on the same day? [LB34]

SENATOR HADLEY: Well, I would guess "or" is a word that means either/or, doesn't it, "or"? [LB34]

SENATOR PRICE: Okay. Great. And the reason I asked that is if I'm out there and I just pop out a quick e-mail and then I follow it up with a snail mail, which date takes precedence? [LB34]

SENATOR HADLEY: Well, Senator, you're going to have to talk to a lawyer about that. I'm...that's out of my league. [LB34]

SENATOR PRICE: Okay. Great. Would Senator Harr yield to a question, please? [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR PRICE: Thank you, Senator Harr. Just for the interest and the edification I'm talking about the duality, the multiple modes that you can use to communicate a question from the Tax Commissioner to a person who is applying. It says in line 14, paragraph 5, that you can either use electronic means or you could use mail. If I send it out, an e-mail, and it goes out, like, I don't know, real fast, like (clap), as long the kids aren't using up all the bandwidth. You know, it goes out at the speed of light, goes out today, but my mail doesn't hit for two days. Does this bill...is it clear in the law which one takes precedence for when the tolling stopped? [LB34]

SENATOR HARR: So you're asking if the department sends it out, is it when you receive the e-mail or when you receive the letter? [LB34]

SENATOR PRICE: Remember, it's when they send it out, not when you receive it; but yes. [LB34]

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

Floor Debate
May 20, 2013

SENATOR HARR: Yeah. So it would be...again, it's when you send it out, so whatever one you sent out first. So if you sent an e-mail, that's when it is, and you're going to have a time stamp on it. If you send it out... [LB34]

SENATOR PRICE: Okay, right. I understand that technology. I just wanted to make sure. I didn't know if in this paragraph where we use the word "toll" where we've never used it before, and we do that someone is out... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR PRICE: Thank you...making the application, they don't go, well, I didn't get my letter until Wednesday. I don't know when you sent it. I'm looking at a postmark. Hopefully, I read it. But I got an e-mail that came instantaneously three days earlier. I just want to make sure is it clear in the law? [LB34]

SENATOR HARR: So it's called the mailbox rule and... [LB34]

SENATOR PRICE: Okay. [LB34]

SENATOR HARR: ...so it's whatever, when it is sent out and whichever is sent first. [LB34]

SENATOR PRICE: Great. I appreciate your time and consideration in clarifying. I do support the underlying bill and AM650, FYI. Thank you. [LB34]

SENATOR GLOOR: Thank you, Senator Price. Senator Chambers, you're recognized. [LB34]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the discussion was very interesting, especially when Senator Crawford got involved and she said she had a discussion with Senator Hadley and he said that this idea of making the refunds...let me ask him the question because I may have misunderstood. [LB34]

SENATOR GLOOR: Senator Hadley, would you yield? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: Senator Hadley, did you tell Senator Crawford, and maybe you did because it seemed that you confirmed it on the mike, that this bill, nothing in this bill implicates these refunds that could create that tax flow problem for the cities? [LB34]

SENATOR HADLEY: That's correct, Senator. [LB34]

Floor Debate
May 20, 2013

SENATOR CHAMBERS: I'm looking on page 8 and 9 of the bill. In line 25 on page 8, it starts "Credits may be used beginning with the taxable year which includes December 31 of the year the required minimum levels were reached. The last year for which credits may be used is the taxable year which includes December 31 of the last year of the carryover period." It would seem to me that has something to do in establishing the window within which one of these businesses has to claim a refund. Is that true or false? [LB34]

SENATOR HADLEY: I believe that has...Senator, I'm not sure. I should probably find out before I answer that question. [LB34]

SENATOR CHAMBERS: Then how did you give Senator Crawford an answer that you gave her in view of this language I read to you and the bill that relates to these credits and when they may be used? [LB34]

SENATOR HADLEY: The context of the questions I had been hearing had to do with cities and when...how long the cities had to make the refund to the companies. [LB34]

SENATOR CHAMBERS: Okay. [LB34]

SENATOR HADLEY: It was that (inaudible)... [LB34]

SENATOR CHAMBERS: And this language relates to what? [LB34]

SENATOR HADLEY: This is the company. This is the company, not the cities. [LB34]

SENATOR CHAMBERS: Are these credits that the company gains? [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: And they can be used to be set off against what, (inaudible)? [LB34]

