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Floor Debate
March 17, 2011

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LB284 LB314 LB329 LB368 LB385 LB388A LB399 LB463A LB465 LB468 LB471
LB474 LB556 LB632 LB633 LB637 LB648 LR123 LR131 LR132 LR133 LR134]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-eighth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Pirsch. Please rise.

SENATOR PIRSCH: (Prayer offered.)

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

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

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

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Thank you. Are there messages, reports, or announcements?

CLERK: Mr. President, a communication from the Governor. (Read re LB159, LB164, LB191, LB210, LB210A, LB228, LB257, LB278, LB281, LB284, LB314, LB368, LB399, LB471, LB474, LB556.) A series of reports received from DAS, the Coordinating Commission for Postsecondary Education, the Fiscal Office, Department of Revenue, and the University of Nebraska. Those will be on file in the Clerk's Office. And the lobby report for this week to be inserted in the Journal, Mr. President. That's all that I have. (Legislative Journal pages 895-896.) [LB159 LB164 LB191 LB210 LB210A LB228 LB257 LB278 LB281 LB284 LB314 LB368 LB399 LB471 LB474 LB556]

SENATOR GLOOR: Thank you, Mr. Clerk. We will now return to General File, LB385. Mr. Clerk.

CLERK: Mr. President, LB385 introduced by Senator Utter at the request. (Read title.) [LB385]

SENATOR GLOOR: (Gavel) [LB385]

CLERK: Senator Utter presented his bill yesterday, Mr. President. At that time, Senator Mello moved to amend. Currently have pending Senator Mello's AM839 as an

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amendment to Senator Utter's bill. (Legislative Journal page 889.) [LB385]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Utter, you have two minutes to review LB385 for the body. [LB385]

SENATOR UTTER: Thank you very much, Mr. President. Good morning, colleagues. LB385 essentially terminates the Energy Conservation Improvement Fund. And it was a program that was adopted that designated 5 percent of an electric utilities or other groups, body, another group that might be related to the distribution of electricity, to designate 5 percent of their income...their sales tax revenues to go into this fund to be matched by the electric utility and to provide weatherization programs for low-income families in our state. It's been a largely under-utilized program. It is duplicated by several other programs in state government and from federal funds that the state has received. And so frankly it is a program that in my opinion is no longer needed. In a much broader sense, colleagues, the adoption of LB385 as introduced I think says something about our willingness as a body to downsize state government, to eliminate duplication, to decrease the tax burden on the state's citizens. Because quite frankly when you look at this program, at the Energy Conservation Improvement Fund and how it's constituted, it's all paid by Nebraska citizens. Yes, 5 percent of it comes...5 percent of it or half of the money in the fund comes from the 5 percent deduction from the electric utilities sales taxes. The other 5 percent has to be matched by the utility for the low-income weatherization project. So ultimately we're looking at the taxpayers and the rate payers of this state paying the entire bill on this fund. And with that, I will yield back the rest of my time, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Utter. Senator Mello, you have two minutes to review your amendment. [LB385]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM839 simply changes what is the underlying purpose of LB385 which is to eliminate the low-income energy assistance conservation act and instead it changes the mechanism and how we ultimately oversee the program through the appropriations process where it would be placed into the appropriations process to determine by the Legislature how much funding we want to put towards this program in any given year. The underlying amendment's purpose is simply this. We understand that the state is in a fiscal crisis right now and we have a balanced budget that we have to produce by the end of this session. But the questions that I have and the dilemma that I see is that we are continually placing programs and work supports that support Nebraska's working poor and seniors ahead of a host of other programs to cut. That is what we are doing with LB385. The inception of the low-income energy conservation act was based with a partnership with public power in the Legislature in 2008 which was stated, we want to assist the lowest income Nebraskans in providing them the assistance to stay in their homes, primarily targeting our seniors to be able to stay in their homes with long

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out-of-date furnaces, heat pumps so that we could lower their energy bills, keep them in their homes, keep them out of nursing homes, and keep them from being homeless. The amendment simply states that we acknowledge through the appropriation process in the preliminary budget that we have eliminated most of the projected funding and/or projected tax revenue that would go to fund this program down to the level of \$119,000 each year from roughly \$4.2 million per year. The reality is this, is the Appropriations Committee can do this now through the budgetary process. What this amendment simply does is codifies that and gives the authority essentially to the Legislature to determine the total ceiling that can be appropriated towards this program in years future without eliminating the program. We're working on some changes. Senator Heidemann, myself were in a conversation and I got to speak with Senator Utter as well a little bit more. I'll be withdrawing this amendment to work on another amendment and have a few other motions to be putting up today so that we can bide some time to try to discuss this issue a little bit further to see if there's a way we can find some resolution. Because at the end of the day, this has not just an impact on the low-income families and seniors in Nebraska, but this also has an economic impact in regards to what this program does to blue-collar workers who work in the HVAC industry in this state of helping to provide jobs to those blue-collar workers who are trying to replace energy systems in the most "neediest" families and seniors across our great state. So hopefully we'll continue to have a dialogue through the rest of the morning on LB385, and we will move forward with some future amendments. Thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Mello. Senator Carlson, you are recognized. [LB385]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address a question to Senator Utter if he would yield. [LB385]

SENATOR GLOOR: Senator Utter, would you yield to a question from Senator Carlson? [LB385]

SENATOR UTTER: Absolutely. [LB385]

SENATOR CARLSON: Senator Utter, I think several of us are looking at the fiscal note. And as I see it, it looks like that there's a savings, a projected savings of \$4,652,000 in year 2011-2012. And then as I look at it, it appears to be no fiscal...no impact beyond this year '11-12. Would that be accurate? [LB385]

SENATOR UTTER: That's because the program is set by this bill to terminate at the end of the 2011-2012 fiscal year. [LB385]

SENATOR CARLSON: So it is fair to say it's a one-time savings of \$4.652 million? [LB385]

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SENATOR UTTER: It's fair to say that, Senator Carlson, if the program is fully utilized, and that would mean that there would be applications for assistance in weatherization programs and that utilities would be willing to match an equal amount with the sales tax revenues that they withdraw. [LB385]

SENATOR CARLSON: Okay. And, Senator Utter, does LB385 in your opinion change any access that Nebraska may have to federal energy dollars in the years 2011-12 and beyond? [LB385]

SENATOR UTTER: Not to my knowledge, Senator Carlson. [LB385]

SENATOR CARLSON: Okay. Thank you, Senator Utter. And I'm interested in listening to the rest of the debate on this bill. I'm also interested in what Senator Heidemann may weigh in on concerning this and Senator Mello's amendment. Thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Wallman, you are recognized. [LB385]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. I appreciate Senator Mello's amendment and we'll have more discussion on that. I'm anxious to listen to other people. Whenever we say there's a direct savings...I think yesterday we passed on some more spending in here, and so now we're trying to save here. So it's never a direct savings as we think because like there's jobs, people work on these projects, and so they bring in income, they bring in sales tax, income tax, so it's never a savings as much as we like to think there will be, especially if there's government monies involved and some of these are donated dollars too. And I noticed OPPD testified against this bill. So with that, thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Ken Haar. [LB385]

SENATOR HAAR: Mr. President and members of the body. Mr. President, that's Kenneth O. Haar, by the way, (laugh) for today. I would like to ask Senator Utter some questions if I could. [LB385]

SENATOR GLOOR: Senator Utter, would you yield? [LB385]

SENATOR UTTER: Yes, I will. [LB385]

SENATOR HAAR: Okay. Again, sorry I have to have my back towards you. One of the...I have a real concern about energy conservation programs, especially for the low

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income. And could you tell me, you said that this is...that the Low-Income Home Energy Conservation Act is duplicated by other programs, could you be specific with me what those programs are? [LB385]

SENATOR UTTER: Well, Senator Haar, of course you'd know that the stimulus funding provided a substantial amount of money for low-income weatherization programs. In it...I'm just looking at my notes here to give you the exact nomenclature on that, but there is the...in addition to the ARRA funds that were received, there's the Low-Income Weatherization Assistance Program which duplicates many of the efforts of this program. This is a program which the Nebraska Energy Office receives funding through three different sources in 2010. These sources include the U.S. Department of Energy's Low-Income Weatherization Assistance Program and the low-income housing energy assistance program, and in addition there are some funds that flow into the energy assistance work that is done from the Nebraska Department of Health and Human Services. [LB385]

SENATOR HAAR: Okay. Now the ARRA funds, the A-R-R-A funds, are going away. And are these others ongoing, the Low-Income Weatherization...the money that the state is getting from the federal government, is that ongoing? [LB385]

SENATOR UTTER: It's my understanding that it is, Senator. [LB385]

SENATOR HAAR: Okay. And, of course, one of the things that Congress is talking about now is cutting out programs like low-income weatherization. I would, I guess, argue that this is not a...thank you very much for that information. And by the way, the Energy Office has low-interest loans but those are like 2.5 percent interest and they are actually loans. I handed out something called "the face of poverty today in Lincoln, Nebraska," and this comes from, again, the Center for People in Need on north 27th Street. If you'd open...let's start with page 18. And...because I think it's important to recognize, as they say, users of this report are reminded this sample does not represent the entire population of Lincoln and Lancaster County, but it does represent about 40 percent of the low-income households of families with children in this area who are a client base. Low-income households that do not seek our services, households without children, and those who have no way to get to the center are not represented here to a significant degree. [LB385]

SENATOR GLOOR: One minute. [LB385]

SENATOR HAAR: Thank you. And then on page 19, again, because I want to show you where this data comes from, I think that's really important, 19 and 20 is the questionnaire that people answered. And actually on page 21 is a map of the families that filled this out. So you can see that actually poverty is fairly well-distributed all over Lincoln. There are people in poverty all over Lincoln. And I'd like to talk about this report

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some more on my next time at the mike. Thank you very much. [LB385]

SENATOR GLOOR: Thank you, Senator Haar. Senator Campbell, you are recognized. [LB385]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I rise to support AM839 by Senator Mello or a version. Apparently we are going to have other versions to that. I served on the Lincoln Electric Board and had a visit this morning from one of the staff people. And I wanted to share some of that information to you. I'm sure I was one of the senators that sat yesterday and listened to the discussion on this but really wasn't quite connecting with what was being said and what the amendment was. I think it's important for all of you to know how much money has been spent on this program. LES just withdrew its last amount, and so in total it spent \$100,000 with no plans for an additional use. However, the Lincoln Electric System would very much advocate that the plan stay in place as a tool to be used. And it is very strange that the fiscal note should be at \$4 million since the two largest electric systems in the state with LES and Omaha Public Power District...in checking with Omaha, and there may be a later figure, they had used \$67,000. So between those two entities, they'd used \$167,000. And their question was, you would have to have every system using this to its full capacity and then you'd begin to question whether they would reach that \$4 million. I think it's important for all of us to know that this information has been brought forward and that the electric company here would like to continue the program but does very much support the idea that this be checked and referenced to the Appropriations Committee. And I felt their information was important enough for the body to hear this morning. Thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Council, you are recognized. [LB385]

SENATOR COUNCIL: Thank you, Mr. President. I, too, rise in support of AM839. And I appreciate the discussion but I think it's questionable with regard to making decisions based upon utilization or a projected utilization when we're considering in the context ARRA funds that were available and how the energy...low-income energy conservation fund was originally created and the matching fund requirements imposed upon eligible entities like OPPD and LES. I question basing the utilization of this fund on the utilization of ARRA funds because the ARRA funds were not restricted in their distribution formula to having funds matched by the eligible public power entities. And I guess the other question I have, if Senator Utter would yield to a couple of questions. [LB385]

SENATOR GLOOR: Senator Utter, would you yield? [LB385]

SENATOR UTTER: Yes, I will. [LB385]

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SENATOR COUNCIL: Yes, thank you, Senator Utter. As I understand, the low-income energy conservation fund was established by legislative action taken in 2008, is that correct? [LB385]

SENATOR UTTER: That's my understanding, too, Senator Council. [LB385]

SENATOR COUNCIL: And then due to financial concerns, the earmarking of dollars under that fund were deferred. So for 2009-2010, there were no allocations made to the fund, is that correct? [LB385]

SENATOR UTTER: Very few, Senator Council. It had...this, since its inception, has had very little use. Part of that, of course, is due to the ARRA funds that the state has received that I understand is a total of \$40...a little over \$41 million. To date, there have been about \$13 million of that \$41 million used. There's still \$28 million out there for weatherization programs that hasn't been drawn down with...in the next fiscal year. [LB385]

SENATOR COUNCIL: Now, and maybe I'm reading the legislative history wrong, but it indicates that LB1001 was amended on Final Reading and postponed earmarking any revenue for this fund until fiscal year 2009 and '10. So if there's been any utilization or any applications under this fund, would that not have occurred sometime between July 1 and today? [LB385]

SENATOR UTTER: That could be, Senator. I'd have to sit down and think through the actual timing of that. But even that be true, it has still been used very little. [LB385]

