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Floor Debate  
March 10, 2014

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[LB438 LB438A LB560A LB661 LB661A LB699 LB717 LB725 LB740 LB744 LB776  
LB797 LB814 LB844 LB855 LB861 LB863 LB867A LB901A LB901 LB905 LB907  
LB920A LB920 LB949 LB983A LB983 LB986 LB1001 LB1001A LB1014 LB1016A  
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LR480]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fortieth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Father Ryan Lewis from the St. Thomas More Church of Omaha, Nebraska. He's a guest of Senator Mello and Senator Krist. Please rise.

FATHER LEWIS: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Father Lewis. I call to order the fortieth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

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

PRESIDENT HEIDEMANN: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR422, LR444, LR400, LR424, LR453, LR454, LR455, LR456, LR457, LR458, LR459, LR460, LR461, and LR462. Mr. Clerk, we proceed to the confirmation reports. [LR422 LR444 LR400 LR424 LR453 LR454 LR455 LR456 LR457 LR458 LR459 LR460 LR461 LR462]

CLERK: Mr. President, the first confirmation report is from the Education Committee involving the appointment of Jim Hain to the Board of Educational Lands and Funds. (Legislative Journal page 772.)

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PRESIDENT HEIDEMANN: Senator Sullivan, you're recognized to open on the first confirmation report.

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. This is Mr. Hain's first appointment to the Board of Educational Lands and Funds. Mr. Hain is a resident of David City, Nebraska. He works for the Lund Company out of Omaha where he serves as vice president of the agricultural division, responsible for the buying and selling of agricultural land in a ten-state region, including Nebraska. Mr. Hain's appointment hearing was held on February 24 and is recommended for appointment by the Education Committee on an 8 to 0 vote. I urge your confirmation of this appointment. Thank you.

PRESIDENT HEIDEMANN: Is there any discussion on the report? Seeing no one wishing to discuss, Senator Sullivan, you're recognized to close on the first confirmation report. Senator Sullivan waives closing. The question is adoption of the report offered by the Education Committee. All those in favor vote aye; all those opposed vote nay. Has everyone voted who wished to vote? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 815-816.) 31 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

PRESIDENT HEIDEMANN: Confirmation report is affirmed.

CLERK: Mr. President, a second report from the Education Committee involves four appointments to the Coordinating Commission for Postsecondary Education. (Legislative Journal page 773.)

PRESIDENT HEIDEMANN: Senator Sullivan to open.

SENATOR SULLIVAN: Thank you, Mr. President. Yes, there are four appointees to the Coordinating Commission for Postsecondary Education. The commission actually consists of a total of 11 members and the statutory reference can be found at 85-1405. So as for the appointees, Mary Lauritzen is the first one. She's a reappointment to the commission as an at-large member. She called into the hearing, as she lives in West Point, Nebraska. In West Point she is the office manager at the Family Vision Center. She has a long history of volunteerism and involvement in the community organizations, as well as involvement in many political campaigns. She has been a member on the Coordinating Commission since 2000. The second is a reappointment on the part of William "Scott" Wilson. Mr. Wilson is a senior design engineer at Qwest Communications and lives in Papillion. He has been a member on the Coordinating Commission since 2009. The next appointment is a new appointment, Dwayne Probyn, for the commission as an at-large member. Dwayne also lives in Papillion and is the

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executive director of the Nebraska Advanced Manufacturing Coalition--Dream It. Do It. Dwayne is also a member of the Nebraska Chamber of Commerce and Industry board of directors. The fourth appointment is a new one, Lori Warner, representing District 3. She lives in South Sioux City, Nebraska, and is the president-CEO of the South Sioux City Chamber of Commerce. Lori has an education degree from Peru State and enjoys continued learning by participating in many leadership programs, both state led and county led. She is also a current board member of the Nebraska Chamber of Commerce executive board and also of Mid-America Chamber Executives. All four of these appointments were advanced by the Education Committee on an 8 to 0 vote. I urge your confirmation of these four appointments. Thank you, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Senator Brasch, you're recognized for discussion on the report.

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. I stand in support of this confirmation and I did want to say that Mary Lauritzen, a constituent from the West Point area, is an outstanding member of the community, also involved in helping build the community theater. She has spent endless hours helping youth in high schools at competitions for speech. This is a good committee you have put forward and I want to thank each of them for all their work and make note that Mary Lauritzen is an asset to the state of Nebraska, as well as our district. Thank you.

PRESIDENT HEIDEMANN: Thank you, Senator Brasch. Anyone else wishing to discuss this report? Seeing none, Senator Sullivan to close. Senator Sullivan waives closing. The question is adoption of the report offered by the Education Committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 816-817.) 36 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT HEIDEMANN: The report is adopted. Mr. Clerk.

CLERK: Mr. President, the third report involves the appointment of Jess Zeiss to the Board of Trustees of the Nebraska State Colleges. (Legislative Journal page 773.)

PRESIDENT HEIDEMANN: (Visitors introduced.) Senator Sullivan.

SENATOR SULLIVAN: Thank you, Mr. President. This is Jess Zeiss's first appointment to the Board of Trustees of the Nebraska State Colleges. Mr. Zeiss is a resident of Omaha where he works as managing director for First National Capital Markets. Mr. Zeiss is responsible for the overall management of the institutional sales, trading, and operation groups for First National Capital Markets. Mr. Zeiss's appointment hearing was on February 10 and he is recommended for the appointment by the committee on

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an 8 to 0 vote. I urge your confirmation of this appointment. Thank you, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Is there any discussion on the report? Seeing none, Senator Sullivan to close. Senator Sullivan waives. The question is adoption of the report offered by the Education Committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 817.) 33 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

PRESIDENT HEIDEMANN: The report is adopted. Mr. Clerk.

CLERK: Mr. President, Education offers a report involving two appointments to the Technical Advisory Committee for Statewide Assessment. (Legislative Journal page 773.)

PRESIDENT HEIDEMANN: Senator Sullivan to open on the report.

SENATOR SULLIVAN: Thank you, Mr. President. We have one first appointment and one reappointment. The first one, Chad Buckendahl, would be his first appointment to the Technical Advisory Committee for Statewide Assessment. He has a Ph.D. in quantitative and qualitative methods in education from the University of Nebraska-Lincoln, and currently is the director of education, licensure and professional certification services and senior psychometrician for Alpine Testing Solutions based in Las Vegas, Nevada. This company tests educational programs, licensure, and certifications for content and quality for many different schools and school districts across the country. Mr. Buckendahl's appointment hearing was held by phone by the committee on February 25. The reappointment is for Frank Harwood, a resident of Bellevue, Nebraska, where he is the superintendent of Bellevue Public Schools. Mr. Harwood is in his 11th year as a school administrator and 20th year in education. This would be a reappointment, as I said, to the Technical Advisory Committee. Mr. Harwood's appointment hearing was held on February 24. Both of these appointments advanced from the Education Committee on an 8 to 0 vote. I urge your confirmation of both of these appointments. Thank you, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Is there any discussion on this report? Seeing none, Senator Sullivan to close. Senator Sullivan waives closing. The question is adoption of the report offered by the Education Committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 817-818.) 35 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

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PRESIDENT HEIDEMANN: The report is adopted. Mr. Clerk.

CLERK: Mr. President, Senator Wallman would move...offered LB1001A. (Read title.) [LB1001A]

PRESIDENT HEIDEMANN: Senator Wallman, you are set to open and recognized to open on LB1001A. [LB1001A]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. LB1001A is the appropriations bill for the industrial hemp bill. This would appropriate \$15,000 this year and next year \$15,000 from the Industrial Hemp Licensure Fund to the Department of Ag to aid in carrying out the provisions of LB1001. It also stipulates that total expenditures for salaries do not exceed \$12,817 for the next two years. Thank you, Mr. President. [LB1001A]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Is anyone wishing to discuss LB1001A? Seeing none, Senator Wallman to close. Senator Wallman waives closing. The question before the body is the advancement of LB1001A. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Mr. Clerk, please record. [LB1001A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB1001A. [LB1001A]

PRESIDENT HEIDEMANN: Mr. Clerk for items.

CLERK: An amendment to be printed to LB814 by Senator Avery. Senator Mello offers a new A bill. (Read LB560A by title for the first time.) Senator Crawford would offer LR476; that will be laid over at this time, Mr. President. That's all that I have. Thank you. (Legislative Journal pages 818-821.) [LB814 LB560A LR476]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Mr. Clerk, next item.

CLERK: Mr. President, LB863 is a bill introduced by Senator Karpisek. (Read title.) Bill was introduced on January 13 of this year, referred to General Affairs for public hearing. Bill was advanced to General File. There are committee amendments as offered by General Affairs, Mr. President. (AM2131, Legislative Journal page 714.) [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek to open on LB863. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB863 is a committee priority bill and it is known as a Christmas tree bill or an omnibus bill. There's nothing new about these sort of bills in the Legislature. It is a common practice for committees to bundle their bills and then prioritize the entire package. Not once in my

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six years as Chair of the General Affairs Committee has there been a request to divide the question on a Christmas tree bill. I think that's coming. My concern on this is if we're going to set a precedent that we're setting...since I anticipate that there will be other bills amended into bills, and I'm sure that those committee Chairs would like to know what precedent we're going to set. Let me talk about the different parts of this bill. You know what, I'll close and I will go into those as we hit into the committee amendments. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Mr. Clerk. Senator Harms, for what purpose do you rise? [LB863]

SENATOR HARMS: Thank you, Mr. President. I rise to ask to divide the question in seven parts. [LB863]

PRESIDENT HEIDEMANN: Senator Harms and Senator Karpisek, would you please come forward. Members, the Chair rules the amendment is divisible. Mr. Clerk, would you please explain the division to the members of the body. [LB863]

CLERK: Mr. President, there will be seven components or seven separate committee amendments offered. If the members wish to look at their committee statement, you'll see the LBs that have been incorporated in the committee amendment. The first will be Sections 1 through 14. AM2297 is this new component. Senator Karpisek, AM2297 is the first piece of the committee amendment, Senator. (Legislative Journal pages 822-827.) [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek to open on the committee amendment. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I just one more time want to say that I think this is a dangerous precedent that we are setting by splitting this bill into so many parts. I appreciate Senator Harms working with me and I think that we can move through it. This could have been handled much differently had people come and talked to me prior. I think we could have worked something out, and I think we still can but, believe it or not, my heels are dug in a little bit harder now since nobody came to just talk to me and try to work things out. We'll go through each bill separately as an amendment. First bill up in AM2297 is Senator Wallman's LB855. It appears on pages 1 through 9 in Sections 1 through 14. LB855 provides for a process to transfer responsibility of an abandoned cemetery from a county to a cemetery association. LB855 includes an amendment that removed the requirement for an audit for cemeteries formed under this section if the cemetery association has less than \$10,000 in its perpetual care trust fund. If it has between \$10,000 and \$100,000, then a compilation is required. If it has more than \$100,000, then an audit is required. The committee amendment also states that for each cemetery plot sold, \$100 will be placed

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into the perpetual care trust fund. Again, Senator Wallman's bill would take a cemetery that has been abandoned and has been taken over by the county to mow once a year. They could get a cemetery association together and reopen that cemetery. I think it's a very good bill. I think it's a very noncontroversial bill, and Senator Wallman deserves to have this bill passed. Thank you, Mr. President. [LB863 LB855]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. We are now open for discussion on AM2297 to LB863. Senator Krist, you are recognized. [LB863]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I think this is a really dangerous precedent to be setting, dividing this question seven ways. I believe that there are at least two of these items that were controversial and, again, had the senators who wanted to divide the question and talk about any one of these seven things individually have come to the committee Chair, our committee Chair, I'm on General Affairs, in a timely manner, this could have been worked out much, much differently. I'll speak once more later about that issue and hopefully come to some point. I wonder if Senator Bloomfield would yield to a question. [LB863]

PRESIDENT HEIDEMANN: Senator Bloomfield, will you yield? [LB863]

SENATOR BLOOMFIELD: Yes, I would. [LB863]

SENATOR KRIST: Senator, it seems to me that you were probably one of the most vocal members of the Legislature about your insistence that this could and should happen. Could you tell me in terms of the small cemetery that you gave us example of and how it would affect you? [LB863]

SENATOR BLOOMFIELD: Yeah. We have an abandoned cemetery up there. It lays about two miles from my farm. The county comes in, in theory, once a year within two weeks of Memorial Day and drives over it with a tractor and a shredder. They have managed to grind up some of the headstones. Some of it doesn't really get mowed at all. There's no trimming around the stones. I have gone down myself now the last three years and mowed it and trimmed around the stones. It's a small historical cemetery and it needs...I guess it doesn't need, cemetery doesn't need, but I think we as a state need to see that these historical cemeteries are maintained and can be active again. There's a lot of room in there. But you know, the American Legion goes out Memorial Day and puts flags on the cemeteries and usually does a little graveside service up there, and the guys are coming back in with their legs chewed up from chigger bites and everything else because the place has never been taken care of. And, Senator Krist, I'll give you back your time and speak on my own here, in a little bit, more about it. [LB863]

SENATOR KRIST: Thank you, Senator Bloomfield. And that's coming from a senator

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who lives close to rural Nebraska, is part of rural Nebraska, understands what happens when these cemeteries fall into disarray. And by the way, all of you should be concerned about this because when they fall into this condition, guess who has to take care of it? These are county funds. This is your county that has to go out and try to do some semblance of taking care of these abandoned cemeteries. Again, an extremely dangerous precedent set by dividing a Christmas tree seven ways and could have been handled much, much differently. And I sure wish Senator McCoy was here to answer some questions, although I'm not sure he'd yield to a question anyway. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Krist. The cookies being passed out today are in honor of Senator Seiler's birthday, which is today, March 10. Happy birthday, Senator Seiler. Senator Chambers, you are recognized. [LB863]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature. I hand out rhymes. I try to hand out one every day, and I think, based on what people have told me, that perhaps I might be a lyricist. I cannot write music. I cannot play music. I can play bongo drums a bit. But I'm going to sing a song this morning because of the subject before us. It's called "The Morticians' National Anthem." The foreword: I was given a commission by a mortician to write a national anthem for those who do plant them. (Singing) Corpses, condolences, flowers, a coffin; black curtained hearse that they carry you off in; tombstones and epitaphs with verbal slings; these are few of our favorite things. Churches and eulogies, pallbearers, mourners; weeping and wailing in all the church corners; choirs droning dirges that make grown men cry; these are the things that take place when folks die. Fine embalming keeps the corpse fresh, add some makeup too; then a good service lends just the right touch; and all of this waits for you. Graves freshly dug with stone vaults placed inside them; caskets are placed in those vaults that do hide them; florists, morticians, gravediggers and such; these are your servants who thank you so much. Row upon row rest the graveyards' residents; some day all out here will all be insiders; here is a truth which each person does know; we all shall help make that populace grow. When the last dirt tops the casket, and the grave is filled; we shall not gather again in this way until someone else is chilled. Thank you very much. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Harms, you are recognized. [LB863]

