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Transcriber's Office

Floor Debate  
April 08, 2010

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[LB36 LB153 LB165 LB420 LB510A LB510 LB563 LB563A LB594 LB771 LB779A  
LB779 LB801 LB817 LB830 LB840 LB842 LB849 LB860 LB862 LB877 LB926 LB931  
LB945 LB950 LB987 LB987A LB999 LB1010 LB1014 LB1020 LB1094 LB1094A  
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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Father Thomas Dunavan from St. Mary's Catholic Church and St. Andrew's at Tecumseh, Nebraska, Senator Heidemann's district. Would you all please rise.

FATHER DUNAVAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Farther Dunavan. I now call to order the fifty-sixth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

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

PRESIDENT SHEEHY: Members, please note that today there are a couple of changes to today's agenda. We will be passing over LB1103, which is listed on Select File, and LB1071, which is listed on Final Reading. Mr. Clerk, we will move to the first bill under Final Reading, LB420. [LB420]

CLERK: Mr. President, LB420, Senator Hadley, I have AM1528 with a note you want to withdraw AM1528. [LB420]

SENATOR HADLEY: That's correct, Mr. Clerk. [LB420]

PRESIDENT SHEEHY: AM1528 is withdrawn. [LB420]

CLERK: Mr. President, Senator Hadley would move to return the bill for specific

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amendment, AM2479. (Legislative Journal page 1328.) [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're recognized to open on AM2479. [LB420]

SENATOR HADLEY: I will speak to the amendment when it gets back to Select File. So I would appreciate your vote to return LB420 to Select File. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You've heard the motion to return LB420 to Select File. Are there members requesting to speak? Seeing none, all those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB420]

CLERK: 36 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB420]

PRESIDENT SHEEHY: The motion to return to Select is adopted. [LB420]

CLERK: Mr. President, Senator Hadley would offer AM2479. [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're recognized to open on AM2479. [LB420]

SENATOR HADLEY: Mr. President, members of the body, as Yogi Bear would say, deja vu all over again. One year ago we were talking about LB420 and we're talking about it again today. LB420 deals with taxation of nonprofit healthcare clinics that are owned by a nonprofit hospital. Right now the law as written says that a nonprofit healthcare clinic must be owned by two nonprofit hospitals. The purpose behind LB420 is to change the law so that it is more consistent with the way healthcare tax policy should be written, that is owned by one nonprofit healthcare hospital...a nonprofit clinic owned by one nonprofit hospital. This bill was brought forward last year. I appreciate all your help last year. It passed the body 42 to 0 last year on Final Reading. It went to the Governor's desk. It did have a fiscal note. Basically that fiscal note is not changing, I'm not arguing at all with the fiscal note. The fiscal note is because in the past the Revenue Department had not been collecting the tax and now they are going to be collecting the tax. If you remember, last year we had a tough budget crisis and we had a problem because we had a wind energy bill and LB420 at the same time that had approximately the same fiscal note. I agreed to bring LB420 back from the Governor's desk and bring it back for Final Reading so that we could pass the wind energy bill. I did this. I was not promised any kind of special treatment on LB420 this year. The only thing I was given assurance that I could bring it back this year. I feel it's important that we tackle it because I think it's an important tax policy question. I realize that we are in dire financial straits. I am, as a compromise, AM2479 pushes the implementation date out three years to 2013. So the tax will be collected for the next three years from nonprofit healthcare clinics. This will help us with our fiscal crisis. But I do not believe it's good tax policy. So that's the reason I'm asking you to vote for LB420 as amended that will push the implementation date out three years. I've been asked why not just drop it. I think it's

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important enough that if in three years the body decides that they want to continue to tax healthcare, nonprofit healthcare, I want that to be a vote. I don't want it just kind of slipping under the radar screen. I think this is an excellent tax policy question and it's like dilemmas we face in this body all the time. The dilemma is good tax policy versus impact from a fiscal standpoint. I have tried to reach a compromise by having good fiscal policy dealing with healthcare with the idea of pushing the fiscal impact out three years so that we can be in a position to implement good tax policy for the state of Nebraska. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hadley. You've heard the opening of AM2479 to LB420. Members requesting to speak: Senator Heidemann, Senator Gloor, and Senator Hansen. Senator Heidemann, you're recognized. [LB420]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor and fellow members of the body. I'm going to stand up briefly and speak on this. I probably will be the only one that will be somewhat negative of what's going on in LB420. But I felt it was important that I at least stand up and let you know what I'm thinking. I will say that I do remember the conversations from a year ago. And I was very thankful for Senator Hadley for what he did. He was part of the solution and I don't think we should forget that. So I'm a little reluctant to say that I am in opposition to moving LB420 at this time. If things would have looked a little bit better at this time I wouldn't be standing here because I don't disagree with the policy. But right now is not the time. Looking at what is before us in this state I don't think that we should be passing a bill like this that is going to take revenue away from us. I understand what he's doing by pushing this off for three years because he understands and everybody understands what's before us for the next two years, in the next biennium budget. But just to let you know, I talked to some people that would be able to give us an idea of the revenue loss starting in fiscal year '13-14, a little bit over \$2 million, '14-15 \$2.2 million, '15-16 \$2.4, \$2.5 '16-17 \$2.8. It is not an insignificant amount of money by any means. I thought it was important that you at least know that, I mean, this is going to cost us some money down the road. Knowing what's before us, I have a little bit of problem as far as doing away with or giving away our revenue base, the sales tax base. I don't argue with the policy at all. I do argue, though, that this is not the right time. I was wondering if Senator Hadley would yield to a question. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Heidemann? [LB420]

SENATOR HADLEY: Yes, sir. [LB420]

SENATOR HEIDEMANN: Is this good policy? [LB420]

SENATOR HADLEY: Yes. [LB420]

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SENATOR HEIDEMANN: Will it be good policy in two years? [LB420]

SENATOR HADLEY: Yes. [LB420]

SENATOR HEIDEMANN: Wouldn't it be better policy then for this Legislature to wait for those two years, for you to bring back a bill and do it at that time instead of delaying the implementation date which... [LB420]

SENATOR HADLEY: I don't believe so. Because I truly believe that this would be a tax increase. And I want the body to have to vote on that. And if we don't pass this now and then it's not brought up, it just slides under the radar screen, Senator Heidemann. [LB420]

SENATOR HEIDEMANN: In my opinion, you have enough votes to do this right now, correct? [LB420]

SENATOR HADLEY: I hope so. [LB420]

SENATOR HEIDEMANN: And in my opinion you would have enough votes to do this in two years. And wouldn't that be better policy to do it that way? [LB420]

SENATOR HADLEY: I'm not real big on ag issues, but something about counting your chickens before the eggs are hatched or something such as that. I'm a little concerned about waiting two years and trying to determine the will of the body two years from now. [LB420]

SENATOR HEIDEMANN: I understand your concerns. Thank you very much. I just think it would be better policy for this Legislature to do this at a more appropriate time. We do...and don't get me wrong, we do things with delayed implementation dates, I call it backlogging kind of. It's something that as Chairman of Appropriations Committee I don't look very fondly on,... [LB420]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR HEIDEMANN: ...I will say that. If something is good policy, if there's a bill in the Legislature we should start to do it right away. And if it's not good policy at the time, I don't think the bill should be passed. I think the bill should be reintroduced with the appropriate time is. That's just my opinion. I'm not arguing with the policy, just the timing. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Gloor, you're recognized. [LB420]

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SENATOR GLOOR: Thank you, Mr. President. Good morning members. My thanks also to Senator Hadley who, in fact, helped us last year with wind energy policies. I know other senators did too. I know Senator Sullivan also had a bill related to addressing healthcare needs, healthcare staffing needs within this state through AHEC. She also pulled her bill back. But I certainly am in support and was in support of Senator Hadley's LB420 and the amendment. I, in my past life, had no clinics that fell under this. But I know of clinics that in fact did and they were in some of our most underserved areas of the state. And so there's clearly a need for these clinics. In many ways Senator Heidemann is correct, this is a policy discussion and it's a continuation of LB999, believe it or not, yesterday. What is healthcare in this state? Is it a market-driven system or is it a service? And if it's a service, do we tax services? Not to my knowledge. I think in three years when this takes effect we will have had enough opportunity to talk about this issue so that we will be comfortable continuing LB420, I really do. But if for no other reason than it's a good discussion for us to have, I am glad Senator Hadley brought this bill back. These clinics that serve some of our most difficult to serve areas of the state are rarely if ever profitable. And the reimbursement for those clinics attached to hospitals are also subject to something we began talking about under LB999, and that is cost-based reimbursement, critical access in some cases. And if they are critical access, that means that we help make sure that at least they're able to recover their costs. We subsidize them with our tax money. It seems strange to me that we would bring tax money into these communities and then tax the tax money that we have given these clinics, which is what we're basically doing. Remember that we have not been collecting this tax, we've not been collecting these taxes. And that tells me that even the Department of Revenue in their own minds didn't see taxing these (laugh) entities as something that fit into the general parameters of what the Department of Revenue is about when it comes to taxing. Again, I am in support of LB420. It's a good discussion to have, for us to think about what do we expect these clinics to be in our state? Businesses that we would tax or service organizations that should in fact continue to be tax exempt. Thank you, Mr. President. [LB420 LB999]

PRESIDENT SHEEHY: Thank you, Senator Gloor. (Visitors introduced.) Resuming floor discussion of AM2479 to LB420. Members requesting to speak are Senator Hansen followed by Senator Rogert, Senator Hadley, Senator Sullivan, Senator Howard, Senator Wightman, and Senator Dubas. Senator Hansen, you're recognized. [LB420]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I rise with some of the same questions that Senator Heidemann did too. And if Senator Hadley would allow a couple of questions I'd appreciate it. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Hansen? [LB420]

SENATOR HADLEY: Yes, I would. [LB420]

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SENATOR HANSEN: Senator Hadley, could you tell me in these clinics that are not attached to the hospital what exactly is taxed and what are they...what's the revenue, the tax revenue that we will lose taxing what exactly? [LB420]

SENATOR HADLEY: Basically, right now, Senator Hansen, in the past, basically all their purchases, healthcare purchases were not taxed. If they bought an x-ray machine, if they bought a scanner, if they bought computers, if they bought things such as that they were tax exempt because they were used in healthcare. Right now, the Revenue Department is now collecting taxes. For example, the Crawford clinic remodeled their clinic and then as a result of the audit, they had to come up with like \$100,000 in sales tax on materials they purchased to remodel their clinic. And, to me, the idea is to exempt them because they are providing a service. And we have traditionally not taxed nonprofit healthcare services. [LB420]

SENATOR HANSEN: Since 1967, when we started collecting sales tax, was there ever sales tax collected on those purchases prior to this year or last year, after LB420 came into effect then? Was the Revenue Department actively collecting taxes? [LB420]

SENATOR HADLEY: They were not. My understanding is that they were exempt in 1967, then in the late eighties they were worried about large hospitals in our metropolitan cities moving out and starting clinics out in the rural areas and going into competition with smaller hospitals. So the Legislature passed a law that they had to be owned by two nonprofit hospitals, the clinic. My understanding is the...lost in the interpretation was the fact that they should have been paying sales taxes. So they have not...the Revenue Department has not been collecting sales tax up until, I believe, last year or the year before. [LB420]

SENATOR HANSEN: And those sales taxes are expected to be \$1.194 million in the next year and then over \$2 million in the years following that. [LB420]

SENATOR HADLEY: That's correct, Senator. [LB420]

SENATOR HANSEN: And Senator Heidemann did go into that in the future. [LB420]

SENATOR HADLEY: Yes. [LB420]

SENATOR HANSEN: I'm really glad that you brought this bill back, especially because I think you must have a subscription to a crystal ball. I'm not sure that this state is going to recover in three years and we can afford that \$2-million-a-year loss in sales tax. If hospital...if those clinics were not taxed prior to this year, we're looking at a brand new tax exemption because this is the first time they've been taxed. Is that correct? [LB420]

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SENATOR HADLEY: A couple of years ago was the first time they started paying the tax, that's correct, Senator. [LB420]

SENATOR HANSEN: Okay, thank you, Senator. I agree with Senator Heidemann, Chairman of the Appropriations Committee in that if this is good tax policy, this is still going to be good tax policy in three years. And I know Senator Hadley will be here in three years, if reelected, of course. But if the people in Kearney...no, anyway...we'll...he'll be here in three years. And I think that that would be the appropriate time. None of us have a crystal ball. We can't tell what our revenue stream is going to be. We've got some catching up to do. We don't know what the national health policy is going to do to hospitals and especially to the state of Nebraska. There are so many unknowns out there, and we don't have a crystal ball, that we're going to have to look... [LB420]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR HANSEN: ...we're going to have to look down the road every year. And that's what we do in Appropriations anyway. I think that this tax exemption is a great idea. A year ago I was for it, I was the only one that stood up and said that we didn't need the tax exemptions for the wind power...the industry. Those funds have not been used yet thankfully, we're still not exempting them but that will come and this on top of it in three years. I think that it's good policy. In three years I'm not sure, I know it's not good policy now. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Rogert, you're recognized. [LB420]

SENATOR ROBERT: Thank you, Mr. President. And contrary to what Senator Hansen and Senator Heidemann think, I think this is exactly the way we ought to implement it as it gives us a heads-up to three down the road to say we can plan for it rather than three come back, pass the bill in the middle of an appropriation discussion, having to scramble around and find the money, we pass the amendment into the amended bill today, then we can plan for it as we work our way down the road. I want to thank Senator Hadley for continuing to work on this. Senator Gloor mentioned he doesn't have anybody in his district that falls in this. I do, West Point has Memorial Hospital, St. Francis, and it takes care of five clinics: Oakland, Wisner, Howells, West Point and Scribner. And I've got some figures here that these five clinics do each year. They deliver 80 babies, they treat 23,000 patients, they treat 2,000 in emergency rooms, they have about 600 diabetic patients that come in on a regular basis. These clinics receive probably half to two-thirds of their money from Medicaid and Medicare, which means that they are getting paid at a lower amount than every other hospital that would have more percentage of their stuff coming from Blue Cross Blue Shield or private money. These hospitals and clinics they run somewhere near break even or at a loss and

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they're subsidized by the hospitals in order to keep running. And as Senator Gloor mentioned, this is a service, it's not market-driven, it's the fact that we need it. And rural Nebraska can't afford a new tax, which it would be, it's becoming a new tax. It's been exempted for the past 40 years and now it's coming onto them, it can't afford it. And if we can't afford it then we have no healthcare in those small communities in rural Nebraska. This is a good policy bill, it's a good time to put it in there. I'd rather have the exemptions start today but we're going to give the Appropriations Committee a couple of years to plan for it. I know Senator Hadley is new in the queue, so I'll yield the rest of my time to him. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Hadley, you're yielded 2 minutes 50 seconds and then you are next in the queue. [LB420]

SENATOR HADLEY: Thank you and thank you, Senator Rogert. One of the dilemma's, I think, I face and I think the body faces is policy versus fiscal impact. You want to make good policy. And, of course, at times good policy has a fiscal impact. And I hope what I've tried to do is to balance the two by deferring for three years or delaying the fiscal impact. Because I don't think anybody in here would argue that it's good tax policy to tax nonprofit healthcare clinics, especially when it's government money that's paying most of it. I would take a little different view and say that the clinics are helping the state at this point in time. It's not good policy but they're willing for the next three years to collect sales tax money to try and help the state out of their financial problem. The reason I would like to see this passed and implemented three years from now is that in three years this body, if you don't like it, fine, then you can vote for a tax increase to tax nonprofit healthcare clinics. If that's what you want, if that's what the policy you want for the state then in three years, we've collected it for three years, we can pass a bill and I'm sure we will find somebody in the 49 senators that is willing to step up to the plate and pass a tax increase bill. But I think it's an appropriate way of trying to compromise between good tax policy and the fiscal impact that we have in this state. It's three years out. If the...and I have no reason to quibble with the fiscal notes. What I'm saying is that the fiscal notes are correct, the people of the state of Nebraska, especially the rural people, are going to put \$4.5 million, if you assume \$1.5 million a year, into the coffers to help us out by taxing nonprofit healthcare. They're willing to do that. What we can give them in return is say three years from now we will look at that and see do we need more money? Do we think it's a bad policy? Do we want to raise taxes? [LB420]

PRESIDENT SHEEHY: Senator Hadley, you're now on your on your time. [LB420]

SENATOR HADLEY: Thank you, Mr. President. I think it is a way of combining good tax policy with a way of not having to vote for a tax increase. One of the senators that came up to me and said, why don't you just forget the three-year date, run it through right now? The reason I didn't, this passed 42 to nothing last year. I didn't want to put you in a position of having to approve a bill that would have a \$1.5 million fiscal note. I didn't

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want you to have to make a decision that said I'm willing to vote for bad tax policy because we need the money. I did not want to put you in that position. So that's why I was willing to come up with a compromise to move it out three years. If you want to talk tax policy, maybe we should be taxing all the healthcare? If you're willing to do this, are you willing to start taxing hospital visits? You go in and have open heart surgery, do you want to have a 7 percent tax on the surgeon's fee and the hospital fees? Think of how much money we could raise that way. That would be quite a bit of money wouldn't it if we started taxing all of healthcare? I don't think that's where we want to go, I know it's not. From 1967 we haven't been doing that. Again, I think this is a good compromise. It has good policy. It recognizes the fiscal impact. The clinics and hospitals are willing to help and the citizens of Nebraska are willing to help because part of...that's an additional cost. And the clinics, wherever possible, will have to try and pass that cost on. So anybody who goes to a clinic that's a self-pay patient will pay part of that tax. And they're willing to do it. So I think the least we can do is to push the implementation date out three years, look at it then. And if you want a tax increase three years from now, and I hope Senator Hansen, he said my crystal ball was pretty good, I hope his is good. After LB999 I may have to run for the Legislature from Iowa, but after...(laughter). It is good policy, it's a good compromise. I would hope you would vote for LB420 amended by AM2479. Thank you, Mr. President. [LB420 LB999]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Sullivan, you're recognized. [LB420]

SENATOR SULLIVAN: Thank you, Mr. President. And good morning, colleagues. Senator Gloor alluded to what happened last session with my AHEC bill, which was asking for a General Fund appropriation for the continuation of Area Health Education Centers in the state. I appreciated the fact that not only did Senator Flood ask me what I wanted to do with that bill, but then also Senator Hadley alerted me that he was going to be bringing his bill back. Quite frankly, I struggled with what to do with my AHEC bill because I still believe in the need for it. I think we need to make sure the pipeline is filled with healthcare professionals, particularly in rural Nebraska. And that's what my AHEC bill was poised to do. I'm continuing to look for other sources of funding for that program because I do believe that it's worthwhile. And it's quite possible that I may be back here in the next year or two proposing legislation to ask you to provide some funding for AHECs. So in reality I struggle with this just a little bit. And forgive me, Senator Hadley, because I need my memory refreshed on a few things with respect to what this bill does. So I wonder if Senator Hadley would yield for some questions. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Sullivan? [LB420]

SENATOR HADLEY: Yes, I would. [LB420]

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SENATOR SULLIVAN: Thank you. I'm confused, Senator Hadley. Can you give me an idea where these clinics are located across the state, how many we have? [LB420]

SENATOR HADLEY: I believe there right now are about 50 or so. I don't know quite the exact number, Senator Sullivan. Primarily rural clinics and they're basically rural clinics that are owned by the nonprofit hospital. And if you'll indulge me just one second, if a clinic is owned by a municipal hospital it's tax exempt. If it's owned by the county the clinic is tax exempt. If it's owned by a nonprofit hospital they're not tax exempt. [LB420]

SENATOR SULLIVAN: Okay. I needed that clarification. And again, do you have the figures as far as how many of these clinics we're talking about all across the state? [LB420]

SENATOR HADLEY: I will find that for you, Senator, and get it to you. Actually, I have a list of them and I will dig through my file and find that for you. [LB420]

SENATOR SULLIVAN: Thank you, I appreciate that. And thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Howard, you're recognized. [LB420]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Hadley would yield to a question. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Howard? [LB420]

SENATOR HADLEY: Yes, I would. [LB420]

SENATOR HOWARD: Thank you, Senator Hadley. Just so I also understand this. Are there clinics in Omaha as well that will be included? [LB420]

SENATOR HADLEY: That is my understanding, Alegent Health has some clinics that would fall under this same provision of the law. [LB420]

SENATOR HOWARD: Do you know offhand if, say, OneWorld is included or Charles Drew? [LB420]

SENATOR HADLEY: I don't know because I don't know if OneWorld is owned by a nonprofit hospital. [LB420]

SENATOR HOWARD: I don't either. It would be interesting to find that out and... [LB420]

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SENATOR HADLEY: I'll see if I can find... [LB420]

SENATOR HOWARD: ...possibly we can determine that. [LB420]

SENATOR HADLEY: Pardon me? Okay. [LB420]

SENATOR HOWARD: It would be good to find that out. [LB420]

SENATOR HADLEY: Okay, I'll find out whether OneWorld is owned by a nonprofit hospital. [LB420]

SENATOR HOWARD: All right. And looking through this amendment, there are some interesting provisions in here. Maybe you can help me better understand this. In the computer on what would be page 4, starts with line 9, it refers to...you go down to line 12, any nonprofit licensed child caring agency, which I assume refers to day cares, any nonprofit licensed child placement agency, any nonprofit organization certified by the Department of Health and Human Services to provide community-based services for all persons with developmental disabilities. The licensed child placement agencies, as you know, we have moved to privatization through Health and Human Services. And I'm wondering if agencies such as the Kansas agency, KVC, is included in this? [LB420]

SENATOR HADLEY: Senator Howard, the background on this is last year we had LB165, which was the Revenue Department bill. And we pulled the entire section out that dealt with...part of that section dealt with the nonprofit clinics that I'm dealing with. [LB420 LB165]

SENATOR HOWARD: Um-hum. [LB420]

SENATOR HADLEY: And they just brought that other part along as a part of this bill. Does that make sense, so it... [LB420]

SENATOR HOWARD: So...it does. But I'm wondering, is it your intention that these also be included? [LB420]

SENATOR HADLEY: I don't believe it would change the way that they're being handled. [LB420]

SENATOR HOWARD: Okay. So that's not a new section, that's... [LB420]

SENATOR HADLEY: No, no. That is...my understanding is that is not a new section. [LB420]

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SENATOR HOWARD: Okay. Well, I just...I have some concerns about that because this is a terrific financial impact. But I... [LB420]

SENATOR HADLEY: That's right, absolutely. [LB420]

SENATOR HOWARD: And I appreciate you've always been so up-front and honest about these things that I can ask you and get clarification. But I'll continue to watch this and... [LB420]

SENATOR HADLEY: Okay, and... [LB420]

SENATOR HOWARD: ...see where we go with it. [LB420]

SENATOR HADLEY: And, Senator Howard, I think an important thing is that if there are questions, we have three years before the implementation date. [LB420]

SENATOR HOWARD: Good, that's very good to know. Thank you. [LB420]

SENATOR HADLEY: So that way we can iron out any bugs that might be in the bill... [LB420]

SENATOR HOWARD: Not that we ever have bugs in our bills. (Laugh) [LB420]

SENATOR HADLEY: ...in the three. Yeah, no, we never do. [LB420]

SENATOR HOWARD: Thank you, sir. [LB420]

SENATOR HADLEY: Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Wightman, you're recognized. [LB420]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. First of all, we were told a year ago that the Department of Revenue was not collecting sales tax on these sales. And I take that as being true. And then we're being told today, as I understand it from the discussion here today, that they're still not collecting the tax. And I don't know whether that's true or not. And then we were talking about the fact that we are going to delay it three years and maybe the tax still won't be...being collected at that time, so it won't be any loss of revenue. And so I have some questions of Senator Hadley, if he would yield. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Wightman? [LB420]

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SENATOR HADLEY: Yes, I would. [LB420]

SENATOR WIGHTMAN: Now, Senator Hadley, I know a year ago you said that the Department of Revenue was not collecting tax on these purchases. Is that correct? [LB420]

SENATOR HADLEY: They had started within the last...Senator Heidemann corrected me, I thought it was two years, but four years ago they actually went out and did their first audit and found out...and I believe it was the...I believe it was the clinic up in Crawford that they found out and sent them a bill for back taxes. [LB420]

SENATOR WIGHTMAN: Okay. Then at that time did the Department of Revenue start collecting taxes from then on, on similar purchases, or do you know? [LB420]

SENATOR HADLEY: They have. And we asked the department that...they collected \$233,000 last year. [LB420]

SENATOR WIGHTMAN: Okay. And as far as you know, they will continue to collect it under the amendment that you're proposing now until the year 2013, is that correct? [LB420]

SENATOR HADLEY: That is correct, Senator Wightman. [LB420]

SENATOR WIGHTMAN: And so we do have a situation where, whether we did it today or whether we do it in 2013 and made it exempt, that it will be a loss of revenue. Is that correct? [LB420]

SENATOR HADLEY: That is...whether we do it today, if we do it today the loss is right now. If we do it in 2013, we will have collected revenue for those three years and then the loss will start in 2013. [LB420]

SENATOR WIGHTMAN: So some of what Senator Hansen says is true, we are kind of looking in the crystal ball and determining that maybe we can afford to lose those taxes, those revenues in the year 2013, is that correct? [LB420]

SENATOR HADLEY: That's correct. [LB420]

SENATOR WIGHTMAN: With that, I will yield the remainder of my time to Senator Heidemann, if he would so wish. Thank you. [LB420]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 3 minutes 15 seconds. [LB420]

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SENATOR HEIDEMANN: Thank you, Senator Wightman. I just want to reiterate that there's been some discussion from various senators that we haven't been collecting this tax. We have been collecting this tax. It's not the best enforced tax collected out there by any means. But we are...we have been collecting this tax. There will be a loss of revenue to the state of Nebraska. If people want to vote for this, that's fine. I just don't want to see misinformation out there. I think I've even heard that this will be a tax increase because we haven't been collecting it. We have been collecting it. This will not be a tax increase because we have been collecting it. I listened to Senator Sullivan and I feel her pain a little bit also. I had a bill on Final Reading that we...I made the decision after talking to the Speaker, Senator Flood, to leave sit on Final Reading that actually had something to do with loan forgiveness, the income tax part on that. And I didn't think it was proper at that time to bring that forward. And it's still sitting on Final Reading actually. So I feel her pain. I think Senator Mello actually has another bill on Final Reading that is probably just going to sit there because we don't think it's the appropriate time. I understand what Senator Hadley is doing but I still would have to say once again that I don't think it's...it's the timing part of it that I have an issue with. And because of that I will not be able to support the amendment or the bill. Thank you. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Thank you, Senator Wightman. (Visitors introduced.) Resuming floor discussion of AM2479 to LB420. Members requesting to speak are Senator Dubas followed by Senator Fulton, Senator Council, Senator Campbell, Senator Hansen, Senator Gloor, and others. Senator Dubas, you're recognized. [LB420]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. Good morning, members of the body. Would Senator Hadley yield to some questions, please? [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Dubas? [LB420]

SENATOR HADLEY: Yes, I would. [LB420]

SENATOR DUBAS: Thank you, Senator Hadley. So kind of covering some history here, refreshing our memories. So because of the way the Department of Revenue had been interpreting existing statutes, they had not been collecting sales tax from these nonprofit...clinics that were associated with nonprofit hospitals? [LB420]

SENATOR HADLEY: That is my understanding. And they started four years ago to start changing their interpretation to start collecting four years ago. [LB420]

SENATOR DUBAS: So what kind of a bind did that...how many of the clinics were impacted by having to come up with back taxes? [LB420]

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SENATOR HADLEY: My understanding is that it's in the 125 or so range of clinics across the state. [LB420]

SENATOR DUBAS: So they had to come up with some sizeable dollars I'm understanding. [LB420]

SENATOR HADLEY: Well, they could. I'm not privy, because of the confidentiality, as to which clinics are paying it, which are not. I do know that the Crawford clinic had to come up, I believe, with over \$100,000 in a...because of an audit. [LB420]

SENATOR DUBAS: So with this bill, and you're proposing on putting it out to 2013, it's basically to clarify for the Department of Revenue that they can and should be collecting this tax? [LB420]

SENATOR HADLEY: Actually, I think, Senator Dubas, it's the reverse. [LB420]

SENATOR DUBAS: The reverse. [LB420]

SENATOR HADLEY: It's to say between now and 2013, your interpretation stands, but we as a body want to reaffirm our policy that we will not tax nonprofit healthcare clinics. And starting in 2013, we expect the Revenue Department not to be collecting it. [LB420]

