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Floor Debate  
April 11, 2011

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[LB20 LB27 LB31 LB32 LB34 LB41 LB45 LB84 LB90A LB90 LB100 LB105 LB106  
LB112 LB177 LB200 LB207 LB218 LB230 LB237 LB255 LB259 LB260 LB279 LB329  
LB342 LB357 LB366 LB383 LB384 LB388 LB463 LB463A LB465 LB468 LB500 LB509  
LB543 LB546 LB563 LB600 LB600A LB617 LB621 LB637 LB648]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-first day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Lance Berndt, the Good Shepherd Lutheran Church in Lincoln, Nebraska, Senator Fulton's district. Please rise.

PASTOR BERNDT: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Berndt. I call to order the sixty-first 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: Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB637 and LB617 to Select File, both having Enrollment and Review amendments. Bills read on Final Reading on Friday, Mr. President, were presented to the Governor at 11:43 a.m. that day. (Re LB27, LB31, LB32, LB237, LB34, LB105, LB207, LB218, LB259, LB260, LB342, LB543, LB563, LB621, LB100, LB230, LB90, LB90A, LB329, LB20, LB41, LB45, LB465, LB468, LB509, and LB546.) And I have an appointment from the Governor to be referred to Reference for purposes of conducting a confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 1131-1132.) [LB637 LB617 LB27 LB31 LB32 LB237 LB34 LB105 LB207 LB218 LB259 LB260 LB342 LB543 LB563 LB621 LB100 LB230 LB90 LB90A LB329 LB20 LB41 LB45 LB465 LB468 LB509 LB546]

SENATOR GLOOR: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, General File committee priority bills.

CLERK: Mr. President, LB463. [LB463]

SENATOR GLOOR: (Gavel) [LB463]

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CLERK: (Read title.) Introduced on January 14, referred to Judiciary, advanced to General File. There are committee amendments. Senator Ashford presented his bill and the committee amendments on April 7, Mr. President. Those amendments are currently pending. In addition, I have an amendment to the committee amendments that has yet to be offered. (AM754, Legislative Journal page 857.) [LB463]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB463. [LB463]

SENATOR ASHFORD: Thank you, Mr. President, and good morning. I'm just going to go back over the LB463 a bit, and then we will get to an amendment to the committee amendments which will become the bill. Much of what we discussed last week is in this new committee amendment that has been filed that really, in fact, there are no changes. But just to remind the body, LB463 is the result of work by many, many people across the state throughout the summer and fall to implement the parts of LB800 that needed work. And one of those areas is the sealing of the records. And as we discussed last week, this bill, with the amendments, would make some changes in the sealing of the records portion of LB800, and there will be an additional amendment on Select File that will deal with that issue as well. But the sealing of the records issue, obviously, is, as we all recall from LB800, is extremely important because it allows individuals who have made mistakes as juveniles to have their record sealed so they can obtain employment, go into the military, or find a pathway to a future. And certainly LB800 does address that issue. The other...or this amendment deals with that issue as do...as will the Select File amendments. But the guts of this bill and of LB800 is to standardize throughout the state the policy that when a young person is...student is out of school for more than 20 days, that case involving that young person must be turned over to the county attorney. That is the essence of LB800. With over 23,000 trancies in the state of Nebraska last year, and an alarming number this year, individuals who have missed excessive amounts of time in school, it is necessary that we intervene. And the goal, though, is not certainly to...nor was the goal in LB800, to prosecute families or students. The goal is early intervention, and to stop, prevent, intervene prior to any necessity of filing a petition in the juvenile court regarding excessive absence. Again I get back to the Grand Island example where the county attorney has been involved with the Grand Island Public Schools in the middle school level and has significantly, significantly reduced the necessity of filing juvenile court petitions. In...and that model is a model that is now being examined in Douglas County and in the metro area, and this bill does deal with...does establish some criteria for the metro area to follow the example of Grand Island and Hastings. And there are other cities, Kearney, North Platte, that are looking at initiatives. I'm sure there are many more across the state as LB800 gets...becomes...is rolled out and is implemented. So I, with that, Mr. President, if we could go to the amendment...to the committee amendment, I guess. [LB463]

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SENATOR GLOOR: I'm sorry, Senator Ashford, was that intended to be your opening on the committee amendment also? [LB463]

SENATOR ASHFORD: This is the opening on the...yes, just to bring everybody up to speed where we are. [LB463]

SENATOR GLOOR: On both the bill and the committee amendment. [LB463]

SENATOR ASHFORD: Right. Right. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. Mr. Clerk. [LB463]

CLERK: Mr. President, Senator Ashford would move to amend the committee amendments with AM1131. (AM1131, Legislative Journal page 1128.) [LB463]

SENATOR GLOOR: Senator Ashford, you're recognized to open on AM1131. [LB463]

SENATOR ASHFORD: Thank you, Mr. President. And I notice you have a little nasal issue, cold, I'm sorry. Yes, I'm sure you can overcome it. I want to...I appreciate, by the way, the Clerk in working with our office in getting this right, but AM1131 is the bill, and it is, as we discussed last week. It makes some technical changes. As I said, it makes some exceptions to the sealings of the records provisions in LB800, that were brought to us by law enforcement regarding the access to sealed records for employment of individuals into law enforcement jobs. There's a transfer of \$100,000 from the Operations Cash Fund of the Commission on Public Advocacy to the State Court Administrator to assist juvenile justice entities throughout the state in developing truancy intervention plans similar to Grand Island and Hastings. It incorporates an amended version of LB79, Senator McGill's CASA bill, to provide resources to court appointed special advocates programs around the state. We had a discussion last week about the CASA programs. It just goes without saying that these CASA volunteers, who work with juveniles in the juvenile justice system, are critically important to the process. As we know, the juvenile courts in the metro area in Lincoln and in other areas where there are juvenile courts have quite a large caseload as do county courts around the state dealing with juveniles, and it's oftentimes difficult to recruit CASA volunteers without resources to do so. And this, I think, is a much needed transfer of existing money to this program. It...the bill, with the amendments, will require a school district's written policy on excessive absenteeism developed in collaboration with the county attorney's offices as required by LB800 to provide diversion and programs. But it also requires that the illnesses that preclude a student from being in school be taken into consideration in any decisions on what to do regarding the family or the student who has been excessively absent. And Lincoln Public School's, Senator Haar has brought to me a case involving a student with special needs, and there will be...language has been suggested to us from the Lincoln Public Schools, which will be presented to the body on Select File regarding

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special needs students. And that's a very good issue raised by Senator Haar and the Lincoln Public Schools. And also, Senator Price has brought to us an issue regarding military families that we will also address on Select File. The amendments...the amendment and the bill, with the adoption of the amendment, would provide the learning community coordinating council expanded authority. And, obviously, in the metro area, we do have a unique body, the learning community coordinating council that is there to aid school districts throughout the metro area in addressing the learning gap that exists, especially in areas of significant poverty in our city. There was some concern or ambiguity in the original passage of the learning community law that suggested that it was necessary to give the learning community more specific authority to deal with truancy. And, obviously, with the number of truancy, or excessive absenteeism cases that we have in Douglas County, and to some extent in the other parts of the metro area, that if the learning community cannot address in a meaningful way truancy, that it is missing a major challenge in our efforts to reduce the learning gap in our metro area. So there is language in this bill that will expand that authority. In addition to that, in our area, in the metro area, we are asking specifically that the metro area school superintendents come up...develop a plan involving excessive absenteeism by August 1 of this year. And I will say that the superintendents have been working quite diligently on this plan. One of the key components is the...of the plan is the sharing of information on these young people who are excessively absent. To me it seems absolutely critical that when a young person exhibits absenteeism with no reasonable explanation for their absence from school, that the school districts have as much information as humanly possible on these students. There are databases on the state level both at HHS and probation and at the Crime Commission and other Department of Education in other areas. And those departments, I applaud their effort throughout the summer and fall, have been working diligently to update those systems. They are robust as is, but the idea of having real-time information on individual students who are excessively absent is so incredibly critical to early intervention and prevention. So I'm very hopeful that at least in the metro area, and I know in talking to the other school districts across the state that have become involved in this issue, that the need for real-time information is the one missing link that they have. What is positive is that the state agencies that have access to data involving juveniles have developed such a robust system, and have cooperated and collaborated throughout this last year since the passage of LB800, to come up with an easy cost-effective way to access data. And I want to thank all of those individuals. I mentioned Mike Overton from the Crime Commission last week but there are others. Roger Breed from the Department of Education has shown massive leadership, as has Kerry Winterer, and as the probation department, and the Governor on this issue. That really would be my introduction to the amendment, AM1131. I urge its adoption. I think we're on the way. We're on the road to making significant change. As I've said and we've all said, it is unacceptable to have this much excessive absenteeism in our state. We are a bellwether state for public education and private education generally. We are...we value education, certainly in my view, more than any other part of state government, and we cannot educate children

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who are not in school. That just doesn't happen. There are legitimate excuses and those excuses are important to recognize. And what I've seen in the last year has been a...just a renewed vigor by the school systems throughout the state and in the area of excessive absenteeism. These are hard challenges. I understand that because the primary responsibility of the school districts is to educate. And there are many children in our state who have so many problems and layers of problems. And...but we cannot give up on them. The school districts do not want to give up on them. This Legislature, absolutely, clearly, does not want to give up on them. And so I am so pleased and proud of what the work of the Judiciary Committee and this Legislature and the Governor coming together to address what is a...has been a chronic problem in our state and one that needs... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...that needs continued sustainable solutions. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. (Visitors introduced.) We now move to floor debate. Senators wishing to be recognized are Fulton, Council, Pahls, Lathrop, Heidemann, Price, Howard, and others. Senator Fulton, you're recognized. [LB463]

SENATOR FULTON: Thank you, Mr. President. Members of the body, good morning. First, I'm going to raise the concern, and then I'm going to point out what I think is the solution to that concern, and then I will yield the remainder of my time to Senator Ashford. When LB800 passed in our last session, over the course of the past year or so, I, and I'm sure many of you, have received e-mails from parents who had received a piece of correspondence from their county attorney or from someone in authority. I think, usually, it was the county attorney. And these parents have done nothing wrong. Their kids had done nothing wrong, other than to be sick and go over a threshold that we put forward in LB800. I remember as we talked about LB800, this certainly was not our intention to make the parents of a sick child, who is legitimately ill and unable to attend school, be subject of some type of investigation. I can't...that certainly was not our intent. So that was the problem, and in the meantime I received e-mails asking to fix this, to give some element of local control to ensure that this type of thing does not happen in this day and age, particularly in this great state. So I've read through LB463 and AM754 and AM1046, as well as AM1131 to AM754. And in AM1131 it appears that on page 30, lines 3 through 7, the operative language exists that would address this legitimate concern on the part of parents all across the state. So that is how it appears. I'm going to yield the rest of my time to Senator Ashford. I am on AM1131, page 30, lines 3 through 7, "The policy shall include a provision indicating how the school district and the county attorney will handle cases in which excessive absences are due to documented illness that makes attendance impossible or impracticable." So with that, I'd like to yield the rest of my time to Senator Ashford. [LB463]

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SENATOR GLOOR: Thank you, Senator Fulton. Senator Ashford, 2 minutes 35 seconds. [LB463]

SENATOR ASHFORD: Thanks. Let me answer it in a couple of ways. First of all, the illness exception to truancy cases has been in the law for quite a period of time. The change, as Senator Fulton has mentioned, is that the county attorney at 20 days would be asked to review these cases. And in some jurisdictions that happens now. I think in Sarpy County it has been the course of dealing for numbers of years to send these cases to the county attorney. LB800 simply makes it a requirement that the county attorney be notified inasmuch as 20 days of absence is a violation of state law and has been for numbers of years. So the concern we had in LB800, but we put into LB800 was that many of these, in some jurisdictions, some school districts, that many of these cases simply, there was no action taken for long periods of time and we found out later that these students were absent for months and months and months and months. And they'd lose a year or two years or whatever. So that was...thank you, Senator Fulton. That was the rationale behind the county attorney's involvement at 20 days. The language that Senator Fulton refers to does address that issue. This is a local issue really. I mean, who determines what the policy for illness is, is a local issue. We are simply asking that that policy be...that there be such a policy regarding illness and that it be... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...clearly stated to the county attorney so that we don't...we overreach in addressing excessive absences by bringing in young people who are legitimately ill. And the Department of Education does keep information on illness and has done for a number of years as an exception to the 20-day requirement in state law. And it's around 20 percent of the 23,000 absences throughout the state are due to illness. It is...that is based on Department of Education numbers. So...and that seems very consistent with my discussions with various leaders across the state that around 20 percent of these children are excessively absent. I know of no case where there's been a prosecution of any family regarding a child... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR ASHFORD: ...but I appreciate the question. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Council, you're recognized. [LB463]

SENATOR COUNCIL: Thank you, Mr. President. Good morning, members. I rise in support of LB463 and its amendments. LB463 and the amendments represent tireless

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work on the part of the Judiciary Committee and, in particular, our Chairman, Senator Ashford. Many of us had the opportunity to travel with Senator Ashford in the...last fall to visit other communities and how they are dealing with absenteeism, and the involvement of the criminal justice system through the county attorney's office. And I think the overwhelming consensus is that it's not the intent of the law as originally drafted, enacted, nor is it the intent of this law to be prosecuting parents. The intent of this law is to provide a means for early intervention and addressing whatever issues that child and that child's family are encountering that prevents their attendance in school because we all know the data that shows the direct correlation between absenteeism and academic achievement as well as absenteeism and the dropout rate. And we know the data that shows the correlation between high school dropouts and their involvement in the criminal justice system. We also know the data that speaks to dropout rates and their potential income earning capacity. And when we're looking across the state and in districts such as mine in particular, where we have such an extreme poverty rate, such an extreme unemployment rate, that we need to take whatever reasonable measures can be taken to make sure that children who can attend school are attending school. I also want to state my strong support for the CASA program. I've had the opportunity to visit the CASA program in Douglas County, visit with some of the young people who were serviced, receive services through CASA, and the impact on CASA and the lives of those foster children. Finally, one of the amendments addresses a very legitimate concern that was brought to my attention by the current chief of the Omaha Police Department, Chief Alex Hayes, with regard to the sealing of juvenile records, and the need for law enforcement in their processing and evaluation of applicants for employment in law enforcement, really needed to have access to all records related to a potential applicant. And under our bill, LB800, law enforcement would have been prevented from accessing juvenile records as a part of their evaluation of a potential candidate. The amendment does allow for law enforcement to access a sealed juvenile record only as a part of an evaluation of an applicant for employment. It does not extend their reach beyond accessing the juvenile record for purposes of application for employment. Because it's very important for law enforcement to know whether or not any applicant... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR COUNCIL: ...for a law enforcement position has had any history of any violent behavior, so that they ensure that the people, particularly police officers that they put on the street, do not have a propensity to engage in any assaultive or a brutal behavior towards the people that they are there to protect and serve. So I would urge the body's support of the advancement of LB463 with the Judiciary Committee amendments, as well as the amendments that Senator Ashford has brought forth, which represent work that Senator Ashford principally has done working with the superintendents and the learning community council and the members of the learning community council in terms of arriving at a process by which we can uniformly

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address... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR COUNCIL: ...truancy issues in our schools. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Council. Senator Pahls, you're recognized. [LB463]

SENATOR PAHLS: Good morning, Mr. President and members of the body. Of course, I support anything that's going to help us make sure that the students come to school. And I know there are some legitimate reasons why they do not. And I think Senator Ashford is trying to correct that. I also notice that since we are providing more monies in the learning community, it does seem like I did not hear this when the learning community was first established about truancy, but I do see it's probably an important thing they should be talking about, especially when OPS has around 6,000 missing 20-some days and the rest of the schools have around 3,000 students missing 20 days, you know that this is an issue. But right now, I would like to ask Senator Adams a question. [LB463]

SENATOR GLOOR: Senator Adams, would you yield to a question? [LB463]

SENATOR ADAMS: Yes, I will. [LB463]

SENATOR PAHLS: Thank you, Senator Adams. This is the question. I'm wondering if you and I were students...in, I'm just going to say York since you're familiar with York, in the TEEOSA formula, do you and I get, as students, would we get the same amount allocated to us as students in that district? I mean, is there anything in the formula that says, for every student you have, so many dollars go there? [LB463]

SENATOR ADAMS: Well, when we do the basic funding calculation and put you in the array, if you're a school district over...of an enrollment over 900, then it's a per student basic funding number, which is a starting point. [LB463]

SENATOR PAHLS: Okay. So there is a starting point at York. And I'm just going to throw out a number. Let's say it's \$1,000 just for...so if I'm a student, I would get \$1,000 for me and you would get \$1,000 for you, the district would. [LB463]

SENATOR ADAMS: The district would have attributed to it in the formula, on the need side, \$1,000. [LB463]

SENATOR PAHLS: Okay. So let's say that you attend school for 170 days, the district still gets...and I attend only for 50 days, is there ever there a change in the formula?



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[LB463]

SENATOR ADAMS: Potentially there is. What we do is, we're going to look at fall enrollment and then we're going to look at spring enrollment and compare numbers. And I don't know what the deviation or the methodology is, but if there is a deviation, then there may be what we call a prior year correction, where the next year in state aid it may actually be reduced. [LB463]

SENATOR PAHLS: Okay. So then I'm looking at some of these school districts, there is a likely probability, I should say, that they have in the past then received a reduction because of the number of days that I may have missed. Let's say I'm in York. There's a possibility that they would receive in the future less money because I wasn't there. [LB463]

SENATOR ADAMS: Two or three years ago, using York as an example, they had a prior year correction that cost them some money because what their fall enrollment was like compared to their spring enrollment, there was a deviation there. And again, I don't know the details of that. [LB463]

SENATOR PAHLS: Right, but...okay, in the formula that is already fixed in that formula. So I would think some of these school districts that have massive, and I'm using the word massive, 20 days or more with students gone, they should feel the pain, or they have felt the pain. [LB463]

SENATOR ADAMS: Yeah, what the formula doesn't do is to dig into student numbers the way Senator Ashford's bill is doing. It's simply looking at beginning of the school year, end of the school year numbers. [LB463]

SENATOR PAHLS: Okay. So if I'm there at the end of the year and I missed a third of the year, it really doesn't factor that in. [LB463]

SENATOR ADAMS: I don't know about a third of a year, but, you know, when I was teaching you may have...I mean, I had students that would miss 30 to 60 days for drug...commitment to drug rehab programs and they would return back to the school. And as a teacher... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ADAMS: ...I was sending materials to that location. So they were still a student. [LB463]

SENATOR PAHLS: Okay. Okay. But somewhere it seems to me that in the future we ought to be looking at, you know, follow the money. As a school district, if I knew that for

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sure I was going to lose a chunk of money, I might even work a little harder of finding ways of keeping those students in school. I know it's not all on the shoulders of the school system, but a chunk of it is. I also think schools ought to be held accountable for what they teach, look at student achievement. But in order for that to happen, students need to be there. So it's a Catch-22 for if you're going to expect...or have higher expectations of teachers, you need the same thing from parents, and you need the same thing from students. But I don't think we're seeing eye to eye there. And on the next time I'm up, I am going to bring out again some of these school systems. [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR PAHLS: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Lathrop, you're recognized. [LB463]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I, of course, am standing in support of LB463, as well as the amendment from the Judiciary Committee, and Senator Ashford's amendment. And I wanted to take a little bit of time. Obviously, I support the bill and the amendments. But I do want to take a few moments to maybe echo a little bit about what Senator Council said. And I can appreciate that when you chair a committee, sometimes mostly what we do is respond to bills that have been introduced and we try to have hearings and we try to work on those...on that subject matter. And occasionally, occasionally, you will have a chair that will go out and conduct hearings over the interim, not just on an interim study but to drill down and to try to find out what the fundamental basic premise is of a problem. And we have a problem, not just with truancy, but with many different things that relate to schools and with juveniles. And Brad Ashford, who I have had the pleasure of serving with on the Judiciary Committee, has in the five years I've been here, gone out, worked with those people in Omaha who have been working on the issue, but has gone out and conducted hearings on juvenile justice issues and now on truancy issues, and LB463 is a product of that work. And I just want to take a moment to acknowledge the amount of time and effort it takes...and he doesn't certainly have to do that. He could spend his interim golfing or doing whatever he does when he's not doing what he does, which is mostly trying to get to the bottom of problems. And I really do...this bill is the culmination of a great deal of work and it would be appropriate to acknowledge his work, and it's also appropriate to acknowledge the work of Stacey Trout and the others in the Judiciary Committee. But this really is the passionate work of Senator Ashford. And every time we've had a hearing, whether it's been on juvenile justice issues or truancy issues, education issues in the greater Omaha area, we have a number of very committed people who arrive at those hearings and give us the information we need to help formulate policy. And I want to express my appreciation to those people who have worked with Senator Ashford and the Judiciary Committee, and also those people who