SENATOR HARMS: Thank you, Mr. President and colleagues. I just wanted to comment a little bit about the Christmas trees. I don't really think it's setting a dangerous precedent. I've always wondered, when you look at the Christmas trees, sometimes there's a lot of bills in there and I know that once a committee puts it...adds to the Christmas tree, you can't really challenge it on germaneness. And some of those bills, when you look at those, you have to wonder whether or not they're even germane to the

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bill when it started. And so my point here is that I think that it's important that at least we have the opportunity here to say that we can challenge these, that we can make a difference here. That's really, for me, what that's about. I wonder if Senator Wallman would yield to a question or two for me, please. [LB863]

PRESIDENT HEIDEMANN: Senator Wallman, will you yield? [LB863]

SENATOR WALLMAN: Yes, I will. [LB863]

SENATOR HARMS: Senator Wallman, first of all, thank you for this bill. I understand it. Could you tell me how many of the cemeteries do we know of in Nebraska that are struggling and financially having difficulties and most likely are going to have to be taken over by the county? It might have been mentioned earlier and I might have missed that. [LB863]

SENATOR WALLMAN: No, I don't have a number on that, Senator. [LB863]

SENATOR HARMS: Do you know whether that's high or low or...? [LB863]

SENATOR WALLMAN: Well, there's quite a few abandoned cemeteries around the countryside in each county. And this was brought to me by a constituent because he had a cemetery on his property. [LB863]

SENATOR HARMS: Okay. Thank you. Senator Karpisek, would you yield? [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR HARMS: Senator Karpisek, could you help me maybe better understand the cemetery. I don't have a real problem with the bill itself. I'm just questioning the fact that...how many smaller cemeteries do we actually have that are kind of struggling with this that are about to go under that counties may have to take it over and get maps established and where the people are actually buried? Do you know how many of those are? [LB863]

SENATOR KARPISEK: I cannot tell you how many are actually struggling that might go under. I don't know that this would help them a lot. This would help the ones that have already been abandoned and the county is now mowing. We don't have a way to open them back up. This would provide them that way to open it back up. [LB863]

SENATOR HARMS: Yeah, Senator Karpisek, do you know how many have actually been abandoned? [LB863]

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SENATOR KARPISEK: Oh boy, I don't, but I can try to find that out. I'm sure it's in the hundreds. [LB863]

SENATOR HARMS: I'm guessing that most of those are probably in rural Nebraska, I'm assuming, because when I drive by some of those areas you see the weeds growing up. Is that to what you're referring? [LB863]

SENATOR KARPISEK: There are, but there are some that are kind of more even in urban settings, maybe where urban sprawl has taken them over. [LB863]

SENATOR HARMS: Okay. Thank you, Senator Karpisek. [LB863]

SENATOR KARPISEK: Thank you. [LB863]

SENATOR HARMS: Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Senator Bloomfield, you're up next and recognized. [LB863]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, not only are these cemeteries not properly maintained as far as mowing and taking care of the stones and such things, most of them, most cemeteries have or at least at one time had a fence around them. On a number of these, that fence has either been taken out or rotted away if it was a wood fence, and slowly but surely the neighboring farmers encroach on these cemeteries and end up just disking part of them under. I know of cemeteries in Dakota County years back where the guy just came in with a dozer and cleared the cemetery. When it was found out and the neighbors got a little incensed about it, he had to go back and put a fence around where he had dozed and find the stones he could and place them somewhere in the cemetery, but nobody has any idea if they were right or any of that. We've got to stop these sorts of things from happening. You know, I don't suppose the people laying under those stones much care, but their grandchildren, great-grandchildren very well may. I think we owe it to our ancestors and to our descendants to keep these in place so people have a place to...where they can go and find where their relatives are buried and whatnot. I know my wife has been doing a lot of genealogy and we're hoping to go to Kentucky when we're done here this year and see if we can find the burial place of a few of our distant relatives. But this is a good bill when Norman brought it or Senator Wallman brought it. It's a good amendment and we really need to pass it to take care of these. And if Senator Krist would like the rest of my time he can have it. [LB863]

PRESIDENT HEIDEMANN: Senator Krist, 2 minutes and 50 seconds. [LB863]

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SENATOR KRIST: Wonder if Senator Harms would yield to a question. [LB863]

PRESIDENT HEIDEMANN: Senator Harms, will you yield? [LB863]

SENATOR HARMS: Yes, I will. [LB863]

SENATOR KRIST: Did you and the people that are...that brought this division, did you have an idea that was...that where all seven of these were "despicable me's," or is there one or two of them that are taking precedence? [LB863]

SENATOR HARMS: Actually, when you look at the bill itself, it's the ones that center around the alcohol that are a lot of the major concerns. We had other questions in regard to where these...the cemeteries, for example, were located, the questions I was asking earlier and that sort of thing. But it really boils down, I think, to the five that are on there that deal specifically with alcohol. [LB863]

SENATOR KRIST: So this one is of little concern. [LB863]

SENATOR HARMS: This one is just fine and I think the next one is just fine that Senator Karpisek will bring up. I think the point here is, Senator, and I think it's important for us to understand that we have the opportunity to challenge some of these things. Just because we have traditionally not challenged the Christmas trees, that's a point that I think needs to be brought out that you really can do that. I didn't quite understand that before. I thought it was just something you had to do. And so that's really part of the issue, and the other side of it is that it just shows that we can question and we can address the issue. And I think, quite frankly, the first two, the one that deals with tobacco and vapor smoke, whatever they call it, we'll go through that, and find the battle will be over the alcohol itself. [LB863]

SENATOR KRIST: Okay. Thank you, Senator Harms. And just so we're about the tutorial here, I'd like to address a question to the Chair, Mr. President. Would it have been possible for this group to divide the question in two ways, taking two of these items that were not necessarily controversial and lumping them together, and then taking the other five? Or was it absolutely necessarily that they divided them seven different ways? [LB863]

PRESIDENT HEIDEMANN: The Chair will not respond to a hypothetical question. Thank you. [LB863]

SENATOR KRIST: Okay. Well, I guess that says that. [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

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SENATOR KRIST: I'd like to pose the same question to the Speaker, but I'd like to give him an opportunity to think about it before I ask it, in common courtesy. So just so Speaker Adams knows, I will ask him that question during the debate. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield and Senator Krist. Senator Wallman you're up next and recognized. [LB863]

SENATOR WALLMAN: Thank you, Mr. President. Again, I want to emphasize this was brought by a constituent and we have about 16 abandoned cemeteries in my district. And so, you know, it takes it off the tax rolls, folks. And people actually want to open these up again and so there's a thing in place that they can do that. It's a formal procedure. So this would change provisions relating to the formation and operation of cemetery associations and to provide a transfer of management and operation of certain cemeteries. In other words, you'd have to have a perpetual fund or something like this in place. And the counties, would help the counties out in my district. So thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Senator Kintner, you're up next and recognized. [LB863]

SENATOR KINTNER: Well, thank you, Mr. President. You know, at the risk of being called Scrooge, I just want to say, you know, I don't like Christmas tree bills too much, only that I think that we should look at each individual bill on its merit. I'm not saying it's never justified and I don't have a problem with Senator Karpisek in him doing it. It's just I'm a lot more comfortable if we can talk about the merits of each individual bill versus throwing it all together in one big bill and say, take all or take nothing. You know, that's kind of the Washington way in putting an omnibus bill together and it's a big thing, take it all or nothing. I think the Nebraska way is, hey, break it out, let's have a thoughtful discussion and let's see where it goes. I think that probably serves us best most of the time. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner. Senator Bloomfield, you are up next and recognized. [LB863]

SENATOR BLOOMFIELD: Thank you, Mr. President. I want to respond just a little bit to Senator Kintner's comments there. Had we left these all as individual bills, they would have never seen the light of day on this floor. Without a priority, without a Speaker priority, they would have never made it to the floor to where we can discuss them. Right now they are being discussed and I'm pleased that they are. I guess I'm with Senator Karpisek on the division. I think it could have been done better, but we are where we are. Now I want to go back to the cemetery board that is proposed in this amendment or bill. And just so we're not under the illusion that this is something that can happen today and goes away tomorrow, in order to form a board for these cemeteries you have to

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have five people that live in the county that are willing to serve on the cemetery board. You also have to have \$2,500 up-front. Where you get that \$2,500, there are some grants available. It may come out of some people's pockets at home if they have a cemetery they want to resurrect, but it's not something that is here today and gone tomorrow. You don't cause confusion at the county level by pulling this out, then throwing it back in their lap a year later because you really aren't as interested in it as you thought you were. You have formed a board, you've committed finances, and you're going to take care of it. Hopefully, it will last a long, long time and would never have to go back to the county. The process is still in place for the county to take it over again if they have to. But we need to, in my mind anyway, move this forward. And again, if Senator Krist would like a little time, he can have the remainder of mine. [LB863]

PRESIDENT HEIDEMANN: Senator Krist, if you wish, 2 minutes and 50 seconds. [LB863]

SENATOR KRIST: Thank you, Senator Bloomfield. And just to confirm, I don't need to ask the Speaker a question. In consulting the rules and the Clerk, this issue could have been divided in any number of ways. It could have been two, two, and three; or it could have been two and however many there are. The two of them that are noncontroversial, this and the next, I believe we should speed through those, with a measure of cautiousness. But there is really no diversity, I think, or adversity in terms of those two. And then let's get to the meat of the subject, the other five, which are all alcohol related, and deal with them one at a time. It certainly is Senator Harms's prerogative and anyone else's prerogative to divide the question and we've seen that happen several times before. I just question the methodology. So as long as we are performing a tutorial, I just wanted everyone to know that, having consulted with the rules and the Clerk, that that would have been possible. Thank you for yielding the time, Senator Bloomfield. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Krist and Senator Bloomfield. Senator Chambers, you're up next and recognized. [LB863]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was not going to get into a discussion of this aspect of what we're doing. There are more ways than one to crack a walnut. Anytime a member wants to divide any question, if the division requested can stand on its own or the several divisions can stand on their own individually, it's not a matter for a vote. It's something that's granted. That's why the Speaker or the Chair will ask the combatants, if that's what they are, to come up and agree on how the division is to take place. Another way to deal with this kind of Christmas treeing is simply to offer an amendment to strike whatever portion from the committee amendment the individual does not like. If there is a bill that I don't like and it's going to have a committee amendment such as this, I would divide the question and take each section individually, amend or attempt to amend each section, and take all of

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that time that I wanted. The only risk in anything that you do in this line is if the bill is taken to cloture after the eight hours, what is before the body will be voted on. Now if the question has been divided and it's a Christmas tree, then I would argue that the only part of that amendment, that committee amendment, that would be voted on is the division. But the Chair might say we'll vote on that division, then we'll vote on the remainder of the committee amendment, then we'll vote on the bill, or whatever. But those types of issues can arise. I don't know whether the purpose of the division is to extend the debate, but I know one thing, when they get to the alcohol portions, I am going to be very difficult to get along with and I'm going to strike that flavored malt liquor from the category of beer. When they bring these amendments, they put not only the language they're underlining, which would be new, but they're opening up the existing language in the law too. And there may be some other items under that category of beer which I don't like and we may be debating for a long time on those. The process doesn't make me much difference, but however a person wants to divide a question is all right with me, even if it's a provision or proposition of mine which I would like to have go as one entity. If somebody asks for a division of the question and the Chair rules that the question can be divided, that is a rule of the game. I play by the rules. My job is to master the rules to the extent I can, then beat my opponents at their own game. And I always remind people that as Ecclesiastes said, people think it's from a movie, "The sun also rises." [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR CHAMBERS: And there is always a tomorrow, or as Shakespeare or somebody said, tomorrow and tomorrow and tomorrow. Act in haste, repent at leisure. I don't know whether it was wise to put all of these items into one amendment, but I was not consulted. I'm just serving notice to whomever may have an interest in this bill or the alcohol portions of it that I do have some very serious concerns and objections to certain parts of those. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Again, as Senator Krist said, I don't think that there is a big argument over this amendment nor the next, and I would rather move on those things and get to where people really have an issue. Again, we're trying to work on some of those issues with some amendments and see if we can get there. It sure would have been good to sit down over the weekend and work them out and we maybe could have not wasted so much time and agreed to something, but that's not where we are. We're here and I guess we're going to take the time. I don't think it's the right way to go about things. But if that's the way we're going to do it, that's the way we'll do it. I hope that we don't talk the things to death that we don't need to. And I hope that Senator Harms and anyone else will let us know if this is one

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that they really have heartburn on or not. So I do hope that you vote for this amendment. It is very important. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. Is anyone else wishing to speak on this division of AM2297? Seeing none, Senator Karpisek to close on this part. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Again, this is Senator Wallman's LB855 dealing with abandoned cemeteries and giving us people a way to reopen some of those cemeteries. It takes the care away from the counties having to spend money on them. It gives families that want to bury loved ones with the rest of the family that maybe they haven't been able to for a while, because we have ways of closing cemeteries; we don't have ways of opening cemeteries back up. I think it's a very common-sense bill. I think it's a very good bill. I think it might have made Speaker priority, but it's really noncontroversial. So I just wanted to get it out here on the floor and get it moved for, especially, a couple members of the body that really...it will really affect them and their constituents. Thank you, Mr. President. [LB863 LB855]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. The question is, shall this division of the committee amendment to LB863 be adopted? All those in favor vote aye; all those opposed vote nay. Have all you voted who wish to vote? Record, Mr. Clerk. [LB863]