SENATOR DUBAS: Okay. And you stated earlier that a clinic associated with the city or a county has been and continues to be exempt, but nonprofits were not. Is there a reason why nonprofits... [LB420]

SENATOR HADLEY: Yes, Senator Dubas, I can speculate that this goes back probably 20, 25 years. The concern was, is that the large hospitals in our major cities would go out and start nonprofit clinics throughout the state and go into competition with the local nonprofit hospital. And so this was a way of saying they needed two, so hopefully the big hospital would partner with a smaller nonprofit hospital. That was the...my understanding, that was the theory behind it. But it was never interpreted literally to do that. [LB420]

SENATOR DUBAS: Okay, so we just have a lot of kind of gray area that our department has been operating in. And now we're trying to clear that up, apparently. But as Senator Rogert pointed out, I think it's very clear that many of our rural communities definitely are benefitting from clinics such as we're talking about in this. And I know we struggle with the revenue issue and is it good policy or is it not. And, you know, if Senator Pahls was here I'm sure he would be standing up and talking about all of the things that we exempt from sales taxes and maybe we shouldn't be doing that. But I certainly can understand why you're trying to do this, Senator Hadley. I supported it the first time around and will continue to support it. So thank you. [LB420]

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PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Senator Fulton, you're recognized. [LB420]

SENATOR FULTON: Thank you, Mr. President, members of the body. I'm going to support Senator Hadley on his amendment and the underlying bill. And I appreciate the work that he's done on this. I do think it's good policy. The reason I decided to get up and speak on this is because it does have something to do with the budget and it's something that I think a lot of us may not realize. There are nine of us who sit on the Appropriations Committee, but ultimately all of the Legislature is responsible for a balanced budget. And I hear from my colleagues here in the body that it's appreciated that those of us on Appropriations get into the budget and learn a lot about the budget and we dig into the details of the budget because it's not...there isn't adequate time for those who aren't on Appropriations to get into it. Well, here's an opportunity where those of you who aren't on the Appropriations Committee can have a direct effect on those of us who are on the Appropriations Committee. And I'll even put this another way. Chronologically those of us who won't be here after the year 2012, and that's a number of us, will have...we have the ability now to influence what Appropriations Committees do going forward. We often hear on the campaign trail that we are for limited government, we want to shrink the size of the government. I remember when I first got to this Legislature I had a talk with Senator Erdman who I respect and admire. And he brought this to my attention, whenever there is a tax exemption there is an opportunity to shrink the size of government. Now, I understand that there's more to the policy than that and his point wasn't that we were...that's the only reason for tax exemptions, there's deeper policy that we look at. But mathematically this is a revenue question. If we don't accept more revenue then there is less money for government to spend. I say that because each of us has a certain area of government that we have as priority. When we are...when we have \$10 to spend we are going to prioritize and we'll want to spend our first dollar on that most important item, usually it's education or infrastructure or public safety, what have you. Well, when we take a tax...when we accept this amendment and this bill you also need to be prepared to give up some of those projects that you want to fund. If we accept this amendment and this underlying bill there will be less money to spend in government. So if you're going to accept this amendment and this bill, which I am, you also need to be prepared to deal with the ramifications of that decision and that means less state aid to schools, less money available for public safety, less money to fund the operations of government. This isn't my opinion, this is math. When there is less money to spend there are less things to fund. And so I am saying that when we take a look at this particular amendment and the policy that surrounds it, which I do agree with, bear in mind that we are also affecting mathematically government going forward. And in this case, we will, in the year 2010, be reaching our hands forward into the year 2013 and beyond to affect the size of government. Now maybe that's not what we had in mind when we first brought this bill forward, but that is the mathematical reality. I thought I'd point it out because, while we talk about this, we have to recognize

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that we are going to be giving up something in the future in order to get this. I'd like to yield the remainder of my time, Mr. President, to Senator Lautenbaugh. [LB420]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded one minute. [LB420]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I, too, rise in support of this. And I do agree with everything Senator Fulton just said. These clinics that are affected by this are spread throughout the state. There's one in Blair, there's some in Omaha, there's some everywhere else and this affects us all. In a very basic way, leaving aside the issue of the revenue loss, we are granting an exemption for one similar entity, denying an exemption for another not-for-profit entity. And I think on a fundamental fairness level we should support Senator Hadley on this because they should be on an equal footing. And I will be voting for this. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Council, you're recognized. [LB420]

SENATOR COUNCIL: Thank you, Mr. President. I rise supporting the underlying...the policy underlying LB420 and in fact was one of the 42 members of this body who voted in favor of LB420 with the emergency clause last year on Final Reading. The problem I have is whether I support this amendment. And that goes to the question of whether or not the action taken by this body last year altering the effective date of LB420 was effective and constitutional. I read the constitution to say that once a bill goes to the Governor he either has to return it with a veto message or five days later, without signing, it becomes law. There is nothing in the constitution that says if a senator requests that a bill that is passed on Final Reading be returned that the five days is waived or that the requirement for a veto message is waived. The constitution says that the Governor either provides a veto message and we take action on the veto message or absent his signature it becomes law. In my opinion, the policy reflected in LB420 became law last year five, six days after this body passed it on Final Reading. I recognize that we had a rule that said that a senator could request a bill returned from the Governor for a technical amendment. I raised the question last year, what this bill was returned for was not a technical amendment, it was a substantive amendment. This bill passed on Final Reading 42 to 0 with an emergency clause. When it came back it changed the effective date from 2009 to 2019. That is not a technical amendment, that is a substantive amendment. So by virtue of how our constitution reads, LB420 is the law and took effect as of 2009 with the emergency clause. So the fact that the Revenue Department has not been collecting sales tax is consistent with what the law says, which brings me to my concern now is that AM2479 seeks to amend the law, as I believe it exists now, to postpone this policy, to change the effective date of the law. And now revert from not collecting the sales tax to collecting the sales tax for three years and then not collecting the sales tax. That's problematic for me. I don't believe this

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action is necessary, in fact, I don't believe this action is appropriate. LB420 passed, was sent to the Governor, was not signed by the Governor, was not returned with a veto message. The rules of this body don't supersede the constitution. LB420E is the law and that's the policy. So in terms of voting on the amendment, and I have shared with Senator Hadley I support the underlying policy, the policy underlying, LB420. But I have difficulty voting for an amendment that changes the effective date. And, in essence, what AM2479 does is reinstate a sales tax that last year we exempted. I have a problem doing that. I believe that the constitution prevails. [LB420]

PRESIDENT SHEEHY: One minute. [LB420]

SENATOR COUNCIL: I think we ought to be concerned as a body with maintaining the integrity of the constitution. I understood the rationale for the action that Senator Hadley took last year, although I stated that I disagreed with it. In that situation the constitution only provides two options: sign it or veto it. Neither occurred, LB420E is the law of the state of Nebraska. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Campbell, you're recognized. [LB420]

SENATOR CAMPBELL: Thank you, Mr. President. And I must say, we'll all listening quite raptly to that discourse from Senator Council. And I would hope that people who are in the body who are attorneys and have worked perhaps would engage Senator Council in discussion of that. My question is a little bit different today. And I ask, Senator Cornett, if I could ask her this question on the mike. Would Senator Cornett... [LB420]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Campbell? [LB420]

SENATOR CORNETT: I'd be happy to. [LB420]

SENATOR CAMPBELL: Senator Cornett, my question to you was how often do we find ourselves in a situations where the Department of Revenue begins collecting what they think is truly the law as they are interpreting it and then it has to come back to the Legislature because that isn't what we necessarily thought the interpretation was? [LB420]

SENATOR CORNETT: Over the last couple of years, I can't speak to before I was a member of Revenue, we've had a number of bills brought to us because the Department of Revenue, going through and auditing, has read statutes in a different manner than had been interpreted in the past. So just last year we had three bills, this bill, a bill on mineral oil and grain elevators, and then drying, electric use in grain elevators for drying of grain. [LB420]

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SENATOR CAMPBELL: Thank you, Senator Cornett. The purpose of the question was to say to the body it is our duty to set the tax policy in the state. And if an error has occurred or what we consider to be an error in the interpretation, it is our right to change that. I was somewhat concerned when this first came forward that we have a department that is out collecting money and, in essence, setting what that tax policy is. But we now have an opportunity to address a second time what we think that tax policy should be. I'm going to support AM2479 and the underlying bill because I do believe that what Senator Hadley has brought forward is at least a plan to correct what we thought was a misinterpretation. However, I would really like some more discussion from members of the body on Senator Council's question. Thank you, Mr. President. [LB420]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Hansen, you're recognized. [LB420]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I would like to ask Senator Hadley a series of questions. [LB420]

PRESIDENT SHEEHY: Senator Hadley, would you yield to Senator Hansen? [LB420]

SENATOR HADLEY: Yes, I would, Senator Hansen. [LB420]

SENATOR HANSEN: Thank you, Senator Hadley. It's a short list. When hospitals are formed they're either for-profit or not-for-profit, I assume. What are the tax advantages of a nonprofit hospital? [LB420]

SENATOR HADLEY: Basically, the tax advantage is they basically do not pay taxes. [LB420]

SENATOR HANSEN: Property taxes, income taxes? [LB420]

SENATOR HADLEY: Property taxes, income taxes. A nonprofit hospital would argue that they make in-kind, through their charitable care, their contributions back to the area. But they do not pay formal taxes. [LB420]

SENATOR HANSEN: Okay. And then you reiterated a few minutes ago the exemptions of these clinics that are not attached to the hospital. Was one of those if they were owned by two nonprofit hospitals? [LB420]

SENATOR HADLEY: That was the original bill was that they had to be owned by two nonprofit hospitals to be exempt, the clinic. [LB420]

SENATOR HANSEN: Are all...are most or all of the nonprofit hospitals in the state

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members of the Nebraska Hospital Association? [LB420]

SENATOR HADLEY: I believe they are. [LB420]

SENATOR HANSEN: Why can't they cooperate and be a multi-owned clinic? I mean, if Senator Rogert said that there's clinics in his area, those nonprofit hospitals that own those have to be a considerable distance away. [LB420]

SENATOR HADLEY: Some of them are and some of them are not. But each of the hospitals is a separate entity that owns...so, I believe, they probably might run into some antitrust problems if the Nebraska Hospital Association decided to own all of the clinics or... [LB420]

SENATOR HANSEN: No, that wasn't the idea. Just the two that they could negotiate like you did in Kearney last weekend. [LB420]

SENATOR HADLEY: Um-hum. [LB420]

SENATOR HANSEN: They could negotiate, the two nonprofit hospitals could go together and own a clinic. There are options to this other than this bill. [LB420]

SENATOR HADLEY: I'm sure there probably are, Senator Hansen. [LB420]

SENATOR HANSEN: Okay, thank you, Senator. Senator Dubas, are you available? She was a little bit ago. [LB420]

PRESIDENT SHEEHY: Senator Dubas. [LB420]

SENATOR HANSEN: She's evidently not in the room at the time. I wanted to ask her about her bill a year ago, or was it even this year, about beginning farmer program. And ask her the opinion, her opinion and I think we share that same opinion of who does pay the taxes in this state. It's small business, and farmers and ranchers are small business. Those are the people who pay the taxes in this state. Senator Hadley says that the hospitals, the nonprofit hospitals don't pay the tax, the clinics are paying some of the tax but they're not paying all of the tax. So who pays the taxes? Who's this going to affect? It's going to affect all the small business in this state and large corporations too. Senator Sullivan had a comment about AHEC. And I've been trying to promote this since Senator McDonald was here. And if we don't get our youth involved in the medical field, in the nursing field, this state is going to be hurting very shortly. And I agree with Senator Sullivan's comments that she made about AHEC, we don't have enough money for AHEC either. We don't have enough money for small beginning farmers. But yet we say these clinics that are owned by nonprofit hospitals, which are doing rather well, I know that the hospital in Kearney announced that they were going to put on a \$65

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million addition to that hospital. And that was just part of that discussion on LB999 which led up to the negotiations in Kearney last weekend. [LB420 LB999]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: One minute. [LB420]

SENATOR HANSEN: I think there are alternatives to passing LB420, putting this off for three years. We've got a tax...we're asking for a tax break now for an entity that gets a lot of tax breaks already. And then in three years, if we don't have the money, then we have to ask for a tax increase. And I...if this body is in the same mode it is now three years from now and we're asked for a tax increase it's not going to go. Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Hansen. Those wishing to speak: Senators Gloor, Lautenbaugh, Utter, Langemeier, White, and Hadley. Senator Gloor, you're recognized. [LB420]

SENATOR GLOOR: Thank you, Mr. President. I need to start with a correction. I'm one of those senators who said that the Department of Revenue had not been collecting. What I should have said is that they had not been uniformly enforcing collection of this tax. As has been pointed out, it was only up until about three or four years ago that this was identified and the enforcement of this really requires almost a full-blown audit. Enforcement will continue to be a problem should LB420 not pass. But let me explain the reality of some of the challenges when you've got a not-for-profit hospital and a clinic. The supplies, for the most part, are going to be held in a not-for-profit hospital, that's where supplies will be delivered for all intents and purposes, that's where the inventory will be maintained. Most clinics don't have enough room to maintain any kind of sizeable clinic. What will happen is some staff person who will be over at the hospital conducting business and someone will say, pick up a package of Ace wraps or bandages of some kind. And they'll stop purchasing, materials management department and they'll pickup this box and they'll take it over to the clinic because they need it at the clinic. It has now moved from a tax exempt status to, we are told, now having to be an area where we collect tax once that Ace wrap is used to take care of a patient. Are there systems that would allow a hospital to keep track of moving those supplies from a tax exempt to a nonexempt site? In many cases yes there are but not all the time. It will be extremely difficult and complicated. Sophisticated audits would be able to keep track of it perhaps and discover it. But well-intentioned people who would like to comply will have a hard time complying because of the confusion of this simple transition from same institution, same supply system, same people providing care in both locations, but supplies moving from one building to the other building, now all of a sudden lose their tax exempt status. It's part of what we're trying to correct here, people who might want to comply having a hard time complying. And I would argue that the fiscal note that

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comes along with this doesn't take that into consideration, assumes that there will be collection on all of these things. I don't know how short of audits to every one of these 128, we're told, clinics will be able to uncover and recapture the total amount of revenue that's out there. Senator Hansen points out that small businesses will pay for the tax exempt revenue that is lost here. But I would also point out that small businesses predominate in the communities these clinics exist in. And those same small business owners serve on the hospital boards and the clinic boards, the city community councils, the volunteer groups. And I think if you were to ask them, should our very needed rural health clinic start paying additional money through taxes on these supplies, would quickly say that's just more money we have to raise in our community to keep this clinic alive and floating. We're talking about clinics that try to serve an access challenge we have in this state and an availability of healthcare challenge that we have within this state. I don't want to lose sight of that. I don't want to lose sight of the fact that I believe to begin with this was part and parcel of what drove the discussion about making sure that LB420 went through. Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Gloor. Senator Lautenbaugh, you're next and recognized. [LB420]

SENATOR LAUTENBAUGH: Question. [LB420]

SENATOR ROBERT: The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease on AM2479? All those in favor vote yea; opposed vote nay. Mr. Clerk, please record. [LB420]

CLERK: 36 ayes, 0 nays, Mr. President, to cease debate. [LB420]

SENATOR ROBERT: Debate does cease. Senator Hadley, you're recognized to close on AM2479. [LB420]

SENATOR HADLEY: Mr. President, members of the body, thank you so much for a spirited discussion, a good discussion about not only tax policy but the problems that we're facing from a fiscal standpoint. To reiterate, and I think it's important, it was brought up...there were three or four or five bills that were in the same situation mine was last year. I say that's correct, except I think mine was a little different because it had been passed by the body on Final Reading, 42 to 0, was sitting on the Governor's desk ready for signature and I agreed to bring it back. I agreed to bring it back with the approval, with the blessing of these very clinics that we're talking about right now. They could have said, Senator Hadley, that bill is there, it's got 42 votes, you don't do a thing with it. The heck with wind energy. They didn't say that. They said, Galen, we understand the importance of wind energy, the projects that were setup for wind energy were supposed to have been done quickly, we had to pass the bill in order to get the projects, supposedly, done. So the clinics that we're talking about voluntarily said to me,

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bring the bill back. I did. I committed to them that I would bring it back this year. We're talking about 125 clinics across the state. So the issue that you're facing is a difficult issue. It's a tax policy issue versus a fiscal issue. I've tried to mitigate the fiscal issue as best I could by moving it out three years. But it is a tax policy versus a fiscal issue. I think Senator Lautenbaugh and a couple of others raised a great point. If there's a county-owned hospital that has a clinic, guess what, they don't pay taxes, they don't pay sales taxes. If there was a city-owned hospital they don't pay taxes. But we have a nonprofit hospital and their clinic pays taxes. We are getting into the situation where, as Senator Gloor said, you send a band-aid that is nontaxable at the hospital, you send it to the clinic three blocks down the street, you got to make it a taxable item. Is that logical? Is that what we want our tax policy to be? I don't think so. I realize the fiscal problems. And I would be the first one, heaven forbid, three years from now if we're in worse shape we should look at this. But we should look at it by saying, do we want to tax nonprofit healthcare? I think there...I would hope there's probably not many people in here that would argue that we should tax nonprofit healthcare. Yesterday in LB999 we talked about 55 percent of the cost being paid by government. So that's great. We collect taxes and then we pay for the services. In my book that works out to be awash, doesn't it? We collect it and then we have to reimburse? So I urge you to vote for AM2479 and then the underlying bill, LB420. I've been calling it LB480 because I haven't been able to get to the optometrist, I can't see the board, but it is LB420. (Laughter) I appreciate your yes vote... [LB420 LB999]

SENATOR ROBERT: One minute. [LB420]

SENATOR HADLEY: ...on the amendment. I think it's good policy, I think we've reached a good compromise by pushing it out. And I'll guarantee if the state's in dire straits three years from now, there will be somebody that will bring this up and remind the body of what Senator Hadley did and that it's time to change the policy. You've lost nothing, in fact, you've gained because you've gained three years of these very clinics collecting the tax and trying to help solve the fiscal problem. Thank you, Mr. President. [LB420]

SENATOR ROBERT: Thank you, Senator Hadley. Members, you have heard the closing to AM2479 to LB420. Question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB420]

CLERK: 31 ayes, 9 nays, Mr. President, on adoption of Senator Hadley's amendment. [LB420]

SENATOR ROBERT: AM2479 is adopted. Senator McGill, you're recognized for a motion. [LB420]

SENATOR MCGILL: Mr. President, I move LB420E to E&R for engrossing. [LB420]

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SENATOR ROBERT: Senator White, you are recognized. [LB420]

SENATOR WHITE: Thank you, Mr. President. I will reserve comments for when we go back on this bill. I just urge the body to carefully consider what Senator Council has said. Thank you. [LB420]

SENATOR ROBERT: Thank you, Senator White. Seeing no other lights on, members, you've heard the motion. All those in favor signify by saying aye. Opposed, nay. LB420E does advance. Items for the record, Mr. Clerk. [LB420]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB563, LB563A and LB594 as correctly engrossed. And Enrollment and Review reports LB999 to Select File. That's all that I have, Mr. President. (Legislative Journal pages 1354-1355.) [LB563 LB563A LB594 LB999]

SENATOR ROBERT: Next item on the agenda, General File special order, Mr. Clerk.

CLERK: Mr. President, LB1020 is a bill by Senator Lathrop. (Read title.) The bill was introduced on January 20 of this year, referred to the Business and Labor Committee. The bill was advanced to General File. There are Business and Labor Committee amendments pending, Mr. President. (AM2512, Legislative Journal page 1342.) [LB1020]

SENATOR ROBERT: Senator Lathrop, you're recognized to open on LB1020. [LB1020]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. Good morning. I think I bring you good news today. We have been struggling with our budget. Businesses across the state have been doing the same. And while they're struggling to operate in a recession, they have been getting notices that their unemployment compensation withholding is going up. Today in LB1020 we have an opportunity to take advantage of federal stimulus money intended to be placed into state's Unemployment Compensation Trust Fund. And I want to visit with you a little bit about that fund as I introduce the bill. And then I'll talk about the particulars as I introduce the amendment. A little background about the fund and how that operates. In Nebraska, all of our unemployment compensation funds that are sent in by employers who have to pay this tax goes into a trust fund, it's the Unemployment Compensation Trust Fund. That fund is fed by employer contributions in the form of a tax or a withholding. We set the amount of the withholding by a formula. A long time ago it used to be a political thing, you'd have to have bills and people were in here debating whether we should have an increase in the withholding. And as a consequence and in our wisdom or in the wisdom of a Legislature long ago we set it by formula. And the idea is that the formula will keep our unemployment compensation fund solvent. And as you might expect, this is kind of a

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counter cyclical proposition. When times are good the economy is expanding and there is relative full employment, the contributions from the employers go down because the fund grows to a size that is comfortable. And conversely, when we are in a recession and people are drawing on the unemployment, the Unemployment Compensation Fund gets diminished and then employers during the time of recession are called upon to add additional monies to this compensation fund, to the Unemployment Compensation Fund, and it creates a hardship during the times of recession. All of you are likely familiar with and we have certainly taken advantage of stimulus dollars that came to us from the federal government over the past year or two. One of the programs that has been available is or are dollars that we can take advantage of and put into our Unemployment Compensation Fund to help bolster the fund. That money comes with strings and I'll talk about that in a moment. Let me give you a history of that fund in this last business cycle. At its maximum, and this is only a short while ago, the fund reached a level of \$283 million. Because of the recession and the increase in unemployment, that fund has gone down to \$124,000. And it is that drop in the balance of the fund that prompted the Department of Labor to send notices to employers in your district that their unemployment withholding rate was going up. The stimulus money that we are going to talk about today amounts to \$43 million, \$43.6 million. And ultimately, the question and the concern about taking the federal money was is it going to cause a tax increase on businesses down the road. And let me explain the concern and then how we addressed it with the amendment. In order to take advantage of or to accept the unemployment money, stimulus money we had to improve certain benefits. We get...changing the benefit periods was one thing we had to do. We had a menu of things that we could choose from. But we had to take and make improvements to our unemployment compensation benefits. The estimate was and the concern by the business community and, frankly, the concern by the Governor's Office, if I understand correctly, as well as my own was if we take the \$43 million and improve benefits, at some point we will spend more money on the improved benefits than the \$43 million that came into the fund. Let me say that again. If we do not make a corresponding reduction in benefits, by taking the stimulus dollars we will have a short-term improvement in our account balance, but after three to five years we will have spent more than \$43 million on those improved benefits. So the consequence to the business community, their concern, the concern of the Governor and, frankly, my concern as well was that to accept this money and the strings that are attached without a corresponding reduction in benefits would be for the business community a long-term increase in withholding taxes. And that's just a fact. In order to address the long-term tax increase piece of taking the stimulus money, we have been in negotiations. And I want to talk to you about that. LB1020 represents a collaborative work between business and labor representatives in an effort to find a revenue neutral avenue to accept the federal stimulus unemployment money. And I want to take this opportunity to thank those who I met with and who were involved in the process of coming to the agreement that is represented by LB1020. They include Ron Sedlacek with the Nebraska Chamber of Commerce; Bob Hallstrom, who is with the NFIB; Dacia Kruse, who is with the Omaha Chamber of Commerce; Bruce Boehr, who I

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believe is with the Lincoln Chamber; Ken Mass, who is with the AFL-CIO; and Jennifer Carter and Kate Bolz, who are with Appleseed. You can see from the collection of people that participated in the discussions that brought us to our agreement we were represented or represented in this discussion was the business interests and the labor interests. And it wasn't the high earners that were represented, but Appleseed was there to speak for low owners so that what we do, ultimately, in LB1020 is a benefit to both the business community and to wage earners in the state. I also want to take this opportunity to express my appreciation to Commissioner Lane and our staff, in order for us to determine a route to come to which would make accepting these dollars benefit neutral and revenue neutral and not result in a long-term tax increase for the business community, it was necessary that the Department of Labor run numbers and models for us so that we could make predictions about whether or not LB1020 is for the business community revenue neutral. That was the goal. I also want to thank my friend and colleague, Senator Mello, who in January brought all the stakeholders together and remained involved in this process throughout. As I said, the money, the stimulus money comes with strings which explains the business community's initial reluctance to accept the federal stimulus dollars. To qualify we must extend benefits to a population that's not currently covered by unemployment security law. Assuming we made the necessary statutory changes and received the \$43.6 million, the additional benefits paid would consume the federal money in about three to five years, making it a permanent tax increase to businesses. The only way to accept the money with a proper offset caused by the increase in benefits is to proportionately restrict benefits not affected by the Unemployment Insurance Modernization Act. [LB1020]

SENATOR ROBERT: One minute. [LB1020]

SENATOR LATHROP: So what we've done in LB1020 is to come up with a revenue-neutral solution reached by the stakeholders. I'll discuss the compromise but first a little background which is referenced in the committee's statement. The American Recovery and Reinvestment Act was signed into law February 17, 2009. Part of this law includes the Unemployment Insurance Modernization Incentive Act. A total of \$7 billion was earmarked to states that have certain unemployment eligibility provisions in their laws. Nebraska's share, if accepted, as I said, would be \$43.6 million deposited into our Unemployment Trust Fund. To qualify for the first third of the money, Nebraska must adopt an alternative base period. For the remaining two-thirds, Nebraska must adopt two of the following four benefit options: first, part-time workers who are denied benefits because they are required to seek full-time work; second,... [LB1020]

SENATOR ROBERT: Time, Senator. [LB1020]

SENATOR LATHROP: Thank you. [LB1020]

SENATOR ROBERT: Thank you, Senator Lathrop. (Visitors introduced.) Members,

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you've heard the opening to LB1020. As the Clerk stated, there are committee amendments. Senator Lathrop, as Chairman of Business and Labor Committee, you're recognized to open on AM2512. [LB1020]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm going to continue with my explanation in my introduction, and because I was interrupted I think I'll start by going back just a few sentences. In order for us to accept the remaining two-thirds of the federal stimulus dollars, Nebraska must adopt two of the following four benefit options: first, part-time workers who are denied benefits because they are required to seek full-time work; second, individuals who leave work due to family reasons, including domestic violence; three, permanently laid off workers who require additional benefits to participate in training; and four, benefits for workers who care for dependent family members. Nebraska does not utilize an alternative base period. To qualify for the unemployment benefits, one must make a certain amount of money in the base period. This requirement ensures that individuals have enough of an attachment to the work force to justify the benefits. In Nebraska, an individual must make the minimum monetary requirement in the first four of the last five most recently completely quarters. The alternative base period, however, allows an individual who did not meet the monetary requirements in the first four quarters to use an alternative base period for the four most recent completed quarters. This change positively affects low-wage and part-time workers who currently do not have or do not qualify for benefits because wages earned in the last quarter are not considered. The parties chose the option that extends the benefits, and by parties I'm talking about the labor folks as well as the business community agreed that we would choose the option that extends benefits for training and part-time workers. From the handout--and you should have received a handout that kind of lays out the dollars that we're talking about--you will see the yearly impact of the trust for adopting the alternative base period is about \$1.9 million. The cost for extending benefits for those in approved training programs and those seeking only part-time work, together with the alternative base period, is \$14,933,000. That's what it costs us to take the money. We then needed to come up with offsets so that this became revenue neutral and did not result in a long-term tax increase to the business community. To do that, the parties agreed to increase the base period earning requirement to \$3,770. The high-quarter earnings are also modified. Currently, at least \$800 must be earned in two of the last four quarters. LB1020 increases one quarter to \$1,850. Making these changes saves the trust \$2,550,000, well short of the \$14.9 million target. Getting to the \$14.9 million required increasing disqualification weeks for unemployment resulting from misconduct, voluntarily quitting, or quitting to take a better job. Increasing the disqualification weeks for misconduct from 12 to 14 saves the fund \$5.1 million; increasing the disqualification weeks for voluntarily quitting from 12 to 13 saves \$6.5 million; and increasing the disqualification from 1 to 2 weeks for voluntarily quitting to take a better job results in \$1.5 million yearly savings. These offsetting measures, and this is important, these offsetting measures total \$15,746,821 which provides businesses with an \$800,000 cushion. In other words, the limitations on the