SENATOR COUNCIL: Well, I mean, and I guess that's what I was taking issue with. I don't think that it could have been used because there were no funds earmarked for its use under this fund. The question is how much of the ARRA funds were used. And according to your response to the question that the state received \$41 million in energy conservation funds, I would like to see a breakdown on that \$41 million and if those dollars did, in fact, go to what were earmarked specifically for low-income energy conservation projects. [LB385]

SENATOR GLOOR: One minute. [LB385]

SENATOR COUNCIL: I don't know that to be the case and, in fact, I don't believe that to be the case. And I don't know what constraints there are on using any balance that may be remaining in that fund, But what I do know is that we have a fund that was established in 2008. The electric power companies in the state have expressed their willingness to build this fund through matching dollars. And so the amount of dollars that would be available for expenditure under this fund would be dependent upon the

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amount of matching funds that would be contributed by the public utility companies in the state. And I join Senator Campbell in kind of questioning that, you know, the fiscal note of \$4.8 million, I think it's a little different when we're comparing expenditures and projections based upon funds that have no matching fund requirements. [LB385]

SENATOR GLOOR: Time, Senator. [LB385]

SENATOR COUNCIL: Thank you. [LB385]

SENATOR GLOOR: Thank you, Senator Council. Senators wishing to be heard are Ken Haar and Dubas. Senator Haar, you are recognized. [LB385]

SENATOR HAAR: Mr. President and members of the body, first of all, the stimulus money was not restricted to low income because there are other people out there, other programs I know in Lincoln and Omaha where they're working with low income, but it's not restricted to low income. I guess my premise here is that a partnership to help low-income people with your...between the utilities and, yes, the taxpayers really fits into our Nebraska ethic, and that's one of compassion to help people who are less fortunate than we are in this body. Even though we get these large salaries, most of us are not in poverty. I'd like you...again, I'd like to point to this booklet that just came out--we're probably the first group to see it--from the Center for People in Need. And if you look at page 14, again, this is not all the people in Lincoln, but on page 14 under "utilities" the question that was asked is, are you worried about paying your utility bills? And if you look at the data and at the charts, in 2009, 70 percent of the respondents had some degree of difficulty in paying their utility bills, and in 2010 that increased to 82 percent. Again, this is not a scientific survey of all the people in poverty in Lincoln, but it does show that there's an increase in this worry about paying utility bills. And certainly one way of saving on utility bills is by weatherization programs. And the other pages in this book are really interesting as well because as you begin to look at this whole section, chapter 4 of this booklet on food and utilities, you see what people are facing in our society right now. And these are our neighbors. These are our brothers and sisters. On page 12, how often do you have trouble buying enough food for yourself and your family? Twenty-seven percent of the respondents said, yes, they always worry about enough food for themselves and their family. And most of the people served by the Center for People in Need are families with children. How often is government assistance adequate to feed you and your family? Rarely or never, 33 percent. So there are people out there that are going without food. Certainly not all of these people own their own homes, but quite a number of them do. And then you look again at this trouble paying utilities, 82 percent of these respondents. These are our neighbors, our brothers and sisters, in Lincoln. Families with children, 82 percent of the time they're having trouble paying their utility bills. And so the whole idea of saying that, gee, we've got these low-income homes...or, I'm sorry, low-income weatherization programs and, you know, stimulus money came in and spent a lot of money. [LB385]

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SENATOR GLOOR: One minute. [LB385]

SENATOR HAAR: There's a long way to go, folks, to solve this problem. And it really for people in poverty...and a lot of the people in poverty are the elderly, people without incomes, people who's only income is social security, people without pensions and so on are having trouble paying their utility bills. And weatherization programs can help, and it's a permanent kind of help. If you fix the house, those utility bills go down and it's a savings forever. If they have been underused, then I think it's our problem that we have not publicized these sufficiently because there's still many people out there who cannot pay their utility bills. Thank you. [LB385]

SENATOR GLOOR: Thank you, Senator Haar. Senator Dubas, you are recognized. [LB385]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I rise in support of the amendment to the bill. I've received phone calls from a number of my constituents who have applied for the federal dollars for weatherization and they've been on the list a long time and they're frustrated. They would like to have this work done to their home. They live in older homes that are definitely in need of these kinds of projects and weatherization but because of the high needs and the demands on this program, the waiting list is long. This program never has had a chance to get its legs underneath it. We put it in place and then we postponed funding it and then the ARRA funds came into play, and that was the focus of getting those dollars out and having them used in an appropriated fashion. This is a program that's under the purview of the Department of Revenue. You know, if we were able to keep this program in place, perhaps some changing of who has control of it would help the usage of it. I think it's a program that should be with the Department of Energy. They deal with weatherization projects all the time. They know and understand the processes and the procedures and the people who need these kinds of programs. So I think by keeping it in place gives us a lot of opportunity to make it an effective program. If you go on the Energy Office's Web site, you'll see...you can look under the weatherization programs and you can see the number of projects that have been put in place. Again, I know we're talking about federal dollars and it's a separate...it's different but yet it's the same because it's definitely showing the demands that are out there for these kinds of programs. Public power entities know the value of conservation, know the importance of if we can weatherize these homes it's going to reduce their energy costs. And if we reduce energy costs, that means we're reducing consumption. And we spent a lot of time in here talking about how do we develop renewable energy and new kinds of energy production. We tend to gloss over the conservation part of it and how important that is. Maybe it's not real glamorous, but it certainly is very, very important that if we reduce consumption, that takes us a long way down the road towards controlling our costs and improving efficiencies. So the public power entities definitely see the value in this

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program. They're willing to step up and put those matching dollars in place, again, because they understand the value of these kinds of programs. You know, I think keeping it, capping it, having the Appropriations Committee having the ability to control the dollars that go into and out of this program are appropriate. I just would hate to see us eliminate a program before we really gave it a chance to become effective because I do think that this could be an extremely effective program if we can get it under the purview of the Department of Energy, have people understand that it's available for their use, work with the public power entities and others who could take advantage of this. I just think the potential for this program to take off and be a very effective program are there but yet we've not given it the opportunity. People have said, well, you know, if it's a good program and when things straighten up in a few years, which we hope, we can come back and re-implement it. Well, I know this was the exact same conversation we had when we talked about aid to counties and cities and NRDs, and we know the difficulty of putting a program back in place. And, again, because we have never really seen whether this program will or won't work, I think...in 2008, we thought it was something of value. [LB385]

SENATOR GLOOR: One minute, Senator. [LB385]

SENATOR DUBAS: We put it in place, but then because of circumstances just kept delaying adequately financing it. So I really think this is a program that deserves to stay in place, deserves for us to really gather the information so that we can see, will it or won't it work, and if it's not going to work, then we come back and eliminate it. But we're eliminating it based on a fiscal note that, as Senator Campbell very adequately expressed, really took it to the extreme. And I understand that's what the Fiscal Office has to do. They have to take all things into consideration. But when we've seen the dollars that are involved with this program, we know that it's a long way from that \$4 million. So I would really encourage my colleagues to give this program another chance to give us the opportunity to work with it and continue to serve those people who really do need these kinds of services. Thank you. [LB385]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Schumacher, you are recognized. [LB385]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. We find ourselves caught in a vortex of two messes. One is a budget mess. We're short on money. We don't know where to fund a lot of the programs that we have that are really pretty decent programs. The other mess is a far greater mess and it is a mess of energy. And this is probably a bigger mess today than it would have been two weeks ago with aspirations that some of us have for the expansion of nuclear power greatly complicated by the situation in Japan. If we're going to meet the energy needs of our people, then we're going to have to do it through a mechanism of both production and conservation. This is a program along with probably a lot of other programs which is an

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attempt to address conservation. And I'm told that the folks at NPPD and the folks with the Nebraska Power Association think it is a worthy program, and I'm inclined to listen to people in the industry who probably know what they're talking about. I think it's a commonsense thing to do to bring these two messes together in a temporary pattern until we figure out what to do about them or if we can do anything. And that is to basically de-fund this program, cut its funding back so that we aren't spending any of our money that we don't have and at the same time leave it in the toolbox to be tweaked, resurrected, integrated with what are probably going to have be fairly aggressive energy conservation programs over the next decade. So I think the idea of leaving it in the toolbox and funding it according to our ability is probably a good one, and I stand in support of the effort that Senator Mello is making. Thank you. [LB385]

SENATOR GLOOR: Thank you, Senator Schumacher. Senators wishing to be heard are Utter, Council, and Ken Haar. Senator Utter. [LB385]

SENATOR UTTER: Thank you very much, Mr. President and colleagues. I just want to bring you up-to-date on the ARRA funds that the state has received: \$41,644,000 in ARRA funds to be used in the low-income weatherization process. It's supposed to weatherize a total of 4,000 homes when it's completed. So far we've gotten through about \$13 million, a little over \$13 million of these dollars. At least for this next fiscal year if these funds are used up, if \$13 million is all we can get through in a year, it looks like we've got our work cut out for us using up the balance of the monies that came from the administration in Washington. Another point that I just want to make to all of you, I don't know how many of you have ever been out behind the barn or not, but as a farm boy I was there. And out behind the...and as a banker I've been out behind a lot of my customer's barns too. Out there we store the relics of the past. We store unused items, unused pieces of machinery and equipment thinking that some day we may need to come back and use these things. I don't think state government needs to have a pile of unused programs in storage out behind the barn. I truly think that this body is responsible enough, is wise enough to know that if and when this program would become needed again that this body could resurrect it very easy. The whole idea of laying some of these programs out in the weeds so that we could easily go get them doesn't appeal to me. I think they need to be re-justified. I think that the body needs to take another look at the real need and they need to decide whether it is a need or just a want. And if we're truly about this process of making state government more effective and more efficient and doing the things that we need to do, we should not park this out behind the barn. Thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Utter. The Chair recognizes Senator Council. [LB385]

SENATOR COUNCIL: Thank you, Mr. President. I must rise and respectfully disagree with my colleague, Senator Utter. I think that AM839 should be advanced because it

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does exactly that which I believe this body should be doing. When the original LB1001 was enacted in 2008, this body understood and recognized the need to provide a means through a public/private partnership--and I think that needs to be stressed, a public/private partnership--to provide funding to enable low-income individuals to provide for energy conservation renovations in their homes. And this body made that decision in 2008 and it made that decision without knowing that ARRA funds were going to be available to provide comparable funding and to address a similar situation. Now those ARRA funds will at some point in time be depleted. And all AM839 does is say at such time as it appears that the ARRA funds are not going to be available, then it's an Appropriations Committee process decision. If for the next biennium the Appropriations Committee makes the determination that there's no need to appropriate General Fund dollars for this program because there's a sufficient balance in the ARRA funds to cover it, then so be it. I respect and defer to the Appropriations Committee process to accomplish that. But to say...to take the position that this state does not have an interest in ensuring that there are means available for the low-income residents in this state to achieve energy conservation I think is shortsighted. I think what is also shortsighted is the obvious intent of ARRA in addition to addressing the energy conservation issues was to address the employment issues across this country and to create jobs. And when we look at the expenditure under LB1001 that is provided, we only...we look at the \$4.8 million fiscal note, but we don't take into account that in order for that amount to be expended, that amount has to be matched by the public power companies in this state. And we don't take into account the economic impact of a \$9.6 million annual infusion into our economy would accomplish, the number of jobs that would be created, the amount of sales tax revenue to be generated, the amount of income tax revenue to be generated. I don't think we should be that shortsighted in our consideration of admittedly a serious financial situation that we face at this point in time. But, again, let's put this in its historical context. This body I'm sure did not expect to receive \$41 million in ARRA funds when it enacted LB1001. But this body then and I believe this body now sees the value in providing for an opportunity for a public/private partnership to address a very critical issue not only in this state but nationally, and that is improving our use of energy when we have homes that are in desperate need of retrofitting to ensure that they are conserving energy while meeting their energy needs... [LB385]

SENATOR GLOOR: One minute. [LB385]

SENATOR COUNCIL: ...that I think this is an opportunity that AM839 provides for us. If the Appropriations Committee makes a decision that during this biennium you don't need to appropriate \$4.8 million because of the availability of the balance in the ARRA funds, then that's the decision that needs to be made at this time. But to scrap this program I think is absolutely shortsighted. And if you look at the short period of time that dollars were available--and I submit to you that's from July 1, 2010, until today--almost \$300,000 has been utilized in energy conservation under this program. I believe that that establishes the need for this program in the state of Nebraska and I would urge my

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colleagues to advance AM839. Thank you. [LB385]