SENATOR HADLEY: They can actually be used...they can be given to them back in cash. [LB34]

SENATOR CHAMBERS: Given to them in cash. [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: And if the city hasn't planned for it and they don't have the money...who are they going to get the cash from, the city? [LB34]

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

Floor Debate
May 20, 2013

SENATOR HADLEY: I believe the state is involved. If the city...if it's over \$25,000 and the city does not have the funds. [LB34]

SENATOR CHAMBERS: Is the city involved also, or this applies only to the state? [LB34]

SENATOR HADLEY: This applies to the state. [LB34]

SENATOR CHAMBERS: But not the city. [LB34]

SENATOR HADLEY: Not the cities. [LB34]

SENATOR CHAMBERS: Okay. How does the city get involved then? [LB34]

SENATOR HADLEY: Because in the original application the cities are...the city sales tax and the state sales tax can eventually be refunded to the applicant if they meet certain criteria. [LB34]

SENATOR CHAMBERS: And the money that they get back from the city would be the city sales tax they paid, correct? [LB34]

SENATOR HADLEY: That's correct, (inaudible). [LB34]

SENATOR CHAMBERS: And we're not talking about anything pertaining to the city in the language that I read here. [LB34]

SENATOR HADLEY: That's correct. [LB34]

SENATOR CHAMBERS: So these credits can be used only with reference to the state? [LB34]

SENATOR HADLEY: That is my understanding. [LB34]

SENATOR CHAMBERS: Could there be an overlap during this period when something is owed from the city? [LB34]

SENATOR HADLEY: Owed from the city? [LB34]

SENATOR CHAMBERS: When the city owes...when these credits can be...the benefit from these credits, they can get it in cash from the city. Is there a period of time during which they have to make use of the... [LB34]

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

Floor Debate
May 20, 2013

SENATOR HADLEY: Yes. The... [LB34]

SENATOR CHAMBERS: But that is not implicating... [LB34]

SENATOR HADLEY: You're saying the company? [LB34]

SENATOR CHAMBERS: Yes. [LB34]

SENATOR HADLEY: Yes, there is. [LB34]

SENATOR CHAMBERS: And this language doesn't relate to (inaudible). [LB34]

SENATOR HADLEY: No. [LB34]

SENATOR CHAMBERS: Okay. [LB34]

SENATOR HADLEY: I can give you that language (inaudible). [LB34]

SENATOR CHAMBERS: No, no, that's all right. I just wondered if this language dealt with that. But while you're on your feet, you can answer a question for me if you will. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR HADLEY: Yes. [LB34]

SENATOR CHAMBERS: Senator Harr was talking about...and let me ask Senator Harr, because he had the interchange with Senator Crawford, if he would yield? [LB34]

SENATOR GLOOR: Senator Harr, (inaudible). [LB34]

SENATOR CHAMBERS: Senator Harr, using the delivery company and the retail...I meant, and the cleaning establishment, must both of these businesses be in existence at the same time? Or could one come into existence at a subsequent time and then when they are together that's when the application is made, and the one who owns the two businesses wants to claim they're interdependent and together they equal the ten employees necessary? [LB34]

SENATOR HARR: Okay. Well, what I would...first of all, I need to clarify and say that a dry cleaner is retail, so they wouldn't qualify. But for purposes of example only, if you had a retail company...if you had the dry cleaning, which again is retail, it doesn't qualify, and they turn around and they purchase a delivery company and that delivery company...the employees from the merger don't count, but if because you have all this

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

Floor Debate
May 20, 2013

new revenue...or excuse me, new delivery work... [LB34]

SENATOR GLOOR: Time, Senators. Thank you, Senator Harr and Senator Chambers. Senator Wallman, you are recognized. [LB34]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. This is a very good discussion because some people think they are getting the business when you give other people tax credits, and so we have to be very careful how we dole this out. And, in other words, would Senator Harr listen to a question? [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

SENATOR HARR: Yield. Yes. [LB34]

SENATOR WALLMAN: Thank you, Senator. But the state picks up the property tax then. If I just say I put a business on my place, and if I get incentive money, tax credits, the state would pick up my property tax? Is that right? [LB34]