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qualifications actually exceed what we will spend in the additional benefits. Though these are tough economic times, we have made difficult cuts to the budget knowing that more cuts are to come if the economic forecasters' predictions prove true. We have all heard from business owners who last December received notices from their unemployment tax...that their unemployment tax rates were significantly increasing. I've handed out the latest Department of Labor table showing the trust fund balance of \$157 million in December of '09, which is over \$116 million less than the balance in December of '08. As of March 15, 2010, the trust fund has been further depleted to \$124.5 million. Nebraska's unemployment rate in February 2008 was 2.8. The rate in February 2010 was 4.8. This agreement allows Nebraska to supplement its trust funds and extend benefits to low-wage earners without creating a permanent tax increase to businesses. In fact, there will be a small decrease in this tax because the benefits that we...or the qualifications that we have modified exceed the cost of this program. The parties worked diligently to get to this point and, again, I want to thank those involved and I would ask for your support of AM2512 to...and LB1020. Thank you. [LB1020]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of the Business and Labor Committee amendment, AM2512. Mr. Clerk, do you have an amendment to committee amendment? [LB1020]

CLERK: Mr. President, Senator Lathrop would move to amend the committee amendments with FA77. (Legislative Journal page 1355.) [LB1020]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on FA77. [LB1020]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is very simple. There was a typo in the committee amendment that said \$3,700. It should be \$3,770. That's what the floor amendment does. I would urge your adoption of that. And I want to take just a moment to follow up on my introduction and maybe put this in plain English for you. When you introduce a bill like this that involves a lot of numbers and base periods and different pieces, I look around and some people are glazing over and it happens and I understand it, so I want to try to put this to you in about as plain of English as we can. Our fund was nice and healthy before the recession started and it's been depleted to \$124 million. This bill will allow us to take federal money and put it into our trust fund that's down to \$124 million. We're going to put \$43.6 million more dollars in there. We have improved some benefits to qualify for the money. We have had corresponding reductions that offset that so that long term this is good for business. It's good for businesses in your community and in your district for two reasons. One is they're going to get a statement next year that says this is what you have to withhold and transmit to the Department of Labor for your unemployment compensation. The expectation is that by taking \$43 million and putting it into the fund that has \$124 in

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there, that we will have a smaller increase for businesses in the state of Nebraska. Let me say that again. By taking the \$43.6 million and putting it into the fund, we will have a smaller increase for businesses in your communities and their unemployment withholding rate. That is why the business community is fully behind this bill and why they believe it is a good idea. It is also important to note that we are taking care of workers as we do this. We are making changes, and perhaps the most significant change that we will make to our unemployment statutes is that we will provide workers, who are laid off in an industry that is going down hill, to get into a training program. Because normally you have to be ready, willing, able, and looking for work. This will allow people to be ready, willing, and able but in a training program for an additional 26 weeks so that they can get a skill and come out of the period of their unemployment in a position to improve their lives, improve their earning capacity. This piece and accepting this piece of the unemployment stimulus dollars was important to the business community that wants trained workers. It is important to those who care about labor and working people that working people have an opportunity to use the unemployment compensation benefits during periods of unemployment to improve their training and their lot in life and become higher wage earners as they emerge from their period of unemployment. I would encourage your support of FA77, AM2512, and LB1020, and I'd be happy to answer questions if you have any. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of FA77 to AM2512. Members requesting to speak are Senator Carlson, followed by Senator Nelson, Senator Campbell, and Senator Sullivan. Senator Carlson, you're recognized. [LB1020]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In other circumstances, this could have been a bill that I would very easily oppose, but I stand in support of the amendments and the underlying bill. And in the hearing that we had, Omaha Chamber of Commerce, the Nebraska Chamber of Commerce, National Federation of Independent Businesses, along with AFL-CIO and Nebraska Appleseed all testified in favor of this bill. And when you have Bob Hallstrom of National Federation of Independent Businesses and Ken Mass of AFL-CIO testifying both positively on a bill, it gets your attention and it did mine and that helped be able to support this. And I think the fact that it's revenue neutral and has a provision in there that those who voluntarily terminate employment or who are terminated for misconduct have to wait longer to receive unemployment benefits and the fact that those dollars are used to help train others for an eventual job I think makes this a good bill, and I would ask for your support of all the underlying amendments and LB1020. Thank you, Mr. President. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LB1020]

SENATOR NELSON: Thank you, Mr. President, members of the body. Is Senator

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Lathrop still available to answer questions? [LB1020]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Nelson? [LB1020]

SENATOR LATHROP: Yes, I will. [LB1020]

SENATOR NELSON: Senator Lathrop, you don't have to be hesitant because I'm fully in favor of this. I'm supporting everything that you're doing here,... [LB1020]

SENATOR LATHROP: I was wondering. (Laughter) [LB1020]

SENATOR NELSON: ...which doesn't happen very often, I have to admit. But a few years ago I used to have to adjudicate claims for unemployment compensation and got involved in this. I'm looking at your table here. I see that the impact of training is going to be over \$13 million. Part time there's zero impact. And then looking here at the explanation of amendments, it appears to me that through your work here that you're going with number one and number three, number one being part-time workers who are denied benefits because they are required to seek full-time work. Is that correct? [LB1020]

SENATOR LATHROP: That's right. [LB1020]

SENATOR NELSON: All right. Just for my own information, why is the figure zero on the part time and could you just tell us a little bit about...or give us an example of part-time workers who can't get benefits because they're required to seek full-time work? [LB1020]

SENATOR LATHROP: I'll be happy to try, and I did not appreciate or know that you used to adjudicate these claims, so I might be sending questions your way if they get too difficult. [LB1020]

SENATOR NELSON: (Laugh) All right. [LB1020]

SENATOR LATHROP: But the part time, we're essentially doing that already, which is one of the reasons it made this an attractive...attractive for the state of Nebraska. Essentially, a part-time worker is required to or unable to get unemployment benefits unless they're looking for full-time work. And what this would say is that you can collect the unemployment compensation benefits if you're looking for work that is as part time as what you were doing before but a minimum of 20 hours a week, the work that you're looking for. So you have to make sure you're trying at least to get a job that involves 20 hours a week of work. And my understanding is that is such a small change to our existing law that the effect is nominal. [LB1020]

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SENATOR NELSON: Well, thank you. That's what I suspect, that we already have that in place, and so it's a plus for us to accept that and then we can concentrate on the training, the \$13 million. All right. Thank you for your response, Senator. Thank you, Mr. President. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Campbell, you're recognized. [LB1020]

SENATOR CAMPBELL: Thank you, Mr. President. And, colleagues, I would have to say that I received a great amount of mail on this issue when it first came out and our response was, you know, we're watching the situation. Little did we know how much work was going on. And I'm very pleased that the group of people that worked on this stayed at the table and got a resolution, because from a small business perspective this is one of the expenses that you pay very close attention to, and to know that we have made some adjustments to help businesses all across the state is really a very important matter before us. As much as we've celebrated the negotiations, I would say we need to celebrate this one too. I do have just one quick question for Senator Lathrop, if he would. [LB1020]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Campbell? [LB1020]

SENATOR LATHROP: Yes. [LB1020]

SENATOR CAMPBELL: Senator Lathrop, as I am reading all of this, I am making the assumption that the changes that we are making are permanent and that we will not have to make any adjustments as we come out of the recession that we seem to be in. [LB1020]

SENATOR LATHROP: That is true. These are intended to be fundamental or permanent changes to the way we run the unemployment compensation fund. [LB1020]

SENATOR CAMPBELL: Thank you, Senator Lathrop. And, colleagues, I, too, support the underlying amendments and LB1020 and, once again, want to thank all those who came to the table and made this happen. Thank you, Mr. President. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Sullivan, you're recognized. [LB1020]

SENATOR SULLIVAN: Thank you, Mr. President. My ears perked up when Senator Lathrop was talking about the impact that this bill will have potentially on small businesses, and I just wanted to clarify something. And I was on the phone with my LA because I think even before there was discussion of this bill I was hearing from

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constituents, small business owners, and one in particular saw his contribution rate for his unemployment tax increase 100 percent. So my...I have a question for Senator Lathrop, if he would yield. [LB1020]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Sullivan? [LB1020]

SENATOR LATHROP: Yes, I will. [LB1020]

SENATOR SULLIVAN: Thank you, Senator. So if I understood you correctly, by accepting these monies and then buoying up the trust fund, will small business owners, when...in the next go-round, see a decrease in their contribution rate? [LB1020]

SENATOR LATHROP: And the answer is we don't know for sure. Is it...and I appreciate that that's not the answer people want to hear, but this is what we talked to Commissioner Lang about, and that is are we going to have a reduction in our benefits...in our withholding. In other words, if somebody is sending \$1,000 a month over to the unemployment fund will they now be able to say...can we say on the floor that it will be \$800? And the answer is we don't know for sure because there are so many moving parts to the calculation and the calculus for when we ask for more money from business and how much that should be. It seems to me logical that if we...what we...and to continue with my example, Senator Sullivan, we might be looking at asking them to go to \$1,200 next year and by adding the \$43 million we're going to stay at \$1,000 for that person. Do you see what I mean? What I can say is that when your balance is \$124 million and you put \$43 into the account, you are going to soften the blow for any increases that would otherwise come in 2011 for your employers. [LB1020]

SENATOR SULLIVAN: Thank you, Senator Lathrop. And I realize there are a lot of moving parts to this, you can't say for sure. But it appears to me that this is a good-faith effort, good for small businesses in the state, and so I'm in support of it. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Utter, you're recognized. [LB1020]

SENATOR UTTER: Thank you, Mr. President, and good morning, colleagues. I, too, have been getting some e-mail, Senator Lathrop, from my small businesses out in our area that report some substantial increases in their contribution rates. And so it has been working a real hardship on small business, there's no question about that. And so I appreciate what we're doing here. I think it's going to assist the small businesses. Some of them, admittedly, are struggling at the best to keep alive in the situation that we're in right now, so I think we're on the right track here. And I just wanted you to know, Senator Lathrop, that you and I agree on this one. Thank you. [LB1020]

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PRESIDENT SHEEHY: Thank you, Senator Utter. (Visitors introduced.) Seeing no additional requests to speak, Senator Lathrop, you're recognized to close on FA77. [LB1020]

SENATOR LATHROP: Again, FA77 just corrects a typo and puts the right figure in the committee bill. I would encourage your support. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing. The question before the body is on the adoption of FA77 to AM2512. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1020]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Lathrop's amendment to the committee amendments. [LB1020]

PRESIDENT SHEEHY: FA77 is adopted. We will now return to floor discussion on the Business and Labor Committee amendment, AM2512. Seeing no requests to speak, Senator Lathrop, you're recognized to close. [LB1020]

SENATOR LATHROP: Just briefly, colleagues, the bill...the amendment becomes the bill. It does just as I've described. I want to take this opportunity again to thank Commissioner Lang and John Albin, legal counsel over at the Department of Labor who ran the models so that we would have the numbers and be able to make the...and come to the agreement that we have reached. I also want to thank those that participated in the negotiations that brought us to the agreement that is or will be LB1020. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing. The question before the body is on the adoption of AM2512 to LB1020. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1020]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB1020]

PRESIDENT SHEEHY: AM2512 is adopted. [LB1020]

CLERK: I have nothing further, Mr. President. [LB1020]

PRESIDENT SHEEHY: We'll now return to floor discussion on LB1020. Seeing no requests to speak, Senator Lathrop, you're recognized to close. [LB1020]

SENATOR LATHROP: Finally, thank you. I didn't mean finally like I've been waiting for it but finally as in these are my last remarks. (Laughter) Again, I appreciate the support this bill is enjoying right now. Understand that when those businesses that called you

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last year or the beginning of the year and they said there's got to be something wrong with this notice that I just got from the Department of Labor on my unemployment withholding, you can go back to your districts and explain that we have infused money into the Unemployment Compensation Fund that will lighten the burden on businesses across the state as it relates to their unemployment compensation withholding. Again, I'd appreciate your support and encourage your vote on LB1020. Thank you. [LB1020]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing. The question before the body is on the advancement of LB1020. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1020]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of the motion to advance LB1020. [LB1020]

PRESIDENT SHEEHY: LB1020 advances. (Visitors introduced.) We will now proceed to next item under Select File, LB771. [LB1020 LB771]

CLERK: LB771. Senator McGill, I have Enrollment and Review amendments, Senator. (ER8237, Legislative Journal page 1338.) [LB771]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB771]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB771]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB771]

CLERK: Senator Flood would move to amend with AM2504. (Legislative Journal page 1337.) [LB771]

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on AM2504. [LB771]

SENATOR LANGEMEIER: Mr. President, members of the body, on behalf of the Speaker I introduce AM2504. AM2504 is a technical amendment that worked out with Bill Drafters which adds in that was left out in one of the drafting...in previous drafts of this bill, the assault on these officers with use of a motor vehicle. So we'd ask for your adoption to clarify that and get that back in the bill. So I'd ask for your adoption of AM2504 and then LB771. Thank you. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of AM2504 to LB771. Members requesting to speak are Senator Rogert, followed by Senator Lautenbaugh. Senator Rogert, you're recognized. [LB771]

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SENATOR ROBERT: Thank you, Mr. President. I wondered if Senator Ashford would yield to a couple of questions. [LB771]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Rogert? [LB771]

SENATOR ASHFORD: Yes. [LB771]

SENATOR ROBERT: Senator Ashford, I was just kind of curious, could you under your recollection just give me...refresh my memory on what we did with the committee amendment on this? [LB771]

SENATOR ASHFORD: Should I take the full five minutes? [LB771]

SENATOR ROBERT: You can take as long as you want. (Laugh) [LB771]

SENATOR ASHFORD: Let me recall. This is LB771? [LB771]

SENATOR ROBERT: This is LB771 that dealt with the workers at the regional centers and the domestic assault. [LB771]

SENATOR ASHFORD: Yes. My recollection, and I have to think about it a second before I recollect, (laugh) was that we...with the committee amendment, we narrowed the scope of the bill I think, Senator Rogert, to involve only the assaults committed by a certain class of individuals that are at the regional centers. [LB771]

SENATOR ROBERT: And it was your...is it your understanding that what we wanted to not do was we took out the folks at the youth regional center because we wanted to make sure that we didn't make those younger kids felons if they...just because they had behavior problems. Is that correct? [LB771]

SENATOR ASHFORD: You know, that's exactly right. And as you recall, we had some testimony at the hearing from the county attorney in Kearney who talked about the...his activity at the youth center, for example, in investigating the cases involving juveniles, and he felt that he had the statutory...you know, had the statutory impetus really to take whatever action he needed to take there and that several cases had been brought by him involving juveniles and where an assault had occurred both as against an employee of the youth center and other inmates of the youth center. And so I think as a committee as I recollect...and I'm thinking through this as slowly and carefully as I can, (laugh) but as I recollect, the...we felt that there was, you know, sufficient protection for the workers at the youth center, for example, in dealing with juveniles and in other institutions where juveniles were involved. There was also the issue that Senator Coash very aptly described the other day when we talk about some of the behavioral issues that are

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prominent amongst this population and that is likely, in fact, that these juveniles will act out in a...sometimes in a very angry manner, and though it can be very serious and I'm certainly not making light of it, that there were the protections in place. [LB771]

SENATOR ROBERT: Thank you, Senator Ashford. Mr. President, I wonder if Senator Coash would yield to a couple of questions. [LB771]

PRESIDENT SHEEHY: Senator Coash, would you yield to Senator Rogert? [LB771]

SENATOR COASH: Yes, I will. [LB771]

SENATOR ROBERT: Senator Coash, I know you've had concerns and reservations about the provisions in this bill, at least in the green copy. Can you talk about how we've help to alleviate those for you? [LB771]

SENATOR COASH: Yes. In the green copy, there were provision specifically dealing with youth that I had problems with. The provisions in the green copy added felony charges to youth who were being treated at the facility such as the YRTC in Kearney and in my experience, I felt that it never made a youth's situation better to turn them into a felon. Accountability is important. [LB771]

PRESIDENT SHEEHY: One minute. [LB771]

SENATOR COASH: Treatment is important, but these kids get out because they become adults and they can no longer be there and they come out with a felony record, and it can be pretty detrimental and I didn't think that was a good idea. I want to look at other ways to address that. [LB771]

SENATOR ROBERT: Thank you, Senator Coash. Thank you, Mr. President. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Lautenbaugh, you're recognized. [LB771]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Council would yield to a question. [LB771]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Lautenbaugh? [LB771]

SENATOR COUNCIL: Yes, Mr. President. [LB771]

SENATOR LAUTENBAUGH: Senator Council, in some ways this bill, LB771, deals with criminal attempt, does it not? [LB771]

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SENATOR COUNCIL: Yes. [LB771]

SENATOR LAUTENBAUGH: Now, I had a bill in committee that also dealt with criminal attempt that we amended onto another bill just the other day. Do you recall that? [LB771]

SENATOR COUNCIL: Not specifically, Senator Lautenbaugh. You'll have to refresh my recollection. [LB771]

SENATOR LAUTENBAUGH: Well, the number escapes me right now too. [LB771]

SENATOR COUNCIL: Aha! [LB771]

SENATOR LAUTENBAUGH: It really plowed some of the same ground. Wait, it's coming to me. (Laughter) I think it's LB862. And there was a little bit of overlap. Did that cause you any concern in committee? [LB771 LB862]

SENATOR COUNCIL: LB862. [LB771 LB862]

SENATOR LAUTENBAUGH: LB860, I'm sorry, because they really covered the same areas. [LB771 LB860]

SENATOR COUNCIL: You know, Senator Lautenbaugh, I don't recall. LB860 dealt specifically with what crime? [LB771 LB860]

SENATOR LAUTENBAUGH: It really dealt with certain felonies that had been, I believe, erroneously not added when we passed...when they became felonies, we did not add them to our attempt statute previously, so they could not be charged as felonies unless we passed one or both of these bills. [LB771]

SENATOR COUNCIL: And this bill, LB771, adds ICs and ID felonies to the attempt. [LB771]

SENATOR LAUTENBAUGH: Yes, the same thing really. [LB771]

SENATOR COUNCIL: Correct. [LB771]

SENATOR LAUTENBAUGH: But I don't think there is any inconsistency there, do you? [LB771]

SENATOR COUNCIL: Not with regard to those particular sections of the two bills. LB860 went a little further though, is my recollection, but it amended some other

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provisions of the criminal code. [LB771 LB860]

SENATOR LAUTENBAUGH: Thank you. Thank you, Senator Council. Senator Rogert, would you yield? [LB771]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Lautenbaugh? [LB771]

SENATOR ROBERT: Most certainly. [LB771]

SENATOR LAUTENBAUGH: Senator, I think you remember the hearing on probably both of these bills, the one I was referencing and LB771, is that correct? [LB771]

SENATOR ROBERT: Yes. [LB771]

SENATOR LAUTENBAUGH: Now, did that cause you any concern that they kind of covered some of the same area in some respects? [LB771]

SENATOR ROBERT: A little bit, but I think what we're doing with LB771 is we're taking into consideration both of the aspects and in taking care of it with this bill rather than the other one. [LB771]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Rogert, for that brief response. (Laughter) Senator Ashford, would you yield? [LB771]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Lautenbaugh? [LB771]

SENATOR ASHFORD: Yes. You know, it's hard not having...you know, having five minutes without Lathrop talking on the mike. (Laughter) I know, but yes. [LB771]

SENATOR LAUTENBAUGH: Senator, I don't know if you were here when I was questioning Senator Council and Senator Rogert a few minutes ago, but what I was getting at was I had a bill that we amended onto another bill that dealt with criminal attempt... [LB771]

SENATOR ASHFORD: Yes. [LB771]

SENATOR LAUTENBAUGH: ...for certain felonies, and some of that's included in this bill as well. [LB771]

SENATOR ASHFORD: That's my recollection. [LB771]

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SENATOR LAUTENBAUGH: Does that cause you any real concern or heartburn if this passes? [LB771]

SENATOR ASHFORD: The fact that it's your bill partially in this cause me any heartburn? [LB771]

SENATOR LAUTENBAUGH: (Laugh) Yeah, absolutely. [LB771]

SENATOR ASHFORD: That does, you know, on its face it does. I mean, the fact that part of your language is in this bill, does that cause me concern? [LB771]

SENATOR LAUTENBAUGH: Yes. [LB771]

SENATOR ASHFORD: Yes. (Laughter) [LB771]

SENATOR LAUTENBAUGH: Beyond the obvious answer, could you give us sort of a longer list of reasons why? [LB771]

SENATOR ASHFORD: Well, yeah, I appreciate it. I think what we're trying to straighten out here, Senator Lautenbaugh, and thanks for the question because it's very incisive, was what we're trying to do here is the way the...LB771 came over to Select File, it was unclear that in order to assault an officer with a motor vehicle that that assault had to occur with another motor...with a motor vehicle. So it's rather...it's, obviously, a very substantive point here that if you're going to assault somebody with a motor vehicle, that you actually have to be driving a motor vehicle. So this amendment...is Matt, are you shaking your head yes with...yeah, Matt is shaking his head that in fact what this amendment does, and I wish Senator Lathrop would... [LB771]

PRESIDENT SHEEHY: One minute. [LB771]

SENATOR ASHFORD: ...get done with whatever it is he's doing, but what this amendment does is it makes clear that in order to assault an officer...and this is serious obviously, but in order to assault an officer with a motor vehicle, you have to be driving a motor vehicle. And, you know, so hopefully that answered some of your inquiries. [LB771]

SENATOR LAUTENBAUGH: Yeah, I think that...(laugh) Yeah, I think that cleared it up, Senator Ashford. And by the way for the record, I think my bill that was amended in another bill was LB840. LB840. So, Senator Council, I apologize if I mislead you on that, and I think our line of questioning might have been a whole different and a whole lot more fruitful... [LB771 LB840]

PRESIDENT SHEEHY: Time, Senator. [LB771]

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SENATOR LAUTENBAUGH: Thank you. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Haar, you're recognized. [LB771]

SENATOR HAAR: Mr. President, members of the body, since we're killing time, I thought I'd hand out some stuff. I didn't have another good time to put it in. First of all, in Senator Utter's district in Hastings, there's a pioneer program going on in Nebraska and so I wanted to pass this out. The brochure is not our Clerk of the Legislature. It's just the picture on the front of the brochure. But this project in Hastings will allow people to use what's called on-bill payment for energy efficiency. In other words, they pay for energy efficiency by the savings from their utility bill and it's just paid on their utility bill and it's the first of its kind in Nebraska. It's really pretty exciting. They'll come in and do this...this company will come in and do an energy audit, and if they can save some money, you just...they'll put in the improvements at no cost to you at the time and you just pay it back on your energy bill. You keep paying the same electric bill you've always been paying, but a part of that bill goes to paying off your loan. The other thing I...was really cool, a neighbor of mine has a relative who's since died, of course, but who lived not far from the Capitol and watched the Capitol being built. And when she was going through a box of stuff, she found this poem that this W.T. Davis wrote literally living not far from the Capitol here and watching the Capitol being built, and I thought that was a pretty neat piece of history. And this guy was a poet and all kinds of other things and, well, it says he was: a believer in democracy, a frequent and opinionated author of letters to Lincoln newspaper editors, a lifelong poet, Unitarian, Mason, and student of Greek mythology. So I wanted to pass this out to you because I think it's a neat piece of our history. And I'm hoping in terms of this other issue here that some other public power districts in Nebraska will take this up because it's a neat way to pay for energy improvements. You just keep paying your regular energy bill, and now the part that you're saving in terms of energy will go to paying off the equipment or the caulking or whatever it is. And they found some really amazing savings in homes by really simple things like caulking around doors and windows and weatherproofing and putting insulation in attics and so on. And the pioneer in the state, again, is the Hastings Electric Utility in Senator Utter's district. So if you have any questions about that, you could ask me or Senator Utter or talk to Hastings Electric or go to the brochure here. And I do have to ask the question, was this a picture of our Clerk or not? They tell me it's not. (Laugh) Looks a great deal like it. Thank you very much. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Ashford, (laugh) you're recognized. [LB771]

SENATOR ASHFORD: Thank you. Where is Senator...is Senator Rogert here? [LB771]

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PRESIDENT SHEEHY: Senator Rogert, would you yield? [LB771]

SENATOR ROBERT: Certainly. [LB771]

SENATOR ASHFORD: Senator Rogert, do you have any comments on what Senator Haar just said? (Laughter) [LB771]

SENATOR ROBERT: Well, I saw this piece of paper come around with our Clerk's face on it and I thought it was the Sine Die invitation, but apparently it's a promotion for being an energy pioneer and I'm all for that for certain. We should all be energy pioneers. For... [LB771]

SENATOR ASHFORD: Well, we all were to some extent pioneers I suppose. [LB771]

SENATOR ROBERT: True. [LB771]

SENATOR ASHFORD: I mean, sure. [LB771]

SENATOR ROBERT: True. [LB771]

SENATOR ASHFORD: I have a question of Senator Carlson, if he would yield. [LB771]

PRESIDENT SHEEHY: Senator Carlson, would you yield to Senator Ashford? [LB771]

SENATOR CARLSON: Yes, I will. [LB771]

SENATOR ASHFORD: Senator Carlson, do you have any comment on what Senator Haar said? [LB771]

SENATOR CARLSON: I do because I looked at this and it's hard to read what's at the top and I thought it was the Nebraska caption. And then knowing Senator Haar, I started to read down through it and thought, this is about a wind tower, and I thought it's about the dumbest poem I've ever read about a wind tower. (Laughter) And then I realized that it's about the Capitol and all of a sudden it's a very, very nice poem, so. "We watched it grow with swelling pride Four hundred feet from side to side." You can see how this kind of sounds like a wind tower. "Deep sunk its wells of stony power To bear the mighty central tower. For straight and high the tower must stand To reach the dream of prairie land-The plain has spoken to the star, The breathless tower's a signal fire. A sturdy race has willed the thing In plowshare turn and hammer swing; Each man who toils throughout the state Has heaved the stone to make it great. The restless throngs of pioneers Have built it up thru sweat and tears; The men who laid the house of sod Raised finest stone with every clod. The hopeful teacher's patient time Has keyed the arch and run the line; The lesson learned the beauty sought Has blossomed now in

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Goodhue's thought. Of dream and labor blended O'er rural quiet, city's din It stands serene and splendid The poem of a million men." It does make a difference what you're thinking about when you read a poem. Thank you, Senator Ashford. [LB771]

PRESIDENT SHEEHY: Senator Council, you're recognized. [LB771]

SENATOR COUNCIL: Thank you, Mr. President. And very briefly I'll just take a few seconds to redeem myself. Senator Lautenbaugh threw me a curve ball by citing to a bill that didn't contain his criminal attempt and I just want to reiterate that he set me up on that one. The bill that he was referring to was not LB860 because I'm going in my head, LB860 had nothing to do with...and I thought I supported his LB860. But LB840 did contain the same provision, Senator Lautenbaugh, and you're correct. And one of the reasons I was shown as present not voting on LB840 was at the time it just wasn't clear to me what the difference was between LB771 and LB840 and I had already voted in support of LB771. So with that said, you are correct. They provide for the same editions of criminal attempt. I just needed to make sure that there were no differences since I had already voted for LB771. That's why the committee statement shows me present not voting on my good friend, colleague, and soul mate (laughter), Senator Lautenbaugh. Thank you, Mr. President. [LB771 LB860 LB840]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Lautenbaugh, you're recognized. [LB771]

SENATOR LAUTENBAUGH: Thank you, Senator Council, and it was not my intent to throw you a curve ball. I think everybody here knows what we are up to and I think we've used all the time we need to use, and so I'll yield the rest of my time back. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Langemeier, you're recognized to close on AM2504. [LB771]

SENATOR LANGEMEIER: Mr. President, now that we're ready to move on I'd ask, again, for the adoption of AM2504 and support of LB771. Thank you. [LB771]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the closing. The question before the body is on the adoption of AM2504 to LB771. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB771]

CLERK: 35 ayes, 0 nays, Mr. President, to adopt Senator Flood's amendment. [LB771]

PRESIDENT SHEEHY: AM2504 is adopted. [LB771]

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CLERK: I have nothing further on the bill, Mr. President. [LB771]

PRESIDENT SHEEHY: We will now return to floor discussion on LB771. Seeing no requests to speak, Senator McGill, you're recognized for a motion. [LB771]

SENATOR MCGILL: Mr. President, I move LB771 to E&R for engrossing. [LB771]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB771 advances. We will now proceed to LB779. [LB771 LB779]

CLERK: LB779, Senator McGill, I have E&R amendments first of all. (ER8221, Legislative Journal page 1228.) [LB779]

PRESIDENT SHEEHY: Senator McGill, you're recognized for a motion. [LB779]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB779]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the E&R amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB779]

CLERK: Senator Coash would move to amend with AM2324. (Legislative Journal page 1070.) [LB779]

