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Floor Debate
March 20, 2013

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SENATOR COASH PRESIDING

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

SENATOR HANSEN: (Prayer offered.)

SENATOR COASH: Thank you, Senator Hansen. I call to order the forty-sixth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, new resolutions: LR112, LR113, LR114, all by Senator Bolz; all three will be laid over. And that's all that I have, Mr. President. (Legislative Journal pages 781-782.) [LR112 LR113 LR114]

SENATOR COASH: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda.

CLERK: Mr. President, LB613. The bill, originally introduced by Senator Schumacher, proposes a tax study. The bill has been discussed on several occasions; amendments have been considered, two of the committee amendments as offered by the Executive Board. I do have additional amendments. The first offered this morning, Mr. President, is an amendment by Senator Chambers to the committee amendments, FA34. (Legislative Journal page 776.) [LB613]

SENATOR COASH: Thank you, Mr. Clerk. Senator Schumacher, would you give us a brief recap of LB613? [LB613]

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SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. LB613 is in response to the conversation that's begun regarding tax policy in this state so that we get it right or at least make the best effort we can to get it right. It proposes a study committee, the Tax Modernization Commission, composed of members of the Revenue Committee--as it's proposed to be amended--Chairman of Appropriations, Chairman of Health and Human Services, the Chair of Education, and of Agriculture, and of the Planning Committee. The bill instructs them to meet as often as necessary, including one meeting with the legislative counsels so everyone can bring their input to this effort. It's to look at six areas--and, if necessary, more--of taxation: fairness; competitiveness; simplicity and compliance; stability, so that we have a stable revenue source; adequacy, so that we bring enough money in to pay our bills; and how those tax systems all interrelate with the tax environment and our economic environment. It instructs the committee members to take account of the three prior studies that have been done since our present tax mechanism was instituted back in the late '60s and to report back to the Legislature by the end of 2013. And included in that report is to be any items that the committee feels need further study or further analysis. Finally, the committee sunsets on December 31, 2015. Thank you, Mr. Chairman. [LB613]

SENATOR COASH: Thank you, Senator Schumacher. Senator Wightman, would you give us a brief recap of the committee amendment? [LB613]

SENATOR WIGHTMAN: Thank you, Mr. President. Quite frankly, I think that Senator Schumacher took care of most of the items that were included in the committee amendment. We did change the membership of the Tax Modernization Commission from the way...the original bill. It includes all members of the Revenue Committee and the Chairperson of Appropriations, Health and Human Services, Education, Agriculture Committee, and the Planning Committee, a number of other changes that we've discussed other days. But the Chairperson of the Revenue Committee would serve as Chairperson of the Tax Modernization Commission as well. The items that would be considered, including fairness...language added requiring the committee to review the tax burden for sales and use taxes, and all of the other taxes involved, of different taxpayers. And the committee is to look at the impact of all taxes on all taxpayers. With that, as I said, I think it was pretty much covered by Senator Schumacher, so I will close as far as the amendment would be. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Wightman. Senator Chambers, would you give us an update on FA34, please? Oh. Senator Chambers, would you open on FA34. [LB613]

SENATOR CHAMBERS: Which one? Could you give...I thought we voted just before we left, on an amendment. [LB613]

CLERK: Yeah, we did, Senator. This is your new amendment that you gave me the

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other day, and I don't believe you've opened on this yet. It's FA34, which is the...
[LB613]

SENATOR CHAMBERS: Does it start with, "Page 2, line 15"? [LB613]

CLERK: It does, yes. [LB613]

SENATOR CHAMBERS: Thank you. Now I'm caught up. [LB613]

SENATOR COASH: Senator Chambers, you are recognized to open on FA34. [LB613]

SENATOR CHAMBERS: Thank you. Members of the Legislature, Mr. President, I have been very busy on this bill, not just on the floor, I've been reading it. And I want to call your attention to something. I'm taking time, but I'm doing what we ought to be doing as a body. I am offering amendments to improve the bill; I'm talking about the bill. I'm talking, in the process of discussing that, about how we ought to conduct our business as legislators. I have an amendment pending now, and it's going to strike, on page 2, everything in lines 15 through 20 with the exception of the word "fairness" on line 15. Everything after "fairness" in lines 15 through 20 I am striking. I'm going to read, for the record, the current proposed language in LB613 as it would be amended by AM467. Quote: The committee shall review the tax burden for sales and use taxes, income taxes, property taxes, and miscellaneous taxes of different taxpayers, from Nebraska families to Nebraska businesses, from small businesses to big businesses, and within different industry sectors in the state, period; the tax system should treat people equally, semicolon. That is very poorly written for the purpose of putting it into the statute. Here is what I am substituting. And before anybody gets heartburn, before anybody, because of their skepticism about anything I bring, listen to what I'm presenting, or read it on your gadget. I would strike beginning with "The" through "equitably" in line 20, and I would insert the following: In order to formulate an equitable system of taxation, the committee shall review and analyze the tax burden created by sales and use taxes, income taxes, property taxes, and other miscellaneous taxes imposed on families, businesses, and sectors of industry within the state. Instead of giving all of those sentences not starting with what it is you want to emphasize, you wind up with bunglesome language. The main thing, the main thought, is to treat people equitably, to use the last sentence in the language that exists now. "Should treat people equitably" is not language suitable for the statute. Since this particular subdivision, subsection, is aimed at fairness, the first statement ought to be that you want to formulate a system that is equitable. So that's how I started. Then you want to not just review, but you want to analyze what it is that you're reviewing in order to determine the nature of the tax burden being imposed on these different categories mentioned. And I left the enumeration of the different types of taxes that will be considered. And, as I state, before you panic and automatically respond in a negative way, read the language and see whether or not it states what is being intended in this provision addressing fairness. I'd like to ask Senator Carlson a

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question or two, if he's here. [LB613]

SENATOR COASH: Senator Carlson, will you yield? [LB613]

SENATOR CARLSON: Yes, I will. [LB613]

SENATOR CHAMBERS: Senator Carlson, since time is going to be taken, I think we ought to give some of it to a discussion of these various taxes that will be considered. And you were concerned and interested in property taxes, as indicated by the discussions you had yesterday, is that correct? [LB613]

SENATOR CARLSON: Yes. [LB613]

SENATOR CHAMBERS: You said that if 90 cents...would you state what you said about the 90 cents so that I will not misstate it or put words in your mouth? And the point you were making was that there would be a reduction for various districts if that 90 cents were used. So that's the part I would like you to state for the record so it's clear, the point that you were making. [LB613]

SENATOR CARLSON: According to the figures that I have, if we went to a common property tax levy across the state for K-12 education, it would be at 90 cents if it was to fund 40 percent of the cost. [LB613]

SENATOR CHAMBERS: And when we are going to assess that 90 cents, that 90 cents would be assessed against how many actual dollars? [LB613]

SENATOR CARLSON: The 90 cents would be against \$100 assessment. [LB613]

SENATOR CHAMBERS: Ninety cents against, okay, \$100. And that \$100 or the hundreds of dollars or thousands that we might be talking about relate to a valuation established for the property to be taxed. Is that correct? [LB613]

SENATOR CARLSON: Yes. [LB613]

SENATOR CHAMBERS: Who determines that valuation? [LB613]

SENATOR CARLSON: The county assessor, I believe. [LB613]

SENATOR CHAMBERS: Right. So if you want to have the levy at 90 cents, but more money is needed...before I ask that question, is there a range, when assessments are being made by the county assessor, that would set a minimum amount that must be considered and a maximum that can be? The maximum would be 100 percent. Is there a minimum? [LB613]

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SENATOR CARLSON: I don't know that there is. I think there are levies as low as 74 cents. [LB613]

SENATOR CHAMBERS: If more money is desired, then the assessor could accord a higher value to the property which will be taxed. Isn't that true? [LB613]

SENATOR CARLSON: It's true, but the assessor has to also follow state law, which has to do with the market value of that piece of property. And certainly they can't go above the market value, and I think it's, like, 90 percent. [LB613]

SENATOR CHAMBERS: Ninety percent of market value, is that what you're saying? [LB613]

SENATOR CARLSON: I...I believe so. And I don't know that I'm 100 percent correct on that. [LB613]

SENATOR CHAMBERS: Okay. [LB613]

SENATOR CARLSON: But they can't go above market value. [LB613]

SENATOR CHAMBERS: So you're saying that all property should be assessed at 90 percent of market value. Is that what you're saying? [LB613]

SENATOR CARLSON: That's not what I'm saying; that's what I think the guidelines are that the assessor has to follow. The assessor just can't decide: I'm going to make it a certain value. They have to go by market value. [LB613]

SENATOR CHAMBERS: But it cannot be 100 percent of market value? [LB613]

SENATOR CARLSON: I don't believe so. [LB613]

SENATOR CHAMBERS: Okay. And I'm asking the questions because I don't have the answer, and I'm seeking it from you. You said there are some valuations or assessments as low as 74 percent; that would be 74 percent of market value. [LB613]

SENATOR CARLSON: No. I'm saying that in some areas of the state, the mill levy is at 74 cents. It's not 74 percent of appraised value, but it's at 74 cents per \$100... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CARLSON: ...of valuation. [LB613]

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SENATOR CHAMBERS: So then all that would have to be done in that area is raise that 74 cents up to 90 cents, if desired. [LB613]

SENATOR CARLSON: That's true. And, of course, that would be a tax increase. [LB613]

SENATOR CHAMBERS: But more money would be generated, wouldn't it? [LB613]

SENATOR CARLSON: Yes. [LB613]

SENATOR CHAMBERS: And it would be within the 90 percent that you said should be uniform across the state, wouldn't it? [LB613]

SENATOR CARLSON: I didn't say that 90 percent should be uniform across the state. I don't want to get confused with 90 cents of \$100 of valuation and 90 percent of market value; they're two different figures. [LB613]

SENATOR CHAMBERS: So which one are you talking about? [LB613]

SENATOR CARLSON: Ninety cents on the common levy: 90 cents per \$100 of valuation. [LB613]

SENATOR CHAMBERS: But the valuation can be up to 90 percent of market value. [LB613]

SENATOR CARLSON: I believe it can. [LB613]

SENATOR CHAMBERS: So if it's 90 percent of market value, and let's just say that's the maximum, then the 90 cents we're talking about could be... [LB613]

SENATOR COASH: Time, Senators. Thank you, Senator Chambers and Senator Carlson. Senator Bloomfield, you're recognized. [LB613]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I have not voted for all the amendments that Senator Chambers has brought, but I believe this one we'd better pay specific attention to. This is a good amendment. It clarifies some language that could be read to read that we are taking from Nebraska families and giving to Nebraska business, as it is currently written. I suggest you look closely at this amendment. Senator Chambers, I believe, has helped us quite a little with this one. And I encourage you to support it. With that being said, I don't see our current Secretary (sic) of Education over there, but I know that Senator Adams is very expert in education issues, and I would like to ask him a question or two, if I could. [LB613]

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SENATOR COASH: Senator Adams, will you yield? [LB613]

SPEAKER ADAMS: Yes, I will. [LB613]

SENATOR BLOOMFIELD: Thank you, Senator Adams. I know you were in deep conversation there and didn't hear me, but I was wondering if you would be willing to go on the mike and explain a little bit what Senator Chambers was asking Senator Carlson on how that levy breaks down. And I know you have some expertise in the education area. [LB613]

SPEAKER ADAMS: Well, I'll give it a shot. We may have to have follow-up questions in order to make sure that we're getting where you wanted or where Senator Chambers had response. We...our county assessors value land, and they value it...they have a process that they use, but constitutionally there are also requirements that they have to meet that have been imposed by us and by voters. And, as you know, Senator Bloomfield, ag land is at 75 percent; all other lands are up there in that high-90/98 percent category...of its market value, as assessed by means used by county assessors, which are...which can be protested, as we all know. And there's a little bit of allowance in deviation in that number; I don't want to quote what it would be. School districts--and I didn't catch all of the questions here--school districts are allowed a maximum levy of \$1.05 for general fund purposes; is \$1.05. Now we have a myriad across the state, with 249 school districts, ranging from Sioux County with 85 students, kindergarten through 12th grade, to OPS approaching 50,000 students. And what we look at is the amount of valuation they have per student, in the calculation for state aid. And I'm going to come close on these numbers, I hope, but let's take Sioux County as an example. Sioux County, if I remember right, I believe that their general fund levy is somewhere around 62 cents. And that 62 cents in Sioux County, predominantly ag land, will generate nearly \$2 million for that school district. And without looking at Sioux County's budget to know what portion that \$2 million is of their operating revenue, I don't know, my guess is, with 85 students, that \$2 million is a pretty fair chunk, and it has come off property tax at 61 or 62 cents, whatever it is. At the other end of the story, we could go to the Santee Nation. The Santee Nation is at the maximum; \$1.05, I think, is where they're at; if they're not, they're right up next to it. Given the amount of valuation that is exempted from property tax because it's federal property... [LB613]