SENATOR GLOOR: Thank you, Senator Council. Senator Mello, you are recognized. [LB385]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I think we're having a very thoughtful dialogue today on what is obviously I think a fairly significant issue to not only low-income working families and seniors in the state but ultimately I think it goes to a bigger point in regards to investments because we've heard today and we heard a little bit yesterday in regards to the federal dollars that have come into our state, the \$41-plus million that came to the state of Nebraska through the America Recovery and Reinvestment Act for the low-income weatherization program. Also, I distinctly remember mentioning yesterday the low income energy assistance program through the Department of Health and Human Services, the LIHEAP federal program. We are going to be seeing a 60 percent cut in that federal funding next year prospectively. I think it's safe to say and I think it needs to be said of the whole intent of the low-income energy conservation act is different than both of those programs, and the reason why is the low-income weatherization funding we got from the federal government through the stimulus bill can only be used and targeted for certain aspects of making a home more energy efficient. There's only certain components, only certain procedures, only certain aspects of a physical structure that they can spend that funding on. The same goes for the low-income energy assistance program through the Department of Health and Human Services. That money actually mostly is just directed to pay for low-income Nebraskans' energy bills. Very little of that money actually goes to do anything to make their homes more energy efficient. It simply provides that assistance that goes to our public power system to pay for these low-income Nebraskans' and seniors' bills. What the purpose of the low-income energy conservation act that we would be eliminating under LB385 takes another different approach. And talking with public power entities who have utilized this program sparingly over the last couple of years because of the influx of federal funds, they're utilizing these funds for larger projects in homes that don't qualify for federal funding. So to replace a heat pump in a senior's home is something that we cannot get federal funding to do, which we know saves the most energy in an infrastructure. So what we're doing is we're utilizing the state's public/private partnership investment dollars through this program to get the most bang for our buck. There is opportunity with this program and I think we've started to hear that conversation on the floor today is, how is it that we can better align federal programs and federal dollars that come into our state and what dollars that we work with public power through the low-income energy conservation act. And I have some amendments and Senator Haar and I think others will be helping bring amendments that can help streamline this program, make this program better to ensure that we are investing in the future, we're investing in low-income senior's homes for the future so that we're not duplicating services. We're ensuring that the Nebraska Energy Office is serving as the so-to-speak hub of the wheel so that we have the various

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spokes of funding that come in and better align existing programs, better align future potential grant funding. And ensuring that public power and what they're doing with this funding is maximized because at the end of the day with this program... [LB385]

SENATOR GLOOR: One minute. [LB385]

SENATOR MELLO: ...we want to ensure that we're making the best investment possible. And the investments that we're not hearing today on the floor is investments on our aged services, our Medicaid services. The moment a senior moves out of their home because of \$600-, \$700-a-month energy bills means they are moving into a nursing home. It means that there is a likelihood that they will be moved onto a Medicaid system for the state to then pick up their Medicaid costs in a nursing home or an assisted living facility. Those are not laid out in our fiscal note today because this is an investment to keep seniors in their homes. It is a significantly different perspective than simply just saying, we're going to get federal dollars to do this program already. This is a much larger issue with a much larger scope and I hope that we can continue that dialogue, not just on AM839 but on future amendments that we'll be looking to bring forward. Thank you, Mr. President. [LB385]

SENATOR GLOOR: Thank you, Senator Mello. There are no additional senators wishing to be recognized. Senator Mello, you're recognized to close on your amendment. [LB385]

SENATOR MELLO: Thank you, Mr. President and members of the body. I want to continue a little bit on some of the issues regarding the investment and it was mentioned I think. I look forward to carrying a dialogue. Senator Carlson would like to discuss the fiscal note a little bit further. The fiscal note as laid out states that there would be a \$4.6-million-a-year savings. For the record, the Appropriations Committee has already accounted for and reduced the projected savings, which is cash savings I remind you, in our preliminary budget to the tune of \$4.48 million, thus, we have left \$119,000 of eligible cash fund authority in the budget for this program. Why? Because exactly the arguments that I and others have been making on this bill today, which is we don't need to eliminate this program if we need to make savings up for the budget. We understand that there's a significant amount of federal dollars that will still be in the state through this biennial budget system or biennial budget process that we can continue to make tweaks on this existing statute, this existing program. We can better align the program with other federal funds that we currently get into the state to ensure we receive the most maximum benefit for our low-income and working-poor families and seniors, and we continue the thought of ensuring we're making investment in those who we don't want to fall on other public assistance programs. So back to the fiscal note issue that I'm sure we'll continue to talk a little bit more about that savings has already been realized, but that savings at some point has never been fully utilized which is part of the argument behind what is the genuine cost savings of this proposed legislation.

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The potential cost savings is really indeterminate right now because over the last two years this legislation has been in state statute, we have rarely seen public power entities fully utilize the sales tax dollars that would go into this program because of the federal funding, which goes back to the argument I applaud Senator Utter made which I would wholeheartedly agree this program has been underutilized since its inception. But the time will come when federal funds goes...those federal funds will go away. The time will come when we see less federal funds for a longstanding federal LIHEAP program, which leaves the state very little skin in the game, so to speak, to make investments to keep seniors in their homes and keep low-income families in their homes and off other public assistance programs as well as trying to combat homelessness in this state. So, colleagues, we're going to continue this debate I believe through the rest of the morning, possibly longer. With that, Mr. President, I would like to withdraw AM839. [LB385]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: AM839 is withdrawn. Mr. Clerk. [LB385]

CLERK: Mr. President, may I read a couple of items before I go to the next...?

SPEAKER FLOOR: Please do.

CLERK: Thank you. Senator Ashford would offer LB463A. (Read LB463A by title for the first time.) A confirmation report from the Judiciary Committee signed by Senator Ashford. And Judiciary to whom was referred LB648 reports the bill back to General File with committee amendments. (Legislative Journal page 897.) [LB463A LB648]

Mr. President, the next motion I have with respect to LB385 is from Senator Mello. Senator Mello would move to bracket his bill. [LB385]

SPEAKER FLOOD: Senator Mello, you're recognized to open on your motion. [LB385]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. For the record, this is not I believe my bill. I believe this is Senator Utter's bill. I move to bracket today in part one, because I think we need to discuss this issue a little bit further as we try to search for what I hope is a compromise in the sense of understanding that this is a worthwhile public/private partnership with our public power system in this state. And the motion to bracket obviously is something that as a senator you don't take it lightly. Whether you move to bracket or whether you move to indefinitely postpone, it's something you want to consider, it's something you want to think through, and I fully have thought through the ramifications that LB385 and the effects it would have into the future, in the future of our energy policy of the state, the future in regards to the work supports we provide, working-poor families and seniors in this state, as well as the priorities of the Legislature and the priorities of this state government. Without a doubt,

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energy conservation and energy efficiency has become one of the most critical issues facing energy policy not just in Nebraska but nationwide. Why is it more important to Nebraska? Why is it more important to our public power system? Because exactly that. We have a public power system that is owned by the public. Every kilowatt that we can save as a state is money it saves for the entire state and for every public power utility user. This program that we are considering eliminating, one, hasn't fully been utilized and hasn't fully been realized the potential cost savings not just in the potential aspect of the fiscal note but the potential cost savings it might have in keeping seniors in their homes and keeping working-poor families off other public assistance programs in their homes and out of poverty. The reality is we are drafting a budget right now that has already considered these "potential savings." We have made an agreement as of this date in our preliminary budget that we would not fully take all of the funding that has been in theory allocated for this program. Why? Because the full amount has never been fully utilized and/or realized by public power's use. And part of that reason is because we have been crafting a budget that unfortunately has been targeting a significant number of programs and work supports that affect those who live on the margins, those who work day in and day out to try to get ahead and just can't, those who have to swallow their pride, swallow their dignity, apply for public assistance because the economy just isn't working for them right now. We passed a bill yesterday to deal with removing public benefits to legal immigrants. People who come here for legal purposes who are here legally here in this country, we removed their public benefits yesterday to help balance our budget, which I remind you potentially sets up the state for a lawsuit. Other states that have done the action we did yesterday in regards to removing public benefits for those who have come to our country legally have been sued successfully to reinstate those public benefits. That's a side issue but I think it should be put on the record that the decisions we make regarding some of our potential budget cuts have longer-term ramifications and longer-term budget implications. The second component frankly of why I think we should bracket this bill not just because we take the savings in the already preliminary budget, it's because we don't have to do this. Senator Utter is a serious-minded lawmaker. He is someone who I believe thinks through issues to a very serious level, particularly issues when it comes to fiscal matters. I applaud him for that. I appreciate him for that. I might not always agree to the same conclusions he comes to, but I appreciate it and I applaud him and I applaud all our members who take that serious tone when it comes to fiscal matters. But we don't have to pass this bill to accomplish the goal. I understand that this was introduced on behalf of the Governor. This is the Governor's proposal to eliminate this program. I think we all know as a Legislature we are a separate coequal branch of government. To accomplish a balanced budget, we do not have to take every bill that is introduced on behalf of the Governor and make it law. We have the independence to be able to say we can do this another way, we can look for other potential budget cuts, we can look at other potential streamlining of programs to achieve what we were here to set this session, which was to provide a balanced budget and overcome the largest fiscal crisis facing our state. LB385 does nothing that we haven't already done in our

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preliminary budget except eliminate an investment in the future, eliminate an investment in the future to keep more seniors in their homes, to stave off homelessness in regards to our seniors and our working-poor families, and to provide an opportunity for our state to better align existing federal resources with current state statute to ensure we are getting the greatest investment possible for dollars both state and federal and public dollars through public power that we are getting the greatest investment possible to not only save energy, to not only save kilowatts that ultimately saves all of us who utilize public power in the long run and saves all of us in regards to the rising energy costs that we will all be facing in our lifetime, slows that down, but also it slows down the need to build future public power plants. Whether it's a coal plant, whether it's a nuclear plant, the longer we can delay having to build a public power plant, the more it saves all taxpayers in this state. And that's ultimately what we're trying to do with trying to strike a compromise I believe on protecting the integrity of the low-income energy conservation act, but understanding that we have budget problems ahead of us and we need to solve those. Bracketing LB385 does that. We realize the savings in the budget but yet we still maintain the program in state statute that allows for us the ability to offer...once again, I have a handful of amendments here that would help move us towards the path of realigning this program to ensuring that once again there's a sunset date on it so that we can continue to see the impacts of that program, putting more onus on the public power system to participate in this program, as well as requiring the Nebraska Energy Office to help provide more strategic guidance and vision and program reviews of other energy efficiency programs in the state, once again, to better utilize every single dollar we have in this program in the future. Once again, colleagues, I withdrew the last amendment because apparently there's some concern constitutionally in how that amendment is drafted. I want to see that essentially amendment... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR MELLO: ...put forward again maybe in a different form, whether we freeze the program funding for two years and keep the integrity of the program for us to be able to continue to tweak that which will probably be an amendment we'll be offering here in a bit. But for all practical purposes, I fully expect that we need to have a thoughtful, lengthy dialogue on this program because there has been no logic put behind the elimination of why we needed to pass LB385 when we've already taken this significant financial savings in the budget. Colleagues, we have tough decisions to make. We have tough decisions to make particularly after this week, we ended the Appropriations Committee hearings with gut-wrenching testimony of the impacts of our budget on low-income families, whether it's on child care, whether it's on healthcare, whether it's on developmental disabilities, behavioral health, you name it. What we are doing is eliminating... [LB385]

SPEAKER FLOOD: Time, Senator. Moving on to the next individual that you've heard the opening on Senator Mello's motion. Senator Ken Haar, you are recognized. [LB385]

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SENATOR HAAR: Mr. President and members of the body, I stand in favor of the bracket motion. I hope there will be an amendment that comes up. Although I do agree that in the future if we see the need that's not being covered by federal funds right now that we could reinstate this program. Of course, it takes additional hearings, it takes somebody's priority bill, and into the future there will always be death by fiscal note. So let's say two years from now we decide, gee, this really is a program that we need to bring back, then it's a whole fight again to bring it back instead of a study that we could do this summer, for example, to see what are the needs and then proceed from there. I appreciate Senator Schumacher's description of the mess we're in, and he listed two things. First of all, it's the state budget and the energy problems we're going to be facing now that we see the nuclear reactors in Japan melting down. It's been my own personal opinion that nuclear power is part of the solution of our going to a more green power but this is going to be a setback. So even though Nebraska right now and OPPD and NPPD have approximately 10 percent of excess generation that they do sell, the energy is certainly number two part of that mess in this world. But in Nebraska I'm going to add a third one, and that's poverty. And that's what I'm going to continue to talk about today because I think it's so easy to ignore the fact of poverty in Nebraska. I do want to go back. I had asked Senator Utter about the ongoing federal programs for weatherization after the ARRA funds run out, and we...I have more information on that. For example, this year the State Energy Office got \$3.8 million from the Weatherization Assistance Program--that's from the U.S. Department of Energy--and \$5 million from LIHEAP, and I was not familiar with this program before, but it's the Low Income Home Energy Assistance Program, LIHEAP, that's administered by the U.S. Office of Community Services. So this year we got...in addition to the ARRA funds, we got \$8.8 million from the federal government, and that will be cut. For example with the LIHEAP funds, in the Obama budget he asked that that be cut in half for next year. And as we know, the new Congress is working to...and they're talking about cutting social programs. So if Obama suggested we cut LIHEAP in half, if we got that, we would be at \$6.3 million of weatherization programs next year. But we know that those programs are going to be targeted to reduce the federal deficit. And so to say that we don't need a state program for weatherization assistance for low-income people I think is a mistake because to assume that the federal funds are going to continue to be there I think is just inaccurate. We know those are going to be cut and they may not even exist in the future. So then we're saying, gee, if those...we don't need those funds... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR HAAR: ...we don't see those funds anymore--thank you--that then we will go through the whole process, and that also requires a whole year worth of changes to come up with a bill, see the...you know, go through the hearings, try and get by the fiscal note, and then put it into play. So we might actually run out of these weatherization funds. And even if we could get it through the state, it would be a year