CLERK: 39 ayes, 0 nays on the adoption of the first committee amendment. [LB863]

PRESIDENT HEIDEMANN: This division is adopted. Senator Karpisek to open on the next division. (AM2298, Legislative Journal page 827-830.) [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Thank you for that important green vote on the last amendment. AM2298 is...was introduced as LB861, and it appears on pages 10 through 14 and 24, in Sections 15 through 22 and 33. LB861, with amendments, and this was my bill, prohibits minors from possessing vapor products, such as electronic cigarettes that contain tobacco-derived nicotine and other alternative nicotine products. LB861 also requires these and other tobacco products to be either displayed behind the counter or in a secure display case. These and other tobacco products cannot be in a self-service display unless they fall under an exemption such as specialty shop or a cigar bar. A minor possessing such products would constitute a Class V misdemeanor. Selling or providing such a product to a minor would be a Class III misdemeanor, which are the same penalties that exist in current law regarding tobacco. This bill has...there are many around the country that are trying to make sure that minors cannot buy or possess electronic cigarettes. My feeling is that there has not been enough study done on them to know what the effects are. I think they are much safer for adults than a regular cigarette, but I don't think that we should

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allow anyone under 18 to have them, just as we do not do with tobacco. This does not change the taxes on e-cigarettes. It does not change where they can be "vaped." It just says that minors should not be in possession and stores should not be able to sell to anyone under 18. Thank you, Mr. President. [LB863 LB861]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. Mr. Clerk. [LB863]

CLERK: Mr. President, Senator Johnson would move to amend this component of the committee amendments with AM2313. (Legislative Journal page 837.) [LB863]

PRESIDENT HEIDEMANN: Senator Johnson, you are recognized to open on your amendment to the committee amendment. [LB863]

SENATOR JOHNSON: Thank you, Mr. President. I totally support the banning of e-cigarettes being sold to youth, anybody under 18. My question and the reason for this amendment, at least for discussion purposes, is where they're displayed. To me, e-cigarettes are proven by most of the testimony, in fact all the testimony, that is it is a vehicle that will help break the habit of those people that are smoking. And if it's not out there in a marketable position, it's got to be behind the counter, you got to ask for it, it's not tobacco. It is an alternative to tobacco. To me, it should be able to have a better visibility in the marketplace and LB...or Section 22 basically says, it shall be unlawful to sell, distribute cigarettes, cigars, vapor products, alternative nicotine products, or tobacco in any form whatever through self-service display. We should probably make sure that beer, all the wines and everything else should be behind, because that's not to be consumed or sold to minors. I think it has a right to be out on counter space where the rest of the...and not locked up with cigarettes. I'll close on my opening comments. Again, I totally support the concept of not selling to minors, not having it in their possession. But I do believe in order for us to be able to market them fairly, they need good display within the retail outlet. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Those wishing to speak on the amendment to the committee amendment, we have Senator Coash, Karpisek, Harms, and Kintner. Senator Coash, you're recognized. [LB863]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I hit my light on before Senator Johnson offered his floor amendment, and I'll speak to that in a moment. This part of the division, originally I believe LB863...excuse me, LB861, and we did vote on these individually in committee. And so I would encourage the members, if you want to see how these came out of committee, I think they're on the committee statement but you can certainly look at the original bill. I didn't vote for this bill out of committee anyway. And it was a factor, not the only factor in my decision to withhold my vote to advance the bill as a whole, we had a lot of discussion about e-cigarettes in the committee. We had an interim study on it, and one of the things that we learned, or at

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least that I learned, obviously, this is a product that the legislation had yet to catch up to the technology of it. A lot of states are trying to figure out how to do this. Banning the product for a minor, frankly, was a little problematic to me, and it's not because I want minors to have these products. But I did have conversations with medical professionals who said this is a path to cessation. Okay? E-cigarettes are not a product that I was led to believe that was being used by minors as their first introduction to nicotine. It was a way that a sneaky teenager could get ahold of a product and use rather than a cigarette, but it didn't...it wasn't presented as a product that got people into smoking. It was a product that was transferred from smoking to the e-cigarette. And so I had problems with this bill originally, and one of the things that I struggled with was this. I talked to some parents who said, you know what, if my son came home smoking, as soon as I got done putting his butt around his ears, I'm going to work on getting him to quit, and this is the product that I'd like to be able to use. And we had several parents who said, look, if I needed a way to get my kid to stop smoking and I was...and the only method available to me is now outlawed because of this bill, I would have a problem with that. And I didn't want to leave those parents who are trying to do the right thing without a mechanism to do it. Now the other side of that coin is you might find a kid...I would say it's a rare child who would say, you know what, I'm going to pick up a habit and I'm going to start with an e-cigarette. My experience, my common sense working with youth said that's probably not likely. So I didn't support this bill and it's not because...and I want to make the record clear, it's not because I think kids should have this. But we're banning a product that can get them away from a product that is dangerous. I'm going to support Senator Johnson's amendment as well. I think it makes a bill that I disagree with better. I would encourage my colleagues to vote for his amendment. He's outlined some very good reasons for this and I'll leave it to him to continue to do that. And I might hit my light again to get a couple things on the record. But his amendment doesn't address my specific concerns, but it does address a concern that we did hear in the committee. And I would encourage your support of Senator Johnson's amendment. [LB863 LB861]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR COASH: And I would encourage you not to vote for this division. The very least, make it better with Senator Johnson's amendment. But I...let me close with this. We had testimony that 35 other states were going to...working on this and that pretty soon the federal government was going to rule on this federally, which isn't a surprise, because when it comes to items that have to do with health or tobacco or anything like that, the federal government doesn't have much of a problem interjecting its nose into it. So maybe we can wait. Maybe this is not...maybe this is a division that we don't need to pass this year. Maybe we can wait and see what the federal government does do. Some people will like that, I guess. I don't think...we'll see what Senator Kintner says about it, but he's got his light on, so. For that purposes, I would encourage your adoption of Senator Johnson's amendment. [LB863]

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PRESIDENT HEIDEMANN: Time. [LB863]

SENATOR COASH: Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Coash. (Visitors introduced.) Senator Harms, you're up next and are recognized. [LB863]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Karpisek, would you yield just to a couple questions for me, please? [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR HARMS: I noticed on your committee statements of LB861 that the Cigarette (sic) Association of America was an opponent to this. What was their major concerns about where you were headed with this particular legislation? [LB863 LB861]

SENATOR KARPISEK: You said the Cigar Association, Senator? [LB863]

SENATOR HARMS: Yes. Yes, I did. [LB863]

SENATOR KARPISEK: Okay. Thank you. I think that their opposition was that this would take...this bill would take all tobacco products, nicotine products, and make them be behind the counter. So we aren't only talking about the e-cigs but we're also talking about the cigars that maybe you see in a c-store that maybe are grape flavor or vanilla flavored. I don't know that those are targeted to teens, but I think having them out there is just a way, an easy way for theft. And for...if we don't want kids to get them, why put them out there easily to steal? [LB863]

SENATOR HARMS: Okay, the other question: The American Cancer Society was in a neutral capacity. Could you explain to me where they were? I always...it's hard for me to believe that you can testify in a neutral capacity. And when you really watch their testimony sometimes it really isn't neutral. I was just curious about what their views were. [LB863]

SENATOR KARPISEK: Well, I was a little surprised about that, too, Senator Harms, but they have...they said that they didn't care for one of the ways that we defined tobacco product in here and they were trying to change it. As Senator Coash said, there is some talk at the federal level and I think they are maybe trying to define it a little bit differently. I don't see much difference. We've tried to define it the way that I think we catch kind of most everything, but that was their objection. [LB863]

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SENATOR HARMS: Okay. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Harms and Senator Karpisek. Senator Kintner, you are recognized. [LB863]

SENATOR KINTNER: Well, thank you, Mr. President. I certainly support Senator Johnson's amendment. I think it's pretty common sense. In looking at the bill, I was not sure. I'm thinking, well, kids aren't supposed to have them. I was thinking, well, I could probably vote for this. Then, of course, I heard Senator Coash, what he said, and I'm thinking, well, holy cow, if there's people that need this and they need to be able to have it, well, then maybe not. But certainly...I'm not sure where I am yet, but I certainly think that Senator Johnson's amendment is a start in this bill. And I'd like to have...see if Senator Karpisek would yield to a question or two. [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR KINTNER: Thanks for taking this up. I think we need to debate it. Can you take these vapor e-cigarettes and can you put drugs in the vapor? [LB863]

SENATOR KARPISEK: I have heard that there are some places that you could get THC and put it into the juice, they call it. I have not ever seen it. I have not talked to anyone who has done that. I've heard that it's possible. [LB863]

SENATOR KINTNER: And that would be...make it like it's marijuana. [LB863]

SENATOR KARPISEK: Correct. [LB863]

SENATOR KINTNER: Correct. Okay, because I had a principal come to me and says, we got kids smoking these; I don't know what's in them. Have you heard any talk like that from principals saying they're a little worried about them? [LB863]

SENATOR KARPISEK: Yes, quite a bit. [LB863]

SENATOR KINTNER: What did they say to you about it? [LB863]

SENATOR KARPISEK: Well, they said that the kids can have them. There's no age limit on them and they can have them and use them. Now my argument is, well, you can control what happens on your campus so if you want to ban them, ban them. But...so that's...sorry, I don't want to take up your time, but that's what I've heard. They don't really know what to do with them. And some have banned them. [LB863]

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SENATOR KINTNER: Well, according to what Senator Coash said, it's not like a gateway drug. It doesn't get you into smoking. Is that correct, what he said? [LB863]

SENATOR KARPISEK: I would disagree with what he said on that, but I was going to take that up on my time. [LB863]

SENATOR KINTNER: All right. Well, then I will listen and I'll encourage people to support Senator Johnson's amendment. Thank you, Senator Karpisek. Thank you, Mr. President. [LB863]

SENATOR KARPISEK: Thank you. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner. Senator Krist, you're up next and recognized. [LB863]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, again. And good morning, Nebraska. Just in terms of Senator Coash's comments and Senator Johnson's amendment, as I understood initially his opening, he was referencing age. And I just confirmed with him that that's not the issue. His concern is the display and that's legitimate. I may support that. But realizing that when we were in committee both the specialty shops and cigar shops and others had concern with restrictions in terms of the display as well. But I would bring to point and I'm trying to get the exact date and time that this happened, but on good information I am told by Mr. Holmquist that...of the Cancer Society, that the United States District Court in Washington, D.C., has ruled that these vapor products should be classified as tobacco products. So it's a legitimate concern that we should restrict the sale and the ownership of these devices the same way we would a pack of cigarettes, which, as you all know, is set at 18. To answer some of Senator Kintner's concerns, this is happening in Colorado right now and we know that. It's a delivery device and the juice inside the e-cig can be juiced, if you will, to contain many things. And more disconcerting is the fact that right now the FDA has yet to rule on products that are being imported from China. Now if you remember back to the dog food scandal the last few years, it's okay to regulate dog food, but we're not regulating Chinese products coming in to the United States and being put into the juice in a cigarette. It's not an easy issue. E-cigarettes are not an easy issue. And the last point, I've talked to superintendents and principals in my district and for the most part these are appearing on our campuses. They're in the schools. And it's almost as if bars, restaurants, and schools are going to have to say no smoking and no "vaping." We're getting to that point because it's a different designed product rather than just smoke. So it's a difficult issue. I thought we deliberated well. There's always a difference of opinion, and I appreciate Senator Coash's concern. I may very well support this amendment. I'm not sure yet. But I do stand by the essence of LB863 as it was voted out of our committee. Thank you. [LB863]

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PRESIDENT HEIDEMANN: Thank you, Senator Krist. Senator Johnson, you are recognized. [LB863]

SENATOR JOHNSON: Thank you, Mr. Speaker. I do want to make sure that you are...or I am supportive of the bill from the standpoint of banning e-cigarette sales to anybody under 18. If I misled or misspoke, I wanted to make sure that's correct. One of the questions that I've asked retailers, when you sell an e-cigarette, how does it get recorded? And the ones I've talked to said we put it under the classification in our coding as tobacco. The reason they put it in that coding is so they know the questions they need to ask as if it were tobacco or if it were cigarettes. All of the retailers that came in said, we are not selling to them now; we don't...we're not by law not supposed to sell it to them, we just don't want to sell to them. This will put teeth into what they want to do. And...but they do code it so they do know that they need to ask the questions about their age and get that verified. So that's the only way that it comes on their records as tobacco. Thank you. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Senator Karpisek, you're recognized. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Johnson yield, please? [LB863]

PRESIDENT HEIDEMANN: Senator Johnson, will you yield? [LB863]

SENATOR JOHNSON: Yes, I will. [LB863]

SENATOR KARPISEK: Thank you, Senator Johnson. Can you just (laugh)...trying to read this amendment, it strikes something. Can you tell me in layman's terms what it does? [LB863]

SENATOR JOHNSON: Well, it says that it's unlawful to sell through a self-service machine, and I think most self-service machines are out where the public has more access to it. It might be out on a counter or at least in a display area. What I would see it...what I see happening, and it's not written in here, it's not going to be as accessible because it's going to be back in the area where the cigarettes are and they have to go back there, get it. It's a little inconvenience to them. That's not the issue. To me, if we're going to market these in order to help break adults of the habit, it needs to be out there so they maybe see it and think about it. [LB863]

SENATOR KARPISEK: Okay. That's what I thought it was, Senator Johnson. Thank you. And there has been some discussion on that. I do not support the amendment. My thought and, Senator Johnson, if I'm wrong, please tell me. I'll keep you standing, but I

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think I heard you talk about then we should have alcohol behind the counter and everything too. Was that one of your points? [LB863]

SENATOR JOHNSON: Well, I made the comment. I'm not sure that it will ever get there. But it's accessible to anybody of any age so I just don't see that we're treating these products equitably. [LB863]