SENATOR COASH: One minute. [LB613]

SPEAKER ADAMS: ...then that \$1.05 only collects about \$41,000 for them. Now I maybe have deviated from what your question was. I'm sorry, I didn't hear the entire question. I'll give you time back. [LB613]

SENATOR BLOOMFIELD: No, my intent was to actually yield you my time. So continue with what little time we have left. [LB613]

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SPEAKER ADAMS: I...did I get where you wanted to go on the thing? And we have 249 different situations out there, Senator, as you know just looking at the school districts in your area. [LB613]

SENATOR BLOOMFIELD: Thank you. [LB613]

SENATOR COASH: Thank you, Senator Bloomfield and Senator Adams. Senator Chambers, you're recognized [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. And rather than give Senator Adams a series of questions the content of which as I phrase the question may be inaccurate, I'm going to ask Senator Adams a question or two so it will be clear what it is that I'm looking for, if he will yield. [LB613]

SENATOR COASH: Senator Adams, will you yield? [LB613]

SPEAKER ADAMS: Yes. [LB613]

SENATOR CHAMBERS: Senator Adams, were you able to get a notion of what I was trying to get responses to in my conversation with Senator Carlson? [LB613]

SPEAKER ADAMS: I think I was. [LB613]

SENATOR CHAMBERS: So in...by any means that you choose, would you respond, to the extent you can, to the kind of questions I was asking? [LB613]

SPEAKER ADAMS: Yes. And if I'm going down the wrong track, jump in there and stop me. It seemed to me that where you were headed was in this direction: If land valuations--whether they be residential, commercial, or ag--increase, then at whatever the levy that has been set, whether it be by county, NRD, school district, wherever that levy has been set, there will be an increase in the property tax taking. And we have seen that particularly on the ag side, Senator, where our smaller school districts, not necessarily all being small...but many of our school districts in the state that have much of their tax base as ag and where there has been a dramatic increase in ag values, many of those school districts, if they leave their mill levy right where it's at--and for some of them, like Sioux County, it's 61 cents; for others it may be 90, it may be 95, 74, anywhere in that range up to a maximum of \$1.05--if they never move the levy, just the incremental change in valuation will draw more money into that school district. [LB613]

SENATOR CHAMBERS: Thank you. Senator Adams answered the question that I had in my mind but which I very inartfully posed. This bill gives us the opportunity to obtain information. Although the bill...and I'm going to state it in a way that it hasn't been stated

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by even those who are strongly in support of this bill. This bill is not designed to restrict the committee; this bill is designed to give direction and recommendations to that committee. And the ultimate instruction that the Legislature is intending to impart to that committee, and this is my view, is that you have a wide-ranging commission given to you: you are to look at everything that pertains to the system of taxation in Nebraska. In the process of doing that, look at every means by which the state derives money from the citizens, whether it's called a sales and use tax, income tax, excise tax, fee, or any other way that revenue comes to the state from the citizens. And it doesn't matter whether you're talking about "natural persons," meaning human beings; businesses, which may or may not be incorporated; corporations: any person, natural or legal, any entity, whether incorporated or not, which puts revenue in the state coffers because the law requires them to do so. Look at all of those sources of revenue, whatever they are. Determine what--if you want to use the word "burden"--what degree, amount, or type of burden results to the different entities or persons paying that money into the state. I don't think there's a confiscatory tax in Nebraska on anything or anybody. But some people may think... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: ...that there is too much in the way of a tax burden on some, notably those special interests who will benefit under the bills that have been advanced by the Revenue Committee so far, if the body would agree. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Senator Carlson, you are recognized. [LB613]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I want to clarify for Senator Chambers: my frame of mind was in terms of the value on residences and, really, not farmland. And, of course, farmland is not valued at 90 percent of market value; it is at the 75 percent. I do have a question for Senator Schumacher, if he would yield. [LB613]

SENATOR COASH: Senator Schumacher, will you yield? [LB613]

SENATOR SCHUMACHER: Yes, I will. [LB613]

SENATOR CARLSON: In this section of the bill that we're talking about, what's the difference between a tax system being an "equitable" system and a "fair" system? [LB613]

SENATOR SCHUMACHER: Fairness is a component of equity. Equity is a old English word that basically says, we're going to look at the legal part of it, but if it isn't fair, if it

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doesn't feel just, if it doesn't serve the social function of fairness and justice, we can override it. And the courts of equity in ancient England did that. If a result generally commanded by law was really, really a dumb result, they could impose an "equitable" solution. [LB613]

SENATOR CARLSON: Would you say that fairness...being "fair" is more important than being "equitable," in our language? [LB613]

SENATOR SCHUMACHER: It's really, really hard to distinguish between those two words. [LB613]

SENATOR CARLSON: Okay. All right. Thank you, Senator Schumacher. And I'd like to address Senator Chambers, if he would yield. [LB613]

SENATOR COASH: Senator Chambers, will you yield? [LB613]

SENATOR CHAMBERS: Yes, I will. [LB613]

SENATOR CARLSON: Senator Chambers, I think I probably like your amendment, but I do have a question. Part of what we're striving at is to make a tax system understandable: simple and understandable. [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR CARLSON: And so this amendment is in the section that addresses fairness, would you agree? Because you didn't strike "fairness." [LB613]

SENATOR CHAMBERS: Right, I want to address what the "offerors" of this amendment we're trying to address. So I'm leaving the word "fairness," with the intent that the words I provide indicate how that fairness is to be achieved. [LB613]

SENATOR CARLSON: All right. I have a suggestion, and I'd like your opinion, because if we look back at the idea of it being understandable and not cause any doubt in the minds of somebody reading this, what it means, you say, "In order to formulate an equitable system of taxation." [LB613]

SENATOR CHAMBERS: Yes. [LB613]

SENATOR CARLSON: What if, instead of "an equitable," because we're following the word "Fairness": "In order to formulate a 'fair' system of taxation," and then the rest of the amendment, would that change the meaning? [LB613]

SENATOR CHAMBERS: Well, I think they have someplace else where they talk about

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"fairness." And I have been trying to stay ahead so that I could offer some amendments to that language. But right now I'm not finding, in the bill, what I'm looking for. So let me see if I can answer it this way. I believe, and you can correct me, there is some wording in this bill that talks about compliance being made easy, the tax system being made simple and understandable. Is that what you're talking about? On page 2... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: ...in line 27, it talks about "Simplicity and compliance"... [LB613]

SENATOR CARLSON: Well, I need to... [LB613]

SENATOR CHAMBERS: ...and then it goes on to page 3. Is that what you're interested in? [LB613]

SENATOR CARLSON: I'm going to study that a little bit further. But I just think...I think you've got a good statement here, and I think changing "an equitable" to "a fair" clears everything up. And I'm not saying you should do it, but...but thank you for your response. And if I've got time, I'd like to ask Senator Schumacher another question. [LB613]

SENATOR COASH: Senator Schumacher, would you yield? [LB613]

SENATOR SCHUMACHER: Yes. [LB613]

SENATOR CARLSON: Senator Schumacher, what's your opinion of FA34? [LB613]

SENATOR SCHUMACHER: FA34 is a good amendment; its language reads a bit clearer than the original one. The word "equitable," I think, is fine to have in there. I think it does, as Senator Chambers indicates...he wants it to do...to give us a broad-ranging... [LB613]

SENATOR COASH: Time, Senators. [LB613]

SENATOR CARLSON: Thank you. [LB613]

SENATOR COASH: Thank you, Senator Carlson. Senator Johnson, you're recognized. [LB613]

SENATOR JOHNSON: Thank you, Mr. President. And thank you, colleagues. When we started this process with LB405 and LB406, the focus seemed to be on sales tax and income tax. My concern at that point was leaving out property tax. And I'm enjoying the

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conversation this morning as we're dealing...at least the subject matter, talking about the property tax, because that is a mix. It is a county tax, but it also affects every citizen in Nebraska that's a property owner. But I believe we...and I think we're heading that way...Senator Bloomfield mentioned yesterday the gas tax. I believe we're heading in the direction that this commission needs to look at all taxes as it affects our citizens, the effect of some of the city taxes and the county taxes, the occupation tax, excise tax, other taxes that are imposed--and we authorize it--are imposed on our citizens. We've got to make sure that we think about the families that are affected here. We also, as he...as Bloomfield mentioned yesterday, the gas tax, it's not fulfilling the needs of the Department of Roads. And so we're having to do something different, and I totally support that, in taking some General Fund in order to provide funds for that. But we're tweaking that system also. So I think...and I would just encourage the commission to make sure we're looking at all taxes that are paid by our Nebraska citizens. Thank you. [LB613 LB405 LB406]

SENATOR COASH: Thank you, Senator Johnson. Senator Wallman, you're recognized. [LB613]

SENATOR WALLMAN: Thank you, Mr. President. And I'm enjoying the conversation this morning about these taxes. I think this is a good amendment. And I think it's a good bill, because we have to study our taxes: Are we fair about our taxes? We're putting a lot of pressure on our county assessors. And some assessors, across county lines...if you own property on both sides of the county lines, you think one county is not fair. And it's all about real estate if you own around the city of Lincoln. So ag land is overvalued, I honestly believe. But it'll probably bring that money, but it's not the revenue base it should bring, for what it cost. So I hate to pick on ag land, per se, but it's paying the biggest share of a lot of school districts. And farmers have always been willing to educate their children, from one-room schools...my family donated some property to have a school years back. So I don't think most ag producers mind paying for schools. But is it out of whack? Well, personally, I think it is, but I might be prejudiced. But we should be fair and equitable about income, what we get for income. In the '30s, a lot of land got sold on account of taxes; the county courthouses were just...weren't getting any money. And so land went down in a hurry. It could happen again; we don't know. But...so how are we going to deal with this tax thing? I appreciate this being brought forth, all these amendments, all this discussion. This one we have to do we should have done a long time ago, instead of "piecemealing" everything. And...but, boy, if we shift to any more taxes, to ag land, it's a sad day, because we drive this state. Ag drives this state, produces a lot of jobs. And we're...most of us are very good citizens: serve on school boards, church councils, all these things. And so I appreciate this amendment, appreciate this discussion, but I think...I don't see anywhere about intangibles. When I was a youngster starting out, we had to pay taxes on intangibles. And pretty easy to do. A very prominent person that owns a baseball team and I had this discussion about intangible taxes. And we had a very interesting talk about this, because there's millions

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and millions and millions of dollars being traded every day on board of trade. And if you or I would do that, Senator Johnson, a penny or two wouldn't make much difference. And it would bring in lots of money. And not, maybe, for the state, but for healthcare. So we have to look outside the box, and that's going to be tough; this organization will have a tough, tough job. And so thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Wallman. Senator Krist, you are recognized. [LB613]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. And good morning, Nebraska. In the dialogue that went on between Senator Carlson and Senator Chambers earlier, Senator Chambers was asking where, in fact, in the rest of the bill...and having reading the bill, I understand that the intent of Section 4 is indeed, which starts on page 3, is indeed to make sure that the considerations of (1) Fairness, (2) Competitiveness, (3) Simplicity, (4) Stability, (5) Adequacy, (6) Complementary tax systems are all covered. So I would believe that everything in Section 4 further illuminates Senator Chambers' point in FA34. I'll support FA34 to AM467, which actually is the bill, becomes LB613, because I think it is not "wordsmithing," it is indeed saying something more concise...stating something in a more concise manner and would be more consistent with our goals towards writing good legislation. But I'd also remind you that even though you state it simply, it is illuminated again in Section 4, where it goes through those standards. And I believe that Section 4, in some ways, does give the group study parameters and goals and objectives that are very complete, as complete as they need to be in order to get to the root...during the study. The second thing I would say is, it...it is...it needs to be noted and it needs to be on the record that the state takes its funding...the state takes its funding predominantly from income tax. So as much as we would say ag real estate may be in balance in terms of where that taxation is coming from, to Senator Wallman's point, it is something that needs to be studied. But the metropolitan area and Lancaster, Cass, Douglas, Sarpy...and I don't think I'm missing one yet, but not to be inclusive or exclusive, but to try to name those. The corporate and income tax, which is our tax base for the state, for us, for our consideration, is income tax. It comes from the metropolitan area, is the primary...or the city, the primary, and the metropolitan class. So having said that, if you're going to balance...and the discussion that was going on between Senator Carlson, Senator Chambers, Senator Bloomfield, and Senator Adams about how we fund different mechanisms, those priorities that are set in Section 4 should...should result in rebalancing the tax system across the board. And certainly property taxes, which currently belong to the counties, the political subdivisions, needs to be part of the discussion. And that was my disagreement with the two bills that were killed in Revenue, LB405 and LB406, because it really didn't go far enough to restructuring the tax system and considering what a leveling of the tax system would be in terms of, again, back to Section 4, adequacy, complementary taxes, stability, simplicity, which I think is very important; competitiveness; and also fairness. With that I will yield the