SENATOR HARR: Again, it depends on...there are a lot of assumptions built into that conclusory statement. You have to...again, this is...it's complex. So if you meet certain criteria...so if we're assuming you meet all the criteria, and including...let me make sure what it is you get back for property tax. I don't know it off the top of my head and I'm not sure if it does apply to property tax. I think it only applies to income and sales tax, but I'm not positive on that. So that would be my answer...question. [LB34]

SENATOR WALLMAN: Okay. I think it's one of the pages on the bills, but I can't find it now either; but I'd yield the rest of my time to Senator Harr, if he'd like. [LB34]

SENATOR HARR: Okay. [LB34]

SENATOR GLOOR: Senator Harr, 3 minutes 30 seconds. And you are next in the queue, so I'll let you know when you're on your time, Senator Harr. [LB34]

SENATOR HARR: Oh, thank you, Mr. President. Thank you, Senator Wallman. I apologize, I can't give you the exact answer at this time. To finish Senator Chambers' question before we were cut off: So if you...because you have new money coming in, your company grows, the delivery portion grows, yes, that...as I see it, that would count towards your ten new employees. So now you have the ability to grow your company. It's new money...new investment in the state or in the company. So if by the fact that you purchased the delivery company, it allowed you to create new jobs for both the delivery, because now you have a new market, you're reaching out, you're expanding that delivery company, and you're growing the underlying business, I believe those would count. But again, that's fact-specific and it would be up to the rules and regs in

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

Floor Debate
May 20, 2013

the Department of Revenue, and you would want to have a conversation with them beforehand. No one goes into this blindly. This is a complicated area of the law and that's one of the things we wanted to clarify why LB34 exists is because there are a lot of people making a lot of money because this is complicated. So we wanted to clarify and make it simpler so that people would understand what they can and can't do. And the department would have a better idea up-front of what qualifies and what does not qualify, which is why we have, you know, LB34 and an AM650. We're trying to simplify the system so that a person trying to invest knows what the rules are. Now the facts may vary and you have to apply the facts to the law and the rules and the regs, and that can be a little hairy and that can be a little tricky. But there's nothing worse than not knowing what the rules and the regs and the law say, or there's some ambiguity there. So that's what we're trying to do is to clarify what the law is. And I guess that's really all I have to say. Thank you, Mr. President. And I would waive my time. [LB34]

SENATOR GLOOR: Thank you, Senator Harr. There are no members remaining in the queue. Senator Chambers, you're recognized to close on your floor amendment. Senator Chambers, you're recognized to close on your amendment. [LB34]

SENATOR CHAMBERS: Mr. President, I withdraw that amendment. [LB34]

SENATOR GLOOR: Seeing no objection, ordered. [LB34]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to bracket LB34 until June 5, 2013. [LB34]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Chambers, you are recognized to open on your motion to bracket. [LB34]

SENATOR CHAMBERS: Mr. President and members of the Legislature, let me tell you why I offered that motion, not to bracket but to keep...to not lose the opportunity to continue the discussion. I didn't realize that Senator Harr was going to stop immediately. I was trying to hurry up and get that bracket motion up before I was recognized to close, then that would take the rest of the time that we have. We could discuss that and then we could get back to this issue, because I'm very serious about that presumption. I really think it's such a serious, to me, change in the responsibility of the one seeking this benefit through taxpayer money that it ought not to be done, and we did go somewhat afield by discussing other matters and they were related at least tangentially; but there was not the focus that I wanted to give on why there should be no presumption. I don't believe that we have to give that kind of a presumption to this company. I'd like to ask Senator Harr a couple of questions to try to get at what I'm talking about. [LB34]

SENATOR GLOOR: Senator Harr, would you yield? [LB34]

Floor Debate
May 20, 2013

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: Senator Harr, forgetting whether or not there's going to be a combination of companies at the moment, if a person is filing an application, how many jobs must be involved to qualify? [LB34]

SENATOR HARR: The minimum is ten jobs. [LB34]

SENATOR CHAMBERS: And how much investment must be made? [LB34]

SENATOR HARR: A million dollars for tier 1 Nebraska Advantage. [LB34]

SENATOR CHAMBERS: And that could implicate interdependent business activities that would be combined for the purpose of meeting the million-dollar investment and the ten employees. [LB34]

SENATOR HARR: Yes. [LB34]