SENATOR KARPISEK: Okay. Thank you, Senator Johnson. I think it's a lot harder to...the whole point of getting them behind the counter is for theft. These things are not big. They're kind of like a pack of cigarettes. And why I have in there that they be behind the counter is that I don't want kids, if they shouldn't be having them then they shouldn't be...if they can't buy them, they shouldn't make it easy to steal them either. You know, I understand Senator Johnson's point about the alcohol. It's just not feasible to put all the beer behind the counter. And again, it's a lot harder to steal a case of beer or even a six-pack of beer than it is a pack of cigarettes. The cigarettes are already behind a counter and I think for the...or a locked box because of theft. I think that's the whole reason they are back there. I think that in the bill or this amendment to the bill they could still sit on the counter. They just...and they can be in a box that is Plexiglas, see-through, but only the clerk can get to it, not the customer, to avoid theft. That's the whole reason for this is if we don't want kids to have them, which I don't think we do, we also don't want to make it easy for them to steal. I would like to go back to Senator Coash saying he doesn't think that kids will just start with this. I just completely disagree with that. We see kids all over with these things because they can have them. Right now a kid ten years old...well, one year old could have them. There's no age. But I think that we're seeing kids going and getting them and using them, and then I feel that it is, and I have seen some studies--I didn't print them off, I should have--that said that it is a way for kids to start and then experiment with cigarettes. I understand his argument about the dad that wants his child to quit smoking and wants to be able to give him these. [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR KARPISEK: Thank you, Mr. President. That kid already got the cigarettes that he shouldn't have been able to have. So I would say if that parent really wants to do that, get one, take it home, and do it in your home, I guess, to get them off of it. I understand what Senator Coash's point there, but I just don't think just because some people want to have a cessation system for their child that it's good to just let all children have them. Again, my point is there hasn't been enough study on these things to know that they are safe. Again, I'm not arguing they're less safe than a cigarette, but I don't know that they're very safe and I don't want our kids to be doing something that we have not studied enough. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you. Senator Coash, you are up next. [LB863]

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SENATOR COASH: Thank you, Mr. President. I wanted to just continue on my discussion about these products. Senator Karpisek is right, that is my concern. Kids...we have banned smoking for children and kids still get ahold of them. We ban this product for kids; kids will still get ahold of them. In a lot of ways, this reminds me of the tanning tax...or tanning age restriction bill that we had last week. Are we really doing anything with this bill? If you listen carefully to what Senator Karpisek said, I think he's making an argument that kids are going to get ahold of these whether they're restricted or not. Because I will tell you, we had vendor after vendor lined up at the interim hearing this summer, and in the hearing this year every single vendor came up and said, we don't sell to minors. They all said that. Now I understand if there was a vendor who did, and there may be a vendor out there who did, they're not going to show up at the hearing and advocate that we ban the sales to minors. I'm pragmatic, I understand that. But at the end of the day I think all the vendors who paraded in there represent what we would consider Nebraska business owners who do ethical things. And what did they tell us? They told us they don't want these in the hands of minors so they're not going to sell them to minors. They told us that if a parent came in and said, hey, I'd like to get this for my 16-year-old, they'd say no, which is their right. I think the vendors that we have of this product understand what they're selling. They're selling a product that people who smoke want to get so that they can quit smoking. Kids are kids. They're going to get ahold of this product. I get that, but I don't think banning it and putting a crime on it is going to prevent it. Would Senator Howard yield to a question? [LB863]

PRESIDENT HEIDEMANN: Senator Howard, will you yield? [LB863]

SENATOR HOWARD: Yes, I would. [LB863]

SENATOR COASH: Thank you, Senator Howard. I picked you out because you're on the Health Committee. And I hope I didn't catch you off guard, but here's my question for you. Do you know if other smoking cessation products available are restricted by age? [LB863]

SENATOR HOWARD: Not to my knowledge, although I know, for example, Nicorette Gum there's an age...a lower age limit of 12, so...and that's just for the product. That's not a state law. [LB863]

SENATOR COASH: Okay. So to your knowledge, Senator Howard, a smoking cessation device such as nicotine gum is not restricted for purchase because of someone's age. [LB863]

SENATOR HOWARD: To my knowledge. [LB863]

SENATOR COASH: Okay. Colleagues, I'm going to get a confirmation on that. Senator

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Howard, I put her on the spot earlier. I said, can you help me look this up, because here's the deal. We're going to restrict a product that helps you quit smoking with nicotine in it through this bill. Do we need to do that with nicotine gum, which is the same thing, just a different mechanism of getting it into your body? Kids walk around chewing gum all the time. I would hazard to say if they wanted to get a buzz from nicotine, maybe that would be the fastest way to do it because they could do that in class all day long. So those are just considerations I would ask you to put in your mind and just ask yourself what are we really trying to get accomplished here. Does banning these products keep them out of the hands of kids? I don't think so. [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR COASH: And if we're going to go down this road, maybe we need to make sure that nicotine gum is also banned for kids. I'm not sure that it is. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Coash. Senator Kintner, you're up next and recognized. [LB863]

SENATOR KINTNER: Well, now I'm very interested in this thing. I'm researching it here on-line, looking at it. The first thing that struck me is when Senator...my good friend, Senator Karpisek, who I agree with on a lot, I'm not sure where he's coming from on this, said we make them put it behind the counter so it's not stolen. Now call me crazy, but, you know, if I'm a store owner, I don't need the government to help me stop theft. If something is being stolen, I'll take the appropriate means. I'll use the appropriate means. I'll take the appropriate action to do it. I mean I don't think this is a very strong argument for this. That's why I think Senator Johnson's amendment makes so much sense and that I don't think we need to help with loss prevention at retailers. I think they're fully able to do that themselves. Now as I researched it here, we found out the FDA sought to ban e-cigarettes. They just...that was their gut reaction. It went to a federal...a federal judge stepped up and stopped them from doing that and it looks like that's because e-cigarettes don't contain tobacco. And because you're using vapor instead of burning a dry vegetable matter, that differentiates into a very crucial difference for smokers because you can avoid a myriad of toxins and carcinogens generated by tobacco combustion, therefore, dramatically--I'm reading this as I go--therefore, dramatically reducing the health hazards they face. And there's no serious scientific dispute to this point. And that was just a...as I was sitting here listening, I've been going through and that was an article in the New York Post that I just quoted from. So I think there's a big difference between e-cigarettes or vapor cigarettes and cigarettes. You know, I don't quite see them the same so I certainly think that, you know, I think this strengthens, at least, Senator Johnson's amendment and the other point, of course, I made earlier was we don't need to be in the...state doesn't need to be in the theft prevention business. We need to protect health and safety, but not help

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stores reduce their losses. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner. Senator Bloomfield, you are recognized. [LB863]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I'm no big fan of regulation. I am inclined though to stay with the bill...or the amendment as passed in General Affairs Committee. As you go to filling stations and whatnot, you see these things right up there where anybody can grab one. It...Senator Kintner and others have mentioned the possibility of theft. Frequently in these Kwik Shops or whatever there's one, maybe two, attendants in there, there could be a half a dozen people in various different parts of the store getting a soda, getting a sandwich, paying for gas. It's awful easy to slip one of these into your pocket if you happen to be of that mind-set. They're sitting usually right on the counter. I think were they behind the counter, whether you're 18 or whether you're 88, it'd be a lot harder just to stick in your pocket. Part of the reason I voted for this out of committee is because I wasn't excited about having the cool kid running around school with one of these things in his mouth. And if we open up the sales to minors, then we start making new regulations for schools. I am not going to support Senator Johnson's amendment and will vote for the amendment as it came out of committee. I don't know if Senator Karpisek wants any time or not, but he can have a little. Karpisek. [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR BLOOMFIELD: I was yielding him time, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, you have 3:04. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, and thank you, Senator Bloomfield. And I agree with Senator Bloomfield and that's exactly why this is in the bill. This has been talked about a lot. This caused a lot of problems on the bill and I still can't believe that. These can be used as a smoking cessation tool, but that's really not what they're marketed for; some market it for that. But it's a way to get nicotine. Or doesn't have to have nicotine in it either. A lot of the places have the juice and then they can put however much nicotine in it you want. One idea is that you start, if you smoke now, start at the nicotine level and work your way down to stop smoking. I agree with that, and that's why I think they're a good thing, and that's why I haven't tried to increase taxes on them; I haven't said where you could "vape" them. I think they're a good tool, but they're not only a cessation tool either. Some people just say, well, I think they're safer than cigarettes so I'm going to do that. I do not think they're the same as nicotine gum. I think nicotine gum is when you are for sure trying to quit. You don't have the mechanism of

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actually smoking. Again, some people will use them as that and that's great and I hope they do. I don't think that we should have these in the kids' hands. Yes, they are going to get them. But they're also getting cigarettes. So should we take the 18 age off of cigarettes? We hear all about minors drinking. [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR KARPISEK: We're going to hear further in this conversation. Then we just as well take the 21 age off of alcohol. I don't...I cannot support Senator Johnson's amendment to put it out for kids to be able to pick up. If we don't want them to have them, which I don't, then I don't think it should be easy for them to shoplift. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek. You are actually up next and recognized. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I got most of that in. I don't want to belabor this point. I understand Senator Coash's concerns. He has said them in committee. I agree with some of his concern, but not enough to say that the bill shouldn't go through. Again, if we think that kids are going to get them, so what, I don't think that's a good precedent to go down. We did have a lot of people come in and say that they don't sell to them anyway. However, they came in in favor of the bill, because just because they don't sell to them, how do they know the guy next door doesn't? They want to level that playing field. They don't feel that it's safe to sell to minors, but they don't know that their competition isn't. We all know that if someplace will sell cigarettes to minors or beer to minors, that word gets around and that's where they go. We know that. That's why the State Patrol does these checks that we refer to as stings or not. It gets to the bottom line of there...for me, there hasn't been enough testing on these e-cigarettes to make them available for people under 18. Over 18, do what you want, take the risk, but I don't think that it's appropriate. I think it sends a message to kids to say, hey, it's okay, they're safe, you can have them. And we talk about that it...I say that it might cause kids then to try cigarettes. We don't even allow candy cigarettes anymore. As for telling the people, the store owners, to put them behind or not, the grocery association was in favor of this bill, the c-stores were in favor of this bill. Those are the people that are in favor of the bill, the ones that are selling it. Even the specialty shops are in favor of the bill. The only people that didn't like the bill was the cancer society because, again, the feds are doing something and they want to make it bigger; and also the cigars who didn't like that we would have to take the cigars off the counter and put them behind or in a Plexiglas case. We don't know that in five or ten years that there's not going to be a study to come out and say that e-cigarettes were harmful. They have chemicals in them; they have oils in them. Are they safer than cigarettes? Probably. Are they safe? We don't know. Again, I...almost every time on this body...in this body, except for illegal drugs, I have always sided on if you're of age, if

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you're 18 or 21, it's your choice. I don't like to get into your business. But I think we owe it to the kids not to just let them do it free-for-all. I don't think that that makes sense. We know that nicotine is an addictive drug. So why would we just say, okay, we're going to just let it happen because we know that they're going to get them anyway? [LB863]

PRESIDENT HEIDEMANN: One minute. [LB863]

SENATOR KARPISEK: I also don't think it's a good idea to put them out where anyone could shoplift them. If you can't buy them, if you can't get someone to buy it for you, you'll pick it up. We already tell these people that the cigarettes have to be behind a counter because we know they're harmful. We don't know that these are harmful but we don't know that they're not. I just think that this is good to get it out of the hands and it's safety for our kids. I would hope that you do not vote for Senator Johnson's amendment, but do vote for the amendment that was LB861. Thank you, Mr. President. [LB863 LB861]

PRESIDENT HEIDEMANN: Thank you, senator Karpisek. Senator Gloor, you are recognized. [LB863]

SENATOR GLOOR: Thank you, Mr. President, and good morning, members. Well, since I'm the senator who has introduced tobacco tax increases any number of years since I've been here, I feel an obligation to say something. I'm only going to speak once, assuming I can get through my points. My main reason for being in favor of increasing the tax on tobacco products, increasing the price on tobacco products, is because of the proven impact it has in reduction of youthful smokers. And the concern about youthful smokers--I want to talk a little bit about the nicotine issue--isn't the nicotine that they take in. I don't want to get too sidetracked here talking about nicotine as a chemical, which it is, and what it does to the system. It's what inhaled as a result of the combustion of the tobacco product in the lungs that's problematic. I mean, good heavens, when you look at the amount of caffeine a lot of young people take in, there have to be some health concerns about that, and that's still under study. The nicotine doesn't bother me as much as what gets inhaled into the lungs. So let's separate what the real risks are. And as Senator Karpisek and others have pointed out, we don't know what the long-term effects of "vaping" are. We just don't know what those chemicals do long term on youth, especially youth who are developing physiologically, and what that might do in terms of changing their body chemistry or DNA. So that point I want to have out there. And then there's a sniff test for me. The sniff test fits into the category if I saw a 12- or 13-year-old daughter or 12- or 13-year-old granddaughter sitting on a corner with a bunch of other 12- or 13-year-olds smoking e-cigarettes. I wouldn't say, isn't that nice, what a wholesome picture, I'm glad they found a way to bond together. I'd be concerned. I think most parents, grandparents, would be concerned that that can be just one of those steps, and that, of course, is one of the concerns about "vaping" for youth to tobacco products, to cigarettes, or to who knows what else. You have to admit

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"vaping" doesn't fit in the category of sitting around, chewing a piece of gum, nicotine in it or otherwise. It has a different connotation and, I think, a different risk. The fact the retailers are okay with this is a big issue, and again I speak from experience, having battled retailers when it comes to increases in tobacco tax, yet retailers don't have a problem with this. And I think Senator Johnson's well-intended amendment ignores the fact that if you can't buy them you'll steal them if you want them bad enough. Put them behind the counter. Get them away from kids. I mean, if we don't want them smoking them, we certainly don't want them stealing to try and get ahold of them. And so there is a commonsense component to keeping them behind the counter also. Make them hard to get to so that we don't end up with more trouble that's going on here. I'm not in favor of AM2313. I'm certainly in favor of AM2298 and I hope you vote accordingly. Thank you, members. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor. Senator Kolowski, you are recognized. [LB863]