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work on this issue independent of what we are doing here in the Legislature. It really is putting the light on a significant problem. And frankly, and frankly, it's not a problem unique to Omaha. As we study the issue in Judiciary Committee, as we've studied the issue, it is not unique to Omaha. These things are happening in communities along the Interstate, if I can use that term. And some of the solutions have come to us from communities who have thought outside the box. I know part of this includes ideas that we picked up from Grand Island and their Hall County Attorney, and I just think this is the Legislature at it's best, and I want to express my appreciation to Senator Ashford for all of his hard work, and encourage you to support the bill and the amendments. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Lathrop. (Visitors introduced.) Returning to discussion, Senators wishing to be recognized: Heidemann, Price, Howard, Schilz, Conrad, Wallman, and others. Senator Heidemann, you're recognized. [LB463]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I want to stand up, I have a few questions on the amendment, particularly the CASA part. I would like to get Senator Ashford on the mike here in just a little bit, if he would be agreeable. I've been trying to get ahold of the legal counsel and ask questions. I have not been able to, so I'm just kind of getting up and running here on this one. I do want to state that I do support the CASA program. I have been involved with issues this summer that has put me in involvement with the CASA program. I am in full support of the CASA program, but I do have questions on part of the amendment, if Senator Ashford would answer...yield to a few questions. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes. Thank you. [LB463]

SENATOR HEIDEMANN: On page 27 of AM754, if you're to that part, or can get to that part... [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR HEIDEMANN: ...on line 16, it says, "operates statewide." Now I don't know how important that that has to be in there, but we do have a CASA program in District 1 in Otoe County, I believe. The rest of them, they are not. I've asked some questions to some other people. CASA does not operate statewide. And I don't know how important that line has to be in here. I just wanted to point it out to you to make sure that if this grant program says that...if they're going to be able to get a grant and if they have to operate statewide, I think there could be a conflict there. [LB463]

SENATOR ASHFORD: Okay. The language is...I'm sorry. [LB463]

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SENATOR HEIDEMANN: Yeah, go ahead. [LB463]

SENATOR GLOOR: Good yield. [LB463]

SENATOR ASHFORD: The language is inserted, the safety and well-being of abused and neglected children throughout the state of Nebraska should be of tantamount concern, is the language. And what was brought to us by CASA, and maybe I'm missing the point, is that they want to expand the CASA program beyond where it is now. [LB463]

SENATOR HEIDEMANN: I'm not against that at all. I just want to make sure when we move forward that you can actually do that because it says, first of all, that who can get these things. And I think that's Section 10. And then on line 16, it says, operate statewide. CASA really does not, in my opinion, operate statewide because there are counties that they are just not in. [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR HEIDEMANN: So I don't know how important that, for this amendment, that you have to have that wording in there. But I'm afraid if the wording is in there, that CASA won't be able to access these grants because they don't operate statewide. [LB463]

SENATOR ASHFORD: Good question. And the...I see your point, and the intent was the other way. It was more of a grant of authority, but if they don't operate statewide, the grants aren't accessible. I get your point, and where it's placed in the amendment makes it confusing. Let me...we'll think about that, Senator, and address that on Select File. [LB463]

SENATOR HEIDEMANN: Okay. The other thing as my job as Chairman of Appropriations Committee, you're getting this from the Court Appointed Special Advocate Fund two years, year one, year two. What's the intent of this bill and what's the intent of the Legislature in year three and four? [LB463]

SENATOR ASHFORD: Right. And I think the intent, and that's a question that needs to be asked and answered. The answer to that is that we need to recruit additional CASA people, we believe. Now I don't...and don't see, it may be that the Legislature decides to continue to fund this going into years three and years four, I can't tell you that. We'll see how the program works. [LB463]

SENATOR GLOOR: One minute. [LB463]

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SENATOR ASHFORD: But my belief is that if we can recruit these people, we don't need to add additional administration, and if we do, it will be very slight. And that we could accomplish that without adding a lot of additional money in three and four. But I'm not...I can't say that absolutely. [LB463]

SENATOR HEIDEMANN: I do think we have to get some kind of legislative intent here. Are we going to continue to fund this through taking money out of this fund, or are we going to actually come to the Legislature and say, in year three, in year four, do we want General Funds? I would like to see that clarified. [LB463]

SENATOR ASHFORD: And that's a great question. I think it depends on how they do, and whether we can come to the Legislature with the kind of case that would support either General Fund or a continuation of this funding. But I think we can certainly address that. I get your point. [LB463]

SENATOR HEIDEMANN: We make an out-year projection as far as expenses what we think they're going to be. Should we say that this is going to be a General Fund cost in year three and four or should we not? [LB463]

SENATOR ASHFORD: I don't think you should. [LB463]

SENATOR GLOOR: Time, Senators. [LB463]

SENATOR HEIDEMANN: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Heidemann and Senator Ashford. The Chair recognizes Senator Price. [LB463]

SENATOR PRICE: Thank you, Mr. President. Good morning, members. We're back again. I do support LB463 and the amendments with the conditions that seem to be met and the changes, and I really appreciate what Senator Ashford has agreed to do to work with considerations for those extenuating circumstances that might be seen. Now what I'm hoping for, and as Senator Heidemann was just now saying, we're establishing the legislative intent, and the questions I still have is, I want to make sure that we understand, or that I understand, in the green copy of the bill there was language that would allow school officials to access certain records of students who were meeting the criterion specified in the bill. And I was very concerned about this. And, secondly, that this...the language seems nebulous, is the word I'll use, for ensuring that the citizens and people and parents understand the school districts have a lot of say in how they define these absences which qualify to be counted against a student toward the truancy issue. So with that in mind, I'd...would Senator Ashford yield to some discussion? [LB463]

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SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Sure. [LB463]

SENATOR PRICE: And thank you, Senator Ashford, and I do appreciate everything you're doing. You heard my questions and I appreciate that. Am I correct in understanding, first of all, that from the green copy to what we see now in the amendment that replaces it, you've stricken the language that gives the administration's official more authority explicitly to access records of the children who might be truant? [LB463]

SENATOR ASHFORD: Yes. We've narrowed the authority in the amendment, AM1131. [LB463]

SENATOR PRICE: Great. And finally when you and I had had some off-mike discussions about a district can determine and decide how they're going to go about declaring one absence, which may be with parental consent. A student may be a model student and they can say, hey, for this reason that you were absent doesn't count in that tally of ten. Am I correct in that? [LB463]

SENATOR ASHFORD: Yeah, and it...yes, the...each district has...yes, you're right. [LB463]

SENATOR PRICE: Okay. Great. And I appreciate that because I want to make sure that I've understood that because I've had the constituents and the parents come to me and say, hey, you know, my child could be an A-plus student, they could, for whatever situation that exists, have gone over a threshold and the school should have an ability when they look at that and build their policy they can say, hey, we have a little matrix and this child, this absent, does not constitute a reason we need to be concerned so we move that into a threshold. So you could conceivably have children who miss more than ten days but have not been added to the rolls of truancy. [LB463]

SENATOR ASHFORD: Clearly, and all...yes, that's correct. And really the ten-day letter thing, which is going on in some districts, is purely a district...I mean the OPS ten-day letter is an OPS policy. It is not a state requirement. [LB463]

SENATOR PRICE: Great. And so for the purposes of the discussion to make sure we understand that, it isn't...it's not your intention to be so restrictive with the language here that you end up creating too many loopholes that people find a way around, but that a district, that the final authority in this policy is with the district, not with the Legislature. [LB463]

SENATOR ASHFORD: That is exactly the point of AM...thank you, Senator Price, for

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that question. Because that is exactly what we're trying to get at AM1131 is to clarify the questions raised with LB800 that is the state... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...usurping this function or is it a school district primary responsibility? We are reemphasizing that it is the school district that is primarily responsible for these children, these students. But we do want them...first of all, we want to enable them to have access to information. That's number one. It's up to them, but we'd like to build the information system so they can do it. And then number two, when they have reached 20 days, we want to have some policy in place that says, here's what we're going to do. And because, technically, they are violating the law at 20 days, but there are reasons why there would be no legal action taken, clearly. [LB463]

SENATOR PRICE: Well, thank you very much, Senator Ashford. And I would encourage the citizenry of Nebraska, and particularly those in the learning community area, to engage your school district members and engage you're learning community representatives and get in on the policy making groundbreaking on this instead of waiting for that to happen. [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR PRICE: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Price. Senator Howard, you're recognized. [LB463]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Ashford would be available for a few questions? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes, ma'am. [LB463]

SENATOR HOWARD: Thank you, Senator Ashford. I always appreciate these exchanges that we have. I can remember when you had told me stories about when you had been the executive director of the housing authority and you would go into the housing areas and you would literally pull students out of their...probably their beds... [LB463]

SENATOR ASHFORD: Yes, yes. [LB463]

SENATOR HOWARD: ...and get them to school. And I would then tell you the stories of

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my experience of doing much the same thing when I was a social worker. And I think together we did some good work in getting kids where they needed to be. And I think it would be really helpful to the body if you kind of gave us your vision of how this would work. We talk so much in the abstract and I think when we can pin it down as to what you would see and how it would be effective and where the courts would be, but how it would work outside of the courts, I think everybody would get a better picture of what you've got in mind. [LB463]

SENATOR ASHFORD: Thank you, Senator Howard. And you have put your finger on it. When we sat down to write the learning community law, you and I and Senator Cornett and, of course, Senator Raikes, and I recall telling...sitting with the committee talking about the need to address truancy in the learning community. And we talked about OHA, the housing authority, and we talked about the challenge and frustration with children who are deep in poverty, who are required to in many cases take care of their siblings because mom is off working two or three jobs. [LB463]

SENATOR HOWARD: Right. [LB463]

SENATOR ASHFORD: We talked about some of the loss of hope that comes with poverty. And Senator Raikes and the Education Committee at that time, Senator Adams, and all of you, and certainly with your experience over 30 years in dealing with these cases, felt the need to put this language in the law. And from the...so what we're trying to do is this. The law already provides and has done for some while that an individual who has excessive absenteeism, that there technically is a law violation. But what happened in practice was, very few cases were ever brought, and so as the case with OHA and the housing authority, as many children would have, you know, hundreds of days of absences. [LB463]

SENATOR HOWARD: Um-hum. [LB463]

SENATOR ASHFORD: And I know this isn't every family and I get that. And Senator Price has made a great point of this and Senator Haar. There are many children who are absent for very legitimate reasons. But when there are so many children, 23,000 children across the state that are excessively absent, it has reached a crisis level. So what we're asking, is each school district, and in the metro area the learning community and the school districts working together to come up with some criteria that they develop so that when a child does reach a certain absence level, that there can be an intervention. Don Kleine told me the other day they anticipate 3,000 filings in Douglas County because there is no excuse. There are 8,000 children in Douglas County today that are excessively absent...or 7,000 that are excessively absent without an excuse. So we need to figure out some way to contact those families, not file petitions or bring them into juvenile court,... [LB463]



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SENATOR HOWARD: That's good. [LB463]

SENATOR ASHFORD: ...but to keep them out of juvenile court. And that is the goal here. That is absolutely the goal and that's the goal of the county attorneys I've talked to. Lee Polikov in Sarpy County, and Adams County, and Hall County, and in Kearney, and North Platte. [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: And their goal is to...they say, thank you for giving us a little more authority to get together with the school districts so we can identify those children as early as possible. And then my last vision is to access the databases that are available on these children so that schools know what's going on in their lives and they can help them. We have the information and we have the will. We just need to put it all together. There are going to be cases that need to be dealt with individually, no question. Thank you, Senator Howard. [LB463]

SENATOR HOWARD: Well, thank you, Senator Ashford. And I think you make two points that I especially appreciate. One is that you envision an early intervention prior to the court becoming involved. I think that's really critical. We don't intend to overburden the court. They certainly have a full docket as it is. So anything that can be done prior to that is a step in the right direction. I think this is a great concept and I fully support it. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Howard and Ashford. Senators remaining to be heard: Conrad, Wallman, Harms, Ken Haar, Pahls, and McGill. Senator Conrad, you're recognized. [LB463]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. In taking a look at the various pending amendments and the original legislation, again it's clear that the Judiciary Committee under the leadership of Senator Ashford has worked very diligently to put forward a good plan of action for addressing some of the serious concerns which have great impacts on families, schools, child welfare system, and indeed our state. But I did have a couple of technical questions about the different proposals that, like usual, the very talented and in-depth staff of the Judiciary Committee was helpful in explaining. But I thought it might additionally be helpful after conversation with Senator Ashford if we can further clarify some of these issues on the record. So if Senator Ashford would please yield to a question, Mr. President. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes. [LB463]

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SENATOR CONRAD: Thank you, Senator Ashford. And you and I had a chance to visit, off mike, about some of these policy and technical concerns that came to my mind in reviewing the legislation. And the one thing that I did want to make clear was that the current pilot program is just applicable to school districts within the learning community area, is that correct? [LB463]

SENATOR ASHFORD: That's correct. [LB463]

SENATOR CONRAD: But then there's another component which requires statewide application where county attorneys and school districts will work together to develop a policy, and a set of criteria for what illness may be defined as... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR CONRAD: ...or otherwise how to specify who will...when these systems will be triggered in various counties, is that correct? [LB463]

SENATOR ASHFORD: That's correct. [LB463]

SENATOR CONRAD: Okay. And on that point, obviously, we take great pride in ensuring local control, particularly with issues surrounding our school districts, and it seems appropriate that those local elected officials at the school district level and then at the county attorney's office would be able to develop a set of local definitions or considerations that should be taken to account. But I was wondering if you at the committee level had a chance to pare that or balance that against the need for uniformity across school districts and across counties who will be looking at this policy. It's always a balancing act. But if you could provide any more information about how that was addressed at the committee level. [LB463]

SENATOR ASHFORD: Thank you, I will try. Two things. One is the part of the amendment that asks the Supreme Court, the court administrator to develop...help develop statewide standards for intervention plans. And, of course, the rationale here is keeping people out of the juvenile justice system or the county court in counties that don't have juvenile courts. And, of course, the...Chief Justice Mike Heavican, Through the Eyes of the Children Initiative, and his priority of dealing with truancy throughout the state in his State of the Judiciary speech, I think, I felt that if we have that sort of standardized approach that it would be instructed to all the school districts. Secondly, we...the data that is available on the state level both from HHS, probation, and other places, and the Department of Education, is available. It is not compulsory that school districts access that data or in any way become part of that database but it is available. And it's my hope that by...that school districts will be encouraged to access that database in order to identify at-risk youth and help them if they are excessively absent. And that provides a degree of standardization, though it's in its incipient form... [LB463]

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SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...at this point. [LB463]

SENATOR CONRAD: Thank you, Senator Ashford. And I fear we're going to run out of time and I might just enter my comments onto the record and I know we'll have a chance to dialogue more about them. But we also spoke about, off mike, some of the concerns that I had related to this data collection and the access of that information, particularly about a minor child who is the subject of this sort of information sharing between a variety of different entities. And it seems to me that the problem now is these various systems are disparate and siloed and not communicating and coordinating well, so this is an effort to try and bring some dialogue, communication, and cohesion amongst those different entities, which I think is a good thing. But I am still a bit concerned about the implementation thereof and how it would affect an individual minor child's privacy rights, and the integrity of that data and information which I know will... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR CONRAD: Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Conrad. (Visitors introduced.) Senator Wallman, you're recognized. [LB463]

SENATOR WALLMAN: Good morning, Mr. President and members of the body. Nebraska, do we have a problem? We've got focus schools, we've got magnet schools, we've got alternative schools and learning community. I was told the learning community was going to solve some of these problems and now they want more legislation. The problem is, folks, you read it in the papers, assessments cause, also cause more absenteeism. Number two, principals have to pay attention to their students. I used to eat with problem children and I wasn't even a principal. Those kids stayed in school. You have to have adults who care. So these people are getting the big bucks. Come on, folks, pay attention to who is missing, go to their homes, go to their neighborhoods, and the ideal situation is the principals should live in the neighborhood where they are a principal. This happens in the big cities in the south and their schools got better almost immediately--not by law, but by adult intervention. And you watch that show where the boss goes to his employees and as a disguise, see what they're doing, how they're doing, on the TV show. That's how it's done. Go to where the kids are. Kids are basically good people. Adults are good people. But when we sit in our ivory towers and tell kids what they should be doing by making laws like this, page after page, county attorneys involved, all these things, it shows a red flag. Nebraska, do we have a problem? If we do, then we'd better get on the ball and look at our curriculum. What are

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we teaching? Is it for the kids or is it for us? Is it for big business or is it for us? I don't think this is the place where we ought to teach kids. Schools, local schools, parochial schools, that's where we ought to teach our children, folks. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Ken Haar, you are recognized. [LB463]

SENATOR HAAR: Mr. President and members of the body, I would like to engage Senator Ashford for a minute if I could. I received an e-mail from my granddaughter's parent and I'd like to read that because it presents a problem and I don't know if it's covered or not. And kind of keep in mind, Jennie, my granddaughter, has an IQ of about 150. Okay, she said, I've been getting warning calls from Lincoln High School for a couple of months now because between three sick days at the beginning of the school year with a high fever and eye infection, and the school would have sent her home if she had gone, and school activities. Jennie is in a lot of activities. Jennie has accumulated more than five absences this year. They even call me when she's actually in the school building but not in her regular classroom. She has permission from her teachers for all of these activities but they are still counted toward her truancy total. I know someone whose child missed a couple of weeks of school for a surgery, had a homebound teacher come to her house and keep up to date with her schoolwork, and her parents are still having to deal with the county attorney. This is an A student who had a medical issue. Her parents are not criminals, obviously. I just wanted to let you know that this law is not working the way that it was intended and needs to be changed. And I'm wondering whether...because this probably is not too uncommon. How do we deal with this? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Senator Haar, LB463 is in response to what you're talking about, and what you're...what the e-mail talks about. The question, after LB800 passed, was what do we do with excessive absences that's related to that...this situation that you're talking about. That is covered in the green copy of LB463 and also, obviously, in AM1131, and we're going to refine that more. But thanks for the question. What we're trying to do is get the school districts to deal in somewhat of a standardized way, but not so standardized that they lose their autonomy in dealing with those issues. [LB463]

SENATOR HAAR: Okay. Thank you very much. And I'm just trying to do all the "what ifs," and I appreciate what you're doing Senator Ashford. Thank you very much. [LB463]

SENATOR GLOOR: Thank you, Senator Haar. Senator Pahls, you're recognized. [LB463]