PRESIDENT SHEEHY: Senator Coash, you're recognized to open on AM2324 to LB779. [LB779]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. I'm going to talk about what AM2324 does. I'm going to talk about where it came from. I'm going to give some other members if they so choose to talk about this issue. And then when we've had a short discussion about it, I'm going to have to pull this amendment and I'll explain why as well. AM2324 was my attempt or is my attempt to support a growing industry in our state which is ag tourism. I've been convinced that Nebraska can be a destination state for tourism, not a pass-through state, and this is an industry that has great potential. As I've worked with companies that do ag tourism...let me just give you a couple of examples of what that might be: these are ranches who invite folks to come on and experience ranch life through roping cattle, branding calves; these are guided hunts; guided fishing; outfitters on major rivers that provide canoes and tubes to go down rivers; archeological digs; things of that nature. That's what ag tourism is. And you've heard me say before that this happens to be a part of a larger industry which is number three in our state. When you talk to the companies that get into ag tourism and you ask them as I have, what's the number one barrier that you have to growing and expanding your business? What they will come back to you and say that the cost of liability insurance is really tough for us because we engage in what can be considered

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high-risk activities...and you can't argue with that--hunting, you got guns; horseback riding, you're in the outdoors. Those are some high-risk activities and they require companies to hang on to some liability insurance to protect their customers, to protect themselves should their customers get injured. So I started to look at ways that I could assist this industry in cutting down on the cost of their liability insurance. One of the ways that they came up with was to limit their exposure to liability, so we had a hearing on that. And we actually had two hearings on that because last year we had LB153 brought by Senator Lautenbaugh, and then a different version, LB830, that I brought this year. And these were two bills that were designed to limit liability, thereby, cutting down on the cost of the insurance. Both of those bills went to the Judiciary Committee, and the will of the committee was not to limit liability, not to limit the amount that somebody could get should they become injured. But there was will in the committee to help this industry and to that end, AM2324 came about which is a little bit different. And here's what AM2324 does. Rather than limiting liability, AM2324 gives a tax credit in the amount of up to 50 percent of the liability insurance costs not to exceed \$2,000 and the total across the state not to exceed \$100,000. So we limited the exposure to the state to \$100,000 and we found a revenue source and that was the 30 percent fund from the convention act. So the max that would have come out of there was \$100,000. And we brought that, we amended LB830, and we kicked it out of committee with a tax credit to try to help these companies out. Now, here's what happened. It costs the Department of Revenue about \$100,000 to change a form in order to allow for this tax credit. In addition, they need that money to reprogram software. So here's where we are, colleagues: I had a bill to distribute \$100,000 worth of tax credit to these companies to help them out and it's going to cost \$150,000 to do it. So unfortunately I can't move forward with this, that doesn't make sense. So that's where we are. So, colleagues, I want to talk to you a little bit about where we need to go with this industry and what we need to do as a body. If we're going to support this industry, we have to find ways to limit their cost, we have find ways to encourage their growth, and I'm committed to doing that. This is not just a...this isn't an urban thing, it's not a rural thing, this is a Nebraska issue because when tourists come to our state, they come through the big towns and they go to the small towns, especially when we talk about ag tourism. So this is an industry that is worthy of our attention. It's an industry that's worthy of our support. And I hope when we have the opportunity to support this industry, we will take advantage of that. So with that, Mr. President, I will close. I'll give anyone an opportunity to talk a little bit more about this industry, and then I'll come back and pull the amendment. Thank you, Mr. President. [LB779 LB153 LB830]

PRESIDENT SHEEHY: Thank you, Senator Coash. You have heard the opening of AM2324 to LB779. Members requesting to speak: Senator Sullivan, followed by Senator Lautenbaugh, Senator Pirsch, Senator Coash, and Senator Schilz. Senator Sullivan, you're recognized. [LB779]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. And first of

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all, I rise in support of Senator Coash's efforts to help out what I think is a growing industry, particularly in rural Nebraska. I think it's part of the mix of what we need to look at to keep communities and small businesses and families going in our small, rural communities. And while I recognize the need to withdraw the amendment because of our...the fiscal impact, I think going forward we're going to revisit this whole area in a lot of different ways. We did this session with LB926, the signage that will help some of these wineries that are developing across Nebraska. And, you know, it's been said I think in a number of different times by different individuals that there are parts of Nebraska that are just really well-kept secrets, and to draw in individuals off the interstate to experience some of these things can bring significant dollars in. Just in my district alone, we have one ranch family that has developed a tourism business that has some lodging, it's close to the Calamus Reservoir. Their cabins are booked up for three years out. Their business has enabled one of their children and her family to return to the ranch. So it's keeping young people in rural Nebraska. A lot of attention oftentimes is given to the Niobrara River for canoeing, but I have the Cedar River in my district and on one weekend this last summer, there were over 300 canoes going down the river on any given day. So, again, lots of tourist dollars coming in. Bed and breakfasts are continuing to crop up all across the area in rural Nebraska. So this isn't something that we're going to address with one big piece of legislation. I think it's something that we need to attend to and monitor, engage conversations with the people that are involved in these businesses, and find ways to help them out. Maybe this amendment isn't going to go anywhere, but I can assure you that we will revisit the issue and try to find ways to encourage the development of this. So thank very much. [LB779 LB926]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Lautenbaugh, you're recognized. [LB779]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And thank you, Senator Coash, for bringing this bill, this amendment I should say now. Senator Coash is right. This is an effort that I was contacted about two years ago and had a bill in that would have provided for a limitation on liability for some of these entities, and the thinking was and is in my mind that the cost of insurance becomes prohibitive because some of these activities are inherently risky activities. Having people who might not be accomplished horseback riders out on ranches and whatnot, I think we can see what obviously can happen there. My bill failed. I don't think it came out of committee. There wasn't...there was a lot of resistance to the limitation on liability, and I don't want to go down that road again. And Senator Lathrop and I have clashed over a certain group from time to time. I think I decided to call them the visiting nurses last year to avoid controversy but that's not who it was, and they did not want a limitation on liability, so I couldn't get out of committee. Senator Coash comes this year with this which would provide a tax credit to help cover the cost of insurance for some of these entities, again, to promote tourism, something we need to promote throughout the state. And we're told that the cost of providing the tax credit exceeds the amount we set

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aside for the tax credit which, of course, is worse than disappointing. So this will move on to another year. But if we are to have a hope of revitalizing greater Nebraska and bringing more tourism out there, we need to address this and provide more opportunities for people. Some parts of the state are doing very well, but we could all share in that, and there could be more to do in Nebraska and more places to visit and we just need to do something to encourage this. And I think the states around us have historically done a better job at it and that's regrettable because we're losing. And I, again, applaud Senator Coash for bringing this. We'll probably try something again next year. I appreciate the information from the Department of Economic Development. They first motivated me to bring my bill last year, and I'm sure we'll be talking about it again next year, but this is important and it's important for all of us and it's not an issue we can just let die as it will today for this session. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.) Resuming floor discussion on AM2324. Members requesting to speak, Senator Pirsch, followed by Senator Schilz, Senator Hansen, Senator Dubas, and Senator Coash. Senator Pirsch, you're recognized. [LB779]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate Senator Coash raising this issue here today. I think it is one that is very deserving of our attention. There is quite a bit of undeveloped potential for tourism in our state that we're leaving on the table currently, especially in rural areas of our state which really should be a focus of ours here in the State Legislature. Those are areas that really are in dire need in many instances of economic activity, and I think that because of the unique character of our state, it really does developing these areas for tourism play to our strengths. We have just a wonderful state to do this in. We're always talking about here in the Unicameral about ways to bring in new dollars to the pot, that is to say bringing money from outside the state, has the multiplier fact and leads to new job development here in the state. One of the impediments has been historically that has kept small businesses from entering into this arena, developing their recreational tourism is the liability costs and those are substantial. And so it is an issue that needs to be addressed and I do recognize that there's many ways, if you pardon the pun...pardon the saying, to skin the cat. So I think raising this is an issue in looking at creatively different ways of addressing that problem. I think, as long as we all agree that that is something that needs to be addressed, that we'll come up with an answer that is...works for Nebraska. Again, the reasons I support it, it brings new capital into the state, would allow our farmers and ranchers in rural areas to supplement their primary income and that's, you know, the difference between shutting down operations and continuing operations in a lot of Nebraskans' case. And it would also allow or provide for those in Nebraska who are looking to vacation in a relatively short distance from home more vacation opportunities, and that would have the side benefit of letting those dollars remain in the state which is very important in our struggling economy. So for all those reasons, I do appreciate Senator Coash bringing this issue before this body. I'll continue to listen to

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the debate. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Schilz, you're recognized. [LB779]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I'd just like to stand up and tell Senator Coash thank you for bringing this amendment and this important issue for our state. I believe he's exactly right. I think that the state of Nebraska is a tourist destination, can be a better tourist destination. My end of the state, Keith County, Lake McConaughy, Chimney Rock, all along in my district there's all sorts of areas and tourists attractions, and ag tourism is a huge part of that. And any way that we can help those folks to help strengthen that industry and give them the tools they need for success, I think is exactly what we need to do. So commend Senator Coash. I hope that he continues to work on this, and I'd be more than happy to help him try to move this forward in the future. Thank you very much. And with that, I'd give the rest of my time to Senator Coash, if he'd like it. [LB779]

PRESIDENT SHEEHY: Senator Coash, you're yielded 3 minutes 50 seconds. [LB779]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Schilz. Thank you to my colleagues who have stood up and supported this particular industry. In the time that I have, I want to talk about the fiscal note that I mentioned earlier because it is confusing to me how it's going to cost \$150,000 just to give away or distribute \$100,000 because I had...I pulled a couple of other bills that were tax credits, and this is nothing about these particular bills, but it's confusing to me because we had a bill in 2006 before I got here that gave a \$3 million tax credit to beginning farmers and it cost us \$7,000 to give away \$3 million. I don't get it. We had another bill in '07 which was going to give away some amount, \$250,000 and it cost us \$74,000 just to give away \$250,000. So there is some inconsistencies in how we do this, and I certainly don't want to point fingers at the Department of Revenue or the Fiscal Office. They tell us what the costs are to implement particular bills and we have to take that for what it's worth, but I'll be working over the interim to figure out a way to make it a more convenient way and a less costly way to distribute funds. Here's the deal: It tells us it takes \$100,000 to reprogram a computer. It's a big computer. I'm not going to dispute that figure, but I hope that we can continue as a body to look at the costs of implementing programs because when the cost of implementing something outweighs the benefit of it, we don't move very far. So I thank you, again, for my colleagues and their support of this industry and we'll continue to work with it. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Coash. (Visitors introduced.) Resuming floor discussion on AM2324. Members requesting to speak: Senator Hansen, followed by Senator Dubas, Senator Coash, Senator Louden, and Senator Harms. Senator Hansen, you're recognized. [LB779]

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SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, want to stand and thank Senator Coash for trying to get some tourism going in the state. I do want to tell people, if they're westbound on the interstate as soon as they lose sight of the arch at Kearney that the tourism really starts. And I want to give you a few examples of that. Buffalo Bill, Congress of Rough Riders started in 1883, 127 years ago, and we continue that tradition on today. We celebrate that with the Buffalo Bill Rodeo every year in June as a part of NEBRASKAland DAYS, the only true statewide celebration in the state. We have Fort McPherson Cemetery, one of the first national cemeteries that have pre-Civil War veterans buried there. We have Union Pacific, the largest classification yard in the world, and a golden spike that's eight stories tall that you can look over this huge complex at North Platte. We have Rail Fest now in September which draws in a lot of people to celebrate the history of the Union Pacific Railroad. What Senator Coash is talking about agritourism and ecotourism, ecotourism is a term that people can go walk along the banks of a creek. As simple as that sounds, people love to do that out in the country where they don't hear cars. I would also say that Lincoln County, my district, has somewhere between 150,000 and 200,000 head of feedlot capacity every year, and we are an ag-friendly county. We're willing to grow agricultural and willing to grow the ag tourism that's there. I know we have a problem with the liability insurance on private lands, and that needs to be addressed and I certainly appreciate Senator Coash trying to address that. I think we'll work in the future. I just want to let you know that you're all welcome to come to Lincoln County, probably the leading county in the old business of rodeo, and it'll be the third week in June. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Dubas, you're recognized. [LB779]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. I will stand and echo most of the comments that have just been made. Appreciate Senator Coash's attention to this issue, it is incredibly important. And we can continue to kick this can down the road, this liability issue, but we must deal with it if we're going to develop the tourism industry, especially in rural Nebraska. In my mind, that is the stumbling block, that is the obstacle that's preventing us from developing these additional types of tourism attractions. There's a lot happening out in...all across Nebraska and especially once you get off, you know, the...outside of the I-80 corridor, there's a lot of things for people to participate in. But when you talk about small mom-and-pop-type businesses, the liability issue is, it just makes it impossible for them to develop that business because it's so cost-prohibitive but yet it is something that they must have to protect themselves and the business that they're trying to grow. So we've just got to find some way to help these types of businesses, especially the smaller mom-pop-type businesses to address this liability issue. So I commit myself to Senator Coash to help in any way that I can to find some resolution to this problem because, again, until we find a solution, we are not

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going to be able to move this industry forward. But just as some of the other senators have mentioned, things that are going on across Nebraska, we have the Junk Jaunt in the summer. That's the state's biggest garage sale and it's really picking up a lot of steam and a lot of interest where you travel from community to community through central and eastern Nebraska and find all sorts of wonderful treasures to buy. We have the Highway 14 Association who work with all of the towns and communities along the Highway 14 corridor in helping them put events together and promote those events and get people to actually come to those events. So we have people who are committed to developing the tourism industry in our state and who are working hard to make it happen. But, again, this one big issue with liability continues to keep it from moving forward. Senator Hansen mentioned agricultural, and ag tourism is an incredible opportunity, a niche market for farmers and ranchers to develop to help not only generate additional income, but we have to reconnect with those people who no longer have that connection to the farm. We are three and four generations removed from the farm. Everybody thinks their milk comes from the grocery store and their meat comes from the meat counter. You know, we have to find ways to reconnect with our urban cousins. We must promote our own industry,... [LB779]

PRESIDENT SHEEHY: (Gavel) [LB779]

SENATOR DUBAS: ...and there are a lot of opportunities for agriculture to get involved in tourism through having farm visits and those types of things where we can actually get people onto a working farm and show them what's happening and help them understand and make that connection. But, again, bringing people who have no connection or understanding to the farm, on to a working farm, is a huge liability issue. So, you know, I just don't think we can emphasize enough just how much we need to address this issue if we are serious about developing the tourism industry in Nebraska. Appreciate the work that Senator Lautenbaugh did with the bill he brought forward, Senator Coash continuing to carry this message forward. And, again, I pledge my support in helping us find ways to address the liability issue and get some additional tourism dollars into rural Nebraska; it's our third largest industry, we just need to find a way to make it grow. So thank you, Senator Coash, for your work. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Coash, you're recognized. [LB779]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Dubas, Senator Lautenbaugh, Senator Schilz and Sullivan for your comments on this industry. I certainly take this as a sign that this is a priority for our state and I appreciate that. Our number three industry should have that kind of priority to it. I thought I'd just take a few moments to explain why liability insurance for these ag tourism companies seem to be very high. There's a couple of reasons for it that we flushed out during our committee hearing, and the first reason is this is a newer industry to our state which means there isn't a large

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claims history to this particular industry, and because there's not a large claims history, insurance underwriters have to cover their basis and they have to plan for the worst-case scenario. We talked with a log of ag tourism businesses that had never had a claim, even in their short five years, they haven't had a claim and yet they can't find insurance companies who will listen to them and cover them. If your particular ag business is tied to a farm or a ranch, the only way you can move forward with your operation is to tie your liability to your overall farm or ranch insurance which, as the farmers and ranchers in the body will know, that's not cheap either. Colleagues, I know Senator Louden had something he wanted to say about this. I'm going to give him a minute and then after that I'm going to pull this amendment. I appreciate the support of the body and I look forward to working with you in the future. Mr. President, I do yield some of my time back to...over to Senator Louden. [LB779]

PRESIDENT SHEEHY: Senator Louden, you're recognized. [LB779]

SENATOR LOUDEN: Thank you, Mr. President and thank you, Senator Coash. I, too, certainly support the tourism and how we can do away with some of the liability that goes with it. In fact, I have introduced some legislation here to help somewhere along the line if it...here in 2008, it was LB566, and if any of you remember the Chadron Fur Trade Days goes on up there in Chadron, it brings in 30,000 to 40,000 people. It's a big deal for about three or four days. And there was a person that was walking across the lawn of the courthouse that stepped in a little bit of a depression, broke their ankle, and sued the city of Chadron for a bundle of money and, consequently, that went clear to the Supreme Court. And so we had to put something in there to put a cap on the amount of liability that cities and universities were liable for in something like that. And this is what has always been the problem as I work through this over the last eight years on tourism and liability insurance is the fact that it's hard to get something going out there that would protect these people and that are bringing tourists out there. If you have anything and you say anything about a horse, why, your liability insurance goes up over the top. If you have some type of a vehicle and you take tours out the pastures and the hills, if these people happen to get out of those vehicles and step in a hole or hurt themselves or, heaven forbid, if they get bite by a rattlesnake or something like that, your liability will take anything you've ever owned and the rest of your life. So somewhere along the line if we want to develop this for tourism we need to pass more legislation to put a cap on the amount of liability that someone can be sued for, and there has been various ways of doing this over the years, some of them have succeeded. Though, like I said, LB566 in 2008 did succeed, some of the other ones are hard to get by. A lot of times your trial lawyers aren't satisfied with what it is. So we have very many issues... [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR LOUDEN: ...to work around in order to get something like this going. But I

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certainly thank Senator Coash for bringing the idea forward and I do see that he has found out what full-time employees are all about when he talks about trying to give away some money and it cost you \$75,000 (laugh) to do it or something like that. So somewhere, if we can pass legislation to put a cap on the liability, we don't have to have a full-time employee. Thank you, Senator Coash and thank you, Senator...Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Coash. [LB779]

SENATOR COASH: Thank you, Mr. President. At this time, I will withdraw AM2324. [LB779]

PRESIDENT SHEEHY: AM2324 is withdrawn. Mr. Clerk, do you have items for the record? [LB779]

CLERK: I do, Mr. President. Senator Pirsch would offer LR554. Name adds to LR538: Senators Janssen, Karpisek, Price, Sullivan, Pahls. (Legislative Journal page 1356.) [LR554 LR538]

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

PRESIDENT SHEEHY: You've heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand at recess.

RECESS

PRESIDENT SHEEHY PRESIDING

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

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

PRESIDENT SHEEHY: Do you have items for the record?

CLERK: Mr. President, Enrollment and Review reports LB931, LB987, LB987A, and LB1014 as correctly engrossed. That's all that I have at this time. (Legislative Journal page 1357.) [LB931 LB987 LB987A LB1014]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will continue with LB779. [LB779]

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CLERK: Mr. President, LB779 on Select File, the next amendment to the bill, Senator Heidemann. Senator, I have AM2510 but I have a note you want to withdraw that particular amendment and offer AM2523. [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

PRESIDENT SHEEHY: AM2510 is withdrawn. [LB779]

CLERK: AM2523, Senator. (Legislative pages 1357-1358.) [LB779]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM2523. [LB779]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor, fellow members of the body. Many times, unless it's on the budget, at least this year I haven't did a whole lot of substantial things, and a lot of times I stand up here that we catch something in the Fiscal Office and I have technical corrections that are technical amendments, and I do them a lot on the A bills. I want to stand before you today that if you actually are looking at AM2523, it looks like a very small amendment. There's not a lot of words to it, but I will tell you that this is not a technical amendment. If we adopt AM2523, we are going to use a mechanism in LB779, Senator Lathrop's bill, and it would allow a horse racing track to be built and utilizing this funding source. I will go on to say that this probably isn't an easy one for me. I haven't, through the years, been the biggest fan probably of the Convention Center Funding Act, the sales turnback. I came across this decision though. We've had a couple of bills before us in the Legislature this year that would have helped the horse racing industry. It would have been with the expanded gambling. And both of those efforts failed. And during the last one, when we had to go for cloture, I was talking to somebody from the industry and who was trying to get me to vote for cloture, and I will say that I actually did not, I asked them: What do you really need? What do you want? And she indicated to me, she says we need a horse racing track to replace the one out at State Fair Park. And I said: Have you ever thought of something besides expanding gambling to do this? And she says: No, we can't ever come up with anything else. And that night I drove home and the next day I drove back, and a lot of times that's when I do a lot of my thinking, and...when I do think. (Laugh) And I come to the conclusion that there had to be something out there, and it struck me that Senator Lathrop had a bill out there to use sales throwback and could we use it for this? And I approached him that morning and he kind of started to expand it a little bit. And we decided that this could be a vehicle and this could be a way that we would be able to help this industry out. I'm doing this out of guilt a little bit because I had always told these people that I actually support the industry and up until this time I have never come up with anything that actually showed them that. So I am going to offer this amendment and I'm going to put it out there and see what the body is going to think and see whether they take this and run with it or they have concerns. I think this is a way that we will be

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able to help this industry if this body so desires and thinks that we should this industry without going to expanded gambling, which we've had trouble with that in here. If you have questions I can try to address them. I think Senator Lathrop, the technical part of the bill, would be a little bit better person to bounce that type of question off. My bill is...my amendment is very simple and straightforward though. This will allow a racetrack enclosure licensed by the State Racing Commission to be utilized under this mechanism of LB779. And with that, thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. (Visitors introduced.) You have heard the opening of AM2523 to LB779. Members requesting to speak are Senator Avery, followed by Senator Lathrop, Senator Harms, Senator Stuthman, and Senator Fulton. Senator Avery, you're recognized. [LB779]

SENATOR AVERY: Thank you, Mr. President. You recall, colleagues, that when we debated LB1102, I opposed that. I tried to make clear then, and I will reiterate it today, that my intent in opposing LB1102 was not to do harm to horse racing or to disrupt the industry in any way, and certainly not to do harm to those people employed by that industry. My opposition was motivated by the social and economic costs of expanded gambling, and that was it. I am happy to support this effort. I will vote for this and I will urge all of you who joined in that opposition to LB1102 to join with me in supporting this. This is the right approach. We should not have expanded gambling in order to save horse racing and I'm not sure that it would have. I do believe, however, that this approach is a good one. I have spoken in favor of sales tax turnback and I've described it as a creative, new instrument for economic development. This is an appropriate way to use it. And I would simply point out to you that what is being proposed out on 84th and Holdrege is a new horse park. It is to be called Goldenrod Downs. It would give racing a new home after the university takes over State Fair Park and demolishes the current racetrack there. There are a number of features in this new park that are really worth looking at. It will be a mile-long racetrack; a grandstand, as well, to replace the five-eighths mile track at State Fair Park. There will be a multipurpose equestrian center that will house shows and other special events. There will be space for UNL's growing equine science programs and student groups like the equestrian horse judging and rodeo teams will be able to have space there. There will be a permanent year-round home for Sunrise Equitherapy, which is a kind of equine therapy for young kids with disabilities. Right now, their operations are spread throughout Lincoln. It will provide parking for up to, I don't know, several thousand cars, 1,200 horse stalls, 2,000 camping spots, horse trails and other facilities that could be shared among all the people interested. Restaurants and hotels and other commercial properties will boost economic growth in the area. The Lancaster Event Center, which is out there as well, will benefit from this. They just recently finished an \$8 million expansion and they're looking to grow their campus even more. This is a good project. I've talked to some people at the university about their needs today, and while they emphasized that they are not getting involved in this debate, they did point out that current rodeo facilities are completely

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inadequate on the East Campus. They do, in fact, need an off campus equine center and that this would be a big asset to the university. The current animal science complex has only 20 box stalls, 10 temporary stalls, and room for 15... [LB779 LB1102]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR AVERY: ...in outdoor pens. There is no room for expansion on the East Campus for these operations and they need to locate off campus in order to have adequate stalls, classrooms, and space for other activities. The rodeo program is growing. I've attended many of these events and I find them very entertaining. More and more students are entertaining into equine studies. The university needs to have a new facility. This is a good idea and I think that we ought to get behind this amendment, and I want to thank Senator Heidemann for bringing it. If I get a chance later, I'd like to talk to you a little bit about a course that's being offered at the university in equine studies. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Lathrop, you're recognized. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm actually glad I'm following Senator Avery because his description of what might take place out by the Lancaster County Event Center sounds like a very ambitious project, and it is. You should understand that if this amendment is adopted that any development out there with turnback dollars would be subject to the same constraints that are found in LB779 that you embraced on General File. They can get turnback but it's within a 600-yard radius. It doesn't go a mile. And you should also know that notwithstanding some terrific ideas about what might take place, that what we are offering to this industry is a small piece of what they need to make a reality of what Senator Avery just described. In other words, I don't want you today to listen to his description of what's going to happen out there and expect that it'll all be taken care of with turnback dollars. It won't. This is an industry that I'm familiar with, the horse industry in this state. We have a lot of people who make a living in this industry and it is in trouble. And that might be one reason to be sympathetic to Senator Heidemann's amendment. Certainly it sounds like part of the motivation behind offering it. But understand that when we look at turnback projects like those that will follow the passage of LB779, what we are talking about is a tool for the local community to start the economic development engine in an area. These projects don't work if you drop a horse track somewhere and it doesn't create development. So the question ultimately, and I can tell you in talking to the folks that are involved in this industry, this isn't the magic bullet. It doesn't save horses. It doesn't save the industry, but it's a start. It's something the horse people can bring to the table along with gathering resources from other places to try to make it work. Are they going to use this? They may or they may not. But it will be available to them if they can bring all of the players together to try to make something, that Senator Avery has just described, work.