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delay in those funding and the problem is not solved. And I will talk about that next time. Thank you. [LB385]

SPEAKER FLOOD: Thank you, Senator Haar. Senator Wallman, you are recognized. [LB385]

SENATOR WALLMAN: Mr. President and members of the body, I also stand in favor of this until something comes along with an amendment or something. And I want to emphasize some of the best things that ever happened to this country happened with government assistance. Drive through Lancaster County, see these old bridges and culverts, they're still in existence--WPA. So home assistance...and they give jobs. That was the main thing for these projects--jobs. Some of us don't agree what happened back then but it was crisis. And we see what happened in Egypt. Massive unemployment brings crisis. And when you have crisis, what do you have? Revolt. We saw it in the sixties in the convention, in one of the conventions, party conventions. We saw it. So I've lived through that thing. So do we want to keep hammering on the low-income people? Take away their benefits? The insurance went up. And we see it in HHS, you know, they go on public assistance and all this. And if we can keep people in their own homes another couple of years to a weatherization project, lower energy costs, all these things we have to plug in. Public power, we're still one of the cheapest in the nation and we should be proud of that. It's public power, government power so we can run stuff cheap and well and good and safe so we can be proud of this state, what we've done in the past through George Norris, various legislators. They stepped out. It was not easy. It's not easy today, folks. It's not easy what we passed yesterday. And if we voted for that in a happy mood, it was not me. So I vote for things to try to better this state, try to better my district, but we also should think of somebody that's not in our district maybe. I have some of these people. But when you have government programs, it takes a while for people to use it. I still have relatives that will not take a farm payment dollar, just won't do it. But they live in Illinois (laugh). And so they don't have to worry about going to the government office for nothing, and they're proud of that and as well they should be. They're truly independent farmers. And am I one of those? No. So I get public assistance, government assistance through farm programs, whether it be conservation. That's getting a little off the story here, but I'm proud of our government. I'm proud of our state. And our job in here, there's 49 of us, we make some terrific decisions on how people can live and how they can live comfortably. So I appreciate the dialogue in the back row (laugh) and they're very smart legislators and mean well. And that's all, Mr. President. [LB385]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Cook, you are recognized. [LB385]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in support of the bracket motion in an effort to continue a dialogue on the elimination of the

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program. I had a legislative resolution, LR324, that was heard before the Urban Affairs Committee last fall, late summer, last fall, and it was the result of some input from some of my constituents and constituency about higher energy costs. In Legislative District 13, it is in the eastern and northeastern part of the city and the county of Douglas and, consequently, the homes there for the most part are older homes. And older homes, as we've discussed earlier today, require more...are in all likelihood less energy efficient. What LR324 called for was an examination of how the LIHEAP funds that we receive from the federal government and are administered through Health and Human Services are allocated in the ratepayer assistance program. And we've emphasized this a lot today and throughout the session that indeed we have a tough budget ahead of us. I am currently serving on the Health and Human Services Committee and we making tough decisions every day in that committee about who to continue to assist and who might need to seek support through private or nonprofit sources or who simply will have to fend for themselves, which will happen in some cases. But I believe it is public policy that we create here as a body individually, certainly representing our districts, and working together to represent the interests and the concerns of people across the state that we need to ensure that funds are in place to help support people to stay in their homes and to keep those homes energy efficient. At some point, maybe today, maybe next week, I have a bill related to the new standards for energy that we'll talk about. And we will also reemphasize the need for energy and conservation and to create public policy that promotes energy conservation within the state of Nebraska. And with that, Mr. President, I will yield what remains of my time to Senator Mello if he would like it. [LB385]

SPEAKER FLOOD: Senator Mello, Senator Cook is giving you 2 minutes 16 seconds and counting. [LB385]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Thank you, Senator Cook, for yielding the time. We just got back from Bill Drafters the kind of compromised amendment, so to speak, that I would...have talked with many of the colleagues on the floor here about, which I think still I want to make sure that I emphasize the fiscal component and the fiscal aspect of what we would be looking to do. As the statute states right now, the way this program is funded is essentially sales taxes that's paid by public power, they can put part of that sales tax that they put to the state can go into this program if they match it from their general revenue funds in which you then see a dollar-for-dollar match go into this program in which then they can withdraw that money to do energy conservation and energy efficiency projects, bigger projects for Nebraskans who fall under the 150 percentile of poverty. The amendment I'll be offering... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR MELLO: ...after we work our way through this bracket motion is essentially

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what I stated earlier. We will freeze this program funding essentially so that public power will not be able to utilize this program for two years, will not be able to designate sales tax dollars into this program for two years, but we keep the program in statute and the program resumes after we're done with this biennium. There's existing funds already in this program that they would still be able to access and utilize. There's roughly...I want to say there's roughly \$400,000, if I'm not mistaken, in the fund now that could be utilized for energy conservation, energy efficiency projects over the biennium. But... [LB385]

SPEAKER FLOOD: Time, Senator. [LB385]

SENATOR MELLO: Thank you. [LB385]

SPEAKER FLOOD: Senator Smith, you are recognized. [LB385]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. My apologies to my colleagues. It's been pointed out to me by more than one of you that I do not have green on today and I'm sorry for that, but I believe there's probably a couple...Senator Fulton and Senator Burke Harr have more than made up for that, so. You know, I believe that successful energy policy includes both supply-side management and demand-side management programs. Of course, supply-side management is that which involves a strong portfolio of generation. Demand-side management would include such programs as the conservation, energy conservation program. If a utility can delay, postpone construction of new generation through a good demand-side management program, then rates can be controlled, costs can be controlled, and justification can be made for the cost of implementing that demand-side management program. This particular investment if not paid to create lasting conservation practices, I believe it's going to be paid out in some other form of public funding. As much as I would like to see programs eliminated, such as Senator Utter mentioned before, this program, the Low-Income Home Energy Conservation Act, is needed as, one, a component of a good energy plan that includes supply-side management and demand-side management, and two, as a means to keep energy costs affordable for all Nebraskans. I've spent 25 years in electric utility industry in both public power and investor-owned utilities. And much of the time that I've spent in utility operations has been in energy forecasting. I believe we need a compromise on this bill. In it's current form, I would not support LB385. I would like to see some type of compromise come of this so that we could retain this program in some form. And with that, if Senator Mello would like my remaining time, I'll give my remaining...(microphone malfunction). [LB385]

SPEAKER FLOOD: Senator Mello, you have 2 minutes and 25 seconds. [LB385]

SENATOR MELLO: Thank you, Mr. President. Thank you, Senator Smith. Once again, I

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think the whole concept and in talking with the Fiscal Office, there is the reality that these are...some of the fiscal aspects of this proposed legislation are projections in a sense of the projected amount that we would possibly save with the passage of LB385 is based on maximum utilization of this program. I think it's safe to say and I think in discussing this with public power because of that influx of federal funds over the last two years, we have seen just the underutilization of this fund because of that reason. That there is not the need to maximize the \$4.6 million in sales tax matching dollars because we actually...and I think the Energy Office would admit to this as well, we've had a difficult time expending the \$41 million we received from the federal government on low-income weatherization. So when we discuss fiscal savings and the fiscal impacts of potential legislation, we have to make sure that we take the...I would say the wide view. Senator Utter and myself were just discussing there's the potential...and I want to sit and talk with the Fiscal Office a little bit more in the sense of under LB385 it returns the funds at a certain date, and I believe--I got to double-check the date it does return it--unexpended funds get returned back to the... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR MELLO: ...state and to the public power utilities. The existing funds back when the bill was heard was \$120,000 were left in the fund. So to some extent I want to double-check with the Fiscal Office to determine that potential fiscal impact. Even if we adopt my proposed amendment which we'll be offering up would freeze the program for two years, because at the end of the day if there are realized fiscal impacts of existing state dollars that we put in there, and that has been included in the budget or at least in the Appropriations' preliminary budget, I think we need to know that. I don't believe that savings has been put in the Appropriations' budget because of the exact point I mentioned. We had already saved or we already allocated \$240,000 in the Appropriations Committee preliminary budget for this program. So even if we split up and we took... [LB385]

SPEAKER FLOOD: Time, Senator. [LB385]

SENATOR MELLO: Thank you, Mr. President. [LB385]

SPEAKER FLOOD: Senator Council, you are recognized. [LB385]

SENATOR COUNCIL: Thank you, Mr. President. Before I address the bracket motion in particular I wanted to take an opportunity to make clear in the event that there were some who would want to take issue with a statement I made earlier on the mike about a public/private partnership and make some suggestion that I didn't understand that our utilities are public. When I talk about a public/private partnership, I talk about not using tax dollars. And the private partnership here certainly consists of public shareholders and I understand and appreciate that. So for anyone who was prepared to take issue or

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to be critical of my statement earlier by taking exception to my characterization of the public utilities participation in this program, let me lay that to rest. Number two, and Senator Mello made reference to it, and I considered this as my taking this opportunity. A death in my family prevented me from being here yesterday and engaging in the debate on LB465. And I want to take this opportunity to let the record know that had I been able to be present yesterday not only would I have vehemently opposed LB465 in terms of floor debate, my vote would have been cast accordingly because I think this body needs to take into account and to be cognizant of many of the hypocritical actions we take through our votes. Now turning to the bracket motion. I have stated with regard to some earlier bills that came before this body, earlier bills that were introduced in an attempt to address the budget shortfall and to provide for deficit reduction. That was my understanding of the intent of LB385. And I said on some of those earlier bills, you know, we're taking action without knowing what the Appropriations Committee proposals are going to be. The Appropriations Committee has taken action to address a deficit reduction associated with this program and has provided a way for the program to be continued and cost savings to be achieved. I think we should allow that process to go forward and that's the reason I would support a bracket motion. And if the bracket motion should fail, and I hope that it doesn't, that Senator Mello is discussing introducing an amendment that would take into account the continuation of this program, freezing some appropriations. I would urge my colleagues to consider that as well. I really respect and appreciate the comments made by my colleague Senator Smith because that's what we're talking. If we're talking about an energy policy here in this state, we're going to have to talk about demand and supply and the ultimate cost savings to ratepayers and ultimately to the state of Nebraska. We cannot afford to be shortsighted on this issue. And earlier, Senator Utter referenced the Energy Assistance Program under DHHS. Well, I think we need to take into account how many more people would need to access that Energy Assistance Program if we don't provide the means for them to make their homes energy efficient and to be conserving energy through the types... [LB385 LB465]

SPEAKER FLOOD: One minute. [LB385]

SENATOR COUNCIL: ...of programs that are funded and could potentially be funded under the low-income housing energy assistance fund. We're talking about window replacement. We're talking about heat pumps, we're talking about insulation which will all reduce the amount of energy that low-income people use, thus reducing their energy bills, thus reducing their reliance on the Low Income Energy Assistance Program under DHHS. They access that program when they can't pay their energy bills and they can't pay their energy bills because their energy is going out of poorly insulated windows, their energy is going out of poorly insulated structures, their energy is going out because they don't have access to heat pumps. The bracket motion certainly puts us in a position where the fund and the program is preserved and the budget issues are addressed. But if the bracket motion does not go forward, if it's not successful... [LB385]

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SPEAKER FLOOD: Time, Senator. [LB385]

SENATOR COUNCIL: Thank you. [LB385]

SPEAKER FLOOD: Thank you, Senator Council. Senator Dubas, you are recognized. [LB385]

SENATOR DUBAS: Thank you very much, Mr. Speaker. I rise in support of the bracket motion with the sincere hope that work will be able to continue to move forward and that we can find a reasonable solution to the issue that we're talking about this morning. I have on many occasions when I speak publicly talk about what are the core functions of government, and I've heard many of my colleagues make the same comments. And in my estimation, the core functions of government are public education, infrastructure, public safety, and aid for those who truly cannot help themselves. And I see this particular bill and the program that it is dealing with that falls under that fourth category of providing aid for those who... [LB385]

SPEAKER FLOOD: (Gavel) [LB385]

SENATOR DUBAS: ...truly cannot support themselves or help themselves. I think this program impacts our senior citizens as well as our children, the most vulnerable in our society. I think through what we've seen through the use of the federal weatherization programs, we know there's a very definite need out there. I, too, appreciate Senator Smith's comments about this has to be a balanced approach. I mean it doesn't do us any good to produce more energy if we're not being...if we're not operating in a conservation-minded manner in our use for it. So most of the discussions we have on the floor here deal with policy. That's what we are. We are the policymaking branch of the government. But on occasion, our discussions can kind of evolve into a discussion of principle and to me, this morning, this particular discussion lends itself toward that discussion based on principle. And if we truly believe what the core functions of government are and that the policies we enact support those core functions, the principle of this is we really are quibbling over a small amount of dollars. That's the policy. The principle of it is do we believe that this...that these are the types of programs that we as a state should support and, you know, taking into consideration where we're at with our budget and economy. Everybody recognizes that. The bill recognizes it. Senator Mello has recognized it with the amendments that he has introduced. We don't have the money to put into this program right now but the principle of it is it's an important program. It has the potential to really serve the citizens of this state. If we can have the Energy Office get involved with this through public power, everybody is on the same page, I think, along that line. So if we can keep this program intact until we're better able to put the appropriate funds into it and make it work the way it's intended to work, it just does...I just see it as a win-win situation all the way around. It's a program