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balance of my time to Senator Chambers, if he wants it. [LB613 LB405 LB406]

SENATOR COASH: Senator Chambers, 1 minute. [LB613]

SENATOR CHAMBERS: Thank you, Senator Krist. Mr. President, members of the Legislature, I think it may have been farmland, but I'm not sure. It showed this guy in his kitchen cooking bacon, and you could hear it crackling in the skillet, sizzling, and you could almost smell it; and somebody, some voice, the person you don't see, somebody's voice is talking about how delicious this bacon is and how they prepare it. And he says, "but if you can't wait until that's done, they've got that covered too." Then it shows him picking up a piece of already-cooked bacon and crunching it while waiting for the real bacon to finish cooking. I want to say to Senator Krist and the others who are interested in the notion of fairness, I have an amendment that does cover that aspect too. And remember, I'm not trying to change the thrust of what this bill is doing. I'm just trying to select language that would use fewer words and maybe come closer to expressing what is intended. I will also acknowledge that in the same way that they say, "All roads lead to Rome"... [LB613]

SENATOR COASH: Senator, you are now on your own time. [LB613]

SENATOR CHAMBERS: Oh, thank you, Mr. President...many ways, or at least several ways, will be available to say whatever is being expressed by various components in this bill. If any of you have been to Disney World or Disneyland, whichever it is down in Florida...I went down there some years ago with my son and the son of the lady who works in the office, and I drove...I believe I drove down there. But anyway, I thought I was lost, because I was trying to follow this map and I wound up on a street or a road with trees that actually formed a canopy over the road, and I didn't think that should have been there. But one of the kids said, "Well, because this is Disneyland's, or Disney World's, domain, I'll bet if you stay on this road you'll get back to Disney World, because I think any road in this area is going to go back to Disney World. Since "a little child shall lead," I thought I would follow the advice. And that's where I wound up. So I'm not saying that what I offer is the only way to say things; I'm assuring you that I have read and thought about the provisions I'm attempting to amend. And what I'm offering is what I deem to be at least a more suitable way, if it's not the most suitable way, to contrive language that will go into the statute. I don't know how long it will take to do this that I'm doing, because, in effect, the bill is being rewritten on the floor. But I doubt that anybody would say that the amendments that I propose, even the ones that I was offering one word at a time, are words just for the sake of altering words. You may get to eight hours and you want to invoke cloture. And I don't mind, because I will just continue doing what I'm doing on Select File, and eventually the bill will be in the form that I believe it should be in, and we go by what we think ought to be. So I don't have Senator Johnson's mind; I don't have Senator Schumacher's mind, thank goodness; I only have mine, and I've got to do what I can--he was listening--what I can with what I have to work with. So any

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proposal that I offer can be and should be discussed. And if there's a better way, that's what I'm looking for. And I think this bill, since it pertains to our branch of government, this is the Legislature's bill. Shouldn't we reach the highest level of excellence we can in expressing something that pertains specifically to us and what it is that we're to do? If we wanted to simplify it all, we could put a statute together that would say what I had suggested earlier. This statute creates a special legislative committee whose charge is to review every source of revenue that comes into the state--and by saying "source," it doesn't matter whether it's gasoline tax, tobacco tax, sales tax, any other kind of tax--and come back with recommendations that will help the Legislature determine... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: ...whether an unfair burden exists in any area, based on the current tax system, and, if so, bring us recommendations as to how we can rectify it. And that would be enough, if all we wanted to do was to create a committee, give it a charge, and provide whatever funding was necessary for that charge to be carried out. It doesn't take a lot of words. But since this is the approach that was taken, if nobody else does it, I'm going to give my time and take your time until you shut me off, based on what you can do under the rules, and work this bill section by section, not every one, because not every one is that bad, in my view. But what you all ought to do is table this bill and let me rewrite it. And I'm not... [LB613]

SENATOR COASH: Time, Senator. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Chambers. Senator Hadley, you are recognized. [LB613]

SENATOR HADLEY: Mr. President, members of the body, first of all, I want to thank Senator Chamber for the suggestions he has made. I think any bill we have in here, obviously, can be improved with further looking at it, so I appreciate that. I just want to take a couple of minutes and go back again a little bit to the history, to tell you why we got here. We had two bills in front of our committee, LB405, LB406, and they drastically changed the way we raise revenue in the state of Nebraska. We had hearings; we decided not to use the light system so the citizens of Nebraska could come in and give us whatever they felt they wanted to give us in the way of discussion on these bills. We went until 11:30 one night on hearing the bills. The next night...the next day we went late also. And there were some themes that came out of this. And the themes were that people think that maybe our tax system has not completely responded to a new, modern economy. We hear that. We also heard two other things: the citizens of Nebraska do not want to impose taxes on inputs to manufacturing and inputs to

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agricultural products; that leads to what we call tax pyramiding: a tax on a tax on a tax. We heard that consistently, over and over and over. So when we start this project, those are two givens; we've heard from the people already on those. We don't have to spend days and weeks beating those to death again. But we did hear from the people, that they wanted to look at our tax system. And the word "equity" was used a lot: equity, fairness. I know you can split hairs and call them different things; I think they're very similar. I don't think people mind paying taxes, but they want to have a fair shake. They want to feel what they're paying is basically equitable to what their neighbors are paying. I want to tell you...I want to repeat what I said earlier in this discussion: this tax study's goal is not to lower taxes in Nebraska. If you want to lower taxes in Nebraska, you've got to start with expenditures. You need to go to the Legislature and say, Legislature, you're spending too much money; you need to go to your school district and say, you're spending too much money; you need to go to the cities and say, you're spending too much money; the counties, you're spending too much money. That's how you get taxes down. What we're trying to do is to see that it's equitable, that it's equitable to the poorest person and the richest person, the middle class. What we don't want to do is...I'll use our neighbor to the south. The one thing I've found in the Revenue Committee, we're great at picking out what our surrounding states do; we rarely hear a bill that doesn't say, oh, Iowa is doing this, or South Dakota is doing this, or Kansas is doing this, why aren't we? Let me tell you, I just happened to read an article about the Kansas Legislature. Last year they passed some sweeping tax reform. I think they passed it without good study of it. They're now in a situation where they have a huge budget gap. They were going to have a three-quarters-cent state sales tax go away; that's not going away this year. They are...one of the proposals now is to divert all additional road funding that they were going to use for this coming year to the general fund just to balance it. [LB613 LB405 LB406]

SENATOR COASH: One minute. [LB613]

SENATOR HADLEY: So that's an example, I think, of rushing into significant tax changes without studying it. Now you can argue that this bill needs tweaking and such as that, but I think that the goals of this bill is to come up with recommendations for the best tax system we can have for the state of Nebraska. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Hadley. Senator Krist, you are recognized. [LB613]

SENATOR KRIST: Thank you, Mr. President and colleagues. I'll be very brief. I just...I asked a question before I got on the mike. And to clarify, I wanted to make sure that my point was understood. The state takes the majority of its funding from income tax and corporate tax structures, and Douglas County, Hall County, Lancaster County, and Sarpy County are right at the top. Sarpy is one of the fastest-growing counties in the

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United States, as we all know. But of the \$1.6 billion that goes into the state coffers from the income tax and corporate taxes, just to name the top two, \$575 million come from just Douglas County. Now it could be argued that that's also the majority of the people, but that's, basically, \$1 for every resident in the state of...or, I'm sorry, \$1...as it plays out, the population base in Douglas County is 531,000 people. So when we start balancing out the contributors to the state coffer as opposed to the individual political subdivisions and counties, this has to be a discussion about what kind of tax is going to fund the state tax program in general. And that has to include a discussion that includes property taxes, which could be a common tax used for the state and for the political subdivisions; otherwise, this whole discussion, in my mind...I'll be up here filibustering it when it comes back, because it has to be...that has to be part of the discussion. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Krist. Senator Chambers, you're recognized to close on FA34. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there's been no objection expressed to this amendment that I'm offering. Now what I had said just before my time ran out is that the Legislature ought to table the bill--I won't even use the term "bracket"--give me the assignment to rewrite the bill, and it wouldn't take days and days and days, and then I'd bring back what I thought there should be. That's not going to happen. But I'm determined now--since I'm convinced this bill will pass, and I think some form of a bill like this should pass--I'm going to keep working it. The reason I say "some form" of it: the Legislature should let this bill serve notice that the Legislature is going to take charge of revamping the system of taxation in the state. However long it takes to do that, whatever research and study will be necessary to put us in a position where we feel competent to do it will be done. Otherwise, the whole thing boils down to, in fact, a petty tempest in a teacup between the Governor on one hand, the Legislature on another hand, both presenting half-baked notions, which may get us into a lot of trouble as a state if bits and pieces of both are accepted, or bits and pieces of one to the exclusion of the other would be accepted. When everything that's done is done with an eye toward what somebody else may be thinking or intending, there is a loss of objectivity, there is a loss of focus on what ought to be done, and it shifts to "what can I do to trump or beat this other person." I am compromising my principles on this bill. I said I'm going to get revenge. I'm not getting revenge. The best way I could get revenge is to let the bill go in the form it was written and let the Legislature be ridiculed by the Governor and anybody else who would take the time to read it. The first thing they could tell us, if you're serious about changing the tax structure if necessary. But before getting to that point, you're going to undertake a serious, competent study. Yet the legislation you put together authorizing it and establishing the framework is thrown together in a haphazard, slapdash, careless fashion. So if that is an indication of what the study is going to be, you ought to quit it right now, and that's what I would say. If we cannot take the time to write the bill, and it's not my bill...we're trying to work our way through it

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together, but what other people are doing is letting me do the work, and then you talk about what I've done, whether you like it or not. And then you'll accept it or reject it. I accept that as the way a legislature functions. But that doesn't mean I have to accept it quietly and say it ought to do what it's doing just because it has the authority to do it. So I'm going to try to keep our nose to the grindstone, our shoulder to the wheel, our feet on the proper path, and...although this thing might be difficult to do at the same. But let's not be multitaskers. In case you're one who likes to keep feet on the path, you do that. [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: Others can put their nose to the grindstone, they do that. And some put the shoulder to the wheel, they do that. But if we all do it in concert--and it's another way of saying we contribute to the stew what we have the expertise to contribute which would make it better and not harm it--that's what we will do. And that is what cooperation consists of. And when we function like that, we take advantage of the ability and talents that are spread throughout this body. There are people who know a lot more about the subjects we deal with than I know. And if I'm dealing with one of those subjects, I'm prideful but I'm not too proud to ask somebody who knows more than I do about a subject, when I want to know something about it. And in the same way Willie The Actor Sutton went to the banks to rob them because that's where the money was, I will ask the questions of people because... [LB613]

SENATOR COASH: Time, Senator. [LB613]

SENATOR CHAMBERS: ...that's where the information is. I'm going to ask for a call of the house, and I'll take a machine vote. [LB613]

SENATOR COASH: Thank you, Senator Chambers. There has been a request for a call of the house; the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB613]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB613]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Davis, Burke Harr, and Ashford, please return to the Chamber and record your presence. Senator Larson, please return to the Chamber and record your presence. Members, the question before the body is, shall FA34 to AM467 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB613]