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I also want to talk about it in another context, and that is we very, very shortly, or very recently, rather, went through a long discussion about the historic horse racing and the concern over expanded gambling. Understand, this does not create any more devices to gamble with; doesn't create any more situations. It simply provides an opportunity for, in all likelihood Lincoln, if anybody, to provide a horse track and that's it. They won't be bringing slot machines into these horse tracks. They won't be doing anything here that they weren't doing already in Lincoln that they are not doing in Omaha or that they're not doing in Sioux City (sic) or in Grand Island. So I think it's worth providing this tool. It's worth looking at it, understanding that even the industry recognizes that if this amendment is adopted and this tool is available to this community, that it doesn't mean it's going to happen. It will take the investment, I suspect, from private individuals... [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR LATHROP: ...as well as turnback, and revenue is going to have to be created or turnback projects simply do not work. I think it makes perfect sense. I think it's consistent with what we're trying to do in LB779, and you should understand that ultimately these projects sort themselves out. If you take a cornfield and drop a horse track in the middle of it, there's not going to be any revenue to turn back, and so there has to be some synergy that happens, some energy that follows these kind of projects that create ancillary development, retail, and that sort of thing, to make them work. And I don't see the harm in giving them the opportunity and I would encourage your support of this amendment. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Continuing with floor discussion on AM2523, members requesting to speak: Senator Harms, followed by Senator Stuthman, Senator Fulton, Senator McCoy, Senator Wallman, and others. Senator Harms, you're recognized. [LB779]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Heidemann, would you yield for a couple questions, please? [LB779]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Harms? [LB779]

SENATOR HEIDEMANN: I will try. [LB779]

SENATOR HARMS: Senator Heidemann, I have a couple questions I'd like to ask you in regard to this amendment. Just let's review...first of all, how much is this project going to cost? To take this track and to build it, what's this going to cost? Do we have any idea or projections on the cost? [LB779]

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SENATOR HEIDEMANN: Well, I would probably have to go answer that...get that answered. I'm not 100 percent for sure. I've heard figures from \$15 million to \$25 million. [LB779]

SENATOR HARMS: How much money, Senator, in turnback dollars will they be able to receive if we vote on this amendment? What's the projections that we'll receive against this multimillion-dollar project? I mean, do we have any idea at all what this is going to cost us? Do we have any idea at all how we're going to reach or how they're going to address this issue? I mean, we're asked to give some money here from a sales tax within 600 yards or whatever it might be. We don't even know what the cost of the project is. We don't know whether they can raise the money or not. It would seem to me that we ought to have a proposal brought before us so we could actually see fiscally exactly what we're getting ourselves into and what the costs would be. And my biggest fear is we'll approve this amendment to help a dying industry...and I want to make it very clear, I'm not against people who raise horses and ranchers and...I just don't like the gambling aspect of it. And my point here is, how much is this going to cost us? We have no idea. We're going to approve this issue and I can tell you now they'll be back, most likely, and say it's not enough money and now we want to get into the general budget or general operational funds and we want to fund this. I haven't seen anything else that has gone through that people don't come back and ask for more money. And so what I think we need to have is we need to have a proposal brought before this Legislature, or before the Appropriations Committee, and we ought to review it so we have some idea whether this is a strong, appropriate fiscal measures. This is a conservative body. I've watched you kill projects for \$20,000 or less that actually had an impact on people--a positive impact that we killed. And now we're back in here and we want to have a discussion about an amendment to raise dollars for horse racing and we have no idea what it's going to cost. We have no idea how we're going to fund this. How can we fiscally look at this, colleagues? It's inappropriate. So, Senator Heidemann, do we have any idea on how this project is going to be handled? Do we have any idea about the proposal, fiscally? [LB779]

SENATOR HEIDEMANN: Are you asking me? [LB779]

SENATOR HARMS: Yes, I surely am, my colleague. [LB779]

SENATOR HEIDEMANN: This is going to be part of a larger development out there. Right now, as far as what this is going to cost us and what the actual fiscal impact of this amendment to this bill is actually, I've been told, very minimal to almost none, because it's been partly figured in already. As far as how they're going to be able to do this, this is just...I would call it maybe seed money. There are going to have to be other partners beside the state of Nebraska to make this work. [LB779]

SENATOR HARMS: So, Senator, we are willing to give seed money for gambling. In

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regard to the...we know the fiscal conditions of the state. I've heard that. I've been a part of that. I've been in the debates. [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR HARMS: Thank you, Mr. President. I've been in the debates in our Appropriations Committee. In all that time, Senator, you've been a great leader. I have never seen you take...bring a proposal forward that wasn't well-thought-out. And I'm not saying that you're not. I just want to know what the numbers are. I want to know what the proposal is. I think this body deserves to have it. Not only that, we're going to be using sales tax dollars that might be able to go somewhere else that would be appropriate, with a proposal that we could see, that we would know and what it would cost us. And now we're being asked to do this that I object to until we see the proposal and know that it's on strong fiscal grounds. We don't know that. And this is a dying industry, I don't care how you cut it. I've looked at the data. I've looked at the research, and it's clear it's a dying industry. And I'm not so sure this is going to save it. I think it'll come back to this Legislature and they'll be asking for more money. So, Senator, what are your thoughts? [LB779]

SENATOR HEIDEMANN: It would be my thought that...I mean, this is going to be... [LB779]

PRESIDENT SHEEHY: Time, Senator. [LB779]

SENATOR HARMS: Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Stuthman, you're recognized. [LB779]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask Senator Heidemann a couple questions. [LB779]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Stuthman? [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

SENATOR STUTHMAN: Senator Heidemann, how does this relate to existing racetracks that are functioning at the present time? [LB779]

SENATOR HEIDEMANN: It would be my thought it shouldn't. I mean, this hopefully is just an avenue to replace the track out at State Fair Park. This is...would probably be my thought. I don't believe that it would affect those other tracks at all. [LB779]

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SENATOR STUTHMAN: Okay. That is kind of how I'm interpreting it also. But initially I thought we were trying to come up with something that would try to benefit, you know, all of the tracks in the state of Nebraska. And, you know, in case the one doesn't get a new track built, there's going to be a real effect on the other tracks. I just want to give you some information that I did acquire from our local track there in Columbus as far as how much sales tax is concerned. And, you know, we're trying to survive in Columbus and I don't know how many more years we're going to be able to go. But the fact is, I got the amount of sales tax that is generated at our track in Columbus, and there's...it comes from, you know, a fair and from simulcasting. Most of it comes from forms and programs and alcohol sales. And what is generated from our track in Columbus is about \$13,000 a year or about \$1,000 a month. So that...it's not a big amount or anything like that. But I just felt that, you know, if this affected other tracks. But the way it sounds right now, this really only deals with the Lancaster track, the future track, and any potential occupancy within that area of that new track. And so I think there has to be something, some consideration to the fact that, you know, as Senator Harms says, yes, this may be a dying industry, but it's an ag industry. Yes, it is racing, but it has a real benefit to ag as far as jobs, as far as ag, hay, feed, horses, and everything like that. I just feel that, you know, if it doesn't have any effect on all of the tracks, which I'm understanding it don't, it's just to try to establish some type of funding to establish a new track when the existing track is going to be shut down. And when that existing track is shut down and if there is nothing to replace it, the simulcasting will really affect all the other tracks in the state of Nebraska, and I think that's what we've got to consider. If there is no Lincoln track, then I'm sure there's a good possibility that they may all go down at the same time. But maybe not. So I just think that we have to be very open-minded and consider the fact is, do we want to let this industry die? Do we want to help it? You know, I tried and worked very hard on, you know, the expanded part of historic racing, was not able to convince enough people that that was part of trying to get more revenue to the tracks. And in my opinion, that horse racing...and if any of you have ever gone to the horse races... [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR STUTHMAN: ...it's a form of entertainment that does take some time. Yes, people gamble on horses, but it does take some time from one race to the next race. It's a family entertainment. We have a lot of families that come out on Friday night. Kids play in the sandbox. It's just a form of entertainment. It's a social gathering and they bet on the horses. They don't bet a lot because they just socialize a lot. So I just think we have to be serious about the fact, do we want to allow the Lincoln track to fold and quit, and that will affect all the other tracks in the state, or do we want to try to have them continue with their racing? Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Fulton, you're

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recognized. [LB779]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Heidemann yield to a question? [LB779]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Fulton? [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

SENATOR FULTON: I noticed that you were deep in talks with Senator Christensen. He may have been asking the same question. My question is, if we are to move...if we do move AM2523 forward and the funding which is derived from this mechanism is not adequate for a new track, do you know if there is a plan...well, I wouldn't call it Plan B, but is there an augmenting plan, a way to augment revenue if, indeed, this is not adequate? [LB779]

SENATOR HEIDEMANN: We could almost probably guarantee that this won't be enough money. There's going to have to be a lot of partners that step forward, whether that be individuals that are interested in this, the Horsemen's Association, the county. The University of Nebraska, especially probably the Foundation, they have interest because of the track had been out at State Fair Park and that no longer will be. We think they have...would have interest. Other development, like equine therapy and things like this are going to have to step up and be part of a larger picture to make this work. [LB779]

SENATOR FULTON: Okay. This amendment doesn't affect the...the fiscal impact that would have been experienced as a result of LB779 doesn't change, to the state, as a result of AM2523. Is that an accurate statement? [LB779]

SENATOR HEIDEMANN: That's what I've been told. [LB779]

SENATOR FULTON: Okay. Thank you, Senator Heidemann. The concern that I had previous--and it wasn't just my concern; there are others who had the concern also--was that we would be taking a vote which contradicts. Had we voted for the bill previous that would have expanded gambling, my concern was that it would have directly contradicted what was voted on in 2004, and...I mean, it would have. That was my position and I've...and the words indicated that. I think it could be argued that this is an expansion of gambling. But at the same time, it is not a contradiction of the words that we voted on in 2004. So I ask the questions because I see that if indeed we provide revenue, I don't want to have to have that debate again, bringing, you know, gaming machines into question again as a means of funding the horse track. I hope we don't have to have that debate again. But it's important to look into the future and see that

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that could be a possibility. So I put this into the record as a kind of a marker so that we can look back into the record and see how this idea developed. With that, I think AM2523 is an innovative way to get some help to this industry and I think that I'll vote in favor of it, therefore. I don't think it contradicts anything that we voted on specifically, at least, you know, by words. I suppose it could be argued that the principle of expanded gambling would be worked against here, but at least the words aren't. So I'm leaning in favor of it right now. If anyone else has any ideas as to how extra funding would be provided in the future, if anyone is positive that this would not involve gaming devices in the horse tracks, again going into the future, then I'd appreciate that. It would be useful for the record and it probably would help AM2523 to move forward. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator McCoy, you're recognized. [LB779]

SENATOR McCOY: Thank you, Mr. President and members. I stand in full support of AM2523 this afternoon and I applaud Senator Heidemann for this approach to a very thorny issue that we've dealt with in recent weeks. I think it's a commonsense approach to an industry that needs some assistance, and Senator Heidemann talked about this being seed money and I think that's a very accurate portrayal of a situation, and that many partners would need to be found in order to make a project like this work, and I have confidence that those partners will be found. That this industry, in cooperation with others, will find the funding resources that they need to make this project happen. And again I applaud Senator Heidemann for this idea that's developed into an amendment that I support. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Wallman, you're recognized. [LB779]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Good afternoon. I, too, support this amendment. I think it's a little way to get things started and support the horse people. And as I've said before, I have horse breeders in my area and if you get quality horses I feel the crowds will pick up. A dying sport a few years back: the tractor pulling. And it's picked up now tremendous. Sometimes events like that go up and down. So I feel the horse racing is ready to go back up. More crowds. It's an event. And Churchill Downs and some of those places out east, they've never went down in attendance to speak of. So I think we can have the same thing here in Nebraska if we have another racetrack. We can get quality horses and quality horse owners. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Members requesting to speak on AM2523, we have Senator Giese, followed by Senator Avery, Senator Janssen, Senator Christensen, Senator Harms, and Senator Campbell. Senator Giese, you're recognized.

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[LB779]

SENATOR GIESE: Thank you, Mr. President and members of the body. I stand today very conflicted about AM2523, and the reason is because I believe it was about a week ago we all sat here and listened to the debate on historic horse racing and the impact on the racing association in Nebraska as a whole. And I applaud Senator Heidemann for his efforts and trying to think of a way that we can address that. But I think that there really is only one reason that why we're talking about AM2523 today, and that's because LB1102 didn't pass, to be quite honest with you, the historic horse racing. I am all for trying to save the horse racing industry in Nebraska. In my opinion, that was the reason behind LB1102. And I appreciate all the senators' support on LB1102 and would just like to ask Senator Avery if he would yield to a question. [LB779 LB1102]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Giese? [LB779]

SENATOR AVERY: Of course. [LB779]

SENATOR GIESE: Senator Avery, in your opinion, would AM2523 lead to expanded gambling? [LB779]

SENATOR AVERY: No. It is my...I'm not an expert on gambling but I don't think it would. [LB779]

SENATOR GIESE: Excuse me, Senator, but you were an expert on gambling last week, or on LB1102, but today you're not? [LB779 LB1102]

SENATOR AVERY: I wasn't an expert. I did, though, have what I think were reliable facts about the social and economic costs of expanded gambling. [LB779]

SENATOR GIESE: Senator Avery, if I may for the record just say I think I heard you discuss historic horse racing for four or five hours, and the costs associated with gambling, and I only point that out because I really see hypocrisy on the floor today with the gambling issue, and I feel that it's unfortunate that Senator Heidemann's amendment only deals with one particular racetrack and that's in Lincoln. We are talking about a group of individuals that have been involved in the horse racing industry. And Senator Lathrop, the track is in South Sioux City, not Sioux City. And I think that, as I said, I applaud Senator Heidemann for what he has done, but I really think that why we're here today is because LB1102 did not pass. I will listen to further debate, have not decided on that today. And I thank you for your support. [LB779 LB1102]

PRESIDENT SHEEHY: Thank you, Senator Giese. Senator Avery, you're recognized. [LB779]

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SENATOR AVERY: Thank you, Mr. President. I'm glad that I came into order when I did because I have just been accused of hypocrisy, so I think I need to answer that. My good friend, Bob Giese, thinks that my position on this amendment makes me hypocritical because of my opposition to expanded gambling. Actually this is not gambling unless you think of the betting on the future of expanded economic activity as gambling. I can tell you that my opposition to LB1102 was based upon what I think are bad economics in expanded gambling. Horse racing is already a legal form of gambling in the state of Nebraska. What we were talking about with LB1102 was expanding that. Let me tell you that I have here some of the projected plans for what would happen out on 84th Street if the turnback authority is passed and does what we would hope it does. I can look at this schematic here and I see six commercial properties that they anticipate that would be developed. Space is already set aside for them. Those commercial properties include at least one hotel with a capacity of 200 rooms. This is the kind of economic activity that sales tax turnback authority was designed to spur, encourage, and to utilize in generating sales taxes that could be turned back for the development of such things as the horse racing track. I mentioned when I was on the mike last time, that there are some activities the university has in mind for this park that are worthy of note, and one of those would, of course, be the expansion of its equine studies program. I have here a syllabus for a course entitled "An Introduction to Equine Assisted Activities." This would be open to any UNL student. It's worth two credit hours and it was offered this spring on Fridays from 9:00 to 9:50. This is an interesting introduction to what you can do with equine therapy. The course includes, of course, history of therapeutic riding, the purpose and benefits of therapeutic riding, equine-facilitated psychotherapy, cart driving, the treatment plans and teaching strategies for those with physical and cognitive disabilities, types of adaptive riding equipment, anatomy of the therapy horse, hands-on activity for the people who might be using equine therapy, job opportunities in the therapeutic riding industry. These are the kind of things the university does today and they would like to expand on that. Not limited to classroom activities but also would involve sports activities like rodeo competition. I believe that this is a worthy use of sales tax turnback authority. I believe that you can support this and still be opposed to expanded gambling and not be hypocritical. So with that, Mr. President, I would end and listen to the debate and hope that others will agree with me. Thank you. [LB779 LB1102]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Janssen, you're recognized. [LB779]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I actually pushed my button. Originally, I was going to call the question since I've been doing that lately, been sharing that job with Senator Wallman, but I don't think we probably have talked enough about this just yet. I do support AM2523. You know, I like the fact that we can go back and talk a little bit about LB1102. I don't think that actually rose to the level of expanded gambling, but just like Senator Heidemann was talking about, I intended to

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oppose LB1102 on the final vote. We never, however, got there. I did vote, you know, against the cloture motion but I just...I asked, and I've asked several times, tell me something I can do to help that doesn't expand gambling. Tell me something I can do. And even asked my staff that: What can we do? And I should have probably been talking to Senator Heidemann. So it's for that reason that I will support AM2523, and with that I'll just yield back my time. [LB779 LB1102]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Harms, you're recognized. Senator Harms. [LB779]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Heidemann, would you yield again, please? [LB779]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Harms? [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

SENATOR HARMS: Senator Heidemann, I'm not picking on you today. [LB779]

SENATOR HEIDEMANN: Feels that way (laugh). [LB779]

SENATOR HARMS: I know. I apologize that we're...yeah, we've been through a lot of battles together in the Appropriations Committee. It has nothing to do with you. It just happens to deal with the principle that I don't agree with here at this point. The question I wanted to ask you, Senator, in regard to this amendment, do you believe that the public policy of this great state should be supported...or we should support gambling? Because when we do this, we're using sales tax and we're saying to our public that we are willing to use tax dollars to support gambling. Is that correct as you see this? [LB779]

SENATOR HEIDEMANN: You know, Senator, I wouldn't have my name on this if I thought this was expanded gambling whatsoever. If you remember right, I think you was here when we did the State Fair Park and the State Fair moved to Grand Island, I wasn't in favor of that. One of the by-products of that, of some people that had nothing to do with that was these people that use State Fair Park for horse racing. And all we're trying to accomplish right now is to give them a horse racing track that they already have, but just at a different location. To me, this is not...has anything to do with expanded gambling or I wouldn't be here. [LB779]

SENATOR HARMS: I'm really not talking about family gambling, particularly. I'm talking, you know, they use the word "family." [LB779]

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SENATOR HEIDEMANN: Expanded. Excuse me. Expanded gambling. [LB779]

SENATOR HARMS: Oh, thank you. That's better for me. But you really...I want to go back to the original question I asked. Do you believe that--because this is tax dollars--regardless if we're trying to bail out an industry that's having some difficulty, do you believe that the public policy of Nebraska should allow tax dollars to be used for gambling? Because that's--you don't have to answer this, Senator--because that's exactly where we are. That is the discussion that we're going to have. And I guess I object to that. I don't think it's appropriate. Of all the fiscal issues we've got here in this great state, we'd be better off using those dollars to help some of the programs we killed earlier in this session, of helping people, helping kids. You know, when we did debate on LB1102, there was a lot of good information given and there is no question in my mind that this does destroy families. This does cause hardship for families. And I understand where we are. This is an ag state. I understand how important this might be to the university and it's a program for education. But I just keep coming back in my own mind and my own heart, is this truly the decision you want to make as a public policy that we are willing to contribute those dollars for gambling? Secondly, what bothers me is the fact that we have not seen a fiscal plan. We have not seen nor have we had a chance to look at this is exactly how this is going to work out. We're going to give them seed money, and I've never seen, at least in my time, for the short time here, have I ever seen a conservative body like this give anybody any seed money without asking a heck of a lot of questions about...I mean, how are you going to make this work; how are you going to make this function and what are the projections... [LB779 LB1102]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR HARMS: Thank you, Mr. President. What are the projections in the future in regard to making this a stable industry? I mean, I don't have any of those answers to any of those questions and I don't think anybody in this body has an answer to those questions. But I believe that's the kind of thing we need to be asking. You know, when the university brought forth the Innovative Campus and there was a lot of discussion on that, you know, they had a plan. They showed us, fiscally, how that was going to operate. They showed us exactly how that was going to occur and what was going to take place. And now we have a similar project, not as big, but they're asking for us to give them seed money without any proposal, without any background, without even bringing that before the Appropriations Committee or the Revenue Committee for review and discussion about whether this is appropriate or not. And that's the things that I'm objecting to and that's the thing I'm asking you, colleagues, to bring this thing back a year from now, and if you can... [LB779]

PRESIDENT SHEEHY: Time, Senator. [LB779]

SENATOR HARMS: Thank you, Mr. President. [LB779]

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PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Campbell, you're recognized. [LB779]

SENATOR CAMPBELL: Thank you, Mr. President. Several weeks ago when we were on one of the bills that brought into question the horse racing industry, and I'm very sorry that Senator Gloor is not here because his question that day for me was: What was my gambling record? And I have to say that in my lifetime I've been at the horse racing track twice and the dog racing once so I wanted to make sure that for the record I answered Senator Gloor's question. Colleagues, I do support this measure and I have spoken before to you about the other measures that we might have put into place for this racetrack. And I stand in support because I watched what happened with the State Fair Park moving to Grand Island and Innovation Campus becoming certainly a reality as we watch the plans, and I supported what you did in the body at that point and still do. I think those were great future plans certainly for our community and hopefully for the State Fair in Grand Island, but at the same time here was a racetrack that had been and an industry that had been at that location for a very long time, and I marveled at the fact that that group of folks did not stand forward and say, what about us; are you going to give us relocation money; are you going to help us? And to some extent they've tried to look outside than just the general funds, saying yes. Now I realize that the turnback tax does give them some money but on the other hand I think it's one piece. And Senator Harms has talked about seeing a financial plan. From the discussion among people locally, I can tell you that what they're trying to see is what pieces can they put together to make this work. There is not a doubt in my mind that there are private donors in Lancaster County that will step forward to help this industry who care very much about horses and horse racing. But I also think, Senator Harms, that unfortunately they've just tried to get one piece to look at what those other pieces might be. And I understand your concern about not seeing that financial plan, but for now the local folks in our community are just trying to figure out whether this is a piece, in order to know how to go ahead and put that plan together. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Lautenbaugh, you're recognized. [LB779]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I don't know if I arise in support of this or not. I do know I rise with a substantial amount of anger. Senator Avery, will you yield to a question? [LB779]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Lautenbaugh? [LB779]

SENATOR AVERY: Yes, I will. [LB779]

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SENATOR LAUTENBAUGH: Senator, are you actually able to vote on this? [LB779]

SENATOR AVERY: I am. [LB779]

SENATOR LAUTENBAUGH: Do you have a conflict of interest? [LB779]

SENATOR AVERY: None whatsoever. [LB779]

SENATOR LAUTENBAUGH: I saw nothing in the Journal. [LB779]

SENATOR AVERY: That's right, because I do not stand to gain nor lose financially from this bill...or amendment. [LB779]

SENATOR LAUTENBAUGH: But as I understand it, when you were contacted about Senator Giese's bill by the university, you said it was personal. So what exactly could that mean if you don't have a conflict of interest? [LB779]

SENATOR AVERY: You must be misinformed. [LB779]

SENATOR LAUTENBAUGH: Well, that's my bad then. I will say this: I regret that Senator Giese used the word "hypocrisy." I think he should have gone further. And I'm furious with this body that we would be here today trying to whitewash what we did last week by doing this trivial lifeline and pretending that this is something worth doing. And we'll go to our constituents and say, no, I didn't sell out the university; no, I didn't sell out the city of Lincoln based upon a grudge, because I voted for the turnback, which really isn't going to do much of anything. This is an outrage. And when you do something like this, I think you should have the decency to at least duck the next vote, not show up and pretend it was something it wasn't. We have killed jobs with what we did last week with that filibuster. And I listened to people moralize about gambling and then say, but wait, we can't do this because it will cut into keno revenue. I've been angry for a week about this and I'll probably just stay angry. I'm on the Karpisek side of the street now. This is maddening. This is maddening. And if you don't like being accused of hypocrisy, I would recommend that you don't be hypocrites. This is an outrage. This is a sham. We're going to see two tracks die in the next year, alone, and it is on us. It is 100 percent on us and anyone who knows anything about this, I realize all the experts from last week suddenly aren't as informed as they used to be, but anyone who knows anything about this knows that it's keno that killed this industry, not vice versa. This industry is dying and thousands of jobs with it. Problem gambling related to horse racing is almost nil, and yet we moralized and obfuscated and we'd go out in the lobby and declare our true motives and describe ourselves as old-fashioned politicians settling scores, but we put people out of work. We took away their livelihoods. And we should be ashamed. We should be ashamed of ourselves. And let's not look at this amendment and pretend it's something it's not. This is not even a fig leaf to cover what we did last week. This is a

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sham. This is an out-and-out sham. And I'll probably vote for the ridiculous thing because it's a lifeline. And I know we did something for the Lincoln Arena with the turnback without a lot of plan, and somehow that was okay, but now we need a plan for this racetrack. I wish we had a plan for it. We gave you a plan last week. It was "save the industry," and you turned up your noses at it, some of you. And we're throwing away jobs and we're throwing away livelihoods. And what I hope happens is you're confronted by the people whose jobs are going by the wayside, especially in this economy, and you have to explain what you did. And you can tell them you voted for this ridiculous amendment but I don't think that helps. I just don't think that helps. [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR LAUTENBAUGH: I won't take it, Mr. President. Shame on us. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.) Continuing with floor discussion on AM2523, members requesting to speak: Senator Hansen, followed by Senator Christensen, Senator Janssen, Senator Utter, Senator Wallman, and others. Senator Hansen, you're recognized. [LB779]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I took the time to go back. I knew there was a...there was one in the archives somewhere. And In 2008, the General Affairs Committee, under the leadership of Senator Vickie McDonald had an interim study on horse racing. It was LR345 and you can get it through the Legislative Research Office. So I encourage any of you that come on either side of this issue, get this. I don't know how long we're supposed to adhere to an interim study, but this one is only two years old. So I think we've done some research on this. And some of the things that...I mean, the history of it is quite interesting, how it was started in...Ak-Sar-Ben was started in the early 1900s, a constitutional amendment, the vote of the people; 1934, passed pari-mutuel wagering; 1987 Legislature said simulcast wagering is fine too; 1988, we had a constitutional amendment voted on by the people again and said simulcast voting was good. In 2007, the year before this report was done, 88 percent of interstate simulcast was wagering in the state of Nebraska--88 percent. So then we see the decline of active horse racing. I was asking Senator Gloor and he's not an expert on Fonner Park even though he lives there, but he's not aware of the number of race days they have. I think that's correct unless he's gotten the phone call. But I don't know how many days of racing there are either. I know in Horsemen's Park they race for three days, yet they bring in 51 percent of the pari-mutuel wagering in the state. State Fair Park brings in 21 percent; Fonner Park, about 15, almost 16 percent; Ag Park in Columbus, 6.7 percent; Atokad and Sioux City (sic), 4.9; and Fairplay in Hastings races once a year and is not even listed on here. The receipts back to the state are based on a .64 of 1 percent, or sixty-four hundredths of one percent. The State Fair Park, and we need to talk...get this straight with the proponents of State Fair Park because they are exempt...they get their first \$10 million worth of receipts

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tax-exempt, and then it's taxed at the rate of .64 of 1 percent beyond the \$10 million. What this amounts to is \$223,000 for the state of Nebraska in 2007. I don't think those...I don't know if gambling on horses is going up or down, but I would assume that it's about at that \$223,000-a-year income. I'm not sure how we can afford this if the state...I mean, we're going to lose money if...probably either way if we turn back money to help build a racetrack in Lincoln. I think all they really need is a room out at the 84th and Havelock area to watch simulcast and probably don't need a racetrack. I am against the amendment that Senator Heidemann, if I could read that, 2563, maybe 2526...AM2523. Okay, bingo. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Christensen, you're recognized. [LB779]

SENATOR CHRISTENSEN: Question. [LB779]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on AM2523? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB779]

CLERK: 25 ayes, 5 nays to cease debate, Mr. President. [LB779]

PRESIDENT SHEEHY: The motion to cease debate is adopted. Senator Heidemann, you're recognized to close on AM2523. [LB779]

SENATOR HEIDEMANN: Thank you, Mr. Lieutenant Governor, fellow members of the body. I do think we've had a good discussion. This is not a minor decision that this body will make, by any means. And don't get me wrong there, this is a major decision. We are expanding a little bit on what LB779 will do. I bring this before you, though, putting something out to help an industry. Senator Hansen--and I didn't get an opportunity to listen to what he had all said; I was talking to someone else--had given me a study, LR345, that the General Affairs Committee did in 2008, and they had a conclusion in it. The conclusion part of it says: This industry is in serious distress and it is an industry well worth saving based on the economic and environmental considerations. The industry is an important economic engine for Nebraska's agricultural community. You could argue with that and there are people that probably disagree with that, but it's the conclusion from LR345. It was also brought that we really don't have a plan what this is going to look like, and we're approving something that we don't know what it's going to be. I will say before this would get approved, they have to have a plan up and running and it had better be a good plan because they have to go before a board and they get to say either yes or no, and the people on this board are the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institutional. So this will be looked at. There

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will be a plan and it better...like as I said, it will be...better be a good plan. With that, as when I opened, I was looking for something to throw out and this is what I'm doing with this amendment to this body to try to help this industry. And that's all I'm trying to do. And it will be up to you whether this is a good idea or whether this is an idea that will help this industry. And it's a decision that we'll have to make and I will say that I would like your support on AM2523 and I hope you vote for it. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the closing. The question before the body is on the adoption of AM2523 to LB779. All those in favor vote yea; opposed, nay. There has been a call for a record vote. Mr. Clerk, please record. [LB779]

CLERK: (Record vote taken, Legislative Journal page 1358.) 32 ayes, 4 nays, Mr. President, on adoption of the amendment. [LB779]

PRESIDENT SHEEHY: AM2523 is adopted. Mr. Clerk, we'll move to the next amendment. [LB779]

CLERK: Next amendment, Mr. President, Senator Lathrop. Senator, I have AM2526. (Legislative Journal pages 1358-1359.) [LB779]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on AM2526. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. AM2526 takes care of some what I'll call procedural changes to LB779. And I will share with you this, that after General File I've had an opportunity to visit with the Governor's chief of staff to address some concerns that were expressed regarding procedural matters in LB779. They are additional safeguards to make sure that LB779 does what we talked about, and I'm going to go through those with you. And I think perhaps it's timely that we do this in the wake of the conversation we just had on the last amendment, and let me tell you why. The last amendment, the discussion about turnback took on a tone that somehow turnback is about stuffing money in some local project without thought, without regard to what it does for a community, and I want to take you back for a moment to the original intent of LB779. And the original intent is also going to govern the process that might be employed in the event there were to be a track. If you--and I'm not on the amendment yet--but if you were to believe that your community had one of these projects, let me go through the process. You don't just go to the Department of Revenue, sign up for something, and start getting money. The first thing you have to do is the project is going to have to work. You will effectively have to face the voters in the community with a general obligation bond. You either have to build the structure and then go to the Department of Revenue, and that certainly isn't going to happen in these kind of projects, or you have to go and get a general obligation

