

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

Floor Debate
February 27, 2009

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SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fifth day of the One Hundred First Legislature, First Session. Our chaplain for today is Captain Rhegan Stansbury of the Salvation Army in Beatrice, Nebraska, Senator Wallman's district. Please rise. []

CAPTAIN STANSBURY: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Captain Stansbury. I call to order the thirty-fifth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SPEAKER FLOOD: Are there any messages, reports, or announcements? []

CLERK: Your Committee on Enrollment and Review reports LB403, LB168, LB207, LB177, LB377, LB219, LB219A to Select File. Committee on Banking, Commerce and Insurance reports LB328 to General File, and General Affairs reports LB355 to General File with amendments. Business and Labor gives notice of hearing as does Transportation and Telecommunications Committee. Communication from the Governor: (Read re LB24, LB75, LB80, LB85, LB87, LB99, LB100, LB101, LB123, LB166, LB189, LB192, and LB251.) Senator Council has selected LB307 as her priority bill, Mr. President. And a Report of Registered Lobbyists for this week, as well as a series of reports received in the Clerk's Office on file and available for a member review. That's all that I have, Mr. President. (Legislative Journal pages 579-583.) [LB403 LB168 LB207 LB177 LB377 LB219 LB219A LB328 LB355 LB24 LB75 LB80 LB85 LB87 LB99 LB100 LB101 LB123 LB166 LB189 LB192 LB251 LB307]

SPEAKER FLOOD: Thank you, Mr. Clerk. Two notes regarding today's Journal. On Select File, LB184. That will be passed over. And at 11:50 a.m. this morning we will

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take up a motion from Senator Ashford to suspend the rules and cancel two public hearings scheduled for March 5, 2009, at noon. Senator Sullivan and Senator Fischer invite you to share the refreshments in the Senator's Lounge with them to celebrate their birthdays that they also share with the great state of Nebraska: March 1. Happy birthday to both of you. (Applause) Proceeding to the first item on the agenda: Mr. Clerk, legislative confirmation reports. []

CLERK: Mr. President, the Transportation and Telecommunications Committee offers a report with regards to two appointees. (Legislative Journal page 583.) []

SPEAKER FLOOD: Senator Fischer, as Chairperson of the Transportation and Telecommunications Committee, you're recognized to open on your confirmation report. []

SENATOR FISCHER: Thank you, Mr. President and members of the body. I will begin with the State Highway Commission. The Transportation and Telecommunications Committee held a confirmation hearing on Tuesday, February 24, for the appointment of David Copple to the State Highway Commission. The Nebraska Highway Commission is composed of eight members, each of whom represents one of the eight field districts. They are appointed by the Governor for six-year terms with approval of the Legislature. The commission which serves in an advisory capacity normally holds meetings on the fourth Friday of each month, generally at central headquarters in Lincoln. At these meetings the various other hearings on proposed projects, the commission serves as a channel for citizens to voice their opinions concerning the state highway system. Mr. Copple was appointed to fill an unexpired term in District 3. His term will run from January 29, 2009, to September 13, 2011. Mr. Copple graduated from the University of Nebraska in 1980 and the University of Nebraska School of Law in 1983. His current law practice is regional in scope and emphasizes sophisticated litigation for plaintiff or defendants in cases involving personal injury, products liability, corporate/commercial banking, bankruptcy, securities, wrongful death, and banking. Mr. Copple testified at his confirmation hearing before the Transportation and Telecommunications Committee. The committee recommends this confirmation on an unanimous ballot. Thank you, Mr. President. Would you like me to continue with the next one? []

SPEAKER FLOOD: You may proceed with all of your appointments, Senator Fischer. []

SENATOR FISCHER: Thank you, Mr. President. The Transportation and Telecommunications Committee held a confirmation hearing on Tuesday, February 24, for the appointment of Steve Riehle to the Board of Public Roads Classifications and Standards. The Board of Public Roads Classifications and Standards oversees annual construction planning and fiscal reporting for the state and local highways, roads, and streets, as well as the application: a minimum design, construction, and maintenance standards for functional classifications or categories of public roadways. The standards

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ensure that each segment can safely handle the traffic pattern and volume it is expected to carry as part of policy enacted in 1969 to provide for the efficient management, operation, and control of an integrated system of state and local highways, roads, and streets. The 11 members are appointed by the Governor to four-year terms subject to confirmation by this body. The board is made up of three members from the counties; three from municipalities; two from the Department of Roads; and three lay members. Programs administered by the board are one- and six-year plans for highway, road, and street improvements, standardized system of annual budget and fiscal reporting for highway, road, and street programs, and the state aid bridge funds prioritization. Mr. Riehle was appointed to fill an unexpired term to represent municipalities. His term will run from December 30, 2008, to November 30, 2011. Mr. Riehle graduated from the University of Nebraska at Omaha in 1983 with a degree in civil engineering. He is currently employed with the city of Grand Island as a city planner. His areas of interest include economic development and environmental issues. Mr. Riehle testified on his own behalf at the confirmation hearing before the Transportation and Telecommunications Committee, and the committee recommends this confirmation on a unanimous ballot. I would like to thank both of these gentlemen who made the trip to Lincoln in order to testify before the committee. As all of you know, it is important that we get to have a chance to meet these people to visit with them and ask them questions. Both of these individuals we felt are very qualified for the positions we are recommending them for. Thank you, Mr. President. []

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening. There are no members wishing to speak. Senator Fischer, you're recognized to close. The question before the body is, shall the Transportation and Telecommunications Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. []

CLERK: (Record vote, Legislative Journal page 583.) 44 ayes, 0 nays, Mr. President, on the adoption of the confirmation report. []

SPEAKER FLOOD: The confirmation report is adopted. Mr. Clerk, we now to move to the motion to withdraw. []

CLERK: Thank you, Mr. President. Senator Gay would move to withdraw LB668. [LB668]

SPEAKER FLOOD: Senator Gay, you're recognized to open on your motion to withdraw. [LB668]

SENATOR GAY: Thank you, Mr. President. I'd like to withdraw this bill, as the parties are continuing to work out what we think will be a better bill, and we would bring this back when we have more consensus. But in the interest of the Judiciary's time, and I

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know they're very busy, I felt it was best at this time to continue to work and try to get a better consensus and a better bill. So I will probably bring this up in another session. [LB668]

SPEAKER FLOOD: Thank you, Senator Gay. Members, you've heard the opening. Are there any other members wishing to speak? Seeing none, Senator Gay, you're recognized to close. Senator Gay waives his opportunity to close. The question before the body is, shall the motion to withdraw be successful...be adopted? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB668]

CLERK: 43 ayes, 0 nays, Mr. President, on the motion to withdraw the bill. [LB668]

SPEAKER FLOOD: LB668 is withdrawn. (Visitor introduced.) Members, please find your seats in preparation for Final Reading. Mr. Clerk, the first bill is LB5E. [LB668 LB5]

ASSISTANT CLERK: (Read LB5 on Final Reading.) [LB5]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB5 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB5]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 584.) Mr. President, the vote is 31 ayes, 17 nays, 1 present and not voting. [LB5]

SPEAKER FLOOD: LB5E does not pass with the emergency clause attached. We now shall vote on LB5 without the emergency clause. Members, the question before the body: All provisions of law relative to procedure having been complied with, the question is, shall LB5 pass without the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB5]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 585.) The vote is 30 ayes, 18 nays, 1 present and not voting, 0 excused, Mr. President. [LB5]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB5 passes without the emergency clause. We now proceed to LB7. [LB5 LB7]

ASSISTANT CLERK: (Read LB7 on Final Reading.) [LB7]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB7 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB7]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 585-586.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB7]

SPEAKER FLOOD: LB7 passes. (Doctor of the day introduced.) Mr. Clerk, we now proceed to LB20E. [LB7 LB20]

ASSISTANT CLERK: (Read LB20 on Final Reading.) [LB20]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB20E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB20]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 586.) The vote is 49 ayes, 0 nays, 0 excused, Mr. President. [LB20]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB20E passes with the emergency clause attached. We now proceed to LB28. [LB20 LB28]

ASSISTANT CLERK: (Read LB28 on Final Reading.) [LB28]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB28 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB28]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 587.) The vote is 48 ayes, 1 nay, 0 excused, Mr. President. [LB28]

SPEAKER FLOOD: LB28 passes. Mr. Clerk, we now proceed to LB32E. [LB28 LB32]

ASSISTANT CLERK: (Read LB32 on Final Reading.) [LB32]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB32E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB32]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 587-588.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB32]

SPEAKER FLOOD: LB32E passes with the emergency clause attached. Mr. Clerk, we now to LB48E. [LB32 LB48]

ASSISTANT CLERK: (Read LB48 on Final Reading.) [LB48]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB48E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB48]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 588.) The vote is 49 ayes, 0 nays, Mr. President. [LB48]

SPEAKER FLOOD: LB48E passes with the emergency clause attached. We now proceed to LB53. [LB48 LB53]

ASSISTANT CLERK: (Read LB53 on Final Reading.) [LB53]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB53 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB53]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 589.) The vote is 41 ayes, 5 nays, 3 present and not voting, Mr. President. [LB53]