SENATOR CHAMBERS: Thank you. Members of the Legislature, if somebody has a million dollars to investment, you mean to tell me we cannot impose on that person the responsibility to show that these entities are interdependent? He or she or they will not be doing a favor to the state. They want taxpayer money. And it's too burdensome to have them to show that the components they want to put together to create a justification for this application is too burdensome to require this person to show that all of these components are interrelated? It's too burdensome? And you're going to put a whole tax on poor people. This makes my point. You're bending over backwards to this person with a million dollars and going to create ten new jobs, but it's too burdensome for that person to show that the application meets the criteria. It's too burdensome. So you're going to say to this person, all you have to do is say these entities are interrelated and that's accepted. The presumption is rebuttable, but that means somebody has to rebut it. And if this...if somebody is in that Department of Revenue and don't tell me people cannot be influenced by big money. They can be. There is graft everywhere. Where large amounts of money are concerned, you don't put people on their best behavior and trust. You put vaults in banks with thick steel doors and locks and combinations; you don't just leave the doors open because everybody in town is a Christian and Christians don't steal. Why, they even put locks on the church doors. So you're going to take this person...understand what I'm trying to tell you. This person wants to take taxpayers' money, which you all spend so much time preaching about. But since this is a millionaire, it's too burdensome to ask this millionaire to go by this rule that says if you're going to put ten elements together, you must show that they all are interdependent. And you say, oh, that's too hard for this millionaire; that's too hard. We will presume that they're all related because in the application it says they are. Then we're told that rules and regulations will take care of it if there's a reason to be

Floor Debate
May 20, 2013

suspicious. Who's going to be suspicious of ConAgra? I remember how Harper had people in this Legislature, and Kay Orr included, willing to climb that slippery pole to keep ConAgra in Nebraska. And I told them, with all that they have in this state, they're not going to pick up and leave here because you're not going to give them all these benefits. That was LB775. And I did fight it, almost to a standstill. And when Mike Harper was asked when you listen to the people in the Legislature talking about this issue, is there anybody in the Legislature that you would hire? You know who he named in the paper? Senator Chambers. And I was fighting tooth and nail. He said that man could be an employee in my company. Naturally, I wouldn't I work for him. There were 48 other people here, tongues hanging out, running behind Mike Harper, because he said if you don't give me what I want, I'm out of here. And I didn't believe it. At another point, not many years ago, Cabela's was going to move to a location where it is now, and I was the one who stopped them from getting benefits. And Senator Landis was here and others, and they wanted to give Cabela's the money. I said, look, don't be a fool. If they've undertaken enough study to decide for whatever reason that's where their store should be, that's where it's going to be, and they're not coming there because of the comparative peanuts you're offering them; so don't give them the peanuts and they'll go there anyway. The peanuts were not given and they went there anyway. And when the World-Herald wrote the story about them going, they said certain people were very happy that they went there anyway, even though they didn't get the benefits. But I was not named. The ones who wanted to give Cabela's that money were the ones named. I know how these newspapers do and I know how I get treated, period. But I'm going to keep asking the questions and I'm going to try to keep the Legislature's feet to the fire. And if there are people watching us, they will say that what I'm saying makes sense; that if you've got this millionaire coming to try to get some taxpayer money, and you're going to say it's too burdensome for him to show that his application meets the criteria that are set, then something is wrong with the Legislature. Why do you have to make it so easy? Senator Harr already told you that most of them are approved anyway. Then don't change the law for them. Let them be required to meet the standard. You know what they're talking about now for kids in high school? You have to meet a certain grade point average and you'll be held to it or you can't participate in certain extracurricular activities. The NCAA has rules like that. And they cheat, schools cheat, presidents cheat, everybody cheats. It's a system that encourages cheating, because you set rules that you don't intend to apply uniformly. But when it comes to giving away the taxpayers' money, and that's what you're doing, you can say you're not giving it away but you are, because that business is not in business as a charity. They're going to make money on their own. They're going to get profit. And you say that you're not giving them taxpayer money. Yes, you are. But it's too burdensome. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CHAMBERS: That's crazy from where I sit and the way I analyze it, especially when I listen to you all on all these other issues. You don't put these things