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that hasn't had the chance to prove itself but I feel very confident, based on looking at how these types of weatherization programs work at other levels, that it will be able to prove itself. I think this is a recognition, on the part of public power, the importance of conservation. They're willing to step up to the plate and commit some of their dollars to make it work. I think we should step up to the plate at the state level and working in a cooperative fashion with them, keeping this program intact, giving us an opportunity to deal with it in the way that we need to. So I do support the bracket motion with a sincere hope that we will be able to find resolution. And would yield the remainder of my time to Senator Mello, should he need it. [LB385]

SPEAKER FLOOD: Senator Mello, 1 minute 22 seconds and counting. [LB385]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I think it's safe to say that in discussing LB385 there is the need to, quote unquote, rejustify the need for this existing statute and the need to justify it,... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR MELLO: ...in my mind, is what Senator Council just alluded to, what Senator Dubas just alluded to, which is our federal dollars are being spent on targeted, limited construction items--weather stripping, caulking of windows, more insulation. This program, in discussing it with public power utilities, they're utilizing these funds for larger-scale energy conservation and energy efficiency measures that are not being covered by other federal funds. So the justification for the Low Income Energy Conservation Act is we want to see greater investment with our public power utilities in the state in saving energy, in saving money for low-income seniors and families because the fiscal note, as I remind you, doesn't take into account the public benefits and public assistance savings that comes when we keep a senior in their home. [LB385]

SPEAKER FLOOD: Time, Senator,... [LB385]

SENATOR MELLO: Thank you. [LB385]

SPEAKER FLOOD: ...but you have the next light on, you may continue. [LB385]

SENATOR MELLO: Thank you, Mr. President. That fiscal note doesn't incorporate that. It's not an indictment of the Fiscal Office. Our Fiscal Office, I believe, is one of the best fiscal offices in this country. But it is a point that's left out. It's a point that's left out in regards to the longer term cost savings that come when you keep someone in their home and off of public assistance benefits and keep them, frankly, out of a situation of homelessness. That is not detailed in our fiscal note. But back to the justification of this program. I believe the justification of this program goes well beyond just we need it because it helps people. I believe we need to retain this program because it keeps an

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investment mentality in state statute in regards to helping people stay in their homes. It helps keep that investment mentality in regards to lowering energy bills for every Nebraskan. That is an underlying component of this piece of legislation that we've not heard from the proponents that a kilowatt saved through energy conservation is a kilowatt saved on all of our utility bills. And an investment in a new heat pump on a home that was built prior to 1950 saves all of us more money in the long run. It's an investment mentality that you have heard us discuss on this floor for the last three years regarding energy efficiency in general. When we invest in energy efficiency programs, we save more money in the long run. There's a reason why you see the private sector and the public sector gravitating towards CFL light bulbs. Why? It's not because they look nice. Why? Because...it's not because they produce less light. It's because they save us more money in the long run. We might spend a quarter more purchasing a CFL light bulb but it saves us more money over the course of that four or five years' lifetime of that light bulb. That is the same mentality and logic behind the creation of the Low Energy Conservation Assistance Act. So we are making an investment in these types of mechanical systems in low-income Nebraskans' homes so that we can save more money in the long run in regards to not just their energy bills, not just saving energy in their energy consumption, but we save it in the sense of all of us who use public power in trying to reduce the rising increased costs of energy, that at the end of the day all of us will pay one way or another. That, my friends, is a justification well beyond just the low energy...or the Low Income Energy Assistance Act. That is a justification of why isn't this Legislature prioritizing more energy efficiency legislation. Why are we not trying to invest a penny today to save a dollar tomorrow? That is a better logic, well beyond just LB385. This is a policy argument that we need to have on all potential energy legislation. The fiscal conservative side of me says that if we can put a penny towards a project today and it saves us \$10 in five years from now, that is the best economic argument we can make. [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR MELLO: The best fiscal argument we can make in regards to trying to save tax dollars for the future, and that is what you see with energy efficiency legislation and that is what you see with the existing energy efficiency statute under the Low Income Energy Assistance Conservation Act. We have an opportunity to balance our budget, keep I think what is an opportunity to continue to invest in energy efficiency for those Nebraskans who live on the margins, and save state tax dollars in the long run by adopting the amendment that I have in the queue, but we can actually do it even with the bracket motion if we so choose to do so. With that, thank you, Mr. President. [LB385]

SPEAKER FLOOD: Thank you, Senator Mello. Senator Ken Haar, you are recognized. [LB385]

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SENATOR HAAR: Mr. President, members of the body, as you can tell, my concern about this bill and my approach has to do with values and it's the issue that Senator Dubas brought up, and I'm going to read again one of the...in my notebook one of my sections is how I set priorities. And I've tried to think of how I'm going to set priorities as we talk about budget cutting and about reinventing government and I keep coming back to this statement by Hubert Humphrey, and he wasn't the first to say it. I think it would fit into any religious philosophy: It was once said that the moral test of government is how that government treats those who are in the dawn of life--the children, those who are in the twilight of life--the elderly, and those who are in the shadows of life--the sick, the needy, and the handicapped. I'm very concerned that in trying to balance the budget we're going to overlook those people that don't have lobbyists on the other side of the glass. I've been doing some research on the Internet just to see. One of the things I handed out and I'd like to start with that one. It's a graph and it said...and this was from 2006 so I don't know, the numbers would probably be very similar, but it's the percent of fiscal year 2006 household income needed to pay projected residential energy bills and, again, they have LIHEAP on there and again LIHEAP is a program of the federal government and it's called the Low Income Home Energy Assistance Program. It's a federal program. This year we're getting \$5 million, next year \$2.5 under Obama's proposal but probably less because of where Congress is right now. And people are eligible for LIHEAP programs if they are...if their income is less than 150 percent of the poverty level. So the first bar you can see that LIHEAP eligible people will spend about 17, 15, 17 percent of their household budget, their whole budget, on energy. Poverty people, people that live below the poverty level, and by the way the poverty level right now for a family of three is \$17,600 is the poverty threshold. Thinking of living...this is everything, household, food, house payments, insurance, car, gasoline and so on; \$17,600 for a family of three is the poverty level. People in poverty tend to spend a quarter, and this is nationwide, a quarter of their income on energy. And the median income, way at the right, is kind of interesting. Those who make the median income, and for 2005 it was \$47,000, spend around 5 percent of their income on energy. And here's what happens when people run out of money, the people in poverty. These are some of the priorities according to national statistics again: delayed rent or energy payments, energy bills, and we all pay for that, by the way; skipping needed medical or dental care; and usually the last thing they do is to... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR HAAR: ...cut their food needs, but think of that. Think of that. Now another study I found shows that...and I'm going to quote this from information provided by the LIHEAP Clearinghouse and National Community Action Foundation: We calculated that if all Americans in poverty lived in weatherized and energy-efficient homes and had the income to pay their full share of the utility bills, all taxpayers would save nearly \$6 billion in poverty costs, including fuel assistance, lifetime and other rate assurances. So the cost of not doing something for people in poverty to help them make their homes more

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energy efficient costs us one way or the other and the most direct way to attack that problem is to help them weatherize their homes,... [LB385]

SPEAKER FLOOD: Time, Senator. [LB385]

SENATOR HAAR: Thank you. [LB385]

SPEAKER FLOOD: Senator Lathrop, you are recognized. [LB385]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. LB385 is a Senator Utter bill, and if you guys have been paying attention, Senator Utter and I have been spending a little time together working on CIR and it has been a pleasure to work with Senator Utter and get to work with him as much as we have on that subject matter. And so it is with a little reluctance that I stand and oppose LB385 when my good friend is on the other side. And the motion before us is a bracket motion and I'd hope we wouldn't get to that point because I'd like to see us find a middle ground in this debate, and I stand in support of a middle ground somewhere between a bracket and passing LB385. And I believe a lot of the folks that have spoken before me have said and expressed my sentiments, but at the risk of repeating what you've heard this morning, we have a program in place that I think we can describe as in its infancy. We did not fund it right away. It is an important program and it is part of energy policy. And we now find ourselves in a fiscal spot. We have a gap in our budget and we are looking around for places to make up the difference, as we should. None of us are inclined to raise taxes and that includes me. We need to look for ways to save money but we need to be certain that if we're trying to address a crisis, and this really is and you've heard me talk about this before, if we're trying to address a crisis then we need to address LB385 by saying for the next couple of years we should reduce our funding or we should stay the program, leave it in place. But we are using a short-term gap in our policy...in our budget, rather, to go into programs that have merit and eliminate them. And I think it brings us to a question that we need to ask as we consider LB385 and that is, do we not like the program or are we trying to find some money to make up a \$900 million gap? That's the first question we should ask ourselves. If this is about the gap and trying to balance our budget, then we should retain the program and cut back the funding because, in my judgment, the program has a great deal of merit. It has a great deal of merit. And I...you know, when we talk about our energy policy and nationally we're trying to conserve energy, whether it's gasoline or electricity, our energy policy must include conservation. And if we can invest in homes that need that kind of work that will make them more energy efficient, we are saving energy and that's saving the environment, it's getting us away from our dependence on foreign oil. Those are all very, very important things. And, you know, we work on the mileage for cars and we ought to be working on how much energy it costs to heat a home. And these programs go straight to that issue. If we can save energy by never using it, that's like finding a new resource. And I think that this policy found in this program does that. It is beneficial. And for us to look at it

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and say, well, it hasn't done much right now, it's in its infancy. You know, I looked at the committee statement when I was... [LB385]

SPEAKER FLOOD: One minute. [LB385]

SENATOR LATHROP: ...looking at the bill, seeing what the committee...who was there and who wasn't, and this bill was opposed by the Omaha Public Power District. Now I'm thinking these guys are the ones making the energy. They ought to be the ones in favor of using more of it and perhaps opposing these measures, but they're not. And it's because they appreciate that in the bigger, larger picture of energy policy, conservation plays an important part. This program is an important piece of conservation and I would certainly prefer that we work something out on this rather than take the bracket motion to a vote or the bill to a vote without an amendment that preserves it for a day when we have the means and the resources to properly finance this important program. Thank you. [LB385]

SPEAKER FLOOD: Thank you. Senator McGill, you are recognized. [LB385]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I really don't have that much additional to say. I echo a lot of what Senator Lathrop said in that while we have a bracket motion before us, I really hope that members of the body can work together and come up with some sort of plan that would allow us to freeze the funding for now. I know there's funding currently in the Appropriations budget. My district is one of the districts that really is on the bubble when it comes to everyday homeowners and their abilities to stay in their homes. You know, the people who are unemployed in my district are really skilled workers who have lost their jobs that are looking for something skilled as well and the vast majority of my constituents are the elderly who literally built their homes 50, 60, 70 years ago and paid off their homes and they have property taxes and other bills that they're not able to meet or they worry about every time they have a small increase that they're going to be able to make up for it because their Social Security doesn't go up. Something like this is very important for that population in helping to control their energy costs. I mean they're not going to choose to weatherize over paying their bills or buying their medications. I feel that we don't do enough for those homeowners on the bubble as it is and to take away something like this that provides at least some sort of opportunity for them to cut a cost is incredibly important. And I hope we can find more ways to help folks who are living on the bubble who make just enough money to stay in their homes but rising energy costs, rising property taxes, assessments, and other issues, rising medication and healthcare costs are putting them at risk of having to go on to more government care, move out of their homes into nursing homes or assisted living. And so I really hope that we can find a way to keep this program in place and just cut down on the funding for now since we're in a tough time. Thank you, Mr. President. [LB385]

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SPEAKER FLOOD: Thank you, Senator McGill. Senator Utter, you are recognized.
[LB385]

SENATOR UTTER: Thank you very much, Mr. President. Colleagues, I've been listening this morning to the conversation that we have had on this. I particularly enjoyed Senator Lathrop's introduction to his minutes on the mike because I haven't had anybody say anything that nice about me for a long time, and I just want Senator Lathrop to know I appreciate that. As a matter of fact, he and I have been working extremely hard on some legislation to reform the CIR and I give a lot of credit to him for his skill in guiding this process along as the Chairman of the Business and Labor Committee. I rise really to tell you, my friends, that I'm opposed to the bracket motion. You should not be surprised at that, that I think that we need to bring this to a conclusion of some kind as we move along with this process. And I just want to reiterate to you something that I said earlier this morning, and I hate to repeat myself but I think it's important, and I think that we're talking about a bigger picture than just doing away with this program. I think we're talking about the process of remaking state government, of redoing state government, of modernizing how we do things, of not leaving unused tools in the toolbox, of actually eliminating state programs that are not used very much with the idea that there will be 49 people in this body when we come back down the line and if there's a real need for a program of this type, this can be reintroduced. At that time, those who think that it should be...have rebirth would need to rejustify it before the body, and I think that's the way this government should operate. I don't think that we need to lay things at the side of the road hoping that we can pick them up in a hurry without complete rejustification for what we're doing. And it is for that...that's the broader picture I see of what we're doing here and what we are trying to do as state senators in this body. So I urge you to reject Senator Mello's bracket motion. I certainly respect Senator Mello and I respect what he's trying to do and I understand his feelings, and it just so happens that having him sit back here beside me didn't bring us completely together on all issues, and I guess you're not surprised at that. Thank you, Mr. President. [LB385]

