

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

Floor Debate  
April 26, 2011

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LB570 LB589 LB590 LB600 LB600A LB648 LB665 LB682 LB699 LR121 LR171 LR172]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-ninth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor David Kramer of St. John Lutheran Church in Beatrice, Nebraska, Senator Wallman's district. Please rise.

PASTOR KRAMER: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Kramer. I call to order the sixty-ninth 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 that LB648 is correctly engrossed. Enrollment and Review also reports LB360, LB137, and LB386 to Select File, some having Enrollment and Review amendments. And, finally, an appointment letter from the Governor, an appointment to the Nebraska State Racing Commission. That will be referred to standing committee for confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 1293-1297.) [LB648 LB360 LB137 LB386]

SENATOR GLOOR: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda.

CLERK: Mr. President, Senator Larson would move to withdraw LR121. [LR121]

SENATOR GLOOR: Senator Larson, you're recognized to open on your motion to withdraw. [LR121]

SENATOR LARSON: Thank you, Mr. President, members of the body. I just wanted to

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say a few things regarding LR121. First of all, I'd like to thank all the coaches at the University of Nebraska-Omaha, all the hard work they've done with the kids that have gone through the program, and that I know the state of Nebraska appreciated their six national titles in the last eight years and everything they did for me and everybody else that has been through that program; obviously, disappointed with the UNO administrative staff and the decision of the Board of Regents. But that decision has been made, and the Legislature really won't have any influence over that anymore. So I'd move to withdraw LR121. Thank you. [LR121]

SENATOR GLOOR: Thank you, Senator Larson. Senator Ashford, you are recognized. [LR121]

SENATOR ASHFORD: Thank you, Mr. President. And I do want to thank Senator Larson for bringing this issue to the Legislature. I think his motion is certainly appropriate, and I endorse the motion. But I also want to chime in on what has been done by the UNO football coaches and wrestling coaches to...because, as we all know, they are primarily teachers as well as coaches, and their responsibility, they believe, is to those young student-athletes who have committed to UNO and now have the necessity of finding another place to play football and be in a wrestling program. I did receive a letter yesterday from Conor Riley, who is...many of you know Tom Riley, the public defender in Omaha; his son is a coach--was a player at UNO and a coach at UNO as well. And it was a rather lengthy letter, I'm not going to read it to you, but it was such a wonderful message. He has lost his job. And he's lost his job at a critical time in his career, because coaches have been hired for the next season in other programs across the country. It makes it very difficult to fit in. But what the letter talked about was, as Senator Larson has commented on, his commitment and the commitment of the other coaches at UNO, both in the wrestling program and in the football program, to those student-athletes. It is incredible to hear the amount of work they are putting in on a daily basis, and I believe relatively successfully, in finding spots for the UNO football players. Athletics is part of education; it has been part of the tradition at UNO; and it will be carried on in other sports now. We are all hopeful that the UNO tradition of an urban university serving all of the citizens of the city and the region will be carried on in these new programs. But the history of UNO football is replete with tremendous athletes and many individuals who have made significant contributions to the region, to the city of Omaha, and the state of Nebraska after leaving UNO. So with that, I really applaud the coaches--the UNO coaching staffs, both in wrestling and in football--for stepping up to the plate, really, here and helping those young people, those young men, find places to be. Because at the end of the day, that's how those universities are going to be judged--how they take care of their students. That's the number-one responsibility, before expansion, before research, before anything else. It's about educating young people, getting them ready for a profession, for a job, being responsible citizens. So I want to applaud the coaches and thank Senator Larson for bringing this issue to the Legislature. Thank you, Mr. President. [LR121]

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SENATOR GLOOR: Thank you, Senator Ashford. Senator Pahls, you are recognized. [LR121]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I, too, want to thank Senator Ashford and Senator Larson for the good words they said about the University of Nebraska at Omaha but also want to point out this made the news. It influenced or had an impact on lots of people, lots of different people. We are making cuts on a regular basis in this body this year dealing with lots of people's lives--or will be--that will not be recognized in the paper or in this particular body on the floor. We do need to keep in mind this is just sort of like the tip of the iceberg for some of the things that we are doing to programs ourselves throughout the state. Thank you. [LR121]

SENATOR GLOOR: Thank you, Senator Pahls. Seeing no senators remaining in the queue, Senator Larson, you're recognized to close on your motion to withdraw. Senator Larson waives. Members, the motion is, shall LR121 be withdrawn? All in favor vote aye; all opposed vote nay. Have all voted who wish to? Mr. Clerk, please record. [LR121]

CLERK: 33 ayes, 0 nays, Mr. President, to withdraw LR121. [LR121]

SENATOR GLOOR: LR121 is withdrawn. Moving forward on the agenda, Mr. Clerk. [LR121]

CLERK: Mr. President, LB382. Senator Larson, I have Enrollment and Review amendments, first of all, Senator. (ER90, Legislative Journal page 1221.) [LB382]

SENATOR GLOOR: Senator Larson. [LB382]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB382 be adopted. [LB382]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB382. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB382]

CLERK: Senator Adams would move to amend with AM1265. (Legislative Journal page 1285.) [LB382]

SENATOR GLOOR: Senator Adams, you're recognized to open on the amendment to LB382. [LB382]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, what this

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amendment does is to clarify...it is a retirement issue; it clarifies when the voluntary termination agreements go into effect when we have teachers that are leaving. And we want to make sure that our language coincides with current state practice. And, in essence, what we're going to say is those voluntary termination agreements happen as the school year ends, which is typically, in our retirement system, when a retirement begins. So it's really to coincide language. Thank you, Mr. President. [LB382]

SENATOR GLOOR: Thank you, Senator Adams. There are no senators in the speaking queue. Senator Adams, you're recognized to close. And Senator Adams waived. The question is, shall the amendment to LB382 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB382]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB382]

SENATOR GLOOR: The amendment is adopted. [LB382]

CLERK: Senator Larson, I have nothing further pending, Senator. [LB382]

SENATOR GLOOR: Senator Larson. [LB382]

SENATOR LARSON: Mr. President, I move that LB382 be advanced to E&R for engrossing. [LB382]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All those opposed say nay. LB382 is advanced. Mr. Clerk. [LB382]

CLERK: Mr. President, LB382A. Senator, I have no amendments to the bill. [LB382A]

SENATOR GLOOR: Senator Larson. [LB382A]

CLERK: No amendments, Senator. [LB382A]

SENATOR LARSON: Mr. President, I move that LB382A be advanced to E&R for engrossing. [LB382A]

SENATOR GLOOR: You have heard the motion. Members, all in favor of the advancement of LB382A say aye. All opposed say nay. LB382A is advanced. Next item, Mr. Clerk. [LB382A]

CLERK: Mr. President, the next bill, LB464, no E&Rs. Senator Campbell would move to amend with AM1238. (Legislative Journal page 1297.) [LB464]

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SENATOR GLOOR: Senator Campbell, you're recognized to open on your amendment. [LB464]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, colleagues. This amendment makes two changes, and they are technical changes. First, the Appropriations Committee amendment contains a July 1, 2011, date. However, the bill does not have the emergency clause. This amendment adds an emergency clause. And the second technical amendment to the bill is--changes the bill to include an operative date of July 1, 2011. I ask for your support to adopt this technical amendment. Thank you, Mr. President. [LB464]

SENATOR GLOOR: Thank you, Senator Campbell. (Visitors introduced.) Members, you have heard the opening on the amendment. There are senators in speaking queue. Senator Christensen, you are recognized. [LB464]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Campbell yield to a question, please? [LB464]

SENATOR GLOOR: Senator Campbell, would you yield? [LB464]

SENATOR CAMPBELL: Yes, certainly. [LB464]

SENATOR CHRISTENSEN: Senator, you look back on this bill--I know we had first-round debate on this, but we have problems in the state right now finding enough foster parents. And we are advertising, spending additional good money, to find foster parents. And then we're turning and cutting the rate that we're going to pay these. Isn't this counterproductive to go forward with this bill? [LB464]

SENATOR CAMPBELL: Senator Christensen, I think that it is productive to go ahead with this bill in the sense that there were only three provider rates that were frozen; the rest were proposed for a change. These provider rates were frozen; that's number one. Number two, the Appropriations Committee felt that no provider should fall below the 50th percentile, so that was in the original amendment that came from the Appropriations Committee, as well as two years from now we will go back to using the comparative rate. You know, Senator, I think the Appropriations Committee did the right thing in proposing their amendment and protecting, to what extent that they can, the childcare providers. As I said on the floor the other day, it isn't just about the subsidy, but we also need to work and help provide as good a quality as we can. And I don't think we take any steps backward. In fact, I think we stay in place or slightly gain with the Appropriations Committee amendment. This amendment is technical in nature in the sense that it harmonizes their original date. [LB464]

SENATOR CHRISTENSEN: Well, I understand the amendment and agree with the

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amendment, Senator, but aren't we, in the bill, moving this from the 60th percentile back to the 50th? So we can...and I know we froze current ones. But aren't we actually allowing to pay less, which may hurt us finding additional foster care parents that is dear to my heart? [LB464]

SENATOR CAMPBELL: Senator, I think those providers that would be at the 60th rate, as I understand it, would be frozen and held in place. So I don't necessarily think they're losing ground, either. I think they're staying in place. Now, certainly your point is taken, that they're not advancing, but we're also not losing ground, I think. [LB464]

SENATOR CHRISTENSEN: But for the new ones--they will start, potentially, at the 50th instead of at the 60th percentile; so we know they're starting less. And when we're looking for new, isn't that hurting us? You know, this is going to be in the press; people see about it, you know--Nebraska is now going to pay less, when they can't find people. Isn't this going to hurt us? [LB464]

SENATOR CAMPBELL: Senator Christensen, right now...and this provider rate is one of the provider rates that we do pay more if someone or an agency is accredited. So right now we are paying more if they are--if they reach that accreditation and have that quality. I guess, sir, I don't--Senator, I'm not sure that I see it as a step back. I think the Appropriations Committee did all that they could to try to hold us in place. [LB464]

SENATOR CHRISTENSEN: Thank you, Senator. And thank you. I support the amendment; I just wanted to bring these points up on the actual bill itself and have people think about, you know, what we're doing here, what is important to us, because taking care of the kids and our future is important. Thank you. [LB464]

SENATOR GLOOR: Thank you, Senator Christensen. There are no members remaining in the queue. Senator Campbell, you're recognized to close. Senator Campbell waives. Senator Council, you are recognized. [LB464]

SENATOR COUNCIL: Thank you, Mr. President. And I apologize; I meant to press my light before I went back to the printer. If Senator Campbell would yield to a few questions... [LB464]

SENATOR GLOOR: Senator Campbell, would you yield to Senator Council? [LB464]

SENATOR CAMPBELL: Certainly. [LB464]

SENATOR COUNCIL: Okay, I understand that the intent of the amendment that is before us is to bring into line the effective date as stated in the original version of the bill and that reflected in the Appropriations Committee amendment. But my questions to you go more along the lines of the questions raised by Senator Christensen. And I

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apologize; I was at an NCSL conference when this bill was heard on General File, so I didn't have an opportunity to raise these questions. But there are various levels of provider rates that are being affected by LB464, am I correct? [LB464]

SENATOR CAMPBELL: Well, these would be in the childcare providers. [LB464]

SENATOR COUNCIL: Okay, so it would be foster parents--it doesn't include foster parents? [LB464]

SENATOR CAMPBELL: No. Senator Council, I believe that LB464 really deals just with the childcare provider who is receiving payment for the subsidy that we might have. There's probably different ways that that comes down. But these would include individual childcare providers as well as agencies. But this is not a foster care rate; no, it is not. [LB464]

SENATOR COUNCIL: Okay. So...and I wanted to clarify that because, as I heard Senator Christensen's questions, he was talking about foster care providers, and I wanted to be clear that...it was my understanding that this is just childcare providers. And to give you an example--of a single mother who is on the TANF program and is complying with the requirement of being employed full time, who needs childcare services in order to fulfill the requirements we have imposed on TANF recipients in order to continue to receive TANF benefits. Is that correct? [LB464]

SENATOR CAMPBELL: That is correct. These are the providers that would be receiving the subsidy from the state in order to help the mothers get childcare. [LB464]

SENATOR COUNCIL: Okay. And my concern is twofold, Senator Campbell. And I understand--but if the reimbursement rates are reduced to, example, the 50th percentile for nonaccredited childcare providers...and one of the concerns is that in order to be an accredited childcare provider, you have had to have gone through a lot of expense in terms of training requirements, educational requirements. And many of the small childcare providers cannot financially meet the conditions for becoming accredited. And now, under LB464, we are lowering the reimbursement rate specifically for those types of providers. And my fear is it will force those types of providers out of business and reduce the likelihood that accredited--or those who are not accredited but who can't afford not to accept children who are commonly referred to as Title XX children...and it would affect the ability of that TANF recipient to fulfill their obligations under their TANF agreement. [LB464]

SENATOR GLOOR: One minute. [LB464]

SENATOR COUNCIL: Was there any consideration of that by the committee? [LB464]

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SENATOR CAMPBELL: Senator Council, there was an amendment from the Appropriations Committee; and as I understand their amendment--and they may want to speak for themselves rather than have me speak for them. But as I understand their amendment, no one would fall below the 50th point and all the providers would be frozen in place, not reduced. [LB464]

SENATOR COUNCIL: Okay. So perhaps I need to raise this when we talk about the bill in general. But as I read the amendment, AM1130, it says: "Beginning July 1, 2011, such rate may not be less than the 50th percentile or the rate for the immediately preceding fiscal year." But it, you know, that can be read that as long as it's not below the... [LB464]

SENATOR GLOOR: (Gavel) [LB464]

SENATOR COUNCIL: ...50th percentile, that that's the rate they're frozen at, as opposed to what they charged the preceding year. I think that the... [LB464]

SENATOR GLOOR: Time, Senator. [LB464]

SENATOR COUNCIL: ...Appropriations...thank you. [LB464]

SENATOR GLOOR: Thank you, Senator Council. Senator Howard, you are recognized. [LB464]

SENATOR HOWARD: Oh, thank you. Good morning, Mr. President, members of the body. Maybe this would be some helpful information on this issue. We always refer to them as childcare providers, but, in fact, these are our day-care providers, to put it in the simplest terms. And these are day-care providers that bill under the Title XX program. So moms that are receiving assistance and are working toward going to work or in a training program or sometimes in an educational program will be able to put their children in a day-care provider that has agreed to bill the state under the Title XX program. Basically, it's a matter of their keeping records and providing the billing information to the Department of Health and Human Services. So I don't support any decrease in the funding for these folks. And it troubles me, frankly, that when we look at cutting back or holding the line or not paying more, it's always to issues that are regarding children or families that are trying to get themselves into a situation where they're going to be doing better. For some people it's a long, hard road, and it doesn't happen right after high school graduation. For some people, they need to have more life experience before they realize how important it is to get a job, hold a job, support a family. And I don't support having that situation indefinitely, but I do support giving people an opportunity to reach that, and Title XX day-care billing does do that. So, hopefully, that's helpful to you. Thank you. [LB464]

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SENATOR GLOOR: Thank you, Senator Howard. Senator Council, you are recognized. [LB464]

SENATOR COUNCIL: Thank you again, Mr. President. And again the reason for my questioning is my concern that while we have oftentimes during the course of the session to date talked about this body's willingness to provide necessary assistance to those individuals who are making an effort to move from dependency to self-sufficiency, and here is a classic example of where individuals who are seeking to make that move from dependency to self-sufficiency, we are placing a potential barrier to their making that transition by potentially limiting their access to the requisite childcare that they need to enable them to attend training programs or to meet the employment requirements under the TANF program. Because by squeezing out of the market, potentially--which could be the effect of this--childcare providers who are not accredited, the committee and the Appropriations Committee have failed to take into consideration the access issues that may be presented to some of these families. But the availability of these programs and services that are a condition of these individuals receiving benefits...and I have trouble with our eliminating that benefit. And I will bring it up, and I will introduce an amendment to the Appropriations Committee amendment, because the way the Appropriations Committee amendment reads, it says it "may not be less than the 50th percentile or the rate for the immediately preceding fiscal year." So my question is, is if the rate for the previous fiscal year was 52 percent and the rate after this adjustment is 56 percent, does it mean that the childcare provider will get the 52 percent, which is not less than 50 but it's not what they received during the previous year? So I think, at a minimum, the amendment to the bill, the Appropriations Committee should say: Such rate may not be less than the 50th percentile or the rate for the immediately preceding fiscal year, whichever is greater. So if their rate for the previous year was significantly more than the 50th percentile, then that's the rate that they should receive, because there is the potential that when you do this adjustment...and that's what the bill--the bill says that in determining the rate, the department "shall conduct a market rate survey." And if the market rate survey comes back and says the payment shall be at the 56th percentile, and the childcare provider for whatever reason was charging at the 54th percentile, under this bill they would be frozen at the 54th percentile, although the market rate shows that they should be receiving at least the 56th percentile. So I would ask Senator Campbell if she would yield and would see any problem presented by adding the phrase "whichever is greater" to the Appropriations Committee amendment so it would be clear that they would... [LB464]

SENATOR GLOOR: One minute. [LB464]

SENATOR COUNCIL: ...at least receive whatever the 50th percentile is or what the rate they received during the preceding year, whichever is greater. [LB464]

SENATOR GLOOR: Senator Campbell, would you yield? [LB464]

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SENATOR CAMPBELL: They will receive whichever is greater. And that was the discussion on the side, Senator Council, is that the department...if you were receiving--if you were in the 56th percentile last year, you're going to stay at that. The rate will be then--has been done, and it will be done again in two years. No one is reduced in the appropriations bill. And, in fact, in the appropriations bill, anybody who had fallen below that 50 will be brought up to it. So the department fully intends to keep everyone to what they were last year. And we're checking, but I guess I'm going to let the... [LB464]

SENATOR GLOOR: Time, senators. [LB464]

SENATOR COUNCIL: Okay. [LB464]