Floor Debate
May 20, 2013

together but I do; and I pay attention to what you say on other issues. I hear people behind me...I'm going to say like Senator Watermeier said, I got a lot of people who talk behind my back in this Legislature because I'm in front of so many people. So everybody behind me talks behind my back. You've got to listen and see what's being said. I'm not sympathetic to millionaires. I'm not sympathetic to any business people. The state doesn't owe them a living. The people don't owe them a living. And you talk about these businesses as though they are entitled because they want to start a business, the people owe it to them to succeed. [LB34]

SENATOR GLOOR: Time, Senator. [LB34]

SENATOR CHAMBERS: Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Burke Harr, you're recognized. [LB34]

SENATOR HARR: I didn't know if I'd have time. Thank you, Mr. President. I just want to make a quick...obviously, I'm against the bracket motion. Senator Chambers said he was going to withdraw it. So we talk about the investments. It's a million dollars and the job creation is ten new jobs. That's a lot of money and that's a lot of jobs, especially in small-town greater Nebraska. And these jobs aren't just retail. They cannot be retail. The jobs have to be research and development, scientific testing, manufacturing, targeted export services, which means 75 percent of the sales outside Nebraska or to the U.S. government, including cloud computing. It's software development services, it's computer system designs, it's product testing services, guidance or surveillance systems, and it's technology licensing. We're very careful on targeting what businesses we really want to see in Nebraska, that we want to see grow, that have high job and high growth potential. This is new money being brought into the state of Nebraska being invested in the state of Nebraska. Now I don't think any business has the right to receive money just because they open their doors, nor does LB775 nor does the Nebraska Advantage Act. Remember, you pay your taxes. It's a refund of those taxes is what you're getting. So if you go out and you take that risk and you create new jobs for Nebraska, Nebraska wants to incentivize those people. We want to bring those people to Nebraska and we want to encourage those within Nebraska to be those people. We don't...we can't all live off government jobs, unfortunately. LB34 is a way to clarify the rules of the road so that those who want to create jobs, we'll call them the job creators in this business. It's kind of a buzzword going on right now. But in all seriousness, what we want to do with LB34 is to clarify the rules of the road to justify and create clear public policy of what these individuals are expected to do and what they should and what they should not do. And it's to avoid prejudice and it's to avoid the appearance of prejudice, because now we know this is what a business can do. We are clarifying and making the law so there is less that needs to be interpreted by the Department of Revenue. If your concern is that there is a bias and that the Department of Revenue may choose the rich

Floor Debate
May 20, 2013

guy over the poor guy, you want to make sure that law is as clear as possible so that everyone is treated equally. That's what this bill does. So I understand Senator Chambers' concerns and I think to a certain degree they are valid concerns, because again it's not our money; it's the taxpayers' dollars, and we have to be careful when we take money that's being paid in and we give it back, that it is done in a careful and judicious manner. And the questions he asked are absolutely right and they need to be asked and I applaud him for asking those. But what we also have to realize is at some point we have to trust the rules, we have to trust the regs, and we have to trust the law. And that's what this is doing: It's creating a clear and concise manner so that everyone knows what those rules are. When I started out last summer, I saw the reason I put a committee together, and it was not at the behest of any lobbyist. As a matter of fact, there wasn't a lobbyist in the room. But we put it together because we saw that there were problems with LB...with the Nebraska Advantage Act,... [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR HARR: ...that it was taking businesses too long, that they didn't know ahead of time do they qualify, do they not. And so we have a program that isn't working to its fullest capabilities. And so that's where I came up with my amendment, the department came up with LB34. These are the experts inside the field. This is what they saw as the problem, and they saw this as the way forward through LB34, and then the Revenue Committee through AM650. So again, I am against the bracket motion. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Harr. Mr. Clerk, items for the record. [LB34]

CLERK: Enrollment and Review reports LB341, LB410, LB563, correctly engrossed. Senator Schumacher, an amendment to LB326 to be printed. Study resolutions: LR312-345; all will be referred to the Executive Board. (Legislative Journal pages 1487-1504.) [LB341 LB410 LB563 LB326 LR312 LR313 LR314 LR315 LR316 LR317 LR318 LR319 LR320 LR321 LR322 LR323 LR324 LR325 LR326 LR327 LR328 LR329 LR330 LR331 LR332 LR333 LR334 LR335 LR336 LR337 LR338 LR339 LR340 LR341 LR342 LR343 LR344 LR345]

Speaker Adams would move to adjourn the body until Tuesday morning at 9:00 a.m.

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