SPEAKER FLOOD: Thank you, Senator Utter. Senator Mello, you are recognized.
[LB385]

SENATOR MELLO: Mr. President and members of the Legislature, good public policy sometimes isn't always one idea. Sometimes it's, I think, a culmination of multiple ideas. And as we've been discussing the bracket motion on LB385, had conversations with my colleague and row mate Senator Utter, conversations with Senator Heidemann, our Appropriations Committee Chairman, as well as the Speaker to try to find some resolution, because I think what we want to see or I would say a good number of senators in this body want to see is this program be able to go forward. We don't want to see this program eliminated. We understand that there is a budgetary concern associated with this program, even though it has been underutilized over the last two

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years, thus having very little fiscal impact, but for the purposes of how we do our budget and how we operate through the budget process we wanted to be cognizant of that. Conversations with Senator Heidemann, our public power utilities, as well as the Policy Research Office, I believe that we're going to work and be able to find a solution, but there's some other overriding issues that still are out there in regards to our legislative agenda as well as trying to find what we see as the appropriate compromise to ensure the longevity of the investments that we want to make with the Low Income Energy Conservation Act. So with that said, ultimately I will be withdrawing this bracket motion and I will withdraw my amendment I have currently filed which freezes the program, and will be offering that up on Select more than likely. There is other ideas that we are tossing out to try to ensure the longevity of the program and accomplish what we want to accomplish, which is the fiscal impact for this biennial budget but also ensuring that the program remains intact because of its long-term investment opportunities it has for the state. With that, Mr. President, I would like to yield the remainder of my time to Senator Heidemann. [LB385]

SPEAKER FLOOD: Senator Heidemann, you have 2 minutes 42 seconds. [LB385]

SENATOR HEIDEMANN: Thank you, Mr. Speaker and fellow members of the body. It's been a busy morning. I do appreciate everybody sitting down, being able to work together. I appreciate Senator Utter working on this. I do like LB385 but I understand Senator Mello's concerns and his thoughts and his opinions. Because of that, I'm supporting the thought of moving LB385 to Select File. We will work on this between General and Select File. With amendment that is put on there, it's a possibility that we can make LB385 work for everybody when we get off of Select File. I do appreciate the efforts of everybody and I urge you to vote LB385 to Select File, and I have committed to working with Senator Mello between General and Select, just to let you know. Thank you. [LB385]

SPEAKER FLOOD: Thank you, Senator Heidemann. There being no other lights on, Senator Mello, it's my understanding you want to withdraw your bracket motion. Is that correct? [LB385]

SENATOR MELLO: That is correct, Mr. Speaker. [LB385]

SPEAKER FLOOD: Your bracket motion is withdrawn. It's also my understanding that you want to withdraw AM865 and refile that on Select. [LB385]

SENATOR MELLO: That is correct, Mr. Speaker. [LB385]

SPEAKER FLOOD: So ordered. Mr. Clerk, anything further? [LB385]

CLERK: I have nothing further, Mr. President. [LB385]

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SPEAKER FLOOD: Senator Mello, seeing no other lights on, you are...or, Senator Utter, my apology, seeing no other lights on, you are recognized to close on LB385. [LB385]

SENATOR UTTER: Thank you, Mr. President. And I know there is some confusion about whose bill this really is and who's really going to take charge of it, but we're going to work that out privately, if you don't mind. Folks, we have come to the point where I'm going to stand here and ask you to advance LB385 to Select File. I understand that Senator Mello has additional amendment to offer and that he will offer that on Select File. I appreciate the time that all of you have spent listening. I actually appreciate Senator Mello offering a contrary opinion on this bill, even though I don't think he's contrary. I will tell you that...one more time, in the broader picture, this is not just about eliminating a program in our state government that has not been used to a great extent, and I understand that there are reasons why it has not been used to a great extent. I will also point out to you that there are roughly \$28 million in ARRA funds yet to be used that's likely going to take a good deal of our time in the next year. And I still believe, quite frankly, that if this is a program that is worthy and it is a program that is needed, that when the time comes for its need to be recognized that it should be rejustified before this body rather than just the money reappropriated for it. With that, I urge you to vote to advance LB385 to Select File. Thank you very much. [LB385]

SPEAKER FLOOD: Thank you, Senator Utter. Members, you've heard the closing on LB385. The question is, shall LB385 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB385]

CLERK: 29 ayes, 0 nays on the advancement of LB385. [LB385]

SPEAKER FLOOD: LB385 advances to E&R Initial. Mr. Clerk, the next bill is LB468. [LB385 LB468]

CLERK: LB468 by Senator Campbell at the request of the Governor. (Read title.) Introduced on January 14, referred to Health and Human Services, advanced to General File. There are Health Committee amendments, Mr. President. (AM380, Legislative Journal page 815.) [LB468]

SPEAKER FLOOD: Thank you, Mr. Clerk. Before we proceed to Senator Campbell, are there any messages, reports, or announcements? Senator Campbell, you're recognized to open on LB468. [LB468]

SENATOR CAMPBELL: Thank you, Mr. President. But I first want to check, I believe the Clerk said there were no amendments. [LB468]

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CLERK: No, I... [LB468]

SENATOR CAMPBELL: There's a committee amendment. [LB468]

CLERK: Yes, there...yes. [LB468]

SENATOR CAMPBELL: Did I hear that correctly? [LB468]

CLERK: No, I thought I indicated there are and if I didn't, there are committee amendments, Senator. [LB468]

SENATOR CAMPBELL: Thank you very much. You don't want to throw me into a panic here right away. (Laugh) Colleagues, this is truly the last of the bills that we're going to be discussing on Medicaid, at least for a while. And yesterday I so appreciated your questions and attention. Medicaid is not easy. I certainly learned yesterday that I won't be called upon to be the Medicaid director since when we get back to a few bills, I will be correcting a few points. This one should be a lot easier for us to approach. LB468 is a bill that is meant to facilitate the process of allowing additional copayments or increased copayments for certain Medicaid services to implement the Governor's budget. There is a committee amendment that will clear up ambiguities in the language of the bill and fulfill the intent of LB468. And, Mr. Clerk, I'm going to proceed...and, Mr. President, I'm going to proceed to go ahead and discuss the amendment because it really is the heart of the bill. Is there any objection? [LB468]

SENATOR LATHROP PRESIDING

SENATOR LATHROP: Senator Campbell, you are recognized to open on your committee amendment. [LB468]

SENATOR CAMPBELL: Thank you, Mr. President. The committee amendment clarifies the language in LB468. And, colleagues, if you're looking at this on your screen, make sure you're following on the amendment. By fulfilling the intent of LB468 to specifically allow Medicaid copayments to be changed for this year to facilitate the implementation of the Governor's budget and exempts the notice requirement for changing the copayments for this year. However, the bill's language as it is written results in a broader scope in simply changing the copayments. Arguably, the bill would allow reductions or restrictions to be placed on amount, scope, and duration of goods and services without notice to the Legislature from the time of enacting the bill until December 1, 2011. Accordingly, the committee amendment changes the bill to allow for the requested adaptations in Medicaid copayments but maintains the Medicaid process and reporting date time lines. So, colleagues, as you are looking at this amendment, you will realize that the amendment return to the original language of reporting. And a

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number of people testified and inquired about the ambiguities of the original language in LB468. So the Health and Human Services Committee said, let us go ahead and return to the original language and insert very specific language with regard to the notification on copayments. The department is required to notify the Medicaid Reform Council and the Legislature of these changes. And in all fairness to the department and to the administration, I'm sure that as we all gathered quickly to try to get budget information together through our process and their process, this notification did not occur. So the primary purpose of LB468 as it is amended is to say we understand and accept that the notification on the copayments for that time period. But in the amendment we wish to return to the original reporting language to ensure that the Legislature always receives timely information. So keep in mind its primary focus is on the notification. And with that, Mr. President, I will conclude my opening remarks. [LB468]

SENATOR LATHROP: Thank you, Senator Campbell. (Visitors introduced.) Senator Conrad, you are recognized. [LB468]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Campbell, for your good description of the legislation. And if you would please yield to some questions, I just have a few additional clarifying queries that I'd like to get a few answers on. [LB468]

SENATOR LATHROP: Senator Campbell, would you yield to some questions from Senator Conrad? [LB468]

SENATOR CAMPBELL: Absolutely. [LB468]

SENATOR CONRAD: Thank you, Senator Campbell. I'm sure members of the Health and Human Services Committee are well aware of this fact and we look at it frequently in Appropriations as well, but within the Medicaid program there's a variety of different categories of eligibility for kids, for families without children, for aged, blind, and disabled populations, etcetera, etcetera. And I'm wondering does this legislation...would this legislation be applicable to all eligibility categories within Medicaid or has it been narrowed or tailored to just certain categories of eligibility within Medicaid for the increased copayments? [LB468]

SENATOR CAMPBELL: It would apply to all the categories across, Senator Conrad. And keep in mind...and I certainly will be glad to answer whatever questions you have on copays, but keep in mind that much of the copay information is in the budget portion which went to Appropriations, not necessarily reviewed by us. Our whole point here is to ensure a timely reporting to the Legislature. [LB468]

SENATOR CONRAD: I appreciate that, Senator Campbell. And that's one thing that did pose this query when I was reviewing the legislation and when we were looking at this

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from a preliminary perspective in our budget deliberations. The committee specifically didn't take any cost savings or cuts for copays as applied to members who are in the aged, blind, and disabled categories. And so I'm wondering if maybe we might need to square up some of the legislation or budgetary issues as we move forward. And if this legislation, in fact, just applies to the reporting requirement between HHS and the Legislature, it may be separate and distinct. But I did want to point that out because it is a subtlety and a nuance within the preliminary budget that I think people should be aware of. And then finally, Senator Campbell, does this legislation just narrowly apply to the notice requirement for Health and Human Services on copayments? It wouldn't exempt any reporting requirements for changes in eligibility or other aspects of Medicaid, is that right? [LB468]

SENATOR CAMPBELL: That is absolutely correct, Senator Conrad, and that's why we retained the original language to be very clear that the reporting requirements are still very much in place for all of 2011. And there's where the ambiguity was. There were some people who believed that there was no reporting requirement with the language that had originally been in LB468. And, Senator Conrad, I want to say that if in our amendment we need to clarify anything with regard to eligibility on specific copayments, we certainly can do that. [LB468]

SENATOR CONRAD: I appreciate that, Senator Campbell. As always, it's a pleasure working in conjunction with you and your committee on these issues and really appreciate the leadership and expertise that you and your staff and committee bring to the dialogue. And then just finally for another point of clarification. I think it's clear in the bill but I wanted to make sure that members were aware. This in no way affects a change in terms of notice to the individual which HHS will still be required to provide about changes in copays or other aspects of the Medicaid program. It's rather just a reporting requirement between the department and the Legislature. Is that right? [LB468]

SENATOR CAMPBELL: Absolutely correct. [LB468]

SENATOR CONRAD: Thank you. [LB468]

SENATOR LATHROP: One minute. [LB468]

SENATOR CONRAD: Thank you, very much Senator Campbell. I think that those are important questions and important clarifications. We'll make sure to work with the committee to see if there are any additional clarifications that need to be made on this legislation as we move forward. And I think it's also a good opportunity to educate about the very different categories of eligibility that exist within the Medicaid program as a whole, and for a variety of policy considerations, sometimes we will see differences in terms of how we treat those different categories of eligibles. And I know that the

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Appropriations Committee had a very, very strong feeling that we shouldn't put additional copay burdens and requirements on those who utilize this program and who are aged, blind, and disabled because the impact that could have on our very, very most vulnerable citizens having to make the... [LB468]

SENATOR LATHROP: Time. [LB468]

SENATOR CONRAD: Thank you, Mr. President. [LB468]

SENATOR LATHROP: Thank you, Senator Conrad. (Visitors introduced.) Thank you. Next is Senator Hadley, you are recognized. [LB468]

SENATOR HADLEY: Mr. President and members of the body, thank you. Would Senator Campbell yield to a question? [LB468]

SENATOR LATHROP: Senator Campbell, would you yield to a question from Senator Hadley? [LB468]

SENATOR CAMPBELL: Always. [LB468]

SENATOR HADLEY: Senator Campbell, I'm really a slow learner, so I just want to make sure I've got my...as Senator Haar/Harr would say, I have my hands around this. Basically, we're just talking about changing the reporting requirements, is that correct? [LB468]