SPEAKER FLOOD: LB53 passes. Mr. Clerk, we now proceed to LB55. [LB53 LB55]

ASSISTANT CLERK: (Read LB55 on Final Reading.) [LB55]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB55 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB55]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 589-590.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB55]

SPEAKER FLOOD: LB55 passes. Madam Clerk, we now proceed to LB74E. [LB55 LB74]

ASSISTANT CLERK: (Read LB74 on Final Reading.) [LB74]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB74E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB74]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 590.) The vote is 49 ayes, 0 nays, Mr. President. [LB74]

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SPEAKER FLOOD: LB74E passes with the emergency clause attached. Madam Clerk, LB91. [LB74 LB91]

ASSISTANT CLERK: (Read LB91 on Final Reading.) [LB91]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB91 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Have all those voted who care to? Madam Clerk, please record. [LB91]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 590-591.) The vote is 49 ayes, 0 nays, Mr. President. [LB91]

SPEAKER FLOOD: LB91 passes. Madam Clerk, we now proceed to LB102. [LB91 LB102]

ASSISTANT CLERK: (Read LB102 on Final Reading.) [LB102]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB102 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB102]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 591.) The vote is 49 ayes, 0 nays, Mr. President. [LB102]

SPEAKER FLOOD: LB102 passes. Madam Clerk, we now proceed to LB120. [LB102 LB120]

ASSISTANT CLERK: (Read LB120 on Final Reading.) [LB120]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB120 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB120]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 592.) The vote is 49 ayes, 0 nays, Mr. President. [LB120]

SPEAKER FLOOD: LB120 passes. Madam Clerk, we now proceed to LB135E. [LB120 LB135]

ASSISTANT CLERK: (Read LB135 on Final Reading.) [LB135]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied

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with, the question is, shall LB135E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB135]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 592-593.) The vote is 49 ayes, 0 nays, Mr. President. [LB135]

SPEAKER FLOOD: LB135E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB201E. [LB135 LB201]

CLERK: (Read LB201 on Final Reading.) [LB201]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB201E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB201]

CLERK: (Record vote read, Legislative Journal page 593.) 49 ayes, 0 nays, Mr. President. [LB201]

SPEAKER FLOOD: LB201E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB204. [LB201 LB204]

CLERK: Mr. President, Senator Fischer would move to return the bill for a specific amendment, AM429. (Legislative Journal page 531.) [LB204]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on your motion to return LB204 to Select File for a specific amendment. [LB204]

SENATOR FISCHER: Thank you, Mr. President and members. AM429 makes a technical change to an error that was not caught until the bill was placed on Final Reading. The amendment has a significant impact on the penalty for a violation of an out-of-service order by a commercial motor vehicle driver. The amendment clarifies that the court shall order the driver not to operate any commercial motor vehicle for a period of two years for a second or subsequent offense. The original bill requires the court to order the driver not to drive any motor vehicle for a period of two years. I would ask that you support this motion to return the bill to Select File. [LB204]

SPEAKER FLOOD: Thank you, Senator Fischer. You've heard the opening. There are no other senators wishing to speak. Senator Fischer waives closing. The question before the body is, should LB204 be returned to Select File for a specific amendment? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB204]

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CLERK: 45 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB204]

SPEAKER FLOOD: LB204 is returned to Select file for a specific amendment. Mr. Clerk. [LB204]

CLERK: Senator Fischer would offer AM429. [LB204]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on AM429. [LB204]

SENATOR FISCHER: Thank you, Mr. President and members. As I stated before, this does clarify what the intent of the bill is, and it is in order that we can insert the word "commercial" before the motor vehicle driver there. So I hope you will support the amendment. Thank you. [LB204]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on AM429. There are no other members wishing to speak. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity to close. The question before the body is, should AM429 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB204]

CLERK: 46 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB204]

SPEAKER FLOOD: AM429 is adopted. Mr. Clerk. Senator Nordquist for a motion. [LB204]

SENATOR NORDQUIST: Mr. President, I move LB204 to E&R for engrossing. [LB204]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB204 is advanced to E&R for engrossing. Mr. Clerk, we now move to LB259E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB204 LB259]

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to dispense with the at-large reading. [LB259]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB259]

CLERK: (Read title of LB259.) [LB259]

SPEAKER FLOOD: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB259E pass with the emergency

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clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB259]

CLERK: (Record vote read, Legislative Journal pages 594-595.) 49 ayes, 0 nays, Mr. President. [LB259]

SPEAKER FLOOD: LB259E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB331E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB259 LB331]

CLERK: 47 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB331]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB331]

CLERK: (Read title of LB331.) [LB331]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB331 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB331]

CLERK: (Record vote read, Legislative Journal page 596.) 49 ayes, 0 nays, Mr. President, on the final passage. [LB331]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB331E passes with the emergency clause attached. We now move to Select File. Mr. Clerk, LB52. [LB331 LB52]

CLERK: LB52. Senator Nordquist, I have no amendments to the bill. [LB52]

SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB52]

SENATOR NORDQUIST: Mr. President, I move LB52 to E&R for engrossing. [LB52]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB52 advances to E&R for engrossing. Mr. Clerk, LB151. [LB52 LB151]

CLERK: LB151, Senator. First of all, I have...I have no E&Rs. I do have an amendment. Senator Stuthman would move to amend. AM300, Senator. (Legislative Journal page 516.) [LB151]

SPEAKER FLOOD: Senator Stuthman, you are recognized to open on AM300. [LB151]

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SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. In the process of reviewing LB151, it came to the attention of the Bill Drafter's Office that there's some chemical names that did not match the Code of Federal Regulations. And the current Nebraska statute 28-405 was compared with the Code of Federal Regulations as exists on-line. Several items were noted and brought to the attention of the Nebraska Pharmacists Association. The Nebraska Pharmacists Association referred the matter to the professor at UNMC College of Pharmacy, and this professor reviewed and marked statutes and returned his comments with...incorporated into this amendment. AM300 incorporates the Judiciary amendment that was adopted: AM49. AM300 also includes technical corrections to chemical names and designations which coordinate with the Code of Federal Regulations and the review of this professor. In general, the changes are only typographical and changes of correct spelling of chemical names. There is no substantive change in this amendment as what was passed onto Select File. And what this does is it just takes care of a lot of the issues that would have had to been addressed after this bill would have been passed. So with that, these are only technical in nature as far as...and I'll just give you an example. A chemical designation is corrected by changing the letter I to the numeral 1 within the designation, and those are some of the instances that were corrected. And with that I would ask that you support this amendment. Thank you, Mr. President. [LB151]

SPEAKER FLOOD: Thank you, Senator Stuthman. Members, you've heard the opening on AM300. Mr. Clerk. [LB151]

CLERK: Mr. President, Senator Stuthman would move to amend his amendment with AM523. (Legislative Journal page 596.) [LB151]

SPEAKER FLOOD: Senator Stuthman, you're recognized to open on AM523 to AM300. [LB151]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. This amendment is for the E clause. It makes it so that this bill would go into effect immediately, and I think this is supportive...I support this part of it and I would request that the members of the body also support this. Thank you, Mr. President. [LB151]

SPEAKER FLOOD: Thank you, Senator Stuthman. You've heard the opening to AM523. There are no members wishing to speak. Senator Stuthman, you're recognized to close. [LB151]

SENATOR STUTHMAN: Thank you, Mr. Speaker, and I would ask for your support on this amendment. [LB151]

SPEAKER FLOOD: You've heard the closing on AM523 to AM300. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk,

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please record. [LB151]

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB151]

SPEAKER FLOOD: AM523 is adopted. Mr. Clerk. [LB151]

CLERK: Mr. President, I have nothing further pending to AM300 as an amendment to the bill. [LB151]

SPEAKER FLOOD: Senator Stuthman, you're recognized to close on AM300. Senator Stuthman waives. The question is, shall AM300 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB151]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB151]

SPEAKER FLOOD: AM300 is adopted. [LB151]

CLERK: Senator Nordquist, I have nothing further on the bill. [LB151]

SPEAKER FLOOD: Senator Nordquist, you're recognized for a motion. [LB151]

SENATOR NORDQUIST: Mr. President, I move LB151 to E&R for engrossing. [LB151]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB151 is advanced to E&R for engrossing. Mr. Clerk, we will pass over LB184 as previously stated. We move now to LB379. [LB151 LB379]

CLERK: LB379. Senator, I have no amendments to the bill. [LB379]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB379]

SENATOR NORDQUIST: Mr. President, I move LB379 to E&R for engrossing. [LB379]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB379 is advanced to E&R for engrossing. Mr. Clerk, we now move to LB142. [LB379 LB142]

CLERK: LB142, Senator. I have E&R amendments, first of all. (ER8018, Legislative Journal page 463.) [LB142]

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB142]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB142. [LB142]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. Mr. Clerk. [LB142]

CLERK: I have nothing further on the bill, Senator. [LB142]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB142]