CLERK: 45 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers'

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amendment. [LB613]

SENATOR COASH: FA34 is adopted. I raise the call. You have some items, Mr. Clerk? [LB613]

CLERK: I do, Mr. President, thank you. Your committee on Natural Resources, chaired by Senator Carlson, reports LB402 to General File, with amendments; LB522, General File, with amendments; and LR40 reported back to the floor for further consideration. Judiciary, chaired by Senator Ashford, reports LB543 to General File; LB123 and LB182, indefinitely postponed, as well as LB520. Education Committee, chaired by Senator Sullivan, reports LB357, LB599, LB604 indefinitely postponed. I have a confirmation report from the Education Committee. New A bills: LB359A by Senator Cook and LB530A by Senator Dubas (Read LB359A and LB530A by title for the first time.) I have an amendment from Senator Watermeier to be printed to LB589. Communication from the Governor to the Clerk. (Read re LB27, LB31, LB38, LB70, LB88, LB117, LB165, LB283, LB337, LB398, LB426, LB484, LB510, LB616, and LB628.) New resolutions: Senator Davis, LR115; Senator Campbell, LR116. Those will both be laid over. (Legislative Journal pages 783-791.) [LB402 LB522 LR40 LB543 LB123 LB182 LB520 LB357 LB599 LB604 LB359A LB530A LB589 LB27 LB31 LB38 LB70 LB88 LB117 LB165 LB283 LB337 LB398 LB426 LB484 LB510 LB616 LB628 LR115 LR116]

Mr. President, with respect to LB613, Senator Chambers would move to amend the committee amendments with FA35. (Legislative Journal page 792.) [LB613]

SENATOR COASH: Senator Chambers, you're recognized to open on FA35. [LB613]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I'm sure that I have the correct amendment, but I wanted to ask the Clerk, does it begin, "Page 2, line 27"? [LB613]

CLERK: It does, Senator, yes. [LB613]

SENATOR CHAMBERS: Thank you. Members of the Legislature, again all I am attempting to do is rewrite the language. I'm going to read what currently is in the provision that I'm dealing with. On line 27 at the bottom of page 2, we have in parentheses the number "3," then the words "Simplicity and compliance," period. I'm not touching that. I would begin with the next word after that, which is "A"--I think that's called an indefinite article--and I'm going to switch it to "The," which, I believe, is a definite article. So since we're talking about "The tax system of Nebraska" rather than just a general notion of a tax system, this amendment would begin by striking that word "A" on line 27. And thank you, Mr. President, but I don't want to provoke them any more than they already are. If they want to just kind of chat with each other and get in a

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mellow mood, that's all right with me, because I think now they are not suspicious of me. The doctor performed an amputation of an arm, and the patient is now up and about, so now they might trust the doctor to remove a splinter from under a fingernail. And that's what this amendment would do, by comparison. This language continues to the next page, so I'm going to read the way it exists in this proposed amendment, AM467, then read the way I would suggest we change it. Currently it says, "A tax system should be easy to understand and follow," period. "The committee shall make recommendations to ensure that compliance with Nebraska's tax system is simple for individuals and businesses and to ensure efficient administration by the state," period. Here's what I would do. I would first, on page 2, line 27, substitute "The" for "A." Then on page 3 in line 1, I would strike the word "follow" and insert the two words "comply with." And in statute you're allowed to end a sentence with a preposition in order to be clear. But whether the grammarians would allow it or not, it makes not difference; we can do whatever we want to do. So that sentence would say, "The tax system should be easy to understand and comply with." By putting those two words "comply with," it makes it possible to shorten up this following language. And here's what it would say. We would begin with the word "make" on line 1 and strike all remaining language in this provision, which would take us through the word "state" on line 4. And this is what would happen. You would have this system that's easy to understand and comply with. The committee shall "formulate recommendations designed to ensure ease of compliance for individuals and businesses and efficient administration by the state." That is what all of those words are aimed at doing. If you have any questions, I will answer them. There is so little language involved in this amendment, and it's straightforward. I don't think there's any problem understanding what the language says and what it's designed to do. But I will break it up. The recommendations that are to be formulated would deal with compliance. The caption for this subsection is "Simplicity and compliance." We would make it easy for businesses and individuals to comply. And we would have recommendations leading to the efficient administration of this tax system by the state. I know that my hours are numbered; my minutes now are numbered. I say again, at some point you can invoke cloture. If you think the discussion has been only for the purpose of taking time, or if you just want to get off this bill, then you'll vote cloture. But I'm not going to stop doing the work that I've undertaken to do on this bill. If you want to cut it off, you have the votes to do it. But that will not be the end of me. And I will not come back as a zombie. For I will not die, in the first place. I will continue to live, breathe, and thrive. But if you vote cloture, then I may take that as a challenge and an intent to antagonize me and put me in my place. And then I get out of my conciliatory, cooperate, constructive mode and I begin to look at LB295. I might look at that anyway because of the way they're treating me in that Education Committee. I might want to get to that bill so I can talk about them. And I am going to talk about them and how foolish I think they are and how disregarding of the Legislature's prerogatives. An end run was made around the Legislature by the Board of Education, and they don't want to undo it. They want the board to do that, and give the message to other agencies that after the Legislature expresses a position, the board can arrogantly ignore what the Legislature

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did and say we're going to do it our way, because we have troglodytes in the Legislature who don't care about the integrity of the Legislature and its processes, and they'll give us our way. But it's going to be very difficult to be done over, around, and through me. But now back to this bill. This amendment does not change anything in terms of what the subsection that I'm amending is intending to do. Since I believe that I've explained it adequately, that will constitute my opening on the amendment. And I ask that you adopt it. [LB613 LB295]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA35 to AM467. Senator Conrad, you are recognized. [LB613]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. And here we are, I think, on Day 4 of this debate, and I just wanted to rise and reiterate my serious questions and concerns related to how we move forward on this legislation which contemplates a long-overdue and much-needed comprehensive review of our revenue infrastructure. Yet here we are on Day 4 of debate on this particular measure. And each day I wake up and, as is our practice, as many members share this activity, we read the newspapers, we review local media to learn about other issues in the state, current events and interactions before this very Legislature. And I see headline after headline after headline emanating from members of the Revenue Committee, who continue to jockey for political position and push forward tax cut after tax cut after tax cut with no thought in terms of how to pay for that legislation. And it's the same concerns that I've brought forward for four days in debate. I am waiting for a policy response from members who are engaged in that activity, as to how we could possibly move forward with additional tax changes and additional tax cuts this year if indeed we're serious about taking a step back and conducting a comprehensive and responsible and long-overdue study of our overall revenue infrastructure. With that being said, I am a cosponsor of LB613, but I'm not sure how I will vote on cloture, because I think that there are very simple and straightforward questions that any member who engages in this process should be able to provide a clear and responsive answer to. And the silence speaks volumes. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Conrad. (Visitors introduced.) Senator Chambers, you're recognized. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, once again there has been no objection expressed to this amendment that I'm offering, nor any questions. So I'm going to range far afield once again and talk about the prerogatives of the Legislature. If you vote cloture, which you have the votes to do, I presume, you will be saying that a bill as important as this should be discussed only eight hours. I admit I've said a lot on this bill, and I'll have a lot more to say on this and other bills. But it would be irresponsible for the Legislature to suggest that a bill as important as this one, dealing with an undertaking as important as this one, an

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undertaking the Legislature set for itself in response to an approach by the Governor, which the Legislature felt was not well thought out. And you're going to say, we're going to decide this by the clock. Who can say that what I've offered is not right on point? But because it's me and you're going to put me in my place you think, you may not want me to be in that place. You are going to say that a bill of this kind, which my amendments are showing you needs rewriting, you're going to cut it off after eight hours so you can show me. Well, show me. And then show me on other bills too. You brought this bill here. I'd only ridiculed the Governor when he brought his plan. I didn't offer anything to counteract it. You all did it. And now you're going to bail out because you're tired, you're weak-kneed; you have no ability to persevere. This Legislature has a responsibility, and if I cannot make you assume it by reasoning with you, then I'm going to bludgeon you. And I'm going to take time on every bill, every bill. I won't go eight hours. Some things have to be done. The Speaker is a good, decent, and honorable man, and he has a job to do. But I am not going to forsake what I deem to be my responsibility for the Speaker or anybody else or any collection of people on this floor. I'm going to run this Legislature, if I have to, in the way I think it should be run. And I think it should be run by us assuming our responsibility. If you didn't want me to talk about this bill, why did you bring it out here? If you don't want to discuss it and do the work necessary to put it in the form it ought to be in, what did you bring it out here for? I don't know and, frankly, I don't give a care. But now that it's out here, it becomes mine as much as anybody else's. The responsibility that I'm saying all of you have is the responsibility that I have. And if I'm the only one who will assume it, then I will do it by myself, like the little red hen who had to cook the bread after planting the wheat, tending the wheat, cutting the wheat, threshing the wheat, grinding it into flour, cooking the bread. None of the other animals wanted to help. But when the bread was in the oven and those aromas of delicious, fresh-baked bread began to spread around the barnyard, the little red hen said, who will eat the bread? And when she asked who will help do the work and everybody's response was, not I, not I, not I, when she said, who will eat the bread,... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: ...it changed and everybody said, I will, I will. And she said, no, you won't, because her response to them, when they said, not I, she said, I'll do it myself, which she did. And when time came to eat the bread and they said, I will, she said, no, you won't, I will eat it myself. So what I'm putting on your plate is what I will turn around and consume myself. And I'm going to do my job, and you will not stop me. You will not stop me. You can delay me. You can put a bump in the road. But I will survive and I shall prevail because I'm stronger than you, I'm more determined than you, and I take more seriously my responsibility than you do. And you cannot turn that aside. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Mr. President (sic). Senator Chambers, you are

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recognized. Thank you, Senator Chambers. (Laughter) [LB613]

SENATOR CHAMBERS: I don't mind being called Mr. President. And for those who think that that title is not sufficiently representative, you can call me Emperor, Your Highness, Your Majesty, Your Excellency, Your Paramountcy, Your Holiness, anything. Members, when I ran for this office or ran to be reelected, I said over and over and over that there's a job that needs doing in the Legislature and I'm the only one who can do it and nobody can do it as well as I can. I could have said, nobody will do as well. But I'm going to leave it the way I said it, nobody can do it as well, because they don't have the collection of traits and determination that are necessary. When we start approaching noonhour, people's minds turn to their belly and lunch. And the Legislature itself is my lunch. The Legislature gives me sustenance. And right now I am taking the time to try to bring something out of a bill that others thought was necessary to be enacted by the Legislature. There are others who signed onto this bill, I find out, from what Senator Conrad said. I hadn't even looked to see who all was on it. But be that as it may, we should be comporting ourselves in a responsible manner as lawmakers. We make the law. I think about things said by teachers, ruefully said by teachers: The students won't pay attention, they don't do their work, they don't do their homework. And the students can say: Well, I've been watching the Legislature, they don't do their work, they don't do their homework, they don't pay attention to grammar; so if I'm to grow up and be like them, I'm smarter than they are right now; give me an example, Teacher, show me somebody out there carrying out the work that you think maybe I should be preparing myself to do, and show me somebody who has more qualification than I, as a student in grade school, have right now, show me. And you can't. Listen to the kind of debate that we have. But aside from that, look at how irresponsibly we operate the Legislature. The Speaker can't make us do anything, and he shouldn't have to. But I can, because I'm mean. And I don't mind if people get angry, because the record is going to be there. The record is being compiled. You think about what's happening now. But now is not forever, and what we do will be there to reproach us in the future. And the future comprises the next minute. Anything that happens after this instant is the future. So that's why you can say, the future is now, plus one second. And how will you be judged? You think now it doesn't make you any difference. But obviously you think it makes a difference because, when you're on the campaign trail, you talk about all you've done and all you're going to do,... [LB613]

SENATOR COASH: One minute. [LB613]

SENATOR CHAMBERS: ...all the good things you're going to do. Then you come here where we can do it, and you don't want to do it. This is our job. This is the work we're to do. And right now before you is an amendment. You might think it didn't take long to put it together and that it was easy. If that were the case, why wasn't that the language put into the bill? Different people have different capacities and different interests. One of my interests is trying to bring to the body the best language I can come up with to express