SENATOR KOLOWSKI: Thank you, Mr. President. Members of the Legislature, just a point of information for Senator Kintner's comments earlier about things being stolen, cigarettes being stolen, or e-cigarettes, whatever might be placed in the stores. We're forgetting some of the history that went into the litigation concerning the tobacco manufacturers and the testimonies that came out of that. And if you've never talked to people in marketing, where they had placed cigarettes in a store became a very direct ploy to hopefully have people steal cigarettes because you hope they'll get hooked on them. Nicotine is that strong a substance that it was building in its next level of users by having a certain percentage of their cigarettes stolen from their stores because of the easy access in the front of the counters, not behind the counters. If you don't think that was a ploy used by the tobacco industry, you haven't read the history, you haven't talked to people in marketing where this was done in a direct fashion that was hopefully trying to hook the next generation into being the tobacco users that they all wanted. And with the remainder of my time I'd turn it to Senator Gloor if he'd like that. [LB863]

PRESIDENT HEIDEMANN: Senator Gloor, 3:30. Senator Gloor waives that time. Senator Coash, you are up next and this is your third time. [LB863]

SENATOR COASH: Thank you, Mr. President. Would Senator Karpisek yield to a few questions? [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR COASH: Thank you, Senator Karpisek. In your last time on the mike you stirred some questions in my mind and I wanted to get a couple things clarified at least

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for me. When you think about this product of e-cigarettes, and we spend a lot of times in committee learning about them, what part of this product is dangerous to anyone's health who uses it? [LB863]

SENATOR KARPISEK: The nicotine. [LB863]

SENATOR COASH: Okay. And I will give you this, Senator Karpisek, we heard time and time again, we don't know if anything else is dangerous, but we at least know this, we know that the nicotine they put in these products is the part that's not good for your health. At your last time at the mike though you mentioned that there are times when the vendors of this product will sell or you can use this product with "un-nicotined" juice. Is that correct? [LB863]

SENATOR KARPISEK: That is correct. [LB863]

SENATOR COASH: So whether I fill it myself or buy it that way, I can get one of these products, I can use it, and it might not have any nicotine in it. Correct? [LB863]

SENATOR KARPISEK: That is correct. [LB863]

SENATOR COASH: Okay. Is that product going to be against the law for a minor? [LB863]

SENATOR KARPISEK: Yes. [LB863]

SENATOR COASH: So we're going to outlaw a product that doesn't have any health effects, negative health effects, for a minor if this bill passes? [LB863]

SENATOR KARPISEK: I will contend that we don't know that it isn't a negative health effect. [LB863]

SENATOR COASH: And I would agree with you on that. But we do have it on the record, we can all at least agree that there...the nicotine is the dangerous part. But we're going to make this product, even if it doesn't have any nicotine, against the law, correct? [LB863]

SENATOR KARPISEK: Legal counsel now is telling me that, no, that if it doesn't have nicotine in it, Senator, that it would not be illegal,... [LB863]

SENATOR COASH: Okay. [LB863]

SENATOR KARPISEK: ...which I hate to...if I was wrong, I was wrong. [LB863]

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SENATOR COASH: Okay. Well, that in my mind, I guess, opens up a little bit more of a law...of an enforcement issue because, as you've seen these products, you can't...they all look the same and unless you had a chemical test you wouldn't know which product had nicotine in it and which product didn't and we'd be putting, potentially, a kid who was just smoking strawberry juice with no nicotine in it at risk of getting a ticket. So I think that's a little problematic. Let me clarify a couple things from my last statement. I looked and we verified nicotine gum is not age restricted in our state. A 15-year-old kid can go buy a pack of nicotine gum and chew it all day long. Now I will tell you that the retailers in our state are not going to sell it to a minor, but they can. Our laws are silent on another mechanism for nicotine which is just as palatable to children, I would say, as candy, which is gum, and we don't go to the trouble of outlawing nicotine gum. Now to be fair, we didn't get any testimony that...but we didn't ask for any about children grabbing nicotine gum and chewing that in order to get a buzz. But we don't outlaw nicotine gum and we don't have vendors that sell it to minors anyway so we don't have to outlaw it. If Senator Karpisek would like the remainder of my time, he may have it. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, 1 minute. [LB863]

SENATOR KARPISEK: Thank you, Mr. President, and thank you, Senator Coash. And I do apologize. I thought that we were saying any of them would be illegal to sell or have, but I guess it is just the ones with nicotine. And if Senator Coash wants, I would be glad to put an amendment on here about nicotine gum because if that is what we're after I think that we shouldn't allow that either. So I'd be glad to do that. I would hope that we could get a vote on the two amendments that are up before noon and give me a chance to talk to Senator Harms and others over lunch and on the budget to try to see if we can come to some agreements on the other amendments in this division. Thank you, Mr. President. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Karpisek and Senator Coash. Senator Schumacher, you are recognized. [LB863]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I just have a couple of questions. Will Senator Karpisek yield? [LB863]

PRESIDENT HEIDEMANN: Senator Karpisek, will you yield? [LB863]

SENATOR KARPISEK: Yes, I will. [LB863]

SENATOR SCHUMACHER: Senator Karpisek, as I get it on Senator Johnson's amendment to the committee amendment, it basically deals with selling these cigarettes in what we call cigarette machines, is that right? [LB863]

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SENATOR KARPISEK: Well, they would be out on the display floor or just on a shelf. My amendment, which was a bill, says that they would have to be behind a counter. His amendment would take them from behind the counter and put them out for self-service. [LB863]

SENATOR SCHUMACHER: Okay, a cigarette machine, what we commonly used to think of as a cigarette machine, self-service. [LB863]

SENATOR KARPISEK: No, I wouldn't think of that at all, Senator. I would say just on a shelf, like gum or any other product that you pick up off the shelf and take to the counter to buy. [LB863]

SENATOR SCHUMACHER: So in...when the phrase "self-service" is used in the bill, that's just...it doesn't mean self-selling; it means that you can pick it up and take it to the counter. [LB863]

SENATOR KARPISEK: Correct. [LB863]

SENATOR SCHUMACHER: Okay. That was a misunderstanding that I had then. Is it...does this bill do anything to prevent kids from buying these smokeless cigarettes on-line? [LB863]

SENATOR KARPISEK: It does not, Senator. [LB863]

SENATOR SCHUMACHER: Okay. Thank you, Senator Karpisek. You can do this too. I did it. I just Googled "buy smokeless cigarettes on-line" and it would seem to me that anybody who wants to get them pretty much can. Thank you. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Schumacher. Your light is on again. Is anyone else wishing to speak on the amendment to the committee amendment? Seeing none, Senator Johnson, to close on your amendment to the committee amendment. [LB863]

SENATOR JOHNSON: Thank you, Mr. Chairman. I appreciate the discussion on this. It is a very interesting subject when we're trying to, hopefully, improve the health of all of our citizens. I just want to go back. I think the...what we're trying to strike has been discussed enough. I'm not going to spend a lot of time. Basically, I don't look at having them out, or wherever they're displayed, I don't look at it as much of a theft situation. If youngsters are going to need a sugar high or something, they're going to go steal some candy bars or whatever and they're out there and of course we don't ban them. But I think that if we're keeping them in there locked up just because of theft, I'm not sure that's strong enough. In my mind, what I'm looking at is if it is a product that will help adults that have the habit of smoking and if it will help them break that habit and they

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can go by the counter and they can see it there, it might make them think one more time, should I buy those cigarettes or should I try an e-cigarette? I think if it's out there, it's going to be maybe a deterrent to selling or actually going...ask them...go up to the counter and say, I need a pack of whatever. I just think it's a good marketing tool that we need to keep in place and my amendment strikes that it cannot be through a vending...not a vending machine through self-service. Thank you, Mr. Chairman. [LB863]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Members, the question is, shall AM2313 to committee AM2298 be adopted? All those in favor say aye; all those opposed vote nay. Have all of you voted who wish to vote? Record, Mr. Clerk. [LB863]

CLERK: 4 ayes, 24 nays on the amendment to the amendment. [LB863]

PRESIDENT HEIDEMANN: The amendment fails. Mr. Clerk. [LB863]

CLERK: Mr. President, Senator Kintner would move to amend this component of the committee amendments with FA244. (Legislative Journal page 837.) [LB863]

PRESIDENT HEIDEMANN: Senator Kintner, to open on your amendment to the committee amendment. [LB863]

SENATOR KINTNER: You know, I...thank you, Mr. President. I listened to what Senator Coash said. So what I have done with this amendment is I struck the section that says it prohibits the use and it only prohibits the sale. That way, if a parent wants to get their kid off of nicotine and they want to buy it and let him use it, that's allowed. Obviously, the prohibition on tobacco hasn't worked too well if we have parents that have to get their kids off of nicotine. So it seems to me that, hey, kid, you can't go in there and buy this thing, we're not going to let that happen, but if your parents want to buy it and you want to use it for the purposes of getting off of tobacco, then that would be allowable. So what I've done was I just struck the part about not being able to use it in the privacy of your house or in your backyard or with your parents or wherever. That's all it is, Mr. President, very simple. Thank you. [LB863]

PRESIDENT HEIDEMANN: Mr. Clerk. [LB863]

CLERK: Mr. President, some items, if I may. New resolution: Senator Hadley offers LR477 that will be laid over at this time; Senator Burke Harr, LR478, LR479, likewise will be laid over. Enrollment and Review also reports the following bills correctly engrossed: LB438, LB438A, LB661, LB661A, LB699, LB740, LB776, LB844, LB901, LB901A, LB920, LB920A, LB983, LB983A, LB1016, LB1016A, and LR41CA, all were reported correctly engrossed. New A bill, Senator Hadley, LB867A. (Read LB867A by title for the first time.) (Legislative Journal pages 837-841.) [LR477 LR478 LR479 LB438

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LB438A LB661 LB661A LB699 LB740 LB776 LB844 LB901 LB901A LB920 LB920A  
LB983 LB983A LB1016 LB1016A LR41CA LB867A]

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

PRESIDENT HEIDEMANN: Members, you have heard the motion to recess until 1:30. All those in favor say aye. All opposed say nay. We are adjourned...we are recessed until 1:30.

RECESS

SENATOR KRIST PRESIDING

SENATOR KRIST: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record. [LB905]

CLERK: I have a quorum present, Mr. President. [LB905]

SENATOR KRIST: Thank you, Mr. Clerk. Do you have any items for the record? [LB905]

CLERK: I have nothing at this time, Mr. President. [LB905]

SENATOR KRIST: Before we continue, this morning the Cuties, or small oranges, were distributed in honor of Senator Ken Haar's fiftieth anniversary of his twenty-first birthday. Happy Birthday, Senator Haar. (Visitors introduced.) Mr. Clerk, let's proceed to the first item on this afternoon's agenda. [LB905]

CLERK: LB905 introduced by the Speaker at the request of the Governor. (Read title.) Introduced on January 15; referred to the Appropriations Committee; advanced to General File. I do have committee amendments, Mr. President. (AM2019, Legislative Journal page 791.) [LB905]

SENATOR KRIST: Senator Mello, you are recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB905 is the first of three legislative bills that collectively represent the Appropriations Committee budget recommendations for the remainder of the current biennium, fiscal years '13-14 and '14-15. Each of the budget bills will have a white copy committee amendment so that the amendment becomes the underlying bill. As we begin debate on the budget, I would refer to all senators and staff to your yellow budget books which were distributed last week, as well as the General Fund financial status that's attached

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to today's agenda. The green sheet on today's agenda contains the most up-to-date budget information and financial status. As of sine die last session, a combination of the budget and A bills passed by the Legislature and signed by the Governor provided an average growth of 5.5 percent. The Governor's deficit recommendations would have brought an average growth up to 5.6 percent; while the committee's recommendations would stay right around 5.5 percent. LB905 is a deficit appropriations bill and makes adjustments to funding for state operations, state aid, and construction programs in the current fiscal year ending June 30, 2014, as well as next fiscal year starting July 1, 2014 through June 30, 2015. LB905 does include an emergency clause. The Appropriations Committee amendment, AM2019, would become the bill. The amendment reflects the Appropriations Committee's recommendations for adjustments of the existing appropriations to be made during the current and ensuing fiscal year for state operations and state aid. The bill also includes statutorily authorized fund transfers. Among some of the committee's recommendations included in LB905 are: an additional \$25 million per year for the property tax credit program, a responsible approach to provide direct property tax relief on an ongoing basis; initial funding to begin a 10-year replacement of the Capitol building's heating, ventilation, and air conditioning, HVAC system, which has outlived its life cycle by 30 years; \$17.5 million to address deferred maintenance issue in our Game and Park system; a \$1.8 million investment in pediatric cancer research; an additional \$5 million to continue addressing the developmental disability's waiting list which currently stands at 1,700 Nebraskans; an additional \$3.7 million for early childhood education grant programs which provides grants to K-12 school districts to establish early childhood education programs over a three-year cycle. With that said, first off, one member doesn't create a budget, it takes nine members. And as Chair of the Appropriations Committee the last two years, I've been fortunate to work with four senators who will be leaving us this year. I served four years with them previously as a member of the Appropriations Committee, and the last two years as Chair with these four members. I can tell each and every one of you, as well as all of your constituents and the people watching that we're going to lose a significant amount of leadership come next year out of the Appropriations Committee. Senator Harms who has been a staunch defender of rural Nebraska and a thoughtful long-term thinker for our state; Senator Conrad who has advocated for those who sometimes don't have a voice in our state government while trying to maintain a sense of balance in regards to state priorities. Senator John Nelson who has been...by far been the defender of humanities, arts, and culture while trying to keep a mindful eye on our aging population. And Senator John Wightman, obviously Senator Wightman served as Chairman of the Executive Board, but Senator Wightman tried to provide our committee, over the last six years, a sense of balance, a balance of both urban and rural; trying to make sure that we keep in mind our healthcare providers in the sense of looking out for the long-term nature of our Medicaid system while still trying to ensure that we put forward a responsible, moderate budget. Colleagues, these four members are friends of mine; hopefully, they're friends of yours. And this budget that we drafted has their fingerprints, their imprints, their remarks, their comments, their passions, their visions nestled within