SENATOR NORDQUIST: Mr. President, I move LB142 to E&R for engrossing. [LB142]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB142 does advance. Mr. Clerk. [LB142]

CLERK: Mr. President, on LB90. Senator Nordquist, E&R amendments. (ER8017, Legislative Journal page 464.) [LB90]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB90]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB90. [LB90]

SENATOR LANGEMEIER: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB90]

CLERK: I have nothing further pending to LB90, Senator. [LB90]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB90]

SENATOR NORDQUIST: Mr. President, I move LB90 to E&R for engrossing. [LB90]

SENATOR LANGEMEIER: You have heard the motion on LB90. All those in favor say aye. All those opposed say nay. LB90 does advance. Mr. Clerk. [LB90]

CLERK: Mr. President on LB89. Senator, E&R amendments, first of all. (ER8021, Legislative Journal page 533.) [LB89]

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SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB89]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB89. [LB89]

SENATOR LANGEMEIER: You've heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB89]

CLERK: Senator Cornett would move to amend AM452. (Legislative Journal page 559.) [LB89]

SENATOR LANGEMEIER: Senator Cornett, you are recognized on AM452. [LB89]

SENATOR CORNETT: Thank you very much. AM452 amends LB89, and what it does is, in the original bill we had attempted to make the bill fiscally neutral, revenue neutral. And we have since learned from the Fiscal Office that--which had given us the original note--that instead of 40 cents, 44 cents is actually the number that we need to have in the bill for revenue neutral. Thank you very much. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on AM452. The floor is now open for discussion. Senator Friend, you're recognized. [LB89]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I'm not trying to necessarily bog anything down here and I don't think it will. I will not vote for this amendment. And I think most of the people who sit on the Revenue Committee would understand why. I didn't offer the amendment, sitting in the Revenue Committee in an Executive Session, because I was necessarily seeking revenue neutrality. I thought after doing the research with folks in my office that 40 was a number that wasn't picked indiscriminately. It was a number that I thought was a decent compromise and provided equity between a tax increase on the low end and a tax decrease on the high end. Forty-four isn't bad. It provides revenue neutrality; I understand that. I'm sure it will probably be adopted. I'm not going to go into theatrics about it. I'm just not voting for it. And one more point: It's very difficult when we're done with the budget process or getting close to being done with the budget process, to fight appropriations. As a matter of fact, I would recommend we don't try to necessarily always do that. If you can help it, you don't fight spending on the appropriations side. That's my view. You fight government spending on the revenue side. So whether I'm right or not with 40 cents on this particular item, it's almost irrelevant. But I would further submit to you that attitude toward revenue neutrality is irrelevant as well, as long as we're not going too far away from it. If we wait until the budget comes out...and by the way, it has nothing to do with Senator Heidemann; I never voted for a biennial budget--for one. I voted on all of them and I voted against all of them. But you see the point here? It's very difficult to fight government spending on the back end. You do it on the front end. We have a 40-cent

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amendment that was dropped in here, and then we find out from the Department of Revenue that it's just not going to be revenue neutral. Well, so what? It's called a tax cut. It's what it is. And when it finally comes to the point that Appropriations has to make a decision, they will make a decision based on what Revenue gives them, what the Revenue Committee gives them. That's appropriate. That's where I stand. I like the amendment that said 40 cents and I have nothing necessarily against what Senator Cornett is doing and I fully understand it. I just think the ball will eventually fall in the Appropriations court based on what we had here. So, look, I figure it's probably going to pass. There's nothing overly, overtly wrong with AM452. I just think it's a minor inconvenience as far as I'm concerned in regard to government overspending. If there's a negative impact to our appropriations process and it's... [LB89]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR FRIEND: ...and it's something that we can live with, then I think we ought to live with it. Mr. President, that's all I have. I'm going to vote no on AM452. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Friend. Mr. Clerk, for an announcement. [LB89]

CLERK: Mr. President, the Agriculture Committee will have an Executive Session at 10:30 in Room 2022; Ag Committee at 10:30 in Room 2022. []

SENATOR LANGEMEIER: Thank you. (Visitor introduced.) Continuing with discussion on AM452, Senator Stuthman, you're recognized. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like ask Senator Cornett a couple of questions. [LB89]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB89]

SENATOR CORNETT: Yes. [LB89]

SENATOR STUTHMAN: Senator Cornett, will this...by changing this price, will that...that will raise the tax on the cheaper quality products? [LB89]

SENATOR CORNETT: Yes. [LB89]

SENATOR STUTHMAN: And then that will lower the tax on the higher priced ones? [LB89]

SENATOR CORNETT: Just as it did at 40 cents. [LB89]

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SENATOR STUTHMAN: Just the same way, so. Those are my questions. I have a little bit of a concern of that. You know, I didn't support that originally but...those are all my comments. Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Seeing no other lights on, Senator Cornett, you're recognized to close on AM452. [LB89]

SENATOR CORNETT: Thank you, Mr. President and members of the body. AM452 simply brings us to a revenue neutral stance, particularly in this time of fiscal hardship, I cannot see passing something that is a tax cut. We do not need to put our state in any further dire straits with cutting taxes on anything at this point. I urge the body to support AM452 and the underlying bill. Thank you very much. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on AM452 offered to LB89. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Cornett. Thank you. Mr. Clerk, please record. [LB89]

CLERK: 26 ayes, 4 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB89]

SENATOR LANGEMEIER: AM452 is adopted. [LB89]

CLERK: Mr. President, Senator Stuthman would move to amend AM313. (Legislative Journal page 597.) [LB89]

SENATOR LANGEMEIER: Senator Stuthman, you are recognized to open on your AM313. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've introduced this amendment. I feel that the Department of Revenue shall report annually to the Revenue Committee of this Legislature the effects of the tax policy change that we have...we're attempting to adopt at the present time. And what I would like to have in that report is the impact of the change on the taxpayers, the snuff revenue collections under the weight-based tax method as an estimation of revenue under the ad valorem method. I think this is something that I would like to get, you know, get a report as of, you know, within a year to see what the difference is and what took place after, in case this bill does take effect. Also, I want to make sure that the committee...the committee shall provide a copy of the report to the Attorney General to ensure consumer protection to prevent unfair trade practices and to prevent monopolization of the snuff business. I think this is important because if this bill would pass I think we need to find out in another year the effects of the bill as to what had taken place. So with that, I'd ask for your support on this amendment. Thank you, Mr. President. [LB89]

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SENATOR LANGEMEIER: Thank you, Senator Stuthman. You have heard the opening on AM313 offered to LB89. The floor is now open for discussion. Senator Cornett, you are recognized. [LB89]

SENATOR CORNETT: Yes, thank you very much. I do not feel that this amendment is a good idea. It puts undue responsibility...not responsibility but reporting requirements from the Department of Revenue on an annual basis to the Revenue Committee. I think that there is better ways to monitor this and I would urge the body not to support this amendment. Thank you. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Friend, you're recognized. [LB89]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. It's probably appropriate even though, you know, we don't always expect it, to run into these type of amendments. I'm surprised we haven't run into more of them. The interesting part about this amendment, I just got done reading it, Senator Stuthman actually did a pretty good job of explaining what he's trying to accomplish here, but I would say we could cut through...I would say we could cut through and defeat an amendment like this and still try to discuss and...eventually, after the discussion has been bogged down or we're tired of it, but I think we can probably dismiss an amendment like this for two key reasons. One, we make revenue...the committee process here, and we were...we'd been bantering about that earlier in the week, maybe I was, the committee process, here, we deal with this type of discussion. I don't think we need amendments in legislation or changes in the law that direct us as to how to analyze our...on a consistent basis, the way we handle our tax equity situation in this state. A few years ago Senator Carroll Burling got a task force together and we analyzed and probably got to the point where we over analyzed how we distribute our labor in regard to revenue in this state--property tax, income tax, sales tax. And some interesting determinations were made but, you know what, I don't think anybody has even discussed those determinations except the Revenue Committee. We have. I've heard it. I've been involved in them. Now I'm not sure, and Senator Stuthman, I'm sure, will continue to discuss this, I'm not sure what we're trying to accomplish with an amendment like this, putting something like this into law that directs us to go back and figure out whether a tax works very well or not. I've said this four or five times, and I think people are probably sick of hearing it, our sales tax system doesn't work very well. Why don't we put into law an idea that we need to analyze and over analyze how many exemptions we need on the sales tax side? I don't think South Dakota does it right. They don't have an income tax, but they tax just about everything regressively from a sales tax standpoint. We're almost on the other end of the spectrum. If we want to get into philosophical discussions about our revenue system in this state, we can do it and we certainly don't need legislation or amendments tied to our legislation to force us to do that. We should be doing that right now on this particular bill. Let me explain. We just