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what we want to express in a way that's suitable to go into the statute books. What's wrong with that? Nothing, as long as I'm the one doing it. But others don't think it's important. Slapdash lawmaking is not for me. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Chambers. Senator Chambers, you're recognized to close on FA35. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. Now I will go back to what the amendment does. This is what it would say and, if you find fault with it, you could have asked me questions about what I meant. The committee is to "formulate recommendations designed to ensure ease of compliance for individuals and businesses and efficient administration by the state." It's referring to the tax system, and it started under the caption of saying that there ought to be ease of compliance and it should be easy to understand. That's what I think the language that I offered will express. So if you go to page 2 and look at line 27, the three words are "Simplicity and compliance," and these words that I'm offering are designed to expand on those words. I will ask for a call of the house, and I'll take a machine vote. [LB613]

SENATOR COASH: Thank you, Senator Chambers. There has been a request to put 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. [LB613]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB613]

SENATOR COASH: The house is under call. All senators please return to the Chamber and record your presence. All unexcused personnel please leave the floor. The house is under call. Senators Davis, Larson, and Ashford, please return to the Chamber and record your presence. Senator Ashford, please return to the Chamber. Members, the question for the body is, shall FA35 to AM467 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB613]

CLERK: 36 ayes, 0 nays (sic), Mr. President, on the adoption...or, excuse me, 36 ayes, 3 nays on the adoption of Senator Chambers' amendment. [LB613]

SENATOR COASH: FA35 is adopted. Raise the call. [LB613]

CLERK: Mr. President, I now have what I believe will be FA36 as an amendment to the committee amendments, offered by Senator Chambers. (Legislative Journal page 792.) [LB613]

SENATOR COASH: Senator Chambers, you're recognized to open on FA36. [LB613]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this

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amendment is on page 2. It would start with line 21. And I would strike...what it's talking about is competitiveness. I would strike everything in that subsection (2), which means, beginning with the word "Any" on line 21, I would strike all language through "competitiveness" on line 26. I'm going to read for the record what currently is there, and then I will read the language I would substitute. This is what's currently in LB...I mean, in AM467: "Any changes to the tax system should ensure that Nebraska continues to attract high-paying jobs and investment to the state, while keeping and protecting the jobs and businesses we already have," period. "The committee shall review how Nebraska compares to other states regarding business taxes and identify ways to improve business tax competitiveness." I think there is language which is unnecessary, and I think there is a better way to express that idea. If you read the current language, I believe you would understand what is intended to be said. This is how I would say it, and for those who would disagree, ask me questions, and I'm not going to snap at you: "Any modification of the tax system should be designed to ensure that such modification in no way impedes or restricts the state's ability to attract well-paying jobs and investment while keeping and protecting existing jobs and businesses," period. "The committee also shall review and analyze how the state compares to other states with reference to taxes imposed on businesses and identify ways to enhance business competitiveness." That's what I would put. And I think that I'm reading the correct amendment. Yes, that's what I want to say. I am not quarreling with the ideas expressed. But to give you an idea of some of the changes I would make, I would delete the word "Nebraska" and substitute "the state." We know everything in this bill relates to Nebraska. And where it says "attract," they say, "high-paying jobs." I say, "well-paying jobs." They include "to the state." I believe we can strike that language because we know we're attracting the jobs and the investment to the state because we already referred to the state. That would be stricken. I think that the committee should not only review how Nebraska may compare to other states but to analyze also. To review might be to just set two things side by side and look at what one says and what the other says and go back and forth. That's a review. The analysis goes into why, wherefore, and the "therefore," which relates to what's going to be done about it. If the differences that exist would put this state at a competitive disadvantage, then, instead of saying, "identify ways to improve business tax competitiveness," I would say, "identify ways to enhance business competitiveness." The idea is not a competition between the tax systems; the idea is competitiveness between businesses. The thought here is that business competitiveness can be improved if the taxes are more in line with what those who are smart about these things believe should be the case. So I will read that language again, having mentioned some of the things that would no longer be here. "Any modification of the tax system should be designed to ensure that such modification in no way impedes or restricts the state's ability to attract well-paying jobs and investment while keeping and protecting existing jobs and businesses. The committee also shall review and analyze how the state compares to other states with reference to taxes imposed on businesses and identify ways to enhance business competitiveness." I think it's a good amendment. And I think it ought to be adopted, not just because I offered it, but

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because it is well thought out, it says what it means, it means what it says, and it doesn't even disparage what is already there. I've been saying, over and over and over, that when a proposal comes before us, we all take ownership, we all assume responsibility, we contribute what we can to improving it. Sometimes that means striking language, period. Sometimes it means trying to kill the whole thing, and that's the only way we can do that which is best under the circumstances. So if you have any questions about the amendment, then I'm prepared to answer them. Thank you, Mr. President. [LB613]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA36 to AM467. (Visitors introduced.) Senator Chambers, you are recognized. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. You all have no way of knowing this because I didn't hand around the amendments. I'm a state senator, not a typist. But I typed these things out because, when I turned them into the Clerk, I wanted them to be legible. It took me time. I spend time down here on the floor, obviously, debating, and I'll do it the whole morning. Then, in the afternoon, I go to committee hearings, and I actively participate in the committee's business. I read the bills that come before the committees on which I serve. And anybody on those committees can confirm that I participate in what the committee is dealing with when those bills come before us. This afternoon I've got, over my shoulder, metaphorically speaking, a big shovel and a big trash bag, and I'm going to be shoveling what is appropriate into that trash bag. That's before the Judiciary Committee. But whatever comes before us has to be dealt with. And some situations and issues are touchy. And some people are not willing or would rather not have to deal with them in the way they should be dealt with. But I carry to those committees, the hearings, the same attitude I have here. The responsibility is mine totally. If nobody wants to say anything, they don't have to. But I'm going to ask questions, I'm going to make comments, and discharge my duty as I see fit, and that means discharge my duty as I see my duty to be. The Legislature has tremendous power and authority. It has powers granted by the people. The constitution limits some of what we can do. No power should be totally unrestrained because arbitrariness can set in. So we have a charge to keep. We are to do what's in the best interest of the state and the people. And in my view, the best thing we can do as legislators is to take proposals that are presented to us and put them in the best shape we can. Now if there's a bill that I don't like and I can't kill it, then I would undertake to improve it, so that it's at least a work product that doesn't lead to the Legislature being ridiculed, justifiably, for being careless, inattentive, disregarding of what it is that a Legislature should do. In the morning, except for Monday or the first day of the week, whether it's Monday or Tuesday, we're here three hours in the morning, from 9:00 to 12:00. Seldom do we start on time. We're here two hours plus some minutes. And that is going to exhaust us? [LB613]

SENATOR COASH: One minute. [LB613]

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SENATOR CHAMBERS: I'm the oldest thing on this floor. I'm not exhausted. I'm not worn out. Why is it so difficult for us to be an example to young people and old people, but especially young people, of how business by the Legislature is to be conducted? I'm doing it the way I think it should be done. And if you disagree, then make the disagreement known, and you'll probably do that by voting cloture. But keep in mind, it is not responsible to say that the clock has reached a certain hour, therefore, the debate ceases. That's probably what will happen today, so I wanted to get what amendments offered and adopted that I could. [LB613]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Time, Senator. [LB613]

SENATOR CHAMBERS: Thank you, Mr. President. [LB613]

SPEAKER ADAMS: Senator, there is...there are no other names in the queue, if you'd like to close on your amendment. [LB613]

SENATOR CHAMBERS: Yes, thank you. Mr. President and members of the Legislature, I read the amendment twice and all it does, in my view, is to improve the language that will be used in this provision. Maybe I shouldn't be so sensitive. But when there are words such as "businesses we already have," that phraseology shouldn't be in the statute. We don't have businesses. There are businesses in the state. So I cannot find a way to say it more clearly myself than the way I've already done it. I think the amendment should be adopted. And I will ask for a call of the house, and I'll take a machine vote. Thank you, Mr. President. [LB613]

SPEAKER ADAMS: Thank you, Senator Chambers. 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. [LB613]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB613]

SPEAKER ADAMS: 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 Nordquist, Senator Lathrop, Senator Pirsch, the house is under call. Senator Pirsch, the house is under call. Senator Chambers, all members are present and accounted for. How do you wish to proceed? [LB613]

SENATOR CHAMBERS: (Recorder malfunction.) [LB613]

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SPEAKER ADAMS: The question before the body is the passage of FA36 to AM467. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB613]

CLERK: 39 ayes, 0 nays (sic), Mr. President...39 ayes, 2 nays on adoption of Senator Chambers' amendment. [LB613]

SPEAKER ADAMS: The amendment passes. Mr. Clerk, you have a motion on the desk? [LB613]

CLERK: I do, Mr. President. Senator Schumacher would move to invoke cloture pursuant to Rule 7, Section 10. [LB613]

SPEAKER ADAMS: It is the ruling of the Chair that there has been full and fair debate afforded to LB613. Members...Senator Schumacher, for what reason do you rise? [LB613]

SENATOR SCHUMACHER: I just rise to ask that the house remain under call until we're through with this proceeding. [LB613]

SPEAKER ADAMS: The house will remain under call. Members, the first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. There has been a request for a record vote, Mr. Clerk. [LB613]

CLERK: (Record vote read, Legislative Journal pages 792-793.) 44 ayes, 2 nays, 2 present and not voting, 1 excused and not voting on the cloture motion, Mr. President. [LB613]

SPEAKER ADAMS: The motion to invoke cloture is adopted. Members, the next vote is on the adoption of AM467 to LB613. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB613]

CLERK: 47 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB613]

SPEAKER ADAMS: The amendment is adopted. Members, we'll now vote on the advancement of LB613 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB613]

CLERK: 47 ayes, 1 nay, Mr. President, on the advancement of LB613. [LB613]

SPEAKER ADAMS: The motion is adopted. LB613 is advanced. I raise the call. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR84, LR85, LR86, LR87, LR88, LR89, LR90, LR91, LR92, LR93, LR94,

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LR95, LR96, and LR97. Mr. Clerk, we'll now proceed to Select File. [LB613 LR84 LR85 LR86 LR87 LR88 LR89 LR90 LR91 LR92 LR93 LR94 LR95 LR96 LR97]

CLERK: Mr. President, the first bill on Select File is LB295, Senator Murante. I have no amendments to the bill at this time, Senator. [LB295]

SPEAKER ADAMS: Senator Murante for a motion. [LB295]

SENATOR MURANTE: Mr. President, I move to advance LB295 to E&R for engrossing. [LB295]

SPEAKER ADAMS: You've heard the motion. All in favor say aye. Opposed. Motion carries. Next bill, Mr. Clerk. [LB295]

CLERK: Mr. President, LB434. No Enrollment and Review. Senator Price would move to amend with AM672. (Legislative Journal page 758.) [LB434]

SPEAKER ADAMS: Senator Price, you are recognized to open on your amendment. [LB434]

SENATOR PRICE: Thank you, Mr. Speaker, members of the body. I bring this amendment to you based on conversations we had on the underlying bill, LB434, to address some of the concerns and ideas expressed here on the floor. Primarily, as you look at the amendment on your gadget, if you are doing so, we had a couple of senators, Senators Coash and Krist, who preferred that language be inserted that referred to functional needs instead of special needs. While there is some debate at the federal level and they use both words interchangeably, the desires of the body were to go to functional needs, and this has been accomplished. There were other questions brought, primarily by Senators Conrad and Bolz and Crawford, about reaching out to different groups to ensure that we're working statewide on this. And to that end, we did reach out and we spoke to NEMA, Nebraska Emergency Management Agency, and to other elements across the state to find out that these communities that are responsible for the underlying actions, in fact, do reach out to numerous organizations throughout their span of influence. And to that end, I mean, ESUs are even included into this. Your local...the Nebraska Agency on Aging is involved. And I have a letter from the public policy...Disability Rights of Nebraska that supports LB434, and I can make that available to each of you. But as it's four pages long, I chose not to photocopy that 49 times. But suffice it to say, across the state, agencies and planners, emergency management planners, are reaching out within their communities to ensure everybody understands and knows that this is available to their constituents. Third, there was commentary from Senator Haar, Ken Haar, about the release of this information to other agencies, and lines 15 through 17 articulate and stipulate that this should not be released to any other agency, other than for the work and for the purposes stated herein. And finally, there