SENATOR GLOOR: Thank you, Senator Council and Senator Campbell. Senator Nordquist, you're recognized. [LB464]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just wanted to talk about what we did in Appropriations and why it's drafted the way it was. Initially, there was the discussion of just freezing rates, and many of us on Appropriations had concerns about that, because the department already has the current market rate survey. And it showed that a few categories...they break them up into age categories--infants, toddlers, I can't remember how they describe the higher ones. But then they also break them up into rural; trade centers, which I think is between 10,000 and 50,000, if I remember; and then urban, which is greater than 50,000. Then they also break them up into the rates for home care and for centers. And a few of the different categories--they ranged, over the last couple years, between the 60th and the 75th percentile. According to the new market rate survey, when we froze the dollar amounts of the rates, a few of those providers, in the new market survey, would have fallen below the 50th percentile. Our committee was committed to ensuring that low-income children in the state that qualified for this program had access to at least the 50th percentile in the market rate on that quality of childcare. So that was the reasoning for it. They will be frozen at the current rate unless that rate were to be below the 50th percentile, and then they would stay at the 50th percentile of market rate. It's not the best situation. If I had my druthers--and I know other members of the committee felt this way--we would love to maintain at the 60th percentile; but to do that over the next two years from where the bill is now, I think it would cost an additional \$1.8 million a year, and we just couldn't do that. But it is the intent of the Appropriations Committee that in two years we will come back and we will be at the 60th percentile. And I also know Senator Campbell is working hard on the issue of quality. And we look forward to working with her on that. Thank you, Mr. President. [LB464]

SENATOR GLOOR: Thank you, Senator Nordquist. There are no senators remaining in the speaking queue. Senator Campbell, you are recognized to close on your

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amendment. [LB464]

SENATOR CAMPBELL: I want to remind my colleagues that the amendment that is before you today is a technical amendment. It harmonizes all the dates that were in the appropriations bill and puts it in the E clause so that everything fits as originally proposed in LB464 and then amended by the Appropriations Committee. Thank you, Mr. President. [LB464]

SENATOR GLOOR: Thank you, Senator Campbell. The question is, shall the amendment to LB464 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB464]

CLERK: 36 ayes, 1 nay on adoption of Senator Campbell's amendment. [LB464]

SENATOR GLOOR: The amendment is adopted. [LB464]

CLERK: Mr. President, before we proceed, an announcement: Judiciary is holding an Exec Session now; Judiciary Exec Session in 2022. Mr. President, with respect to LB464, I have no additional amendments to the bill. [LB464]

SENATOR GLOOR: Senator Nordquist, could you move the bill to E&R for engrossing? [LB464]

SENATOR NORDQUIST: Mr. President, I move LB464 to E&R for engrossing. [LB464]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB464 is advanced. Mr. Clerk. [LB464]

CLERK: Mr. President, Senator Nordquist, if you'd be so kind, I do have Enrollment and Review amendments. (ER78, Legislative Journal page 1044.) [LB200]

SENATOR GLOOR: Senator Nordquist. [LB200]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB200. [LB200]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. The amendments are advanced. [LB200]

CLERK: Mr. President, Senator Council, I now have amendments, Senator--I have two amendments that I understand you'd like to withdraw, AM1150 and AM1270. Both those are to be withdrawn? [LB200]

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SENATOR COUNCIL: Yes, sir. [LB200]

CLERK: Mr. President, Senator Council would move to amend the bill with AM1303. (Legislative Journal pages 1298-1301.) [LB200]

SENATOR GLOOR: Senator Council, you're recognized to open on your amendment. [LB200]

SENATOR COUNCIL: Thank you very much, Mr. President. And by way of background on LB200, LB200 provides for the establishment of the Healthy Food Financing Initiative. It is a program that is designed to provide financial assistance to food desert intervention programs. And we discussed at length on General File what and where food deserts are located and how LB200 could provide assistance in eliminating those conditions and, instead, creating more opportunities for residents in those underserved areas to access healthy and fresh produce, fruits, lean meats, low-fat dairy products, and whole grains. And what the amendment does is, first and foremost, to address one of the concerns raised by one of the entities that testified in a neutral capacity on the bill. And that amendment provides for a more specific description of the type of financial assistance that could be made available to eligible applicants so that that definition of "financial assistance" is now more consistent with the definition of "financial assistance" that you will find in other economic development incentive programs that we have adopted during this session as well as previous sessions. And with the amended language, it says that the type of financial assistance that could be provided under the Healthy Food Financing Initiative would include grants, loans made in participation with a financial institution pursuant to a contract, the terms and conditions of which would be determined by the Rural Development Commission, which is the entity that has been designated to administer the program. It would also allow for the funds to be used for interest rate assistance on loans made through a financial institution. The amendment also clarifies the requirement with regard to acceptance of SNAP benefits, and it just now narrows it to, if applicable, if the entity is currently eligible to accept SNAP benefits, under LB200 that entity would have to continue to accept SNAP benefits. And if they don't, they're encouraged to otherwise provide meaningful opportunities to enable low-income residents to access healthy foods. The final portion of the original bill that is addressed in the amendment is simply to make it clear that if the Rural Development Commission does provide a loan to an eligible applicant under LB200, that any of those loan repayments would then go back into the pool of monies available, and they could be readministered as long as they were then distributed in accordance with LB200. Again, the bill is essentially in the same form as it was when it was presented to you on General File. Those three changes, again, are to address one of the concerns that was raised. There was no other opposition to LB200. So with these minor changes, I would ask that the body approve the amendment and advance LB200. I want to briefly just advise you that this issue of cultivating economic development and enabling communities to become healthier was, in fact, a topic of discussion at the most recently

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concluded spring forum of the NCSL. I had the privilege of participating on a panel where we were discussing various programs designed to cultivate economic development and improve the health conditions in underserved communities. And I just want to bring to your attention the fact that LB200 was patterned after a law enacted by the Pennsylvania legislature, and the major proponent of that law was a member of the panel that I participated on. And he reported to the attendees that the \$30 million appropriation he was able to obtain through the Pennsylvania legislature over a six-year period has already been leveraged with private resources to create a comprehensive, multifaceted \$120 million program to address the elimination of food deserts. Now, LB200 is certainly on a much smaller scale, but the intent is the same and that is to position individuals, who are seeking to increase access to healthy foods, position them to be able to leverage funds that they may receive through LB200 to other grants and loan and tax credit funds, in particular, the new markets tax credit. I also wanted to share with you what was even more affirming was the presentation by an entity known as Good Natured Family Farms, which is based in Kansas. And they are doing precisely the types of things that LB200 envisions being done throughout the state of Nebraska. And these individuals were very interested in working in partnership with Nebraska entities and particularly Nebraska small farmers who are located in the southeastern part of the state. For example, they've used the money that they've acquired to leverage up to a grant from the Kellogg Foundation. And they've started a program to identify opportunities to match local family-farm producers, who are members of a cooperative they developed, and consumers in these food desert areas. They've also initiated a program with the faith-based community where they're expanding opportunities through these churches for their parishioners to access healthy foods. With the support of LB200, we could actually replicate those kind of programs. And LB200 is good for all of Nebraska, and I urge your advancement of the amendment, AM1303, as well as the underlying bill. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Council. (Visitors introduced.) Members, a flurry of activity in the back of the room tells me that, after an absence that could not be avoided, Senator John Wightman has returned to the fold and we all join in welcoming Senator Wightman. Senator Wightman, we would give you a moment of personal privilege if you would like to address the body. [LB200]

SENATOR WIGHTMAN: I would appreciate that. I want to thank all of the members of the body here, all my colleagues for the many cards and well wishes and prayers. And it's been a long time and I should have been back if I hadn't been, you know, shirking my duty. But here I am today anyway. So, again, thanks to all of you for your many acts of kindness and I've really appreciated...we've appreciated it as a family.

SENATOR GLOOR: Thank you, Senator Wightman, and welcome back. Members, you have heard the opening on the amendment to LB200. There are senators wishing to be heard. Senator Sullivan, you are recognized. [LB200]

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SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I spoke on this bill on General File about the struggles that grocery stores have in small towns in rural Nebraska. That being said, I'm still trying to get my arms wrapped around what this might do to address that situation and many of the others that Senator Council has mentioned. So I wonder if she would yield for a couple of questions. [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes, Mr. President. [LB200]

SENATOR SULLIVAN: First of all, Senator Council, just in the interest of me understanding this, where does the funding come from again for this legislation? [LB200]

SENATOR COUNCIL: The funding, it's a budget-neutral funding mechanism, and what it does is provide for a reduction in the tax credits that are shown in the budget under value-added ag; it reduces that from \$350,000 to \$200,000 which will enable \$150,000 annual General Fund appropriation. So it's budget-neutral. [LB200]

SENATOR SULLIVAN: What kinds of projects do you envision might emanate from this? [LB200]

SENATOR COUNCIL: Okay. And allow me to give you one such example that would I think be comparable to a concern you have about rural communities. It could be used to provide grants for a program similar to one that's already been implemented in Douglas County which is called Neighborhood Corner Stores. And Douglas County Health Department has gone out and assessed the availability of fresh fruits, vegetables, low-fat dairy products, lean meats in some of these small corner stores. And where they've determined that they don't have the facilities to enable them to offer more fresh fruits and vegetables or low-fat dairy products, and if the retailer is willing to participate, then small grants could be provided for them to retrofit their facility so that they can offer these kinds of products. And under LB200, they could obtain grant money or loan money to do that. In the event that at some point in time we have the kind of money to appropriate under LB200 as they have in Pennsylvania, for example, where they've appropriated \$30 million, in those communities they are actually able to provide financing for grocery store construction. [LB200]

SENATOR SULLIVAN: Do you envision any...because right now what you've just laid out for me, the emphasis is more on the provider rather than the consumer. We're making the assumption that the consumer will buy the products if and when they're available. But I still...it's a little like the old adage, you know, you can lead a horse to water but you can't make it drink. Do we need to have more attention given to the

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consumer in some of these projects to make them more interested in making the right kinds of purchases? Does there need to be an education component, because I think when I spoke on it earlier on General File I made mention of some of the efforts, programming efforts, of the cooperative extension service that do make the point of educating the consumer to make healthy food choices. So I'm... [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR SULLIVAN: That's one of my concerns about this legislation. I want to make sure that, okay, we do all these great things but we need to make sure that then they're taken advantage of. [LB200]

SENATOR COUNCIL: Okay. And it's fortuitous, Senator Sullivan, that you should ask that question because this morning I had a meeting... [LB200]

SENATOR GLOOR: (Gavel) [LB200]

SENATOR COUNCIL: ...with a representative of the Douglas/Sarpy County Extension Service who met with me to discuss the ways in which the extension services could partner with these entities... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...who are seeking to expand the access and availability of fresh foods and how the extension can work to provide more of the assistance on the consumer side of the ledger by working in partnership with those who are trying to make the foods available, would work with the extension to address some of the consumption and preparation issues. And just quickly, recent research does show, Senator Sullivan, that when people in these areas have access that, contrary to popular belief, they are more likely to purchase fresh fruits and vegetables than the alternative. [LB200]

SENATOR SULLIVAN: Okay. Thank you very much for your comments. [LB200]

SENATOR GLOOR: Thank you, Senator Sullivan and Senator Council. (Visitors introduced.) Senator Louden, you are recognized. [LB200]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Council yield for questions? [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes, Mr. President. [LB200]

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SENATOR LOUDEN: As I look this amendment over that you've introduced and of course the underlying bill, what I'm wondering is, is have you checked with the Department of Agriculture on their regulations to see if some of this could actually be done, like on page 1 of your amendment which you have a direct farmer to consumer and institution marketing systems? Now somewhere along the line there has to be some inspections and that sort of thing and sometimes that entails quite a little. Is there any way in your bill that you can help people along or have you checked into the regulations with the Department of Agriculture to see what it entails for these people to be able to do this? [LB200]

SENATOR COUNCIL: Okay. And certainly, Senator Louden, if I could direct your attention to page...I think it's still page 2 in the original green copy of the bill and it is page 2 of the amendment that is before you now, it specifically directs that the funds are to be distributed after there is consultation with the Department of Agriculture, the Department of Health and Human Services. So the intent is that the Department of Agriculture would be intimately involved in assisting the Rural Development Commission in identifying those projects which are most likely... [LB200]

SENATOR LOUDEN: Well, I read that it's with consultation with the Department of Agriculture, but that doesn't mean that they may be working with their regulations, because I've worked with these people before and when I was...an issue I had with them, some of the regulations were actually repealed in law. And I'm wondering if you've went in there and checked their regulations on this to see that these people could actually sell this produce to an area. Now we're doing the same thing in the Whiteclay area but they're mostly producing that produce for their own consumption. But...and they're working through the extension service and other people with some of our grant funding to grow these gardens for access to fresh fruit. So that was my concern. Is the regulations available so that they can do this? [LB200]

SENATOR COUNCIL: Okay. And, again, if I could direct your attention to page 4. Those factors, Senator Louden, are factors to be considered in evaluating the applications submitted. Their ability and their capacity to implement a particular project, and that would certainly take into consideration their ability to comply with any Nebraska Department of Agriculture regulations as well as any U.S. Department of Agriculture regulations, that those are factors that the Rural Development Commission is to take into consideration when they're evaluating applicants for any financial assistance under this program. [LB200]

SENATOR LOUDEN: Okay. Then with your bill then, they would have to be...if they wanted to sell food, they would have to work underneath the same regulations that your downtown Hy-Vee or anybody else has to work with in order to sell that food. With this bill, there's no exceptions made for people trying to sell food into these special areas? [LB200]

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SENATOR COUNCIL: Well, there's a difference, Senator Louden, between fresh produce and prepared foods. And the Nebraska Department of Agriculture certainly has regulations on prepared foods. And you may recall last year before the Agriculture Committee there was an issue about individuals who... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...were, for example, trying to market baked goods. [LB200]

SENATOR LOUDEN: Well,... [LB200]

SENATOR COUNCIL: This is not intended to talk about prepared foods. This is to talk about fresh... [LB200]

SENATOR LOUDEN: Yeah, you're talking about fresh produce. But this...same way as chicken eggs have to be...the farm has to be tested and that sort of thing. If you were selling fresh produce into some of these places other than a farmers' market, those areas have to be tested for different--what would you say--biological agents that could be there. Isn't that correct? [LB200]

SENATOR COUNCIL: Yes. And again, Senator Louden, that's why the bill provides for the Rural Development Commission to be in consultation with the Nebraska Department of Agriculture. That's why the Rural Development Commission was selected as the entity to administer the program because of their knowledge of these types of compliance requirements when we're... [LB200]

SENATOR GLOOR: Time, senators. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR LOUDEN: Okay. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Louden. Senator Hadley, you are recognized. [LB200]

SENATOR HADLEY: Mr. President, members of the body, would Senator Council yield to a question? [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes, Mr. President. [LB200]

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SENATOR HADLEY: I guess I'd like to break the bill down into a couple of parts and I want to take the rural part. Why do you think that most rural areas do not have supermarkets that offer fresh produce? [LB200]

SENATOR COUNCIL: Population. [LB200]

SENATOR HADLEY: And that population then relates to the ability of a supermarket or store to make a profit, right? [LB200]

SENATOR COUNCIL: Generally speaking, yes. [LB200]

SENATOR HADLEY: So how will this bill help people put supermarkets in smaller, less-populated rural areas? [LB200]

SENATOR COUNCIL: It may not, Senator Hadley, and that's not the sole intent of LB200. It is to address eliminating food deserts to the most effective way possible. And in those kinds of areas, it may mean retrofitting the current convenient store that exists so that they can provide more...make more fresh fruit and produce available to their customers. It may be in the form of increasing the availability of farmers' markets in those areas where their populations wouldn't support a full retail grocery store. This bill is not limited to grocery store development. It provides various means by which we can eliminate food deserts through various food desert intervention efforts. [LB200]

SENATOR HADLEY: I guess the concern I have is that in both instances you talk about the retrofitting of convenience stores and such as that and the farmers' markets. Again, they have to make a profit to do it. And it seems to me that if there was a profit now in fresh vegetables, fresh fruit, that they would be doing that right now. So I guess I just...I'm trying to figure out what's going to be the mechanism to ensure that this is happening in the rural area when the stores, convenience stores aren't doing it now and the farmers' markets aren't happening now. I guess I don't understand kind of what this bill will be to help those two areas make the profits they need to sustain themselves. [LB200]

SENATOR COUNCIL: Well, the bill is designed to encourage food desert intervention programs, Senator Hadley. I guess if we would take that approach, any economic development incentive bill that this body advances, we would have to make a determination as to whether there's someone out there who may not see an economic opportunity in doing so. But we don't fail to advance those measures because there may be people out there who do see an economic development opportunity in doing so. And in the unlikely event that rural communities fail to take advantage of the program opportunities that exist under LB200, then that's something that this body, working in cooperation with the Agriculture Committee, would look to see how this bill could be tweaked in such a way to increase that level of participation. But to suggest that

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because there may be some areas where it wouldn't be utilized that the bill is not worthy of being advanced, for example, where the high school students currently operate the grocery store, through this measure, if that grocery store operation that those students are currently operating could provide more products and the students have determined that these are the kind of products... [LB200]

SENATOR HADLEY: I have a couple more questions that I need to ask. Now let's turn it to the low-income minority areas. Why are the convenience stores and the grocery stores... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR HADLEY: ...either not going in there now or offering fresh fruits and vegetables there now? [LB200]

SENATOR COUNCIL: And I would imagine, Senator Hadley, based upon the point and the direction you're going in, some of them have determined that it's not as profitable to provide those types of products as they may think it is. But the data and research has shown that if you provide these healthy food choices and if they're regularly available that individuals will make that choice. Currently in Douglas County, there have been eight convenience stores identified who are willing and prepared to expand so that they can provide more fresh produce, more fresh fruits. And, again, if...to continue to focus just on the... [LB200]

SENATOR HADLEY: But wouldn't they do that right now if there was a...if this was profitable to them? Why wouldn't they do this right now? [LB200]

SENATOR COUNCIL: Because they may not have the economic means to make the investment required for them to offer. They may need... [LB200]

SENATOR GLOOR: Time, senators. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR HADLEY: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Hadley and Senator Council. The Chair recognizes Speaker Flood. [LB200]

SPEAKER FLOOD: Well, good morning, everybody. Thank you, Mr. President. I wanted to kind of talk about what this week and early next week is going to look like from a scheduling perspective. Obviously, it's a very unique week this week. We will be working obviously today, tomorrow until about 5:00, and then on Thursday we are going