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adopted an amendment, and I'm not picking on Senator Cornett. She knows I understand exactly why we did that. I didn't do it. I didn't want to do it. I'll say it again: We attack overspending and we...let's talk about equity in a second in our revenue situation, we attack overspending on this side. This is where... [LB89]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR FRIEND: ...the discussion should occur. If you try to do it in Appropriations, you're going to lose, not just because Senator Heidemann is good at what he does, because he is pretty good, but the Appropriations Committee is nine strong and they do a lot of work to get to the point to be able to defeat ideas like ours on the floor. They do, and they're ready for it. They're ready for every argument that comes out during the appropriations process. This is where you attack overspending. If you want to do it, and I don't think Senator Cornett has a problem with it, this is the time. But Senator Stuthman's amendment doesn't do any of that. Maybe it promotes this type of discussion, which is great. Look, here's the bottom line. Vote down AM313 eventually, after we continue to discuss this, and I want to thank Senator Stuthman because it gives us an opportunity to continue this discussion. I should have probably continued on that other amendment. Maybe what it will do is give us an opportunity... [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: ...to really, really think hard about LB89. We're going to have other opportunities revenue-wise to deal with this. [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Friend. Mr. Clerk, for an announcement. [LB89]

CLERK: Mr. President, the Health Committee will meet underneath the north balcony now; north balcony, Health Committee right now. [LB89]

SENATOR LANGEMEIER: (Visitors introduced.) Continuing with debate on AM313 offered to LB89, those wishing to speak, we have Senator Stuthman, Cornett, and Friend. Senator Stuthman, you're recognized. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. The reason that I put this amendment forward is the fact that, you know, we are making quite a bit of a change in the method of taxation of chewing tobacco or moist products and I think when we do something like that, when we're going from the taxation of the value of it,

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the wholesale value of it, to the taxation by the weight, I would like to know, you know, within a year, you know, what has been the effects of the tax change. And that's why I support this amendment and put this amendment forward. I think, you know, we need to know, you know, did we pass legislation that was a benefit to the state. Did it penalize people? Did it generate a lot more taxes or did it generate a lot less taxes? I know it's stated, you know, that the 40-42 cents or 40, in the 40-cent range, you know, it's going to be revenue neutral. I can accept that part of it. But the fact is, I would like to have some data on this, you know, that would show us in the legislative body that, you know, we have done the right thing. I do realize, you know, cigarettes are taxed by the pack, but there's one item in this bill that was not addressed. We have cigars yet and I am almost positive that the cigars are taxed on an ad valorem price, the taxes on that. Maybe they should have been included with this. This is why I brought this amendment forward. I think as we pass these bills that deal with the taxation, deal with revenue brought into the state, you know, I would like to know, you know, what had taken place. And I don't think it would be a burden on the department to collect this data. With the technology that we have now you can collect data on about anything. And I think it would be good for the taxpayers, the ones that are utilizing this chewing tobacco. You know, are they paying a lot more or the quality of tobacco that they're chewing, you know, has resulted in the fact that they're chewing a better quality tobacco and it's costing them less. I would ask for your support on this and I think the committee should also know, you know, in their legislation, in their bills that they put forward, you know, what are the effects of that. So I would ask that you would support this amendment because I think any time that we can get information on bills that we pass I think that's very, very important. So with that, thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Cornett, you're recognized. [LB89]

SENATOR CORNETT: Yes, Senator Stuthman, this amendment is...pretty much doesn't...isn't needed. All of the information that you're requesting here is already available. That's how the Fiscal Office comes up with a fiscal note. Any time a senator wishes for that information or if a committee wishes for that, they just have to request it. And I pretty much guarantee you, if we're losing money on something, we're going to hear about it in the Revenue Committee pretty quickly. While I see what you...the point that you're trying to make with the amendment in...that you feel that we should have this information available to us, and I think that information is a good idea, but this information is already available. So I would urge the body again not to support this amendment. It does put an undue reporting on the Department of Revenue and would probably increase the fiscal note. Thank you. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Cornett. (Visitors introduced.) Returning to floor debate on AM313, Senator Friend, you're recognized. [LB89]

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SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I don't think that there's anything at all wrong with trying to step back. Let's talk about AM313 just for a little bit longer. I don't think there's anything wrong with Senator Stuthman obviously making an argument that seems fairly logical under these circumstances. The problem is how many times do we change...the problem with the amendment is how many times do we change our laws in regard to either sales tax or income tax? And we don't attach a caveat that says, oh, by the way, in two years there's a sunset here and we're going to try to figure out exactly how this tax cut or tax increase has affected either the businesses that operate under the auspices of that particular tax or the taxpayer. Never? It's a rhetorical question. Never! The answer is never. Okay, it might have happened a few times but it's rare. I mean we're not tying our fiscal policy to an idea that we better go study it after we've already punched our taxpayers in the gut. Let's go figure out how much it hurt them. This is how it happens in Washington, D.C., okay, and it's probably not very efficient. Our economy is hurting. Forget about gross domestic product for a second. Our economy is hurting. You know how we know that? Because the media was saying that before the election. And then the election was over and the media kept saying it, and everybody went in their house and said, let's quit spending because the economy is hurting. Back in 1982 we had 16 and 17 percent unemployment rates. Right now they're climbing and they're not even half of that. So now what we have is rampant fear. Whether it's perceived or real, we have rampant fear about our economy. And then what we have is a bill, like LB89, which comes in and says, you know what, we need some tax equity. And I agreed with that. But I also agreed with something else when I was talking about it in the committee. I said, look--and I made it pretty clear to committee members--I don't care about revenue neutrality. It doesn't matter to me. It matters to Senator Heidemann, it matters to Senator Cornett, and my guess is, I don't really know but I'm pretty sure, it probably matters to the Governor right now. If LB89 were to pass at 40 cents, this state loses revenue, our government loses revenue, I should say. Members of the Legislature and citizens of Nebraska, you know what that's called? That's called a tax cut. It's called a tax cut. So I don't really know where to go with this now. I know the lobby. By the way, you think it's a mystery that LB89 was on the agenda so quickly? How many bills do you all have...how many bills do you all have out here that were released from their imprisonment, which is called our committee system, how many bills do you all have that haven't even seen the light of day, not even close? [LB89]

SENATOR LANGEMEIER: Forty minutes...forty seconds. [LB89]

SENATOR FRIEND: This thing jumps to the front of the agenda? Is that happenstance? You think that's something that just occurred because LB89 is the most important thing since sliced bread? The answer to those two questions are not rhetorical. It's no and no. There are powerful people behind this. Senator Cornett is one of them, as the Chair of the Revenue Committee, and I think we all know behind the glass who's part of the... [LB89]

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SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: ...effort. Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Pahls, you're recognized. [LB89]

SENATOR PAHLS: Mr. President and members of the body, I want to thank Senator Friend for giving me the opportunity to maybe help out some of the things he's concerned about. In fact, I think, if I'm not mistaken, I think you sit on the Revenue Committee. Well, I'm going to give you the opportunity in the near future to utilize some of your gray matter and maybe you can help me with one or two of one of the bills that I have introduced and are before your committee within the next couple weeks. One is LB385 and that would sunset, that would sunset some of these sales tax exemptions that we have that have been around forever that the majority of us know nothing about or how they all started other than they were political trades. It's amazing! In sales tax right now we exempt \$3 billion and we collect \$2 billion. Now how did that \$3 billion move over, because it could be interesting? One of my bills would give you the opportunity to really analyze those sales tax exemptions and see what we need to do about them, because some of these decisions were made 20-30 years ago and maybe it's time to revisit them. And if you think that's too drastic to eliminate some of these provisions, the other bill gives you the opportunity to allow us, as a body on a regular rotation, take a look at all the exemptions so every time we have new senators in this body it's not something that they have to go hunt. Because we could set up a rotation that we would take a look at one section of the sales tax exemptions every year and we just keep on doing it. And if you take the bill to its ultimate on LB385, it could lead to sunsetting all of them. But if nothing else, this would allow you, the Revenue Committee, to give the body the ability to set up on a regular basis, we will examine. Now we may not do anything with them, but it will bring to mind every time somebody brings a new bill saying, I want another sales tax exemption, which right now I think we have around 14 of them this year, then we start wondering, gee, what group of groups are always getting that added little bonus? So those groups who are saying, gee, we need to lose our property tax, we need to lower it, this might be one way to do it. But I find out that some of the same groups that keep coming back saying we need property tax relief are the same groups that come back and say we need sales tax exemptions. Well, you keep moving that group over to the exempted side, that means the rest of us have to pick that up, probably for the most part, or cut some of our programs. So we do have choices there. But I think this session the Revenue Committee could allow at least one of these bills to come out so we could have some discussion about it. I'm not necessarily saying eliminate all of these sales tax, but you do know if we eliminate all these exemptions we would not have the property tax, per se. You wouldn't have to be paying some of these motor...or your motor vehicle taxes, no corporate taxes. And I

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know some people who say you're shifting the taxes, but I think we ought to take a look at who is always coming out on top. Take a look at the groups who are getting those additional benefits, then they say we need to lower property tax, we need this relief, this relief, this relief, and in the end... [LB89 LB385]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR PAHLS: ...in the long run it affects what I call those of us who come to work every day, trying to make it work. So again, I think, although I do not support Senator Stuthman's amendment, it does give me the opportunity to speak on this, especially when my good friend Senator Friend opened up this dialogue about maybe we ought to start taking a look at what we are doing. You will be given the opportunity to take a look at this if one of the bills get...happens to be tossed out to the floor. It would make at least the...all of us to get involved in that conversation of taking a look at maybe we do need sunsets, maybe we do need to find out why some of these sales tax exemptions were brought about, who did it, when. Maybe it's time to take another look at the reason why. And we may say they're okay. I just think... [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR PAHLS: ...bring everything back to life. Thank you. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Friend, you're recognized. [LB89]