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SENATOR PAHLS: Good morning again, Mr. President and members of the body. I think I'll answer a couple of Senator Wallman's questions. Number one, I agree, if the curriculum is not appropriate, schools need to take a look at that. No question at all. Do I believe we need to reform things? Yes. Even with my experiences as an educator, I know we need to do these things. And would it be nice...you know, in some of the schools I was administrator of, I could live in the neighborhood. But my last school, I couldn't afford to live in that neighborhood. Just to let you know. (Laugh) It doesn't always go correspondingly to that but I do see your point. Yes, we do need to make sure schools are held accountable. I have no problem with that. That's one of the reasons why I was also talking to Senator Adams earlier. I think follow the money in TEEOSA. If we could somehow hold schools accountable for some of this, they would maybe even take a more serious look. Apparently, school districts like Grand Island happen to be doing that right now, and apparently the learning community is going to be focusing on that in the future. But part of my rationale for standing up here is looking at a broader picture. I'm speaking right now to the people who are watching us on TV. I want to make sure that you grab this and you look at your own community. Take a look at that newspaper. I still get the newspaper from my hometown, which is a small...relatively small town. When I read the weekly newspaper, I see lots of things about sports, a few things about academics. But it's page after page of kids either shooting the basketball, catching the football, running track, or swimming, etcetera, etcetera. Very seldom, I cannot recall, has ever talked about the attendance of that school. And it is, I'm telling, as one Senator used to razz me, the information is appalling. And what I'm going to do, last time I was up last week, I did mention a few communities. And I'm going to do this again because I'm trying to send a point home, it is everyone in those...everyone in those small communities as well as the large ones that need to get involved. In Sidney school system, around 1,200 kids, 344 missed ten days, 93 twenty days. You can't do it in a consistent basis if you're missing that many days. I realize there are some students who will miss school because of health and a few other reasons. Broken Bow, 815 students, 239 days missed. Lexington, 2,600 students, 843 missed ten days. Fremont, 4,500 students, 1,400 days you missed. Franklin, 124 students, 23 students missed ten days or more. Beatrice...you almost feel like I'm a school teacher administrator, so one side of my class over here will be a little quieter, but they didn't get the message yet. Beatrice, 2,100 students, 430 kids missed ten days. The numbers, just...it's terrible. O'Neill, 750 kids, 278 kids missed ten days. I can go on and on down the list. Norfolk, 3,800 children, 981, almost 1,000, almost a third of some of these school districts are missing ten days. And then it goes on down. This is information from the 2009-2010 school year. This is legitimate information that you get from the Department of Education. As I'm trying to indicate, we have schools out there, or communities, that this is a major problem. But I'm going to go visit Ewing. I don't know if any of you have ever been to Ewing, Nebraska. Something is wrong there. One hundred twenty-one kids... [LB463]

SENATOR GLOOR: One minute. [LB463]

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SENATOR PAHLS: ...only one kid missed ten days. Nobody missed twenty days. What are they doing there? I'm actually trying to have a little humor here. Something...there are a few schools that very few students are missing any days at all of any significant number. So it's possible. We need to instill pride not only in the...what Senator Wallman said, get those administrators doing their jobs. I'm not going to argue with that. Get those teachers doing their job. I'm not going to argue with that. But let's...we also, to make this a complete circle, you need to get the parents involved and the students involved. It doesn't really seem to be as complicated in all cases. There are some families, yes, because they have so much thrown against them. But there are some people, maybe we've lost that self-accountability, that responsibility, instead of always ask...putting your hand out, grabbing that hand and going to work. I do... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR PAHLS: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Pahls. The Chair recognizes Senator McGill. [LB463]

SENATOR MCGILL: Thank you, Mr. President and members of the body. As the Senator who sponsored the CASA bill in the first place, I thought I'd get up and help clarify some of the issues that have been discussed on the mike so far this morning. We've been meeting kind of on the side with Senator Heidemann and Senator Ashford to clear up some of those questions. We'll be working between now and Select File on some of the language. Senator Heidemann brought it to our attention that we talk about an agency that operates statewide. CASA is in 35 counties and has 22 programs and so operating statewide, we might change some of that language to make sure that we acknowledge that CASA currently isn't operating in all 93 counties. But these grants will, in fact, help them expand into more counties, which is a noble and a much needed goal. We also heard questions about funding and what happens in years three and four. It is my intention that this just be money for the two-year period. Anything after that, they would have to come back and make the same pitch that every other agency in the state makes and any other group that wants additional funding in the future. This is a pilot, a launch, to see if we can get CASA in more counties, get more workers out there, because right now with child welfare reform, CASAs are handling a lot of the load. And our much needed kids are in the system a much shorter period of time when they have a CASA volunteer with them. So in the end, hopefully, there will be savings for us in the state, but this is just intended for the next two years. It should not be put into our plans for years three and four. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator McGill. Senator Loudon, you're recognized. [LB463]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Ashford yield for questions? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes, Senator Louden. [LB463]

SENATOR LOUDEN: Senator Ashford, as I look at this, this AM1131 actually becomes the bill. Is that correct? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR LOUDEN: And what's the difference between it and AM754 or LB463 other than...as near as I can tell, you're asking for \$200,000 the second year. Is there another difference in here that I'm not finding yet? [LB463]

SENATOR ASHFORD: Not...well, there are some changes in the language regarding the superintendent's plan, but then there's some...yeah, you're right, the CASA language regarding the transfer, and also the Supreme Court developing a statewide truancy intervention plan. That is...that's new language as well. I think... [LB463]

SENATOR LOUDEN: This advocacy fund, then, will be under the control of the state Supreme Court. Is that... [LB463]

SENATOR ASHFORD: It will be transferred to the court administrator, I believe, yes. Yes, it will be transferred to the court administrator. [LB463]

SENATOR LOUDEN: And then, how are those funds accessed? The county attorney has to work through the school district with the truancy numbers to access those funds, and what do you do with those funds when they do access them? [LB463]

SENATOR ASHFORD: That's a little different and I...Senator Louden, and I apologize for all of these amendments because we've continuously, continually getting information from these school districts about how to approach this problem. The CASA money, the \$200,000 is CASA. That would not go through the county attorneys. That would be a grant to the CASA program. That's a volunteer program working in the juvenile court system. That is not the truancy program necessarily. It could be, but it's not necessarily the truancy program. [LB463]

SENATOR LOUDEN: Okay, that's actually a different program than the truancy program. [LB463]

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SENATOR ASHFORD: Yes. [LB463]

SENATOR LOUDEN: Okay. Then as we go through the bill then, is there any other issues that would be...I mean, do you still have the issues where the county attorney has to work it out with the school officials on what their plan is for truancy? [LB463]

SENATOR ASHFORD: Yes. Yes, that has to...and that's a...yes. So the county attorney and the school districts, it brings them together, Senator Louden. That's what we've been trying to do here is to bring the county...it's sort of a convergence with juvenile justice and education. Bring the county attorneys together with the school districts to work out a plan that is...that takes into consideration illness and some of these other factors we've talked about. But that's...that is what that's all about. [LB463]

SENATOR LOUDEN: Okay. And that's actually already in current law, isn't it in statutes? [LB463]

SENATOR ASHFORD: The county attorney notification is in existing statute. The bringing them together, the county attorneys together with the school districts is in LB463. [LB463]

SENATOR LOUDEN: Okay. Yeah, in LB463, but you took some of that language out in AM1131. Isn't there some language...I don't have it in front of me here, but in the AM463, or LB463, that pertained to how the county attorneys would work with the school districts? [LB463]

SENATOR ASHFORD: That's the illness language. The plan has to reflect the illness considerations that we've talked about and we are going to think about between now and Select File some additional language to clarify that. But that's in LB463 not in LB800. LB800 was requiring the school districts to contact the county attorney. LB463 starts to put some markers in there to... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR LOUDEN: Okay. Thank you. What I'm wondering then...thank you, Senator Ashford, is...when was this...this amendment was just filed here on the 7th, which was, what, last Thursday or Friday. Now is that AM1131 been passed around to the Legislature? Do you know if everyone has gotten a copy of it so we know what we're voting on? That would be... [LB463]

SENATOR ASHFORD: Thank you, Senator Louden. Great question again. I'm sorry for all these amendments. AM1131 is the same amendment as AM1046 that was...had been filed for some time. It's the identical amendment. It simply, procedurally we're handling it as an amendment to the committee amendment, and I apologize for the



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confusion. AM1046 and AM1131 are the same thing. [LB463]

SENATOR LOUDEN: Okay. Thank you, Senator Ashford. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Louden. Senator Conrad, you're recognized. [LB463]

SENATOR CONRAD: Thank you, Mr. President. Again good morning, colleagues. And just to be quick, I got cut off in my last set of comments and questions, that I had a chance dialogue with Senator Ashford and staff about off the mike, but in addition to those integrity and privacy issues contained for the records that will be generated for minor children and shared amongst entities, I understand from the committee perspective that the hope is that those issues related to implementation and logistics will be worked at the local level through the pilot program and thus are beyond the scope of this legislation, and in their opinion, without need of additional protection or language. I will take that to heart and see if...that does make sense indeed as this legislation continues to move forward because there's no question those are real concerns. And everybody on all sides of this issue wants to make sure that those issues are carefully attended to. The other question that we had a chance to visit about a little bit off mike was the definition of who an at-risk youth would be. Of course, we're all familiar with different definitions that are utilized in other context. I'm thinking particularly in the child welfare context, for example, which is a little bit different in this legislation and the proposed amendment. And even though this portion of the legislation would only apply to the pilot program in Douglas County and Sarpy County and the learning community area or jurisdiction, I am concerned about how the definition itself is laid out. And I'm reading from the committee statement. The definition of at-risk youth would include children involved with probation, those involved with HHS, those involved with the juvenile justice system, and those who have been absent from school for more than ten days for reasons other than a documented illness, which we've talked about in some detail already. I'm wondering if, rather than utilizing one-size-fits-all approach, if it might be something to consider to look at a series of factors to trigger this sort of reporting and data in notification. Say, for example, if two out of the three components of the definition were met, that that would rise to the level of intervention or need. That's just a brainstorming idea. We'll have plenty of time to work through that, but what I'm concerned about with the one-size-fits-all approach, is the case where in...and the parents I have talked to in my neighborhood and in my district about this are concerned about, their kids are doing well in school academically, and they're also very involved in extracurriculars and otherwise. And say, for example, they also have orthodontics. Well, they miss a fair amount of school just by going to get their medical needs related to their braces taken care of and for participating in extracurricular activities. And, of course, we all have to come together on the same page and ensure that school attendance and academics are the number one priority and concern from a policy level. But I am worried

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about how a student in that situation and a family in that situation, who would by no means be considered at risk, are then going to trigger an intervention with the county attorney's office and the burden that would place on the families, the school districts, and the county attorney's office without really providing a more narrow definition that would go to the children that are most in need of the type of intervention contemplated in the legislation and various amendments. So those are just some concerns that I wanted... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR CONRAD: ...to report back. Hopefully, we'll have a chance to look at that a little bit more. And the other issue related to the data and the creation of the record is, if we don't have clear fire walls or parameters in place for the utilization of this information, I'm concerned about what sort of record may be generated that would later have implications for the youth in relation to college admissions, employment, or other situations. Again, I think we're all on the same page in trying to work to ensure that these data issues are appropriately addressed, but they are present and I'm hopeful we can continue to at least talk about them and see if additional detailed explanation is required or necessitated by the legislation. But thank you again to Senator Ashford and his staff for addressing these issues and bringing this bill. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Campbell, you're recognized. [LB463]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. I stand in support of the underlying bill on the two amendments because my comments this morning really have to do with the general concept of truancy and how important this issue is that has been taken up and before the Legislature. I would have to agree with Senator Conrad that there may need to be a second or third factor or trigger that comes into play. And surely, we can look at what best practices are across the country. Truancy, colleagues, is a red flag. I mean, we used to think of it just as, you know, Johnny or Sally didn't want to come to school and they're skipping out. And we kind of think about when we were kids and that kind of thing. But it's really grown far more beyond that. Truancy is one of those red flags, one of those things that first comes up in a young person's life, and can often be just the first step to a gateway in terms of other entries into the juvenile justice system. We know from years of study, I think in Lincoln and Lancaster we've had a truancy subcommittee. It seems like a committee working on this for years. Because it is so important, we can't just dismiss it. It isn't just somebody playing hooky from schools too many times. But it is a red flag. It does bring forth a sign that the school system and the community needs to look at and say, can we intervene, can we make a difference in this young person's life? I really also do want to emphasize this morning the importance of the inclusion of CASA. CASA is a great asset to the

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juvenile courts and to our district courts across the state of Nebraska. Oftentimes this community volunteer spends more time with the young person than any other player that comes into that court to determine what information should be given to the judge. They often have a unique way through conversations and spending time with the young person of finding out valuable information that can help a judge determine what direction we should go. I much appreciate the committee's venturing into the truancy issue, and we should consider it a very serious sign for what we can do for young people in the state. Would be willing to help in any way that I can. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Wallman, you're recognized. [LB463]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Pahls yield to a question? [LB463]

SENATOR GLOOR: Senator Pahls, would you yield? [LB463]

SENATOR PAHLS: Yes, I would. [LB463]

SENATOR WALLMAN: Thank you, Senator Pahls. Yes, you're my favorite administrator, by the way. And in your school system, when you had truancy problems, did you have a dropout rate that correlated with the truancy, the students? [LB463]

SENATOR PAHLS: I just speak for my individual school. Let's say that a student, we called the parents every day, where's Johnny? Every day the student is absent, the phone call was made. Then after so many days, we'd say, well, we need a doctor's designation to give that excused. But we called every day and in some...not the last school that I was in, schools before that, that we'd have counselors who would go out and go to the homes. Not every school can do that because there's a cost factor there because they don't have the personnel. But those are some of the strategies. But I'm telling you, every day if your child went to the school, was absent, I'd call you at home or we'd call you at work or there's another number you gave us to call because we were in your face. [LB463]

SENATOR WALLMAN: Thank you, Senator. Would Senator Ashford yield to a question? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield to a question from Senator Wallman? [LB463]

SENATOR ASHFORD: Yes. [LB463]

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SENATOR WALLMAN: This felony charge on the amendment here, would that...if I had this charge and I still graduated from high school, would that affect my ability to join the military or something like that? [LB463]

SENATOR ASHFORD: No, because those records would be sealed. If you were chronically truant and the county attorney actually had to file, and it wasn't worked out, and there was a conviction, those records would be sealed under the sealed records portion of LB800. [LB463]

SENATOR WALLMAN: I thought so, but I didn't know for sure. But it still concerns me all this paperwork and these record. You know, we have credit card leaks. You lose your credit card number to somebody. So it's really tough, tough to keep genuine security. And vote as you wish. I have a little apprehension about more guides and guidelines and mandates against school districts. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Schumacher, you're recognized. [LB463]

SENATOR SCHUMACHER: Thank you, Mr. President. I wasn't going to speak on this particular bill because it seems fairly common sense. We want to reduce truancy. But in the course of the discussion, it occurred to me that we probably have a bigger problem here than just kids not showing up in school. The modern wave in psychology is to look at neuroscience, to look at evolutionary psychology, and try to figure out why people do or don't do what they want to. We heard a little bit of that last week with the juvenile parole case. But today is a little different from some of the stuff they were teaching back in the '70s. And in that day, behaviorism was in its heyday, and one of the stories that was told was that the psychologist, the experimenter was doing his thing with the animals in the operant chamber, and they were not behaving as he wanted them to behave. The theory said, well, they should be doing this when you do that. And they weren't doing this. And then it occurred to the psychologist that they were doing what they were supposed to. And despite him crying out, damn you, do as you ought, they were doing as they ought. And we may have a truancy problem here because those kids who are truant are doing as the master in environment has taught them to do. There are no consequences in real time in the real world for being truant. You don't have a job, we'll give you eternal unemployment. You make babies you can't afford to make, don't worry, we'll take care of them. Can't afford a house, don't worry, we'll subsidize your housing. Can't afford food, don't worry, we'll give you food stamps. And our society has become one in which there are no consequences to a lack of responsible behavior. And we can put all the county attorneys and all the CASA workers and all the probation officers that we can possibly hire, before busting the budget, to work, and we're not going to change that underlying thing until we build a society, starting at this level with leadership from here, and in a greater sense from Washington, that puts consequences back into behavior. The consequences that a county attorney

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can administer are miniscule compared to the consequences that the environment administers in totality. So this is a problem. I'm going to vote for this bill because it's addressing it from the bottom up, but it's not addressing the problem. And perhaps as we move through some of the other legislation this year and other years, we can keep that in the back of our mind. If we...create a world in which there are no consequences for not doing as society long-term deems desirable, it will not get done. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Schumacher. There are no senators remaining in the queue. Senator Ashford, you're recognized to close on the amendment to the committee amendment. [LB463]

SENATOR ASHFORD: Thank you, Mr. President. And I appreciate so much the comments Senator Schumacher made and also everybody's comments, Senator Campbell and everyone's. Senator Wallman, thank you for all those comments. It is, in a way, a shame that it is necessary for us to spend this kind of time and effort, and for county attorneys and others, and school districts to spend this kind of time on issues such as this. But it is clear that the problems that we face in this Legislature every day dealing with the justice system generally, with finding jobs for people, with expanding our economy, with providing educational opportunity for all, that, if so many of our students, our children are not in school, not gaining the educational opportunities that our districts provide, then all of our schools, private, public together provide for our children, that those are resources that are being wasted. And whether it's because of lack of family solidarity, whether it's lack of money, whatever the reason is. And one thing that's been very interesting about this experience, and I do thank my...Stacey Trout, certainly, and my...the Judiciary Committee so much for listening to all of these discussions because we've spent a lot of time talking about truancy. But as we deal with so many of the issues in the Judiciary Committee where we're drawing lines and making choices about punishment and rehabilitation, and expending \$200 million in our Department of Corrections budget, not counting all the county budgets that are dealing with juvenile justice issues, and all of the school budgets, so much of the concern relates back to these children that just aren't able to learn properly for whatever reason. And much of it has to do with not being in school for many, many children. So I do thank everyone who has given so much time and effort to this issue. When we started working on this in the learning community law with Senator Raikes and the Education Committee, and that served an onion becoming unpeeled here as we started to think about what is being done now and what could be done in the future. Senator Conrad has raised probably one of the critical issues of this discussion and that is the issue of what is an at-risk child. And our definition is primarily based on what the data is we now have. We have data on probation. We have data on HHS involvement. But each case is different. And having access to data on children in a way that advances their lives is something that we need to continuously work on. There are...Senator Council has made the point correctly that there are issues involving FERPA and other federal guidelines in

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state laws that make sure that the confidentially is...that the confidentially...and Senator Wallman, as well, the confidentially is a major concern and it needs to be. And so as we work through LB800 and LB463 and all of these bills that we pass, it's really going to be up to the people on the ground that make this work. I was so impressed a couple of years ago when I...I believe her name is Michelle, I hope I get this right, Michelle Oldham from Hastings now, was in Grand Island, but started the truancy intervention program there on her own with the county attorney's office. Significant reduction in the number of children who are excessively absent. Almost every single child that had been excessively absent was back in school again. [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: The probation department and HHS in Omaha have done tremendous work with a number of children, young people, who are in the juvenile justice system getting them all back to school. We can do this. There are great...there are many, many other challenges that we need to face. This is a big one. I am so grateful to this Legislature and the Governor and my committee and all the people who have worked so hard to get us here. Now it's up to the districts. It's up to the local governments to make it happen and we can do it. We must do it, and I am just so encouraged by everything that has been done so far. Thank you. And I urge the adoption of AM1131. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. The question is, shall the amendment to the committee amendment to LB463 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB463]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB463]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB463 and the committee amendment. There are no senators in the queue. Senator Ashford, you're recognized to close on the committee amendment. [LB463]

SENATOR ASHFORD: I just urge the adoption of AM754, Mr. President. Thank you. [LB463]

SENATOR GLOOR: Members, the question is, shall the committee amendment to LB463 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB463]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB463]

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SENATOR GLOOR: The committee amendment is adopted. [LB463]

CLERK: Senator Ashford, I understand we...you would like now to withdraw AM1046, which was the amendment drafted to the bill. [LB463]

SENATOR ASHFORD: Yes, it's redundant. Thanks. [LB463]

SENATOR GLOOR: So noted. [LB463]

CLERK: I have nothing further on the bill, Mr. President. [LB463]

SENATOR GLOOR: There are no senators in the speaking queue. Senator Ashford, you're recognized to close on LB463. [LB463]

SENATOR ASHFORD: Thank you, Mr. President. Thanks for the time. I urge the advancement of LB463 and we will continue to work on some of the language that we've discussed in this debate here, and thanks for your time. [LB463]