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to work a full morning and full afternoon with a lunch in between and a recess from about noon to 1:30. This is what I think the schedule is going to look like, for your benefit. Tomorrow we're going to continue with some General and Select File debate. On Thursday we're going to take up just a little bit of Final Reading in the morning and then we're going to start working on consent calendar, and my idea is to stay in on Thursday as long as we need to, to finish up that consent calendar. There are 33 bills. So if you have a bill on consent calendar, please be ready for that on Thursday. Next week we start on Monday and the budget should be reported out this week, but next Monday we're going to take the budget up at 1:30. There will be a briefing for senators to go over the Appropriations Committee's work at 9:00 a.m. on Monday. The budget...we'll take up some General and Select File debate, you know, Monday at 10:00. At 1:30, we'll go directly to the string of budget bills. And we're not going to work late on Monday. We'll probably work until 5:00 or 5:30. So I think the memo you have talks about a late night. We're not going to work late on Monday. And as we go into Tuesday, we're going to stay in Tuesday until we get the budget done on General File, which means if it takes that long, we'll work into the night on Tuesday. And then later next week we'll probably be taking the budget up on Select File. A reminder that the Rules of the Legislature provide that the budget has to pass, be introduced to the body on the floor and pass within the ten days from day seventy to day eighty. And so that's why you'll see us working a lot on the budget next week. But, again, we'll take the budget up at 1:30. We're not going to work late on Monday. We will stay in Tuesday until it's done. We'll send out an e-mail confirming most of those details, but thank you very much. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Flood. Senator Sullivan, you are recognized. [LB200]

SENATOR SULLIVAN: Thank you, Mr. President. I'm still on my quest to get a better understanding of the implications of this legislation. So, again, I would ask if Senator Council would yield. [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Yes. [LB200]

SENATOR SULLIVAN: Senator Council, who do you envision as being some of the applicants for these grants? [LB200]

SENATOR COUNCIL: I would see those who are currently small farmers. Give you an example: In western Douglas County there's a small farm operation that has expanded and they are beginning to develop a cooperative of the small farmers in the area. They would be interested and they have approached me that they would be interested in accessing this to help them establish a farm-to-consumer system so they can make

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sure that their products are being placed and made available in areas where there is a demonstrated need for access to those products. And they have begun to integrate those markets and they see the opportunities, but they need assistance in supporting their cooperative as well as a mechanism for getting their products to reach the consumers that they need to reach. [LB200]

SENATOR SULLIVAN: Explain to me a little too. In I think your amendment you talk about there's potential partnership between a grantee and a financial institution. Is that correct? [LB200]

SENATOR COUNCIL: What it is, is an applicant and a financial institution. What the amendment does...and if I can try to do it in a nutshell, Senator Sullivan, because I don't want to use up all of your time, as originally in the green version of the bill, it spoke to the ability of the Rural Development Commission to make direct loans solely, I mean, without that loan being connected in any way with a financial institution. The Bankers Association said, look, we're prepared, we're willing, we want to participate in providing financial assistance in those areas where it makes economic sense to either expand a retail operation or build a new operation; that the financial institutions wanted to be present and have an opportunity in that market without having to compete with the Rural Development Commission. So the amendment says that the Rural Development Commission can issue a loan if that loan is issued in association with financing provided by a financial institution. So if there's a gap between what the person needs to carry out their program and the amount that the bank is prepared to loan, the Rural Development Commission could issue a loan for that gap, to cover that gap. [LB200]

SENATOR SULLIVAN: Is there anything in this legislation that requires the Rural Development Commission to assess the success of any of these projects and evaluate them as to whether they've accomplished what the intent is? [LB200]

SENATOR COUNCIL: Yes. There is a provision in the bill for there to be an annual report prepared by the commission. [LB200]

SENATOR SULLIVAN: Okay. And then tell me again, I guess I'm a slow learner, the funding...because I think you said something about that coming from remaining funds in the ag opportunities and value-added projects or...I mean, where is...I'm not understanding that. [LB200]

SENATOR COUNCIL: Well, what it is, is right now under the Community Development Assistance Act,... [LB200]

SENATOR SULLIVAN: Right. [LB200]

SENATOR COUNCIL: ...okay, there is a certain amount set aside for tax credits, and

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currently what's set aside annually for tax credits is \$350,000. And what under LB200, that amount is reduced from \$350,000 to \$200,000, which frees up \$150,000 that can be allocated out of General Funds because we set aside so much of General Fund... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...to provide these tax credits. And instead of providing \$350,000 in tax credits, we'd be providing \$200,000 in tax credits and \$150,000 appropriation for LB200. [LB200]

SENATOR SULLIVAN: I appreciate your comments. I still remain concerned about the fact that all of this intent is good and fine and the projects would be good and fine, but there still is this unanswered question of making sure that people avail themselves of these things. And I can't underestimate what I think is the value of educating the consumer to not only take advantage of what might be in some of these projects but, quite frankly, what is already available to them. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Council, you are recognized. [LB200]

SENATOR COUNCIL: And, Mr. President, are there any lights on behind me? [LB200]

SENATOR GLOOR: There are none remaining behind you. [LB200]

SENATOR COUNCIL: Pardon? [LB200]

SENATOR GLOOR: No, there are none remaining behind you. [LB200]

SENATOR COUNCIL: Okay. I would then take this opportunity to close on AM1303. I appreciate the concerns that have been expressed by Senators Sullivan, Hadley, and Loudon, and all I can do is provide them with assurances that these issues have been expressed at length and discussed with stakeholders in those areas. For Senator Sullivan's purposes, I would direct her attention to the fact that one of the supporters of this bill was the Nebraska Dietetic Association, and they understand and appreciate the opportunities presented through LB200 to increase that level of education. At the NCSL spring forum, one of the individual attendees who expressed...that was impressed with LB200 and the potential that it presented was the national representative of the Dietetic Association, understood how these partnerships could be developed. With regard to issues raised by Senator Hadley, again, this is a broad-based bill. It's not limited to grocery store development or expansion. It provides opportunities for greater markets for locally produced foods through farmers' markets, farmers' cooperatives, as well as delivery and distribution systems. The objective here is to gain greater access to fresh

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fruits and produce, lean meats, and low-fat dairy products so that we could reap the consequences of providing these healthier food choices in terms of reducing the state's healthcare costs. And, again, I'll tell Senator Sullivan, you know, I received an e-mail from a guy who made a point, well, you know, if you got a choice between some fresh fruits and produce and a Big Mac, you know, most people are going to pick a Big Mac. And I shared with him the data from the research that has shown in those areas where there have been programs implemented like LB200 that when individuals are provided with the healthier food choices that they begin to make those healthier food choices and depend less often on the less healthier food choices extended by convenience stores. And, again, all of this--in response to, finally, Senator Hadley--you know, profit margins, applicants are going to have to make those decisions. And the way the bill is drafted, the Rural Development Commission has to, in their consideration of distribution, to see what the likelihood of the person being successful and being able to sustain their operation. So I have faith and confidence in our Rural Development Commission and their ability to administer this program that amounts to \$150,000 a year. And I would urge your advancement of AM1303. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Members, you've heard the closing on the amendment. The question is, shall the amendment to LB200 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Council, for what reason do you rise? [LB200]

SENATOR COUNCIL: I rise for a call of the house. [LB200]

SENATOR GLOOR: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB200]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB200]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Ashford, Senator Flood, please record your presence. Senator Council, how would you like to proceed? [LB200]

SENATOR COUNCIL: Roll call vote in regular order, please. [LB200]

SENATOR GLOOR: Mr. Clerk. [LB200]

CLERK: (Roll call vote taken, Legislative Journal page 1302.) 27 ayes, 8 nays on the amendment, Mr. President. [LB200]

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SENATOR GLOOR: The amendment is adopted. Raise the call. [LB200]

CLERK: At this time, Mr. President, I have nothing further on the bill. [LB200]

SENATOR GLOOR: Senator Larson. [LB200]

SENATOR LARSON: Mr. President, I move that LB200 be advanced to E&R for engrossing. [LB200]

SENATOR GLOOR: You have heard the motion. All in favor say aye. Senator Fischer has requested a machine vote. Members, we have a request for a machine vote on the motion to move LB200 to E&R for engrossing. All in favor vote aye; all opposed vote nay. Senator Council, for what reason do you rise? [LB200]

SENATOR COUNCIL: I request a roll call vote and a call of the house, please. [LB200]

SENATOR GLOOR: Members, there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB200]

CLERK: 45 ayes, 0 nays to place the house under call. [LB200]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Proceed, Mr. Clerk. Senator Council, will you accept call-in votes or do you want a roll call? [LB200]

SENATOR COUNCIL: Roll call, please. [LB200]

SENATOR GLOOR: Proceed, Mr. Clerk. [LB200]

CLERK: (Roll call vote taken, Legislative Journal pages 1302-1303.) 26 ayes, 13 nays on the advancement of the bill. [LB200]

SENATOR GLOOR: LB200 advances. The call is raised. Mr. Clerk. [LB200]

CLERK: Senator Larson, LB200A. I have no amendments to the bill. [LB200A]

SENATOR GLOOR: Senator Larson. [LB200A]

SENATOR LARSON: Mr. President, I move that LB200A be advanced to E&R for engrossing. [LB200A]

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SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. LB200A advances. Moving to Select File, Speaker priority bills. Mr. Clerk. [LB200A]

CLERK: Mr. President, LB289. Senator Nordquist, if you'd be so kind, I have...I do have E&R amendments, please. (ER91, Legislative Journal page 1230.) [LB289]

SENATOR GLOOR: Senator Nordquist. [LB289]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB289. [LB289]

SENATOR GLOOR: Question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB289]

CLERK: Senator Mello would move to amend with AM1239. (Legislative Journal page 1303.) [LB289]

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment. [LB289]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM1239 was brought to my office by Bill Drafters and makes a number of technical changes to the bill which fall outside the normal E&R process; thus, we have to bring it as a separate amendment. I urge the body to adopt AM1239. [LB289]

SENATOR GLOOR: Thank you, Senator Mello. There are no senators in the speaking queue. Question is the adoption of the amendments to AM1239. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB289]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB289]

SENATOR GLOOR: The amendment is adopted. [LB289]

CLERK: I have nothing further on the bill, Mr. President. [LB289]

SENATOR GLOOR: Senator Nordquist. [LB289]

SENATOR NORDQUIST: Mr. President, I move LB289 to E&R for engrossing. [LB289]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All

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those opposed say nay. LB289 is advanced. Mr. Clerk. [LB289]

CLERK: LB289A, Senator, I have no amendments to the bill. [LB289A]

SENATOR GLOOR: Senator Nordquist. [LB289A]

SENATOR NORDQUIST: Mr. President, I move LB289A to E&R for engrossing. [LB289A]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB289A is advanced. [LB289A]

CLERK: Mr. President, LB665. I have no E&R. Senator Pirsch would move to amend with AM1284. (Legislative Journal page 1303.) [LB665]

SENATOR GLOOR: Senator Pirsch, you're recognized to open on your amendment. [LB665]

SENATOR PIRSCH: Thank you, members of the body. Again, LB665 is intended to broaden the coverage of children through our enticement statute. This amendment does...and through General File that was unanimously voted, of approval. This amendment simply puts the emergency clause on this measure. And so it will become active upon the signing of the Governor. Thank you. I'd urge your vote yes. [LB665]

SENATOR GLOOR: You've heard the opening on the amendment. There are no members in the speaking queue. Senator Pirsch, you're recognized to close. Senator Pirsch waives. The question, members, is shall the amendment to LB665 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB665]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Pirsch's amendment. [LB665]

SENATOR GLOOR: The amendment is adopted. [LB665]

CLERK: I have nothing further on the bill, Mr. President. [LB665]

SENATOR GLOOR: Senator Nordquist. [LB665]

SENATOR NORDQUIST: Mr. President, I move LB665 to E&R for engrossing. [LB665]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. Those opposed say nay. LB665 is advanced. Mr. Clerk. [LB665]

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CLERK: LB535, I do have Enrollment and Review amendments, Senator. (ER92, Legislative Journal page 1233.) [LB535]

SENATOR GLOOR: Senator Nordquist. [LB535]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB535. [LB535]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB535]

CLERK: I have nothing further on that bill, Senator. [LB535]

SENATOR GLOOR: Senator Nordquist. [LB535]

SENATOR NORDQUIST: Mr. President, I move LB535 to E&R for engrossing. [LB535]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB535 is advanced. Mr. Clerk. [LB535]

CLERK: LB449, Senator, first of all I have Enrollment and Review amendments pending. (ER93, Legislative Journal page 1238.) [LB449]

SENATOR GLOOR: Senator Nordquist. [LB449]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB449. [LB449]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB449. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB449]

CLERK: Senator Nelson would move to amend with AM1302. (Legislative Journal page 1304.) [LB449]

SENATOR GLOOR: Senator Nelson, you're recognized to open on your amendment. [LB449]

SENATOR NELSON: Thank you, Mr. President, members of the body. You may recall, last Thursday we were on LB449 and considering a number of changes to the election procedures. And I think we discussed those pretty well. And then we moved to my amendment at that time which would have reinserted Section 7 in the original green

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copy. And we had a discussion at that time. And you may recall that Senator Council had some questions and some valid questions about what would happen in the case of vacancies. And so we have reworked that amendment. I withdrew it at the time and am refiling at this time under AM1302. And what this amendment does is provide that if you are a member of a political party at the time of a primary election and as of March 1 of the general election year then you are required to run in the primary partisan race and go through the selection process there. You cannot skip the primary if you are a registered party member and then file by petition for the general election. And there are good reasons for that because it does away with the normal and reasonable selection procedures that our statutes have encouraged for a number of years. The state of Nebraska does and is authorized and should regulate how parties' names, people, candidates' names appear on the ballot. They have to choose if they're going to be on a partisan ballot and run as a Republican or a Democrat. If they're an Independent, it doesn't make any difference. There is nothing in the statute that provides an Independent, one who's not a member of a party, from going on to a general election ballot by petition. Likewise in the case of vacancies, if someone has resigned or there has been a death or an appointment or if there are no persons that run in the primary, then it's okay to go on and the statute provides for going on to the general ballot by petition. So if you will look on your computer or, if you already have it in paper form, at AM1302, we are saying there that we move to Section 32-616 because subsection (2) of that takes care of the vacancy question. And that's the way it is in the existing statute. So in subsection (1) of 32-616 we begin with the usual wording, "Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or before March 1 in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed." There...at the bottom then there are just some technical changes as far as changes of a word and things like that. But basically, this is the statute that we're bringing forward to bring back into the standing committee amendments, add to them, AM867. And I would certainly appreciate your support, a green light on this. And I stand ready to answer any questions that you may have. Thank you, Mr. President. [LB449]

SENATOR GLOOR: Thank you, Senator Nelson. Members, you have heard the opening on the amendment. Senator Avery, you are recognized. [LB449]

SENATOR AVERY: Thank you, Mr. President. I'm not sure that this amendment is substantially different from the amendment that we had last week, AM1213, that Senator Nelson withdrew. Remember, the Government, Military and Veterans Affairs Committee carefully considered LB449 and we offered a committee amendment that did not include this provision. And we had a good reason for not including this provision and that reason had to do with some serious concerns that we had in committee about the constitutionality of this particular provision that is now in AM1302. If you go to the Supreme Court...or, not Supreme Court, but Eighth Circuit Court of Appeals 1977 case

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dealing with Nebraska election law, the court clearly said that the state of Nebraska, as all states, do have the right to regulate the formation and operations of political parties, and they have the right to prescribe how and in what circumstances the names of party candidates or Independent candidates may be placed on the general election ballot. It said also, but if you are going to do that, that the...if you're going to restrict the voters' choices, if you're going to restrict the voters' opportunity to vote for the candidate of their choice, and if you're going to restrict who can appear on the ballot, then there must be a compelling state interest. And I will quote from that case: Restrictive measures are constitutionally suspect and if they are to pass constitutional muster they must be reasonable and must be justified by reference to a compelling state interest. And I, quite frankly, don't know what the compelling state interest is in this particular amendment. That is why the committee did not include this amendment in our committee amendment, which became the bill. And I am still open to a good argument as to why we need to do this. I haven't heard it yet. So I will listen to the debate and see if we can establish a compelling state interest for making this restriction in this particular aspect of the law. Thank you, Mr. President. [LB449]

SENATOR GLOOR: Thank you, Senator Avery. Senator Lautenbaugh, you are recognized. [LB449]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I will take a pass at articulating the compelling state interest because I believe there is one, and here's what it is. First of all, I'm not 100 percent sure that's the right standard in this scenario where we're controlling and limiting who the partisan nominee will be, how you become the nominee of a political party. We've already made the determination that some races are partisan and some are not. And this defends, I guess, or controls or specifies how you become a nominee of the party. So we have already done the limitation by making it a partisan nominating process and this only applies to how you get on the ballot as the nominee of a party. This does not apply to Independents, as I understand it, otherwise. And this does not apply to other methods of getting on the ballot, be it by petition or whatever. So I don't think we need to articulate that interest that we're being asked to articulate herein. But we've already set up a partisan election process in certain races, and this simply clarifies how you become that nominee, in my interpretation. So I don't see this as infringing any more than we already do by having a partisan nomination process in some races in the first place. This is more of a defense of that process and a defense of the prerogatives of the political parties and their members. And so I do rise in support of the amendment. And I would yield my time to Senator Nelson, if he would have it. [LB449]

SENATOR GLOOR: Senator Nelson, 3 minutes 20 seconds, and you are the next speaker in the queue. [LB449]

SENATOR NELSON: Thank you very much, Mr. President. I don't think I will require

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that much time because Senator Lautenbaugh has articulated the case very well. This deals with partisan races. I don't have the 1997 case that Senator Avery referenced in front of me. But I do recall and I will refresh your memory that it involved the ability of the Liberty Party to place its candidates on the general ballot for the Presidential election. And the Liberty Party had not certified itself up to within 90 days of the time of either the primary and then a much longer period of time of the general election. And that was the issue. They had not certified, so the Secretary of State said, well, I...if they haven't certified according to our statute, then I can't put them on the ballot. And so that was the issue there that the Eighth Circuit Court and the court below was addressing. And they talked there about a compelling interest. Well, here we have someone getting left off the ballot altogether because they didn't run in the primary race. And they said there was no compelling interest to keep them off at that time. This is a different matter. As Senator Lautenbaugh said, we've got partisan races here and we have an interest in making sure that if you're going to be a member of a political party and vote for political candidates of that party and you're going to run for that in the primary, that you do in fact run. And it doesn't deprive anyone of a choice, a qualified elector of choosing anyone. They have an opportunity to vote for that candidate at that time and elect that candidate over and above the other three or four candidates that may have run. But if your member of a political party as of March 1 decides not to run and just to skip that process and then run on the general election, that's really unfair. They haven't gone through the winnowing and the selection process. [LB449]

SENATOR GLOOR: One minute. [LB449]