SENATOR FRIEND: Thank you, Mr. President. How much time do I have left? No, I'm just kidding. [LB89]

SENATOR LANGEMEIER: Four minutes, forty-eight seconds. [LB89]

SENATOR FRIEND: Mr. President, members of the Legislature, if you haven't really noticed by now, I don't think we ought to move any further necessarily than...but here's a perfect world, and we don't live in one, but here would be Utopia. At about 11:45 everybody gets tired of...actually, you're probably tired of hearing my voice right now but you're really tired at 11:45. And then you vote to advance or not advance this bill. Because if I really...if I really...at 44 cents, members of the Legislature, at 44 cents is still a tax cut but...and it's also an increase for some of the manufacturers that do business on the low end or the lower...they've done business on the low end in ad valorem. But we're still...we're still driving toward equity with our excise tax system and that's important. But I'm glad Senator Pahls jumped in because he and I have talked about this in the past and I don't think this discussion needs to go away. I'm glad he...I'm glad he spoke to this. We have a system, we have a system in this state that we have direct control over, our revenue system--our income taxes and our sales taxes. And

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everywhere we go on the campaign trail, whether it's the campaign trail or coffees or anything else, people are never talking about those things. They talk about their property tax, correct? Why are my property taxes so darn high? Why do I have to pay X property tax? Why do I have to pay Y property tax? Why am I getting hit...well, there are answers to all those questions, XYZ, and a lot of times we do not have the appropriate answer for them, the appropriate response. I talked about this last year. You know why? Because we are not in a position to be able to tell all of these citizens that we can directly affect their property taxes. By statute, we have an indirect effect. I will argue that for 8, 10, 15, 20 hours, and we may get an opportunity to do that yet this session, not just in Executive Sessions throughout our...throughout our building, but also out here on the floor. We do have an indirect effect, I admit that, and the executive...both the executive branch of this government and the legislative branch have tried to cater to that indirect effect. Guilty as charged. Because that's all we do is get beat up on property tax. Not one vote I've ever made in here, not one vote has had--and this isn't arguable, I believe this--has had a significant impact on anybody's property tax in this state, even though we voted indirectly to deal with it about three times or four times since I've been here. You know what we do have direct effect over and we've never really made a significant vote on it, not one vote? Income tax. Income tax affects more people in this state than any other tax that we deal with. That includes sales tax. And I will argue that for 8, 10, 12 hours. [LB89]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR FRIEND: I work at an institution where 6,500 people pay income tax. If you make money, you pay income tax. If you don't own a home, you don't pay any property tax. If you decide you don't want to buy a boat, if you decide you don't want to buy a car, if you decide you want to walk, you can avoid sales taxes. And depending on how we set up our sales tax system, like Senator Pahls said, you can avoid those till you don't have to hardly pay any sales tax at all. If you just buy food and water, you're golden. But if you make any money, we're going to get you. And we're going to get at a pretty high end. We have a higher income tax than a lot of the folks that live...that live around us and that's hurting our taxpayers right now. We're... [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Stuthman, your light is on next. There are no other lights on. Do you wish to speak or do you wish to close? [LB89]

SENATOR STUTHMAN: I will close. [LB89]

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SENATOR LANGEMEIER: You're recognized to close. [LB89]

SENATOR STUTHMAN: Can I change my mind? [LB89]

SENATOR LANGEMEIER: No. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President. I would ask for your support on this amendment and I think it's...I think it's a good amendment, I really do. I just think it's something where we should have some information because we are making a large change as to the method of taxation for chewing tobacco. I really think, you know, that I would like to have the information. And, yes, Senator Cornett said, yes, we can get the information, but, you know, that would have to be on a personal basis to try to attempt to get that information. I feel with technology the way it is right now that should be readily accessible. And I think I am a little concerned, you know. Yes, if it would put more of a burden on the Department of Revenue, I do not want to do that. But the fact is that, you know, I would like to have the information, you know, as to, you know, what is the difference of how it affected the people as far as changing the method of the taxation. I still am very much concerned about the fact of what the direction that this bill is going, is it's the better quality chewing tobacco products will be...will hopefully be selling for less dollars because the tax will be a lot less. It should be a lot less on those. And the lower priced chewing tobacco, the lower quality ones which a lot of people can only purchase those lower cost products, it's going to raise them up quite a bit. But I really think what's going to happen, in my opinion, with this bill and I would like to see some of this in the report of the Revenue Department of the difference between what had taken place, you know, before we changed it, before the goes into effect, then after the law takes effect as an annual basis. But what I fear is going to happen is that the lower cost chewing tobaccos, the Red Man, the Longhorn, those, that price is going to increase. But I will bet you that Skoal, Copenhagen, I would bet that those prices that are sold at the stores, you know, will not come down. So what is this going to tell me? This is going to tell me that the companies that make the Red Man and the Longhorn, they're going to be probably making less dollars, and since the tax will be less on the higher quality, Copenhagen and Skoal, since the tax is going to be less on there and they don't lower their price across the counter, the companies are going to benefit from this. So this is just another situation where the rich get richer and the poor get poorer. I would ask for your support on this amendment because I think we need to have some information, you know, as to the effects of a bill that we are passing. Because this is definitely a different direction in the method of taxation on these chewing tobacco products. Thank you. Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. You have heard the closing on AM313 offered to LB89. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Have all those voted that wish to? Record, Mr. Clerk. [LB89]

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CLERK: 4 ayes, 20 nays, Mr. President, on the amendment. [LB89]

SENATOR LANGEMEIER: AM313 is not adopted. Mr. Clerk. [LB89]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you. We return now to discussion on LB89, the bill itself. Senator Friend, you're recognized. [LB89]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I hope you're using this opportunity, members, to get some work done. I know I'm not. Members of the Legislature, I'm not trying to be too trite about this but Senator Pahls is right. This is...bills like this are our opportunity and, again, you've seen me in different activity and you've seen others on the floor in different activity to try to actually kill a bill or do something of that nature. This bill is going to survive under its own weight or it's going to sink like the Titanic. I really don't know. Maybe there...I don't see anybody rearranging deck chairs so, frankly, the bill is probably going to advance. But here is our opportunity and I know, being on the Revenue Committee, and I think members of the committee can vouch for this, it's our opportunity. The Revenue Committee doesn't kick bills out like candy. You know, we're not in a carnival atmosphere over there right now. And Executive Sessions are few and far between and things don't happen fast, not like Urban Affairs. We'll have three bills, we'll Exec, we'll make sure that they're in functional shape and we'll either kill a bill or kick it out. Pardon me, Mr. President? Oh, I thought you were talking to me. Never mind. Revenue is not like that, neither is Judiciary. You're all on committees like that. So it gives people like Senator Pahls and I an opportunity, and maybe others, to talk about the fiscal policy of this state. Let's do that just for another...for a little while longer. And I'm sorry if I'm irritating people. Actually, no, I'm not sorry if I'm irritating people. At 11:45 it will all end maybe. Senator Heidemann and the Appropriations Committee, see, they're forced into a situation and they learn it, too, it's learned behavior that they have to drink the Kool-Aid. They just do. That's what Appropriations does, they drink the Kool-Aid. By the way, Friend, if you want a tax cut, by the way, Coash, if you want a tax cut, Harms, you guys all have these tax cut ideas, Appropriations Committee is on the other side saying, show us which old person you're going to kick out of a retirement home. That's their job--rhetoric and sometimes reality. And it's not...I mean I'm saying their job is to drink the Kool-Aid and then bring the Kool-Aid out here to the floor and tell all of us that we can't on the Revenue side make decisions. You know how many...you know how many bills the Revenue Committee has heard this year already in regard to tax exemptions, which some people call tax cuts and tax credits? I have one this afternoon, a tax credit bill. We all have them...most of us. We all have them. There's a lot of them. But guys like Adams and I and ladies like Senator Cornett and others, it's our job to say, wait a minute, we're looking for equity. We're looking for a redistribution of our tax code that provides more equity. I would say

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this, and this isn't a criticism of Senator Heidemann, the Appropriations Committee. Revenue is not drinking Kool-Aid right now, maybe later. We're not drinking anybody else's Kool-Aid. Appropriations Committee is a club. It has been for the seven years that I've been here and they have to stick together. That's their job. I'm not criticizing them. I'm telling you their job is to turn around to all of us and say... [LB89]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR FRIEND: ...here's what you're going to get; smile and like it because we're all drinking the same Kool-Aid, we want you all to drink it too. Forty cents on LB89 is not asking too much, I don't believe. That's my contention. I don't know what the lobby thinks. I know what Appropriations thinks because I already heard the Kool-Aid argument this morning off the mike. Revenue neutrality, why? Can't we make a decision on revenue neutrality? Revenue neutrality until when? We decide the revenue...decide, like Senator Pahls pointed out earlier, that our sales tax code is too dysfunctional? He's right. Our constituents aren't talking about the sales tax. Our constituents don't know how bad our sales tax system is here in this state. The Revenue Committee knows. [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: Thank you, Mr. President. [LB89]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Stuthman, you're recognized, followed by Senator Friend. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. Senator Friend, I'm not disgusted with you at all. I don't care if you take a lot of time on this. I just think...I think it's important that we discuss this. I was looking for Senator Cornett, if she would be available for a question or two. [LB89]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB89]