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bond approved by the voters. Okay? That's important because you have to sell this idea to your community. You don't just go to the Department of Revenue and ask for state sales tax. And then you have to go to the board, and the amendment requires that they bring the prospectus with them. You have to go to the board, as Senator Heidemann said, that includes the Governor and the Treasurer and an economist and whoever is on this board, and you have to show them that this is a viable project. So we are not...it will not work if it does not work and the plan, as outlined by the community who goes before this board and requests turnback has a harebrained idea, the numbers don't work, it's doomed to failure, it doesn't get approved and this never happens. This is not just giving state money away. There is a process in place. And indeed, that's what this amendment addresses. The first thing the amendment does to LB779, it makes changes to the definition of a sports arena facility. It takes out "recreation" because recreation was too broad. Recreation could have included a bingo hall. So it's a sports facility. It adds a requirement that the seating be permanent so that we're not talking about somebody who's trying to get turnback dollars for a building with a bunch of chairs in it--folding chairs. It has to be an actual facility with permanent seating. It also clarifies the definition of a political subdivision by stating it must be a city, county, or village. The amendment further provides that as part of the application process the city, county, or village may apply to the board for state assistance if their governing board adopts a resolution stating their intent to pursue the general obligation bond issues. If this route is followed, the board may temporarily approve the application pending a successful outcome of the vote on the general obligation bond issue. Remember, in order to get to start on this process, you have to build it, you have to get the general obligation bonds approved, or your local community board or city council has to pass a resolution. Then you go get approval, but it will all be contingent upon approval of a general obligation bond by the voters of the community affected. This amendment also adds only on page 7, to line 26, to clarify the state assistance shall only be used to pay back the bonds associated with the project and make changes on page 8 to make it clear. This would be the only use of the bonds. Very clearly, no one here wants the turnback dollars used for other purposes other than satisfying the cost or the financing arrangements for the facility. The amendment also adds language that directs that the applicant is to provide copies of the operating agreement or leases to the board when applying for state assistance. This would give the board additional information when making their decision on whether to grant assistance or not. It makes technical changes on page 11 regarding how the amount of the state assistance is determined. It decreases the maximum amount for each facility from \$75 million to \$50 million. And finally, it makes... [LB779]

PRESIDENT SHEEHY: (Gavel) [LB779]

SENATOR LATHROP: ...two changes on page 13. The first makes it clear that those cities that receive assistance under the Local Civic, Cultural, and Convention Center Financing Act are not eligible to receive state assistance from this act, and the second change strikes language on line 7 and 8, and clarifies the applicant can't use the bonds

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to construct a pertinent public facilities that are part of the same project. These are suggestions that have come from the Governor's chief of staff. They are reasonable. They tighten the bill up. They require that these turnback projects be well-thought-through, that they have the local support of the folks in the community where they will be done, and that the board be provided reasonable information to make a judgment about the viability of the project and the advisability of using turnback dollars. I would encourage your support of AM2526 which is an improvement to LB779. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of AM2526 to LB779. Members requesting to speak: Senator Wallman, followed by Senator Council, Senator Pirsch, and Senator Ashford and Senator Schilz. Senator Wallman, you're recognized. [LB779]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And this is an amendment that's a comprehensive amendment. I think you better really study it, which way you want to vote. And I'll leave that up to the more people more knowledgeable about the law. But vote as you wish. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Council, you're recognized. [LB779]

SENATOR COUNCIL: Thank you, Mr. President. I'm not rising on AM2526 which I support. My light was on before the question was called on the last amendment. And I had just wanted to state on the record the reason why I voted against that amendment. I listened intently to the debate last week on LB1102, and, in fact, voted in favor of LB1102 because I think the case was made and I think the case was definitively made that the horse racing industry in the state of Nebraska needed to have live horse racing supplemented by the historic racing that was going to be allowed by LB1102. I cannot reconcile not providing the industry with what they identified as being necessary for their survival, and the industry being live horse racing being necessary for their survival, and then turning around and saying, yeah, but it's okay for us to provide you a replacement of a live racing venue that probably won't survive. So it is for those reasons that I could not support the previous amendment. And gambling is gambling, and to allow the replacement of a track with a track is expanded gambling, whether you want to define it as that or not. And I, quite frankly, could not reconcile not providing the industry with what the industry identified as being necessary for their survival and then saying but we're going to continue to provide venues for live horse racing that obviously is not able to successfully compete for those gaming dollars. So I just wanted the record to reflect because I'm supportive...I was supportive of Senator Giese's bill, LB1102, because that's what the industry indicated that they would need to help them to survive, to compete against keno and all of the lottery and all of the other gambling that's permitted in the state of Nebraska. Thank you, Mr. President. [LB779 LB1102]

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PRESIDENT SHEEHY: Thank you, Senator Council. Senator Pirsch, you're recognized. [LB779]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to say I appreciate the debate that's going on today, and we are...I think it's very healthy that we as a body come together and talk about the big picture when it comes to a very important segment of economic development, and that's what we're talking about today and talking about evolution. Is it...you know, when we started the discourse and I looked back to the transcript from '99 when it came to economic development of this type and turnback that was involved, the focus centered on outside dollars and are we bringing new money into the pot. And so over the course of time, that paradigm has changed, it seems. And so I do appreciate this. I think we as a body...and, you know, I'm not weighing in as to the substance of the bill but I think is to the process. I think we have to have a big picture, an idea of what the big picture should look like as a body and we should make conscious, premeditated decisions; have a holistic approach to these turnback issues as opposed to approach project-by-project piecemeal by...in a piecemeal fashion. And so I appreciate the conversation that's going on here today. And we are...this bill does introduce I think a new paradigm, and I appreciate hearing how...and Senator Lathrop is a very passionate advocate for that, how it will help localities in their economic development. I think...and I think that this is something that we are...this is not going to be isolated to this session alone. As time goes on, we are going to approach more and more of the turnback financing idea. And so I think we all have to be thinking within our own back of our minds, how does this fit into the big picture; where are...what is the proper role of turnback financing. And so I do appreciate bringing this conversation up. If I could just ask one quick question of Senator Lathrop, since I know he's here. And I apologize catching you off guard. Would you yield for a question, Senator. [LB779]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Pirsch? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR PIRSCH: With respect to the locality that's going to be doing one of these projects, would that...would, in all events, there have to be a general obligation bond to have the project built? [LB779]

SENATOR LATHROP: I think as a practical matter, the answer to that is yes. The way it's set up, Senator, if you built the project before, then you could...that's one of the conditions that you would satisfy and then go to the board and ask for turnback financing. But I think as a practical matter, all of these are going to require bonds, and the bond would have to be general obligation bonds approved by the people. [LB779]

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SENATOR PIRSCH: Okay. So that is correct. If it was a general obligation bond, then that project would go before the people for approval on a vote. I do appreciate...if I could just...well, I know I'm running out of time here and so I'll address it perhaps on a future remarks. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And I just rise very briefly to really applaud the work done by the Revenue Committee and by Larry Bare and Senator Lathrop on the technical changes to the turnback for these projects. This is really solid work and needed work to shore up the...some of the issues that have been raised over the years on the...to make sure that these processes are tight; that there's accountability; that there is citizen input; that there is sufficient private investment. And the turnback concept needed this work, unquestionably. And so I applaud the work of those who have done this. These are very, very important amendments. They make the turnback concept better, more accountable. The other day when I...we were talking about turnback, as well, I failed to mention and I will mention on the record. It was Bill Lock told me that that it really wasn't he that worked on the original turnback, though it really was him, but it was also George Kilpatrick who is no longer working in the Capitol, but in the Revenue Department, who really put a great deal of time and effort into developing the turnback with Senator Landis. So I do want to publicly thank him for this. And, again, thank the administration and Revenue Committee for making these changes. They're appropriate and consistent with the...what we are trying to do to develop new projects, especially in cities like North Platte, Grand Island, Ralston in this case, or wherever it is; midsized cities that have...can have some significant event centers and help their area because so many of these cities in our state are regional centers and these events. And I was trying to recall, and maybe, Senator Hansen, could I ask you a question, if I could, about population, because I...maybe it's Senator Gloor I should ask, but. [LB779]

PRESIDENT SHEEHY: Senator Hansen, would you yield to Senator Ashford? [LB779]

SENATOR HANSEN: Yes. [LB779]

SENATOR ASHFORD: Senator, what is the population in the North Platte, Kearney area? I mean, I don't really know how to describe it real accurately, but what is the population base? [LB779]

SENATOR HANSEN: Do you mean for the trade area or something like in the Nebraskaland Days? [LB779]

SENATOR ASHFORD: (Inaudible) Yeah, what's the trade area for the Nebraskaland

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Days? [LB779]

SENATOR HANSEN: For Nebraskaland Days itself, it's just about statewide. We don't get as many people from Omaha since you built the Qwest Center but, (laugh) and you have a lot of activities there that we used to draw from Omaha clear to Denver. I mean, so it was at least half the state. [LB779]

SENATOR ASHFORD: And I know Grand Island...thank you, Senator Hansen. I know Grand Island has a large market area of around 300,000, I think. Maybe it's even larger than that. But these are regional centers that can support these types of facilities. Nebraskaland Days in North Platte, a new rodeo facility someday there would be a great dream and a great vision. But with the changes that Senator Lathrop has presented, I think we have a tighter and more accountable turnback. And with that I urge the adoption of the amendment. Thank you, Mr. Lieutenant Governor. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Campbell, you're recognized. [LB779]

SENATOR CAMPBELL: Thank you, Mr. President. Good afternoon, colleagues. In the amendment that you have before us and LB779, I do want to say that I support the amendment and certainly support the bill, but I do feel that we need to be very clear as we are looking at this on some of the items that we may be tightening up. And I think that's a good thing because the section that I'm going to ask Senator Lathrop to talk a little bit about in a minute is clear to say to communities across the state that this may be one component of a plan that you would put together to finance a large project, but it should not be the only component. And so with that, Senator Lathrop, would you entertain a question? [LB779]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Campbell? [LB779]

SENATOR LATHROP: I'd be happy to. [LB779]

SENATOR CAMPBELL: Senator Lathrop, you and I talked off the mike but I think for the record we probably ought to talk a little bit about, on page 12, line 10, Section 3, where we are lowering the amount and we are striking "for any one approved project," and could you give some explanation as to the rationale for that change? [LB779]

SENATOR LATHROP: I'd be happy to. As you might expect when we began drafting this bill, we took as the template for it the Qwest Center bill, and the Qwest Center bill had a limitation, I believe, and Senator Ashford can confirm this, of \$75 million. And we kind of adopted that language as we looked at it. That isn't a problem. In other words, lowering the threshold or the amount of the turnback only makes sense because we're dealing with smaller projects. So \$75 million may be appropriate for a convention center

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with an 18,000-seat arena but it's way more than somebody would ever need or should need to make one of these 3,000- 7,000-seat sports facilities go. [LB779]

SENATOR CAMPBELL: Exactly. Thank you, Senator Lathrop, and I totally agree with that rationale. And we as legislators I think we will see more projects come forward with the turnback, but one of the items that we need to carefully look at is what is the size of that project and what is reasonable to expect. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Utter, you're recognized. [LB779]

SENATOR UTTER: Thank you very much, Mr. President. Good afternoon, colleagues. I wonder if Senator Lathrop would just yield for a question or two? [LB779]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Utter? [LB779]

SENATOR LATHROP: I'd be happy to. [LB779]

SENATOR UTTER: Thank you, Senator Lathrop. Senator Lathrop, in your...in the changes that are happening with regard to this amendment, I know that there was some initial changes made in the bill that set a time limit on the turnback and also set a maximum limit on the turnback. Have those been undisturbed? [LB779]

SENATOR LATHROP: The only thing we disturbed was the maximum amount and we took it down from \$75 million to \$50 million. And, again, that was I think a constructive suggestion that came from the Governor's chief of staff. [LB779]

SENATOR UTTER: The maximum...I'm sorry, I missed that. [LB779]

SENATOR LATHROP: The maximum amount that you can get in turnback for one of these projects went from \$75 million to \$50 million. And if you look at the size of these projects being 3,000- to 7,000-seat sports facilities, I think that's even higher probably than anybody would ever get to. But just to clean the thing up, to make it tighter and to...I adopted the suggestion of the Governor's chief of staff and took it from \$75 million to \$50 million. [LB779]

SENATOR UTTER: So the 20-year time limit still exists? [LB779]

SENATOR LATHROP: Oh, the 20-year time limit still exists, the... [LB779]

SENATOR UTTER: And the turnback limit in the second part of the turnback period that was limited to the maximum of the highest year and the first year still exists? [LB779]

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SENATOR LATHROP: The first ten years, that's true, that's still in place, sir. [LB779]

SENATOR UTTER: Okay, thank you. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Utter. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close on AM2526 to LB779. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I can be brief. This is the bill or the amendment that makes changes to the procedural process, for the most part they were thoughts that came from the Governor's chief of staff who has been involved in vetting the bill to make sure that it is lean, that it is doing what we expected, what I represented it would do, and that it doesn't turn into some use of state sales tax dollars that none of us want to see happen. So please support the amendment, AM2526. And then I'll be talking to you in a little bit about the next amendment. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the closing. The question before the body is on the adoption of AM2526 to LB779. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB779]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of Senator Lathrop's amendment. [LB779]

PRESIDENT SHEEHY: AM2526 is adopted. We'll now move to the next amendment, Mr. Clerk. [LB779]

CLERK: Senator Lathrop would move to amend with AM2517. (Legislative Journal page 1359.) [LB779]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on AM2517. [LB779]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This next amendment requires a little explanation. First, to go back to the traditional concept of the turnback that began with the Qwest Center which is a significant project obviously. When that bill passed the decision was made that the state sales tax dollars that were turned back, 70 percent would go to pay for or help with the financing and take care of the bonds, 30 percent was to be turned back to a fund, and I'll call it the 30 percent fund, it's the Cultural Civic...I'm not even sure of the full name of it. But I think we all know what we're talking about when I tell you it's the 30 percent fund. And that fund has been used to do some remarkable things across the state. It has, in smaller communities that have made a request for a grant and been granted money...you'll remember, I passed out a sheet that showed where this money has gone, what communities have taken advantage of it. And, generally, the money has been spent to build or restore buildings in small

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communities that become community centers for the most part. And the Qwest Center has been a good source. That 30 percent turnback fund has been a good source for small communities to access to improve the lives of the people in smaller communities in rural Nebraska and greater Nebraska. The money coming in from the Qwest Center, and I'm going to speak in round numbers, I believe is about \$1.3 million to \$1.5 million a year. Lincoln will soon decide whether or not to build an arena. They have a vote coming up, I believe, in May. If that is successful, they will contribute to the 30 percent fund, which I understand will be about \$500,000 a year when they get up and going. So we have somewhere close to \$2 million a year going into that fund when Lincoln gets going and Omaha continues to make contributions to that fund. The amendment that I'm putting up today I promised to do, I promised the Governor's chief of staff that I would run this amendment. And there's a certain logic to it and I'd like to talk to you about that. Your first reaction, if you're from greater Nebraska, may be, wait a minute, that fund is our money, that fund should be sacred and we shouldn't be doing anything with it. Let me begin by telling you this amendment does nothing to the contributions to the 30 percent fund coming from the Omaha and the Lincoln turnback. So it will continue to be funded. The concern expressed to me and which I'm going to relate to you is this about the 30 percent fund, AM2517 would simply say, on LB779 projects, instead of 30 percent going to the 30 percent fund, it would go into the General Fund. Now when I introduced this bill on General File I know I talked to many of my colleagues across the state, some of you were looking at this 30 percent fund and your buy-in was, well, there's something in it for me or my community potentially because we will be adding additional contributions to the 30 percent fund. That's fair. I don't want you to think that I knew I was going to offer this amendment, I didn't. But I want to tell you about the rationale for it. Right now we have \$2.1 million in that fund. Last year it generated \$68,000 in interest. We have more money in that fund than we have projects. Currently, we are developing a surplus in that fund because the original purpose, to build community centers and to make grants to the smaller communities in the state, which is a laudable goal and one I support, the communities are not coming to the fund and depleting the fund as fast as money is going into it. So it is developing a surplus. And that is the rationale for...and here's another one though, when we developed the concept of the 30 percent fund for the smaller communities we were doing it with arena projects that no first-class city could ever put together, no village could ever put together, no smaller second-class city or town or village could put together or county, outside of Omaha or Lincoln. And so it made good sense where there is a distinction between those projects that are so big that only Omaha and Lincoln can do them and those in LB779 that your community may be able to take advantage of. I hope you can appreciate the difference and see the rationale. The idea that we are in a difficult time, we talk about appropriation bills and spending money in this body and see things struggle when the expenditures are small sums of money, relatively small sums of money given our budget, and the concern is that this money would be put into the General Fund where it can take care of needs that we all talk about on the floor, that can be financed only from the General Fund. Remember that these projects are

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contributing a fraction, they would contribute a fraction into the 30 percent fund that a project like the Qwest Center or the Lincoln arena would contribute to the fund, and therein is the rationale for AM2517. I expect because I've spoken to a number of my colleagues that some of you will have objection to this and you will...and I look forward to a spirited debate on the wisdom of AM2517. But at this point I would encourage your support. Thank you. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of AM2517 to LB779. Members requesting to speak: Senator Mello followed by Senator Ashford, Senator Adams, Senator Stuthman, Senator Louden and others. Senator Mello, you're recognized. [LB779]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. You know, I just came from the lobby, talking with someone regarding this amendment, to try to provide me a better perspective of what this amendment actually does on LB779. And I fully intend to listen to some of my other colleagues as they kind of search maybe for some answers as well as what this amendment actually does. It's my understanding that under the current law that a majority of our rural communities can apply for some of this turnback grant funding through the Department of Economic Development. And with the passage of LB779 a large number now of rural communities can apply for their own turnback tax program for a facility, some kind of sports-related facility and thus there might not be the need to take the money that would be associated with that turnback tax program or turnback tax project and put it back into this 30 percent fund that's currently sitting at the Department of Economic Development. Now in all due respect to Senator Lathrop and those who have worked with him on this amendment, I'm still just trying to find how this amendment generally doesn't take money away from good projects that still need it. And, I guess, I'm looking at this issue in a sense that we had discussed earlier today on LB779 with Senator Coash's amendment that he eventually pulled that Nebraska ranks 48th in the country in regards to tourism funding. So we rank as one of the last states in the country in regards to providing funding for tourism. But tourism is our third-ranked industry in the state of Nebraska. So trying to rectify those two issues, particularly knowing that this fund that we would essentially not put money into benefits tourism in the greater parts of our state outside of the metropolitan Omaha, Lincoln areas, I just don't see how this is beneficial towards solving a bigger problem we have in our state, which is the lack of tourism funding. Knowing that there might be a project in Ogallala or there might be a project in Scottsbluff, Ewing, Cedar Rapids, that might not have the funding to qualify for a turnback tax financing under LB779, but ultimately still we might not be able to provide enough funding through our existing DED fund with that 30 percent funding that comes not only from the Qwest Center but also soon to be from hopefully the Lincoln arena. So, I guess, colleagues, I rise not fully determining where I'm going to be on this. I was very skeptical at first because I generally think this fund is a good economic development tool and a good community development tool that currently exists because of the Qwest Center bill years back for our rural parts of our

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state that want to do a community center, that want to do some larger infrastructure project in their community. And I think that there's a large need right now for more funding for those projects, in part because we're going to continue to see less and less money come from our federal government for community development block grant dollars. And I think that's a key component of...that fits into this whole LB779 issue is the decline of funding for community development block grants and using that deficiency in federal dollars for these projects that we might have an opportunity, through LB779, to supplement some of that supplemental community development money without AM2517. I fully appreciate, as an Appropriations Committee member, that the intent of wanting to see this money go back to the General Fund because the General Fund, essentially, is helping pay for LB779. That's where I'm kind of in this dilemma or this situation where I see both sides of this argument and I haven't quite determined... [LB779]

PRESIDENT SHEEHY: One minute. [LB779]

SENATOR MELLO: ...what side is going to win out at the end of this debate because I want to hear more from my rural colleagues at least if there are projects that they think would qualify under LB779, if there's enough funding for them through the existing turnback tax fund in DED, then maybe we can pass AM2517. But I'm just personally convinced in talking with numerous organizations, particularly those in the tourism industry, that there's not enough funding right now for enough community development projects. This is an opportunity to provide funding back for some of the more critical needs and critical parts of our state who need this funding. So why would we turn a blind eye to throw it back into the General Fund where we might be funding programs or might be funding initiatives that don't yield the growth and the tourism in our economy that we could see if we do not pass AM2517. Thank you, Mr. President. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Ashford, you're recognized. [LB779]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And just a little, a few comments. And I was just thinking back in 1991 when I went to Gering for the opening of the Gering Civic Center. And I notice on the list of projects that has been funded is the...some work on the Gering Civic Center just recently done in Scotts Bluff County. But if we look at the projects, the 28 projects that have been funded since the turnback started, and they're great projects, the vast majority of them are under \$50,000. There are some like the Gering Civic Center, the Heartland Event Center in Grand Island, obviously, which quite frankly probably could have been or may be in the future a regular turnback project, was the first project funded that was \$500,000. And that, I think, is the largest 30 percent fund project. So in reality most of the projects have been and I would anticipate will be in the future under \$50,000. There is quite a bit of money now in the fund. When Lincoln comes on-line, something we forget a little bit in this

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turnback is that when the...it is correct, Senator Lathrop is correct about \$500,000 a year will go into the fund, the 30 percent fund from Lincoln. But in the first two years, with the construction of the arena, that amount will be significantly greater because the sales tax from the construction of the facility is also turned back. And 30 percent of that will go into the fund. That's a significant amount of money. And there may be projects some day that would exceed the amount that Lincoln and Omaha can put into the 30 percent fund. And at that point, the body can address that fund again to see whether or not we either need to expand it or put more of the money from these new projects into the fund. But I don't see any immediate challenge to the fund. It would seem to me that the projects that will be forthcoming in the next few years will be adequately funded by what's in the 30 percent fund now. And what will be replenished by the Lincoln project and the Omaha project as they continue to...as Lincoln comes on board and Qwest begins to start doing more business. Remember, we just came...have come out of the worst recession since the Depression. And the Qwest Center was still doing a pretty good job and it's going to do a lot better as the economy gets better. So I think, though, you know, the 30 percent fund is, in my view, a wonderful part of the turnback and needs to be continued. I think there will be adequate money from Lincoln and Omaha to fund just about any project I can think of. Also, with the amendment we have already passed, if, for example, North Platte was to do a rodeo facility for NEBRASKAland Days, they would not be eligible for the 30 percent fund. So, again, that would be a city that would not. Prior to this bill, the reason...one of the reasons we had the 30 percent fund was to do projects in cities like Ralston possibly or Grand Island and those cities. With this new turnback for smaller cities in the law with the passage of this bill the need for the 30 percent fund for those cities will be negated. So I would rise in support of AM2517, certainly within the spirit of the original act and I do think there's adequate money to fund any project I could think of in the foreseeable future. Thank you, Mr. Lieutenant Governor. [LB779]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Adams, you're recognized. [LB779]

SENATOR ADAMS: Thank you, Mr. Lieutenant Governor. I'm going to sound for a moment a bit like Senator Mello. He said a moment ago he wants to hear the arguments, he's a bit undecided. I'm a little bit that way, too, but not necessarily on the issue that he described. Where do we draw the line? Where do we draw the line? If you look on the computer, as a member of the Revenue Committee, you will see that I was present and didn't vote for or against this bill. And for whatever it's worth I'm going to tell you why. Maybe it's my confession day, makes me feel better if nothing else. I didn't vote on it because I was torn. And I was torn between, on the one hand, having for ten years worn the hat of a mayor of a first class city that would have said, this is good, we ought to have it, it's another tool in the toolbox of cities to expand and do what they have to do, we need it. But that's with that mayor's hat on. And I sat there and reminded myself of the other hat that I wear, that's the hat of an Education Committee Chair.

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Uh-oh, I know what you're thinking, here he goes again, and also a member of the Revenue Committee. And when I put that hat on, here's what causes me to be torn. School funding, school funding, school funding, need I say more? But something else, appropriate tax policy. Take the school funding out of the picture for a minute, take what cities need in their economic toolbox away for a minute and ask yourself, what's good tax policy and the question that continues to come to my mind on this issue was, where do we draw the line? We did the Qwest Center, we refinanced Qwest Center, I voted for that. Lincoln convention center and we could say, well, what's good for one ought to be good for the next one down the line. So now we have a bill for first class cities. And the old mayor in me says, good. And I said to myself over and over again, where do we draw the line on this? And the line just got extended a little further today already. Doggone it, I knew something was going to happen like that. Maybe that's a good thing but I'm really wrestling with this. I would tell you this, I think what Senator Lathrop has done in having listened to the Governor's Office and having listened to the Revenue Committee and many of you folks here on the floor is work to get this bill so it is narrowed down. I think it's considerably narrower in focus than the original first turnback that we had with the Qwest Center. This is better legislation. But where do we draw the line? This amendment, I'm torn on this one. My immediate reaction is I like it, I like it because it puts some money back in the General Fund, it draws the line, it helps begin to draw the line. [LB779]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR ADAMS: Now I know some of you may say, yeah, and you're a rural senator, you're a deserter right now if you support this amendment. It helps to draw the line. And that money in that bucket, that 30 percent it's there, it's still going to be there from Qwest Center, in time it could be there from Lincoln. It helps to draw the line. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Adams. Those still wishing to speak, we have Senator Stuthman, Loudon, Fischer, Cornett, Harms, Pirsch, Wightman, Dubas, and others. Senator Stuthman, you're recognized. [LB779]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been listening to the debate and I've heard several of the senators say, well, we don't know for sure where I'm at on this and willing to listen to the debate. Well, I'm going to tell you where I'm at on this. I oppose this amendment and I'm going to stick to that. And the reason that I'm going to stick to that is because of the fact that, you know, this originally, in my opinion, was for smaller rural communities to develop convention centers, develop their communities and things like that. Now looking at the big picture, the majority of the people have voted just the other day to run all of the horses out of the state of

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Nebraska. And when they all leave the track in Columbus, what are we going to do with that facility? Our long-range projections are, you know, to hopefully establish and build a convention center on the site. Good utilization of the property in my opinion if that does occur. I don't know whether it will occur or not if the races quit, but it is headed in that direction. And I think the majority of the people here are trying to assist in helping eliminate the horse tracks, the racing in the state of Nebraska. I feel that there is a definite need for this money that was designated for those rural areas to, hopefully, develop those communities and assist them in attracting conventions, businesses, organizations, entertainment activities to local communities. And what does that do a community and what does it do to the state of Nebraska? In my opinion, it brings people into the state and they spend money and generate sales tax revenue for the state of Nebraska. Maybe we don't want to do that for any of the rural communities. Maybe we want them all to dry up, run the horses out of town, dry up the communities and just have everybody come back here to the large communities in the eastern part of the state. I'm very disappointed with the fact that we want to take that 30 percent and put it in the General Fund. Yes, we need money there but are we going to starve out another operation or another opportunity for communities to build an develop community centers, convention facilities to attract people to the state of Nebraska. We need to build Nebraska, we need to build rural Nebraska. And I think that's very, very important. So as I stated before, I do oppose this amendment mainly because of the fact that, you know, we're trying to search to get more money into the General Fund. More money into the General Fund is attract more people to the state of Nebraska and spend more and bring in sales tax dollars, bring in income tax dollars, that is where we generate our money from. Let's not tell the people to leave the state of Nebraska or don't come to Nebraska because we don't have any facilities in the communities that attract people. Let's not tell them, well, I'm sorry, we just can't build something to attract the people in the rural areas. The rural areas in Nebraska are very, very important to the state of Nebraska. And I will agree with that. [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR STUTHMAN: I just feel that this is another method of coming after, you know, in my opinion, a group that is trying to establish community projects. They don't happen overnight but there has to be a lot of thought in it and there has to be some fund or a source of money to develop those community projects. So as I stated before, I'm in total opposition of this bill, this amendment. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Louden, you're recognized. [LB779]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I'm opposed to this amendment, AM2517, and I'll tell you why. Because when we started out with LB779 this was a bill that was for everyone in the state of Nebraska, rural and towns,

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cities and so forth. Everybody was going to get some out of it, something like the way the turnback money was for the Qwest Center and this other Lincoln deal. And as we go through here now we're on Select File, we're going to put an amendment on here that changes it around so that it's just the city, it's just for cities. We're going to take the rural 30 percent out of it. And they talk about, I think, Senator Adams talked about we got to draw the line. Well, the lines are very clear. If you'll look on page 4, lines 19 and 20, it says "transfers may be made from the fund to the General Fund at the direction of the Legislature." So any time they want to take money out of that fund it can be done. It's been in statute, been in there for several years. So this isn't anything new. So when they talk about that this amendment would turn that money back to the Legislature or to the General Funds it isn't impossible for...if it didn't get passed it could still be put back in the General Fund and it could be taken out at times. We certainly went through that last fall when we seen where there was different funds, money was taken from different funds for...to go into the General Fund to balance the budget. So I think as far as this amendment is I don't see any need for it really because it's already in statute that any money in that civic fund, as it's called, the Civic, Cultural Convention Center Financing Fund, that's already in statute that that can be taken out by the Legislature whenever...at their direction. So really, I think this changes the whole complexion of this bill. The bill barely got out of committee. It got out by a 5 to 3 vote. I voted it out because I thought it was going to be something and it was told to be something that would help everyone in Nebraska or help the rural areas. And certainly these towns in these rural areas need this money. Sure, there's money left over in there at the present time. But if you'll notice it isn't exactly something they just run and get some money to build something. I think it mostly can be used for bricks and mortar for construction. Most of the engineering, the architecture, the planning and a lot of that all has to be done then they can go ahead and apply for the grant funding, to acquire the grant funding. And I'm sure there's a process. So there has been many towns that have done quite well with it. And as you drive around some of the towns, I was in Loup City and their...they have a center there that's been worked on with it, Scottsbluff, many areas around I've seen it's done quite well. So I don't see where we need to pass an amendment to raid that fund. This was put forwards as something for the rural areas as well the towns, so I think we should continue to do it that way. With that, I would certainly vote against the amendment. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Fischer, you're recognized. [LB779]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I appreciate Senator Louden's comments and I agree with them. When the bill was first presented to the body on General File, we were told and we read in the bill that this was a bill that could benefit many areas across the state of Nebraska. And as those of us who are rural senators know, many of our areas need some help, we need to see some growth whether it's a community center or a museum. We may not agree with those projects.