SENATOR NELSON: They're in competition with the winner of the primary. And if you have a situation where someone who came in second in the primary might very well say, well, you know, I'll have another go at it, I'll just file for petition and we'll have another race and see if I can come on top. This is what we are trying to avoid here. The state really doesn't have a compelling interest in regulating that. It really has nothing to do as far as some of the verbiage that you found there in that particular case. And I think it's wrong to use that 1997 case and say, well, we've got this language here and we don't think this is compelling and so let's not put this in our own statute. We have a very valid reason for putting this in our own statute at this time. And we are also covering the situation here, if no one ran in the primary, then certainly anyone is free to petition on and get on the general ballot. [LB449]

SENATOR GLOOR: Time, Senator,... [LB449]

SENATOR NELSON: Thank you, Mr. President. [LB449]

SENATOR GLOOR: ...but you are next in the queue and may continue if you wish.  
[LB449]

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SENATOR NELSON: I think I would only add, as I said before, that this also takes care of the situation, I mean, we're not keeping anyone from going on by petition if someone has died in office, there's a vacancy there, someone has been appointed and there's a vacancy. So I believe by the reformation of this amendment and using the language that we have here, if you read it carefully it does make sense. We're only doing what I'm telling you at this time that we are doing. And I would just say that it's certainly in order to do this. And we don't have to worry about any constitutional issue in this particular statute in this particular amendment and in this bill. Thank you very much, Mr. President. [LB449]

SENATOR GLOOR: Thank you, Senator Nelson. The Chair recognizes Senator Avery. [LB449]

SENATOR AVERY: Thank you, Mr. President. I would just like to point out one thing. I believe Senator Nelson may have misspoken when he made reference to candidates who are defeated in primary elections. Current law already prohibits people who have been defeated in a primary election from being a candidate in...subsequently after having been...or in a general election after they've been defeated already in the primary. That's actually in...if you have section (2) of the amendment, you see that language there in the first sentence. I don't want to belabor this point, but I still would like to have Senator Nelson answer one question, if he would yield, please. [LB449]

SENATOR GLOOR: Senator Nelson, would you yield? [LB449]

SENATOR NELSON: Yes, I will. [LB449]

SENATOR AVERY: All right. Why are the requirements different for people who are Independents and not registered to vote? I mean, why is it that we would establish a different set of rules for people who are members of parties and people who are not? [LB449]

SENATOR NELSON: Well, my only... [LB449]

SENATOR AVERY: Doesn't this really raise an equal protection issue? [LB449]

SENATOR NELSON: If there is an issue there, it's been existing for time eternal, ever since we've had parties, Senator Avery. We have, through our statutes, provided for parties and we do not force anyone to belong to a party. If they want to be an Independent and to run as an Independent on anything, we're not restricting them from doing that. We are...traditionally here, we have set rules and guidelines for people who register to vote with...at the time they register to vote they designate as to whether they're a member of a political party. And if they are, then we provide rules and requirements as to how they shall run on the ballot and prohibit them from going on by

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petition in certain instances. [LB449]

SENATOR AVERY: Thank you. Isn't it true though that without this amendment the state of Nebraska does not treat candidates differently who wish to be on the ballot? The rules are the same for party members, for Independents and for anyone who wishes to be on the ballot, the rules are the same. We don't treat them differently, ballot access is equal. [LB449]

SENATOR NELSON: As far as filing for an elective position? [LB449]

SENATOR AVERY: Or petitioning on, right. [LB449]

SENATOR NELSON: I don't know that I have an answer to that. I am interested in your "ascertainment" here that...in subsection (2), Senator. The way I read it, it says, any candidate who was defeated in the primary election and any registered voter who was not a candidate may have his or her name placed on the general election ballot if a vacancy exists. So that's different than what we are up here on section (1). And so I would...I read that a little differently than you do. [LB449]

SENATOR AVERY: Well, I was making reference to a comment you made that the amendment would prevent that or address that (inaudible). [LB449]

SENATOR NELSON: Well, if I said that, then I certainly misspoke and I thank you for catching that for me. [LB449]

SENATOR AVERY: I have nothing more. Thank you, Mr. President. [LB449]

SENATOR GLOOR: Thank you, Senator Avery. There are no senators remaining in the queue. Senator Nelson, you're recognized to close on your amendment. [LB449]

SENATOR NELSON: Thank you, Mr. President. I really have nothing to add. I think we pretty well have covered what this amendment does. I think that it is a good amendment. It places a requirement in there that if you are member of a political party that then you need to run, you need to file and run in the primary election if you expect to go on to the general election. Hopefully, you'll be successful. But if you're not successful and someone else has won, then that's it as far as you're concerned. You are not going to be able to go on the general ballot by petition. And I would say I don't think this violates anybody's constitutional rights as far as the ability to vote for a candidate of their choice. They have that ability. If you're voting in a partisan race as a member of a political party, then you have the opportunity to do that, voting in the primary for a candidate. I would encourage everyone to vote green for AM1302 as an amendment to LB449 and then move LB449 on to Final Reading. Thank you. [LB449]

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SENATOR GLOOR: Thank you, Senator Nelson. You've heard the closing on the amendment. The question is, shall that amendment to LB449 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB449]

CLERK: 25 ayes, 5 nays, Mr. President, on adoption of the amendment. [LB449]

SENATOR GLOOR: The amendment is adopted. [LB449]

CLERK: I have nothing further on the bill, Mr. President. [LB449]

SENATOR GLOOR: Senator Larson. [LB449]

SENATOR LARSON: Mr. President, I move that LB449 be advanced to E&R for engrossing. [LB449]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB449 is advanced. Items for the record? [LB449]

CLERK: Mr. President, Reference report referring gubernatorial appointee to standing committee for confirmation hearing. Senator Karpisek offers LR171, that will be laid over. [LR171]

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

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30 today. Those in favor say aye. Those opposed say nay. We are recessed.

RECESS

SENATOR GLOOR PRESIDING

SENATOR GLOOR: 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. Roll call. Members, if you're in the Chamber would you please check in. Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any items for the record?

CLERK: I have no items, Mr. President.

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SENATOR GLOOR: Thank you. We will proceed to the first item on this afternoon's agenda. Mr. Clerk, General File.

CLERK: Mr. President, LB252 by Senator Cornett. (Read title.) The bill was considered on April 21. Senator Cornett presented her bill at that time. I do have an amendment to the bill. [LB252]

SENATOR GLOOR: Thank you. Senator Cornett, could you take about 3 minutes and review LB252 for the body. [LB252]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB252 was introduced to address an inadequacy in the tax system in the state due to the passage of federal legislation. The indoor tanning services were subjected to an increase by 10 percent federal tax on indoor tanning, opposed by Congress in the 2010 Affordable Health Care Act. The Nebraska indoor tanning service business now collect from their customers and pay over to the federal and state authorities up to 17 percent of the gross receipts from indoor tanning services sold to customers and 10 percent federal excise tax, plus 7 percent Nebraska state and local tax. I want to thank Senator Smith very much for prioritizing this bill and to members of the Revenue Committee who supported the bill coming out of committee. The majority of the members supported the bill because they felt this was an important issue to discuss in regards to the unfairness of the federal tax on tanning and what it is doing to our small businesses in this state. We've had a number of businesses close throughout the state since the enactment of this and a number will probably close this year, resulting in job loss and loss of revenue to the state. The committee members, while passing it out, made it clear that they were concerned about the fiscal note and where it fit in with the other bills that we were not sending out. Senator Fischer, Senator Utter, Senator Hadley, I want to thank them very much for their support for allowing me to bring this issue to the floor. With that, I will yield my time to Senator Coash to explain an amendment. I'd also like to thank Senator Smith very much for his cooperation and his prioritizing this bill. It became very clear to myself last week that the body would not be willing to pass this bill. Prior to that Senator Coash had spoken to me about offering an amendment to that bill. He had two amendments. And I will let him explain his intention with the first one that he withdrew last week and the one that he's offering now. Thank you. [LB252]

SENATOR GLOOR: Senator Coash, 2 minutes 33 seconds. [LB252]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. I want to echo the appreciation that Senator Cornett had for members of the Revenue Committee and for Senator Smith for prioritizing this bill to get it to the floor. I think last week's discussion was helpful. I listened carefully. I feel that we had a good debate on the merits of that bill. And now we have an opportunity to use LB252 to do something that I believe is worthy of our attention as a state. It's an issue that was brought to my

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attention by the trustees of Wyuka Cemetery. It was brought to my attention by our Tax Commissioner. And again, without the support of the Revenue Committee and Senator Smith's prioritization of LB252, we wouldn't be where we are today. So I'll start with my introduction of my amendment, then when my time is up I'll continue. My amendment is going to strike all provisions of LB252 and inserts some new provisions. I had two amendments, one to add onto the provisions of LB252 and one to strike and replace. After the vote last week on Senator Smith's amendment, it became apparent that there isn't a will in this body to move forward with the provisions of LB252. I removed that, I withdrew... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR COASH: Thank you, Mr. President. I withdrew that amendment and replaced it with the amendment that you'll see coming up shortly. The amendment is actually LB570 as amended by the committee. So if you care to look, colleagues, at the bill that this amendment came from it is LB570. This bill was heard in the Revenue Committee. It did not have any opposition during the committee hearing. And it was also advanced from the committee, amended and advanced from the committee also without any opposition. The amendment that I'm bringing forward is the amended bill as advanced by the committee. And it really just does two things. The intent of this amendment is to change, first of all, the trustees' reporting requirements to those that are more in line with the nature of Wyuka's operation and to clarify Wyuka Cemetery's tax-exempt status by placing it among the state and local entities that are... [LB252 LB570]

SENATOR GLOOR: Time, Senator. [LB252]

SENATOR COASH: Thank you. [LB252]

SENATOR GLOOR: Thank you, Senator Coash. Mr. Clerk. [LB252]

CLERK: Senator Coash would move to amend with AM1097. (Legislative Journal page 1288.) [LB252]

SENATOR GLOOR: Senator Coash, you're now recognized to open on your amendment. [LB252]

SENATOR COASH: Thank you, Mr. President. And thank you again, colleagues. I'll continue. This amendment does two things. One, it changes the reporting requirements to get more in line with Wyuka Cemetery's current operations. And it also adds Wyuka Cemetery officially to the list of sales tax-exempted entities in Chapter 77-2704. Colleagues, Wyuka Cemetery--and I talked about this last week and some of you actually had lunch with me out there today, very timely--Wyuka Cemetery is a pretty

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special place in our state. It is a state...I won't say it's a state operated cemetery because it's operated by a group of trustees who are appointed by the Governor. But it was founded by the state in the late 1800s, and it was founded when Nebraska was young and saw the need for services and decided that Nebraska ought to have a state cemetery. It started out as mainly a cemetery for veterans. There are close to 1,000 Civil War veterans buried there. And they have a charter, and they have a responsibility to the citizens of Nebraska to fulfill that. And if you look at the statute, and by the way, there's only two, three pages of statute that governs Wyuka. It's set up as a nonprofit, charitable state organization. Now if you ever looked at other nonprofits you know that they're tax-exempt. And if you looked at state agencies, they're tax-exempt. And that needs to be clarified in our statutes and that's exactly what AM1097 does. So let me get back to the provisions of the amendment. In the conduct of their business as a public charitable corporation it makes more sense for the trustees to file their annual report with the Auditor rather than the Secretary of State. So that's one change. And it also changes the time that they have to submit their audit. So it sets the due date for these reports to the first Tuesday in June rather than March, and that is a request from the trustees to allow them to operate a little bit more efficiently. With regard to the tax-exempt status element of this amendment, Wyuka has always operated under the authority of the state of Nebraska. Its trustees are appointed by the Governor. They are required to annually report their expenditures to the Secretary of State. However, they serve without compensation and the cemetery does receive no state funds. Given these elements, it was assumed that they were covered under the sales tax exemption provided, but through an investigation, working with the Attorney General's Office, the trustees requested an opinion. They got a response back, although not an official opinion, that Wyuka should...is not currently listed as a tax-exempt entity, despite all of the reporting requirements that I mentioned earlier. So this was an understandably surprising finding to the trustees, as they are currently diligently working to rehab the financial security of Wyuka following some problems that they had several years ago. The committee preferred...the original bill that I submitted had a look-back. The committee preferred, and I agree with this, that we need to start at a certain point in time and, thus, LB570 begins their tax-exempt status beginning on July 1. I will tell you, colleagues, I double-checked with the Fiscal Office. If we started to make them pay taxes now on their operations, and keep in mind they have never paid them, if we started now it would not affect the budget one way or the other. The Budget Office has confirmed that they never anticipated Wyuka to start paying taxes and so they didn't take that into consideration even so. So in conclusion, this amendment makes three changes. It changes the reporting entity that they send it to. It goes from the Secretary of State to the Auditor. It changes the due date of when that audit is due. And finally, it clarifies in statute that Wyuka Cemetery, as a state cemetery, is tax-exempt effective July 1. I mentioned this last week, colleagues, it's hard to put Wyuka in a category of anything that we're used to dealing with here. So as I worked with the Revenue Committee staff and the Auditor and the Attorney General, we were looking for something that was similar that I could use to illustrate the need for this amendment.

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And the example that continued to come up was that of the State Fair Board. State Fair is a State Fair. However, it has to be somewhere and right now it's in Grand Island. And the State Fair has appointed trustees, board members. And the State Fair is a tax-exempt organization. And so really what we're doing, colleagues, here with the tax-exempt piece of this amendment is asking the state to view Wyuka Cemetery as a state cemetery through the same set of glasses that we currently view the State Fair Board. So, hopefully, that clarifies that. I do want to make one final comment because I've had some questions from my colleagues. The tax-exempt status that would be enacted through this amendment refers to Wyuka as an organization and what they would buy. When they sell funeral services, when they sell a casket, an urn, those are all still taxable events. And so we are not going to put Wyuka in a position where they get to provide a service to the public that is tax-exempt when their competitors have to charge tax. When Wyuka provides a service, makes a sale those transactions are taxable and continue to be taxable under this amendment. The only change that we are considering in AM1097 is a change that allows Wyuka to operate and the things that they buy as a nonprofit. And again, colleagues, they've never paid taxes on this. So we're not really changing anything; we are clarifying their current method of operation. And I do appreciate again the support that I've gotten from the Revenue Committee and Senator Smith's prioritization of this bill. And would ask the body to look favorably upon the amendment and the underlying bill. Thank you, Mr. President. [LB252 LB570]

SENATOR GLOOR: Thank you, Senator Coash. (Visitors introduced.) Members, you have heard the opening on LB252 and AM1097. Senators wishing to be recognized, Senator Carlson, you are recognized. [LB252]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I know a little bit from experience that, in general, cemeteries have a difficult time financially. I know that in the cemetery where my parents and my brother are buried they rely on gifts and donations to try and make ends meet because there really is no regular, dependable source of income. But in regard to Wyuka, I do have a question or two I'd like to address to Senator Coash, if he would yield. [LB252]

SENATOR GLOOR: Senator Coash, would you yield? [LB252]

SENATOR COASH: Yes. [LB252]

SENATOR CARLSON: Senator Coash, it's unusual how things are set up there because there is the funeral home and there is the cemetery and they're two separate entities. Are they both under the same business structure? [LB252]

SENATOR COASH: Thank you, Senator Carlson. And the answer to that question is, yes, they are. The funeral home used to be run separately, but several years ago the funeral home was taken over by the cemetery. And so now it is all operated under one

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roof, so to speak. [LB252]

SENATOR CARLSON: And yet record wise I think they keep track of things separately so that the funeral home is run like a business that would be on the outside of the cemetery. Would that be true? [LB252]

SENATOR COASH: Yes, Senator Carlson. The funeral home has one set of services that it provides to the community and then the cemetery provides a separate set of services. And they're both run by the trustees as one entity at this point. They have different directors under each part of it. But it is, for all purposes, one business. [LB252]

SENATOR CARLSON: Now mentally I look at that and I think, well, the funeral home portion, although they're nonprofit, they really try and operate at a better than break-even level because they need to help subsidize the cemetery. Would that be correct? [LB252]

SENATOR COASH: That is correct, Senator Carlson. If I could just briefly tell you what parts of the cemetery that kind of need that subsidy from the services of the funeral home, I could explain that. Wyuka has always provided free or nearly free services to the burial of veterans, to the burial of babies, and to the burial of indigents. In some cases those are free, in some cases the county pays for that. But either way...or pays a reduced rate, they do that as a public service because it is outlined in their state charter. [LB252]

SENATOR CARLSON: Okay. There's an example then that is unlike my cemetery back home that I'm thinking of. Wyuka provide some free services and so they need extra income in order to cover those services. So that's understandable. Now I look at the cemetery as really a nonprofit entity. Let me ask this. When Wyuka buys a casket to resell, do they pay sales tax on what they buy? [LB252]

SENATOR COASH: Currently they do not. [LB252]

SENATOR CARLSON: Do their competitors pay sales tax on the caskets that they buy? [LB252]

SENATOR COASH: I don't believe so, Senator. [LB252]

SENATOR CARLSON: Okay. I think that's kind of an important point. I'd like to determine that because I think your bill, I think your request is a reasonable one and one that we should seriously consider passing. But for myself and I think several others in here, we like to have a good feeling that in fact by going ahead with AM1097 we aren't providing a benefit that's not being utilized now. And so I would, if there's time and you would respond to that I'd appreciate it. [LB252]

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SENATOR COASH: Thank you, Senator Carlson. And this was a question that came up frequently. And I talked with funeral directors... [LB252]

SENATOR GLOOR: One minute. [LB252]

SENATOR COASH: Thank you. I talked with funeral directors across the state and they had a concern as well. But once I explained to them that Wyuka, just as they operate, they don't sell any service or good tax-exempt. So a casket, an urn, anything of that nature that is taxable to the public is still taxable whether it's Wyuka or whether it is another funeral home. And so we are not, through this amendment, giving Wyuka any kind of economical advantage to adopting this amendment because they've already been operating tax-exempt. Thank you, Mr. President. [LB252]

SENATOR CARLSON: How much time is left? [LB252]

SENATOR GLOOR: Eleven seconds. [LB252]

SENATOR CARLSON: Am I up next? [LB252]

SENATOR GLOOR: No, you're not, Senator. [LB252]

SENATOR CARLSON: Okay, thank you. [LB252]

SENATOR GLOOR: Thank you, Senator Carlson and Senator Coash. Senator Krist, you are recognized. [LB252]

SENATOR KRIST: Thank you, Mr. President and colleagues. In between now and Select, because I assume that this is a well-intentioned amendment that did go through the Revenue Committee...and actually, could I carry on a dialogue with Senator Coash over the mike, if he is willing? [LB252]

SENATOR GLOOR: Senator Coash, would you yield? [LB252]

SENATOR COASH: Yes. [LB252]