SENATOR CORNETT: Yes, I'd be happy to. [LB89]

SENATOR STUTHMAN: Senator Cornett, we had a little discussion off on the side here before and one of the issues that surfaced when I was thinking about this tax on the chewing tobacco and then was tax on cigarettes. Can you tell me what is the tax and the tax policy and the method on cigars and what is the issue there or should have that been addressed in this bill too? [LB89]

SENATOR CORNETT: Yes, Senator Stuthman, I'd be happy to. Originally, the bill did include cigars and other forms of tobacco. When we introduced the bill we had a lot of

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testimony that it is very, very difficult to tax cigars in this manner. That is why the federal government has carved that type of tobacco out from snuff products and cigarettes. The bill, as it currently is written, mirrors how the federal government taxes. It is an equitable system. The reason that it's difficult to tax cigars by weight based is cigars are all different sizes. You can't...you would have thousands of different types of tax for cigars. It's just impossible to tax it in this manner. [LB89]

SENATOR STUTHMAN: So, Senator Cornett, in other words, because of the method that is utilized to manufacture the cigars, because some of them are rolled and some of them are pressed and the different methods, you feel that, you know, that is a reason why we shouldn't tax them by weight also? [LB89]

SENATOR CORNETT: Basically, yes. The cigars, not only because of the methods they are produced, are not even uniform weight. It would be very difficult to tax them in that manner. Again what we've done is mirror federal policy with this. And in the original bill the grocers came in and said, we really...we like this bill but we just cannot do this with that form of tobacco. [LB89]

SENATOR STUTHMAN: So there was a lot of opposition from the retail stores as far as if you changed that also to include the cigar part of it. [LB89]

SENATOR CORNETT: Yes. [LB89]

SENATOR STUTHMAN: Okay. Thank you, Senator Cornett. I've been also getting some information from my colleague here stating that, you know, some states, after they changed the method, you know, and they thought they were having it a revenue neutral, you know, did report a tax decrease. So I think what possibility could happen, you know, is that in another year or two, you know, there's a very good possibility that the tax could increase. And this is the reason that I was supporting my amendment there before but that was very unsuccessfully voted upon. I just think that we are going in a wrong direction. We're changing a method the way that we're taxing it and I just feel that we should stay the way we were because, as I had stated before, the ones that can afford, can afford the more expensive cigarettes,... [LB89]

SENATOR LANGEMEIER: One minute. [LB89]

SENATOR STUTHMAN: ...I mean more expensive chewing tobacco. Those people, you know, are probably going to be paying the same but the fact is the companies are going to be making a lot more and I don't know whether we should go in that direction. I just think, you know, the method that we have been using is a proper method and so that is why I do not support the bill. With that, I would give the balance of my time to Senator Friend. [LB89]

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SENATOR LANGEMEIER: Senator Friend, 16 seconds. [LB89]

SENATOR FRIEND: That's all... [LB89]

SENATOR LANGEMEIER: Time. [LB89]

SENATOR FRIEND: ...I'll need. No, I'm just kidding. [LB89]

SENATOR LANGEMEIER: Senator Friend. Thank you, Senator Stuthman. Senator Friend, your light is on and you're recognized. [LB89]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I want to make something really, really clear. We've been here 30, 33, 34 days and I think, I hope you understand by now I'm not up on my feet to hear myself talk. There's...you want me to be honest? There's two goals here. One is that this process does move awful quick sometimes and that concerns me, because I've seen it move really, really slow. That concerns me, too, but I'm trying to adjust to a new environment. You'll have to forgive me for that. There were times when I could realize at least four or...and, look, I've missed things up on the floor here because I've had to take care of things in my office. What people don't understand is what Senator Chambers or others with some experience, mostly Senator Chambers, would end up doing is giving people like me, whether that was his intention or not, giving people like me the opportunity to take care of business. So that's one, the reality of it, that's one piece of the reality. The second is I think this is legitimate discussion matter and legitimate subject matter to talk about. The best debates in this Legislature, the best discussion that this Legislature ever has as a whole, the entire body together, are revenue debates and appropriations discussions. You all that have been here understand that. I think you'd agree. Now all of that being said, those two things lead me down this road. I had ample opportunity at times to go through these things in the last few years and I'm sure people got tired of listening to it, but some points were made and they were valuable, I think, not just by me but by others, and it gave us a record to deal with this stuff later on. Everything that I say is recorded, everything I say is transcribed, and when we come around to discussions regarding revenue I can go back and look at that stuff. We're looking for continuity. That leads me to this piece of my discussion, continuity, right? Let's talk about our sales tax system again. If I go into a grocery store and I buy a bottle of water, I won't be taxed on that. It's food, sustenance. Poor people need water. Rich people need water. Everybody on the face of the earth needs it, every human being. When I get my MUD bill at home, I'm charged for the water I use. I'm taxed for it. Ding, ding, ding, ding, ding, oh, guess what, our sales tax (laugh)...our sales tax system is messed up--sales tax alert. I'm serious. You guys are laughing, some of you. Some of you look irked but some of you are laughing. We've got a huge problem here. I'm staring at a piece of paper right now and this isn't all of them. Not just staring blankly at a piece of paper. There are words on it on both sides, sales tax exemptions. By the way, if you try to go tax any of

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these organizations, good luck... [LB89]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: One minute. [LB89]

SENATOR FRIEND: ...because you're going to get kicked so hard. Let me give you an example. Let's go after advertising agency fees. They have a pretty big lobby. What about marketing in general, taxable sales, 211 million bucks. If we had a shortfall and I'm a guy who wants to go tax people more, I may go get them. Barbershops and beauty parlors, remember this discussion--\$109 million. That will take care of a lot of our shortfall problems in a heartbeat, won't it? But then you're going to have to go to your constituents and say...by the way, Senator Gay has got a really nice haircut, by the way. He's going to have to pay a little extra to get that done. That's nice. Here's the alternative: I stay at home or Senator Gay... [LB89]

SPEAKER FLOOD: Time, Senator. [LB89]

SENATOR FRIEND: Time? [LB89]

SPEAKER FLOOD: Thank you, Senator Friend. Senator Pahls, you are recognized. [LB89]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Senator Friend said I'm talking in generalities when I talk about sales tax. He said let's be a little bit more specific, so maybe throw out some ideas that people can grab hold of. I have three or four pages of all the exemptions that we do have in the state of Nebraska and I'm just going to just pick on a few of them. If we have in the area of lodging rented or leased for 30 days or longer, that's close to \$70 million. Fuel for use in airplanes, aircrafts, it's almost \$7 million. Rebates granted for motor vehicle or motorboat manufacturers, etcetera, \$14 billion...million. If I'm saying billion I mean to be saying million. The use of coin-operated machines used for laundering and cleaning, except the cleaning while washing of motor vehicles, that's \$756,000. Nonreturnable containers sold to persons who place contents in the containers and sell the contents with the containers, the containers which hold contents that are not subject to sales or use tax, \$26 million. Gross income received from videotapes, film rentals, and satellite programming, \$1.5 million. Here is perhaps the largest one, is animal life whose products constitute food for human consumption, feed, water, and veterinarian medicine, agricultural chemicals used in the caring for animal life, the products of which constitute food or (inaudible) for human consumption, \$441 million. And a lot of these were enacted in 1967 and I want you to think about what happened in 1967? That was the birth of sales tax so you would be surprised the number of exemptions that happened in '67. Now probably at least half of the people or a quarter of the people

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sitting on this floor were not born in '67. Some of us were, but there's some who are not on this floor. So I want you to think at that time, in '67, take a look at the legislators who were sitting in these chairs at that time. The decisions they made in '67 are still affecting us today. That's why I think we need to take a look at these on a regular basis because what was needed or popular in '67, who controlled the Legislature in '67 may not be the same type of thinking today. Now of course, we have a number of exemptions dealing with schools and churches. I'm not saying we need to remove all these. I think we need to take a look at them. Lottery tickets sold, almost \$6 million. Newspapers issued at least once a week, newspaper advertising supplements actually distributed with newspapers, \$6 million. Probably a lot of us didn't realize the breaks that the newspapers were doing. Sales and use tax for the purchase of art, \$62,000. This list goes on and on. What I'm asking and I think Senator Friend wanted me to do is at least give some examples for the number with a product, and I think you can see we do have a number of exemptions. Am I saying they all should go? No. Should we take a look at them on a regular basis? And the purpose behind that is... [LB89]