SENATOR CAMPBELL: Senator Hadley, what we're trying to do is not change them but to be absolutely clear that for one, only one instance are we allowing the fact that they did not report in a timely manner. We are retaining the original language which keeps the reporting. So the administration and the department did not notify us prior to December 1, and we recognize all the problems that were entailed in putting the budget together. So the new language says for that one example, it's sort of like we give you dispensation, but the original reporting requirements are still very much in place. [LB468]

SENATOR HADLEY: Thank you, Senator Campbell. Thank you, Mr. President. [LB468]

SENATOR LATHROP: Thank you, Senator Hadley. Senator Howard, you are recognized. [LB468]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Campbell would yield for a question or two. [LB468]

SENATOR LATHROP: Senator Campbell, will you yield to a question or two from

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Senator Howard? [LB468]

SENATOR HOWARD: Or maybe more (laugh). [LB468]

SENATOR LATHROP: Or perhaps more. [LB468]

SENATOR CAMPBELL: Certainly. Perhaps more. [LB468]

SENATOR HOWARD: And before I launch into any questions, I do want to tell Senator Conrad that she's absolutely right. This is probably the most diligent, conscientious, responsible Health committee that I've ever worked on. The...I hesitate to say "attitude" but the attitude is very receptive to anyone that comes in whether it be the administration or a concerned citizen. It's very much, we're here to hear you, and I really appreciate that. But, Senator Campbell, to clear up a couple of questions that have come to me and also to explain my concern, this bill with the amendment addresses both the reporting responsibilities on the part of the department and the notification piece to the individuals that will be affected by any possible increase. Am I correct in saying that? [LB468]

SENATOR CAMPBELL: Senator, my understanding of this has to do with the agreement and requirement in statute of a notification between the department and the administration and the Legislature, and should not affect any requirement on a notification to an individual. [LB468]

SENATOR HOWARD: Thank you. That was my concern with this bill is I didn't want the department to operate under the assumption that they would no longer have to provide that notification to an individual that would be affected by any sort of a financial increase in the amount that they would be paying. So we are not going to have to worry about that. It's not going to be affected with this. [LB468]

SENATOR CAMPBELL: Correct. [LB468]

SENATOR HOWARD: Thank you. Thank you, Mr. President. [LB468]

SENATOR LATHROP: Thank you, Senator Howard. Speaker Flood, you're recognized for an announcement. [LB468]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. Well, we're at that point in the session where obviously we've got a four-day weekend ahead of us as members. We've done a lot of good work this week. On Tuesday, we begin full day debate, and you'll see an agenda with a few more bills on it as we prepare for Tuesday. At this point, I see us remaining on General File for the short term. We've got a lot more heavy lifting to do on General File. We're going to start obviously the first day of the

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week back next week at 10:00, 9:00 each other day the balance of the week thereafter. We're going to go until noon and then we're going to be reconvening at 1:30 in the afternoon beginning next Tuesday and we'll be working as late as 5:00 or maybe a little beyond. So I know that as you work with your schedules, we're going to be putting in full days on the floor, a lot of work. Make sure you watch the agenda very carefully. You'll see times throughout the day where we'll switch bills, we'll switch divisions, so make sure you watch those time changes on the left-hand side of the agenda. But thank you very much for what I think has been a good first part of the session, and you'll see the work ahead of us on the agenda for Tuesday. Thank you very much and everybody have a good weekend. But we're not quitting yet. We're going until noon today.
(Laughter)

SENATOR LATHROP: Thank you, Mr. Speaker. Senator Council, you are recognized. [LB468]

SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Campbell yield to some questions? [LB468]

SENATOR LATHROP: Senator Campbell, will you yield to questions from Senator Council? [LB468]

SENATOR CAMPBELL: Yes. [LB468]

SENATOR COUNCIL: Thank you, Senator Campbell. I've been trying to follow this process in LB468 and trying to get my head around the objective, and I understand now that the amendment really basically substitutes for the bill. But this is my question: Under the statute as it currently exists, the Department of Health and Human Services has to submit a report to the Governor and the Legislature and the Medicaid review board if they're going to make any changes in the rules and regulations or any changes in copayments. Is that correct? [LB468]

SENATOR CAMPBELL: Yes, on a number of issues, far more than those, Senator Council, but you've given a few good examples. [LB468]

SENATOR COUNCIL: Okay. And, again, as I understood the statute, they have to give that report before they adopt or implement any changes reflected in the report. Is that correct? [LB468]

SENATOR CAMPBELL: That is correct. [LB468]

SENATOR COUNCIL: And my understanding that the reason for LB468 is that the Department of Health and Human Services failed to comply with that requirement as it relates to this year, 2011. They did not submit a report prior to December 1, 2010,

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regarding any changes in rules, regulations, or copayment that were designed or intended to go into effect during this year. [LB468]

SENATOR CAMPBELL: Senator Council, it would...one could argue...and this fact was discussed, one could argue that when they submitted information to the Health and Human Services Committee through the LR542 process and even the preparation for the budget, one could argue that that was "notice." But I think that the administration, the department and in my meetings with them, we all felt that it was far better to be crystal clear about the authorization here, the failure to report this specifically, but also them to be very clear that the original requirements for reporting to the Legislature on new efforts out of the Medicaid program, that we retain that and there be no ambiguity that they are under those obligations. [LB468]

SENATOR COUNCIL: Okay, but this is my question. And I'm just...as I read the current language of the statute it says, prior to adoption and implementation. So has there been an adoption and/or implementation of rule changes and copayment changes for 2011? [LB468]

SENATOR CAMPBELL: Senator Council, I am under the assumption from listening to Senator Council's or Senator Conrad's that there is some question and issue about which copay may come into effect on the Appropriations side, so I'm going to answer you that: no, these have not, but the requirement is still there to file the report and they did file. The department filed a Medicaid report, but they did not cover the copays. [LB468]

SENATOR COUNCIL: Okay. And that's my concern, because as I read the current statute that before any change can be effected, implemented, or adopted, put into place, this report has to be submitted to the Governor and to the Legislature. And then my question is, if that report was not submitted and... [LB468]

SENATOR LATHROP: One minute. [LB468]

SENATOR COUNCIL: ...changes were adopted or implemented, are those changes statutorily in effect because if it says, prior to adoption or implementation, I read that to say they couldn't adopt or implement any such changes if the report hadn't been provided? And that's my concern with the exemption because I'm not sure and I'm not comfortable that changes were made and implemented without the authority to do so. [LB468]

SENATOR CAMPBELL: Senator Council, I don't think that the changes in the copay because they did file the report on other topics, they met all the obligations, we're talking about the copays here very specifically. I do not think the copays can go into the changes. I mean, we are doing copays now, but... [LB468]

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SENATOR LATHROP: Time. [LB468]

SENATOR COUNCIL: Thank you. [LB468]

SENATOR LATHROP: (Visitors introduced.) Senator Conrad, you are recognized to speak. [LB468]

SENATOR CONRAD: Thank you, Mr. President. And I really appreciated the dialogue and discussion that Senator Council and Senator Campbell were having and if I understand correctly, at the heart of the matter I think, in Senator Council's line of questioning was really whether or not it was legally permissible to retroactively waive notice requirement. I think we can all agree that that is not permissible and I believe is not what LB468 would be intending to do. And I think when we talk about notice, it's the reason why notice is so important is because it really strikes at the heart of due process requirements, particularly as related to the public benefits field and how we communicate with individuals who rely upon those. But the notice that we're really talking about here is more than a due process consideration; it's rather an issue related to checks and balances between the legislative branch and the executive branch, and a waiving of this notice is something to not be taken lightly because it is based on a long history of significant policy considerations and is in place for good reason. And that's because it ensures legislative authority in terms of our ability to make policy decisions regarding public assistance program, and particularly Medicaid. It ensures that the Legislature has notice if any changes to eligibility, services, provider rates, any number of things under our public benefits programs and Medicaid programs is first provided to the Legislature and says, we're not going to allow these kinds of changes to move through, which are policy choices, until you have notice about this. And so it is a very important provision. It is in place for good reason. It is in place to provide a clear communication between the different branches of government before major changes are made in public assistance programs. So to waive it even narrowly and temporarily should not be taken lightly but may have merit in consideration of the economic conditions that we are dealing with. And I hope I didn't further confuse or misunderstand the query that Senator Council and Senator Campbell were having. But in terms of being able to somehow retroactively waive notice related to communications between the department and individuals on their copay, I don't think that's at issue in this bill. If I'm wrong in that assessment, I'd appreciate any impact or information from Senator Council or Senator Campbell. And I'd be happy to waive the balance of my time to Senator Council. [LB468]

SENATOR LATHROP: Senator Council, you have been yielded 2 minutes. [LB468]

SENATOR COUNCIL: Yes, thank you, Mr. President, and thank you, Senator Conrad, because my current concern goes a little further. When I'm looking at the current

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statutory language, and I understand and accept the explanation that has been given thus far as to the reasoning behind LB468, but I still share a process, a very serious process concern because if I look at the balance of the existing statute, it says that: The Medicaid Reform Council, no later than 30 days after the date of receipt of any report under subsection (2)--and that's the report that's supposed to be provided--of this section, may conduct a public hearing to receive public comment regarding such report. And the council shall promptly provide any comments and recommendations regarding such report in writing to the department. Was any...well, I can't...time has been yielded to me so I can't ask someone to yield, but that's my concern. There's a process... [LB468]

SENATOR LATHROP: One minute. [LB468]

SENATOR COUNCIL: ...in place here for these proposed changes in rules, regulations, and copays to go through what I see as a vetting process. First they come to the Governor and the Legislature, they go to the Medicaid Reform Council who may conduct a hearing, and I suspect ordinarily does conduct a hearing, to receive public input on these changes before adoption and promulgation. And that's what I have a concern about because by enacting and advancing AM380, we basically exempt the department from having had to comply with that requirement and copays have apparently been altered and without benefit of the remaining process under the current statute. And that is the basis if my concern. And I thank you, Mr. President. [LB468]

SENATOR LATHROP: Senator Council, you are next recognized. [LB468]

SENATOR COUNCIL: Thank you, and, again, and, Senator Campbell, if you would yield to a couple of questions. [LB468]

SENATOR LATHROP: Senator Campbell, will you yield to questions from Senator Council? [LB468]

SENATOR CAMPBELL: Certainly. [LB468]

SENATOR COUNCIL: And I appreciate it if I'm blindsiding you and I don't intend to do that, but in the past when reports have been received and those reports reflect proposals to change rules or regulations or copay, is it ordinarily and customarily the practice that the Medicaid Reform Council, you know, receives those in the 30 days and then generally holds public hearings? [LB468]

SENATOR CAMPBELL: Senator Council, you are exactly correct in the sense that and a report was given to the Medicaid Reform Council as required and met the deadline this past December as it has every other year. The department is very vigilant about that. And you're correct. The committee invites, at that point, any participation by people

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who are attending to make comment. And in past years, a portion of that report always had, these are the items that will go to the Appropriations Committee, gives full notice of exactly what's going to happen. What transpired this year is that we did have the report, there's notice of many activities that the department is going to look at in the Medicaid program. It certainly gives the Legislature and citizens and eyes...a viewpoint as to what they're studying and is coming up. What happened is that the adjustment in copay, meaning they wanted to charge an additional dollar or add several, was not given in that report. It was given in the budget materials but not in that report. And this...the bill is meant to clarify that, while we're giving them exemption on that one very small point and we're retaining the original requirements. But the department has always met those requirements and met them this year, it's just not on that specific item. And, in fact, the director of Medicaid issued a letter to then-Chairman of the Health and Human Services, Senator Gay, and noted that the department had through its budgets in September and November covered these, but it had not specifically mentioned them in that report. And in all honesty, Senator, I don't think there's any duplicity here. And they could argue, well, we did give you notice and probably from the letters in the budget, but we all decided that it should be crystal clear in this bill for the budget because my understanding is none of these can go into effect until we approve the budget. [LB468]

SENATOR COUNCIL: Correct. But I'm just...but we are, in fact, by...if we were to adopt AM380, we would be eliminating from the normal process an opportunity for the public to be heard on these copay adjustments before any budget consideration. Am I correct? [LB468]

SENATOR CAMPBELL: Well, they could enter in...I'm sure if the Appropriations Committee decided that they wanted to have public hearing, and they do on the budget, they could make notice of it and give...and take public comment. I would hasten to say, Senator, that the public comment that comes through the Appropriations Committee on all the budget is far more extensive than what would come before the Medicaid Reform Council. [LB468]

SENATOR LATHROP: One minute. [LB468]

SENATOR COUNCIL: Okay. And I appreciate that when it's broken down in that level of specifics. And I'm just suggesting that under the process that is currently set forth in the statute, I mean, the department would be obligated to break it down to that level of specifics for the public to be able to provide the Medicaid Reform Council with their input, not that it would have altered the department's decision in this regard, but the department didn't receive that prior to submitting whatever budgetary proposals that the Appropriations Committee is now responding to. And that's the concern I have about LB468. [LB468]