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it; they're intertwined within it. We're going to have a debate over the next couple of days in regards to, ultimately, what the Appropriations Committee decided to put forward for this body as a strategic road map for the next year and a half, as well as future years. But I want to commend these four senators more than anything else for their eight years of service on this committee. They've weathered the worst economic recession this state has seen. They've been put in situations to have to make gut-wrenching decisions between protecting our most vulnerable and trying to stem off tax increases. And they've done so with a thoughtful eye, not just the short term, but to the long term. Some of these members have been mentors to me, have been good friends, and they will be missed. But when they leave the Legislature and they leave the Appropriations Committee and they leave a budget for this Legislature and future legislatures to consider in the years ahead, they've kept a mindful eye to the future. And that's something that I think all nine members of our committee can be proud of. That we provided this Legislature a balanced, sensible approach to the short term and to the long term; that we have tried to address some over arching issues that our state has failed to address in the previous six years. From trying to start the long arduous process that all of us know will entail in regards to future water funding and water policy, we've tried to begin that process. To address a backlog of deferred maintenance projects in our Game and Parks system where we've had an administration who has not moved on that issue, this committee has put forward a proposal to start to address that. When we started...my class started in 2009 with the loss of over \$50 million in federal funds due to the mismanagement of the Beatrice State Developmental Center, for many of us we've never heard of the developmental disability waiting list. Through the hard work of the special investigative committee, Senator Lathrop, Senator Harms, Senator Karpisek, and many others who brought this issue to our committee every single year, we try to begin forward progress on that, of an additional appropriation to whittle down that 1,700 waiting list of Nebraskans with developmental disabilities who are waiting for their government to help them. A couple of other items I mention in respects to priorities that we've heard in other committees, we're going to have a debate on property taxes and the property tax credit program. I appreciate the hard work my colleague, Senator Hadley, and members of his committee, as well as members of the Tax Modernization Committee did over the interim trying to identify ways to reduce the reliance of property taxes. The property tax credit program is one of the only few options we have this biennium. It's my hope that the Revenue Committee will look at other options for us to be able to have more flexibility next biennium and years afterwards to provide more targeted property tax relief outside of what the Appropriations Committee included in our preliminary budget. Lastly, there's an overarching policy that the Appropriations Committee took this year to help set the stage for what we feel is responsible, cautious, conservative fiscal policy for years to come. That is protecting and being very judicious in the use of our Cash Reserve Fund. There's been numerous reports that have been put out by think tanks from the Pew Center on the States to the state budget fiscal crisis to many others that have educated states across the country in regards to the unique fiscal nature after the great recession that fiscally states right now are seeing a revenue

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volatility of revenues dramatically increasing and revenues dramatically decreasing based on capital gains income, based on changes in the federal income tax code, as well as different aspects of the federal income tax in relationship to the state income tax. What the Appropriations Committee has done on our recommendation, is to use the Cash Reserve for onetime purposes only. Onetime infrastructure, onetime programming needs with a clear line being created--we're not utilizing this fund for ongoing government expenditures or ongoing tax changes. That's not responsible, that's not good fiscal policy, and the numerous think tanks nationally and organizations who have been encouraging states to do what we're doing in our budget recommendation speaks volumes. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR MELLO: Lastly, I would be remiss not to thank our outstanding, dedicated, thoughtful Legislative Fiscal Office staff. Talk to any member of the Appropriations Committee, talk to any member in the body who has had to do a work on a fiscal note, work on a piece of legislation, and this Legislature cannot operate without the people that you see sitting underneath the balcony. Their historical knowledge, they're very nonpartisan, nonjudgmental perspective of how to move policy and fiscal policy and make it work is second to none. From Mike Calvert, our legislative fiscal analyst, to Tom Bergquist, our deputy analyst, to all the other analysts that are sitting underneath the balcony, I thank you. It's been a tremendous two years. I've learned more from your insights, from your knowledge, your humor, and your general direction to not just myself, but members of the committee and the Legislature as a whole. With that, I'd urge the body to adopt LB905. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Mello. As the Clerk stated, there are amendments from the Appropriations Committee. Senator Mello, did you want to open on those amendments? [LB905]

SENATOR MELLO: I would, briefly, Mr. President. Thank you, Mr. President and members of the Legislature. One item I wanted to address separately was no doubt the letter that senators may have received from Director Gerry Oligmueller from the Department of Administrative Services, Budget Office. What is being offered on a general notion of adjusted spending as outlined by the DAS Budget Office is largely, colleagues, an argument of convenience. This Governor has consistently signed off on the practice of transfers from the General Fund to expending cash funds such as the Property Tax Credit Fund and the Nebraska Capital Construction Fund without a single protest. I remind you, colleagues, without a single protest, while the current Lieutenant Governor presided over the Appropriations Committee for six years. Not one single protest over six years as our current Lieutenant Governor served as Chair of this committee and followed the same fiscal policy that lays before you, that laid before you last year, and the previous six years. The transfers of the Oligmueller letter itemizes in

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many cases involved projects that will have expenditures in several years following FY'14-15. And the existing funds already in place designed to capture assets for specific purpose such as job training, transfers make sense in the amounts specified to a more fully capitalized multiyear costs such as the three years worth of costs that we put in the budget for the HVAC system or take advantage of an already in place cash fund structure. The Appropriations Committee budget proposal, colleagues, opted for disclosure of these transfers from the Cash Reserve Fund through the General Fund requiring disclosure and the financial status of the pass through of the Cash Reserve through the General Fund. In the alternative, if such transfers had been made directly to the expending Cash Fund, which we could have done, the transaction would have never shown up on the General Fund's financial status. And that is a very clear point that counters everything in the Oligmueller letter. Also, I find it ironic that the letter that members should have received fails to recognize any tax relief that is provided by TEEOSA based on...that appears that the Governor feels that any money put in public education is simply spending and has no direct connection to property tax levies at the local level. I want to be diplomatic in these remarks, colleagues, because, obviously, receiving a letter from the Governor's budget office over the lunch hour before we start budget debate, there was an intended purpose. And the intended purpose was to try muddy the water, to try to show that the budget that you have in front of you is simply out of wild, out of crazy, out-of-line spending. In which if you look at the actual letter, colleagues, it's ironic that they don't incorporate the differential between general funds, cash funds, or federal funds. For an example, the Developmental Disability State Ward Pilot Project that the Appropriations Committee put in our budget, that was an initial request from the Governor's HHS Department. They withdrew the request the beginning week of session so Senator Bolz introduced a bill to keep that as a part of the budget process and discussions. Out of that \$3 million spending the Governor says on this letter, \$520,000 is General Fund; the rest are existing cash funds and existing federal funds. That's something to keep in mind as, obviously, you look through this list and there's some components here that simply throwing everything at a wall and hoping that it sticks is really what you see, unfortunately, in this letter. But my main point, in the nine years that Governor Heineman has been Governor, this has never been an issue: the way we've accounted for our financial status, the way our Legislative Fiscal Office provides this body and the state at large a General Fund financial status, and how we account for General Fund transfers in the budget; not once in nine years until today. Keep that in the back of your minds, colleagues, as you reread this letter and you're able to be able to view it in the political prism in which it was drafted. With that said, Mr. President, I know we're going to have a number of conversations about budget items. More importantly, as I did mention and thank the four outstanding senators who will be leaving the committee, I do want to extend my appreciation to the other members of the committee who worked hard, who did their due diligence, who came to committee hearings, Executive Sessions, posed thoughtful questions to constituents and those who testified at the Appropriations Committee hearings. This is a budget that I'm proud of, and, hopefully, this is a budget that you'll become proud of, because it addresses key

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priorities that have been in front of this Legislature for a number of years. And while it does not solve every issue, it does put us on a path to start to address long-standing concerns, long-standing challenges and sets a pathway to the future that helps to protect some key investments that the state has made over a number of years, while providing plenty of room for the over \$27 million we have for Revenue Committee bills. Plenty of room right now for changes to TEEOSA; plenty of room right now to address prison reform and juvenile justice reform, those items being the three large budget items that we will see after we pass the budget. With that, colleagues, I'd urge you to adopt AM2019. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Mello. Mr. Clerk for an amendment. [LB905]

CLERK: Mr. President. Senator Hadley, I have FA243, but I think that's the one you wish to withdraw, Senator. Mr. President, Senator Hadley would move to amend with AM2293. (Legislative Journal page 842.) [LB905]

SENATOR KRIST: Senator Hadley, you're recognized. [LB905]

SENATOR HADLEY: Mr. President, members of the body, I stand not to blow up the budget. I don't stand to blow up anything. I want to make some points. We spent a lot of time this past summer and fall traveling throughout the state of Nebraska listening to our constituents, listening to what they had to tell us about our tax system. And one of the things that we consistently heard was concerns about property taxes. We heard it in Scottsbluff, North Platte, Norfolk, Omaha, Lincoln. We heard it from farmers. We heard it from the elderly, workers, commercial owners, all had concerns about property taxes. And I have to admit that I'm probably part of the blame because this is my sixth year here and we haven't done anything to really help the property taxpayers of Nebraska. And I think it's time we do something. First, let me tell you the problem as I see it. We have done a couple of things that exacerbate the property tax problem. One is to balance our own budget a few years ago, we cut aid to cities and counties. Those are the people that, at times, depend on us. We balanced our budget by cutting their aid. Where did we expect them to go? Your county board member, your only basic source of income is property taxes. The other thing, and it's a really very difficult problem, is school aid funding. I think Senator Sullivan will agree with me that we heard across the state the school aid funding is important to the citizens of Nebraska, but the method we're using is probably not the best method to fund it, because we're shifting more and more of the burden to property tax to the extent we're getting closer and closer to half of the school districts being nonequalized. This is a real problem in our ag counties. We have this more importantly being...leaned upon because of the fact that we have rising land values. And we have a system that captures those rising land values and leads to higher property taxes. In many of the counties in Nebraska, we've seen ag land values go up 20, 30 percent a year; property taxes going up 20, 30 percent a year. I realize that ag has had some good years, but it doesn't take long at 20 percent increase in property

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taxes to know that there's a problem. And there's a problem in the cities also. Our elderly are working, middle class...so we have the Property Tax Credit Fund. This started back in 2007 at \$105 million; it was raised in 2008 to \$115 million, and hasn't been changed since. It's a way to get money back to every property taxpayer in the state. It reached its high at \$86.13 per \$100,000 evaluation. Direct credit, it's not run through the taxing authority; it's not run through the school district; not run through the city; not run through the county, NRDs, ESUs, community colleges. It's a credit on your tax bill paid for by the state of Nebraska. The taxing entity does not lose taxes. In 2013, this was down to \$65.97. It had fallen about \$20, about 25 percent of the value had gone away to the property tax owner. In the bill is a \$25 million increase. This would bring it up to \$74.11. I'm asking for an increase of an additional \$20 million to bring it up to \$45 million of property tax relief, which would bring the credit per \$100,000 value to \$84.70 which is very close to what it was originally. So I'm not asking that we give suddenly the property tax owners a bigger break, we're trying to get them back to where they were in 2008. I think they deserve that. I'm not saying that the Appropriations Committee was incorrect. I think there's just different viewpoints of how much we can spend. And, ultimately, this is the beginning of the conversation we're going to have this year, next year, the year after that, and as time goes on, because it's going to be the conversation about how much we can expect the taxpayers of Nebraska to spend to keep the programs going in the state of Nebraska. And that has to be a balance, there's no right or wrong, it has to be a balance. Right now, the Revenue Committee, which I am proud to Chair, it's a great committee, has pushed out about \$31.5 million of tax credits...or tax reductions for people. The year after that will be about \$52 million; we still have a couple more there. But the point I'm bringing is that we have to decide and we have to have a discussion. What do we expect the people of Nebraska, the citizens of Nebraska to pay for and how much are they willing to pay? The last thing we need in Nebraska is some kind of taxpayer revolt, a Proposition 13 like they had in California that decimated their school system; or other states that have had lids put on their property taxes that have caused them undue harm. We have to rationally look at this. And that's what I'm asking you to do on this. You can certainly disagree with my opinion and I understand that. I think there's arguments for the number, against the number, it's just a judgment call is what it is. But part of it is sending a message to our taxpayers--we heard you; we understand the problems, and we will continue to work to solve those problems. But just remember, as we try to get a handle on the school aid funding, it generally talks about increased state funding. If you're going to increase state funding, you either have to cut programs or you have to raise taxes at the state level. If you're just going to shift taxes from one group to another, you've got to deal with that problem. With that I would encourage you to support AM2293. I think it's a logical; I think it is based in a reasonable approach, and I would hope that we have a good discussion by the members of this body as what we expect the role of property taxes to be in the state of Nebraska. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Hadley. You've heard the opening to the

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amendment to the committee amendment and the underlying bill, LB905. Those wishing to speak: Senator Nordquist, Conrad, Harms, Wightman, Bolz, Larson, Kintner, and Mello, and others. Senator Nordquist, you're recognized. [LB905]