SPEAKER FLOOD: One minute. [LB89]

SENATOR PAHLS: Thank you. The purpose behind that is every year when some of us, including myself and I'm sure I may have voted for some of these bills in the last three years, we need to take a look at and put it in perspective. Let's make a balance here so it doesn't...all the benefits are not skewed to one group, so maybe that would help us eventually take a look at our property tax. Again, we could do away with some of these things. If we choose income tax, we would shift some of these. We could have no income tax if that happened to be our goal, no property tax. Because we're dealing with now with \$3 billion that are exempted and one reason why I'm saying this, because I've had groups sort of look at me and sort of smile, Pahls, we've heard that stuff before, it will go nowhere. Well, you know, that's really irritating when people out there are saying, nothing is going to happen; you're dreaming. [LB89]

SPEAKER FLOOD: Time, Senator. [LB89]

SENATOR PAHLS: Thank you. [LB89]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Friend, you're recognized, followed by Senators Fulton, Price, Wallman, and Stuthman. Senator Friend, this is your third time. [LB89]

SENATOR FRIEND: Thank you, Mr. President. And, members of the Legislature, Senator Pahls is right. I think I can count on one hand the amount of times I've said that since I've known him. He's right. Let's go back to that barbershop thing. Senator Gay goes and gets his hair cut. It probably costs him about \$15. Actually, he, like I said, that's a really, really neat hairdo. He probably...it probably cost him 20 bucks. He's got a

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unique head so he probably brings in specialists to get that done. If you...if you go out and you say, you know what, let's go take a swing at that \$109 million, let's go make sure that Senator Gay is going to get taxed on his haircut, Senator Gay may decide, you know what, the looks are not important to me. Clearly, he may never decide that because looks are important to him. However, if he ever decided that and he gets in front of a mirror and gets a Braun haircutter and just shaves his head, who loses then? Well, the barber, the barber who was charging him 20 bucks for a haircut; Senator Gay's wife loses--two people. The state loses revenue, okay? It does. That's why sales tax is...what Senator Pahls is talking about, the more exemptions that you have with your sales tax system the less efficient and effective it is. Now I don't want to tax the barber but what I can tell you is this--let's get to property tax in a second--if you fix or if you take the commodities that we have, a product that we have in this state, and you tax it at a very low rate, it will be efficient, it will be effective, and you'll generate the revenue you'll need to generate. If you codify a use tax, really codify it with fairness in mind, you lower rates and seek more uniformity, you're going to create a sales tax system that's more fair. It's still going to be regressive but you have to lower the rates with it. They have to come down. If you leave the rates the way they are and you say, I'm going to go get that barber and I'm going to go get that 109 million bucks, you're not going to get the \$109. It's not going to happen. Let's talk about how that affects property tax. When you do that, when you create uniformity in your sales tax system, property taxes will go down. Let me tell you why. Our counties are going to be less...our counties will feel less of a squeeze. They deal with sales and property tax, not just property tax exclusively. Their lifeblood comes from both of those angles. And if we squeeze sales tax even more or we squeeze it and then expand it or do whatever, if we monkey with it or, further, if we keep...if we directly monkey with property tax to the best of our ability in here, we will squeeze sales tax. Because the counties are going to turn back and say, we're losing money. When we put the squeeze on property tax the counties will lose money, and when they lose money they're going to turn to their sales tax and cities are going to turn to their local option sales tax and occupation taxes. What happens when that occurs? Somebody sprints back to us and says our income tax needs to go up. These three things are not mutually exclusive. Let's talk about sales tax rates for a minute. There's a history... [LB89]

SPEAKER FLOOD: One minute. [LB89]

SENATOR FRIEND: Thank you, Mr. President. There's a documented history of lowering sales taxes across the board and generating more revenue for a state. There is not, I repeat, there is not a documented history of lowering sales tax rates without expanding bases and lowering property tax rates and having more boats float, if you will, increasing gross domestic product. Show me the numbers. I'll show you the income tax numbers from a federal standpoint and from a state standpoint. John Kennedy did it, Ronald Reagan did it. Jimmy Carter didn't. You're going to say, well, Bush did too. Guess what? Gross domestic product, guess what happened to it after Bush did what

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he did and Congress? That's rhetorical. We know what happened. [LB89]

SPEAKER FLOOD: Time, Senator. [LB89]

SENATOR FRIEND: Thank you, Mr. President. [LB89]

SPEAKER FLOOD: Thank you, Senator Friend. (Visitors introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB5, LB7, LB20, LB28, LB32, LB48, LB53, LB55, LB74, LB91, LB102, LB120, LB135, LB201, LB259, and LB331. Returning to discussion on LB89, Senator Fulton, you are recognized. [LB89 LB5 LB7 LB20 LB28 LB32 LB48 LB53 LB55 LB74 LB91 LB102 LB120 LB135 LB201 LB259 LB331]

SENATOR FULTON: Thank you, Mr. President. Thanks to Senator Friend for bringing this topic up Friday afternoon. We're talking about sales tax and a tax policy on LB89, tax decision we're going to make. Yeah, I'm game. I'm glad that he brought this up. We as a state collect a sales tax. And if you paid attention to the national debate with regard to tax policy, there has been some support for this idea of a consumption tax, what they call at the national level. It's basically a sales tax, taxing that which we consume. The presumption there is, number one, there's an element of volition on the part of the actor because he or she is choosing to buy and, number two, there is a presumption that there is ample money to buy to consume. So in a strictly philosophical sense, that consumption tax is a fair tax. In fact, I think that's what it's called at the national level, the fair tax. We as a state have the ability to collect that sales tax. We as a state are the ones who collect that sales tax more so than any other governmental entity. So of course it's appropriate and legitimate for us to be talking about sales taxes, sales tax exemptions, as Senator Pahls has highlighted in a bill that he brought forward, and tax policy generally, how sales tax collection affects other taxes, the most egregious and despised of which is the property tax, which we as Nebraskans know a lot about, too, because of our agricultural economy. Anyway, I bring this up because I have some interest and I have some understanding of what happens when we have different tax policy, how it affects our economy. And I will like to yield the remainder of my time to Senator Friend. Mr. President, I would like to yield the remainder of my time to Senator Friend, assuming he's polite to Senator Pahls. [LB89]

SPEAKER FLOOD: Senator Friend, you have 2 minutes, 51 seconds. [LB89]

SENATOR FRIEND: Thank you, Mr. President. Thank you, Senator Fulton. And I'm always pretty polite to Senator Pahls. I think I'll probably be less polite to Senator Fulton right now even though, remember, he's one of the Kool-Aid drinkers. He's on the Appropriations Committee. I just thought I'd bring that up. I'm not saying they're not enlightened on the Appropriations Committee. I'm saying they're a club. Be careful, you'll see later on. I can sum this up. Yea! I don't have to though. One of the things that

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concerns me is that every time we make a squeeze...and LB89, you know, I wouldn't even call it a squeeze. I mean I think we know what's happening here. But every time we make a squeeze out on the floor, every time we try to squeeze something, sales, every time somebody makes a determination that somebody needs property tax relief, any time somebody makes a determination that those things should happen, I never hear the income tax argument. Part of the reason we never hear it is obvious, because we don't have constituents talking about it. You want to give real tax relief all the way across the board, real tax relief that you can look at your rate, you can look at taxpayers and voters throughout our state? You want to give real tax relief? You go get income tax. And then do you want to increase gross domestic product? You go to income tax. Do you want to increase wealth? You go to income tax. Do you want to create jobs? You go to income tax. Do you want to create a growing state in regard to population? [LB89]

SPEAKER FLOOD: One minute. [LB89]

SENATOR FRIEND: You go to income tax. If you cannot make money in the state of Nebraska, people are not going to come here. And if you make money in the state of Nebraska right now, you're getting hit right in the gut pretty hard. I'm almost done. Is that what you were wondering? (Laugh) I got one minute. [LB89]

SPEAKER FLOOD: Twenty-eight seconds. [LB89]

SENATOR FRIEND: She's intimidating. Twenty-eight seconds. There's a theory that if we move away from this bill I think that we're not going to have to deal with these issues again. That theory is wrong. I wish we were dealing with income tax. Right now I would just... [LB89]

SPEAKER FLOOD: Time, Senator. [LB89]

SENATOR FRIEND: ...stand down. Thank you, Mr. President. [LB89]

SPEAKER FLOOD: Thank you, Senator Friend. Senator Price, you're recognized. [LB89]

SENATOR PRICE: Mr. President, members of the body, this is a great topic of discussion today and I appreciate everything brought forward by Senator Pahls and Senator Friend. When we talk about the different taxes and many of us are working ardently to make Nebraska the good life and we bring forward bill after bill after bill for economic development. And the thing that most people remark on is, gee, I'd like to come to Nebraska, I'd like to stay in Nebraska but the taxes are just oppressive. So let's go back again, and I think we've said this a few times but I wanted to revisit it for a moment. Our challenge here in Nebraska is we've chosen to have a pair of ice skates