SENATOR GLOOR: The question is the advancement of LB463 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB463]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB463. [LB463]

SENATOR GLOOR: The bill advances. We continue with General File, LB463A. [LB463 LB463A]

CLERK: LB463A by Senator Ashford. (Read title.) Senator Ashford would move to amend his bill, Mr. President, with AM1050. (Legislative Journal page 1029.) [LB463A]

SENATOR GLOOR: Senator Ashford, you're recognized to open on LB463A. [LB463A]

SENATOR ASHFORD: Thank you, Mr. President, and the A bill accomplishes the transfers that we discussed, the \$100,000 from the Court Appointed Special Advocate Fund to the Supreme Court for the statewide truancy intervention plan, and then the other transfers regarding the CASA program that we've discussed. Thank you. [LB463A]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Ashford, you're recognized to open on AM1050. [LB463A]

SENATOR ASHFORD: Gosh, anyway, this amendment continues to accomplish the same thing. I would urge the adoption of the amendment and the advancement of LB463A. Thanks. [LB463A]

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SENATOR GLOOR: There are no senators in the speaking queue. The question is, shall the amendment to LB463A be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB463A]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB463A]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB463A. There are no senators wishing to be recognized. Senator Ashford, you're recognized to close. [LB463A]

SENATOR ASHFORD: I just urge the adoption of...the advancement of LB463A that puts the money in line with the bill, and with that, thank you, Mr. President. [LB463A]

SENATOR GLOOR: Thank you, Senator Ashford. Members, the question is the advancement of LB463A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Record, Mr. Clerk. [LB463A]

CLERK: 35 ayes, 0 nays on the advancement of LB463A, Mr. President. [LB463A]

SENATOR GLOOR: The bill advances. Continuing with General File. [LB463A]

CLERK: Mr. President, LB500, offered by Senator Cook, relates to motor vehicles. (Read title.) Bill was introduced on January 18 of this year, referred to the Transportation Committee, advanced to General File. There are Transportation and Telecommunications Committee amendments pending, Mr. President. (AM717, Legislative Journal page 802.) [LB500]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Cook, you are recognized to open on LB500. [LB500]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. LB500 changes obstruction or interference of the view of an operator of a motor vehicle from a Class V misdemeanor to a traffic infraction. The legislation also defines obstruction of the view of a operator of a motor vehicle as a secondary offense. Under current statute, windshield obstruction is enforceable as a primary offense. This means that Nebraskans can be pulled over for an air freshener or handicapped hangtag on their rearview mirror. LB500 makes these statutory changes to amend Nebraska law to mirror Nebraska values. Our constituents should not face a traffic stop or a criminal record because of an air freshener, rosary, or the ubiquitous pair of fuzzy dice. I would like to thank the Transportation and Telecommunications Committee for their advancement of LB500. I appreciate their support in committee and their support of the ultimate passage of this proposal. There is a committee amendment which clarifies the standard for windshield



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obstruction. I support this addition of the language and ask for your support of the committee amendment as well as the underlying bill. Also, I would like to thank Speaker Flood for his designation of LB500 as a Speaker priority bill. Affording this proposal the opportunity for debate and passage is greatly appreciated. Again, currently hanging a parking pass, air freshener, or rosary from your rearview mirror is a Class V misdemeanor. Here are some examples of other offenses currently categorized as Class V misdemeanors: making a fraudulent benefit claim, destroying the eggs of a protected species, failure of the secretary of the school board to publish information, and knowingly and intentionally accessing computer systems without authorization. Maintaining current law to keep windshield obstruction as a misdemeanor negatively impacts those convicted of the violation and is in gross disproportion to the nature of the act. In instances like job application, an application to graduate school, a young Nebraskan convicted under current statute could be unjustly burdened by a criminal record. In addition to decriminalizing windshield obstruction, LB500 also makes the citation a secondary offense. This would mean that law enforcement could no longer stop and detain a person for an air freshener. Last year the Legislature held a debate about primary versus secondary offenses as it relates to texting while driving. A prolonged discussion indicated that the majority of the members of this body believe that Nebraska statute should reflect the following ideal, that law enforcement should not be able to state and detain a person...to stop and detain a person for a vague and uncertain offense. Finally, I would like to address the potential use of the current statute as a vehicle for profiling and for cursory stops by law enforcement. Professor Emeritus Samuel Walker of the University of Nebraska-Omaha submitted written testimony in support of the bill. In his letter, he referred to a report done by the then-Omaha Police safety auditor that showed the use of the current windshield obstruction statute as a pretext for stops. It was shown that these stops were disproportionately done to minority drivers. Again, under current Nebraska law a driver can be pulled over and convicted of a misdemeanor for a very simple and common act. Hanging an air freshener, a rosary, or a parking pass from one's rearview mirror should not be a reason to be detained by law enforcement or to be burdened with a criminal record. Thank you for your support of LB500 and the committee amendment to follow. Thank you, Madam President. [LB500]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Cook. As the Clerk stated, there is an amendment from the Transportation and Telecommunications Committee. Senator Fischer, as Chair of the committee, you're recognized to open on the amendment. [LB500]

SENATOR FISCHER: Thank you, Madam President. The committee amendment, AM717, inserts the words "significantly and materially" into the statute to clarify the intent. The amendment ensures that only an object that is placed or hung in the motor vehicle and is significantly or materially obstructing or interfering with the view of the

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operator is in violation of the statute. This will exclude from violation simple objects hung in a vehicle, such as air fresheners and parking and handicap permits. Discussion of the statute's intent did come up in the bill's public hearing. The committee felt that adding these words would aid law enforcement in interpreting this rule of the road and it was more in line with what the bill's intent was. Thank you, Madam President. [LB500]

SENATOR SULLIVAN: Thank you, Senator Fischer. Senator Council, you're in the queue and recognized. [LB500]

SENATOR COUNCIL: Thank you, Madam President. And I rise first to thank Senator Cook for introducing LB500 and to urge your support of the advancement of this measure. I shared with Senator Cook a little over a year ago an experience I had. I was driving one of my husband's vehicles and this particular vehicle had very heavily tinted windows and I was driving in one direction and a law enforcement official was driving in the opposite direction. I saw him when he passed me, and the next thing I knew he had pulled up behind me and turned on his lights. I pulled over. When he came to my window I asked him what had I done that would warrant him stopping me, and he quickly and promptly told me it was because of my evergreen air freshener hanging from my rearview mirror, an evergreen air freshener that's been hanging from my windshield in other automobiles I operate. Now none of the other automobiles have tinted windows and I submit to you that perhaps that added to the profile, which I believe was the true intent of the stop. I shared that with Senator Cook and others. I also began some discussions with Marty Conboy, the city prosecutor in Omaha, who acknowledged that it was a problem, that this offense was a criminal offense and that he, too, was exploring some options and would be willing to work on the development of some action to be taken to reduce the misuse of a law that was intended for very practical reasons but in this day and age is subject to significant abuse. For example, if you aren't privileged to have a GPS system built into your vehicle, under the current law your placement of a GPS system on your dashboard makes you subject to a stop and criminal prosecution. But we know, or if we don't know you should know, that the likelihood of someone being stopped for having a Garmin or a TomTom on their dashboard is much less than someone driving a poorly maintained vehicle that has an evergreen air freshener hanging from the rearview mirror and the occupant of that vehicle happens to be an African American or other racial or ethnic minority. Clearly, this current law has enabled law enforcement to undertake stops of individuals who have committed no other violations but allows them to engage in interrogation of individuals. It's bad enough to be detained for no valid reason but to be subjected to an interrogation, which sometimes leads to an encounter between the law enforcement official and the driver and the next thing you know this situation has escalated to the point that the person... [LB500]

SENATOR SULLIVAN: One minute. [LB500]

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SENATOR COUNCIL: ...now is subject to more severe criminal penalties. So as a way of correcting this problem, I certainly endorse the reduction of the offense from a criminal misdemeanor to a traffic violation because what it actually is, is a rule of the road and should be enforced as a traffic violation. I again applaud Senator Cook for taking the initiative of introducing this very much needed piece of legislation and urge your advancement of the bill. Thank you. [LB500]

SENATOR SULLIVAN: Thank you, Senator Council. Senator Krist is in the queue and he is recognized. [LB500]

SENATOR KRIST: Thank you, Madam President and members. I support AM717 and the underlying bill, LB500, but I think it needs to be noted for the record that there are a number of ways that people are profiled. Brings to mind my son who, for whatever reason, decided he didn't have to put a license plate on the front of his rebuilt BMW and was pulled over, and within the same block an elderly gentleman, an older gentleman, I won't call him elderly, was driving a Corvette that did not have a front license plate on it but obviously was not singled out as being profiled. The reason I rise in support of this bill is its specific intent, the intent of allowing my mother-in-law to drive with her handicapped sticker attached to her mirror and the proper amount of emphasis being placed on the fact that it should not be an obstruction. Without AM717, I was having some concern about supporting the intent of the bill. I don't think that you have to be black or Hispanic or white or be in the right neighborhood or the wrong neighborhood to be profiled. I think it's a matter of police and law enforcement looking for issues that may be issues. But having said that, with the AM717, it is a good change to our law and I thank Senator Cook and the Transportation Committee for bringing it forward. Thank you. [LB500]

SENATOR SULLIVAN: Thank you, Senator Krist. The Chair now recognizes Senator Burke Harr. [LB500]

SENATOR HARR: Thank you, Madam President. I rise also in support of AM717 and, again, it's based on personal experience. Last fall I went to a Nebraska football game and I was privileged enough to park in Lot 1. Lot 1 requires you to hang something from the rearview mirror. I did not hang it from the rearview mirror for fear of creating...causing a misdemeanor and was not allowed into Lot 1 for that reason. I was told I had to circle around, and I did not enjoy that on game day. So I lost 40 minutes of tailgating, which is probably most important. So for that reason, I rise in support. Thank you very much. [LB500]

SENATOR SULLIVAN: Thank you, Senator Harr. Seeing no other senators in the queue, Senator Fischer, you're recognized to close on the committee amendment. [LB500]

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SENATOR FISCHER: Thank you, Madam President and members. I, too, would like to thank Senator Cook for this bill. When she introduced it and we had the hearing on it, I told her, I said I love this bill, and our conversation revolved around a bill that we had in this body last year, the texting while driving, and we were able to make a change on the floor that made texting while driving a secondary offense. And Senator Cook said that that kind of inspired her, some of my comments on the floor, to bring this bill forward too. So I was just very pleased that we were able to advance it from committee. I think the amendment helps it and so I would ask for your support of AM717 and the underlying bill. Thank you, Madam President. [LB500]

SENATOR SULLIVAN: Thank you, Senator Fischer. The question is, shall the committee amendment to LB500 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB500]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB500]

SENATOR SULLIVAN: The amendment passes. Seeing no other senators in the queue, the question is...oh, excuse me. Senator Cook, you're recognized to close on your bill. Senator Cook waives closing. The question is the advancement of LB500 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB500]

CLERK: 32 ayes, 0 nays on adoption of the motion to advance LB500, Madam President. [LB500]

SENATOR SULLIVAN: The bill is advanced. Mr. Clerk, items for the record? [LB500]

CLERK: Amendments to be printed: Senator Campbell, LB177; Senator Coash, LB112; Senator Karpisek, LB279; Senator Flood, LB388. Reference report referring a gubernatorial appointee to standing committee for confirmation hearing. (Read LB600A by title for the first time.) Name adds: Senators Avery, Burke Harr, and Dubas would to add their name to LB600. Transportation will have an Executive Session at 1:45 in Room 2022. (Legislative Journal pages 1133-1136.) [LB177 LB112 LB279 LB388 LB600A LB600]

And, Madam President, Senator Flood would move to recess the body until 1:30 p.m.

SENATOR SULLIVAN: You've heard the motion to recess the body until this afternoon at 1:30. All in favor say aye. Opposed? We are recessed.

RECESS

SPEAKER FLOOD PRESIDING

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

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

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Do we have any items for the record?

CLERK: I do. Enrollment and Review reports...

SPEAKER FLOOD: (Gavel)

CLERK: ...LB255 and LB366 as correctly engrossed. And LB384 is reported to Select File with Enrollment and Review amendments attached. I also have--Transportation will have an Exec Session at 1:45 in 2022. That's all that I have, Mr. President. (Legislative Journal page 1137.) [LB255 LB366 LB384]

SPEAKER FLOOD: Thank you, Mr. Clerk. We proceed to the first item on the agenda listed at 1:30, LB357. Mr. Clerk. [LB357]

CLERK: LB357 is a bill by Senator Ashford. (Read title.) The bill was introduced on January 13 of this year, referred to the Revenue Committee for a public hearing. The bill was advanced to General File. I have no committee amendments, but I do have another amendment to the bill, Mr. President. [LB357]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB357. [LB357]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I wish, first of all, to thank the Revenue Committee for what I thought was one of the better hearings I've been involved in in the Legislature. The questioning from all sides of the issue was robust and important questioning. And I certainly appreciate my colleagues who were there: Senator--I know Senator Avery was there and Senator McGill was there and spoke and Senator Krist, I believe, were the three senators that spoke about this issue. There were a number of mayors who came and talked about the policy behind this particular effort. And, of course, the--Bill Lock and others on the committee, as counsel and staff members, are very well versed in this issue. My experience in dealing with sales tax allocations to the cities goes back many years, certainly to the initial turnback legislation that was passed quite a few years ago and also a sales tax funding effort that occurred in the early '90s around events facilities in metropolitan areas other than the turnback. So I've had some experience in this area. Let me..there are, obviously, details to this public policy decision. There are many on this floor who are better versed than I in

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talking about policy of allocating sales tax to cities and counties. But let me just say this, and we all know this, in 1968 the Legislature made a decision that was historic. And one can argue whether it was the right policy or not, but it clearly set the stage for tax policy throughout the remainder of the century and then on into the last several years: when Governor Tiemann came to the Legislature and asked for a sales tax to, essentially, to take the burden off personal property and real property taxpayers throughout the state. Those of you who have some memory of that--I was actually working in the Legislature during that time, and it was a critical debate. But the state...and many of the issues that I've heard regarding this particular initiative were discussed at length in those sessions of the Legislature. There is no question that the expansion of state aid to schools, for example, which, of course, includes sales tax--returning sales tax dollars through state aid to the various school districts in the state--has resulted in a substantial reduction in property tax for many districts throughout the state. So we have done this. We...what is critical, it seems to me, is that when we make a decision to share our sales tax, if that's the word, or to allocate sales tax dollars, in order to do it, in order to make that decision, it has to be based on sound reasoning, and it cannot be simply a giveaway of tax base. I don't really believe LB357 in any way, shape, or form is a giveaway of the sales tax base; local subdivisions of the state receive sales tax today, will receive sales tax in the future in some way, shape, or form. In 1978 the Legislature made the decision to allow the cities to go to the voters and ask for an increase in local sales tax to a cent and a half. And that decision was made. There are numbers of cities across the state that have availed themselves of this sales tax authority by asking the--I'm sorry, not cents, percent--of asking the voters to support such a plan. So 33 years later we are asking the Legislature to consider allowing the cities to do the same thing again. We don't...when we do tax policy here, whether it's income tax or sales tax, whatever it is, we tend to take our time and be prudent about it. I think 33 years is a reasonable period of time for us to take a look at how this sales tax allocation--option sales tax--works. Clearly, it has made a dramatic impact on our cities. The property tax rates are not as large. Cities across the state have made great use of this money, from the smallest of towns to the larger metropolitan areas. The question, to me, is this. We have to determine as a Legislature what is the responsible amount of budget--what should our budget be each year, every two years. We have to make that decision based on the facts before us. And we have needs that we need to meet. And that is a prudent, careful discussion that we'll be having in the next couple of weeks. But that discussion and that debate about fulfilling the needs of the state, in my view...once the policy decision was made many years ago to allocate sales tax authorities to the various subdivisions of the state, counties, and cities, for example--has to enter into that discussion. But it should not preclude, in my view, the allocation of these authorities. If it seems to this body that one-half percent local option sales tax is consistent with the historical precedent--and clearly it is--if the needs that the cities have are real--clearly they are--and if we are able to meet the needs of our state--meet the state responsibilities that we have, in a responsible manner, then--and if a balance can be maintained, those are the sorts of criteria that I think we should use in making this kind of decision. One point keeps

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coming back to me, and that is this: cities would not utilize this particular authority without a majority vote of the people. There is no certainty that every city that can avail themselves of this authority--and it's every city in the state--would miraculously vote to increase their local option sales tax. It's not going to happen in reality. Local voters, local taxpayers are prudent; they are going to agree to utilizing their sales tax base and expanding that sales tax base, in my view, if they see a plan. And this bill requests each city to develop a plan around how this increased authority would be used. Whether it's a decrease in--reduction in property tax, whether it's building of a swimming pool in a smaller community, whether it's helping with transportation infrastructure, criminal justice, and so forth and so on, it is a local decision. So what I think we have to think about is: What is the proper balance? Are we meeting the needs of the state today? Are we meeting those needs in a responsible manner with the budget that we have? And do the cities have needs that need to be addressed now as they come out of this recession and think about their visions for the next several years? And I think that's the kind of discussion we need to have: What is the proper balance? We've already made the decision as a matter of policy that allocation of these sales tax dollars to the cities through a local option policy--that has been made. That decision has been made. But we in this Legislature have the opportunity to, again, have this discussion... [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR ASHFORD: ...about this issue. And then let me, finally, say this. In reality, it is the cities and the counties where the expression of our citizens is most vivid. The...it is on that level of government where the hopes and dreams of citizens who live in various communities across the state can be fulfilled, whether it's building an arena, whether it's building a swimming pool, whether it's building a staffed, secure juvenile justice system. Those decisions that are made on the local level are important. That doesn't mean that the decisions we make here are not. But giving the ability of citizens to engage in those decisions is critical. And, finally, we have to--coming out of this recession we must have a vision as a state and we must allow cities and counties to have a vision of the direction they're going to go... [LB357]

SENATOR LANGEMEIER: Time. [LB357]

SENATOR ASHFORD: ...for the next generation. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Mr. Clerk, for a motion. [LB357]

CLERK: Mr. President, the first amendment to the bill: Senator Heidemann, AM1147. (Legislative Journal page 1138.) [LB357]

SENATOR LANGEMEIER: Senator Heidemann, you are recognized to open on

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AM1147. [LB357]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. AM1147 would put...give...still give them the access--the bill moves forward--they still would be able to access their half cent. The state of Nebraska has given every city in the metropolitan district, everybody who can access this local option, also the ability to get a revenue source from someplace else, and that is property tax. All I'm saying with this amendment...and if you're familiar with the state aid to education formula--their levy is at \$1.05. If they don't access 95 cents, they're not going to access as much state aid to education. All I'm saying with this amendment is we'll give you access to this extra half cent, but you have to access at least 40 cents on your levy before you can do that. They can access up to 50 percent. This would be--we're saying 80 percent of your levy you have to access for one year, and then you can go to the vote of the people. I really believe that this is telling them: We have given you access to a revenue source; we understand if you get to a certain point that you're going to need another revenue source. I'm saying that just like state aid to education, this is saying you have to get to this point before you can access that extra half cent. If you're on the Education Committee, I would think that this makes a lot of sense to you. I'm not trying to...I--I'm still making my mind up on LB357 as a whole. But I'm saying if LB357 moves forward, this is going to make that bill better--more understandable to me, more acceptable. And it would mirror what we do in this state already with state aid to education, saying you have to access so much money from here before we're going to give you money from someplace else. And it actually mirrors it quite a bit, because, as I said, \$1.05 for the levy for schools--they have to do 95 cents. This is saying, instead of 50 cents, you have to access at least 40 cents, which is a dime less than the maximum levy. If anybody has questions, thoughts, or opinions, I would appreciate anything, but I would appreciate your support to AM1147 to LB357. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. (Visitors introduced.) You have heard the opening on LB357 and AM1147 offered to it. The floor is now open for discussion. Those wishing to speak: We have Senator Cornett, Hadley, Avery, Wallman, Ashford, Pahls, and others. Senator Cornett, you're recognized. [LB357]

SENATOR CORNETT: Thank you Mr. President, members of the body. I felt that, as Revenue Chair, that I should speak early on this bill and explain why the members of the Revenue Committee that voted for this bill felt that it was a bill that needed to be brought to the floor both for discussion and for passage. The cities throughout this state have multiple needs and infrastructure needs. And we've heard time and time again in the Revenue Committee how much, particularly--not even particularly--both in the rural area and in the urban area, how property tax is viewed. The people do not like property tax. Because of the infrastructure needs and because of the financing needs of many of our municipalities across the state, the citizens of this state are looking, at the local level, at some form of an increase. This bill gives the citizens the right to choose.