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We may think it's foolish to build a community center in a small town in Nebraska but it's the decision of the local people that that's what they want because they feel that's what they need. And as Senator Ashford told us earlier, he was here when the first legislation passed with the Qwest Center. And I would propose to you that that legislation passed because of the 30 percent fund that was put in it. I would propose to you that the Qwest Center would not be there unless that 30 percent was in there. Because as a body we work together, we try to see what benefits the entire state and we try and provide benefits across the state of Nebraska. I'm against this amendment that Senator Lathrop has brought to us. Senator Ashford said that with this amendment there's no immediate challenge to the fund. You know, maybe there isn't. Senator Heidemann is working on some numbers right now with Fiscal Office. And he's seen that maybe it's just \$50,000 to begin with. Because you know, hey, after all we're only talking about that 30 percent that affects the projects under LB779. So it's only, hey, it's only going to be \$50,000. I'm looking forward to hearing from Senator Heidemann on the growth of that money in five years. Because the preliminary figures he showed me, it's astronomical. That's not all though. In my opinion, this is...this isn't right. It may just be for that \$50,000 to begin with. But if we're going to change a policy here, let's be honest about it. Let's be honest about what we're doing. We're looking to changing a policy that's been in statute before this bill came up. We're looking at changing who is going to give up something. And we can do that. All it takes is 25 votes, we can do that anytime. But I'm not going to do it on this one because it's not right. During special session we had a proposal come to this body that took checkoff dollars and we were pretty firm in standing up saying no. Those checkoff dollars and those funds were established for a purpose. I would propose to you that this 30 percent fund was established for a specific purpose. Hey, but it's only \$50,000. No, it's not only \$50,000. It's the principle of the thing. [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR FISCHER: Thank you, Mr. President. We're changing...we're talking about changing what we've done in the past. We're talking about setting new policy. And as I said, 25 votes and we can do it. Hey, we do it in here all the time. But this isn't right. We shouldn't change policy to make the green sheet work. We shouldn't change policy so we get the numbers right and we can say we've balanced the budget on here. That's not how we change policy in this state. And if we're going to change the policy in this bill, what's to stop us from changing the policy on the whole 30 percent? What's to stop us from taking that 30 percent from the Qwest Center... [LB779]

SENATOR LANGEMEIER: Time. [LB779]

SENATOR FISCHER: ...that we get and putting that in the General Fund? Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Fischer. (Visitors introduced.) Returning

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to discussion on AM2517 offered to LB779, those wishing to speak, we have Senator Cornett, Harms, Pirsch, Wightman, Dubas, Schilz, Utter, and others. Senator Cornett, you're recognized. [LB779]

SENATOR CORNETT: Thank you, Senator and members of the body. I rise in support of the amendment. I've thought about this quite a bit. The Revenue Committee had a number of bills this year introduced to us that involve policy change in regards to this 30 percent fund. Part of that was due to the fact that that money has not been fully utilized and that is just the money from the Qwest Center, it is not the money from the Lincoln arena which has not had a turnback yet. Going into session we had around \$600,000 close to \$700,000 in this fund. A transfer was made, we're sitting at about \$2 million in that fund now. We had a number of bills, like I said, that looked at using that money for different things and it's already been used for. So, yes, what we're looking at here is a policy change. But we have already looked at a policy change to the underlying fund. Senator Ashford brought a bill that we have heard on the floor that deals with the amount of the grant applications so the municipalities can apply for larger grants. I just wanted to stress, because there was some misconception earlier on the floor, that we are not taking away anything that is already going to the rural areas. As a matter of fact, the rural areas will be getting more with the Lincoln arena. But we are using the money from these smaller projects to turnback to the General Fund. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Harms, you're recognized. [LB779]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition of this amendment. The discussion that we're going to take it away from smaller projects, what do you think rural Nebraska is about, it's smaller projects. We can't qualify for the others. This is the only thing we can qualify for. And to take it away is not appropriate. The other side that I'm concerned about is this is a major change in policy. And I believe this should have had a hearing. It's enough of a change it would have "caught" the attention of a lot of people. It should have had a hearing and that hearing should have been or the discussion should have taken place and it should have been transparent and should have been open. That did not happen and I object to that. Colleagues, I think this is important. And for rural Nebraska to be competitive in a marketplace that's changing so rapidly, we need to have access to these kinds of funds. They can't do this on their own. Changes are occurring quickly for us in rural Nebraska and we need to have the opportunity to grow. So I object to this. I don't think it's the right thing to do. And I wonder for a minute if Senator Lathrop would yield for a couple of questions. [LB779]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB779]

SENATOR LATHROP: Yes, I would. [LB779]

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SENATOR HARMS: Senator Lathrop, would you walk me through now, so that we'll make sure that I fully understand the 70, I understand the 70 and the 30 percent. Talk to me about the 30 percent and what actually happens to that. [LB779]

SENATOR LATHROP: I will do my best. My understanding is that the money...the Department of Revenue does an audit from people that are inside what I call the radius of the turnback. They determine the full amount of the money to be turned back and then they split it 70-30. And 70 percent is used to pay down the bonds or the financing and the 30 percent then goes into the fund. And I have to tell you I expect Senator Ashford would know more about the criteria for that fund, Senator Harms. But generally, you've seen probably a handout when this was on General File with some of the projects that have been financed through the various communities in greater Nebraska primarily to build community centers. The criteria for that, whether it's matching funds or a grant, I am not confident enough to answer that question. [LB779]

SENATOR HARMS: The 30 percent is going to now be funded, am I correct, basically by the Qwest Center and the gamble that they're going to pass the center for the city of Lincoln, is that correct? Is that what they're talking about in the future? [LB779]

SENATOR LATHROP: Right. It's my understanding, and I'm going to do this off of memory, that essentially the 30 percent fund receives \$1.3 million to \$1.5 million now from the Qwest turnback, so that's Qwest money...Qwest turnback going into the 30 percent fund. And they expect Lincoln to generate, if I'm remembering, and it will take a few years, \$300,000 to \$500,000. [LB779]

SENATOR HARMS: You know, and that's my...another point--thank you very much, Senator, appreciate that--that I'm concerned about we're gambling on the fact, whoops, I'm sorry to use that word today, we are in the process of making a guess that this center is going to be passed and is going to be approved by the public. I don't know if it is not. That's for the Lincoln people to decide. But we're saying that we're going to put \$300,000 to \$500,000 into that on an annual basis and it's not even been built nor been approved by the taxpayers. And so what will happen is that rural Nebraska will be shorted in this process. And I object to that because... [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR HARMS: ...it comes at a...pardon me, Mr. President? Mr. President. One minute? [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR HARMS: Thank you, Mr. President. My concern is that I don't think it's

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appropriate here. And I believe that this is enough of a change in public policy that that should go back to the committee and there ought to be a hearing on this and you ought to hear from the rural folks. People are saying, well, they don't use the dollars. Well, you know what? There are an awful lot of little communities that don't understand what they qualify for. There are a lot of communities that don't understand the parameters of this legislation and this bill. And so that bothers me a little bit to say, okay, it's all right to take the money from rural Nebraska, you don't need it, get rid of it and we don't care about your economic development, we don't care about our future, and we don't care, quite frankly, about the fact of quality of life there. I object to that. I think we need to have a fair opportunity to use these dollars and let the public know just exactly how they go about this. And I can tell you now those dollars will be used. [LB779]

SENATOR LANGEMEIER: Time. [LB779]

SENATOR HARMS: Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Pirsch, you're recognized. [LB779]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. First, well, I appreciate the conversation that's been going on today. And I think, you know, Senator Lathrop hit it right on the head. The first thing we have to do is change the name of that 30 percent fund. I think, you know, remembering the 15 words in that, Local Civic, Cultural, and Convention Center Financing Act it's a mouthful. And so that probably is the first thing we should do. But with respect to conversation that's going on today, and I appreciate Senator Avery or, no, I think it was Senator Adams who raised the question of where do you draw the line. I think that as we talk about the overarching bill and just the turnback in general, we have to look at always what are the overall goals that this body hopes to achieve with this tool for the state and how are we going to be able to measure then, once we set those goals, measure success. So something to think about as we're encountering these. I did want to talk about, too, because we have raised the issue of the, we'll call it the 30 percent fund, it's formal name, Local Civic, Cultural, and Convention Center Financing Act. Right now the way that 30 percent turnback is...can be utilized outside the city of Omaha is it's shackled to a particular use. It has to be for a building. And we, my understanding is the idea was that it's being...these funds are expected to be spent in the name of economic development. And so I'm not sure that in all cases, in all cases the best use of these 30 percent funds are to construct a community center or refurbish the townhall. I think that, as time goes on, I think we'll address this probably next session. I think it would be more advantageous to the communities throughout Nebraska to have more freedom and flexibility in the way in which they can utilize these funds to support their local community. And so when we look around at alternatives, rather than shackling these communities with these 30 percent funds and saying you can only build a building, as the population in a lot of

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these towns dwindle 200 people every year I don't...I suspect it's probably not because they don't have a nice, new shiny townhall and people say, you know, if only there was a nice building here in town I'd stay here. I think that what they're really looking for is more basic needs met, the jobs and housing. And so we should allow these communities greater flexibility in the way that they can allocate these funds. Plus, we're not even utilizing...I think that need, the absence of that is reflected in the fact not even the grant funds that exist now are not being taken out in full, that at the end of the year we have excess. And so I think that we need to unshackle the communities, allow them to decide what makes best sense for their communities in economic development. And when we look around at alternatives, whether it's the Microenterprise Fund, the BECCA funds,... [LB779]

SENATOR FISCHER PRESIDING

SENATOR FISCHER: One minute. [LB779]

SENATOR PIRSCH: ...the CDBG grants, Main Street, there's a lot of alternative types of funds that are flowing to communities that give them greater latitude in what they can do and how they can improve their communities. And I think we need to look seriously at converting the way that we allow these funds to be disbursed to give that greater latitude as well. So if it's a housing project that is in desperate need in community A, they can have that, if it's a jobs training that's going to bring actually jobs to a community, well that will make sense for some communities. So that's just one of the ideas that I think we seriously need to look at and it's kind of a tangential area as we talk about this 30 percent fund. But it is one that's important and one that I'll be bringing back to this body. So we'll be talking about this in future days. Thank you. [LB779]

SENATOR FISCHER: Thank you, Senator Pirsch. Senator Wightman, you are recognized. [LB779]

SENATOR WIGHTMAN: Thank you, Madam Chair, colleagues. I was looking at these figures and listening to the figures that were presented to us by Senator Lathrop. And almost believe that maybe I could support the amendment for awhile. But as I look at these figures and delve into them a little deeper I think there are some real questions. As I understand it, the fund now, we've spent about \$2.943 million, almost \$3 million out of the 30 percent fund. Most of that was spent in 2008 and 2009. There were a few little projects in 2005, one project in 2004. But as I add up the 2008 projects, it looks like there was \$1.3 million in grants in 2008. In 2009, which was really a slow economic year and probably a little limited in what funds were even sought by these smaller communities, it looks like there was about \$700,000 spent out of this fund. Now I think Senator Lathrop gave us a figure that...about \$1.3 million to \$1.5 million is being raised annually that's going into the 30 percent fund. If Senator Lathrop were here I'd ask him a question. But I don't see him right now. But at any rate, that was my understanding.

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And perhaps Lincoln would add about \$300,000 to \$500,000. Now it's my understanding, and I could be mistaken, that those funds will continue to go into the 30 percent fund. I keep looking for Senator Lathrop but I don't see him. Perhaps Senator Heidemann could answer, I don't...can you answer? If he would yield. [LB779]

SENATOR FISCHER: Senator Heidemann, would you yield to questions? [LB779]

SENATOR HEIDEMANN: I will try. [LB779]

SENATOR WIGHTMAN: Senator Heidemann, am I correct in my understanding that the money that was going in from the Qwest fund to the 30 percent fund would continue to go in during the duration of those projects and they were 20-year projects as I understand. [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

SENATOR WIGHTMAN: And that's true of Lincoln, should it pass, is that correct? [LB779]

SENATOR HEIDEMANN: Yes. [LB779]

SENATOR WIGHTMAN: And, again, as I look at this list of communities that have been able to access these funds it looks like \$1.3 million, very few large cities actually, Grand Island and Hastings and Papillion have accessed some of the funds, South Sioux City. But most of them have been very small communities. I think there probably has not been a great deal of an awareness that these funds were even available. I think as that awareness develops there would certainly be more projects. It looks to me like it's very, very difficult to fund all of the projects, even if there's \$2.1 million in the fund right now. I don't know how many applications are pending. But I really do have a lot of problems with taking this out with regard to the funds that would be raised under LB779. Perhaps...I see Senator Lathrop. How much time do I have left, Madam Chair? [LB779]

SENATOR FISCHER: One minute thirty seconds. [LB779]

SENATOR WIGHTMAN: If Senator Lathrop would yield, perhaps he can furnish me some answers. [LB779]

SENATOR FISCHER: Senator Lathrop, would you yield for questions from Senator Wightman? [LB779]

SENATOR LATHROP: Yes, I will. [LB779]

SENATOR WIGHTMAN: Senator Lathrop, you have handed out or there has been

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handed out a list of grants. And I know you did hand that out when we were originally looking at LB779 on General File, is that correct? [LB779]

SENATOR LATHROP: Yes. I...you showed me that list of grants. And I've not...I don't have a copy of it with me but I'll try to answer any question you have. [LB779]

SENATOR WIGHTMAN: Okay. One of the things... [LB779]

SENATOR FISCHER: One minute. One minute. [LB779]

SENATOR WIGHTMAN: One of the things that I'm looking at is, and you've suggested there's \$2.1 million or approximately that in the fund right now. [LB779]

SENATOR LATHROP: That's what I'm told, yes. [LB779]

SENATOR WIGHTMAN: And looking at this list about \$2.1 million has been actually about \$2 million has been spent in the last two years. Most of the grants that have been made out of the \$2.9 million were made in 2008 and 2009. So even though there's \$2.1 million in there, it seems to me there is some jeopardy and some substantial risk that the fund is going to be depleted, even though there is an accumulation at the present time. Would you suggest that might be true? [LB779]

SENATOR LATHROP: You know, I...you showed me that and I...we were talking about the cumulative amount and I thought the cumulative amount was \$2.9 million since its inception. And I... [LB779]

SENATOR FISCHER: Time. [LB779]

SENATOR LATHROP: ...don't have it in front of me but I wouldn't argue with you about it. [LB779]

SENATOR WIGHTMAN: Thank you. Thank you. [LB779]

SENATOR FISCHER: Thank you, Senator Wightman and Senator Lathrop. Senator Dubas, you are recognized. [LB779]

SENATOR DUBAS: Thank you, Madam President and colleagues. I not only stand in opposition to this amendment, I stand in vehement opposition to this amendment. We are slowly depleting a fund, we will not replenish this fund. We are truly impacting the integrity of this fund and it will impact rural Nebraska. If this amendment is adopted, if this amendment passes I pull my support for this bill. And I'll work my level best to get others that have supported this bill on Select File to join...on General File to join me with a red on Select File. As Senator Harms mentioned, this is enough of a change, this

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should have had a hearing. This is a strong deviation from where this original bill went. I as a rural senator was on board with this on General File because of what it offered to rural Nebraska. I've seen the list of the projects. You look at these numbers, \$25,000, \$20,000, \$47,000, okay, those aren't large numbers when you're looking at the Qwest Center in Omaha. Those are huge numbers in Fullerton or Central City or any of our other communities across our state, they're huge, they make an incredible impact in our local economies. A little community room in a small town in Nebraska, it's a big deal. You know, you could fit probably every community room across the state of Nebraska in the Qwest Center. We know what the Qwest Center means to Omaha. That's what our community rooms, that's what our opera centers, that's what all these other things mean to us in rural Nebraska. They're no different to us than they are to you in the bigger cities. Right now in rural Nebraska we're fighting for our future. We're losing population. It's been stated many times that 50 percent of our population lives from 27th Street, here in Lincoln, east. We know that as we look at the census next year and we're doing our redistricting, we know rural Nebraska is going to lose seats. I tell people when they ask questions about redistricting, as I'm out in my district, that means we need to have rural senators who are that much more willing to stand up and go to the mat for the issues that are important to rural Nebraska. We have to help our urban cousins understand that what's important to them is just as important to us, to our economy, to our livelihood, to our survival in rural Nebraska as their issues are to them in the urban parts of the state. So we are going to have to be that much stronger. We are going to have to be that much more aggressive. I've had senators in the past who, before I was even a senator here, who said, you want to know what's the problem with rural senators? You're satisfied with the crumbs, you take what's left on the table and you say thank you and you walk away thinking that you've scored a victory and you've got nothing but crumbs. It's time for us to stop taking the crumbs, it's time for us to stand up and say our economy is just as important to the economic viability of this state as the urban economy is. We're all in this together. A rising tide raises all ships. We've got to pull together or we don't go anywhere. You know, if we're really serious, if we truly are serious about revitalizing our communities, rural as well as urban, then we got to stop talking the talk and we got to start walking the walk. We've got to be serious and committed to those things that we feel are important to our district and our communities and be willing to stand up and not just talk about it but really take action. As I said, if this amendment is adopted I will no longer support this bill and I will work very hard to make sure, as Senator Adams said, you know, there was several members of the committee who weren't completely on board with this anyway because it is a policy question, it is a tax question. It does impact our economy. It does... [LB779]

SENATOR FISCHER: One minute. [LB779]

SENATOR DUBAS: ...we need to be talking about state aid to schools and to education. This all has to be a part of that discussion. And so if we're going to take this much of a deviation with this amendment and have the impact that it could have, if we aren't

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having projects being accepted for this money then maybe we need to look at the criteria for the projects. Maybe we need to broaden what kinds of projects this money can be used for instead of taking money away from it and then, you know, slowly but surely it just continues to dissolve until we have nothing left. So, members, I ask you to please oppose this amendment and let's work together to have all of Nebraska succeed economically. Thank you. [LB779]

SENATOR FISCHER: Thank you, Senator Dubas. Senator Schilz, you're recognized. [LB779]

SENATOR SCHILZ: Thank you, Madam President and members of the body. You know, I stand before you today in opposition to this amendment. I listened back to comments by Senator Pirsch, comments by Senator Dubas, Senator Fischer, and they're all right on. Take a look at the maps, guys. Rural Nebraska is in big trouble. We've got serious issues when it comes to population decline. We've got serious issues when it comes to taxation and how we pay for school funding. Now the question is, how do you fix that. Well, you don't fix it by strangling the life out of something. And you don't fix it by trying to drive a wedge into a good deal that was made before and creating another urban/rural issue. I don't think this is the proper path to go down. I think that Senator Dubas is exactly right again when she says, and Senator Pirsch for that matter, when they say that maybe the criteria needs to be looked at. I couldn't disagree more or agree more, I mean, excuse me. I'm in such disagreement over this amendment I don't even know what I'm saying anymore. (Laughter) And it may go back to the other bill right before this as well. But we need growth in rural Nebraska, guys. We need ways to entice folks to come to rural Nebraska. We need folks that want to stay in rural Nebraska and want to make their livelihoods there because that's what pays the taxes, that's what enables our schools to survive, that's what enables our businesses to thrive and not be taxed to death. Growth is the only way to lower taxes in a real sense. We can shift them all over the place all you want, but if we don't have growth and growth in those areas that definitely need it, then we're in huge trouble. So I'm against this amendment. I think that this money is crucially important to rural Nebraska, crucially important to those communities and I will always stand and defend those areas of the state that need this kind of investment. And with that, I would yield the rest of my time to Senator Mello. [LB779]

SENATOR FISCHER: Senator Mello, you have 2 minutes 30. [LB779]

SENATOR MELLO: Thank you, Madam President. And thank you, Senator Schilz, for yielding me the remainder of your time. After hearing some of the dialogue on this amendment as well as talking to a few colleagues, I do stand now in opposition to the amendment. In part because I've learned a little bit more about this fund from our good Fiscal Office. Every city in the state of Nebraska, with the exception of the city of Omaha, qualifies to apply for funding under what AM2517 is looking to remove funding

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from in the future. So once again, while I generally believe the passion that my good friend and colleague, Senator Dubas, just described in regards to standing with rural Nebraska, my question poses to the greater Omaha area senators. Some of us represent more than just the city of Omaha, myself included. I represent not only the city of Omaha but the city of Bellevue. The city of Bellevue is affected by AM2517, so is the city of Arlington, so is the city of Bennington. Obviously, right here I have a list, Papillion received funding under this. So municipalities outside of just the Omaha area are affected, but also municipalities within the greater Omaha area would be affected by AM2517. And I think Senator Schilz and Senator Dubas and Senator Pirsch started us off, which is if this body realized that the Department of Economic Development was having that tough of a time funding projects using this account, then why didn't they come to us earlier... [LB779]

SENATOR FISCHER: One minute. [LB779]

SENATOR MELLO: ...and say, we can't find enough good projects to fund, we might need to change the criteria. Senator Ashford had a bill we passed already that changed a little bit of this criteria. But if we had general problems of receiving \$2.2 million worth of projects but really we could only fund \$700,000, then why don't we have a department that's being proactive? Why don't we have a department that's coming to us saying rural Nebraska needs some funding? We have \$2.2 million worth of projects. We got to look at the criteria. We've got to find a way to get this money out of state government, back into the communities that will help them grow. That is the question that really evolves around AM2517. Now this amendment obviously, that doesn't...that's not solved what this amendment is doing. But that's a question we should all be asking. I urge you to vote against this amendment. I urge my Omaha colleagues who represent anywhere more than just the city of Omaha to vote against this because this is not just an Omaha versus rural... [LB779]

SENATOR FISCHER: Time. [LB779]

SENATOR MELLO: ...Nebraska issue, it's a state issue. Thank you, Madam President. [LB779]

SENATOR FISCHER: Thank you, Senator Mello and Senator Schilz. Senator Utter, you are recognized. [LB779]

SENATOR UTTER: Thank you very much, Madam President. And good afternoon, colleagues. You know, we are a creative bunch when you take a look at some of the things that we've done. We have taken the convention center financing...Facility Financing Assistance Act and have done a lot of things with it. And we even proposed some other things that we could do with it. It has grown from the Qwest Center in Omaha to the arena in Lincoln to the proposed facility in Ralston. And then we have

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talked about using turnback financing for the rural tourism tax credits that Senator Coash had visited with you about earlier today. We've talked about using turnback financing for the Whiteclay project and we've talked about using them for the Republican Valley water difficulties. So we have been very creative on part of the turnback thing. We haven't been very creative, frankly, as far as the portion that rests with the Department of Economic Development that is to be used for rural Nebraska. I'm going to suggest to you that maybe we need to be more creative. I'm also going to suggest to you that in this...should this compromise survive that Senator Lathrop has proposed that rural Nebraska, the outstate part of Nebraska, all of rural Nebraska except for the metropolitan area is going to be asked to give up something. We're going to be asked to give up the 30 percent that is going to accrue to a fund that will help build projects in rural Nebraska. But the racetrack in Lincoln, the arena project in Ralston is not giving up anything, quite frankly. And even though I appreciate the tightening up of the bill that Senator Lathrop's previous amendment did, and I'm grateful for that, it seems to me like now we're asking in the spirit of compromise for rural Nebraska to give up something in order to make this bill palatable. And frankly, I'm having a great amount of difficulty with that. And I know that the state of Nebraska needs revenue. And I know we're probably going to need a lot more revenue when next January comes. And I would like to be a part of that solution. But it just seems to me, folks, that everybody needs to participate if we're going to talk about that, that we can't do it on the backs of just rural Nebraska who have their own set of issues. So thank you, Mr. President...Madam President, excuse me. [LB779]

SENATOR FISCHER: And thank you, Senator Utter. [LB779]

SENATOR UTTER: Oh, Madam President, I'd like to yield the balance of my time to my good friend Senator Dierks. [LB779]

SENATOR FISCHER: Senator Dierks, a minute, 30. [LB779]

SENATOR DIERKS: Thank you, Madam President. Senator Utter, I was beginning to wonder there for a little bit. (Laugh) I have to tell you that I supported this bill out of committee and if you look at the committee statement, there were 5 that supported the 3 that did not. And if you looked at the proponents, there were 6, counting Senator Lathrop. Two of those...there were no opponents and no neutral. Two of those proponents, one was from Loup County and another one was with League of Municipalities. They would not have supported this bill with the complexion it has with this amendment, and I won't either. I think we've changed the whole meaning of this bill. I wouldn't have voted it out of committee if I knew this kind of a thing could happen to it. I just spend a half an hour with a young man trying to buy a small packing plant in Nebraska and his reason for coming to visit with me was, is there some place that I can find some dollars to help me do this? And we talked about this. Now I have to go back and tell him, sorry, it's not available. I hope you will turn this amendment down. I think

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it's just an unwise...it changes the whole complexion of this bill. It isn't what we looked at in committee and it isn't what we accept...what we've tried to do on the floor. So if you will, help me to defeat the amendment and then we'll support the bill. Thank you. [LB779]

SENATOR FISCHER: Thank you, Senator Dierks and Senator Utter. Senator Hansen, you are recognized. [LB779]

SENATOR HANSEN: Thank you, Madam President, members of the Legislature. I would like to ask Senator Carlson a question. I know he was a former coach and I have an analogy to go through it with him. [LB779]

SENATOR FISCHER: Senator Carlson, will you yield for questions? [LB779]

SENATOR CARLSON: Yes, I will. [LB779]

SENATOR HANSEN: Coach Carlson, if it looks like we're going to have a basketball game. In the old game the winner was 70 points, the loser was 30 points, but still what would you say if you were representing or the coach of the 30 percent? You know, when we played hard and tried hard. What are some other good examples to keep us up and going, the 30 "percenters," the 30 pointers? [LB779]

SENATOR CARLSON: That depends on what happened earlier. Maybe earlier games we got beat 70 to 20 or 70 to 10, so we might be moving in the right direction. That's kind of a hard answer but we may need to practice more, we may need to just give a better effort. And yet as a coach I did learn over all those years that you better believe that the best players in the world are the ones you've got, so don't gripe at your players. [LB779]

SENATOR HANSEN: Very good. I appreciate that. Now if you can envision this, Senator Carlson, Coach Carlson. We've got a basket on one end of the court and a basket on the other end of the court, and now we have a basket right square dab in the middle of the jump circle in the basketball court. And we're going to call this one the state of Nebraska players and maybe the Governor's team. And right now if the game was played it would be 70 points on one side, 70 points on the other side, and the basket in the middle was zero, still zero. The state...the Governor's team needs some points, they really need some points. So they're going to have to take some points away from both teams. What would you say to a 60-point win against a 20-point win and 20 points to the team in the middle? You still won the game. [LB779]

SENATOR CARLSON: Well, I'd say that's been a change of the rules. And you can't change the rules in the middle of the game. [LB779]

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SENATOR HANSEN: Okay. What about if the center net absolutely needs 30 points and that's what we're talking about in this bill, that the center bucket needs the 30 points or 30 percent of the 100 points in the game. If the winning team was 55 and the losing team was 15, yet the center bucket got 30 points, is everybody happy? Everybody loses a little bit on both ends of the court. [LB779]

SENATOR CARLSON: And you're asking me is everybody happy? [LB779]

SENATOR HANSEN: (Laugh) Is everybody happy, Coach? [LB779]

SENATOR CARLSON: No. [LB779]