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on when we do our taxing. We have a very, very narrow tax structure. We've excluded so many things so, ergo, you got to pay the bills so we're going to tax those things we do, we're going to tax them oppressively. Let me share with you, we had a couple bills brought up by Senator Cornett, LB69 and LB70, which were going to benefit retired veterans. And I'm always amazed, and I'll admit, being a retired veteran, I would stand to gain somewhat, but I'm always amazed at how all these things that we see that Senator Pahls pulled out, these are things that have all been determined to be more important than a veteran who shed their blood in foreign territory for the continuance of our country. Now we could say that a lot of different groups out there, we've heard about retirees, retired police officers or retired firemen or retired teachers, but I dare say you find a group of people who have died in foreign countries who have been shot, wounded and maimed, and that we're not talking anymore just back in World War II. We're not talking just in Korea and Vietnam conflict. We're talking Desert Storm. We're talking Desert Storm II, if you would, and the global war on terror. We're talking not just active duty. We're talking our Guard and Reserve. And, folk, we have people here who are pages within our body who are combatants. We have people all over. We have people who have been trained, who hold high security clearances, but yet none of these people can be given a tax break of any kind because, as we articulated, almost anything is more important than a veteran in our tax code. You know, I suspect that we should be ashamed of ourselves that we allow these things to go forward. So again, as Senator Friend had said, and I would like to hear a few more moments of wisdom from Senator Friend, if he would be available to, I would yield him some time to again continue expressing to us the benefits we would have by allowing people to keep more of their money and give less of it up, and let the sales tax take over for it. So with that, Mr. President, I would yield the balance of my time to Senator Friend. [LB89 LB69 LB70]

SPEAKER FLOOD: Senator Friend, you have 1 minute, 40 seconds. [LB89]

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, this is the last time I'm going to speak, okay? Thank you, Senator Price. This discussion will go on and hopefully I'm not alone next time, and I don't think I will be. I know Senator White will engage later. We've engaged in this discussion before. I know others will, too: Langemeier, Senator Flood. Senator Cornett will certainly engage in the discussion later, Senator Fischer, all are welcome. But understand something. This is the final...this is my final thought here. We're not dealing with what I think can really help this state. We have an income tax environment problem and we're responding to what our constituents want and that's understandable. But I think that we also need to represent. We need to do it the right way. Remember what I said, jobs, ROI--return on investment, research and development, that's what the income tax does. That's what Kennedy knew. That's what Reagan knew. That's what they all knew. Mr. President, thanks for the time. I am done. [LB89]

SPEAKER FLOOD: Thank you, Senator Friend. There are no other lights on. Senator

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Nordquist for a motion. [LB89]

SENATOR NORDQUIST: Mr. President, I move LB89 to E&R for engrossing. [LB89]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB89 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB231. [LB89 LB231]

CLERK: Senator Nordquist, I have E&R amendments to LB231. (ER8020, Legislative Journal page 534.) [LB231]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB231]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB231. [LB231]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB231]

CLERK: I have nothing further on the bill, Senator. [LB231]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB231]

SENATOR NORDQUIST: Mr. President, I move LB231 to E&R for engrossing. [LB231]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB231 is advanced to E&R for engrossing. Senator Avery, please proceed to the Chair. Mr. Clerk, we now proceed to LB231. Strike that, LB167. [LB231 LB167]

CLERK: LB167. Senator Nordquist, I have E&Rs first of all. (ER8022, Legislative Journal page 534.) [LB167]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB167]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB167. [LB167]

SPEAKER FLOOD: Members, you heard the motion. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB167]

CLERK: Senator Avery would move to amend, AM489. (Legislative Journal page 577.) [LB167]

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SPEAKER FLOOD: Senator Avery, you're recognized to open on AM489. [LB167]

SENATOR AVERY: Thank you, Mr. President, colleagues. You may remember when we discussed LB167 on General File that Senator White raised the issue about ensuring that the discounts in Section 1 of that bill, available through the program, would apply to all state employees. Senator White and I met since we had that discussion on General File and agreed that it was important that no group or subset of state employees be singled out for a benefit under the discount proposal here. To clarify the issue, I have filed AM489. The amendment states that any discount program administered by DAS will be made available to all state employees. If you go to the green copy under Section 1, line 4, it would simply add at the end of that sentence, "Any such program shall be made available to all state employees." This is in recognition of the issues raised by Senator White. I urge you to advance this...or to approve this amendment so we can advance LB167 to E&R. Thank you. [LB167]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on AM489. There are no members wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives his opportunity to close. The question before the body is, should AM489 be adopted? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB167]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB167]

SPEAKER FLOOD: AM489 is adopted. [LB167]

CLERK: Senator Nordquist, I have nothing further on the bill. [LB167]

SPEAKER FLOOD: Senator Nordquist, for a motion. [LB167]

SENATOR NORDQUIST: Mr. President, I move LB167 to E&R for engrossing. [LB167]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB167 is advanced to E&R for engrossing. Members, a procedural note: On Monday the Legislature will take up Senator Rogert's priority bill, LB260, a bill to adopt the Nebraska Claims for Wrongful Conviction and Imprisonment Act. On Tuesday on the agenda, following resolution of Senator Rogert's priority bill, Senator Council's bill, LB307, her priority bill to change sentencing requirements with respect to certain minors will be on the agenda and, once again, it will be taken up once we have completed General File debate of LB260. Mr. Clerk, items for the record? [LB167]

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CLERK: Mr. President, Senator Ashford would move to suspend pertinent rules to allow for cancellation of public hearing on AM435 and AM491, which were proposed amendments to LB403. [LB403]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on your motion. [LB403]

SENATOR ASHFORD: Thank you, Mr. Speaker. Do I have the ability to say a few words or do I go right into the motion? [LB403]

SPEAKER FLOOD: You have the ability to say a few words. [LB403]

SENATOR ASHFORD: Thanks, Mr. Speaker. And I want to thank you, Mr. Speaker, and Senator Janssen and Senator White for working so diligently over the last 24 hours to deal with this very tough issue of immigration. As some of you may know, the statesmanlike action taken by Senator Janssen and taken by Senator White in withdrawing the amendments that they have filed on Select File to LB403 allows LB403 to be debated as it came out of committee. Of course, these issues will be with us and, as I indicated, we will continue to study in the Judiciary Committee over the summer and in the interim time in the fall to study Senator White's and Senator Janssen's proposals. But again, I appreciate their statesmanlike moves on these issues and, with that, I would move to suspend Rule 3, Section 14, to permit the cancellation of the March 5, 2009, Judiciary Committee public hearings on LB403, AM435 and AM491, Mr. Speaker. [LB403]

SPEAKER FLOOD: Thank you, Senator Ashford. There are no other lights on. Senator Ashford, you are recognized to close on your rules suspension motion. Senator Ashford waives his opportunity to close. Members, the question before the body is, should the rules suspension motion be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB403]

CLERK: 38 ayes, 0 nays, Mr. President, on the suspension of the rules. Mr. President, pursuant to that action, I have a hearing notice cancelling the hearing for March 5 on those two proposed amendments. I also have a unanimous consent request from Senator Ashford, as Chair of the committee, to move the hearing schedule time from 2:00 to 1:30 p.m. on that day. [LB403]

SPEAKER FLOOD: Without objection, so ordered. [LB403]

CLERK: Mr. President, I also have other items. Hearing notices from Retirement Systems Committee and from the Education Committee, signed by their respective chairs. Your Committee on Education, chaired by Senator Adams, reports LB73, LB103, LB197, and LB530 to General File with amendments, those reports...and LB387 and

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LB534 indefinitely postponed, those reports signed by Senator Adams. Judiciary Committee, chaired by Senator Ashford, reports LB208 to General File; LB354, General File; LB292, General File with amendments, signed by Senator Ashford. Natural Resources Committee, chaired by Senator Langemeier, reports LB483 to General File with amendments. And Revenue Committee, chaired by Senator Cornett, reports LB112 to General File. Senator Rogert, an amendment to be printed to LB260. Senator Langemeier has selected LB483 as his priority bill for this session. Senator Gloor offers LR39; that will be laid over. Bills read on Final Reading this morning were presented to the Governor as of 11:37 a.m. (Re: LB5, LB7, LB20, LB28, LB32, LB48, LB53, LB55, LB74, LB91, LB102, LB120, LB135, LB201, LB259, LB331.) Name adds: Senator Price to LB98, Senator McCoy to LB647. Senator Schilz to withdraw his name to LB184. (Legislative Journal pages 599-608.) [LB73 LB103 LB197 LB530 LB387 LB534 LB208 LB354 LB292 LB483 LB112 LB260 LB483 LR39 LB5 LB7 LB20 LB28 LB32 LB48 LB53 LB55 LB74 LB91 LB102 LB120 LB135 LB201 LB259 LB331 LB98 LB647 LB184]

And, Mr. President, I have a priority motion. Senator Fischer would move to adjourn until Monday morning, March 2, at 10:00 a.m. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, you've heard the motion. Shall the Legislature adjourn until Monday morning, March 2, 2009, at 10:00 a.m.? All those in favor say aye. All those opposed say nay. The Legislature is adjourned. (Gavel.) []