SENATOR KRIST: In its original form, this was actually a bill that was voted out by Revenue. So it has had a public hearing and all the positives and negatives have been discussed. [LB252]

SENATOR COASH: That's correct, Senator. [LB252]

SENATOR KRIST: So as an amendment, it replaces LB252. There are a few questions

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that I also want answered. And one of those is, the cemetery itself and the funeral home are located in the cemetery, become aware that they do a good percentage of funerals that are not interred in Wyuka itself. And therefore, and I'll relate back to an experience that I had where an officer's or an NCO club on a military installation didn't have to pay for input fees that normal overhead expenses would be for a normal club or restaurant and, therefore, they could offer a cheaper price. I'm concerned about the competitive edge that the funeral home might have in terms of being located on the cemetery as opposed to the funeral homes outside that. Could you talk to that for just a second? [LB252]

SENATOR COASH: I can, Senator. And I actually got that same question today and I went right to the funeral home director and asked him that question. And the answer that I got I'm happy to say is that 99.5 percent of the burials that happen in Wyuka have the service there as well. So there's not a case where...it's a very rare case where there would be a funeral held at Wyuka but the burial someplace else or the funeral held at another funeral home and the burial at Wyuka. So for the most...most times, and his...and the funeral director's number was 99.5 percent of the time those things happen together. And I appreciate this question. I appreciate Senator Carlson's question. I'm trying to make this clear that Wyuka, both the cemetery or the funeral home, have never paid sales tax to operate either the funeral home or the cemetery. Since its inception in 1869, I believe, they've never paid sales tax. And so they've never used that status as a way to gain a competitive advantage over their peers in the Lincoln community or in the state. And all AM1097 does is continues that status through clarity in the law. [LB252]

SENATOR KRIST: Okay. Again, between now and Select I certainly would like to have a few questions answered for the record, one of them is statistically because I'm being told that there is over 200 funerals that are performed by the funeral home and not interred in the cemetery. The input costs or the costs coming into that process might give the funeral home a competitive edge based upon other funeral homes. The second one, obviously, is that if there are input costs that are taxed, I'm sorry, that are not taxed at Wyuka that are taxed by other funeral homes, then obviously the input fees would result in a competitive edge for one or the other. I applaud what you're doing and I understand the need for it. But I do also understand that if we're establishing a competitive edge based upon the input costs and the tax base then we need to answer those questions before we move it on. And I thank you for your time. And thank you, Mr. President. [LB252]

SENATOR GLOOR: Thank you, Senator Krist. Senator Carlson, you are recognized. [LB252]

SENATOR CARLSON: Thank you, Mr. President. Again, members of the Legislature, Wyuka is state owned so we have some responsibility there. And I simply have...I intend to support this. But I simply have questions that, and Senator Coash understands, need

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to be fully answered by Select File. First of all, as Senator Krist stated, if there are things that they do not pay sales tax on that competitors do, we need to understand that. I think there may not be but that needs to be clarified. Secondly, does the passage of this bill in any way end up costing the state dollars that are coming to the state now? And I think not, but that certainly is important to clarify. And with that, I am in support of AM1097. Thank you. [LB252]

SENATOR GLOOR: Thank you, Senator Carlson. There are no senators remaining in the queue. Senator Coash, you're recognized to close on your...Senator Schumacher. [LB252]

SENATOR SCHUMACHER: Thank you, Mr. President. I rise to challenge the germaneness of this amendment. [LB252]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Senator Schumacher, it's my understanding you've challenged the germaneness of AM1097? [LB252]

SENATOR SCHUMACHER: Yes, Mr. Speaker. [LB252]

SPEAKER FLOOD: The Legislature will stand at ease. Senator Schumacher, you have challenged the germaneness of AM1097. I want to give you an opportunity to explain your point of order. Please proceed. [LB252]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. Our germaneness rules say that, "No motion, proposition, or subject, different from that under consideration, shall be admitted under color of amendment. Any amendment that is not germane is out of order." Germaneness amendments relate only to details of a specific subject of the bill and must be a natural and logical sequence to the subject matter of the original proposal. And, "nongermane amendment includes one that relates to a substantially different subject." The particular bill in question here, LB252, prioritized by Senator Smith, exempts a private sale of a specific service, that being tanning services, from sales tax. It is in Section 77-2703, an exemption for a service provided. That amendment that we have before us proposes to gut that entire provision and substitute in it a change in 77-2704.15. This particular thing exempts a specific business, which is a public corporation not owned by the state but a public corporation and it exempts all the purchases of this specific business from sales tax. That's a substantially different category of things that are being exempted here. It's targeted at a specific business and exempting all of its purchases rather than a specific service provided by any particular business. It is not a logical and natural sequence to the original bill. It also contains provisions which are probably divisible which set up a different reporting system with the Auditor of Public Accounts, which has absolutely nothing to do with anything to do with

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sales tax. And so, I believe, that it's reasonably clear that this is not the kind of amendment that is intended as a natural and logical sequence, a development on the original proposition but something entirely new and something without a priority. Thank you, Mr. Speaker. [LB252]

SPEAKER FLOOD: Thank you, Senator Schumacher. Senator Coash, you have an opportunity to respond if you so wish. [LB252]

SENATOR COASH: Thank you, Mr. President. I rise in opposition of the challenge to germaneness. I believe that what we've done here follows legislative tradition, our history. We frequently in this body, as long as the overarching concepts are the same, will use amendments to advance other bills. We did it just last week with Judiciary. We adopted court bills to other courts bills. This is a tax-exempt bill with an amendment to add a tax-exempt entity. So if we look at this from a little bit of a higher view, what we have in front of us is a tax-exempt bill in LB252 and a tax-exempt amendment in AM1097. They both deal with an entity's responsibility to pay sales tax or be exempt from sales tax. AM1097 exempts a business, LB252 exempts a service. They both deal with sales tax. Sales tax is sales tax, exemptions are exemptions. I believe that AM1097 is appropriate as an amendment to LB252. And I would ask that the Chair rule that it is germane. Thank you, Mr. President. [LB252]

SPEAKER FLOOD: Thank you, Senator Coash. The Legislature will stand at ease. Senator Coash, Senator Schumacher, would you please come forward. Senator Schumacher, you are recognized. [LB252]

SENATOR SCHUMACHER: Mr. Speaker, I withdraw the objection. [LB252]

SPEAKER FLOOD: Your germaneness objection is withdrawn. Mr. Clerk. [LB252]

CLERK: Mr. President, Senator Coash would move to suspend the germaneness rule to permit consideration of AM1097. [LB252]

SPEAKER FLOOD: Senator Coash, you're recognized to open on your motion. [LB252]

SENATOR COASH: Thank you, Mr. President. And thank you, Senator Schumacher, for withdrawing his germaneness challenge. I put up a motion to suspend the germaneness rule so that we can consider AM1097. I believe there is a will in this body to take care of this issue that I have put forth in AM1097. It seems most appropriate to ask the body to suspend the germaneness rule so that we can proceed, in light of Senator Schumacher's comments. I would ask the body's support in supporting this motion and the subsequent amendment and bill. Thank you, Mr. President. [LB252]

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

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Coash's motion. Senator Coash is recognized to close. Senator Coash waives closing. The question before the body is, shall the Legislature suspend Rule 7, Section 3(d) as it relates to germaneness concerning AM1097? All those in favor vote aye; all those opposed vote nay. This does take 30 votes. Have all those voted who care to? Mr. Clerk, please record. [LB252]

CLERK: 30 ayes, 2 nays to suspend the germaneness rule, Mr. President. [LB252]

SPEAKER FLOOD: The germaneness rule is suspended. [LB252]

CLERK: Mr. President, Senator Coash would move and offer AM1097 as an amendment to the bill. [LB252]

SPEAKER FLOOD: Senator Coash, you're recognized to open once again on AM1097. [LB252]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I think I've explained the amendment. I would take the opportunity to respond to some questions that Senator Carlson and Senator Krist have asked on the record... [LB252]

SPEAKER FLOOD: (Gavel) [LB252]

SENATOR COASH: ...and a handful of you have asked off the record. Between now and Select File I will get that clarified. I will let...I will sound like a broken record here, colleagues, however, AM1097 allows Wyuka to continue to operate as it has operated. They haven't been paying taxes. This allows them and clarifies that they can continue to operate without paying taxes. When we adopt AM1097 to LB252 we are, in essence, saying continue the way that you're doing your business. There is no difference between the way that Wyuka has operated or will operate in the future with the enactment of the underlying amendment and bill. And I would ask the body one more time for their favorable consideration of AM1097. Thank you, Mr. President. [LB252]

SPEAKER FLOOD: Members, you've heard the opening to AM1097. There are no lights on. Senator Coash, you're recognized to close. Senator Coash waives his opportunity. The question before the body is, shall AM1097 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB252]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Coash's amendment. [LB252]

SPEAKER FLOOD: AM1097 is adopted. Mr. Clerk. [LB252]

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CLERK: I have nothing further on the bill, Mr. President. [LB252]

SPEAKER FLOOD: We return to discussion on LB252. There are no lights on. Senator Cornett, you're recognized to close. [LB252]

SENATOR CORNETT: Thank you very much, Mr. Speaker and members of the body. Again, I'm, needless to say, disappointed about the outcome of the original bill. But I understood that coming out of committee that the support was not there. But it was an issue that we all felt that should be discussed. And I appreciate Senator Smith for everything he has done. And I appreciate Senator Coash coming to me with the idea. This was a bill that we did hear in the Revenue Committee and had advanced as amended. Thank you very much. I urge the body's support of the new LB252. Thank you. [LB252]

SPEAKER FLOOD: Members, you've heard the closing to LB252. The question is, shall this bill advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB252]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB252. [LB252]

SPEAKER FLOOD: LB252 advances to E&R Initial. Mr. Clerk, we now proceed to LB106. [LB252 LB106]

CLERK: LB106, offered by Senator Schilz. (Read title.) The bill was introduced on January 6 of this year, referred to the Revenue Committee, advanced to General File. There are committee amendments, Mr. President. (AM731, Legislative Journal page 859.) [LB106]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open. [LB106]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good afternoon. LB106 was initially introduced to expand the uses of existing county option sales tax so it could be used for transportation infrastructure in addition to public safety services. The green copy of the bill set up a process where the county would develop a one-year and three-year plan which would incorporate the projects that are to be paid for by this tax. The plan would be revised every year to make sure it is kept up to date and encourage continuity. And we, as we said, we do have some amendments coming up. The Revenue Committee has an amendment that will replace the bill. And then Senator Loudon also has an amendment that will amend the committee amendment. Currently, county sales tax can only be utilized for public safety. The changes proposed in LB106

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do not affect the process or the restrictions that are included in the act. If a county chooses to impose this option, they must pass a resolution by the county commissioners. Once that has passed, they must put the proposed amount of either .5 percent, 1 percent, or 1.5 percent and the description of the projects in the terms on the ballot for consideration by the voters of that county. If the tax is passed by a majority of the voters, it will be imposed on the normal sales tax items within the county but not in any community that already has a local option sales tax in place. We have one county right now that is utilizing the current sales tax, and that's Dakota County. The opportunity that we saw in introducing this bill and from the constituents that brought it to me were other counties that would have opportunities, say, Keith County in western Nebraska where we have quite a few visitors that are coming from Colorado and visiting Lake McConaughy. As we went through the committee hearing and the committee process, we were informed of other places that could utilize something like this, namely, Whiteclay with the issues they have up there with alcohol sales. And since most folks that are spending their money there are from South Dakota, it would be a way to infuse tax money there to take care of some of those problems. So as we looked at that, and we'll have more explanation from the Revenue Committee and Senator Loudon himself. And I support both of those amendments. I'd like to thank the Revenue Committee for working on this. I'd also like to thank Senator Loudon for prioritizing it. I think it makes some good changes to a bill that can really help some folks out there. Again, I'd like to reiterate that this is not a new tax. It's a reasonable expansion of what the proceeds can be used for. LB106 with the amendment is setup so people have the final say as to whether or not to impose this tax within their respective counties. And with that, I encourage you to support LB106 with the two amendments that will be coming. And I'd be happy to answer any questions if anybody has any. Thank you very much. [LB106]

SENATOR GLOOR: Thank you, Senator Schilz. As the Clerk stated, there are amendments from the Revenue Committee. Is Senator Cornett available, as Chair of that committee, to open on those amendments? Senator Utter, I see as Vice Chair you are willing to open on those amendments. Thank you. [LB106]

SENATOR UTTER: Thank you very much, Mr. President. Good afternoon, colleagues. Senator Cornett has been called away to a meeting and asked me to fill in for her. LB106 is a bill that Senator Schilz introduced to expand the uses of a county local option sales tax to transportation services. Senator Loudon decided to take this bill as his priority bill. The Revenue Committee amended the bill to limit it to law enforcement. I would ask that you adopt the committee amendment. I understand that Senator Loudon has an amendment to the committee amendment that will put a clearer definition of public safety services into statute for the first time. This definition will include law enforcement but will add fire prevention and emergency services. And I support Senator Loudon's amendment. I should also state that we may need to coordinate the provisions of LB106 with the amendments to the bill...to LB357, which the body...amendments will be made to that amendment later on that the body will be considering. That's the city

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option sales tax bill. Senator Cornett will bring the body amendments on Select File which will reflect the same criteria for county elections and ballot language which the body elects to impose on LB357. So you can look forward to some additional amendments to this bill on Select File. And with that, that closes the opening, Mr. President. [LB106 LB357]

SENATOR GLOOR: Thank you, Senator Utter. Mr. Clerk, as stated, there is an amendment to the committee amendments. [LB106]

ASSISTANT CLERK: Mr. President, Senator Louden would offer AM870 to the committee amendments. (Legislative Journal page 978.) [LB106]

SENATOR GLOOR: Senator Louden, you're recognized to open on your amendment to the committee amendments. [LB106]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I want to thank Senator Schilz for introducing LB106. The counties were given authority to impose a sales tax years ago, which I believe was maybe clear back in 1967. And as you read the statutes, that section of statutes was revisited in 1997 and '99. They've had that authority for years. The counties could impose a tax of .5 percent, 1 percent, or 1.5 percent on sales within the county but outside an incorporated municipality which had adopted a local sales tax. Those funds were to be used for public safety and any interlocal cooperative agreement or joint public safety. At the present time, as Senator Schilz pointed out, only one county is doing that and that's Dakota County. As LB106 was originally drafted, transportation infrastructure projects were included besides public safety. With permission from Senator Schilz, the Revenue Committee amended LB106 with AM731 to be used for only crime prevention, offender detention and police services. The original bill and that particular statute, 13-318, included firefighter and emergency services. I have introduced AM870 which becomes the bill to reinstate public safety services. In Section 1 of AM870, public safety services are described. And the tax must be voted on at an election and a majority of qualified electors have approved the tax as dictated in statutes. In Section 1 of AM870 the wording is: For purposes of Section 13-318 to 13-326, public safety services means crime prevention, offender detention, and firefighter, police, medical, ambulance, and/or other emergency services. And with that, we tried to cover the emergency services which a lot of counties have problems funding. LB106, with AM870, will allow counties that have retail sales outside a municipality to use a sales tax to fund law enforcement, fire and emergency needs. There is no fiscal note as it is all local expenditures. It's also set out in statute how they will vote for this tax at a general election. I would urge you to adopt this amendment, AM870, and approve LB106. Thank you, Mr. President. [LB106]

SENATOR GLOOR: Thank you, Senator Louden. Members, you have heard the opening on LB106, the committee amendment, and the amendment to the committee

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amendment. Senator Schilz, you are recognized. [LB106]

SENATOR SCHILZ: Thank you, Mr. President. Once again, I know that AM870 to AM731, basically, what it's doing is it's adding back language that was in the original law, that in AM731 got taken out. So we're adding it back. So I'm in full support of that. Obviously, the transportation infrastructure part was pulled out of the bill. We looked at that. We decided with the Revenue Committee's help and with the discussions that were going on, we decided at this point it would be better to take that out. I will say that I fully suspect that on Select File, as Senator Utter was talking about when we tried to harmonize those with the other sales tax bills and laws that are out there, I'm in full support of that as well. So I would just appreciate this. I think that it's relevant here to say and to look at communities like Whiteclay, Nebraska, where there's been issues for years and years and years, that we may have something that can help with the enforcement up there, with law enforcement. In our figures, as we were talking to some of the representatives from up there, it looks to me they could get probably enough funds to be able to dedicate towards one or two law enforcement officers up there or detention or whatever it would be. So I think it's a great step forward. I think it's a great tool that can be utilized in those areas where the voters decide they want to do that. And with that, I would just ask for everyone's support on the amendments and the bill itself. Thank you. [LB106]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Council, you are recognized. [LB106]

SENATOR COUNCIL: Yes, thank you, Mr. President. I'm listening to the opening on LB106 and both of the amendments. And, I guess, I have a question, I have several questions. First, if Senator Schilz would yield to a question... [LB106]

SENATOR GLOOR: Senator Schilz, will you yield? [LB106]

SENATOR SCHILZ: Yes. [LB106]

SENATOR COUNCIL: Senator Schilz, as I understood the original intent of LB106, it was simply to add transportation infrastructure to what is currently a permissible use of the local county option sales tax. Is that correct? [LB106]

SENATOR SCHILZ: That is correct, yes. [LB106]

SENATOR COUNCIL: Okay. And there was an amendment by the Revenue Committee to remove transportation infrastructure. Am I correct? [LB106]

SENATOR SCHILZ: Yes, that's correct. [LB106]

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SENATOR COUNCIL: Okay. Which brings me to the question as to the necessity of AM870, AM731 or LB106 if, with the amendments, all you do is go back to where the law existed before the introduction of LB106. I guess the only difference that I hear between how the law currently stands and how it would stand under LB106 with all of these amendments is that where the county did not have to go to a vote of the people to impose the sales tax for public safety related issues, that now it will have to go to the voters. Am I correct, Senator Schilz? Is that how you understand the impact of the proposed amendments on your bill? [LB106]

SENATOR SCHILZ: Right, the true impact, I think as you look at the bill and as you look at the way it was written, I'm pretty sure, and I can be corrected on this if I'm mistaken, but I'm pretty sure that the county sales tax always had to go to a vote of the people. The difference here and the reason that we need this change in law is specifically for areas like Whiteclay that are an unincorporated, you know, community that don't have a governmental structure to be able to enter into an interlocal agreement with anyone. And so the language is being changed to allow that county to be able to use this for law enforcement without those interlocal agreements. [LB106]

SENATOR COUNCIL: Okay. So then with the exception of that change that removes the requirement that there be an interlocal agreement, otherwise the bill with these amendments would be the same as the law currently exists? [LB106]