SENATOR NORDQUIST: Thank you, Mr. President and members. First like to rise and echo what Senator Mello said about the great work of the committee. It certainly is a diverse committee: geographically, ideologically. But at the end of the day, I think we've come forward with a budget that is very representative of the priorities of the committee, but the priorities...also the priorities of the body. And I think a great deal of credit should go to the Chairman himself for working us through that process and maintaining the very even handed approach to it to let the priorities of the body bubble up and...and, as he said, put together the pieces of the puzzle that a budget often is. I was looking over the list that we received from the administration over the lunch hour and it just, I think, reflects that this budget really is a budget of the entire Legislature, even though it came out of the Appropriations Committee, if we just look down the list we have water sustainability funding; we heard in committee from Senator Carlson and Senator Christensen, and certainly Senator Schilz has been very involved in that, a top priority for them this year. We had the Game and Parks maintenance, top priority of Senator Larson; Senator Avery has worked has worked on it, Senator Watermeier brought the bill, and Senator Kintner was a strong advocate for inside the committee. The developmental disability waiting list, certainly something that I care very deeply about, but we know that Senator Lathrop, Senator Harms, Senator Conrad put those, you know, have been strong champions for addressing the developmental disability waiting list. And on the early childhood grant program, Senator Sullivan and her entire committee have expressed support for making that investment, have been very strong behind making sure that we made that a priority in our budget. Pediatric cancer research, I think every one of us in some way over the past year or two with the great story of Jack Hoffman have expressed some level of support for that effort and this is a statement of our body of dollars behind those words. And then the Capitol itself; this isn't the Appropriations Committee's Capitol building. This isn't the Legislature's Capitol building. This is the people of Nebraska's Capitol building and it's up to us to be good stewards of it and make the investment when it's necessary and it certainly is necessary with the heating and air conditioning. So this letter that came, really, at the, literally, the eleventh hour does a great job of highlighting the priorities of the body as a whole, but also prioritizing...or also highlighting issues that have, unfortunately, been neglected for far too long and it has taken members of this Legislature to step up and put their name on bills and introduce legislation say we need to fund these priorities. And that's what we did. As far as the cash reserve goes, I think we very much have taken a prudent approach to maintaining a balance of about 16 percent or \$700 million in our budget. It's lower than where we were as a percent of revenues before we went into the recession. And I can pretty much guarantee you, we will not see another \$600 million handout from the federal government should we have another major crisis. I think we can all agree that the days of stimulus are over. We had a bigger cash reserve at that time; we

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received \$600 million of support and we still had to make deep cuts and we eliminated things we can't eliminate again. We can't go back and get rid of county aid and city aid a second time. That option is gone. So that is why it is more important now to have a robust cash reserve. I think every financial adviser would tell us at our homes we should have six months of money in a savings account and an emergency fund. This gives us two months as a state of emergency savings. As far as the specific amendment that's up right now, the growth in spending since '08 in General Fund budget has been 2.5 percent with the \$25 million increase we have put into the Property Tax Credit Fund. We would grow that fund since '08; it would be a 3.3 percent increase. So we would be growing the Property Tax Credit Fund faster than the budget and that, probably, certainly is right. But to say that it's insufficient, I think, is incorrect. And I was a member of the Tax Modernization Committee and served on the property tax... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR NORDQUIST: ...subcommittee with Senator Sullivan, Senator Campbell, and Senator Hansen was our Chair. And the one thing that was apparent to me is as legislators our hands are tied by the state constitution when it comes to...we need to have proportional and uniform property taxes outside of the specific ag provision that allows us to adjust that rate. That's why I introduced LR423CA which Senator Schumacher has prioritized to give us more flexibility, because in every other area of taxes: sales taxes, income taxes, we can go in with a scalpel and address policy in a very targeted way. We don't have that ability now. That's why I'm not strongly in support of putting more money into the Property Tax Credit. I would much rather come back next year...first go to the voters, and then come back next year with some policy...with the ability to address policy in a much more targeted, tailored way and give us options to really look at. There are a lot of concerns about the property tax credit. We're taking income and sales taxes from some Nebraskans and redistributing it through property taxes to other Nebraskans. [LB905 LR423CA]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR NORDQUIST: Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Conrad, you're recognized. [LB905]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of LB905 and the committee amendment, AM2019. I rise in opposition to AM2293 offered by my good friend, Senator Hadley, but more about that later. To echo some of the other committee member statements, I am incredibly proud of this effort that we've put forward for your full consideration, deliberation, debate, and, ultimately, adoption. Now our package becomes, hopefully, your package as we all have a shared

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obligation and shared responsibility to act on our budgetary issues. This budget is conservative. This budget is responsible. This budget is balanced. Folks, the fact is this, Nebraska was recently ranked as one of the...as the best prepared state to meet future financial challenges. That's a ranking that we should all be very, very proud of. And I think that this budget proposal helps to support that important consideration. By maintaining a strong cash reserve, attending to existing obligations, and making targeted investments to improve our great state are all sound policy. And that's what we have before us--policy. Folks are entitled to score political points however they see fit by using political statements that they generate. But folks, we're not in Washington; we're in Nebraska. We don't have an out-of-control spending problem. We have a balanced budget. We always have, we always will due to the fiscally responsive nature of this body and legal constraints that help to guide us. And if people want to have a political debate about some of the specific items contained within our overall budgetary package, I welcome that debate, because when you look through the list of items that have been identified and you buttress that against, say for example, key priorities of others, like significant tax cuts for the most wealthy, I disagree. I think Nebraska should take care of its obligations in regards to keeping our treasure, our beautiful state Capitol beautiful for generations to come. We have yet to tackle the significant challenges and obligations in our water policy that face this state, this budget makes a historic leap forward through those investments. I have yet to see a plan from others as to how we address the significant backlog of millions of dollars worth of projects that haunt our beautiful state parks and that, in fact, have contributed to them being shut down in the interim period depriving us of revenue and depriving us of that showcase for the tourism industry and our citizenry. And if you want to have the debate about what's more important, taking care of citizens with developmental disabilities or ensuring that folks like Warren Buffett and Pete Ricketts get a tax cut, I welcome that debate. Bring it. Now is the time. And I will always, always, always fight to meet our legal and moral obligations to our most vulnerable citizens as evidenced in our budgetary package. Increasing our investments for early childhood education are widely established as some of the most important dollars that we can spend. Not only to improve quality of life outcomes, but because it saves us money down the road in our education system, in our criminal justice system... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR CONRAD: ...and beyond. Thank you, Mr. President. Friends, this is a responsible, conservative budget that was crafted in a consensus manner and I'm very proud of it. Specifically in relation to the amendment that is before us, let's put it in context. There's about \$115 million in the property tax credit program in the current budgetary cycle. Our budget proposal increases that by \$25 million a year. Senator Hadley is asking to increase that by \$20 million more. At a price tag of \$20 million more per year, which shows up as increased state spending mind you, that gives the average taxpayer an additional \$10 to \$12 on their property tax credit. So that's the context that

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we're talking about here. And don't forget, the state doesn't collect property taxes. We collect income and sales. So we're taking that revenue and we're redistributing it through a property tax credit program that goes out, yes to all, even absent property owners who may not have contributed the income or sales tax that we're using to pay for that program. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR CONRAD: Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Conrad. Senator Harms, you're recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of LB905 and the amendment, AM2019. I'll talk a little bit later about the amendment that Senator Hadley has talked about. And, colleagues, this is a budget of the future. The issues and the items that we've placed into this budget are budget items that prepare us for the future. We have waited way too long in order to deal with some of the issues that we're confronted with and we can't wait any longer to deal with these issues. You think the dollars are high now, they'll be extremely high five years from now or ten years from now if we don't start to address the issues that we have built in this budget. I believe after eight years, a second year budget, this is one of the strongest budgets we have built, colleagues. A great deal of thought has gone into the preparation of this budget. Water Sustainability Fund and the kinds of issues that Senator Carlson has brought forward to us and Senator...the other senators that have been involved in this aspect. Water is the issue of the decade. Water is one of the most important resources we have today, and the problem with it is that we do not have enough research. We don't have enough comprehensive science that has gone into the study of water in Nebraska. We have a lot of different studies that have been done, but we haven't tied those together. So we don't know about our Ogallala Aquifer. We don't know how surface water relates to the underground water. And if we continue to draw the water out in our sprinkling system and irrigation, how long do we have? How much water do we have in the aquifer, colleagues? That's a question that we have to answer. We have to turn to science to do this. And this is the only way we're going to be able to do this. If we let this go by this time, colleagues, we will be sorry. Where I live, we still don't know the research in regard to the aquifer. We're not under the Ogallala Aquifer. Box Butte has an aquifer that's in a shell, it doesn't leak. They're draining it out. What's the alternative crops going to do there? What is the science that belongs in this aspect to help us control that? That's critical to us. Don't pass this up, because 10 years from now, whoever is on this floor will be sorry. Game and Parks, it's embarrassing. It's embarrassing to us in this Legislature and the policymakers that we've let our Game and Parks facilities just deteriorate. There are places where it's really hard to use because the weeds are grown up. And you know with the cost of living going up like it is

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today, with families having to pay more for fuel and now with beef going up and all the other kinds of things they have to do in the grocery stores, they're going to turn closer to who? So I think it's important for us to make that investment now, because it's not going to get any better. We have many places in our Game and Parks that's not even handicap accessible. What does that say about us a policymakers? What does that say about where we need to be and the decision that we need to make. This is important to the development of Nebraska. The one that's very close to my heart and that is the fact of the developmental disability waiting list. I remember when we got into this issue and we really discovered it through Senator Lathrop's leadership in the Beatrice issue that we were dealing with. I happened to be on that committee. When we discovered how many people we had on the waiting list, I was shocked. I couldn't believe that the people who needed these services, we were just simply turning our backs to; we simply let it go and we made a concerted effort to correct that. And each budget year since then we've tried to add more dollars into that issue. We're not there yet, but we're a lot better than we were today. I don't feel as embarrassed as I was eight years ago... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR HARMS: Thank you...when we discovered that particular issue. We cannot let the handicapped and the people who depend upon us to have services. We have a lot of parents whose concern they're aging, they're concerned about their children. They're concerned about Jane and Bill, who's going to take care of them when they're gone? We cannot walk away from that particular issue. Early childhood development, colleague, early childhood development, I think, is critical to us. We now understand from zero to five that that's the greatest learning span in a child's life and that's where all the neurons are developed in a child. That's where we determine what's going to happen with their intelligence and their health and all the issues that go on in a child's brain is...happens during that span of time. We have so many children coming into our public school system that quite frankly are not prepared. They're not ready for kindergarten; they can't communicate, they don't know their alphabet, they don't know how to even communicate with their own children, their own children...their age in kindergarten. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR HARMS: Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Harms. Senator Wightman, you are recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I rise in support of LB905. I will discuss a few of the issues that I think are important throughout the state and certainly to my district. The Water Sustainability Fund has been

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discussed. We appropriated \$21 million in our committee for that and then a separate \$10.5 million for natural resources development. This is important to all areas of the state of Nebraska, but certainly important to the agricultural area of the state of Nebraska. And it's less than we were asked to bring before the entire body, but that was about all we could afford to do and so we ended up at that level. Game and Parks, you heard Senator Harms discuss that and how we have let our parks go down. There is a substantial amount of money in that that would go to Nebraska City and then we would no longer have a part in that Arbor Day Park there, so another big issue, and that was discussed a long time in our committee. The Capitol HVAC system, this is going to be a 10-year project. We're, basically, just starting at this point. We're appropriating \$11.7 million which is what they would need for the first three years of their operation, but that total is about \$77 million...a little over \$77 million that we would have to appropriate to complete that over a 10-year period. Developmental disability, Senator Harms discussed that very well that we have this long waiting list that I think had 1,700 people in it. We finally reduced that to about 1,400 people. And it's a major expense, but it's one that if we don't do it and...I agree with him, that it's been pretty much an embarrassment on where we have been on that in the past years and we're making some 2 percent increase in order to try to cut the numbers of people that are still waiting. Pediatric cancer research, we're...this is a big thing in the out-state Nebraska, I'm sure it is all over the state, but we have one of the highest rates of childhood cancer anywhere in the United States. And so it's not a big amount, but it's \$1.8 million. If it was coming out of my pocket, it would be a pretty substantial amount. I agree on the early childhood program aid that we're talking about doing. And again, I'm going to be considering my area a little bit and how this affects them. We have in Lexington, where I live, the highest minority population percentagewise in the state of Nebraska. And having those children learn...start to learn English, even at a preschool age, and of course we have many, many children coming in every year that are new, but it's very important that they have that preschool education in order to get them to where they can compete at a normal level when they do get into kindergarten and beyond. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR WIGHTMAN: Going on, the court employee salary, for example, we have \$2.0 million, the Governor pointed out, that was in a year ago and we did not see fit to try to override the Governor's veto on that issue, but I think it's important that it go in now. Historical Society records location, we have \$1.2 million in for that. This is an absolute necessity because water damage, it could really affect those long-term records that have kept there. And so I'm going through a few of the issues; there are many others that the Governor points out. I will not support the property tax credit being raised by \$20 million from where we are; we had \$25 million in there. With that... [LB905]

SENATOR KRIST: Thank you, Mr. President. [LB905]

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SENATOR WIGHTMAN: ...thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Mr. Wightman. Senator Bolz, you're recognized. [LB905]

SENATOR BOLZ: Thank you, Mr. President. I too rise in support of a budget that I think we have put together thoughtfully and a budget that I'm quite proud of. And I am proud of it because I am reminded in this budget how blessed we are to live in a state that has a strong economy. We are in strong economic footing. We have a low unemployment rate and strong economic growth. And our budget builds on some strategic choices that will continue to grow our economy. As a member of the Tax Modernization Committee, I'm reminded of the words of Dr. Sims and Dr. McGuire who reminded us that economic growth in the twenty-first century will be predicated on the citizens of the state having the skills and the education they need to contribute to a knowledge- and a technology-based economy. Further, we need to invest in quality of life because jobs can go anywhere in today's fast-paced global economy. So this budget builds on some strategic choices. I should remind you that last year we negotiated a tuition freeze for postsecondary education because we believe in these types of strategies. This year we have invested significant funds in our Job Training Cash Fund; in the cash fund that provides customized job training to businesses that want to grow and expand and provide good jobs here. Further, we continue the business in a small business innovation act which provides for economic gardening which helps us build jobs from the ground up. And we've invested in water infrastructure. And I don't need to remind the people on this floor of the importance of the agricultural economy to Nebraska's economic wellbeing. So sustainability and reliability, those are the things that we're pulling for for economic growth. And we need to remember that a sustainable, reliable budget is one of the things that businesses look for. And that's why we need to pay special attention to maintaining our cash reserve, to making sure that we can stay steady into the future and deal with any economic downturns that might come our way. Colleagues, I think it's very important for us to see the whole picture. We need to continue not only to grow our economy and to invest in those strategies, but also to maintain quality of life, whether that's through our public schools or through caring for the most vulnerable or for planning for the future with our aging population or to protect public safety. And that's a discussion that we're going to have on this floor in the next few weeks. And this budget puts more dollars into probation officers to make sure that our communities, our neighborhoods, our blocks, our cul-de-sacs stay safe because probation officers are keeping tabs on folks who are reentering our society. Further colleagues, I think it's important that we see the whole picture in terms of the Tax Modernization Committee discussion. I brought my notes up to the floor today from the hearings that we held across the state. And I took notes on nearly every testifier. They're sitting here with me and I reviewed them this morning. Certainly property tax relief was something that we heard. Certainly that was a theme. But, colleagues, our constituents didn't speak with one voice. We need to think about multiple strategies to achieve multiple goals in the field of tax fairness. Senator Krist's bill provides some