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They--if they have needs like Sidney, where Senator Schilz is from, or needs like Lincoln, in regard to infrastructure, or needs like Omaha, the citizens, under this bill, will have the right to choose at the ballot. There were many discussions in the committee on how to limit this bill. And we determined that that limitation should be up to the municipality and the voters. The municipality has to describe, in the bill, what the money is going to be used for. If the people--and we stress--if the people choose to pass this half-cent sales tax rather than incur a property tax increase, then that is their decision. In regards to Senator Heidemann's amendment, the Legislature has encouraged governments--local governments, throughout the years, to reduce property taxes. This amendment would penalize those cities and villages who have kept their property tax low but still have infrastructure needs the same as other municipalities. It would take away the option of the local voters in those municipalities to choose between sales tax and property tax and to fund local services and programs. Yes, there are cities that will look at this as an option that are not at the 40 cents as a way to improve services to their citizens, to keep libraries open, to keep pools open, to pave roads. But remember, this is an option that the voters will have, to either vote for it or vote against it. With that, I encourage the body not to support AM1147 and to support the underlying bill, LB357. Thank you. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Hadley, you're recognized. [LB357]

SENATOR HADLEY: Mr. President, members of the body, we are debating a bill that would allow cities and municipalities the opportunity to enact an additional 0.5 percent sales tax. I do not know if this is good or bad for every city or municipality in the state of Nebraska, but I do know who can answer that question. That question could be answered by the citizens of the city or municipality. I believe they should have the right to make that decision. Sales tax is a consumption tax on sales or products, primarily paid by end-users but collected by sellers and forwarded to the government. Sales taxes are a burden to a business in the sense that they must be collected by the retailer, whose cost of collection must be considered a cost of doing business. However, collecting these taxes may be preferred by businesses to paying higher income or property taxes in their absence. They are in use by 45 of the 50 states within the United States. And of those 45 states, 38 states allow local municipalities and cities to also collect a sales tax. The potential advantages of a local option sales tax are they grant revenue flexibility to local governments. In essence, they do not have to depend on one source of revenue. And we hear consistently from our taxpayers that property taxes are not what they want. They provide additional funds for programs and services without tapping state funds. Being on the Revenue Committee, I can't tell you how many times we've had cities come in and want additional funds from the state. This would give the cities the option of getting those additional funds, allow diversification of local revenue base, allow tax burden shift to nonresidents, place some taxing and spending decisions closer to residents, and maintain local autonomy. The biggest advantage of sales taxes:

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they are economically efficient. They are--for every dollar of sales tax, there's 17 cents in economic damage per dollar collected. This compares to corporate income taxes that do \$1.55 in damage to the economy and personal income taxes that do somewhere around 56 cents. It is a very, very economically efficient tax. The big disadvantage--and someone is going to bring it up--that it's regressive. I would agree it is regressive. But we have tried in the state of Nebraska to pull that regressiveness down. For example, the poorest level of society in the United States pays about 16.6 percent of their income on food. That is not taxed in Nebraska. They pay 37.9 percent on housing--not taxed in Nebraska, 8 percent on healthcare--not taxed in Nebraska. So the poorest level have 61.5 percent of their average expenditures on items that are not taxed; the middle 20 percent--54 percent; and the richest 20 percent--46 that are not taxed. I don't believe that anyone would question the right of cities and municipalities to levy a sales tax; I believe that case is made. The question before us is, at what level should they be allowed to tax? I would argue that that should depend on the needs of the community as determined by the voters of the city or municipality. Citizen participation in the decision to raise local sales taxes is very important. This is not a new concept. For example, a local school district may also hold an election to exceed the levy limitation. A city can hold an election to exceed the property tax levy limit. A county could hold an election to exceed the levy tax limitation. Why would we not give cities and municipalities the right to exceed the cent-and-a-half sales tax? [LB357]

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR HADLEY: I will finish this later, but I want to hand out two handouts. And I wanted you to take a look at them. Kearney went through a process five years ago to get an additional one-and-a-half-cent sales tax. The first, labeled A, is a press release that was just put out. Kearney just had 42 listening sessions where they had 880 citizens input their ideas on how the half cent should be used. The other sheet is a list of what Kearney has used the extra half cent for over the last five years. This, I believe, is a true example of citizen participation in the sales tax process and shows that it can work. Does it always work? No. At times, citizens vote no. But it's the citizens, the direct people who are impacted, that get to vote on that. Thank you, Mr. President. [LB357]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Avery, you're recognized. [LB357]

SENATOR AVERY: Thank you, Mr. President. I think we can all agree that this session has been relatively hard on cities and towns. We've made decisions that required cities and towns in our state to help bear the burden of the state's budget gap. And I would submit that that is not an unreasonable expectation. Our decisions have cost my city, Lincoln, more than \$2 million. We have taken up some bills this session that don't do anything to reduce the state's budget problems but nonetheless have created bigger holes for local budgets. I have heard it suggested that cities like Lincoln can simply

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tighten their belts a bit. Well, we have. We have been tightening our belt here in Lincoln, and I think that's true for many towns and cities around the state. We have already cut nearly 120 jobs. We've been forced to reduce or eliminate important local services--for example, police officers in middle schools. Bus routes have been reduced that help people who can't afford their own transportation to get to work. We've cut the Aging division by nearly three-quarters of a million dollars. Youth sports programs have been cut. Before- and after-school programs have been cut. Parks have discontinued operating two outdoor public pools. We've reduced the hours of service at our main library. We now are on a minimum-mow schedule for our parks. We've deferred routine maintenance. I remember when I campaigned for office in 2006 hearing almost every day about the property tax. People don't like that tax in this state. Of course, we don't like any taxes, but the property tax seems to be a tax that kind of cuts to the quick for most people. And that's what bothers me about AM1147. Because you'd be asking cities like Lincoln and others around the state to first raise your property taxes, then you might be eligible to opt in to a sales tax increase, if approved by your voters. I am saying that what we need to be doing is providing our cities and towns with more local control right now. LB357 is the essence of giving citizens the ability to control their own environment. If the taxpayers decide they don't want to pay for the services that are underfunded or they cannot now be funded, then this bill gives them the ability to make that decision. If they decide that they're willing to see a cut in services, then they can simply say: No, I don't want to approve this proposed tax increase. So we talk a lot about local control in here; it seems to me that this is the essence of local control. You give to the towns and your cities--you give them the ability to take it to the people, let the taxpayers decide. This, of course, also would make the towns and cities more accountable. Remember, this bill is not a blank check; it requires local governments to identify and to justify to the public how the half cent in revenues would be spent. [LB357]

SENATOR MCGILL PRESIDING

SENATOR MCGILL: One minute. [LB357]

SENATOR AVERY: And that is not the case in a lot of instances today. The public would be engaged in a conversation about these taxes. The people would have the final say. And one other point, this is a very familiar tax. It's a tax that local businesses know about; they're familiar with its collection; it would not require new administrative compliance burdens at all. And the bill--I think it would set a clear standard that taxes will not be raised without representation: voters would have to approve. So I am suggesting to you that these are some features of this bill that present the bill as worthy of your support. And I hope that you'll agree with me and vote to advance it to Select File. Thank you, Ms. President. [LB357]

SENATOR MCGILL: Thank you, Senator Avery. Senator Wallman, you are recognized.

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[LB357]

SENATOR WALLMAN: Thank you, Madam President, members of the body. Green money. Revenue. We did put limitations on cities and counties and municipalities for revenue. And also, we took away some opportunities they might have had through here--through jail reimbursement and things like that, which I always told my county board is probably going to be gone, and it is. So they still have their ongoing expenses. Some of the things are transferred out of here to local control, which means local expense. And I tried to get a bill something like this out of a committee about local school districts can use this to replace part of their property tax. And farmers and businessmen and homeowners do not especially appreciate property tax. And I know people think sales tax is hard on a certain group of people. And sales tax is paid by everybody, rich or poor. Is that...that's just the way it is. The state needs revenue; it needs income. And I urge you to vote for the bill and against the amendment. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Wallman. Senator Ashford, you are recognized. [LB357]

SENATOR ASHFORD: Thank you. And I can't support the amendment. I understand Senator Heidemann's intent behind it. I think there are significant differences between the state aid formula and how we distribute state aid and--on an equalization basis versus the traditional way that we have funded cities, either through the local option sales tax or through the aid to cities, which we no longer have. The other concern...I was just given this data, and I trust it's correct, but there are 292 cities that are at the 40--well, at the 40-cent level, but there are only--that represents only 15.62 percent of the total population. So most of the cities, populationwise, are not at that 40-cent levy level. But I think there is a significant difference between the two. However, I'm not--I understand the prudence by which Senator Heidemann looks at this issue. And it's certainly not inconsistent with some of great--which Senator Heidemann certainly is one--the great Appropriations Chairs throughout time that I've served with who have had the same view. And I totally respect it. I think, really...and I appreciate Senator Hadley's comments as well. I think...and then I'm not going to speak anymore on this. But I do want to convey again what I believe to be the central core value here. And that is this. We have made the policy determination to allow cities--and we've, in fact, given counties a levy authority as well for public safety. We have allowed cities to meet some of their needs, or certain of their needs, through this local option sales tax. And we did it 33 years ago. Over the years--and there's no point in belaboring all this--we all know that over the years, after that decision was made in 1978 to go to 1.5 percent, there have been numbers--including LB775, which I was a cosponsor of--numbers of initiatives that we passed here that have whittled away at that base. So had we remained at 1.5 percent and not done that, then it would have given the cities much more budget authority and opportunity to spend those sales tax dollars. The state has

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pulled, quite frankly, has pulled those dollars back to meet its needs. And that's legitimate to do from time to time, though it does throw the cities into a budget tizzy over it. But--so here we are now. Now, we can either--we can either close those exemptions--the LB775 exemptions, for example--which we are not going to do. We aren't going to do that as a body, because those credits, tax credits, have expanded the pie in Nebraska and--along with agriculture--to give us an economy that is expansive and that was able to weather the recession. So I think where we are is this: Should we not, after 33 years and removing many of those dollars back that we did give to the cities through this local option sales tax, give them a shot to increase this local option sales tax to compensate for some of that? To expand their sales tax base to capture tax from individuals--in our metro area, for sure--for certain revenues that come in from people who travel to our city and utilize facilities that this state has made a significant investment in... [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR ASHFORD: ...such as the Qwest Center? It seems to me to make such logical sense. And the other point is this...not because it's my bill, heaven forbid, but just because it does. And it's--and that it--and, to me, the fact that the voters would have to vote for this is going to be a restriction on the number of dollars that flow back to the cities, because not every city is going to vote for it. It has to be a good plan, and it has to be a plan that works and makes sense. And if it isn't and if it--then it will not be supported by our citizens. But, again, it does give our citizens at the local level an opportunity to vision forward in the next 20 to 25 years of what kind of city they want and to utilize those funds constructively. If it's not constructive, the citizens won't give them that authority. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Ashford. Those waiting to speak include Pahls, Council, Utter, Cornett, Hadley, and others. Senator Pahls, you are recognized. [LB357]

SENATOR PAHLS: Thank you, Madam President. Looking at some of the information here, it appears that if we would add the non-bond rate and the bond rate as part of an amendment to this amendment, it probably would be serviceable. Because in Omaha the non-bond rate is 0.29 and the bond rate is at 0.20, which would be a total of 0.49. So I'm wondering if that would not be--if we take a look at the non-bond rate and the bond rate, when we look at the total of 40--if that wouldn't satisfy Senator Heidemann's needs. Because it does look like we're in the 40s, if you add both of those together. Another piece of information--I'm switching gears here now--another piece of information that the pages have handed out to you is, since we're talking about property tax, is if you take a look at the sheet, it runs from 2000 to 2010--the tax changes over those ten years. And I think some of you would be surprised if you would take the opportunity to look at that, because in the counties--this talks directly to the different counties. Sort of be amazed if I were in some of these counties, because, let's say,

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Adams, Box Butte, Chase, Deuel, Fillmore, Franklin, Garden, Grant, Hall, Harlan--those counties--over the last ten years, if you take a look at the property, it has increased from the 40s to--into the 50s. But those counties that I'm going to read now is a significant change. And if you take a look at that--I'm asking you just to look at some of the counties you represent--over 100 percent rate from 2000 to 2010. That would be Antelope, Arthur, Boone, Brown, Buffalo, Cass, Clay, Dixon, Garfield, Hayes--this ought to be really familiar to a number of you--Knox, Logan, McPherson, Nance, Nuckolls, Pierce, Sarpy--you ought to really take a look at yours--and also Logan--those are really significant numbers--Sheridan, Thurston, Valley, and Washington. This...because I've heard people talk on the floor--speak on the floor about the land valuations have increased. And I do have another copy that goes in some detail on that. But this just shows you--or lets you know about the tax levied. So you take a look at that, you can see that taxes have gone up--probably no surprise. But what I'm going to ask you is to take a look at Douglas County, which is 28. You can see in that ten years we went from \$442 million to \$807 million. That's been an increase of 82 percent, not as high of an increase as a number of these counties--the second set I read. But it goes to show you that it appears that a number of counties are paying their dues in the area of property tax. And again I'm asking you to just take a look at some of your counties, and you probably would be amazed. And now when you stand up on the floor and say land prices have doubled, etcetera, etcetera, I think this information provides concrete data to verify what you have stated. Again, I'm asking you to take a look at it because I'm trying to build a case of where taxes are levied, when, how, why, so we can see whether the city of Omaha actually does need another additional opportunity to tax itself. Thank you. [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR PAHLS: Thank you. [LB357]

SENATOR MCGILL: Thank you, Senator Pahls. Senator Council, you are recognized. Okay, we'll pass over Senator Council. Senator Utter, you are recognized. [LB357]

SENATOR UTTER: Thank you very much, Madam President. Good afternoon, colleagues. It's probably not going to be a surprise to you that I rise with great questions about this bill. And I certainly appreciate the efforts that Senator Ashford has made, and I appreciate what he is trying to do, and I have great respect for him and his years of experience in this body. But I am fearful of where we're headed here, from a tax policy standpoint. And I have to couple this--I have to think back about the turnback tax in addition to the other things that we have tried to do in this body over the--that have been suggested in this body over the last two or three years. And I think we're eroding the state's tax base with these moves that we made. And albeit we may not need that right now. But sometime we may. And it seems to me like it's a stretch to continue to increase...it may not be just the half a cent today, but it's what comes after that and the

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precedents that we set as we go down the road. I certainly appreciate the amendment of Senator Heidemann, when he has at least attempted to put a need factor into this whole process. But frankly, folks, this is a tax increase; it can't be identified as anything else. It's a potential tax increase, even though it isn't a statewide tax increase. And I think what we need to be doing, frankly, is looking at ways to reduce taxes, not ways to increase taxes. So I rise in opposition to Senator Ashford's bill. And I would support, however, Senator Heidemann's amendment to this bill, because I think that the search must go on and we must continue to work on ways to reduce taxes and not ways to increase taxes in this state. Thank you very much. [LB357]

SENATOR MCGILL: Thank you, Senator Utter. Senator Cornett, you are recognized. [LB357]

SENATOR CORNETT: Thank you, Madam Chair and members of the body. Again I want to stress a couple of points that Senator Ashford has made. One, the discussions for sales tax for municipalities has not occurred in this body in over 30 years. Over the course of the last few years, we have cut the budgets--or what the state is sending back to the municipalities by dramatic amounts. This year alone we cut--I carried the bill to remove all state aid to cities, counties, and NRDs; Senator Fischer introduced a bill, and has passed a bill, limiting occupation tax. And these are all things that I support, just like I support regulating occupation tax, and that's a bill that we still have in committee. But at the same time we make these cuts at the state level and tell the municipalities to handle their own problems, we need to give them options on how to do that other than property tax. Because currently property tax is the only thing they have--can fall back on other than occupation tax. And, frankly, this body saw what happens once municipalities are pressed like that: we get occupation taxes that are unreasonable or the highest in the country; we get grabs from the cities into other jurisdictions, simply because they have no other options. I understand Senator Heidemann's reasoning in his amendment. But I also understand that his amendment would only affect a very small portion of the population of the state. There are 292 municipalities above their--above the 40 percent--40 cent. But that only represents less than 16 percent of the population. I know that that affects a lot of your small municipalities in this state, but there are--the majority of the people are the ones that are being affected by the threat of property tax increase. With that, again I urge the body not to support the amendment and to, please, support LB357. And I yield my remaining time to Senator Ashford. [LB357]

SENATOR MCGILL: Senator Ashford, you have 2 minutes and 28 seconds. [LB357]

SENATOR ASHFORD: Okay, thank you. And I won't...thank you, Senator Cornett, and if I could yield my time, which I can't, I'd give it to Senator Council, but--because we passed over her comments, but she can give them later. I again would--again, I would just conclude this, that, number one, we have made the decision to allocate sales tax back to the cities on a local option basis. We've done that, and it has been--actually it

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was prior to 1978. In 1969, I think, there was an initial allocation of local option authority to the cities; 1978 we increased it to a percent and a half. We've given the counties the opportunity to raise a sales tax for public safety; I believe it's 2 percent of the county base. And we have also made decisions--significant decisions in this body that have had, this year certainly--but, again, I think, this...I'd like to kind of turn very briefly to comments about this year's allocation of state aid dollars to cities back to the state--cities and counties. I fully understand why we did that; we did that in order to meet the needs of the state and the budgetary concerns of the state. [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR ASHFORD: And that's going to happen from time to time, and it did happen this year. That was a policy decision we made as a body in order to write our budget. That is why we did it, in order to have sufficient numbers--dollars in our budget so that we could maintain the property tax credit and also do other projects we want to do. And that's legitimate. Again, we are not taking away from the needs of the state by giving cities across the state, over 500 of them, at least the option to go to their citizens to ask them to raise their sales tax. Clearly, most cities will not be able to do that unless they're able to show a reduction in other taxes, primarily property tax. That has been the policy of our state since 1969; that has--we have done it over and over again. And at the same commensurate time we have taken some of those authorities back through... [LB357]

SENATOR MCGILL: Time. [LB357]

SENATOR ASHFORD: ...tax credits and so forth and so on. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Cornett and Senator Ashford. Senator Hadley, you are recognized. [LB357]

SENATOR HADLEY: Mr. President, members of the body, it's with great reluctance that I stand...for the first time probably since I started in this body I'm on the other side of an issue from my good friend Senator Utter from Hastings. We have been talking about that we have been joined at the hip; well, that joining has pulled apart. This is not a tax increase unless the voters approve. This is not a tax increase unless the voters actually say, we're willing to tax ourselves. So I think to myself: Are we that omniscient that we can sit there and tell the voters what they should do? Are we the ones that can say: We don't want to give you the chance to raise your local sales taxes, because we know better than you? I don't think so. Citizen participation in government decision making seems to be held sacrosanct in the world of the U.S. political culture. It has advantages to both the decision process as well as the outcomes. And I think that's a key point in this whole process--is that it's voted upon. What are the advantages to the citizens of your cities and municipalities? What are the...in the decision process, they--it's an



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education process. They learn from an informed government of what's happening. They persuade an enlightened government. They gain skills in activist citizenships. As far as outcomes, by getting citizen participation, it breaks gridlock, achieves its outcomes. They gain some control over the policy process. It isn't the four or five people on the city council; they get input. Better policy and implementation decisions. It also has advantages to the government: they get a chance to learn from and educate citizens. I handed out that Kearney had had those numerous listening sessions where they had people come in to tell them what they wanted to have that additional half cent of sales tax spent for. And then they follow through. As someone earlier said, not every city is going to be able to pass this, because they're not going to be transparent, they're not going to set up a process to inform the citizens. I will guarantee you, any city that comes in and says, oh, just give us the half cent, we'll roll it into the budget and it will be used for good things, is not going to get it. I will also like to say that at times this has been referred to as an Omaha or a Lincoln bill. We had a number of people who came in to testify from Lincoln and Omaha. It is not a Lincoln and Omaha bill; it stretches across the state, from Ogallala all the way to the eastern border. I can tell you, I was in conversations with the leaders of Kearney this morning; they are absolutely in favor of this bill. Because they're willing to take the chance, if they have to, to go to the citizens to ask for another half cent of sales tax, if they feel they need it. So I would hope that you vote for LB357. AM1147--I don't believe that's a good bill, because of the capping--or of the 40 cent. People do not like property taxes. When we go home, what do our voters tell us? How many times do you have people in your local district say, hey, that's the greatest thing in the world--that property tax; I really like that property tax? They don't say that, do they? How many times have you had a question about income tax or sales tax? You know what? I'm in my third year, and I've never had a question about the income tax or sales tax from a voter. I haven't. [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR HADLEY: But I've had numerous questions about property taxes--double-digit increases in property taxes. This is a fair tax. It's a tax that is voted on by the people. It is going to be used for what the people want to spend their money for. I think a vote against this is telling the people--the citizens of the state of Nebraska, in their municipalities, that we know better than them. Thank you, Madam Chairman. [LB357]

SENATOR MCGILL: Thank you, Senator Hadley. Senators wishing to speak: Senator Karpisek, Campbell, Krist, Avery, Sullivan, Pahls, Fulton, and others. Senator Karpisek, you are recognized. [LB357]

SENATOR KARPISEK: Thank you, Madam President and members of the body. I am wiggly on this bill, and I don't know where I'm coming down yet. And that's not like me; I usually like to make up my mind. I am having--I'll tell you what my main concern is.