SENATOR SCHILZ: That is true. Well, yeah, if we would make sure and put on all these amendments we would be back to there. And we would enable communities like Whiteclay, counties such as, I believe, it's in Sheridan County, to be able to utilize these funds. Yes. [LB106]

SENATOR COUNCIL: Okay. So one of the ways to arrive at that would be to amend LB106 by simply deleting the reference to transportation infrastructure and deleting the reference to a public safety commission that would enter into interlocal agreements. Am I correct? [LB106]

SENATOR SCHILZ: Correct. And basically that's what the amendment does. [LB106]

SENATOR COUNCIL: Is that what AM670 (sic) does or what... [LB106]

SENATOR SCHILZ: Actually, they would both...well, you mean AM870? [LB106]

SENATOR COUNCIL: AM870. [LB106]

SENATOR SCHILZ: I'm sorry. Yeah, as you look at them, quite honestly,... [LB106]

SENATOR GLOOR: One minute. [LB106]

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SENATOR SCHILZ: ...the difference between the two amendments is that AM870 actually puts the language back in that was in the original law to start out with. When the Revenue Committee moved some of that or put their committee amendment together some of that language was left out. So Senator Louden's amendment is basically bringing that back into play to make sure it's all there. So it's kind of a, yeah, it's a little bit of a long way around the block. [LB106]

SENATOR COUNCIL: Okay. So, I mean, so that there's a clear understanding of what would be accomplished if LB106 with the two pending amendments are enacted, I guess, simplistically stated, if I'm correct, is that the current ability of a county to impose a local option sales tax would be retained for the purpose of... [LB106]

SENATOR GLOOR: Time, senators. [LB106]

SENATOR COUNCIL: Thank you. [LB106]

SENATOR GLOOR: Thank you, Senator Council, Senator Schilz. Senator Louden, you are recognized. [LB106]

SENATOR LOUDEN: Yes, thank you, Mr. President and members. Senator Schilz and Senator Council's dialogue is pretty much right on with what they're talking about. The way the original statutes were written, in order for a county to have a sales tax outside of a municipality that had a sales tax is they had to have an interlocal agreement with the local town or whatever, town or village that was incorporated. We have these areas in Nebraska and these counties that didn't always have these incorporated places, but did have some sales tax revenue. And that's what this bill was designed to do. Now the reason the Revenue Committee amendment came forward like that was to change that to put it into law enforcement rather than transportation. And in the process somewhere along the line it either got overlooked, but the firefighters and the emergency people were actually written out of the original statute. And so that's what I did with my amendment, nobody had any problem with that, but to leave those people back in the original statutes. Now the reason for that is some of these counties, such as I noticed the other day Sheridan and Box Butte and some of those counties, are at around the 45-cent mark. And that doesn't leave 15 cents left for the fire districts and some of your emergency districts to operate with. So they can use something like this in some of the counties in order to fund their fire districts. As you all know, 35 cents and then there's supposed to be 15 cents set aside for your fire districts, your hospital districts and everything. And at the present time there's fire districts in many of those rural counties that have to have that override every time they have an election in order to have enough money to operate. So this will help clean some of that up a little bit. We brought this forwards because of some of the counties were needing some revenue sources. And this says in there, in the statutes, that it has to go to a vote of the people at a general

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election in order to implement this. So even with the interlocal agreement, I think they had to have an election in order to do that. And then mostly what it did was take out of statutes the need for an interlocal agreement. And this is something that will help the counties go farther ahead. It isn't anything new, they already had the authority for the sales tax, but something that we thought we could work forwards with. There will be many counties that this probably won't help because they don't have any retail sales outside of a municipality. But we think this will help some of our rural counties. And I appreciate the vote green on this AM870 and AM731 and, of course, LB106. Thank you, Mr. President. [LB106]

SENATOR GLOOR: Thank you, Senator Louden. Senator Louden, there are no remaining senators in the speaking queue. You're recognized to close on your amendment to the committee amendments. Senator Louden waives. Members, the question is, shall the amendment to the committee amendment to LB106 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB106]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB106]

SENATOR GLOOR: The amendment is adopted. There are no additional senators in the speaking queue. Senator Utter, you're recognized to close on the committee amendment. Senator Utter, you're recognized to close on the committee amendment. Senator Utter waives. The question is, members, shall the committee amendments to LB106 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB106]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB106]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB106 to E&R Initial continues. No senators wishing to be heard. Senator Schilz, you're recognized to close on the advancement of LB106. Senator Schilz waives. Members, the question is the advancement of LB106 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB106]

CLERK: 26 ayes, 3 nays, Mr. President, on the advancement of LB106. [LB106]

SENATOR GLOOR: LB106 advances. Mr. Clerk, items for the record. [LB106]

CLERK: Thank you, Mr. President. New A bill. (Read LB549A by title for the first time.) And the Government Committee, chaired by Senator Avery, reports LB142 to General File with committee amendments attached. That's all that I had, Mr. President.

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(Legislative Journal pages 1306-1307.) [LB549A LB142]

SENATOR GLOOR: Thank you, Mr. Clerk. Returning to the agenda, Mr. Clerk, LB549. [LB549]

CLERK: LB549 was a bill originally introduced by Senator Council. (Read title.) Introduced on January 19, referred to the Natural Resources Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1121, Legislative Journal page 1211.) [LB549]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Council, you're recognized to open on LB549. [LB549]

SENATOR COUNCIL: Thank you very much, Mr. President. Good afternoon, colleagues. I rise for the purpose of introducing LB549. And, in a nutshell, LB549 provides for the creation of the Nebraska Youth Conservation Program. LB549 evolved out of a conversation that I had with Rex Amack, the director of the Nebraska Game and Parks Commission, well over two years ago. At that time, we engaged in a discussion about how the former federal Youth Conservation Corps had provided opportunities for youth in the state of Nebraska to gain employment experience while at the same time learning about the environment, wildlife, and conservation. We discussed how such a program could serve to prevent participants from engaging in harmful and unproductive behavior, as well as serving as a positive intervention in the lives of those who had, unfortunately, engaged in such harmful and unproductive behavior. With the assistance of Rex Amack and his staff, Speaker Flood, and Natural Resources Chairman Senator Langemeier, LB549 was crafted. The purpose of the Nebraska Youth Conservation Program is to employ Nebraska's at-risk youth on projects that contribute to conserving or developing natural resources and maintaining and enhancing our state parks and recreational facilities. The program to be administered by the Nebraska Game and Parks Commission will combine academic, environmental, and job skills training with personal growth opportunities for each of the participants. The program targets at-risk youth in our rural and urban communities. At-risk youth are defined as youth... [LB549]

SENATOR GLOOR: (Gavel) [LB549]

SENATOR COUNCIL: ...who have a barrier to employment, reside in a low-income household, have been directly impacted by substance abuse or physical abuse, have had a negative contact with law enforcement, or are not experiencing success in school and are in jeopardy of dropping out. It is to be noted that under LB549 special effort is made to select applicants from rural and urban areas in the state which are the victims of high concentrations of poverty. It is the intent that the Game and Parks Commission will be aided in the selection of the youth to participate in the Nebraska Youth

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Conservation Program by those organizations across the state of Nebraska who have been involved in initiatives aimed at preventing youth violence and intervening in the lives of young people who have been determined to be at risk. Indeed, during the early discussions regarding the development of a program such as LB549, the group of individuals who had been working on this bill assisting me with this particular measure--we were joined by representatives of organizations that have, in fact, been receiving grants through the Office of Violence Prevention for programs aimed at reducing youth crime and violence in the state. Those individuals who sat down and assisted us with those efforts have pledged to assist the state and particularly the Game and Parks Commission in identifying the potential applicants as well as providing any staff assistance that may be needed in terms of supervising the youth involved in this program. As drafted, LB549 contemplates the implementation of the program in the summer of 2012. While we would most assuredly like to implement the program this upcoming summer, it was recognized that there is far too much preliminary work that needs to be done in order for us to have an efficient and effective program ready for this summer. So the intent is that the program be implemented for the summer of 2012. The program would run six weeks and employ close to 300 at-risk youth who must be at least 16 years of age but not older than 21 years of age. The youth will be paid minimum wage. The amount budgeted for the program includes sums to cover the projected costs of transporting the youth to and from their job sites, as well as providing them with a noon meal. The language authorizing the provision of a noon meal and establishing the status of these participants as employees of the state of Nebraska only for selected purposes will be discussed during Senator Langemeier's introduction of the committee amendment to the bill. With respect to transportation, there has been discussions around the possibility of providing the opportunity for some of the youth to have overnight opportunities at some of the state facilities, such as Chadron State Park and Fort Robinson, that many of the targeted youth would otherwise not be able to access on a daily basis. The projected cost of implementing LB549, as reflected in the original draft of the bill, is \$994,000. I would like to thank Attorney General Bruning for his support of the purpose for which LB549 was introduced. And he has shown that support by not voicing any objection to the transfer of the amount required to implement the program from the State Settlement Cash Fund. This is a one-time transfer. And for those who may question what happens to the program after this one-time appropriation is expended, while it is my hope that the report to be provided to the Legislature after the conclusion of the program in 2012 will more than justify future appropriations of state funds for this program, I want you to know that we have been engaged in conversations with representatives of the Department of Labor who are impressed with this program and have indicated that with respect to the Workforce Investment Act they see the potential for federal funds to be accessed to support not only the summer version of this program but also a year-round program for at-risk young adults. Again with respect to the funding, the Fiscal Office provided me today with the A bill, which the Clerk just referenced before this bill came before you. The A bill provides for the transfer of slightly more than \$1 million to the Game and Parks Commission expressly for the

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Nebraska Youth Conservation Program. And it also provides, since the program probably will not be implemented till the summer of 2012, that any unexpended balance remaining in that at the beginning of the 2012-2013 fiscal year would be reappropriated to make sure that the program is successfully implemented for the entire summer of 2012. With that introduction, I would urge this body's favorable consideration of LB549 with the amendment to follow. Thank you. [LB549]

SENATOR GLOOR: Thank you, Senator Council. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as Chairman of that committee, you are recognized to open on the committee amendment. [LB549]

SENATOR LANGEMEIER: Mr. President, members of the body--and thank you, Senator Council. She did a great job of--with her introduction. The committee amendment does replace the bill. We always feel, in Natural Resources, that's always a cleaner way to offer an amendment to a bill. It makes several clarifications that did not substantially change the bill, but it does include changes made by our committee and the Game and Parks Commission. The program participants are considered temporary employees for administrative purposes, and they will be covered under workers' compensation. The criteria used to identify the program participants is revised to make the process easier to use with available data. We're going to use "at-risk youth" and "high-poverty areas" in the bill--have been revised so that the definitions are more in line with current work force development program criteria. This way Nebraska Game and Parks does not have to reinvent the wheel in looking and finding these potential youth. Overall, the language was adjusted to allow the commission to partner or contract with outside entities that have experience administering this kind of a program, so that it does not have to start with the program from scratch; it will allow them to pick up from a running start and get this program under way. So with that, it's technical in nature; it does rewrite the bill, but it's designed to just clean it up a little bit and keep the concept of LB549 clear and ready to go, be put to work. So with that, we'd ask for your adoption of AM1121 and LB549. Thank you, Mr. President. [LB549]

SENATOR GLOOR: Thank you, Senator Langemeier. Members, you've heard the opening on LB549 and the committee amendment. We now move to floor discussion. Senator Harms, you are recognized. [LB549]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Council, would you yield just for a couple questions for me? [LB549]

SENATOR GLOOR: Senator Council, would you yield? [LB549]

SENATOR COUNCIL: Yes, Mr. President. [LB549]

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SENATOR HARMS: Senator Council, you actually would create a Nebraska Youth Conservation Program Fund. And the State Treasurer is going to transfer a little over \$900,000. [LB549]

SENATOR COUNCIL: Correct. [LB549]

SENATOR HARMS: For the matter of record, I just want to make sure that when we run out of these funds we will not be coming back to tap the General Fund, will we? [LB549]

SENATOR COUNCIL: At this point in time, LB549 does not contemplate that, Senator Harms. But as I indicated in my introduction, the Legislature would have received a report of the outcome of LB549 before the next biennium, and if it demonstrates the kind of success and engagement of students, this body certainly has the opportunity to consider further appropriations. But as currently drafted, no. And as I indicated, the Workforce Investment Act has indicated to us that there are possibilities for federal funds to continue the program. [LB549]

SENATOR HARMS: Senator Council, thank you. I also have another question I'd like to ask. I know in working with high-risk people--students, young individuals--I know they're going to have difficulties, and I don't see this in the bill or in the amendments, about providing housing, food, and transportation. Because I know that some of these high-risk teenagers will have difficulty getting just to the program; I know the program then will transfer them to where their work is going to be. We have anything at all that we're going to address that issue on the housing portion? Because some may need the housing because of the distance they might have to travel and for food and then actually getting to the program itself. [LB549]

SENATOR COUNCIL: Okay. Thank you, Senator Harms. As currently contemplated, this is principally a day program. So the students who are going to be selected will be students who can be transported on a daily basis to and from their work assignment. We have, though, in discussions, Senators Langemeier, Flood, and myself, have been looking at the potential for opportunities for some of these youth to be involved in overnight programs. And for example, one of the suggestions that we are considering exploring is Chadron State Park, for example. Not many of the youth involved in this program will be coming from the immediate Chadron area, based upon the criteria for classification as an at-risk youth. But if we have them from areas that are some distance, we've had some discussions about entering into an arrangement with, for example, Chadron State College to utilize dormitory space that isn't being used. And Rex Amack and his staff and organizations that work with at-risk youth on a daily basis have offered their services in terms of supervising in the event we're able to arrange such overnight stays. But currently the budget and the program is built upon daily transportation to and from their work assignments. [LB549]

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SENATOR HARMS: Okay. Does the Job Corps fit into this? If you're going to be up in the Chadron area, will the Job Corps in any way fit into this project or program? Are you familiar with that? [LB549]

SENATOR COUNCIL: Well, again, Workforce Investment Act opportunities may be able to provide funding for Job Corps participants to participate at no additional cost to the state and not have to access any of the dollars that we're appropriating for the program. [LB549]

SENATOR HARMS: Senator, I also noticed in the one amendment we talked about--and that would be AM1121... [LB549]

SENATOR COUNCIL: Yes. [LB549]

SENATOR GLOOR: One minute. [LB549]

SENATOR HARMS: ...on page 2, line 16. We talk about "success in school," and we don't really define what that is. I don't know what "success" means. Are we talking about...they talk about... [LB549]

SENATOR GLOOR: (Gavel) [LB549]

SENATOR HARMS: ...potentially students dropping out. Are we talking about grades? Are we talking about the fact they're not coming to school? Or what are we talking about here, so that--have a little bit better understanding just exactly what your intention is here? [LB549]

SENATOR COUNCIL: And that's a good question, Senator Harms. And if you look at the sentence, there is a conjunction. It says, not having success in school and are in jeopardy of dropping out. So that's what we're focusing on, are students who are at risk of dropping out. And they'll be looking...and that's where these organizations--like the group in Columbus that received a violence prevention grant, the group in Omaha, and the group in Scottsbluff, all of whom have offered their assistance in helping the commission--the Game and Parks... [LB549]

SENATOR GLOOR: Time, senators. [LB549]

SENATOR COUNCIL: Sorry. [LB549]

SENATOR GLOOR: Thank you,... [LB549]

SENATOR HARMS: Thank you. [LB549]

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SENATOR GLOOR: ...Senator Harms, Senator Council. (Visitors introduced.) Senator Flood, you are recognized. [LB549]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. I rise in support of LB549 and AM1121. A couple years ago, I was--it was a long, hot summer--and we watch Omaha television in Norfolk, and it seemed like every night we were going to bed and police were on the scene of another homicide in Omaha. And it was an exceptionally tough summer. It was the same year that they had the Von Maur shootings, as I recall, in December. And I was disturbed by it. And I remember a reporter asked me one time about it, and I said: You know, if that was happening in my district, I'd want the National Guard. And I didn't really understand the violence problem. I still don't think I can understand it, not being a member of the community there. But I got engaged and Senator Ashford invited me to a violence conference that he held with leaders of the north Omaha community. I signed up for a ride-along program in the Northeast Precinct with the Omaha Police Department. And I rode with Lieutenant Witkowski, who drove me around the area. And, you know, I think before those experiences I was somebody who thought you could arrest your way out of the problem. I thought, what a great deal: the State Patrol--and I really appreciate this from the state of Nebraska and Governor Heineman--they sent in extra State Patrol troopers to help police northeast Omaha and the city of Omaha when the violence was really rampant. But you know what I learned from Lieutenant Witkowski, driving around northeast Omaha? I learned that the programs under way to give young people opportunities in the community--after-school programs, job opportunity programs, job development programs...I learned from Senator Ashford what was going on. And Lieutenant Witkowski was driving me down those streets in Omaha, and she was praising the work of Senator Council and Councilman, now Councilman--former--well, Ben Gray, and the work that they were doing. And I thought to myself, you know, what else can we do? And then it occurred to me, with the help of Senator Ashford, this is not an Omaha problem. If this were happening anywhere else, this is a state problem. This violence is not only troubling, but it's something we have to embrace at the state level. And a couple...and then a year after that I was with Senator Council in her first year as a member of the Legislature. And we were over at the Ferguson House, and she was talking about a program that she knew of back in the '70s. And we got to talking about it, and I thought, why not? Why not take somebody out of an area where they're dodging bullets and give them something that gives everybody confidence? And that's a job. Give them an opportunity to make an honest hourly wage, work to benefit the state parks of Nebraska, and build confidence and opportunity. Get out of a concrete area of north Omaha, where you can get into trouble from time to time if you're in the wrong group, and give those at-risk youth a chance to grow marketable skills that will turn into opportunities careerwise and familywise and productivity, and make them productive citizens of the state. I see a lot of value in this bill. I know that it's got one-time funding in it. And I think the state is going to have to look at the data after the summer of 2012, going into the session in 2013. And Senator Council identified some different areas that

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we could find funding. But as a rural senator, this problem happens in Omaha, it happens in Columbus, it happens in Norfolk, it happens in Scottsbluff. Omaha obviously has the state's attention, not just because of the media attention paid to it but the number of homicides. And I guess as a rural senator, this is a state problem and it's one that I want to invest my time and my support in. And you know, the people I talk to in my district, whether it be in rural Madison County... [LB549]

SENATOR GLOOR: One minute. [LB549]