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were comments and questions from Senator Chambers that spoke to the penalty aspects. And if I am incorrectly using that word penalty, I do apologize. But the penalty for improper release of this information results...can result in a Class III misdemeanor, which is up to \$500 and up to 90 days in jail or both. And this penalty is the same penalty that is found in statutes governing child welfare issues and the release of information governed by those statutes. So, colleagues, this amendment to LB434, AM672, has been the effort of many individuals, both here in the Legislature, some of your staffs, and NEMA. And with that, I would encourage your support to this amendment and the underlying bill. Thank you, Mr. President. [LB434]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Price. (Visitors introduced.) Members, you've heard the opening to AM672 to LB434. Senator Conrad, you are recognized. [LB434]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I am having an opportunity to review AM672 and appreciated the explanation that Senator Price was able to provide. But I did hope that he would yield for a few questions in relation to the criminal penalty component. So with that, Mr. President, if Senator Price would yield? [LB434]

SENATOR COASH: Senator Price, will you yield? [LB434]

SENATOR PRICE: Absolutely. [LB434]

SENATOR CONRAD: Thank you, Senator Price. And, I apologize, I was engaged in debate on the previous bill and haven't had an opportunity to fully evaluate the pending amendment. But I did hear your explanation that the criminal penalty provisions are modeled after other areas of statute, most notably in the child welfare arena. Is that correct? [LB434]

SENATOR PRICE: That is correct. [LB434]

SENATOR CONRAD: Okay. And my question is...I see that it does provide for information sharing on this topic to other agencies that "have a legitimate and official interest." So I'm hoping, just for my understanding and for the record, you could provide an example of what would be considered a legitimate or official interest and what wouldn't be. [LB434]

SENATOR PRICE: Thank you very much. I envision that that encompasses...when we talk about different political subdivisions, you could have a county emergency manager and then NEMA interacting, and then, within that county, you could actually have a subdivision of the city. So Omaha would work with Douglas County, who would then, in

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conjunction, work with NEMA, therefore, you'd have multiple agencies. And then you could have...if you had the Agency on Aging and they wanted to work with a particular area, a particular client, that they could interact and there would be no barrier to that as long as it pertained to what was in this bill. [LB434]

SENATOR CONRAD: Okay. Do you know, in drafting this legislation and looking at analogous provisions in a different area of law, were "legitimate and official" defined in other areas of statute? I'm just trying to think through practically as to what would be considered subject to criminal penalties and what type of activity would not be. [LB434]

SENATOR PRICE: Thank you, Senator Conrad. And I will...I would defer on that one. I'm not sure on that one. I was more focused on the criminal penalty part and where that was analogous to, which, by the way, I like working into any sentence. But I did not look at that other aspect as clearly, and we can explore that more if you want. [LB434]

SENATOR CONRAD: Okay, very good. Thank you, Senator. [LB434]

SENATOR COASH: Thank you, Senator Conrad and Senator Price. Senator Lathrop, you're recognized. [LB434]

SENATOR LATHROP: Thank you, Mr. President. I'd like to ask Senator Price a few questions, if I might. [LB434]

SENATOR COASH: Senator Price, will you yield? [LB434]

SENATOR PRICE: (Recorder malfunction.) [LB434]

SENATOR LATHROP: Senator Price, like Senator Conrad, first of all, let me thank you for the change in your amendment that's found, essentially, in the first half of your amendment, which is to take out the disability portion and use different terminology. I'm looking at the penalty provision and, generally, I have two concerns, maybe three. Senator Conrad talked about one, which is "legitimate and official." I think you've told us what you mean by that. The last sentence of your amendment, is that intended to advise the public and the courts that each time...for each person whose information is disclosed to a third party that shouldn't have it, it's a separate offense? [LB434]

SENATOR PRICE: Yes. [LB434]

SENATOR LATHROP: Okay. The sentence before that, I'm going to read it: Any person acquiring the information pursuant to this subdivision who discloses or releases such information in violation of this section is guilty of a Class III misdemeanor. Generally speaking, in the law you can be...we can have crimes that require specific intent and we can have crimes that are based upon negligence or willfulness, or there's a variety of

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intents that are found in criminal statutes, and this doesn't appear to have any. And so I'm wondering: If I'm going to give you an example and say, I'm one of the people that have a legitimate interest in this information, I have it in my laptop or in my iPad, I go into the bar, have several drinks, I leave my iPad behind, and now everybody who's on this list...somebody picks my iPad up, they get into it, and everybody on the list is now in the hands of somebody who's been following me around, waiting for the opportunity to get a copy of this list, it is done by carelessness, not intentionally, is that a violation of this statute? [LB434]

SENATOR PRICE: In the broadest term. And I won't try to parlay legal terms with you because I'm unable. But in the broadest term I would agree with you that...I agree with your supposition and your model there, and...but, yes, it is a violation, but the intent is not understood at that point. [LB434]

SENATOR LATHROP: So I'm wondering if this amendment shouldn't be amended to indicate at what level of intent or carelessness constitutes a crime. In other words, I get, and we've heard, in order to do something, you need to have teeth. We can have somebody investigate it. That costs money, so we quit doing that around here. We make everything a crime, and I understand that puts teeth into things, but at some point I think we need to indicate whether you can be guilty of an offense that you're creating here by doing something carelessly or do you have to intend it. And so maybe what we...and I would suggest that it ought to be based on intent, especially if it's going to be each time you do it or for each individual it is a specific crime. I am trying to think if that is the fair way to do it. If somebody is going to disclose this...let's go through a hypothetical or maybe a couple. If somebody is going to do this, do you anticipate that it would be somebody working for the state of Nebraska, or one of the people who have a legitimate interest, taking the list and selling it to somebody who might have a product that he would sell to the disabled or the people with functional impairments? [LB434]

SENATOR PRICE: That was the genesis of the...of my intent for the bill. [LB434]

SENATOR LATHROP: Okay. Now I want to go back to your amendment. [LB434]

SENATOR COASH: One minute. [LB434]

SENATOR LATHROP: If you have a person who has legitimate access to this and they share it with a vendor who is selling something that might be useful to these people that need help in an emergency or it might tell them who everybody is that needs oxygen, and so some guy selling oxygen now has the list of people in the state that are on oxygen, so he shares that list with somebody and there are 900 names on it, is that person then to be charged with 900 Class III misdemeanors? [LB434]

SENATOR PRICE: Senator Lathrop, that was generally what I wanted to have happen

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there because I believe that each offense was to each individual, so you're going to commit an act against that person, versus...so that's how I thought about it. And in reviewing this, there just were a...there weren't a great number of instances to compare against and to work through to say, how do you group those, other than I was told that the judge would have the latitude within this to... [LB434]

SENATOR COASH: Time, Senators. Thank you, Senator Lathrop and Senator Price. (Visitors introduced.) Returning to discussion on LB434 and AM672, Senator Price, you are recognized. [LB434]

SENATOR PRICE: Thank you, Mr. President. And would Senator Lathrop yield? [LB434]

SENATOR COASH: Senator Lathrop, will you yield? [LB434]

SENATOR LATHROP: Yes, I would. [LB434]

SENATOR PRICE: I was hoping that we could continue with our conversation. [LB434]

SENATOR LATHROP: I'd like to, because I'm going to make a suggestion, Senator Price, and that is that the disclosure of the information can be intentional or it can be careless. If any disclosure under any circumstances is a violation, then it's essentially strict liability. You do it. It's like parking and letting the time run out on your meter. It doesn't matter what you intended. If you do an act, it's a violation of the law. I could probably live with that. But the idea that every person...somebody is likely to do this by handing an entire list of people...I think what you're...what makes more sense to me, if we're going to make a crime out of this, is to say each occurrence is a Class III misdemeanor and not each time or each individual on a list constitutes a separate Class III misdemeanor, right? [LB434]

SENATOR PRICE: Yes. [LB434]

SENATOR LATHROP: Does that make sense? [LB434]

SENATOR PRICE: Yes, it does. [LB434]

SENATOR LATHROP: And so the...so now we're sitting here at 11:20, trying to figure out what kind of an amendment we can get up there... [LB434]

SENATOR PRICE: (Inaudible), you want to talk on this a little bit? [LB434]

SENATOR LATHROP: ...before we vote on this. Otherwise it's going to be on Final Reading and you're going to have a separate set of problems. [LB434]

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SENATOR PRICE: Senator Lathrop, in the effort here to discuss this some more, we said, discloses or releases such information. It...does that not actually say, in a way, each occurrence? Or do we have to add each occurrence of...does the words "each occurrence"... [LB434]

SENATOR LATHROP: The problem with the language in the last sentence is if I give...if I hand somebody a list one time and it has 900 names on it, they're going to get convicted or charged with 900 Class III misdemeanors and could be in jail for life, if we ran the sentences consecutively. [LB434]

SENATOR PRICE: Would striking that sentence bring us to where we need to be? [LB434]

SENATOR LATHROP: It's going to be the place. But you want it to be each occurrence constitutes a separate offense. [LB434]

SENATOR PRICE: And each occurrence means each list. Thank you, Senator Lathrop. With that, I will yield my time back to the Chair. [LB434]

SENATOR COASH: Thank you, Senator Price, Senator Lathrop. Senator Lautenbaugh, you are recognized. [LB434]

SENATOR LAUTENBAUGH: We should be good. Well, thank you Mr. President and members of the body. I was getting a little antsy because I hadn't had to say anything in a whole week. And so now I guess I'll avail myself of this time while others work on other things. Despite some of the slowdowns we've had, I guess I should say that I do remain optimistic with...about the session as it goes forward. I would urge you all to Google on your gadgets the Omaha World-Herald for coverage of the Omaha Public Schools special elections. We haven't really talked about it since the bill passed and rightfully so. But I would note that we have a huge field of candidates running for the nine seats we've created. According to some of the press accounts, this is the most interest we've seen in OPS races since 1978. And however it comes out, I think we're guaranteed of having a very different board. And we are getting a new superintendent, regardless, because he has been previously retained. And by all accounts, he is a good and quality individual and I...we're all looking forward to seeing what he can do. I think you may recall on the floor debate, on the OPS bill, we did talk about moving the elections back to coincide with the city elections or to the...sorry, with all the other elections in the even-numbered years. And I think we did that by amendment. I think it was Senator Harr's amendment. And I would note that we had a discussion at the time and we had a vote. And some said we should leave it with the city races and some said we should move it back to the even-numbered years, and moving it back to the even-numbered years after this one time prevailed. And we'll see if the wisdom of that

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has been...will be borne out because the turnout projections for the city race remain low. And there's a lot of different ways to look at that. Every election, the election commissioner does a turnout projection and, you know, I used to do them too. And sometimes I'd get behind and just see whatever Neal and whoever the Secretary of State was would predict and then lop a couple points off, and then that would be my prediction. Sometimes we'd actually apply science to it and see how many early vote requests--or absentees, as we used to call them back in the day--we had and look at some other metrics from the past and try to come up with an actual percentage. And we were always within the ballpark because things don't change that much year to year. And the projections this year are that the turnout will be consistent with the city primary, which is very low, probably in the teens. And that's unfortunate because I think we've done what we can do here to try to help OPS, at least from a board governance standpoint. We've passed the law that we passed, and we gave them a chance to have a fresh start. And hopefully...well, they're going to avail themselves of it either way. There will be a fresh start. There will be a new board. But it would be great to think that the citizenry is actually paying attention to this. I mean, in a perfect world, you would hope they'd be paying attention to the city council races and the mayoral races anyway. It appears an amendment may be done, and thank goodness. But with the addition of the OPS races, you would think this would give them extra impetus to pay attention. And the World-Herald has done what they can. They've had editorials urging people to get out and vote. And all the people who bother to read the editorial page were probably going to vote anyway. [LB434]

SENATOR COASH: One minute. [LB434]

SENATOR LAUTENBAUGH: Thank you, Mr. President. So what do we do? At some point, as with everything, it falls to the voters, and this is up to the voters in OPS to step forward and seize this moment. And they will either do so or they will fail to do so, but I think we've done what we can to urge them to get out to vote and underlined in our own way the importance of OPS. And we covered this in the floor debate before. Some of you are going to think this is *deja vu*, hearing this all over again. But OPS is a huge district, something around 50,000 students. There is no way to overstate both the special challenges that OPS has and the importance of them providing the best possible education they can. [LB434]