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People in rural Nebraska that have to drive into Lincoln, Omaha, Kearney, Grand Island, wherever, to actually get what we need have to buy the things there, and then we pay the sales tax there at a higher rate, and that money stays there. And we could get into taxation without representation; we could talk about all those little things that we heard at the beginning of the year that are going to come back and bite people now. And that is my concern. And I know a lot of small towns would like to have this extra 0.5 percent sales tax, and it will help--it would help. But it's sure not going to get anybody coming the other way around, or very little--to come from the big town to the small town to put their money into that small town. I could be wrong on some of that, but I don't think a lot of people will drive out of Lincoln to Geneva to buy parts for their tractor maybe, which probably--I don't know if that's even taxed, which brings up another point. Maybe we ought to look at everything that we get--everything that we don't tax. Senator Loudon said that is taxed; that's--okay. But those are my issues. That is my problem with this bill--or my thoughts. I don't know yet where I'm going to fall on this bill. I would like to bring up very quickly, though: Be careful when we talk about not letting people vote on issues. We hear it and hear it and hear it, and I don't want to hear it anymore. Every bill we could say: If we don't let this out to the people, we know better than them. Well, folks, I will tell you, we have not let a lot of bills out of here to let people vote on. But it's always the other side of the coin then. Then we do know better than they do. This is a local control issue, some. But it is also the bigger town, I feel, being able to do more than the small town. I have thought about this. And if any of you are like me and don't know where you're at on it, you're being talked a lot; a lot of people want your time. And that's fine; I appreciate that. Where does this go? I don't know. I wish we could go back to the beginning of the year and maybe talk about when we took the state aid away from cities and counties. Maybe some of you might feel a little different now. I don't know. Do we give them something? Do we give them nothing, other than property taxes? What if they're right up against the lid? I don't know. I will be listening. I just thought I'd like to get up, hit my light a while ago knowing that we would hear about sending this out to the voters and letting them vote. Please remember that. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Karpisek. Senator Campbell, you are recognized. [LB357]

SENATOR CAMPBELL: Thank you, Madam President. And good afternoon, colleagues. One of the factors that I looked at in LB357 is one of the items that Senator Karpisek talked about, and that really is a vote of the people. In almost every community--Kearney, we've had the illustration--but certainly the communities spend time saying: What should be our priorities? What are we trying to accomplish? What are we trying to do? In setting those local priorities--and we certainly have done that in my home community--we have to face the fact that in many of our communities across the state we are growing; we have continued needs. And it's very difficult to continue looking at a growing community and saying, well, we've lost this amount, and then

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we've lost that amount. At some point the community does need to have a way to deal with its priorities and the fact that it is growing. For instance, Lincoln grew 6 percent over the last couple of years, both in area and population. That's a lot of needs that need to be prepared for, particularly as we look into the future. In our community, we've definitely talked about a half-cent sales tax option to deal with our roads and streets. Roads and streets aren't just a problem for the state; they're a problem for communities all across Nebraska. We've had a very difficult time in Lincoln trying to come up with the public funding that would be necessary to take care of a growing list. And even though we did fairly well in the stimulus money, it didn't put even a great dent into what we need. We not only need to invest in our public roads in Lincoln, and streets, but we need to invest in public safety, and we need to invest in preparation of the services that businesses and companies who will come to our communities across the state will expect. We've spent time this year talking about let's bring more companies, let's get more entrepreneurs in the state, let's put these programs in place. Colleagues, when those companies and businesses come to Nebraska, they have to expect that the communities will welcome them--and they all will. But those communities need to be able to be prepared for them. And in some cases, the local property tax is not enough to cover those companies and what they will expect from our communities. If our communities and the people in them say: The plan that's been put forward warrants my belief in an increase in the tax, we should allow those communities and the people in Nebraska to have that option. I would not support AM1147 but certainly do support LB357 and hope that we will look at it as a long-term investment in many communities across the state. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Campbell. Senator Krist, you are recognized. [LB357]

SENATOR KRIST: Good afternoon, Madam President and colleagues. I have three separate thoughts to convey to you today. The first one is that, first of all, I do not support AM1147. I think that it is just another attempt of some folks in this body to tell cities what they need to do. And by that I mean, I've been told several times that our mayor in Omaha, Mayor Suttle, needs to keep cinching down the belt until it really hurts. Well, I'm pretty well convinced after talking to the city and to the city council that they have done that. They have honestly tried to cut programs. They may not have done it the way you would have done it or I would have done it; I don't always agree with Mayor Suttle. But he is, after all, the elected mayor of the city of Omaha, and he has made the kind of cuts that he deems are appropriate while continuing to serve the citizens of Omaha. So I am not a kind at this point to support AM1147, because I don't want the tax, again, to go to the state. Those taxes need to stay in the city, or the subdivisions, because that's where they need to be used. Secondly, I'd like to say very emphatically that the one thing I am very proud of, to be part of a legislative body, is that 30-plus years ago this state in concert, legislators and Governors, and up to the present, have turned around a ridiculous tax revenue process and program that 30 years ago

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consisted of 80 percent of the state's money coming from taxes on property--80 percent. There was a conscious and consistent movement to make sure that that was turned around. Today 20 percent, roughly, comes from property taxes. I caution the folks in the outstate Nebraska areas to watch what's happening to you, because it's been happening inside the larger cities. When your property value goes up, guess what happens to your taxes? And each one of you have talked about your property taxes going up. There was a time in the city of Omaha several years ago when two folks in my neighborhood sold their home. They sold it for three or four times what they paid for it, or more. And guess what happened to my property taxes. The valuation on the home went up; my taxes went up. We cannot rely on property taxes, and we cannot give that as the only opportunity for the political subdivisions to solve their problems. In this legislative session we have taken away a good deal of funds. We specifically said: We are not going to give you any state money, municipalities, NRDs. We told them no. We told them to tighten their budget. Lastly, I will say this. The population of the state of Nebraska is 1.8 million. I stood up here last week and talked about almost 2 million people flushing their toilets in Omaha. You know what? That's pretty accurate. Because the people who come to Omaha and use our streets and use the city, use the state's highways systems--those are tourists. They come for the College World Series. Believe it or not, they come for some of the best golf courses in the Midwest. When they go to Dismal and they go to Sandhills, when they go to the State Fair at Grand Island, when they go to the College World Series... [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR KRIST: ...which, by the way, less than 25 percent of the people are actually from Nebraska, by statistical analysis--when they go to the Qwest activity center, when they go to the botanical gardens, when they come to a Nebraska football game, and when Ohio State comes, I hope they buy lots of dinners and lots of steaks, because that's what's going to help us balance the budget. Keep in mind that this is a tax spread across a broad variety, not just the homeowners in the state or the property owners in the state. And finally, I will say this, to echo Senator Karpisek's comments: This is a voters' choice. It will go back to the subdivisions. They will have to, in Senator Hadley's words, tell them where the money is going. It's up to the voters. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Krist. Senator Avery, you are recognized. [LB357]

SENATOR AVERY: Thank you, Madam President. I want to talk a little bit about the budget woes of my city, Lincoln. If you look back just to the fiscal year 2006-2007, the sales tax revenues dropped by 0.57 percent. The next fiscal year receipts went up 3.29 percent. The next fiscal year, '08-'09, they went down 2.65 percent. And this fiscal year there's been a slight uptick, 1.21 percent. That's not great growth in sales tax receipts.

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But look at what has happened in property tax rate. In 1993-94, the property tax rate was 44...no, in 1994 it was 52 cents. This year it is 28.8. Now, what's happened is that Lincoln has been doing what we have been telling them to do--lower your property taxes. That's what the voters expect; that's what we have expected of the cities; and that's what Lincoln has done. And, in fact, all of the tax increases in property since 1994-95 have been approved for bond issues. So what is the point here? The point is that net sales tax revenues have gone from \$54.3 million for fiscal year 2005-06 to \$54.9 million for '09-'10. That's essentially no growth. And if you look at this on an inflation-adjusted basis, we actually have fewer sales tax dollars, and property tax dollars are about the same. So you can see why Lincoln would profit by having at least the opportunity to take the authority issued by LB357 to the voters for approval. Lincoln was fifth from the bottom in terms of the lowest property tax levels of Nebraska's 15 largest cities for '09 and 2010. Only Grand Island, Scottsbluff, Norfolk, and Kearney had lower rates. Lincoln has been doing what we've told them. In the last budget submitted by Mayor Beutler the number of non-public-safety employees has dropped down to 1,361 from 1,487. That is real cuts, folks. And that means pain for the city and for the citizens of this city. What we're asking for in this bill is not a tax increase. We're not saying it is a tax increase--you're not voting for a tax increase; all you're doing is saying to the cities, we will give you the authority to go to your voters and get permission if you think you need a tax increase. I'm looking here at the spreadsheet that Senator Pahls passed out, and if you go down here on page 2, to number 55, you'll see Lancaster County. And you go all the way across to the very right-hand column, and you see that the average annual change in the property tax for Lancaster County has been 4.86 percent. [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR AVERY: Now, that doesn't mean the city got all that increase. You had--some of that went to county, some went to Public Service Commission, some went to Natural Resources Districts. If you look at all the different people who have taxing authority, you cannot say that the city of Lincoln is getting that; in fact, Lincoln has not been. And that, by the way, is one of the lowest of all the counties listed here on this handout. I think that we should remember also from our previous discussions this session that this is not the first time this session that we've discussed the idea of giving the authority to the people to decide whether they want to tax. You remember when we debated LB165, the telecom occupation tax bill. It includes a very similar provision; it allows cities to levy its telecom occupation tax at a maximum of 6.25 percent; cities cannot go any higher without a vote of the people. This is not uncommon. And it seems to me that it makes eminently good sense to give... [LB357]

SENATOR MCGILL: Time. [LB357]

SENATOR AVERY: ...the authority to the voters. Thank you, Madam President. [LB357]

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SENATOR MCGILL: Thank you, Senator Avery. Senator Sullivan, you are recognized. [LB357]

SENATOR SULLIVAN: Thank you, Madam President. Good afternoon, colleagues. I almost feel like it's Yogi Berra's *deja vu* all over again. You know, we're having tough times in state government; we're having tough times with local political subdivisions; everyone needs to do their part; everyone needs to feel the pain. The government giveth, and the government taketh away. So as I sort through all of this, I'm thinking, okay, this legislation potentially gives local political subdivision cities some flexibility in providing the services and funding the services that they know they need to provide. I also support AM1147, because in my simpleminded processing of all of this, I'm thinking, okay, we've got two buckets: one is property tax; one is sales tax. Don't both buckets need to be full before we want one to overflow? It just makes sense to me that if there's opportunity to--and, you know, I just hate to say the word--levy more property taxes, but maybe that needs to be part of this equation. So that's why, as I said, I stand in support of AM1147. I will also say that I haven't taken the complete toll, but I think quite a number of the communities in my District 41 are up to their limit. I'm sorry we don't have more people living out in rural Nebraska; I'd love to have more people. I'm sorry most of them live in Lincoln and Omaha. But I will say that these struggling rural communities are trying to do their part, painful as it is. As I've, again, listened to the discussion, apparently this is a needed discussion regarding tax policy that perhaps we haven't had in many years. But I've also heard that it's a discussion of either property or sales tax--can't have both; it's one or the other, if we have movement. I think the larger question is, how are you going to pay for the services that citizens want and need? So I like the component of taking the vote to the people. The salvation of the state is the watchfulness of the citizens. And I would also tell you that the people of rural Nebraska are watching; they know what their state senator is doing. And I would also say that, judging from a phone call that came to my office today on a completely different matter from a resident of Omaha--we had to go help her find who her state senator was, because she had no idea...so they're watching out there, particularly in rural Nebraska. And believe me, I don't like taxes any more than the rest of you. I've seen the huge increase in the property taxes on the...as I mentioned the other day, on the farm that I grew up in. I also don't like paying sales tax. And I have to say that I was...I'm going to think twice before I go to a particular store in Omaha, because I was all set to buy...as you can see by what I wear every day, that I'm not buying it at the grocery store in Cedar Rapids; I have to come to Lincoln and Omaha. And I really received a very rude reception. So they didn't get my sale on Sunday at this particular store in Omaha. We don't like taxes, but we need to pay somehow for the services that we want and need in this state and in cities. And so for that reason, reluctantly, I support LB357, and I like what AM1147 does. Thank you. [LB357]

SENATOR MCGILL: Thank you, Senator Sullivan. Senator Pahls, you are recognized.

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[LB357]

SENATOR PAHLS: Thank you, Madam President. And, Senator Sullivan, I'm glad people in all parts of the state are looking at us. And I apologize if they were rude to you in the city of Omaha. And that leads me...and I do think, if at all possible, we ought to be shopping in small towns--because I'm just going to add a little bit to that. Because in the small town I came from many years ago we had a lot of these stores. And I can still remember in the store that my dad was at--it was an appliance store...where did everybody go? They went to the big city to buy all their appliances. Now, if they would have stayed with the small-town person, paid maybe a little bit more, that would have generated a little--more people working in the store, etcetera, etcetera. So I do have mixed feelings about that, because I think we've, in small towns, growing up, we shot ourselves in the foot on some cases. If you notice, I'm giving a lot of handouts. And I hope your eyesight is better than mine, because the print is quite small. But I'm trying to lay a foundation here. This latest handout, if you take a look at it--and I'd appreciate if you would--it talks about the county or the city, net taxable sales in 2010 and 2009, and then the change, and then actually the sales tax that was collected in 2010 and 2009. And, of course, you get to the very bottom, you can see where I obtained this information. So it's making, basically--giving us some groundwork for 2009, and we can see what happened in 2010. And if you notice, I've been really trying to include the whole state, because I'm mentioning cities and counties across the state in my dialogue today. Here is, for example, in Arthur, they...percent change, they lost 7.4 percent between the two years; Banner is 14.4; Blaine, 21 percent; that's a...that was a loss. Those are the counties. Now, Box Butte, going to Alliance--something tremendous must have happened there, because they had a 26 percent loss in the city of Alliance. Brown, there was a 2.4 percent loss. Ainsworth, etcetera. Tekamah, there's a 12.3; that's in Burt. Cass County did okay, but the city of Plattsmouth lost. In Cheyenne, the county, and Sidney also--they did decrease a little bit. West Point decreased while Cuming County increased. It's really interesting to see this data, because I looked at Douglas County--the county as a whole was okay, 1.9; Omaha, 1.9; Ralston did quite well, 6.4; but Valley lost 41 percent, is what I'm talking about. And then I jump down and I look at Garden County; they increased 20 percent. Why? I don't have that information; somebody who represents that county probably could provide us with that. Grant, there was a loss. Hayes, there was a loss. It is amazing. Now, in Kimball--they had an increase of 24 percent. And then I look at...again, somebody who is from that particular area--it would be nice to know what happened out there, to increase that much. Then if you look at Loup, a loss of 6.6. Nance had a small loss. Fullerton had a 1.2 percent loss. Perkins, 3.2. Grant had a 4.1. Columbus had a 0.7; I thought that would keep our senator from Columbus, keep him awake right now. But anyway, as I go along--Crete had a loss. La Vista, which surprised me, had a loss of 4.2. Sherman had 0.6. Sioux, the county, had 2.4. Thomas had an increase of 28 percent; it would be interesting to see what happened. And then I look at Webster County; Red Cloud had a significant loss there, 4.3, as... [LB357]

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SENATOR MCGILL: One minute. [LB357]

SENATOR PAHLS: ...thank you--as compared to the county. And just to give you an idea what all these numbers--our taxable--total taxable for the state was \$23 billion. Now, the total taxes, sales taxes, that we received was \$1,299,000,000 and a few dollars in change. So you can see sales tax is an important issue for the state of Nebraska. But it is interesting that throughout the state you could see an up-and-down movement. But it does appear that we are making small gains in sales tax, so, hopefully, that will help us out in the revenue picture for future years to come. And, like I say, I do hope you take a look at this and find out where your county is. And you may see now why people are saying, gee, sales are okay in this county, land prices are up--and see where the balance is. You can see, maybe, where the frustrations that we...or some of the questions that we receive from some of our... [LB357]

SENATOR MCGILL: Time. [LB357]

SENATOR PAHLS: ...our constituents. Thank you. [LB357]

SENATOR MCGILL: Thank you, Senator Pahls. (Visitors introduced.) Those wishing to speak: Senator Fulton, Wallman, Schumacher, Loudon, Ken Haar, Council, Price, and others. Senator Fulton, you are recognized. [LB357]

SENATOR FULTON: Thank you, Madam President, members of the body. I want to first talk to AM1147. But before that--before I do that, Senator Ashford, I appreciate this bill, because we're able to have a discussion on tax policy. And I got to tell you, I'm not opposed to this in principle. I'm still in the process of making up my mind, though I think I'm pretty close to having my mind made up just listening to the debate. So I can at least...I had my light on, thinking I'd address LB357 head on, but we are on AM1147, and I'll just address that for now. With respect, my colleague Senator Heidemann, the concern here is that we would be requiring a local municipality--a local unit of government, a municipality, to increase its property taxes in order to achieve a threshold by which that city could put before the voters an increase in the sales tax. So in our policy we would be encouraging an increase in property taxes before we could make a consideration about sales taxes--of course, that consideration being before a vote of the people. And I think this probably is a good time to go ahead and address LB357. One of the arguments that we have heard here is that sales taxes are more acceptable than property taxes. I think that's probably true. I think that way just by way of philosophy, in that a sales tax employs the volition of a person, the choice of a person, to purchase something. Whereas property taxes--a person is doing nothing more than living on a parcel of land or, in the case of a farmer, utilizing it for his livelihood, so it's a type of income tax in that regard. Underlying all of our tax policy is spending policy. When I came to this body in 2007, I remember having a debate on tax policy, the estate tax,