SPEAKER FLOOD: ...or inside the city of Norfolk, they say that's a great program; let's get these young kids a job; let's build some confidence, and let's plant a seed that will grow and, hopefully, reduce the violence. I am proud of Brenda Council's, Senator Council's effort, and I look forward to supporting it. Thank you, Mr. President. [LB549]

SENATOR GLOOR: Thank you, Senator Flood. Senator Ashford, you are recognized. [LB549]

SENATOR ASHFORD: Thank you, Mr. President. And I do appreciate Senator Flood's comments, and I admire Senator Council's work in Omaha. And I certainly appreciate Senator Flood's willingness to work on the issue of violence in Omaha and in other communities as he has done for the last five years that we've served together. This is a magnificent example of playing the strengths of Nebraska, bringing together the issues that have occurred in metropolitan Omaha. But as Senator Flood suggests, and is clearly the case as is exhibited by the Office of Violence Prevention funding that goes to cities like Grand Island and Columbus as well as Omaha, that the problem of youth violence and gang violence has occurred everywhere in our state to different degrees. What is clear from the work that Senator Council and Councilman Gray and many, many others--Tom Warren, names that I'm sure many of you are familiar with--what we've seen is the direct correlation between work and a lessening of violence. The evidence from last summer is unequivocally clear. As Chief Hayes mentioned...and I actually had a chance to talk to him--I saw him the other day at coffee. And this year we've had a slight spike in violence, in April, as we did last year. But then throughout the whole summertime in Omaha we really didn't have any youth homicide or gang-related homicides in our city. And what is the reason for that? The reason for that is that there were work programs available to the youth in Omaha, and it resulted in, in my view, in a significant lessening of violence. And as...Senator Flood made a great point and that is it's not just work for work's sake, but it's important work. It's important work that will be done across the state in our state parks, that the youth who will be working for us, for all of us, in the state parks will receive a paycheck, a wage. And my experience in working on these issues, and it doesn't even remotely come close to--and I don't pretend to say that it does--Senator Council and her colleagues in north Omaha. But my understanding from working in these issues has been that receiving a paycheck from an employer is a wonderful event for young people who have never received such a paycheck, who have

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never understood that if you work hard, you actually can get a paycheck, and that if you work harder you get bigger paychecks. And if you work harder than that, you could even maybe someday get elected to the Legislature, and then you won't get such a big paycheck. But essentially, it is absolutely clear to me that this is one of the most important initiatives that I've seen come through here. And I appreciate very much Senator Flood's interest. He did spend a night going through some of the higher-impact crime areas in Omaha with the Omaha police division, an experience that is very eye-opening. And he has been behind our efforts to come up with different options for at least our metropolitan area and for the entire state with the Office of Violence Prevention. And it's great to have that support, because it is critical and important that he has given it to us. With that, Mr. President, I wholeheartedly support...and I want to thank Senator Langemeier as well. His support on the Natural Resources Committee and the entire committee has been extremely helpful to the efforts that Senator Council has brought to us in this bill and the potential that this bill brings us. Thank you, Mr. President. [LB549]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Schumacher, you are recognized. [LB549]

SENATOR SCHUMACHER: Thank you, Mr. President. Every once in a while you can spot a bargain, and this is a bargain. If we can employ some of these young people, teach them the value of work and a dollar, and keep them out of the juvenile system, keep them out of the criminal court system, and maybe actually get a tax dollar or two out of them as they grow older, this is a bargain. And the million dollars that is being talked about is a real deal. Sometimes you listen to the old farmers and they know what they're talking about. And I heard one of them discussing the situation a few months ago in Omaha when there was quite a bit of violence there and his answer was, why don't they get them out there and pull some cockleburs and that would take care of the problem, because they'll be too tired to do anything else when they get home at night. This is a bargain, and I wholeheartedly support it. Thank you. [LB549]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Louden, you are recognized. [LB549]

SENATOR LOUDEN: Thank you, Mr. President and members. Would Senator Council yield for questions? [LB549]

SENATOR GLOOR: Senator Council, would you yield? [LB549]

SENATOR COUNCIL: Yes, Mr. President. [LB549]

SENATOR LOUDEN: Yeah. Senator Council, as I understand this bill, this is for...I guess, what's the hiring process for these youth? Do they have to have been through

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the court system? Or can it be just any youth that are willing to go and do this work, when they talk about 30 eight-man crews across the state of Nebraska? [LB549]

SENATOR COUNCIL: The bill focuses on at-risk youth, Senator Louden. And it contains a definition of at-risk youth that is utilized by similar programs that have the same objective. And so they're going to focus on young people from areas of high concentration of poverty, rural and urban; young people who have had some negative contact with law enforcement. Those will be the young people who will be accorded the preference; that's who is being targeted. [LB549]

SENATOR LOUDEN: And... [LB549]

SENATOR COUNCIL: And... [LB549]

SENATOR LOUDEN: ...who would choose these folks? [LB549]

SENATOR COUNCIL: It will be the Nebraska Game and Parks Commission working in consultation with the youth-serving organizations that several of us have referred to, and they have offered their assistance. And these are the youth-serving organizations that have... [LB549]

SENATOR LOUDEN: Okay, I'm wondering, does any of this go through, like, juvenile court or anything like that, or how...? [LB549]

SENATOR COUNCIL: No. No. [LB549]

SENATOR LOUDEN: You know, and that was my question. Because I think it's a very good program, because over the years that I've ranched out there, I've hired so many kids over the years that have done various things for us that I can't even remember all their names. I can remember all their faces, but there's been probably nearly a hundred kids over the years that I've brought out there and taught them how to run a tractor and hay, and they've always been pleased. In fact, I found that if you wanted to hire these kids, you usually...you called their mothers first, because once their mother found out that they could get out there and get something done, there was no negotiation. So that's what I'm wondering, is just how these people will be chosen, and will it be a very good job of choosing these youngsters to go out and do this? I think it's a very good program if you get it, you know, get the right people chosen to do that work. [LB549]

SENATOR COUNCIL: Yeah. And the bill provides the authority for the Game and Parks Commission to work collaboratively with some of these youth-serving organizations. And what we were looking at when we were sitting down drafting the bill--and we invited some of those organizations to be represented during our discussions of the bill; it would be, like, the organizations in Scottsbluff, Columbus, Grand Island, and Omaha

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that received grants under the... [LB549]

SENATOR LOUDEN: Now, will there be, like, a work team for each commission district? Or how will they...or will there be more of them from probably metropolitan areas? Or how will they divide those teams up, when they talk about eight work teams, the state over? I think there's, what, six commissions? [LB549]

SENATOR COUNCIL: Yeah, well, in terms of the work groups, Senator Louden, the work groups are going to be based, initially, on where they're being transported from. Because at this point in time, the budget is only based upon transporting youth from a pickup location in their community to a park or recreational facility... [LB549]

SENATOR LOUDEN: Yeah, I understand that. But I'm wondering about, like, the district out in Alliance, if they'll have a group out of that district, and perhaps in another district there they'll have another group down at North Platte and places like that, and then... [LB549]

SENATOR GLOOR: One minute. [LB549]

SENATOR COUNCIL: I would expect that to be how the commission would set that up, because it... [LB549]

SENATOR LOUDEN: Okay. Now all we have to worry about then is, what is it they say, the devil in the details now? [LB549]

SENATOR COUNCIL: Exactly, Senator. [LB549]

SENATOR LOUDEN: Okay, thank you, Senator Council. Thank you, Mr. President. [LB549]

SENATOR GLOOR: Thank you, Senator Louden and Senator Council. There are no senators remaining to be heard. Senator Langemeier, you are recognized to close on the committee amendments. [LB549]

SENATOR LANGEMEIER: Mr. President, members of the body, I appreciate the discussion on the committee amendment, AM1121, and this is my priority bill as well. I'd ask for your adoption. Again, it becomes the bill, but it's a cleanup to LB549, as the devil is in the details, as Senator Louden said. And we look forward to your support and look forward to the opportunity to help the youth across Nebraska. Thank you. [LB549]

SENATOR GLOOR: The question is, shall the committee amendments to LB549 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB549]

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CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB549]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB549. There's no senators wishing to be heard. Senator Council, you're recognized to close. Senator Council waives. The question is the advancement of LB549 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB549]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB549. [LB549]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB549]

CLERK: Mr. President, LB345 is a bill introduced by Senator Conrad. (Read title.) Introduced on January 12 of this year, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are Banking Committee amendments pending, Mr. President. (AM273, Legislative Journal page 891.) [LB345]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Conrad, you're recognized to open on LB345. [LB345]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I'm excited to introduce LB345 which establishes the Economic Gardening Technical Assistance Act for a two-year pilot program. It is funded with existing resources. The Department of Economic Development will administer this pilot project, and the project envisions a seamless partnership among state government, higher education, and the private sector. In fact, we've already received inquiries from the private sector for potential investment and partnership if enacted. Well, what is economic gardening and what is contemplated in this pilot project? The program would assist 40 Nebraska-based growth businesses. Half of these businesses must be located in rural areas; half of these businesses would come from urban areas. The definition we utilize would be based on population: urban areas, meaning counties with a population of more than 50,000, which would be Sarpy, Douglas, Hall, and Lancaster; and counties with a population less than 50,000. So there would be equity contained in this in terms of qualifying growth businesses. The assistance that will be provided includes market research, national and local demographic trends, strategy analysis, capital and labor referrals, growth tools provided directly to the small businesses and entrepreneurs. And this is important, because these groups typically lack the resources to commission this kind of information on their own, and these tools are critical to their success and growth. This legislation is based on solid research emanating from the Battelle study commissioned by the Department of Economic Development and your Legislature's Innovation and Entrepreneurship Task Force, which I chaired during the interim period.

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Both studies found that by enacting policy reforms like this, we have a real opportunity to evolve our economic development programs, create good jobs, and ensure Nebraska is competitive in an ever-changing global economy. Economic gardening has a clear track record of success in various other jurisdictions, some on a local basis and some on a statewide basis. And I've asked the page to pass around a few examples of those for your consideration. There is an evaluation component contained in this legislation. The Department of Economic Development will issue a report to the Legislature at the conclusion of a two-year period with the following benchmarks: the numbers of businesses assisted; the aggregate change in sales revenue; the number of jobs created; and the range of newly created jobs, including the average wage. This will allow the Legislature an opportunity in the future to decide whether or not to continue the program, expand the program, or end the program based on real results. This ensures our limited resources are being utilized in a manner that ensures a real return on our investment. Later, colleagues, you'll have a chance to hear from Committee Chairman Pahls in relation to the committee amendment which clarifies the intent of this bill and renames the act the Small Business Innovation Act to complement LB387, the Nebraska Innovation Act, introduced by Senator Hadley and myself at the request of the Governor. And, in fact, this legislation is a key component of that economic development package that directly benefits small businesses and entrepreneurs. Additionally, I'll have a chance to visit a little bit about AM1018, which I filed, drafted in partnership with DED, that is technical in nature and clarifies and harmonizes the operative dates and funding component. Thank you, Mr. President. [LB345 LB387]

SENATOR GLOOR: Thank you, Senator Conrad. As the Clerk stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Pahls, as Chair of that committee, you're recognized to open on the committee amendment. [LB345]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Senator Conrad did come with this amendment to us, and so basically this does become the bill which she has outlined. The only other thing that changed on it is we're removing the word Economic Gardening Technical Assistance Act; it would become the Small Business Innovation Act. And that's simply it. Thank you. [LB345]

SENATOR GLOOR: Thank you, Senator Pahls. Mr. Clerk. [LB345]

CLERK: Mr. President, Senator Conrad would move to amend the committee amendments with AM1018. (Legislative Journal page 1287.) [LB345]

SENATOR GLOOR: Senator Conrad, you're recognized to open on your amendment to the committee amendments. [LB345]

SENATOR CONRAD: Thank you, Mr. President. And again, good afternoon,

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colleagues. Thank you, Senator Pahls, for your clear and efficient introduction on the committee amendment and I will be equally as efficient with my introduction on AM1018. Again, colleagues, this was drafted in partnership with the Department of Economic Development, and it simply clarifies and harmonizes the operative dates and the funding component contained in LB345 and AM273. Thank you. [LB345]

SENATOR GLOOR: Thank you, Senator Conrad. Members, you've heard the opening on LB345, the committee amendments, and the amendment to the committee amendments. There are senators wishing to be heard. Senator Mello, you are recognized. [LB345]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I rise in support of the underlying bill and both the amendments. And the reason I stand in support, and actually Senator Hadley and myself cosponsored LB345, is because this was a glaring issue that the LB1109 Task Force explored over the interim, which is it was a subject that a few senators who attended an NCSL conference last year learned a little bit more about in the sense of providing small growth businesses the technical expertise that they do not get from a Department of Economic Development or a Chamber of Commerce. And some of these technical assistance components mostly fall along the lines of providing market-driven and market survey information, as well as various access to marketing databases that, for a small individual business to try to get access to, would cost hundreds of thousands of dollars for one business to get; where some of those successful programs, most notably in Littleton, Colorado, they were able to do this within their city budget of roughly \$400,000. And over the course of 20 years, they were able to grow the number of jobs in their economic gardening program. They doubled them. They doubled the number of jobs, essentially from 10,000 to 20,000 jobs in the city of Littleton over 20 years, not utilizing tax incentives, but instead the city focused on providing the technical assistance through what we get in LB345 in a pilot project. I know Senator Hadley, as his time as a local, a municipal leader in the city council and mayor of Kearney, they explored this issue as well, which he could provide a much more up close and personal experience and perspective of what they did and what they explored to try to bring a pilot project like this to Kearney. But the opportunity, though, and the underlying opportunity is that you have entrepreneurs who have existing established businesses that, right now, are kind of falling to the wayside sometimes of our bigger picture, economic development strategy; that you have businesses that maybe have been around for four to five years, they're seeing growth in what they're doing but they're not able to capitalize on that high growth potential that those in their sector or their industry sector have captured in other states. And so whether or not...it's not specifically targeted to one industry or another in LB345. It targets those high-growth potential businesses, whether or not they're an ag dealership, an implementer, a machinery partnership, or manufacturer, or it could be a local retailer who has found a niche market that they're able to produce and sell and market their own individually produced goods to a much wider global market and they just need that

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additional assistance and technical expertise to build in those new markets for them to be able to move their product in a global fashion. So I applaud Senator Conrad for bringing probably one of the most important issues that there was an agreement on in the LB1109 Task Force that this was a pilot project that we needed to explore as a state. It's a low cost, using existing General Funds within the Department of Economic Development, which they support, because they also have given credibility and understanding to economic gardening in the Battelle study, which I think is a very key component of what Senator Conrad is doing under her priority bill. So with that, I urge the body to adopt AM1018, AM273, and pass the underlying bill, LB345, and would yield any remainder of time I may have to Senator Conrad. [LB345]

SENATOR GLOOR: Senator Conrad, 1 minute 36 seconds. [LB345]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Mello. And I would be remiss, colleagues, if I didn't have a chance to add my very sincere gratitude to our fellow members of the Nebraska innovation and entrepreneurial ecosystem and Innovation and Entrepreneurial Task Force. Members of that committee were Senator Fischer, Senator Pahls, Senator Galen Hadley served as Vice Chair, Senator Mello, and Senator Ken Schilz, and they all worked very diligently and very hard with us over the interim to put together the report we presented to you in December,... [LB345]

SENATOR GLOOR: One minute. [LB345]

SENATOR CONRAD: ...thank you, Mr. President...of which this economic gardening pilot program was the number 1 recommendation of 14 recommendations provided to the Legislature. So thank you to all of them for their hard work. Also, many thanks to both the Lincoln and Omaha Chamber of Commerce, who has made this a priority issue for their membership and for their organizations; to Invest Nebraska, who provided countless hours of technical support to the committee and to me personally in drafting this legislation, for their hard work. And I'm really excited to get this in place so that we can start to evaluate results and move forward. Thank you. [LB345]

SENATOR GLOOR: Thank you, Senator Conrad and Senator Mello. Senator Hadley, you are recognized. [LB345]

SENATOR HADLEY: Mr. President, members of the body, I will be brief. I want to thank Senator Conrad, Senator Mello for their help in bringing this bill. I also want to thank Steve Buttress. Steve Buttress was the director of Economic Development a number of years ago, and he brought the concept of economic gardening to the city of Kearney and the University of Nebraska at Kearney many years ago. And we talked a lot about it and we saw how it can work in other states. I just want to use one quick example. Wyoming is very involved in economic gardening. The University of Wyoming is handling it through their small business development centers, and it's doing an

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outstanding job. We all have businesses in our communities that started small and grew into large, vibrant companies. And that's the concept behind economic gardening. The idea is to start with small companies and try to grow them into larger companies. The ability to go out and get companies from other states is important, but it's every bit as important that we grow our companies who are homegrown, who are currently paying taxes, who are currently employing people, to help them grow and become bigger and better. All of us have this kind of businesses in our communities, and I think this bill is a start at getting that kind of operation going further. I certainly support both amendments and LB345. Thank you, Mr. President. [LB345]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Harms, you are recognized. [LB345]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Conrad, would you yield for just a couple questions, please? [LB345]

SENATOR GLOOR: Senator Conrad, would you yield? [LB345]

SENATOR CONRAD: Yes. Yes, of course. [LB345]

SENATOR HARMS: First, thank you very much for introducing LB345. Senator Conrad, do you have the amendment and copy before you of AM273 in front of you? [LB345]

SENATOR CONRAD: I do, Senator Harms. Let me just open up my file and I hopefully can flip right to it. Please, I can listen...yep, I'm looking at it. [LB345]

SENATOR HARMS: Okay, page 2. [LB345]

SENATOR CONRAD: Yes. [LB345]

SENATOR HARMS: Section 4. [LB345]

SENATOR CONRAD: Yes. [LB345]

SENATOR HARMS: How do you see the Nebraska-based institution of higher education fitting into this? How do they actually...what would you expect from them in regard to this particular issue of trying to get a program established? How could they assist? [LB345]

SENATOR CONRAD: Thank you, Senator Harms. That's an excellent question. Actually that section, in particular, was drafted in conjunction with the Department of Economic Development and our supporters outside of the body from both the institutions of higher education, the private sector, and otherwise to ensure we had maximum flexibility in the

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pilot program so that the department can figure out how we can best utilize the existing funds to stretch them as far as possible. For example, and I'll tell you just very quickly, Senator Harms, because I know we're on your time, but the Utah-based example, which did something similar to this, partnered with institutions of higher education because they could get a discount on the market data, tools, and information that they could provide to the small businesses. So that's why that's included in there specifically. [LB345]

SENATOR HARMS: Mr. President, could you give me a gavel, please? [LB345]