SENATOR COASH: Time, Senator. [LB434]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB434]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Ashford, you are recognized. [LB434]

SENATOR ASHFORD: Thank you, Mr. President. I'm glad that Senator Lautenbaugh

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brought up the OPS issue, certainly material to LB434. But I wanted to second what Senator Lautenbaugh has said. And oftentimes my good friend, Senator Chambers, says to us that we...the consequences of what we do are real in the world. And I think what Senator Lautenbaugh has alluded to is proof of that fact, that this Legislature made a policy pronouncement on the size of the OPS board which is having immediate repercussions in our community. We are, as Senator Lautenbaugh suggests, engaged in a very robust campaign for the school board, and that sort of campaign, at least in my adult life, has never occurred. The debate over the issues is positive and solid and forward-looking. And Senator Lautenbaugh deserves a great deal of credit, in my view, for staying with this issue. And the other piece of this that I think is important to remember is it sometimes takes a while to think through how best to address what I think this Legislature has known for some time, and that is that changes need to occur at OPS. So we've dealt with it in many forms--the Learning Community law, the boundary question, transportation question, the state-aid formula question and how it relates to a school district as large as OPS--but when it comes right down to it, the decisions that make a difference on how a school board is operated are the decisions that are made in your town, in your city, and not here in Lincoln. And what Senator Lautenbaugh has done with his bill and the Legislature, in supporting him, have done is empowered my city, really, to come to grips with some of the great challenges that our schools face, especially a school like OPS, where--I believe the number is accurate--somewhere around 70 percent of the students are on free and reduced lunch. And there are low graduation rates, but there is an improvement in attendance. Things are moving forward. But most importantly, we're really talking about it in Omaha, and we're talking about it in a positive way. And I think...I'm not sure how much time Senator Lautenbaugh has left in the Legislature. I keep getting confused because he came in at a different time. But certainly I would suggest to him that this really is his legacy. He has, as they say, moved the cheese. He has engaged our community in a significant discussion, and the result of it will be a better school district. And it will sort of quiet down the rumblings of OPS and the rest of the school districts in the metro area, down here in Lincoln, because it really, as we know, it really is the...what happens locally that makes a difference to the kids. So again, I would applaud Senator Lautenbaugh for his leadership and in sticking with this issue. Last year he had a bill that was similar to this bill, I believe, somewhat similar, that did not advance in the last session. But I...he told me during the interim, he said, I am going to do this and I'm going to suggest that we pass this bill and that we have an election right away. And at first blush, that seemed difficult to me. But he stuck with it. He stuck with his commitment to his constituents and was able to get the bill passed. And now I think... [LB434]

SENATOR COASH: One minute. [LB434]

SENATOR ASHFORD: ...and I am hopeful that we will see very positive results. The election, in and of itself, does not change anything particularly, except that it has engaged people in the process. But it's the election aftermath and the stage being set

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that Senator Lautenbaugh has accomplished for us in Omaha. And I applaud him. I thank him, those of us who have been here, certainly Senator Chambers when he was here, when we did the Learning Community with Ron Raikes, and...who is no longer with us and I miss him every day. But this is a great accomplishment by Senator Lautenbaugh, with the support of Senator Chambers and others in this body. So thank you, Mr. President, for the time. [LB434]

SENATOR COASH: Thank you, Senator Ashford. Mr. Clerk, you have an item. [LB434]

CLERK: Mr. President, Senator Price would move to amend his amendment. It should be on your ChamberViewers in just a few seconds. (FA38, Legislative Journal page 794.) [LB434]

SENATOR COASH: Senator Price, you are recognized to open on FA38. [LB434]

SENATOR PRICE: Thank you, Mr. President and members of the body. Through diligent work by the members of the body, the amendment you have before you strikes out, on line 14, "cannot" and inserts "shall not." And on line 18, after the word "who," we have inserted "intentionally." And we have struck the last sentence because, by doing these two things, we've covered the intent questions that were asked, and it becomes for each time that this happens, each occurrence, but not for just each name because, again, if you did have 900 names on a list, then you would be forced to be charged with 900 misdemeanors. And that's not the intent. The intent is for each one. And it would allow for that...a time...it's in human nature, people will be fallible, and so these things can happen. But for those who intentionally disclose this, this will be a Class III misdemeanor. And with that, I'd like to express my appreciation to Senators Lathrop and Conrad and Schumacher and to our committee staff who helped draw this up. And of course, none of this would have been able without the subtle and dulcet tones of the floor debate that allowed this amendment to be created. Thank you, Mr. President. [LB434]

SENATOR COASH: Thank you, Senator Price. Members, you've heard the opening to FA38 to AM672. The floor is now open for discussion. Seeing none, Senator Price, you're recognized to close on FA38. Senator Price waives closing. The question for the body is, shall FA38 to AM672 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB434]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB434]

SENATOR COASH: FA38 is adopted. Return to discussion on AM672. [LB434]

CLERK: I'm going to need a (recorder malfunction)... [LB434]

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SENATOR COASH: Okay, Senator Price, you're recognized to close on AM672. [LB434]

SENATOR PRICE: Thank you, Mr. President and members. And again, I do wish to express my gratitude for not only the appearance of collegiality here in the Unicameral but the actual behavior and execution of that collegiality and everybody's help there. Thank you, Mr. President. [LB434]

SENATOR COASH: Thank you, Senator Price. Members, you've heard the closing to AM672. The question for the body is, shall AM672 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB434]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of Senator Price's amendment. [LB434]

SENATOR COASH: AM672 is adopted. [LB434]

CLERK: I have nothing further on the bill, Mr. President. [LB434]

SENATOR COASH: Senator Murante for a motion. [LB434]

SENATOR MURANTE: Mr. President, I move to advance LB434 to E&R for engrossing. [LB434]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB434 is advanced. Next item, Mr. Clerk. [LB434]

CLERK: Mr. President, LB363, Senator Murante. I have Enrollment and Review amendments, first of all. (ER22, Legislative Journal page 533.) [LB363]

SENATOR COASH: Senator Murante. [LB363]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB363]

SENATOR COASH: Members, you've heard the motion to adopt E&R amendments to LB363. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB363]

CLERK: Mr. President, Senator Avery would move to amend with AM480. (Legislative Journal page 600.) [LB363]

SENATOR COASH: Senator Avery, you're recognized to open on AM480. [LB363]

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SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. You may remember, when we had our debate on LB363 on General File, some concerns were raised about the six hours of time the public entities would not be able to charge for public employee time in the fulfillment of requests for public records. An agreement was reached on General File that I would work with interested parties between General File and Select File and I would file an amendment on Select to reduce the hours from six to four. This amendment does that. With this amendment, a public entity will be allowed to charge employees' time for fulfilling a public records request after four cumulative hours of time. We added the word "cumulative" to provide greater clarity as to how to count the four hours of work. By adding the word "cumulative," it means that, if two employees each work two hours on a public records request, then the cumulative is four hours and the requirement will have been met. This was my intent all along. I stated that on the record several times in General File debate. But this clarifies the intent in clear language in the bill itself. By changing the hours from six to four, it is my understanding that everyone who was involved with this bill still supports it, including senators in those groups who worked on the bill for several months going back to last summer when we began working on it. So this represents a consensus among the people who worked on this bill so hard and so long and answers one of the questions that Senator Larson was raising on General File. With that, I would ask your support for AM480. Thank you, Mr. President. [LB363]

SENATOR COASH: Thank you, Senator Avery. Members, you've heard the opening to AM480. Members wishing to speak: Senators Larson, Davis, and Bloomfield. Senator Larson, you are recognized. [LB363]

SENATOR LARSON: Thank you, Mr. President. I'd like to thank Senator Avery for working with me and with my concerns on General File. And I did think six hours was too long. And four is better than six, in the end, and I'll be supporting Senator Avery's amendment, AM480, for that reason. And I appreciate the work that he's done, and I understand what he's trying to do, and I think he has a very good point. There are concerns in rural Nebraska with this, especially those counties that have limited number of staff. But like I said, I appreciate Senator Avery and his willingness to work to make it more amenable for those of us in rural Nebraska. Thank you, Mr. President. [LB363]

SENATOR COASH: Thank you, Senator Larson. Senator Davis, you are recognized. [LB363]

SENATOR DAVIS: Thank you, Mr. Speaker (sic), and members of the body. You know, I rose before to speak against this bill, and I'd like to share a note that I received from Dave Sullivan, the Hooker County Commissioner, with regard to this. He's the ex officio clerk in Hooker County. He says, we conservatively spend about 15 hours monthly researching and supplying information to the public in the clerk's office. The point he

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made, which I think really hits home to us and I would hope the body would consider, is this particular comment. He said, we have bankers calling for reconveyance information, instead of utilizing the title service companies, insurance agents checking building sizes, and title companies not wanting to travel to our county seats. With the four-hour, no-cost provision, I am concerned that the banks and title companies will use the law to make us unpaid assistants with the use of public records requests. And I know that's not what Senator Avery's intent is. But ultimately, that's what's going to happen in rural Nebraska. We're going to have our clerks and our people doing the work of the banks for profit, and I would certainly urge the body to consider that when you're going to vote on this amendment and on the bill itself. Thank you. [LB363]

SENATOR COASH: Thank you, Senator Davis. Senator Bloomfield, you are recognized. [LB363]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, if you'll note on the gadget, I did not vote on this bill in committee. I don't like tying our rural people up as tight as this bill does. I think the amendment, AM480, is a vast improvement. I will certainly vote for AM480, but I'm still going to be reluctant to support LB363. It ties us up too tight in the rural areas. And I understand, too, what we're trying to do. I know Senator Larson had originally asked for one hour. I'd have been real content with that, but we didn't get there and, as Senator Larson said, four hours is better than six. Thank you. [LB363]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Bloomfield. Senator Dubas, you are recognized. [LB363]

SENATOR DUBAS: Thank you, Mr. Speaker and colleagues. I, too, raised questions and concerns on the floor when we debated this on General File, and I've continued to have conversations with my county officials in my district. And first I want to say that, you know, I understand where this bill came from. And I understand that there were very severe abuses going on, and that's what this bill and the amount of time that was put into this bill was trying to address those abuses. But I also want to make sure that we're remembering and considering those counties and those officials who are in the capacity to provide public records that are not abusing it and are really working hard to make sure that the public has access to these records because they know they're public records. And as I said, I can give many examples where these officials are going above and beyond to try to make sure that their public is getting the information that they're requesting. And I do believe very strongly that their concern about putting this time into statute really gives those types of companies, whether they're title companies or whatever it is that come in and look for this type of information, that they can turn around and sell by...we're actually making our county officials almost staff for these

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types of companies. And that's not what I want to see my tax dollars go for, nor do I want to see the elected officials in my district or in my counties being used in that capacity. One of the e-mails that I received from one of my county officials said, you know, let's just play the devil's advocate, And I'm going to throw these questions out there and then, if Senator Avery would like to stand up at some point and respond to them, you know, feel free to. But I know through the bill they're allowed to hire...bring in support staff if there is additional research that's being requested that they don't have the staff to cover. So the question is, what is a reasonable charge? Is it minimum wage? Is it \$25 an hour? What is that charge that a county will be able to assess for the work that's done? How are they going to record that time that's put in there? There's still going to be a need...through the county budgeting process there's going to be a need for, like, a vendor claim produced by the clerk for payment to that person. And because that work is done in their office, it would have to be paid out of that office's budget but not necessarily reimbursed to the budget because everything runs through the main county budget. So would that money collected go to the General Fund? How does the assessor or whatever office work through the function of that General Fund? So again, I think they're raising some very legitimate issues about, even though we're giving them the ability to hire extra staff should they be needed, it still could potentially have an impact on their budget that they aren't necessarily going to be reimbursed for. I do appreciate Senator Avery's willingness to knock this down from six to four hours. But I don't believe we should let the concerns that are being raised by these county officials go without some additional attention because, while again, I know we're...this bill was introduced to address abuses in the system, I would certainly hope those abuses are the exception rather than the norm. And now, because a few people have done things that aren't right as far as how public records are handled, we're going to make everybody pay the price for that and potentially cause some very serious concerns for those rural districts or counties or counties across the state. So these are issues that I continue to have conversations with my county officials about. They still have some concerns with the direction that this bill goes. And not exactly sure where I'll end up with my votes but, again, I just wanted to raise these concerns for the body to... [LB363]