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and that's what I said. I've thought through this with some depth, and I want everyone to pay close attention to what we're talking about here. Putting this before the people, putting this at--to a vote of the people, what is it that we're putting to a vote? Whether to increase your sales taxes. Now, that's a good thing. But I suggest to you that if we are really about arguing in favor of putting this to a vote of the people--which, again, I say is a good thing--do we ever ask whether the people would like their sales taxes decreased? We do not. When we ask citizens whether they're going to override their levy limit to fund something for the schools, it is phrased that way: Shall we override the limit? In other words, if tax policy is inextricably linked to spending policy, at what point do we allow the citizens to have a say with respect to the spending side of the ledger? The questions that we are continuously putting before them is: Shall we increase taxes? Now, it is better to give them the...to give the people the say as to how they should increase taxes--via property, sales, and whatnot; and so for that reason I say I'm not opposed to this in principle. But I submit to you that we have heard from people all across the state, and I believe that the problem is with spending, not with revenue. Perhaps it's different for different areas of the state, and, again, that... [LB357]

SENATOR MCGILL: One minute. [LB357]

SENATOR FULTON: ...that argues toward the ability for local control. But consider that when we put forward LB357 we are asking whether they want to increase their sales taxes. Now, we have seen that in years past where we have implemented a policy at the state level of utilizing sales taxes to offset property taxes, perhaps that argument has been put forward theoretically, but pragmatically that's not what's happened. Property taxes have continued to increase. And the data that we have before us seemed to indicate that. Why? Why? It can only be because we have lost track of the spending. It is not refutable; it is irrefutable. We have spent more, thus necessitating the need for more taxes. We have an opportunity here to take... [LB357]

SENATOR MCGILL: Time. [LB357]

SENATOR FULTON: ...a look at the spending side. Thank you, Madam President. [LB357]

SENATOR MCGILL: Thank you, Senator Fulton. Senator Wallman, you are recognized. [LB357]

SENATOR WALLMAN: Thank you, Madam President. Taxes. Nobody likes taxes. And guess what? Great societies have went down because they didn't pay their taxes, didn't take care of their people, didn't take care of their roads. Look at the inflation of the oil industry. Who hollers about the price of oil? What does that do? It increases our expenses whether you're a farmer, or a trucker, or a business owner; it increases tremendously. And they're going to blame it on the farmer--increased food prices. Aren't

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they, Senator Bloomfield? And we're used to that. And...but property taxes has no correlation between income and ability to pay. You can be land poor, they used to say in the '30s, and people had to sell their farms because they couldn't pay their property tax. And that's their livelihood, their business they saved for most of their lives--some farmers. So my ancestors told me about this. Some farms along 77 were sold on account of taxes. So sales tax, income tax, goes up and down. It's not as steady as an income. So local entities have to learn to do a better job of managing their money; that's for sure. But there's some things, death and taxes, you can't get away from. You got to pay the fuel, electricity rates. Have they stayed the same? Not in my time, they haven't. Everything has went up. So if your economy doesn't go up, if your population doesn't go up, your taxes are going to go up. And I'd yield the rest of my time to Senator Pahls. [LB357]

SENATOR MCGILL: Senator Pahls, you are recognized. [LB357]

SENATOR PAHLS: Thank you, Madam President and thank you, Senator Wallman. Another sheet that I just handed out to you actually talks about the taxable value of the land in the state of Nebraska, all 93 counties from 2000 to 2010. I have had people stand up on the floor again and say our land value has gone up. Well, this actually shows you from county to county, year by year, what happened to the land values. And I'm just going to just give you an idea. I turned these sheets backwards this time just to try to cause a little bit of confusion, right? As I go down, these counties, the cumulative over the legacy from 2000-2010, the winners are...because those went over 100 percent, are Jefferson, Keya Paha, Knox, Logan, McPherson, Nuckolls, Perkins, Rock, Sarpy, Sioux, Thayer, Thurston, Antelope, Boone, Cedar, Dawes, Polk, you win the prize for going over 100 percent growth. It may not be a prize that you want unless you were going to sell your land. But what I'd like to have you is just...let's start taking a look at the different values, year by year, so you can see the growth. Like I say, at the very top of the chart shows you the years of the taxable value. And then again, I'm just going to, in a selfish way, I want you go take a look at Douglas County and you can see Douglas County, by far, is one of the few counties that has more digits. So that should be an indication that a lot of people live there, but a lot of...taxes are paid by those individuals. And I have to be honest with you, you've not heard me say one positive thing that I would vote for this bill anyway. I'm just trying to lay out the different taxes that we are proposing, tax increases or the ability to... [LB357]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB357]

SENATOR PAHLS: Thank you. The ability to increase taxes when right now it appears that Douglas County is probably almost taxed out, I would say. Thank you. [LB357]

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SENATOR COASH: Thank you, Senator Pahls and Senator Wallman. Senator Schumacher, you are recognized. [LB357]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I rise at this point, I think, in opposition to LB357 on two counts. One, a very practical one. If we give this authority to the cities, almost for sure they will use it. It gives them a relief that they very much want and is a whole lot easier to do than looking at ways to become more efficient or unite with each other in a way to deliver government services better. It is the easy way out. But once they do that, we have a little of our own taxing authority taken away because this would put a city at 7.5 percent sales tax. Just what if we decide we want to have a roads program? What if we decide that we need to put more money toward education or the feds put the screws to us and we have to put more money toward Medicaid or other social programs as it begins to withdraw under pressure of the federal budget? We would then...if we take it up a half a percent, all of a sudden have an 8 percent sales tax in this state, which would rate among the highest in the nation. That would be a heck of disincentives for business and people to move into the state contrary to all of our other policies trying to bring the angels here. The other reason I think that it's important that we slow down on this, if we're considering it, is to take into account our position in history. Rarely have such acute problems faced a society. We face a strong international competitor, we face a currency crisis which may influence our ability to be the exchange currency, we face the international bond market putting the screws to the federal government who invariably would put further screws to us, and we to the cities. We know in our own state that we need to look out 75 years and try to structure something different than what we have structured now based on an economy of the 1900. Let us, if we are going to give this kind of authority to the cities, do it contingent upon them doing some things that are sound, strategic policy, such as uniting in a common type of intermediate government that extends from Blair to south of Lincoln and west a ways, in a model that will create a large municipality which we can see, if we have the slightest bit of imagination, is going to be something that is going to exist in this state 75 years from now of encouraging rural communities who exercise this kind of authority, to cooperate with each other to determine what is the most efficient way to deliver roads and surfaces in their particular areas of rural Nebraska, to break down the silos that exist between the various fiefdoms of city and county government. Let us not just hand this authority to them. Let's get something back from them. And that is, in order to do this, you got to do what is in the best interest of 75 years from now instead of today. That is how you shape an environment that gets over the jealousies and the egos that are predominant, particularly more in the eastern part of the state than in the western part of the state. We have to use this as a tool to shape the environment. If they want this kind of relief, then they take over more efficiently some of the burdens that we do, and they do some of the things to configure themselves for a better future. We should not... [LB357]

SENATOR COASH: One minute. [LB357]

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SENATOR PAHLS: ...just hand them the checkbook because it's too easy to continue to go down the present path, take the easy way out, not reform your internal governmental structures, not cooperate with the guy next door, and play all kinds of internal political games with it. So I'm opposed to this unless it is tied to the kind of strings and the kind of vision that we have yet to articulate in this body, but which is desperately needed to be articulated. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator. Those wishing to speak: Senators Louden, Ken Haar, Council, Price, Nelson, and others. Senator Louden, you are recognized. [LB357]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I rise and actually support the LB357 because we were trying something similar to that for the counties, and the reason we have these bills here, this LB357, and the other one I think is LB106, it's somewhere out there in hinterland, but that came about because of LB383. And I will probably rail a little bit again about LB383. LB383 was the one that did away with the city, county, and NRDs state aid which totaled over a period of two years, \$44 million and is \$22 million a year. So consequently it took some of the revenue away from your cities and counties, and for those smaller counties that was a big thing. So we're trying to come up with some reason to give them back some revenue source. And this was one of them. Senator Ashford came up with the LB357. Now it's probably not a cure-all, but just to show you how we work around here, and makes you wonder if the world will come to an end, I guess, because it seems like you got some inconsistencies here. But we took away \$22 million for two years or \$44 million away from the cities and counties, and now we, perhaps, will give them this half cent sales tax, which, if it did go through, the city of Omaha would actually get \$43 million the first year. And, of course, they could maybe do away with a restaurant tax, they'd still come up with \$29 million a year, which was more than the \$44 million that the state of Nebraska was going to give out in two years. The city of Lincoln with this bill here gets \$19 million a year. So what did we do? Why, we saved \$44 million, but now we're talking about seeing whether or not we give them authority to each get about \$50 million or more together, and within the next two years. We would have been further ahead if we would have probably passed and left LB383 alone, and then went ahead and paid them their county and city funding. I think the municipalities were going to get about \$11 million a year, and the counties would have gotten somewhere's around the \$5 million or \$6 million a year, and then the other NRDs and whatever. But all of those that came about with the county aid was because of jail fees and we worked on that. I think the whole nine years that I've been down here we've been talking over jail fees. We put a cap on it, \$3 million and that's all we was going to pay for jail fees, and that was gone usually in the first...before six months was up. And so, consequently, we came up with this formula last year which was in LB383 on how we were going to give some county aid to the counties. And they was supposed to take effect in July of this year and it never did get a chance to even be

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used because we repealed that thing before it ever got started. So you want to remember that and put that in your hip pocket when we get to talking about LB84 that's going to be done in two more years. So the time it comes there, the Legislature gets there, they probably will repeal whatever they want to do at the time, so I think you have to pay attention to what we're doing here. The reason this is about is to try to give the cities some...another source of revenue that we took away from them and be working on the same idea with the counties. Now whether you guys are going to pass it or not, that remains to be seen. But that's what the reason this all came about is, what is it you say, once you kind of dig a hole, why, sometimes you've got to dig another one to fill up the other hole. And that's what it looks like to me we're doing here is trying to fill up a hole that we dug up a while ago at the beginning... [LB357 LB106 LB383 LB84]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB357]

SENATOR LOUDEN: ...of this session with LB383. So I think...and I don't have any problem with Senator Heidemann's amendment, LB...or AM1147 because it does put...if there's still some taxable, I guess, areas, or if they still have some...these cities have some taxable valuation there, then that's one thing, but what happens with your counties is, a lot of these counties they're at their maximum. If I remember in LB383, we tried to put 35 cent in there and that didn't work there either. So I...I'll support AM1147 with...onto LB357. Thank you, Mr. President. [LB357 LB383]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Ken Haar, you're recognized. [LB357]

SENATOR HAAR: Mr. President and members of the body, I rise in support of LB357 and against AM1147. I think how cities tax themselves, we've already put some limits around that, but that's the ultimate in local control. The people that are elected to city council live with their neighbors, they're known by their neighbors, and in Lincoln it's small enough so you can get to know your city council members if you just try a little bit. They're the people that's...the elected city council and mayor, if that's the form of government, are the ultimate in local control around city issues. If you drive around Lincoln, you see a lot of need for street work. Well, where's the money going to come from? I think the people of Lincoln ought to be able to decide that with a vote. And as this bill, LB357 shows, it requires a vote of the people and the people will be told where that money can be spent. I have been a part of Lincoln city government and I can just speak for Lincoln, but a city such as Lincoln do very good strategic planning. They do it on a regular basis. They do it very thoughtfully with a lot of local control, a lot of citizen input. So on this issue I'm going to vote local control, voting for LB357 and AM1147. Thank you. [LB357]

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SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Council, you're recognized. [LB357]

SENATOR COUNCIL: Thank you, Mr. President. I rise in opposition to AM1147. I understand and respect Senator Heidemann's position on this matter but I think his comparison is misplaced. I've heard some of my colleagues speak to LB383 which advanced and eliminated state aid to municipalities and cities. I submit to you that AM1147 would have been a more appropriate amendment to LB383 had LB383 provided for the continuation of state aid to municipalities and counties, because in that instance, it is the state providing a direct appropriation to cities and counties. And just as we do with school districts for that school district to expect to receive a direct appropriation from the state in the form of state aid, they have to demonstrate that they've taken full advantage of the resources available to them. In this instance, this is not a grant of state aid to cities in the form of any direct appropriation. But what it is, is a grant of some of the state's opportunity to generate revenue from future sales tax increases. So I see a distinct difference between the two, and particularly in light of this body's decision to discontinue aid to municipalities and counties I think it's inappropriate for...and a bill that is seeking the permission and the authority for cities to go to their residents to determine how they want to fund government. And I'm listening to everyone talk about, well, what we need to be doing is imposing some requirements, some limitations, some restrictions on the spending that occurs in these cities. Well, I submit to you that the oversight to be provided in that instance is that of the voters in that district. I can tell you as a former member of the Omaha city council that spending was reduced and property tax levies, at least during the four years I was on the city council, we did not have to raise the property tax. And my colleagues on the city council, as well as the mayor, relished in the opportunity to tell the voters that we didn't have to raise your property taxes this year. If you remember when we were discussing the combined sewer overflow situation, I reminded the body of the fact that here again was an example of an aversion to raising property taxes to fund government. I've heard some of my colleagues speak to attracting businesses to the state. Well, what I've been told is one of the biggest deterrents is the property tax rate, not so much the sales tax rate, just the property tax rate. Now, I have some...I'll be honest with you, I have some concern about sales tax increases because of... [LB357 LB383]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB357]

SENATOR COUNCIL: ...the disproportionate impact on lower income people who buy more goods and services and may own less property. But the issue here is, how will the city of Omaha raise the revenue, the city of Omaha and other cities raise the revenues to provide the services that its residents desire? And if the residents of--I'll use Omaha--want to subject themselves to an additional half cent on this sales tax and vote

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to do so, who are we to dictate to them that they can't do that or that they're doing it in an uninformed manner? I would speculate that if the voters voted to allow that to occur, they have accepted... [LB357]

SENATOR COASH: Time, Senator. [LB357]

SENATOR COUNCIL: Thank you. [LB357]

SENATOR COASH: Senator Price, you're recognized. [LB357]

SENATOR PRICE: Thank you, Mr. President and members of the body. I rise conflicted on the amendment and the bill before us. I was looking it up and I saw that the University of Arizona's Eller College of Management had a Dr. Charney in March of 2010 that had said approximately 10.4 percent of the people who pay a sales tax don't come from the local area. So that means conversely that, you know, 89.6 percent do pay that. So that's who is going to pay that, it's going to be local people who are going to pay an increase in sales tax. So it's a tidbit. Questions I have, I've been listening and I haven't heard it yet because I don't know if this is going to be a sunset. You know, we grant the authority, we don't give permission, we grant authority, they go ahead and they hold an election, and the election...the people say they can have a...this increase in taxes. My question is, when does that tax end? Has anybody ever heard of a tax really getting rolled back very often? Isn't it really once we push that marker forward, it just stays there? It's almost...not to get Senator Adams riled up, but it's almost like that GFOE, one last year's ceiling becomes the next year's floor. Now that's going to play into a segue that I'm going to have. I'm going to invite Senator Adams to speak in a minute, but I would like to refresh the body's memory. Many of you here didn't get to hear, there was a tremendously fantastic piece of legislation brought by myself last year, LB692. What LB692 would have done, it would have amended our statute 77-1311.03. Why is that anything to do with anything? Well, what that would do is, that would have changed the period for when you're doing assessments from the current six-year to a three-year period. And I'd had somebody figure this out. Did you know most counties, all the property taxes are...and all the properties are reassessed and looked at almost every year? So I brought this bill forward because here's what happened. Talk about a great deal. By changing one business rule, you could raise revenue and lower rates. Now why isn't that a win-win? But they didn't want to do it but it could have raised maybe up to \$40 million a year, and the city of Omaha for one came in in very strong support of that. But why would they have come in support? Now the county, of course, came in against it. I believe they said they came in against it because they didn't have the manpower, if they did it would cost more. I would tell you, if you gave me a business proposition that said if you'll spend a half million dollars, you'll make \$40 million, how often will you take that? About every day of the week. So a lot of this, at least for some of the metropolitan areas would have become almost a moot point because it's kind of...it's kind of sad almost that you see in AM1147 where there

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seems to be a concern that we're not accessing or we're not getting control of the revenues we have available. So now we're going to go to a sales tax, which again over 90 percent of that, or roughly 90 percent, is going to be on the local people. And with that I'd like to see...would Senator Adams yield to some conversation? [LB357]

SENATOR COASH: Senator Adams, would you yield? [LB357]

SENATOR ADAMS: Yes, I would. [LB357]

SENATOR PRICE: Thank you very much, Senator Adams. As we had spoken off the mike and I will try to continue to wrap my mind about what we were saying, but how would...how could such a tax increase affect state aid or school financing? [LB357]

SENATOR ADAMS: I missed the first part of your comments earlier, the tax increase. You're talking about... [LB357]

SENATOR PRICE: Well, this sales tax what we're proposing to do today, could that have any impact on how state aid is allocated when we get to that 95-cent area we were talking about a little... [LB357]

SENATOR ADAMS: No, no. [LB357]

SENATOR PRICE: No? Okay. [LB357]

SENATOR COASH: One minute. [LB357]

SENATOR PRICE: Are there any other impacts that you can see on education? [LB357]

SENATOR ADAMS: No, I mean, I understand what Senator Heidemann is trying to do here and there is a parallel between what AM1147 would do and what we also do in state aid, but one having an impact on the other, no. [LB357]

SENATOR PRICE: Okay. Great. I just want to make sure. I appreciate that Senator Adams. But again, ladies and gentlemen, again I stand conflicted here and right now I'm leaning against this because I believe that you can do what you need to do with the revenue and the ability to raise revenue within the community versus just asking for more, and now creating a brand new floor. We will tax you no less than the new tax and from there the taxes will only go up. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator Price. Senator Nelson, you are recognized. [LB357]

SENATOR NELSON: Thank you, Mr. President and fellow members of the body. At this



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time, I want to thank Senator Pahls for bringing forth a lot of very helpful information at this time, and I also want to thank the Revenue Committee for bringing out LB357, which I certainly support, but I support it reluctantly. And I'm reluctant because I don't want us to see taxes raised in any way, particularly in Douglas County if we can possibly avoid it. But in particular, I don't want to see any further raises in the property tax. It's been made crystal clear to many of us that our constituents do not want property tax to go up. And, therefore, if it turns out that we need to have the ability to raise those taxes, then I think we have to broaden our base. And not that we would raise taxes during a sales tax, but I think we have to give the citizens of a municipality the opportunity to vote on that. And it's been said that if we do permit this that most certainly the people will vote it in. Well, I would argue against that. I don't think that's going to happen necessarily in many places. In Omaha, in particular, we very recently had a big controversy in the form of a recall and that was because of the perception that we weren't trying enough to reduce our spending. And I think if we are given the opportunity to vote on raising a sales tax there will be push back on that because there will still be the impetus on the part of our city council and our mayor to cut spending wherever we can before something like this would be voted in. But if...at least that gives us the opportunity to say, if we have to increase taxes, who is going to shoulder the burden, who will have to bear this? And in my opinion, if it does get voted in, if we have the opportunity to do that, and if it does get voted in, then it's better to spread this additional tax around. Take it among all those that go into our various stores and our places where they spend money and pay a little bit of the tax there. And I would say along with that, if Senator Karpisek thinks that going into Lincoln and Omaha is going to affect his constituents in and around Saline County, then he should realize, I think, that if they choose to go to York or Fairbury or Crete or even over to Geneva, they're going to have to pay some sales tax there. So that really should not be a factor. I also stand opposed to AM1147 and that says there that in the case of Douglas County we would have to raise our property tax to 40 cents on the dollar before we could even vote on a proposal of the sales tax. And with all due respect to my colleague, Senator Heidemann, I don't think that's the way to go. I don't think we should dictate what municipalities should do. I don't think we should force a municipality to raise its property taxes more to a certain level before they have an opportunity to broaden that tax base. Senator Schumacher had, perhaps, a good suggestion that we should place some other restrictions. But I would tell you, if we're going to get in the area of persuading Douglas County and adjoining counties... [LB357]

SENATOR COASH: One minute. [LB357]