SENATOR GLOOR: (Gavel) [LB345]

SENATOR HARMS: Thank you very much. Senator Conrad, I have a couple more questions I wanted to ask if I might. [LB345]

SENATOR CONRAD: Please. [LB345]

SENATOR HARMS: When you define growth businesses, we refer to growth businesses but I'm not sure really what a growth business is. Who determines that and how is it actually defined in this bill? [LB345]

SENATOR CONRAD: Yes. Thank you, Senator Harms, and this is defined also in AM273, on page 1. It starts in line 20, subsection (2): A Nebraska-based growth business means a corporation, partnership, limited liability company, limited partnership, or a limited liability partnership that is registered with the Secretary of State that has in between 5 and 50 employees and an annual sales revenue of no less than \$500,000 and no more than \$2,500,000. And the reason that definition was chosen and utilized was to ensure that we are targeting these resources and these tools to businesses that have the ability to create high-wage jobs. [LB345]

SENATOR HARMS: Thank you, Senator Conrad. Now let's...walk me through. I'm a growth business and I need help and assistance. Tell me exactly what you can bring to the table to help me continue to develop my business so I have a better understanding of how this actually works. I notice on page 2 it lays out some components, like industrial trends, industry financial data, but it doesn't tell me anything. And I go down further, it talks a little bit about strategic analysis and management team makeup. Does it actually get into the operation that teaches them how to do their accounting and management and marketing? Does it get into inventory control? What does it actually do that we can help them grow and understand what their problems are that are confronting them? [LB345]

SENATOR CONRAD: Thank you, Senator Harms. And the program, as it works in other states and other municipalities where established, is meant to be comprehensive from

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that start-up phase to the growth and expansion phase. Specifically what economic gardening really focuses in on, though, are businesses that are already established rather than... [LB345]

SENATOR GLOOR: One minute. [LB345]

SENATOR CONRAD: Thank you, Mr. President...and I'll hit my light so that we can continue the conversation. But so while there may be feedback on writing a business plan and finding initial financing and things like that, really it's targeted to businesses that are already past that start-up phase and that are looking to go to the next level. And one example that I thought was very concrete and compelling that was presented to the task force over the interim, from the economic gardening experts that engaged with us on this topic, was there was a business in a dance academy in Littleton, Colorado, that was doing well and looking to expand. They weren't sure whether or not the market could support that. And so they worked with the economic gardening office in Littleton to do a sophisticated market analysis about where the competition existed in the city, if there was any openings that would support expansion for them, and then they also did very sophisticated targeting market and... [LB345]

SENATOR GLOOR: Time. [LB345]

SENATOR CONRAD: Thank you, Mr. President. [LB345]

SENATOR GLOOR: Thank you, Senator Harms and Senator Conrad. Senator Conrad, you're recognized. [LB345]

SENATOR CONRAD: Thank you. And they also did very sophisticated targeting with the demographic information that, once they came up with an example of where would be a good place to site the business, they provided tools, like mailing labels and e-mail lists and otherwise, to consumers that would be most likely to utilize that kind of business. So it jump-started their marketing and helped to place them in the most competitive place possible. That's one small example that was presented to us about how this does work, that I think is a good example, because a lot of this can be kind of jargon. And what we're really talking about is putting market data into the hands of small businesses who otherwise wouldn't be able to afford it from a time perspective or a resource perspective on their own. Thank you. Senator Harms, I'd be happy to yield to you if you would like to conclude your thoughts or ask any additional questions. [LB345]

SENATOR GLOOR: Three minutes fifty-six seconds, Senator Harms. [LB345]

SENATOR HARMS: Thank you, Mr. President. Senator Conrad, I'd like to continue our conversation if we can just for a second. Do you believe...with such a creation of a program, I'm really excited about what you have here, do you believe that an incubator

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program or incubator programs throughout Nebraska could really help take these businesses and help move them forward? Nebraska lacks incubator programs, and a lot of states that are very successful in doing what you're talking about have incubator programs, which they're surrounded by people who can do a management analysis, can help them look at their marketing and all those sort of things. Businesses, in order for them to go to the next level, you're absolutely correct, they cannot make it; many of them just can't get there. And incubator programs have been very successful. What are your thoughts about that? [LB345]

SENATOR CONRAD: Thank you, Senator Harms. As usual, you are right on target in regards to the life cycle issues contained in this policy and as they relate to the private sector. And I'll tell you that the Southeast Community College came and presented to our task force over the interim, and they have developed a highly successful business incubator program, which I'm hopeful will be a model for other sites around the state. Because the results are impressive and it's a critical piece that is missing to help small businesses and entrepreneurs succeed, and that needs to be a critical part of our economic development package as we move forward. [LB345]

SENATOR HARMS: I know that throughout the country, community colleges are really well-equipped to do just what Southeast is doing. And I'm hoping that we can see in the future, as this program develops, we can put incubator programs in a majority of the community colleges all across the state, because then I think we can really reach the people that we need. There's a focal point and it's a good focal point that would help businesses move to that next level. Thank you very much for giving me this opportunity to visit with you, Senator Conrad. [LB345]

SENATOR GLOOR: Thank you, Senator Harms and Senator Conrad. There are no senators remaining in the queue. Senator Conrad, you're recognized to close on your amendment to the committee amendments. [LB345]

SENATOR CONRAD: Thank you so much, Mr. President, and thank you, Senator Mello, Senator Hadley, and Senator Harms for your thoughtful questions and kind consideration and support of this legislation. Colleagues, Nebraska has done a good job of evolving our traditional economic development tools related to recruiting and retaining large companies and good jobs through the Nebraska Advantage and Super Advantage Act in recent years. That's because of the leadership of Governor Heineman and the leadership of this body. However, we know that, locally and nationally, small businesses are the engine in a vibrant economy and are the ones that are creating much of our job growth. However, these small businesses and entrepreneurs generally lack the resources requisite or the employment base requisite to qualify for help with our traditional economic development tools. Thus, we should seize this opportunity to help evolve our economic development programs and to put that data, that sophisticated set of data and tools, into the hands of small business owners, entrepreneurs, and

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innovators, so that they can not only start up but so that they can grow and thrive. Again, thank you for your kind attention and careful consideration of this matter, and I'd urge your favorable adoption of the pending amendments and underlying legislation. Thank you, Mr. President. [LB345]

SENATOR GLOOR: Thank you, Senator Conrad. The question is, shall the amendment to the committee amendments to LB345 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB345]

CLERK: 29 ayes, 0 nays on adoption of the amendment to the committee amendments. [LB345]

SENATOR GLOOR: The amendment is adopted. Senator Pahls, you're recognized to close on the committee amendments. [LB345]

SENATOR PAHLS: Thank you, Mr. President. Needless to say, it's a small change. Small Business Innovation Act--that's the new name. Thank you. [LB345]

SENATOR GLOOR: Thank you, Senator Pahls. The question is, shall the committee amendments to LB345 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB345]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB345]

SENATOR GLOOR: The amendment is adopted. Seeing no speakers remaining in the queue, Senator Conrad, you're recognized to close on the advancement of LB345. [LB345]

SENATOR CONRAD: Thank you, Mr. President. And again, colleagues, thank you for your favorable consideration to the last two pending amendments. Again, this is my priority bill for this session. I want to thank the Banking and Insurance Committee for their assistance in moving this legislation forward, the Department of Economic Development for their leadership and support of the proposal. And again I'm hopeful that this small proposal will yield great results and greatly improve the ability of our small businesses and entrepreneurs to grow and succeed well into the future. Thank you, Mr. President. [LB345]

SENATOR GLOOR: Thank you, Senator Conrad. Members, the question is the advancement of LB345 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB345]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB345. [LB345]

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SENATOR GLOOR: LB345 advances. Mr. Clerk. [LB345]

CLERK: LB345A, Mr. President, is a bill by Senator Conrad. (Read title.) [LB345A]

SENATOR GLOOR: Senator Conrad, you're recognized to open on LB345A. [LB345A]

SENATOR CONRAD: Thank you, Mr. President. Colleagues, this is the corresponding appropriations bill that matches the legislation that we just advanced. It utilizes existing resources and has no fiscal impact. The existing resources come from the CDA fund and were otherwise unallocated. I'd urge your favorable consideration. Thank you. [LB345A]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Conrad. Members, you've heard the opening on LB345A. Are there senators wishing to speak? Seeing none, Senator Conrad, you're recognized to close. Senator Conrad waives closing. The question is, shall LB345A be advanced? All in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB345A]

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB345A. [LB345A]

SENATOR CARLSON: The bill does advance. Mr. Clerk. [LB345A]

CLERK: Mr. President, I have some items before we proceed. Enrollment and Review reports LB382, LB382A, LB464 as correctly engrossed. Mr. President, communications from the Governor. (Read re LB35, LB70, LB112, LB156, LB235, LB279, LB297, LB337, LB366, LB385, LB388, LB388A, LB407, LB431, LB477, LB479, LB499, LB512, LB524, LB544, and LB558.) Mr. President, a second communication. (Read re LB600 and LB600A.) A second communication from the Governor. (Read re LB204 and LB204A.) Mr. President, Senator Flood would like to print amendments to LB463; Senator Ashford, LB463. And Senator Carlson would offer a new resolution, LR172; that will be laid over. (Legislative Journal pages 1308-1311.) [LB382 LB382A LB464 LB35 LB70 LB112 LB156 LB235 LB279 LB297 LB337 LB366 LB385 LB388 LB388A LB407 LB431 LB477 LB479 LB499 LB512 LB524 LB544 LB558 LB600 LB600A LB204 LB204A LB463 LR172]

Mr. President, next bill, Senator Pirsch, LB404. (Read title.) Introduced on January 13, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB404]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB404. [LB404]

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, LB404 brings about more streamlined government, more efficient government, and I believe will bring about cost savings as well. The purpose of LB404 is to augment the statutory reporting requirements for the Department of Economic Development. Currently, the department submits nine separate reports to the Legislature. And while this bill will not eliminate any one of those reports, it will allow the department the flexibility to submit one report, and that will come on the first working day of July, which will provide information on each individual program. The bill would become operative January 1, 2012. Here's the nine separate reporting requirements that the Department of Economic Development currently has to deal with to report: the Department of Economic Development general provisions, which was...that requirement was dealt with or created in 1986; the Business Development Partnership Act in '87; the Rural Development Commission in '93; Department of Economic Development Job Training Grant in 1995; Nebraska Affordable Housing Act in '97; the Microenterprise Development Act, again in '97; the Local Civic, Cultural, and Convention Center Financing Act in '99; the Ag Opportunities and Value-Added Partnerships in '05; and the Nebraska Operational Assistance Act in 2007. So those nine acts require separate reporting to the Legislature and, I believe, the Governor as well. LB404 would amend all of these statutory requirements to allow the Department of Economic Development to simply submit this reporting information in one as opposed to nine reports. Though the fiscal note...just kind of in terms of background, at committee there were 7 votes in favor of this bill; 0 votes against it; 1...I think Senator Pankonin was absent on that day; 0 present and not voting on that day. There were no opponents, no neutral testimony. Though the fiscal note does not reflect immediate savings, I think that as I speak with the director of Economic Development, he does anticipate that there will be some insofar as, when you think about it, one report as opposed to nine, it will save in marketing and printing costs, and he believes that it will free up his employees to focus on other pressing issues such as the state's on-line presence. With that said, I would urge your green vote on this LB404. Thank you. [LB404]

SENATOR CARLSON: Thank you, Senator Pirsch. Members, you've heard the opening on LB404. Are there senators wishing to speak? Seeing none, Senator Pirsch, you're recognized to close. Senator Pirsch waives closing. The question is, shall LB404 be advanced? Those in favor vote aye; those opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB404]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB404. [LB404]

SENATOR CARLSON: LB404 does advance. The next item, Mr. Clerk. [LB404]

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CLERK: Mr. President, the next bill is LB589. It's a bill originally introduced by Senator Smith. (Read title.) Introduced on January 19, referred to Transportation and Telecommunications, advanced to General File. There are committee amendments, Mr. President. (AM858, Legislative Journal page 1019.) [LB589]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Smith, you're recognized to open on LB589. [LB589]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I first want to thank Speaker Flood for making LB589 a Speaker priority this year, and I want to also thank the members of the Transportation and Telecommunications Committee for unanimously voting this bill to the floor so we can consider this issue. LB589 is very important to the communities I represent in the 14th District, but it's also very important to all of your communities throughout the entire state. There is a committee amendment that you will soon hear about that replaces this original bill, but it does not change the intent of LB589. I support the amendment and I appreciate the Department of Roads for working with us on the language and providing their expertise. I truly believe the amendment makes this a better bill. In a nutshell, LB589 would authorize the temporary encroachment of the state highway system by any county, city, or village, for special events. The bill and AM858 would allow a full or partial closure of state highways only if the roadway is located within the official corporate limits or zoning jurisdiction of the county, city, or village, and the county, city, or village waives all rights of recovery against the department for any damages or liability. As a background, historically, cities have applied with the Department of Roads for permits to close parts of state highways in order to hold special events, such as parades, festivals, races, etcetera. However, the criteria the Department of Roads has used to approve or deny the permit has not always been applied consistently. In an attempt to correct this problem, the Department of Roads adopted a new policy in July that prohibits permits for closures of highways in which the speed limit is over 40 miles per hour. Unfortunately, the criteria has not always been applied consistently and, in its effort to provide consistency and to protect the state from liability, the department's policy has jeopardized special events that have taken place across Nebraska for years. May I have a gavel, please? [LB589]

SENATOR CARLSON: (Gavel) [LB589]

SENATOR SMITH: Thank you. As an example of the current problem, the department's definition of road closure is confusing. In one instance, the group that hosts the Nebraska State Torch Run is not required to get a permit for use of the highway system. The run encompasses hundreds of miles of state highways with participants running in one or two of the traffic lanes. The department has determined that the torch run is a moving roadblock. It is not a technical closure of any part of the highway and, therefore, no permit is needed. Yet, on the other hand, the city of Papillion has been denied a permit for two consecutive years. Papillion hosts an event each year that brings an

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estimated \$50,000 to Sarpy County. It requires the use of the shoulder of a four-lane road for just one mile on a state highway. It is my understanding that the Department of Roads denied Papillion's request for a permit because the posted speed limit on this portion of highway exceeds 40 miles per hour. It is actually 55 miles per hour. The speed limit on many of the roads used by the torch run is 65 miles per hour. So this is not just a Papillion issue. There have been statewide concerns as use of the state highway system depends largely on the interpretation of the local state district engineer. Last year, at the request of multiple cities, the League of Municipalities worked with the Department of Roads to try to develop consistent rules and regulations. But as you can see from the two examples I've provided that I have given, the current process is still arbitrary in its application. It became clear to me that this is an issue of statewide concern and is a policy issue that needs to be decided by the Legislature. LB589 is intended to provide consistent rules and regulations regarding the use of state highways for special events, and removes the state from any liability related to this issue. These events are important to Nebraska. At the hearing on this bill, Papillion Mayor David Black testified that over 1,400 participants have registered for his city's athletic events. People from 20 states and two countries came to this community to take part in Papillion's bike criterium, marathon, duathlon, and triathlon. These people stay at local hotels, shop at local stores, eat at local restaurants. This equals revenue to the community and to the state. In fact, according to Mayor Black, a new local business, Trek Bikes, expanded to Papillion specifically because of the city's bike criterium event. But as I said, this bill isn't just about Papillion; it's about all of Nebraska communities. These events, these special events strengthen communities in Nebraska. They help to identify the cities and they add pride to the cities. They attract people from other states and they are valuable to our economies. My intent with LB589 is for the Legislature to set a statewide policy that provides for consistent enforcement and removes the state from liability while still ensuring the safety and continuance of these events that celebrate Nebraska-based traditions. Colleagues, I appreciate your serious consideration of LB589 and I ask for your support in moving this bill forward with the amendment. Thank you very much. [LB589]

SENATOR CARLSON: Thank you, Senator Smith. As the Clerk stated, there are committee amendments. Senator Fischer, as Chair of the Transportation and Telecommunications Committee, you're recognized to open on AM858. [LB589]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM858, strikes the original sections and becomes the bill. The amendment makes several changes. First, "temporary use" replaces "encroachment" when referencing the local event. The committee felt this is a more appropriate term to describe a special event. An exception for freeways is also inserted in (2). This will eliminate any potential conflict with existing statutory section 60-6,144 which outlines the prohibition of certain uses and activities on a freeway without a permit from the Department of Roads. Subdivisions (2)(b) and (2)(c) are added to provide necessary

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liability protection for the state and to explicitly provide that the city or county holding the event will be liable for damages or injuries arising out of the highway use. If the local government desires to hold a special event on state property, the committee felt that the state should be absolved from any liability for an incident that occurs at the special event. Finally, subsection (3) removes the requirement for a permit to be issued and, instead, requires the local government to give 30 days' written notice of the event to the Department of Roads. After discussion with the department officials, they did not see the necessity of requiring an actual permit to be issued and felt notice would be sufficient. I would like to thank Senator Smith for introducing this bill. I think he has made it abundantly clear to all of us that this doesn't just affect his district, but, instead, this affects all of our communities around the state, because many of our communities have held these longtime events for a number of years and we all know the importance that they are to our communities. I'd like to thank the Department of Roads for working with us on this bill and for helping us work out those liability issues. I think Senator Smith also was very articulate when he was saying that these events are so important to our communities, and they're important because it's not just our cities and our towns, the identity that they have with many of these events. We all have certain parades and events within our districts that our communities are known for. But these events are also very important for economic reasons for our communities and the businesses that are able to profit when we are able to draw all of these people in that participate in these programs. So I do thank Senator Smith for helping us get this clarified with the department and working with the department so that our communities can continue to hold these special activities. Thank you, Mr. President. [LB589]

SENATOR CARLSON: Thank you, Senator Fischer. Members, you've heard the opening on LB589 and on AM858. Mr. Clerk, items for the record. [LB589]

CLERK: Mr. President, a new bill offered by the Redistricting Committee and signed by its members. (Read LB699 by title for the first time.) Mr. President, a motion: Senator Council has a motion with respect to LB204 and LB204A, those motions being that those bills become law notwithstanding the objections of the Governor. Senator Hadley has an amendment to LB590 he would like to print, as does Senator Mello on a motion to LB682 to be printed. (Legislative Journal pages 1312-1313.) [LB699 LB204 LB204A LB590 LB682]

And, Mr. President, a priority motion: Senator Brasch would move to adjourn the body until Wednesday morning, April 27, at 9:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All in favor say aye. Opposed, nay. We are adjourned.