SENATOR HANSEN: But in the end, and Senator Wightman sits in Appropriations, this is the kind of thinking he goes through. Well, if we're going to have a 100-point game and everybody needs to feel the pain, this is how we're going to get there, 55, 15, and 30. And we give 30 percent of this turnback money into the state, yet both sides lose a little, both sides feel the pain. And I don't think we can do this without a hearing. Thank you, Senator Carlson. I don't think that we can do this without a hearing. And I appreciate Senator Loudon saying that and then Senator Utter saying that too. This is a big change to say to rural Nebraska, you've gone from 70 to 30 to 70 to zip. Not a good time to do that. I think if we get this through a hearing, the Revenue Committee can work on it and get something a little more equal to the whole state and still get some money into the General Funds. Thank you, Mr. President. [LB779]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Hadley, you're recognized. [LB779]

SENATOR HADLEY: Mr. President, members of the body, I haven't spoken on this but I thought I'd come up and give my two cents worth. And, you know, when all else fails I try to get some facts. And I thought it's interesting that 70 percent of the awards from this fund have been after 2007, the last two years, 70 percent of the awards the last two years. Secondly, my good friend Senator Mello is right on target. If I was a Lincoln senator I would be absolutely opposed to this because, you know what, Lincoln's new arena and convention center down here can get \$1 million out of this fund if they put together the right proposal because they qualify. A couple others thing. I kind of was led to believe that the...that we didn't have enough projects to give the money away. As far as I can see, they had basically three granting periods, the first time 8 out of 23 proposals were funded. The next time 12 out of 19 were funded. This last go round, October 2009, 8 out of 26 were funded. I was led to believe that there weren't enough proposals to use up the funds. Well, this last go round, if I got my figures right, 17 proposals were not funded. Now maybe they weren't good enough. I got a hunch we're

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not doing a good enough job of explaining to these municipalities what they need to use it for. And lastly, I have to be consistent because Senator Pirsch came to me with his idea of changing this. And I told Senator Pirsch I wouldn't support it because I felt that this was enough...his ideas, while they were good, were enough of a change that we needed to go back to the committee next year and have a hearing on this fund as to what it's doing and what it should be doing. So I can't tell him that and then turn around and vote for this, a change on the floor. So I stand in opposition of AM2517. With that, I would yield my remaining time to Senator Gloor, Mr. President. [LB779]

SENATOR LANGEMEIER: Senator Gloor, 2:36. [LB779]

SENATOR GLOOR: Thank you, Mr. President. And a thank you to my good friend Senator Hadley, self-described future senator from Iowa. There have been numerous references to the Heartland Event Center in Grand Island, which was one of the first to get the turnback tax. And so far as I know was the first to reach the maximum amount. And so we got ours and "nanner, nanner, nanner," Senators Fischer and Dubas and Schilz, we got ours. It would be wrong of me and an embarrassment to stand up here and be in support of LB779 given the fact that we just happen to be one of the first in line, ready to go, ready to have a project, ready to have everything laid out the way it should be and to not have a fiscal crisis that puts this on a plate in front of the Legislature, pulling the rug out from underneath it. We do precious little with the monies we have for rural areas, it's difficult. But it seems to me to take this arrow out of the quiver, to take this away from helping rural communities reinvigorate themselves is the wrong thing to do at this point in time. And because of that, I am opposed to AM2517. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Janssen, you're recognized. [LB779]

SENATOR JANSSEN: Question. [LB779]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM2517? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB779]

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate. [LB779]

SENATOR LANGEMEIER: Debate does cease. Senator Lathrop, you're recognized to close on AM2517. [LB779]

SENATOR LATHROP: Thank you, Mr. President. This might be the first time I've been heckled on the floor. (Laughter) I brought LB779 to this body because I believe that the

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turnback tool is an effective tool to be employed by communities in the state of Nebraska. It is a...LB779 is a bill that has proper safeguards in it. I appreciate the work of the Revenue Committee. I appreciate my...the input from the Governor's chief of staff. Obviously, the Governor's chief of staff in his meetings with me has been concerned about the financial position of this state. I respect that. We've made changes in the amendment that we adopted a moment ago to make sure that safeguards are in place that LB779 does as I represented it would do and that it doesn't turn into some kind of a giveaway. And I made a commitment to the Governor's chief of staff, who I think is generally a thoughtful person, generally has concern for the financial stability of the state and for the General Fund from which we all try to draw for our various projects. And my promise was that I would put this amendment up and that I would explain the rationale for it and I have. The rationale remains the same. There is a difference between the big projects, the Qwest and the Lincoln project, assuming that gets going, because other cities across the state are not going to be able to put those kind of projects together. And we share in the turnback with the smaller communities. Is there a distinction without a difference or is there a difference between the Qwest Center and LB779 size projects? Do we turn this money back to the General Fund for our other expenses, the other things that you will want next year and the year after that or do we plow it back into the 30 percent fund where it can go to do admittedly good things, and we've heard a lot of them today. I want you to know that I think this discussion is an important discussion, it is a policy discussion. And I've agreed to carry the amendment and to initiate the discussion and to have the discussion with this body to find out where we're at. I've heard you. I've heard the concerns. I've heard the concerns. The concerns that the turnback money is a resource for the smaller communities. I have to tell you that today we look at LB779 in the context of a community near Omaha, my community of Ralston. And... [LB779]

SENATOR LANGEMEIER: One minute. [LB779]

SENATOR LATHROP: And it is difficult for me to hear people stand on the floor and say, Ralston gets something, we ain't getting anything out of this. You know, LB779 and these turnbacks projects are a catalyst. They're a catalyst for economic development and we are going to see it pay benefits to the General Fund. We have a policy question about whether the smaller projects ought to have the money turned back to the 30 percent fund or go to the General Fund. And I'll leave that to you. LB779 is good policy. And while I've heard people upset about this amendment, I hope you can appreciate that it is an important policy question, it is an important debate, it is an important matter to consider. [LB779]

SENATOR LANGEMEIER: Time. [LB779]

SENATOR LATHROP: Thank you. [LB779]

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SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the closing on AM2517 offered to LB779. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB779]

CLERK: 2 ayes, 28 nays, Mr. President, on the amendment. [LB779]

SENATOR LANGEMEIER: AM2517 is not adopted. Mr. Clerk, for a motion. [LB779]

CLERK: Mr. President, Senator Lathrop would move to amend with AM2528. (Legislative Journal pages 1360-1362.) [LB779]

SENATOR LANGEMEIER: Senator Lathrop, you are recognized to open on AM2528. [LB779]

SENATOR LATHROP: Ooh, that one hurt. (Laughter) This amendment deals with the cost of doing this. And I'll talk about that in just a minute. I want to go back because, I guess, I'll have an opportunity to close on this. But this bill enjoyed your support on General File. I hope the discussion that we've had does not influence your view of LB779. I think it is good policy. It's not good policy because it works in Ralston but it's good policy because it's a tool that will be available for communities across the state if they can qualify. I hope I'll enjoy your support here in a moment. This particular amendment deals with the funding of the costs associated with this. It amends the Local Civic, Cultural, and Convention Center Financing Fund to allow the use from that fund to allow transfers to the Revenue Enforcement Fund at the direction of the Legislature. It amends statutes governing the Revenue Enforcement Fund to allow transfers in the Local Civic, Cultural Convention Center Financing Fund and allows the Revenue Enforcement Fund to be used for costs to administer the Sports Arena Facility Financing Act. It authorizes the transfer of \$79,300 from that fund to use...for use by the Revenue Enforcement Fund on July 1, 2010, or as soon thereafter as administratively possible and states legislative intent, the intent to use to use \$42,900 to be transferred in fiscal years '11-12. As a result of these provisions, transfers from the 30 percent fund to the Revenue Enforcement Fund will be used to provide a funding source for administrative costs related to LB779. The 30 percent fund earned about \$70,000 in interest last fiscal year, so the transfers will not have a measurable impact on the fund. At this time there is a \$2.3 million balance in the fund that is not under contract. I would encourage your support of the amendment. Thank you. [LB779]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on AM2528 offered to LB779. The floor is now open for discussion. Senator Loudon, you're recognized. Senator Loudon waives his opportunity. Seeing no other lights on, Senator Lathrop, you are recognized to close on AM2528. Senator Lathrop waives closing. The question before the body is, shall AM2528 be adopted to LB779? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to?

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Record, Mr. Clerk. [LB779]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB779]

SENATOR LANGEMEIER: AM2528 is adopted. [LB779]

CLERK: I have nothing further on the bill, Mr. President. [LB779]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB779]

SENATOR MCGILL: Mr. President, I move LB779 to E&R for engrossing. [LB779]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB779. All those in favor say aye. All those opposed say nay. The ayes have it, LB779 does advance. Mr. Clerk, LB779A. [LB779 LB779A]

CLERK: Mr. President, LB779A, Senator Lathrop, I have AM2529 in front of me, Senator. (Legislative Journal page 1362.) [LB779A]

SENATOR LATHROP: I'm sorry, would you repeat that. [LB779A]

CLERK: AM2529. [LB779A]

SENATOR LATHROP: AM2529 to... [LB779A]

CLERK: Yes. [LB779A]

SENATOR LATHROP: ...be substituted for the previous... [LB779A]

CLERK: Well, it's the... [LB779A]

SENATOR LATHROP: That's the only amendment. [LB779A]

CLERK: Yeah. Yes, sir. [LB779A]

SENATOR LATHROP: Okay, forgive me. I thought I had another one on file. Sorry. [LB779A]

SENATOR LANGEMEIER: Senator Lathrop, you're recognized to open on AM2529. [LB779A]

SENATOR LATHROP: This is the A bill to follow what we just got done doing on LB779.

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AM2529 would appropriate all funds associated with carrying out the costs of the provisions of LB779 from the Local Civic, Cultural Convention Center Financing Fund. It puts the A bill in the...puts into the A bill the language adopted moments ago in AM2528 to LB779. And I would for that reason appreciate your support for this amendment. Thank you. [LB779A LB779]

SENATOR LANGEMEIER: You have heard the opening on AM2529. The floor is now open for discussion. Seeing no lights on, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall AM2529 be adopted to LB779A? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB779A]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment. [LB779A]

SENATOR LANGEMEIER: AM2529 is adopted. [LB779A]

CLERK: I have nothing further on the bill, Mr. President. [LB779A]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB779A]

SENATOR MCGILL: Mr. President, I move LB779A to E&R for engrossing. [LB779A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB779A does advance. Mr. Clerk, items for the record. [LB779A]

CLERK: Mr. President, LB420 and LB771 are reported correctly engrossed. Enrollment and Review reports LB1020 to Select File with E&R amendments. The Executive Board reports LR542 back to the Legislature for further consideration. Health and Human Services provides a confirmation report, and a conflict of interest statement filed by Senator Campbell, on file in the Clerk's Office. That's all that I have, Mr. President. (Legislative Journal pages 1363-1364.) [LB420 LB771 LB1020 LR542]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Mr. Clerk, we will now move to Final Reading. Members, please return to your seats and prepare for Final Reading. Mr. Clerk, the first bill, LB817. [LB817]

CLERK: (Read LB817 on Final Reading.) [LB817]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB817 pass? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB817]

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CLERK: (Record vote read, Legislative Journal pages 1364-1365.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB817]

SENATOR LANGEMEIER: LB817 does pass. Mr. Clerk, LB1109E. [LB817 LB1109]

CLERK: (Read LB1109 on Final Reading.) [LB1109]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB1109 pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1109]

CLERK: (Record vote read, Legislative Journal pages 1365-1366.) 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President. [LB1109]

SENATOR LANGEMEIER: LB1109 passes with the emergency clause attached. We'll now proceed to LB1109AE. [LB1109 LB1109A]

CLERK: (Read LB1109A on Final Reading.) [LB1109A]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB1109A pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB1109A]

CLERK: (Record vote read, Legislative Journal page 1366.) 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President. [LB1109A]

SENATOR LANGEMEIER: LB1109A passes with the emergency clause. We'll now proceed to LB801. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1109A LB801]

CLERK: 40 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB801]

SENATOR LANGEMEIER: The reading is dispensed. Mr. Clerk, please read the title. [LB801]

CLERK: (Read title of LB801.) [LB801]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB801 pass? All those in favor vote yea; all those

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opposed vote nay. Mr. Clerk, please record. [LB801]

CLERK: (Record vote read, Legislative Journal page 1367.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB801]

SENATOR LANGEMEIER: LB801 passes. Mr. Clerk, LB842. [LB801 LB842]

CLERK: (Read LB842 on Final Reading.) [LB842]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB842 pass? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB842]

CLERK: (Record vote read, Legislative Journal pages 1367-1368.) 39 ayes, 4 nays, 6 excused and not voting, Mr. President. [LB842]

SENATOR LANGEMEIER: LB842 passes. Mr. Clerk, LB849E. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB842 LB849]

CLERK: 35 ayes, 1 nays, Mr. President, to dispense with the at-large reading. [LB849]

SENATOR LANGEMEIER: Mr. Clerk, please read the title. [LB849]

CLERK: (Read title of LB849.) [LB849]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB849 pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB849]

CLERK: (Record vote read, Legislative Journal page 1369.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB849]

SENATOR LANGEMEIER: LB849E passes with the emergency clause. Mr. Clerk, LB862. [LB849 LB862]

CLERK: (Read LB862 on Final Reading.) [LB862]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB862 pass? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB862]

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CLERK: (Record vote read, Legislative Journal page 1370.) 40 ayes, 2 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB862]

SENATOR LANGEMEIER: LB862 passes. Mr. Clerk, LB877E. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB862 LB877]

CLERK: 39 ayes, 1 nay, Mr. President, on the motion to dispense with the at-large reading. [LB877]

SENATOR LANGEMEIER: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB877]

CLERK: (Read title of LB877.) [LB877]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB877 pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB877]

CLERK: (Record vote read, Legislative Journal page 1371.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB877]

SENATOR LANGEMEIER: Mr. Clerk, LB877 passes with the emergency clause. We'll now move to LB945. [LB877 LB945]

CLERK: (Read LB945 on Final Reading.) [LB945]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB945 pass? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. [LB945]

CLERK: (Record vote read, Legislative Journal pages 1371-1372.) 38 ayes, 2 nays, 3 present and not voting, 6 excused and not voting, Mr. President. [LB945]

SENATOR LANGEMEIER: LB945 passes. Mr. Clerk, LB950E. Mr. Clerk, the first vote will be to dispense with the at-large reading. All those in favor please vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB945 LB950]

CLERK: 34 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB950]

SENATOR LANGEMEIER: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB950]

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CLERK: (Read title of LB950.) [LB950]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB950 pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB950]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1372-1373.) Vote is 42 ayes, 0 nays, 7 excused and not voting. [LB950]

SENATOR LANGEMEIER: LB950 passes with the emergency clause. Mr. Clerk, LB1010E. [LB950 LB1010]

ASSISTANT CLERK: (Read LB1010 on Final Reading.) [LB1010]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB1010 pass with the emergency clause attached? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1010]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1373-1374.) Vote is 42 ayes, 0 nays, 7 excused and not voting. [LB1010]

SENATOR LANGEMEIER: LB1010 passes with the emergency clause. As was stated earlier this morning, we'll be passing over LB1071E. Mr. Clerk, LB1094. [LB1010 LB1094]

ASSISTANT CLERK: (Read LB1094 on Final Reading.) [LB1094]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB1094 pass? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1094]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1374.) Vote is 42 ayes, 0 nays, 7 excused and not voting. [LB1094]

SENATOR LANGEMEIER: LB1094 passes. Mr. Clerk, LB1094A. [LB1094 LB1094A]

ASSISTANT CLERK: (Read LB1094A on Final Reading.) [LB1094A]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB1094A pass? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1094A]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1374-1375.) Vote is 42 ayes, 0 nays, 7 excused and not voting. [LB1094A]

SENATOR LANGEMEIER: LB1094A passes. Mr. Clerk, LB510. [LB1094A LB510]

ASSISTANT CLERK: Mr. President, with respect to LB510, Senator Council would move to return the bill...or recommit LB510 to the Judiciary Committee. [LB510]

SENATOR LANGEMEIER: Senator Council, you are recognized on your motion to recommit to committee. [LB510]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have offered this motion to recommit LB510 to the committee to provide the Judiciary Committee and this body, quite frankly, an opportunity to actually reconsider the allocation of the funds to be raised under LB510. If you'll recall, Senator Pirsch introduced LB510 to provide a means for increasing the amount of funding available to victims of crime in the state of Nebraska. No one in this body disagrees with that objective. The bill, as originally introduced, provided for a \$1 surcharge on every criminal prosecution in any county in the state of Nebraska and it also provided for the withholding of up to 5 percent of the wages earned by inmates in work release programs. The combination of those funds were to be made available to the Crime Victim's Reparations Fund. During the course of the development and the discussion on this bill, I initially raised questions regarding the value of withholding funds from work release inmates for the Crime Victim's Reparations Fund. Senator Pirsch, during his opening on LB510 before the Judiciary Committee, made the point that it was his intent to provide for parity in that inmates who work for the prison industries and are, therefore, working for a private employers in many instances through prison industries, have 5 percent of their wages withheld for the Crime Victim's Reparations Fund and Senator Pirsch believed that it would be fair to have inmates in the work release program also have 5 percent of their wages withheld for the Crime Victim's Reparations Fund. The concern that I expressed to the committee and to Senator Pirsch was that there is a distinct difference between inmates who are employed at Cornhusker State Industries and inmates who are employed through the work release program. First and foremost, inmates who are employed in the work release program have satisfied the conditions of the director of the Department of Corrections as well as the Parole Board to be allowed to work in the community outside of the correctional facility. These are people who have had to demonstrate to the Parole Board and the Department of Corrections that they have the conduct, the behavior, the mental attitude, and the conditions that indicate that greater society will be benefited if they are allowed to work out in the community. These are generally people who have not committed crimes of violence. For the most part, these are individuals who would fall into the category of what's commonly referred to as people who have committed victimless crimes, although any crime that's committed in the state of Nebraska there is a victim, being the state. But we're not talking about people who have committed the

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types of crimes that the Crime Victim's Reparations Fund makes funds available to families to compensate them and to assist them through a very difficult time. And, please, I want everyone in this body and everyone viewing to know and understand that I support providing assistance to families who have had to suffer from criminal activities, particularly violent criminal activities that impose upon them costs that more often than not they're in no position to bear. But in the case of withholding from these inmates in the work release program, one of the concerns that I expressed again is the difference. Someone working in Cornhusker State Industries within the confines of the correctional facility only have 5 percent of their wages withheld. Individuals in work release programs more often than not are assigned to work release centers where, in addition to this 5 percent, they would have withheld from their wages the cost of housing them in the work release center. So they have to pay for their room and board and then to have 5 percent additionally withheld. The concern is these are the people who are one step away from reentering our communities. These are the people who we want to be most successful in reentering our community, so these are the people who, when they are in a position to earn wages, we would benefit from them maintaining as much of their wages as they can so that they can successfully reenter our communities, be able to obtain housing, be able to cover their transportation, and to continue to be employed. So it was for that reason that I approached Senator Pirsch about providing for a division of the total amount collected from the \$1 court surcharge and the 5 percent withholding so that a program that everyone in the state has an interest in...and that is the reduction of violence in our communities. So initially what the Judiciary Committee had considered advancing to the floor was LB510 that provided for 75 percent of the funds collected to go to the Victim's Reparations Fund and 25 percent to go to the Office of Violence Prevention. The bill that made it to the floor was amended by the committee after Senator Christensen advised of the concern, and, please, it's a legitimate concern, that the McCook Work Ethic Camp was not going to be able to continue to operate because the Department of Corrections did not have the necessary funding to provide for the number of inmates to participate in the Work Camp that would make it cost effective. Now, we were never provided with any breakdown from the Department of Corrections. My recollection from the floor debate was that the Department of Corrections advised either Senator Christensen or Senator Ashford that it would take about \$40,000 a year to maintain the Work Ethic Camp at McCook at the level that it is...that it has been operating for the last year. The problem I have with that is, again, we don't...we've never been provided as a committee with the data to support that amount of money going to the Department of Corrections for the Work Ethic Camp, but of even greater significance to me, and it should be to everyone in this body as well, is the reason why the Department of Corrections was unable to continue the program if all that was required was \$40,000. And I say that in the context of the article that was released, published in the Lincoln Journal Star today that shows that the Department of Corrections has expended in excess of \$35,000 with regard to the implementation of the lethal injection protocol. Now I point that out because this body was led to believe last year, when they voted to advance LB36, that there was no cost to the Department of

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Corrections associated with substituting lethal injection for electrocution. There was absolutely no fiscal note. And in fact, the fiscal... [LB510 LB36]

SENATOR LANGEMEIER: One minute. [LB510]

SENATOR COUNCIL: ...note stated that the Department of Corrections did not anticipate spending any dollars. This, ladies and gentlemen, is a priority issue and I think it's a priority issue that needs to be considered by the Judiciary Committee, and that priority is whether the Department of Corrections should be allowed to discontinue the Work Ethic Program in order to advance the lethal injection protocol when the representation was made that it wouldn't cost anything. If those sums had not been expended, I submit to you that there's enough money in the Department of Corrections' budget to maintain the Work Ethic Camp Program, and then the 25 percent that's raised from the inmates would be divided and 75 percent go to victims and 25 percent go to the Office of Violence Prevention. It is for that... [LB510]

SENATOR LANGEMEIER: Time. [LB510]

SENATOR COUNCIL: ...reason I believe this bill ought to be recommitted to committee. [LB510]

SENATOR LANGEMEIER: Thank you, Senator Council. You have heard the opening on the motion to recommit LB510 to Judiciary Committee. The floor is now open for discussion. Senator Pirsch, you're recognized. [LB510]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. As the sponsor of LB510, I do oppose the motion to recommit this bill to committee. Let me be very clear. The motion to recommit, and I think this is pretty transparent, but this would mean the end, the demise, of LB510 for this year. There would be no assistance to go to crime victims if this bill were recommitted to committee. And so for that basis, I do oppose it. This has been a two-year process--LB510 was introduced last session--in bringing us to this point and it has had quite a bit of debate. I certainly understand, you know, and I find myself in kind of a delicate position because certain action was taken on the bill. There was two different opinions about how to use some of the funds at the committee level and I don't want to get into the middle of that. I can only say that I brought LB510 because I thought there was a dire, very basic need for assisting crime victims--we are dead last in the country--very basic needs, funeral expenses, medical expenses, those type of things. And so make no doubt about it, if you vote in favor of the motion to recommit to committee, you're voting to kill the bill and not provide assistance to crime victims and that's just the end result of it. And so I thank you for your attention. [LB510]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Council, you're recognized. [LB510]

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SENATOR COUNCIL: Yes, thank you, Mr. President. And, colleagues, I hope you appreciate that it is not my intent to deny crime victims in this state from the opportunity to receive financial assistance for the harm that they have endured as a result of a criminal act committed in this state. What my concern is, is that we need to look at the policy that we are establishing under LB510. I've pointed to one of the problems and that is that we are making a decision, and I heard earlier today on debate on another issue, we're making a decision about allocation of funds when, yeah, there's no question of how the Victim Reparations Fund are going to be used but in terms of the Reentry Cash Fund. I would like to ask Senator Pirsch if he would yield to a question. [LB510]

SENATOR LANGEMEIER: Senator Pirsch, would you yield? [LB510]

SENATOR PIRSCH: I would. [LB510]

SENATOR COUNCIL: Senator Pirsch, do you know whether inmates who are assigned to the Work Ethic Camp are considered work release inmates and, therefore, would be subject to the 5 percent withholding? [LB510]

SENATOR PIRSCH: I couldn't give you a definitive answer on that, Senator. [LB510]

SENATOR COUNCIL: Okay. And that, again, reflects one of the problems with advancing a bill with so many unanswered questions. It appears to me that we would not want to advance a bill that, quite frankly, establishes a policy of having one set of inmates pay for the benefits received by another set of inmates. Most assuredly, the Work Ethic Camp is an excellent program; provides individuals with an opportunity to reside at the center in McCook, to be employed by a private employer, to receive significant job training and skills that they could use to successfully reenter our communities. But to accomplish that on the backs of other work release inmates, I don't think that that's fair. I don't think that that's the policy that the state wants to advance. The issue that could be addressed by revisiting this, if that is the case, we can answer those questions, but to benefit one group of inmates at the expense of another and then not even knowing whether those individuals who are working for private industries have 5 percent of their withholding go to the Victim's Reparations Fund. I believe that all of these factors ought to be considered by the Judiciary Committee, and I appreciate Senator Pirsch's frustration. He introduced LB510 last year and certainly we do rank very low compared to other states with regard to the funds available for victims. But we also have taken the crimes that a applicant is eligible to receive funds and reduced them significantly, to the point that the only victims who can take advantage of the funds are actually those victims who are...those individuals who are the victims of some of the most serious violent crimes that are committed in our state. And, again, I don't want to deprive... [LB510]

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SENATOR LANGEMEIER: One minute. [LB510]

SENATOR COUNCIL: ...people in this state of access to funds to assist them with medical expenses, funeral expenses. Allow me to assure you that a great many of the applicants would be residents of the district that I represent. But I also think that those residents would like to see violence generally eliminated in their communities and by having a portion of the fund go to the Office of Violence Prevention would achieve, I think, the greater combined state goal of taking care of victims and putting us in a position where no one should fear being a victim because we have implemented the programs and activities that eliminate crime and violence in our community. Thank you. [LB510]

SENATOR LANGEMEIER: Thank you, Senator Council. Seeing no other lights on, Senator Council, you are recognized to close on your motion to recommit to Judiciary Committee. [LB510]

SENATOR COUNCIL: Thank you, Mr. President. I will be brief. I think that a issue as serious as this issue deserves the kind of examination and investigation that recommitting to committee would allow to occur. I think this body needs to have an answer as to why the Department of Corrections elected to eliminate a program that they themselves laud, everyone in this body has expressed their support for the Work Ethic Camp, would be willing to sacrifice it rather than have the Department of Corrections come and be forthright to this body and request additional funds to carry out implementation of lethal injection. That's what the trade-off is here; that we are going to substitute the funds that could go to violence prevention, could go to reducing violence in the first instance in this state, and we're going to reduce those funds, eliminate that opportunity because funds were redirected that were represented to this body as being unnecessary. If the \$35,000 wasn't needed for lethal injection protocol implementation, then those funds ought to be available for them to continue the Work Ethic Camp, and those questions need to be answered before LB510 is advanced. Thank you. [LB510]

SENATOR LANGEMEIER: Thank you, Senator Council. You have heard the closing on the motion to recommit to Judiciary Committee of LB510. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB510]

ASSISTANT CLERK: 6 ayes, 23 nays on the motion to recommit, Mr. President. [LB510]

SENATOR LANGEMEIER: The motion to recommit was unsuccessful. We return to Final Reading. Mr. Clerk, LB510. [LB510]

ASSISTANT CLERK: (Read LB510 on Final Reading.) [LB510]

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SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB510 pass? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB510]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1375-1376.) Vote is 38 ayes, 1 nay, 2 present and not voting, 8 excused and not voting, Mr. President. [LB510]

SENATOR LANGEMEIER: LB510 passes. Mr. Clerk, LB510A. [LB510 LB510A]

ASSISTANT CLERK: (Read LB510A on Final Reading.) [LB510A]

SENATOR LANGEMEIER: All provisions of law relative to procedure having been complied with, the question is, shall LB510A pass? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB510A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1376-1377.) Vote is 40 ayes, 1 nay, 8 excused and not voting. [LB510A]

SENATOR LANGEMEIER: LB510A does pass. Members of the body, we are going to stand at ease as we have to wait for LB779 and LB779A to return from E&R from engrossing. We're estimating that to be about 6:15. Before that, items for the record? [LB510A]

ASSISTANT CLERK: Two items, Mr. President: new resolution, LR555 by Senator Krist, that will be laid over; and name adds, Senator Lautenbaugh to LR539. (Legislative Journal pages 1377-1378.) [LR555 LR539]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Speaker Flood for an announcement.

SPEAKER FLOOD: Good evening, members. Just a quick note: We're going to stay in session until about 6:15 tonight, allow some of the bills we processed during the day to come back. When we start tomorrow, we'll have a couple bills to resolve on Select File, and then we've got about three hours of Final Reading. We'll take up consent on Final Reading. So please plan on working through lunch tomorrow, probably midafternoon. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Speaker Flood. The Legislature will stand at ease.

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SENATOR LANGEMEIER: The Legislature will come to order. Mr. Clerk, items for the record?

ASSISTANT CLERK: Mr. President, your Committee on Enrollment and Review reports LB779 and LB779A as correctly engrossed. Speaker Flood has an amendment to LB1103. (Legislative Journal pages 1378-1379.) [LB779 LB779A LB1103]

And a priority motion: Senator Heidemann would move to adjourn until Friday, April 9, 2010, at 9:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn. All those in favor say aye. All those opposed say nay. The ayes have it. We stand adjourned.