SENATOR NELSON: ...to change their mode of government to consolidate and everything, we worked on that for a number of years now, and it's the equivalent, Senator, to an IPP motion. I mean, it would take years and years to implement that. So I don't support that either. So in conclusion, I support and hope that you will vote for LB357 and vote against AM1147. Thank you, Mr. Speaker. [LB357]

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SENATOR COASH: Thank you, Senator Nelson. Those wishing to speak: Senators Adams, Hansen, Krist, Lathrop, and others. Senator Adams, you're recognized. [LB357]

SENATOR ADAMS: Thank you, Mr. President and members of the body. I don't think that I can shed any new light on this, but I'm going to think out loud. And as I suggested to Senator Heidemann earlier this afternoon, I may end up being like one of our former colleagues, Senator Friend, who I always thought would get to the microphone and if he started out at one point, it wasn't all that unusual to see him end up at another. When Senator Heidemann brought this amendment forward and he approached me about it and he said, now Adams, this is just like the minimum levy adjustment in the aid formula in that what we're trying to say here to cities is, put forward more of your own effort before you get any help from the state. He's right. That is how the 95-cent minimum levy adjustment works. We say to schools, you don't have to go to 95, but we'd like to see you get to that point so that we kind of try to equalize tax rates a little bit across the state, but if you don't go there, what we're going to do is to penalize you to some amount of money. So if what we're going to try to do here is to make sure that cities have more skin in the game before they help them, Senator Heidemann's amendment is halfway right. But I think there's another side of it that doesn't quite make the same amount of sense, and here it is. In the school aid formula, you don't go to 95 cents, we're going to have an adjustment to your state aid allocation which reduces the amount you were going to get and that's General Fund dollars that go back in the pocket of the state. In this case if we pass LB357, we're allocating a tax rate, not dollars, in my opinion. The tax rate is already there. And whether you say you got to commit to 40 percent or 40 cents or whatever it is, the state's already made the decision that we're going to allow this amount of sales tax. I don't see that the state saved any dollars. Not like with the state aid formula where if you're not at 95 cents, we put X number of dollars back into the General Fund. Here we commit the tax rate, it's there. So now let's go back to the bill itself. In committee I wrestled with this bill because on the one hand I was mayor of a city for ten years that took great advantage of a penny and a half sales tax. It did great things for the community. Still is. Yet as I serve on the Revenue Committee, I said to myself over and over again, is this good tax policy? Are we giving away the tax base? Well, the reality is, yes, and the reality is we probably gave it away a long time ago when we gave a penny and a half to cities. And it would be no different if you pass Senator Heidemann's amendment, you've given away the tax base but you haven't saved the state any money. You've just given away the rate. Someone could make the argument, and a valid one, well, we shouldn't give away this tax rate because what if it's raining here in the state and we need to access it? Boy, that argument is right on target. Been raining for four years, and I haven't seen us go there. So I don't think that the amendment will do quite what Senator Heidemann had in mind, although I understand his logic. And though I'm not crazy about adding more sales tax... [LB357]

SENATOR COASH: One minute. [LB357]

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SENATOR ADAMS: ...I think the argument of giving away the base isn't really there anymore. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator Adams. Senator Hansen, you're recognized. [LB357]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I do agree with Senator Cornett when she started out saying that she didn't like property taxes, most people don't. I certainly can agree with that, but I do think that there's glaring evidence in the numbers that Senator Heidemann was trying to point out with the amendment that there are communities in this state, rather large communities in this state, that are less than 50 percentile of the lid limit. I mean 26, 27 percent is not a very high property tax rate in those communities. I'll tell you what I think would happen in my county, in my district in Lincoln County. And I just got off the phone a few minutes ago with the city administrator and he told me that that was probably what was going to happen is, that if the city of North Platte would bring this up to a vote it would probably pass. And the reason it would probably pass is because the people of the city and they're the only city, the only city, village, community that has a sales tax, they would pass that because they know other people, nonresidents of the city will come in there and help pay for that city sales tax. It's not...it's not a fair way for a large community that has a lot of trade area, for those people, those nonresidents that come to North Platte and pay additional sales tax other than the smaller towns may increase their supply of food, they may increase their supply of clothing, and which they don't now. They're shrinking rather than growing. But I think the nonresidents of North Platte and nonresidents of Lincoln County, they think that they're going to pay the sales tax and get by with them. That's going to affect tourism, it's going to affect cars, it's going to affect deli items in the grocery stores, it's going to affect my boots and my hats and everybody else's boots and hats during Nebraskaland Days that comes out there for tourism. I think that we're looking down...I don't agree with this bill, and I'm sorry but I think Senator Heidemann's amendment makes a good point but I'm not sure that's going to pass either. But to allow the sales tax, we are asking the people if they favor raising taxes on. And Senator Fulton said, why don't we have a vote of the people if you want that sales tax lowered at the same time. There could be two lines on that ballot just as easy as one. Do you want your sales tax raised or do you want your sales tax lowered? If we could get to that point, I would support LB357 but not until then. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator Hansen. Senator Krist, you're recognized. [LB357]

SENATOR KRIST: Thank you, Mr. President and colleagues. I think the discussion has been a good one. I think that we believe from the very populated areas and probably

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those that do not have the property taxes on their homes right now as high as the levy will allow, are on probably one side of this argument...not probably, we are. On the other side of the argument would be what we heard from my colleague and friend, Senator Hansen, just a few seconds ago. But I want to talk to you about, philosophically, what the difference is between LB357 and AM1147. And if my colleague, Senator Heidemann were here, I would ask him a question, but I know the answer already so he can confirm or deny it when he comes back into the Chamber. Of those political subdivisions who are at the top, who are at the top, the people who could immediately take advantage of LB357, they are 295 strong, 295 political subdivisions are at the top. So they could immediately take advantage of LB357. And guess what the population, percentage of the population is that that 295 represent? Fifteen percent, 15 percent of the state's population could take advantage of LB357 if they had to. 15. That would mean, philosophically, that if you add AM1147 on to LB357, you'll be telling the mayors and the village council and all those people out there that are not at that cap, 85 percent of the population of Nebraska would have to raise their property tax to take advantage of LB357. Think about that for a second. Guess what my Legislature just did today? They gave a tool back to my town to use so we could put a half percent sales tax on and dig ourself out of a hole. Guess what else they did? They told me if I had to do that, my property taxes are going to go up. A little counterintuitive, isn't it? I can't support AM1147 on LB357. I can support LB357 as it stands because it puts an option back at the local control to do what they need to do. And I believe that it...although maybe not the best option, it is an option after all we've done this session to take away options. So one more time. AM1147 identifies 15 percent of the Nebraska population that can take advantage of LB357. And it tells the other 85 percent of the residents in this state that you're going to prepare for ramming speed because your taxes are going to go up on your property taxes before you can take advantage of a half percent sales tax. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator Krist. Senator Lathrop, you're recognized. [LB357]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I have been listening to this and trying to reconcile what we're hearing today with what's happened to this point. We're in day 61 or 62. And we've watched state aid to the cities and counties go away. And then we frame this as a tax increase. And, you know, we had a lot of conversation as we were taking away this and providing that about tools in the toolbox. And...but to get ahead of us on it, people have framed this as a tax increase. And I have to tell you that we have taken away state aid to the cities and to the counties. That's a lot of money where I'm from. We have done other things that have adversely affected the cities of Omaha and Lincoln. And when Senator Ashford puts up a bill not to raise taxes, but to give the people of the city of Omaha or the city that's in your district an opportunity to decide what tax they'd rather pay, we're standing up, I can call it a tax increase. I want to be clear for the people who want to frame this as a tax increase. This

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is only to give the city an opportunity to try to talk to their citizens about how they will be...how they will raise revenue. And it is just as likely that your town or your community will say to...say to its citizens, let's do this half cent. If you're agreeable we'll lower your property taxes. It is an opportunity to lower property taxes and that's kind of a big deal in my district. It's a big deal because there are people in homes in my district who are barely in their homes, people in my district who would, if presented with an opportunity to reduce their property taxes, probably take advantage of it. And there are people who have problems now that you've handed to their cities and to their counties that they now need to find a way to pay for. The aid that used to go to some of these cities is gone. And, you know, that aid might be the difference between having somebody that maintains the park and not maintain the park in small towns. And it can be a big deal to larger cities. And if we can afford the citizens, the people of this state, an opportunity to have a say in what tax they're going to pay, and maybe, and probably in most cases this will go before them and they'll say, no thanks. I don't trust you. If you can't make the case, they won't do it, and it's not a tax increase at all. And I'm a little concerned that the rush to frame this subject as a tax increase has taken place. And I've looked at somebody's vote card and that seems to be at work here. And, you know, at some point we can't keep doing this to the cities in this state. We can't keep taking from them and giving them liabilities and handing them unfunded mandates and requiring that they do things and not help them. They should be our partners. You know, this year, this year we got rid of the Intergovernmental Cooperation... [LB357]

SENATOR COASH: One minute. [LB357]

SENATOR LATHROP: ...Committee. And I think it's a little ironic. We did it with an emergency clause, which is even more ironic because everything we've done since then has been to turn our backs on the cities in this state. And I will tell you that this Legislature should be a partner with the cities. We should be sensitive to what they need in order to function and not pretend like we know better and not be subject to someone who would frame this as a tax increase when it's not. We're just handing something over to the people, not to the city council, to the people. If the people want this, the people will vote for it. And if the people don't want it, they won't vote for it. And the only way they're going to vote for it is if somebody can make it look better than the situation they're in right now, and that's...may or may not happen. Now we want AM1147... [LB357]

SENATOR COASH: Time, Senator. [LB357]

SENATOR LATHROP: Pardon me. Thank you. [LB357]

SENATOR COASH: Speaker Flood for an announcement. [LB357]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. We are going

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to plan on adjourning for the day at 4:00 p.m. today, and it looks like we will be back on this bill, LB357, at 9:00 a.m. tomorrow morning. Thank you, Mr. President.

SENATOR COASH: Thank you, Speaker. Those still wishing to speak: Senators Campbell, McGill, Smith, and others. Senator Campbell, you're recognized. [LB357]

SENATOR CAMPBELL: Thank you, Mr. President. I totally agree with the idea that if the people don't want it, they're not going to vote for it. I know that we've said, well, I think the cities will take advantage of this. I think the cities will take advantage of putting a proposal before the voters. A few years back in Lincoln we had a proposal having to do with different roads infrastructure in the city of Lincoln. And everybody thought, wow, this is a great thing. People are going to pass this. They're really going to like it. And they didn't pass it because there were parts of the plan that they didn't agree with. They said, go back to the drawing board. We want you to do better. I think that will happen here too. I think you're going to have a very good reason why you want to do this. We've also said to the cities, well, just get leaner, just get better. Well, in my home community, we've got 120 jobs. More than any mayor in 30 years. That's a lot, 120 jobs. We also cut public transportation, we cut \$670,000 out of an aging programs, we cut youth programs before and after school, and on and on and on. It seems to me that we continually say, and we say that as senators, oh, property tax, that's pretty onerous. And when somebody comes up to us and complains about the property tax, we go, well, we don't set that. You need to go talk to your city council. Talk to your county board. Talk to the school board. So we send our very constituent back to those local entities. And then we say to the local entities, solve your own problems, increase the property tax. Folks, there's a disconnect there of what we're telling people across the state of Nebraska. I want to return to an earlier comment that I made because I do want us to think about that. We are spending time and energy in this session of the Legislature advancing bills to get people to come to the state of Nebraska, relocate here. Come, we're going to offer you this or we'll offer you that. We've passed for them, I voted for them, I believe in it. I believe in economic development and what we need to do, but those companies don't just come to quote, the state of Nebraska. They come to our communities. And they have expectations. So when people are spending a sales tax in Lincoln, Nebraska, a portion of that sales tax goes back to the state of Nebraska. We want people to come here. We want companies to relocate. We want them to spend money. We want them to increase our tax base. Well, at the same time we have to allow those local communities all across the state of Nebraska, not just Lincoln and Omaha, but all of those communities to put into plan a needs what they would like to see to prepare their communities for the future, and for growth, and economic development. We have to think about what we say on one hand and what we do on the other, and make sure we're very consistent, and that message goes across all of the state of Nebraska to all of our communities. It seems to me that LB357 will do that and will help send a very strong message that we believe in what our communities do in partnership with the state of Nebraska. Thank you, Mr. President. [LB357]

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SENATOR COASH: Thank you, Senator Campbell. (Visitors introduced.) Those wishing to speak: Senators McGill, Smith, Ashford, and others. Senator McGill, you're recognized. [LB357]

SENATOR MCGILL: Mr. President and members of the body, I rise in support of the underlying bill and opposed to AM1147. I'd like to address some of the criticism towards this bill in terms of people who don't live in the cities going in and spending their money and having to pay taxes, extra taxes in the cities. You know, we've talked already this session about the wheel tax and paying taxes in another area, but the truth is when you do go into a city, regardless if it's Omaha, Lincoln, Grand Island, Kearney, you're using the infrastructure there, you're using many of the services there. When you go to a Husker football game, look at the police force that's necessary just to manage traffic when you're in town and Memorial Stadium becomes the third largest city in Nebraska. If your car is broken into while you're here, you turn to the Lincoln police. They're there to keep you safe while you're in that community. The roads, obviously, are a big chunk of what could potentially...the sales tax money could potentially be going towards. Now there are a variety of things that everyone uses when they come into a city, regardless of which one it is. I know Lincoln, with having the Huskers here, pulls in a lot of people from all over the state that do use the services. And yes, when they're in the city, have to pay our sales tax rate or the hotel rates and such. But I think that's fair. You're here in the city, you can depend on the services while you're here, I think it's fair. You can, hopefully, depend on the roads being pretty good, so I think that's fair. The cities will ultimately have to make their case and provide a specific plan for how they plan to use the money. You know, I don't think they'd have much luck just saying, oh, here's an extra half cent, please support this. So for those who would like to see the money specifically going towards property tax relief, maybe that's part of the plan they propose. If you'd like to see it going towards roads, maybe that should be part of the plan that they propose. I am open to some of those ideas even being included in this bill, maybe on Select File. But I also have no problem with letting the cities be the one to decide if it's property tax relief or it's going towards roads or what those uses are. You make the case to the people. As Senator Campbell said, sometimes they reject it in here, reject those ideas here in Lincoln and sometimes the people have chosen to support them. If you make a good case, you know, again give it to the people to decide, I think that's a good way to do it. You know, I do support sending this to the vote of the people. I think it's necessary in this case particularly because we are in such difficult budgetary times. I think this is a necessary bill as opposed to another piece of legislation that's pending that I don't support bringing to a vote of the people because I don't think it's critical right now. I don't think it's a necessity. This, I think, is a necessity due to our budget difficulties. Thank you, Mr. President. [LB357]

SENATOR COASH: Thank you, Senator McGill. Senator Smith, you're recognized. [LB357]

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SENATOR SMITH: Thank you, Mr. President and good afternoon, colleagues. I rise in opposition to AM1147 and in support of LB357. For the record I oppose increasing taxes, but my higher priority is for the people to decide. And I believe that this is an issue of local control and local responsibility. I would like to further define my position on this and I'll talk more on this tomorrow. But for now, I would like to yield my time to Senator Ashford. [LB357]

SENATOR COASH: Senator Ashford, 4 minutes 30 seconds. [LB357]

SENATOR ASHFORD: Okay, thank you, Senator Smith. Let me just end the day here and we can go home and go about our business for the afternoon, but I want to just say this. When I think back on the Qwest Center bill and the turnback, I was...to me that was one of the proudest parts of my legislative career because what I recognized, and what Senator Campbell has enunciated clearly as possible, is that in Omaha we have an obligation, in my view. We have an obligation to play our part in making this a better state, a greater state. When we did the 30 percent turnback thing for the rural Nebraska or for smaller towns to do their community centers and, hopefully, their libraries in the amendments or the bill that's up this year, to me I've never been prouder of our city because we were able to take what was a smelting plant and a scrap metal facility in Senator Council's district and build it into one of the finest, if not the finest, arena convention centers in the world. And we did it with some state money, but we did it with \$75 million in local donor money, private money, and state money, property tax, to build that facility. Who benefits from that? We do in Omaha, clearly, but the whole state benefits from it. It's a...years ago when we started this whole discussion about a convention center arena we called it...and I think it was 1991, we called it the Nebraska plex initiative because tourism was becoming a bigger industry in Nebraska and I felt as a senator from Omaha that we could enhance our tourism by building on our riverfront and making it happen so that it wasn't just Nebraska football. God knows it's a wonderful institution. That we could add to the dollars that come to our state and we've done it. We've done it. And the proudest part of that for me is that I can walk into that Qwest Center and I can say that every dime that's spent there, every dollar, a portion of it goes to 30 rural communities in our state that need a community center, or David City that restored a art deco building in David City. That is about as good as it gets for a state senator from Omaha whose family came to Nebraska in 1850's and lived in Dakota County. That's Senator Schumacher's...no, no, no, that's not right is it? Senator Bloomfield's district and...but that's as good as it gets. That's as good...Senator Bloomfield, I apologize for that. (Laugh) I don't know where Senator Schumacher is from and...you know, it's fine. (Laugh) Thank you, Senator, but it has been a long day. But there's nothing like Dakota County, damn it. [LB357]

SENATOR COASH: One minute. [LB357]



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SENATOR ASHFORD: But anyway...and look it. We want this ability in Omaha and I don't know if it's going to pass or not. We have a long way to go in Omaha. We have a long way to go to make Omaha more of an engine to send back 5...well, what is it, 5.5 percent sales tax goes back to the state. The more energy we put into our city, the more private dollars that go into more and more facilities and entertainment facilities, and we build our riverfront. That's my dream. That's my dream. We need this extra opportunity to raise funds so that we can be a better partner for our state. That's why I believe so much in this. There's a lot of tax policy involved. It's a little boring to talk about, but God knows it's important to talk about tax policy. [LB357]

SENATOR COASH: Time, Senator. You are now on your own time. [LB357]

SENATOR ASHFORD: But what I...thank you. And I will end very soon because I have one or two minutes, but this is what really gets my juices going. (Laugh) This is what really gets my juices going. And so when we think about the metro area, we think about the metro area that has 40 or 45 percent of the population, that doesn't make us better than the rural areas. That doesn't make us a more important part of the state. It makes us, though, a critical part of the state. We have an obligation to make Nebraska a greater place. We have people in our city who are generous, who make contributions to build buildings and create entertainment areas and help with the difficult issues of poverty and education. Why do we do that? We do it to help our own people in our city because we don't want people in poverty. We don't want people that aren't learning because they grew up in poverty. We don't want that. We want it for them, but we also want it because Nebraska is the greatest state in the Union and we cannot afford to have those kinds of conditions in our state. Everybody must learn. Everybody must succeed in order for our state to be as great as it can be. We need this. We need this so that we can carry on the work that we have been doing in our city to help the entire state of Nebraska. This is meaningful, members. And there are a multitude of tax issues involved in everything we do. Obviously, we have given away tax base, we take away...we bring tax base back. We pass economic incentive bills and we do TIF. We do all those things that take revenues from the city. We know...the cities, we know that, we know that. It is time to start the new vision for Nebraska. It is time to think about where we're going to be 25 years from now. And the way to do that is to give our cities and our counties the tools that they need to make Nebraska even greater than it is. And we can do it. We're doing it at the University of Nebraska. We're doing it in K-12 education. We're trying to do it with children in poverty in Omaha through the learning community. It's had its rough starts, but we're trying. We're trying. We need your help here. We want to help, we want to be a bigger player. We want to do what we can do. We need this bill. Thank you. [LB357]

SENATOR COASH: Thank you, Senator Ashford. Mr. Clerk, items for the record. [LB357]

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CLERK: Mr. President, I have amendments to be printed: Senator Council to LB200, Senator Janssen to LB648, Senator Louden to LB384. (Legislative Journal pages 1138-1143.) [LB200 LB648 LB384]

And a priority motion, Mr. President: Senator Harr, Burke Harr, would move to adjourn the body until Tuesday morning, April 12, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion. All those say aye. All those opposed say nay. We are adjourned. (Gavel)