SPEAKER ADAMS: One minute, Senator. [LB363]

SENATOR DUBAS: ...take into consideration when they are ready to place their vote. Thank you. [LB363]

SPEAKER ADAMS: Thank you, Senator Dubas. Senator Avery, you're recognized. [LB363]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Dubas. You raised some issues that we, of course, dealt with extensively in those negotiations that we had with counties and with the cities particularly. I did...I can tell you that we have a coalition of support from all the major entities that would be affected by this bill. It was

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difficult to get there, and it has been a little bit difficult to hold the coalition together. Every change we make we, lose a little bit, maybe we gain a little bit. But the fact is that, like a lot of good legislation, not everybody is completely happy with it. But I can tell you that nobody is completely unhappy with it, and that is really the most important thing. When you have to give up something to get something, which is what we do here all the time, we often wind up with everybody a little bit unhappy but nobody is completely unhappy, and that is where we are on this bill. I agree with you that most of our public officials do a very good job of meeting these public records requests. The law that we passed in 2000 that removed language in the law prohibiting agencies from charging for staff time to retrieve public records over the past decade has been the subject of abuse. I don't know who all the abusers were, but I know they abuse was sufficient, that my office was receiving a lot of complaints from various people who made the legitimate point that these records belong to us, they belong to the public, and the public entities are merely custodians of these records. And we ought not to have to jump through hoops and wind up with, as I indicated on General File debate, an estimate of \$256,000 for one request. We should not have to be subjected to that. So what this bill tries to do is to close that loophole as much as we can. Now I understand that it's not perfect, but it's probably about as close as we're going to get. I would also respond to another point that Senator Dubas made. Sometimes we do have some unreasonable requests that come from private-sector vendors who want to sell property information that may be of public record for profit. Now that is something that I don't approve of that. But sometimes we have to tolerate some undesirable actions by a few in order to protect an important public policy for the majority. This is an important public policy objective that we're pursuing here. It's a little bit like free speech. If you want to make sure that your right to free speech...you're an ordinary person; you're not going to engage in obnoxious free speech. But there are people who will. But you've got to tolerate the obnoxious free speech in order to protect the rights of ordinary people to engage in free speech. This is similar to that. We may have to tolerate some abuses of the law by some private vendors in order to make sure public records are available to others out there who are not trying to abuse the law but who only are wanting their rightful access to these public records. That's what we're trying to do here. I believe that the ability of small communities, small counties, some of these small villages to contract with outside vendors goes a long way toward meeting the objections that Senator Dubas raised. [LB363]

SPEAKER ADAMS: One minute. [LB363]

SENATOR AVERY: I would also point out that the bill itself, not the amendment, the bill itself does, in fact, allow these public entities to tell the requestor, this is on our Web site. You don't have to go to additional lengths and additional effort to provide the records. If it's on the Web site, refer them to the Web site, tell them how to get to it, and you've met the requirements of the law. I think that this is a good bill, it's a necessary bill, and I certainly hope that I get your support. Thank you. [LB363]

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SPEAKER ADAMS: Thank you, Senator Avery. Senator Avery, there are no other lights on. You could use this time for closing. [LB363]

SENATOR AVERY: I think that was a sufficient close, Mr. President. [LB363]

SPEAKER ADAMS: Thank you, Senator Avery. The question is, shall the amendment AM480 to LB363 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB363]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of Senator Avery's amendment. [LB363]

SPEAKER ADAMS: The amendment is adopted. [LB363]

CLERK: Senator Schumacher would move to amend, AM579. (Legislative Journal page 744.) [LB363]

SPEAKER ADAMS: Senator Schumacher, you are recognized on your amendment. [LB363]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. The whole reason for this bill is because there is a small number of public officials in this state who view the public requesting documents as adversaries, either that or prefer to kind of be nontransparent in their governing and bury public documents and make them inaccessible. And Senator Avery has worked hard to try to undo that problem. And the problem has been that all of a sudden a requesting member of the public faces a big bill. And in trying to fix the problem, I understand we may have created a problem. Because in the existing language, which I know Senator Avery has agreed with members of the various public entities, associations, and I understand where they're coming from, but in the existing language it says that they can charge for a reasonably apportioned cost of the supplies such as paper, toner, equipment used in preparing the copies, as well as any additional payment obligation...any additional payment obligation of the custodian for time of contractors necessarily incurred to comply with the request for copies. Well, what a loophole. I'm a public official; I'm inclined to not want to comply and I simply say, you know, we have got a former employee of our office who is now no longer in the office. We've contracted with them to take care of all of our public records request. So they charge us \$30 an hour; that's not so unreasonable considering they know how...where the computer screens are at and where the files are kept, that's a fair rate. So any public records request is going to go through our custodian and that's what's necessary...or through our contractor and that's what's necessary. So where before they might have actually gone along with the request and assigned somebody to do the job. Now they've set up a system in which they just run all public records through

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a custodian. So this particular suggested amendment says that the custodian shall not include any charge for service of a vendor or contractor which could be completed by the public officer or employees in less than four hours. So if it's something way above their heads, some super-duper computer program, it couldn't be completed by a public officer in their office or their employees; but if it's ordinary kind of stuff, then they don't charge for it. They don't go running an end-run around what we've spent a considerable amount of time on by simply saying, you know, it is just necessary for us to hire a contractor to handle this stuff and you just go to our private contractor when you want public records and they'll charge you 30 bucks, 50 bucks, 20 bucks an hour to do it. And I think that we've created a little bit of a monster here. And at the very least, after some discussion here, whether we go ahead and take a vote on this I'm not quite sure, but we want to make a very clear record that if that type of monkey business is employed by those recalcitrant public officials who think they own the records instead of the public that we'll be back and we'll be biting hard next year if we don't pass this amendment clarifying this this year. Thank you, Mr. Speaker. [LB363]

SPEAKER ADAMS: Thank you, Senator Schumacher. (Visitors introduced.) Senator Avery, you're recognized. [LB363]

SENATOR AVERY: Thank you, Mr. President. Just for the record, Senator Schumacher and I have been talking about this amendment. He has recognized what we know to be a potential problem. I don't see this as a hostile amendment. I see it as a dangerous amendment. It's dangerous because I have a fragile coalition out in that Rotunda. And if this amendment passes, that coalition will be fractured and the whole bill will be endangered. And that's not the intent of Senator Schumacher's amendment. I think it's good for us to have this discussion so we can establish the legislative intent and that intent is that those counties and those public entities that have the resources to commit four hours to searching for those records before they have to go to an outside vendor that they do that. They don't use this...this element in the law which I had to put in there to satisfy Senator Dubas' constituents, some of those small counties, so they don't use this as a means to avoid complying with the law as it was intended. The intent is that four hours would be used first before you go to outside vendors. Some counties can't do it that way. Some counties will have to go immediately to outside vendors and that's what Senator Schumacher recognizes and is trying to prevent. But if we don't keep that in the law or in this proposal, then I'm going to lose the League, I might lose NACO; and when I do, I'm lost, I mean, we're finished with this bill. And I think the bill is too important for us to let it die. And I know that that's not Senator Schumacher's intent. But if we can establish legislative intent and then if we can give this a year or two to work and then we can see whether or not people are abusing it and exploiting what might be a little loophole there, then we can take action later. So with that, I hope Senator Schumacher will withdraw his amendment so we don't have to go through the pain of voting on it. Thank you. [LB363]

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SPEAKER ADAMS: Thank you, Senator Avery. Senator Lautenbaugh, you're recognized. [LB363]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'd be the last one to want to add to Senator Avery's pain. Longtime observers of the Legislature laugh at that, but we're getting along famously this year. And I did support this in committee, I believe. And I think I voted for it on General File. I do want to point out that I actually happened to be here when there was an interim study hearing on this particular issue because I was here to testify on another issue that was being studied that day. And I did express, you know, I have a kind of a vested interest in this bill because some of you who were around last year may recall I brought a bill to get Douglas County out of contributing the \$3 per action to the Commission on Public Advocacy. And that failed because everybody from greater Nebraska was told that that would be the end of the Commission on Public Advocacy and you were giving...given a bunch of nonsensical numbers by, I think, forwarded by the bar to assist the Commission of Public Advocacy about the hundreds of thousands of dollars the commission has saved in various cases in various parts of the state. And, frankly, what you were told struck me as nonsense. But the bill failed. I thought we had a deal and the other side didn't go with it on the commission's behalf so it had to be pulled. So, as you may have noticed, I'm not always easily deterred from things, so I did request some information from the commission on how they arrived at those numbers and how they calculated them and what their actual expenses are, etcetera, etcetera, etcetera, and I did it in writing and I said I request it as a senator pursuant to the structures of the Public Records Act, open records. And I, as a senator, received a bill for a couple of thousand dollars. Now, as many of you know, despite my best efforts last year, we all make \$12,000 a year. So I haven't sent the \$2,000 yet to get these records so I can come here and tell you with absolute numerical specificity how high grade the nonsense was that you were fed last year in opposition to my bill. And I'm probably never going to fork over the couple thousand dollars to get that information. I'm crazy enough to think as a senator I'm probably entitled to it anyway from a branch of government, and when we get to the budget bill maybe we'll find a way to encourage that information to just be forthcoming to my office. But it isn't just the public that gets screwed around on these things. It isn't just the public that our government decides to play games with from time to time. You were lied to last year, I think, and now I can't even prove it just yet unless I get out my checkbook which I'm not going to do. But I promise you you'll find out and, you know, if not on this bill, because again, I don't want to imperil this and I'm not trying to imperil it, but I am trying to remind you that our records are supposed to be open for a reason and we're supposed to have access to this stuff whether we're members of the Legislature or otherwise. And I want to know and I hope you do too. So I don't know what to say about Senator Schumacher's amendment. I understand Senator Avery's concern that the...he said this would fracture the coalition and I've asked him, am I part of the coalition? I think I am, so I may be being fractured as we speak. But I do urge you to support the underlying bill because it does address something that is obviously

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important and affects, apparently, all of us. Thank you, Mr. President. [LB363]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Schumacher, there are no other lights on if you wish to close on your amendment. [LB363]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. The key word in the existing law or proposal without the amendment is "contractors necessarily incurred to comply with the request for copies." "Necessarily" so I'll address this more to the district judges who might be looking at this legislative record than to the members here in the body. "Necessarily", dear judge, means necessarily; not convenient, not easy, not to save a little money, not because somebody had to take a lunch hour, but necessarily incurred. That is the intent as I read this body. And if a recalcitrant public official decides to play with the word "necessarily," dear judge, then you have got the authority to assess attorney fees, you've got the authority to assess cost, and you've got the authority to sock it to that official who is recalcitrant and does not recognize the right of the public to their records. And with that, Mr. Speaker, I'd ask this amendment be withdrawn. [LB363]

SPEAKER ADAMS: So ordered. [LB363]

CLERK: I have nothing further on the bill, Mr. President. [LB363]

SPEAKER ADAMS: Senator Murante. [LB363]

SENATOR MURANTE: Mr. President, I would move to advance LB363 to E&R for engrossing. [LB363]

SPEAKER ADAMS: You have heard the motion. All those in favor say aye. Opposed. LB363 is advanced. Mr. Clerk. [LB363]

CLERK: Senator Murante, LB363A, I have no amendments to the bill, Senator. [LB363A]

SPEAKER ADAMS: Senator Murante. [LB363A]

SENATOR MURANTE: Mr. President, I move to advance LB363A to E&R for engrossing. [LB363A]

SPEAKER ADAMS: You have heard the motion. All those in favor say aye. Opposed. LB363A is advanced. Mr. Clerk. [LB363A]

CLERK: Mr. President, items: Senator Mello, amendment to LB402 to be printed; Senator Krist, LB613; Senator Chambers, LB613; Senator Carlson, LB634. Senator

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Transcriber's Office

Floor Debate
March 20, 2013

Carlson offers LB517A, (Read LB517A by title for the first time.) I have an amendment from Senator Krist to LB620 to be printed. Name adds: Senator Conrad to LB543. (Legislative Journal pages 794-802.) [LB402 LB613 LB634 LB517A LB620 LB543]

And priority motion, Senator Scheer would move to adjourn until Thursday, March 21, at 9:00 a.m., Mr. President.

SPEAKER ADAMS: Members, you have heard the motion to adjourn. All those in favor indicate with aye. Opposed. We are adjourned.