SENATOR LATHROP: Time. [LB468]

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SENATOR COUNCIL: Thank you. [LB468]

SENATOR LATHROP: Senator Conrad, you are next recognized, and this will be your third time. [LB468]

SENATOR CONRAD: Thank you, Mr. President. And I do just want to ask just one further set of questions to Senator Campbell if she would be kind of enough to yield again. [LB468]

SENATOR LATHROP: Senator Campbell, will you yield to questions from Senator Conrad? [LB468]

SENATOR CAMPBELL: Yes. [LB468]

SENATOR CONRAD: Senator Campbell, in looking at the committee statement, there were some folks who came in, in opposition to this legislation. And I know that some of those same people contacted my office upon introduction of LB468 because they were very concerned about the potential breadth of the legislation as introduced, and particularly members of groups representing Nebraskans with disabilities and Nebraskans with developmental disabilities were worried that this legislation might open the door to sweeping changes to programs they rely upon without notice. And I'm guessing that through the committee amendment, which very specifically narrows and targets the waiver of notice for this particular issue, that many of their concerns have been addressed. Is that your understanding? [LB468]

SENATOR CAMPBELL: Yes. And, in fact, to answer Senator Council because we got cut...our time was short, one must keep in mind that the Health and Human Services Committee would have had a public hearing also on this bill. And to my recollection, none of the testimony came in with regard to the copays. The testimony was all very worried about exactly what Senator Conrad is pointing out. They were very worried about the original language in LB468. And so the committee amendment said, let us return to the language as the statute so that it is crystal clear that no additional programs or changes or whatever can come forward without notification, and we feel strongly that you need this amendment to ensure that language. So the emphasis for us has always been on in the notification language, understanding that the copays may...they could have testified there, Senator Council, they can testify at Appropriations, but the strength of where we want to go from here on is clearly in that amendment. [LB468]

SENATOR CONRAD: That's very helpful, Senator Campbell. I really appreciate having an opportunity to hear a little bit more about what happened at the committee level and I think helps to provide a lot of comfort with this proposal as we move forward. I think the

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amendment is a good amendment and I think that the committee worked hard to try and be responsive to those individuals who were here engaging with their Legislature with very valid concerns about how potential changes may affect Nebraskans with disabilities and Nebraskans with developmental disabilities. And I am quite pleased to see that we have a very, very narrow and a very, very specific and tailored approach to what the waiver of this notice requirement will be, and I want to make sure the legislative record is as equally as strong and clear that this is not an authorization or in any way an approval of other sort of administrative-level changes through rules and regulations affecting the care, eligibility, or services available to vulnerable Nebraskans. So, Senator Campbell, thank you very much and, Senator Council, thank you for your good questions. Thank you, Mr. President. [LB468]

SENATOR LATHROP: Thank you, Senator Conrad. Senator Christensen, you are recognized. [LB468]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Campbell yield to a question, please? [LB468]

SENATOR LATHROP: Senator Campbell, will you yield to questions from Senator Christensen? [LB468]

SENATOR CAMPBELL: Yes. [LB468]

SENATOR CHRISTENSEN: Thank you. On this added language right here on the bottom of the amendment, it just says: any changes in Medicaid copays fiscal year 2011-12 are exempt from reporting requirements. Does that mean after this they will have to announce any changes? Is this just a one-year exemption? [LB468]

SENATOR CAMPBELL: It's only this one small period of time. You are exactly correct, Senator. From here on out all the reporting requirements are in place. [LB468]

SENATOR CHRISTENSEN: And is that just due to the time we get done with the session and the start of the following year or what was the idea of that? [LB468]

SENATOR CAMPBELL: The idea of the amendment was just it's a budgetary question in the sense that we wanted to clarify that they had not given notice on just that one item, which Appropriations Committee is dealing with, but for the remainder of this year and for every other year to come, Senator, they are required to report by December 1 of every year. [LB468]

SENATOR CHRISTENSEN: And so is it the way it's written out, anybody can...they could adjust the copays at any time? [LB468]

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SENATOR CAMPBELL: No, Senator, they cannot. [LB468]

SENATOR CHRISTENSEN: It has to go through the formal process and things this way for people to appeal? [LB468]

SENATOR CAMPBELL: Absolutely. It only dealt with the copays in this specific budget. From here on out, they would have to report on every single copay change. [LB468]

SENATOR CHRISTENSEN: Thank you, Mr. President. If Senator Campbell would like my time, she can have it. [LB468]

SENATOR LATHROP: Senator Campbell, you've been yielded time. [LB468]

SENATOR CAMPBELL: Okay. Thank you, Mr. President. And I very much appreciate all of the questions that have come forward on this and the senators' intent to be as knowledgeable as we can about the reporting requirements between the department and the Legislature. And, as a personal note, I would like to thank Senator Howard for her kind comments. Thank you, Mr. President. [LB468]

SENATOR LATHROP: Thank you, Senator Campbell. (Visitors introduced.) Senator Campbell, there are no other lights on, you are recognized to close on your committee amendment, AM380. [LB468]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, you are to be commended for your good questions and attention. A number of people when you say Medicare and Medicaid, their eyes just glaze over, and they go, well, that's fine you can talk about that, but your effort to understand it and be diligent in terms of the responsibility that we have. I much appreciate the work of the administration and the department and certainly our own legal counsel in making sure that from here on out every report that is required by the statute will come to the Legislature prior to December 1 so that we can plan any legislation that we may need. And with that, I'll conclude my remarks. [LB468]

SENATOR LATHROP: Thank you, Senator Campbell. Members, the question before the body is shall the committee amendment to LB468 be adopted? All those in favor vote aye; all opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB468]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB468]

SENATOR LATHROP: Thank you. The amendment is adopted. Discussion on the advancement of LB468 continues. Senator Campbell, there is no one in the queue, you are recognized to close on LB468. Senator Campbell waives close. The question before

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the body is on the advancement of LB468 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that care to? Mr. Clerk, record. [LB468]

CLERK: 36 ayes, 0 nays on the advancement of LB468, Mr. President. [LB468]

SENATOR LATHROP: LB468 advanced to E&R Initial. Mr. Clerk, next bill. [LB468]

CLERK: Mr. President, LB329. It's a bill by Senator Cook. (Read title.) Introduced on January 12, referred to Urban Affairs, advanced to General File. There are Urban Affairs Committee amendments pending, Mr. President. (AM324, Legislative Journal page 658.) [LB329]

SENATOR LATHROP: Thank you. Senator Cook, you are recognized to open on LB329. [LB329]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. LB329 adopts the 2009 International Energy Conservation Code, IECC, as the Nebraska Energy Code. I introduced the bill on behalf of the Nebraska energy department and here's why. Reasonable efforts to update the Nebraska Energy Code are required as a condition for Nebraska to receive nearly \$31 million of funding for the state energy program under the American Recovery and Reinvestment Act. If the code is not updated, the state will risk future funding of the state energy program and will not be able to remain competitive when seeking federal funds. I will ask the pages to distribute an assurance letter that Governor Heineman sent to U.S. Energy Secretary Steven Chu that ensures a good faith effort would be made to update the Nebraska Energy Code. I hope you join me in supporting this legislation and make good on the Governor's assurances by advancing LB329 to Select. With that, Mr. President, I'll yield to the committee, to the Chair, for the committee amendment. Thank you. [LB329]

SENATOR LATHROP: Thank you, Senator Cook. As the Clerk has stated, there are amendments to LB...committee amendments to LB329. Senator McGill, you are recognized to open on AM324. [LB329]

SENATOR MCGILL: Thank you, Senator Lathrop. Members of the body, this amendment to LB329 strikes the new language that was added in Section 10 of the bill. Current statute allows counties, cities, and villages to waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified and requires they submit their analysis to the State Energy Office. It was the will of the committee and some other folks who came to testify that we keep that process the way it is and so I ask for your adoption of AM324. Thank you, Mr. President. [LB329]

SENATOR LATHROP: Thank you, Senator McGill. Senator Christensen, you are recognized. [LB329]

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SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Cook yield for a question? [LB329]

SENATOR LATHROP: Senator Cook, would you yield to a question from Senator Christensen? [LB329]

SENATOR COOK: Yes, Mr. President, I will yield to a question from Senator Christensen. [LB329]

SENATOR CHRISTENSEN: (Laugh) One question: Do you have a copy of this code? I was Googling it on the Internet this morning trying to get it to read it. [LB329]

SENATOR COOK: Yes, sir. I have a hard copy in this binder up here next to my IBEW mug and I can ask a page, perhaps Hadley would come and hand that to you if you want to quickly peruse it. [LB329]

SENATOR CHRISTENSEN: Because I guess my question was I don't even know what I'm voting for because when I Googled it they wanted 110 bucks for a written copy, \$150 for a seminar and I thought, well, it's pretty hard to vote on something that (inaudible) voting on. [LB329]

SENATOR COOK: Well, you may borrow mine for free this time. [LB329]

SENATOR CHRISTENSEN: (Laugh) So are we comfortable? Has someone looked this over that we're not adopting something that we do not want? [LB329]

SENATOR COOK: Yes, sir, I'm very confident. We engaged as a committee, under the leadership of Senator Mello, in a very thorough interim study and the department of energy has been working very hard on this to make certain that we are entering into agreements that we are well able to fulfill and complete. So yes is the short answer to your question, sir. [LB329]

SENATOR CHRISTENSEN: Well, thank you. I'll probably come down and ask you to show me exactly what's changed and so I have a... [LB329]

SENATOR COOK: Yes, sir. I have a side-by-side comparison form. I will ask a page to make a photocopy and give that to you. [LB329]

SENATOR CHRISTENSEN: Okay. Thank you. [LB329]

SENATOR LATHROP: Thank you, Senator Christensen. Senator McGill, you are recognized. [LB329]

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SENATOR MCGILL: Thank you, Mr. President. I'll just address Senator Christensen for a second. You know, I've not read every single line of the Energy Code. This was brought to us by the Energy Office and we need to pass this to be in compliance with the stimulus money we received for energy issues, and so much of it is dictated by the feds in terms of what that is. And we're just trying to be in compliance with the things necessary to have accepted that money. So that may address a little bit of it. It doesn't address the individual issues but that's how this came before us in the first place, is the Energy Office and Senator Mello have worked on making sure we're in compliance with that stimulus money that we received. Thank you, Mr. President. [LB329]

SENATOR LATHROP: Thank you, Senator McGill. Senator McGill, there's no one in the queue. You are recognized to close on the committee amendments. [LB329]

SENATOR MCGILL: Again, this is just a really quick committee amendment that strikes some of the language dealing with county, city, villages and changing their process of making their recommendations to the Energy Office and moving forward with plans. This is something they agreed to, so I ask for your approval. Thank you. [LB329]

SENATOR LATHROP: Thank you, Senator McGill. Members, the question is, shall the committee amendments to LB329 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that care to? Record, Mr. Clerk. [LB329]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB329]

SENATOR LATHROP: The next amendment for consideration is AM781. Senator Hadley, I have a note that you wish to withdraw that amendment. Is that the case? [LB329]

SENATOR HADLEY: That is correct, Mr. President. [LB329]

SENATOR LATHROP: Without objection, it will be withdrawn. There's no one left in the queue. Senator Cook, you are recognized to close on LB329. [LB329]

SENATOR COOK: Thank you, Mr. President, and thank you, colleagues. In blissful anticipation of a beautiful weekend with our families, I'm not going to read my closing and simply ask that you press green for St. Patrick's Day and to advance LB329 to Select File. Thank you, Mr. President. [LB329]

SENATOR LATHROP: Thank you, Senator Cook. Members, the question for consideration is the advancement of LB329 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that care to? Record, Mr. Clerk. [LB329]

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CLERK: 32 ayes, 0 nays on the advancement of LB329, Mr. President. [LB329]

SENATOR LATHROP: LB329 advances to E&R Initial. Items for the record? [LB329]

CLERK: Mr. President, Revenue Committee, chaired by Senator Cornett, reports LB83, LB99, and LB632 as indefinitely postponed. Education Committee, chaired by Senator Adams, reports LB633 and LB637 to General File with committee amendments attached. (Read LB388A by title for the first time.) A Reference report referring LR123 to the Government Committee for purposes of conducting a public hearing. I have a hearing notice from the Health and Human Services Committee, confirmation hearing notice. New resolutions: Senator Janssen, LR131 and LR132; Senator Fulton, LR133; Senator Hansen, LR134; those will all be laid over. Senator Mello would like to print an amendment to LB385, Senator Fulton to LB45. (Legislative Journal pages 898-904.) [LB83 LB99 LB632 LB633 LB637 LB388A LR123 LR131 LR132 LR133 LR134 LB385 LB45]

And a priority motion: Senator McGill would move to adjourn the body until Tuesday morning, March 22, at 10:00 a.m.

SENATOR LATHROP: Members, you've heard the motion to adjourn until Tuesday at 10:00. All those in favor say aye. Any opposed? Motion carries. We're adjourned until Tuesday morning at 10:00. Thank you.