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solutions to problems that we heard about occupation taxes. I supported Senator Dubas' bill which we heard about time after time again in terms of decreasing taxation on agricultural machinery. Senator Hadley has a bill on social security taxation and I look forward to hearing debate about that on the floor. Colleagues, there was a multifaceted debate. There was lots of discussion in the Tax Modernization Committee. We need to make sure that there's room from multiple strategies in addition to the property tax credit programs. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR BOLZ: Colleagues, just like Coach Miles, we need to build on our strengths; we need to create a new vision for Nebraska and to become a place that people never thought we could be. And I think this budget is a great step towards building a bigger, better, brighter Nebraska. I'll yield the remainder of my time to Senator Conrad if she has any additional thoughts to add. [LB905]

SENATOR KRIST: Thirty-five seconds. [LB905]

SENATOR CONRAD: Thirty-five seconds...well said, Senator Bolz, and thank you. I do appreciate the extra time and your hard work as a committee member. I do, colleagues, want to continue some of the dialogue about the thoughtful nature that Senator Hadley always exhibits as a legislator and I want to thank him for that, even though I rise in opposition to his amendment, because his amendment offers a critical choice. Do we want to move forward with \$10 to \$12 per year for the average homeowner or do we want to fund prison reform? Do we want to move forward with \$10 to \$12 in additional tax relief for the average homeowner or do we need to do more on education? Do we need to do more on public safety? [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR CONRAD: Do we need to do more in other areas? That is the choice before us. Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Bolz and Senator Conrad. Senator Larson, you're recognized. [LB905]

SENATOR LARSON: Thank you, Mr. President. I too rise in support of LB905 and AM2019. This was my second year on the Appropriations Committee and I thought that it went much better than the first year. This is a budget that we worked hard to build consensus on. I don't agree with everything that's in the budget, but as my colleagues have said, on the Appropriations Committee, it is a good budget and I am proud of it. Like anytime on this floor, weird alliances get built in committee, on the floor, and politics make strange bedfellows. I think on a lot of...certain issues, by no means all

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issues, Senator Conrad and I agreed a lot this year on things that we didn't need to spend money on. But we also disagreed on other issues. I view LB905 and AM2019 as truly investing in the future. Much of which with onetime cash fund...cash reserve dollars and not having a significant impact on future General Fund expenditures. Job training, I think, almost every member of the Appropriations Committee has touched on. It's something that is extremely important all across the state of Nebraska and there's a significant amount of money going to job training in the budget. Water, one of my personal priorities within the budget. We heard great testimony from Senator Carlson and Senator Schilz on the need to invest in water to ensure a healthy future for agriculture in the state of Nebraska. And we did that. We put ourselves on course to continue to lead in agriculture. That's what AM2019 does. Property tax relief, bar none the number one issue I hear in my legislative district. Is \$25 million enough? That's up for the body to decide with AM2293. But \$25 million is better than nothing. And I understand Senator Conrad's concerns, but we had to have additional property tax credit relief and \$25 million in 2019 is that. And Game and Parks--\$44 million in deferred maintenance, AM2019 carries \$17.5 (million) of onetime cash reserve spending. And many of those things, again, I can't remember if it was Senator Conrad or Senator Nordquist or Senator Harms that mentioned many of our parks are either noncompliant... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR LARSON: ...with the American Disabilities Act, or people with disabilities cannot access them. AM2019 and LB905 is investment in the future. I consider myself very conservative, and last year watched the General Fund spending very closely. And I think my committee members will attest to that. But I also understand that at times you have to invest with that onetime spending for the future or else it will be more expensive as we move forward. So I will support all the budget bills moving forward because we invest in the future for my children, many of your grandchildren, and my grandchildren as well moving forward. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR LARSON: I appreciate the time, thank you. [LB905]

SENATOR KRIST: Thank you, Senator Larson. Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. You know, I was the only member of the committee to vote against the final budget package. I want to take this opportunity to explain my thoughts. My decision did not come easily. Easy for me would have simply been to vote "yes" and sit quietly during this whole debate and be content that the items in the budget that I do agree with get funded. I value and respect my

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colleagues on this committee. I cannot say enough about the level of sincerity and intensity that we all bring to this difficult task of putting a state budget together. As I said during last year's debate, the Appropriations Committee has some wide, philosophical differences. Yet we sit and we work and we argue and we make decisions. Last year I voted for the budget. I was not comfortable with the total budget growth, but on a whole our state was coming out some very difficult budget cutting and budget containment cycles. So I was comfortable that we funded the key priorities and A&C operations for two years. This year I went into the budget cycle believing that we would make the necessary, but overall small adjustments to fine tune the two-year budget that we set last year. The budget proposes growth, but I'm just not comfortable with. The committee's document shows spending at a 5.7 percent in the current year, 5.3 percent in the second year, and 5.5 percent over the biennium. On the surface it sounds reasonable. However, unlike prior years, this committee recommendation does not include General Fund spending for TEEOSA school aid. If the \$33 million needed for LB725 was included in the committee package instead of bringing \$91 million...or putting \$91 million on the floor to spend, then the committee spending percentage would be 5.7 percent the first year and 6.2 percent the second year. The two-year average would jump to 5.9 percent. Colleagues, this amount of spending is before we start to consider final passage of every priority bill. I support many of the important priorities including this budget: money for property tax relief, water, corrections, the important state park maintenance projects. However, there are a lot of other spending items including numerous entire legislative bills that are a part of this package. This is getting close to what we see in the federal system in Washington in Congress. In order to support the things I like, I'm being asked to support a whole lot of items I do not like. I've already had negative media releases issued saying my "no" vote in Appropriations is a vote against property tax relief and against every single item in the budget. I don't play that game. In the end, you all make personal decisions on these bills. I had to dig deep on this one. It's not fun to be the lone vote on your only committee, but I've stood on thousands of front porches of my constituents in Legislative District 2, I've looked them in the eye and I've shaken their hand and promised them that I would fight for the interest of the taxpayers. Fight to control state spending. And for me that promise starts right here, right now. Thank you, Mr. President. [LB905 LB725]

SENATOR KRIST: Thank you, Senator Kintner. Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I want to start off my remarks again as I tried to do that a little bit in the opening of thanking the hard work that Senator Hadley has done as Chair of the Revenue Committee. I know, as a member of the Tax Modernization Committee, he went through an awful lot as the leadership of our committee to help steer us in regards to conversations, proposals, and, ultimately, the report that we provided this Legislature where a majority of the members of that committee signed a document saying that we felt these were good

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fiscal and tax policies that the state should consider moving forward. There were members who didn't support the Tax Modernization Committee Report for whatever reason may be. And I think with what you'll see that's come out of the Revenue Committee this year, there's a significant number of proposals that start to address those key recommendations. And I think Senator Hadley needs to be able to take a bow, even as we discuss the budget and his amendment in front of us, in regards to shepherding through what he and many other members of that committee said we were going to do. We were going to try address a significant number of issues of sales tax exemptions that were part of the pyramiding scheme; trying to address changes in our income tax code for indexing purposes; addressing social security income of trying to reduce that on seniors; looking at a variety of options for property tax relief from TEEOSA to the property tax credit, to even looking at ag land valuation, as well as looking at circuit breaker concepts. Like every other amendment that's come into the budget last year, I obviously can't support an amendment on the floor that changes what the Appropriations Committee has put forward. As I've mentioned multiple times, I think the amount that we did in the Appropriations Committee proposal from Senator Davis' bill that he brought the committee was general funded and it was ongoing. Two proposals that were brought to our committee used onetime cash reserve transfers that, arguably, were a fix, but we know that we would have to pay for them ongoing because we have never put money into the Property Tax Credit Fund, colleagues, and not made it ongoing. We've never done a onetime transfer and make it a onetime appropriation. It's always been ongoing. And I want to bring everyone quickly to the floor debate on April 17, 2007, when this entire fund was created by the Legislature, which many of you who are now term-limited were part of that conversation. Then Senator Ray Janssen, Chairman of the Revenue Committee, said in 2008-2007 the credit would consist of \$100 million which would provide about an 8 cent levy reduction for every \$100 of property value. The credit would be continued in 2008-2009 with funding of \$50 million creating about a 4 cent reduction for every \$100 of property value. Amounts after 2008 would be set by the Legislature, but I would hope that future legislatures would continue to provide funds for property tax credits at least until the next economic downturn and we don't know when that's going to happen, end quote. Colleagues, at the end of the 2008 fiscal year we went into the Great Recession where the Legislature and the state went through a three-year process of cutting well over a billion dollars in our state budget. But one thing the Legislature didn't do was the Legislature didn't cut this fund the way that the Legislature created intent to allow that to happen. It was created saying if we go into bad economic times, this is a onetime thing, we hope the Legislature will continue to fund this, but we know economic times may necessitate you not doing that. There are other priorities to keep government functioning and we want you to do that and we understand that we won't fund this at the \$100 million level in 2007. On the contrary, the Legislature increased the funding the second year and we've kept that funding ever since, because the reality is, if we put money into the fund, we know if you take it out... [LB905]

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SENATOR KRIST: One minute. [LB905]

SENATOR MELLO: ...it is perceived as a tax increase. And so while I appreciate what Senator Hadley is trying to do with his amendment, I think what we're doing in the Appropriations Committee proposal understanding that there are \$31 million of Revenue bills that are coming out of Revenue that we wanted to make sure there was funding available for the floor to pass those bills because their impact is next biennium mostly. We wanted to try to take a measured approach to give the Revenue Committee to pass their package, understanding that the property tax credit was going to be part of that, but we know we can address the Property Tax Credit Fund every single year. And as Senator Nordquist mentioned, I personally would like to see another proposal that the Legislature consider besides just the Property Tax Credit Fund, because I don't feel we should be giving an unlimited property tax cut to target corporation or other large out-of-state corporations or landowners that we can find a more targeted approach to Nebraska landowners, to Nebraska homesteaders. But that has to come out of the Revenue Committee and not from the Appropriations Committee. And I think we can try to still achieve that this year through proposals in that committee. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Mello. Senator Davis, you're recognized. [LB905]

SENATOR DAVIS: Thank you, Mr. President, members of the body. First of all I want to extend my appreciation to the Appropriations Committee who have worked so hard on LB905 and the amendment AM2019. I think it's a good solid budget. There are always things within a budget that one can pull apart and find fault with, but I wasn't in the room for most of the discussion that took place there and I know they've done their hard work and their due diligence on that. I do rise in support of Senator Hadley's amendment because I represent a part of the state that is most affected by the property tax issues. I've taken a tremendous issue in tax policy over the last year and I attended all of the...almost all of the Tax Modernization Committee hearings and the word we constantly heard was we have to have property tax relief. It was all across the state, but, you know, much more significant, probably, in the west where the economy is strictly ag based. And we've had several attempts at ways to try to solve the ag problem and it isn't something that's easily remedied. There were proposals to lower the rate from 75 to 65 and it results in uneven applications in a particular county that I represent, McPherson County. Doing that would, essentially, give no benefit to agriculture because it's all ag valuation. And all you end up doing is raising the rates. That doesn't mean we don't have a problem in property tax and have something that we have to solve. If Nebraska still has this image of a three-legged tax policy stool, then our structure is out

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of kilter because property taxes makes up 44 percent of tax value taxable profit in the state, taxable revenue. If we're trying to go back to 33, we need to find a way to do that. And I hope that the body over the course of the next year will work hard on that to try to find genuine property tax relief. It's the counties that I represent, Senator Larson, Senator Schilz, the range counties, I think, Senator Hansen, that deal with this more as an issue. And I think I brought this to the attention of the Tax Modernization Committee, but I want to share it with the body here. I have a constituent in Logan County, Nebraska, who has a life estate in a ranch. That means she can't sell that ranch, but she relies on it for income. The gross receipts on that ranch are \$3,500. It's a small piece of ground. She pays \$1,200 in property tax. So a third of her gross income off that property is going to pay the property taxes. And as you can see, if you're relying on that for your income, you're going to be hurting. And a lot of people in agriculture will move off the farm or ranch, lease it out, and rely on that for their income source. A lot of the reason for that is what's happened with TEEOSA and with what's happened to valuations over the last several years. TEEOSA funding has come down and as ag values went up, we saw state aid move away from rural Nebraska. We need to fix that; we need to look at the formula and redistribute it and find a solution to it, because 120 districts are not receiving state aid under the TEEOSA formula. I don't think that's right. The state, like it or not, mandates a lot of the things that happen in school districts, in NRDs, in the counties, in the villages, and so they have some obligation to help those entities resolve their problems. And the property tax credit is one way of doing that. In the '60s when we moved to an income and sales tax-based economy, the idea was we're going to move away from property taxes. But over the course of the last several years, as state government has gotten into trouble, we've simply shift those costs back down to our state. And if you get out to Deuel County today and you find the prisons there are full of marijuana that's been confiscated on the interstate... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR DAVIS: ...the Deuel County attorneys are concerned about how they're going to fund the prosecution of some of these cases and the public defenders are going to be needed because that's going to come out of property taxes too. So we need to find a solution. I'm supportive of the committee, the amendment, but I'd also like to see Senator Hadley's amendment adopted. And thank you. [LB905]

SENATOR KRIST: Thank you, Senator Davis. Those still wishing to speak: Senator Wallman, McCoy, Carlson, Hansen, Johnson, Sullivan, and others. Senator Wallman, you're recognized. [LB905]

SENATOR WALLMAN: Thank you, Mr. President, and members of the body. Senator Davis touched on a very good thing. Some of the reason our property taxes went up is on account of what we did in here. We put assessment deals for schools; we had different programs for schools, mandated programs at schools. Did we fund them

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completely? Absolutely not. No Child Left Behind, did the federal government fund that completely? Absolutely not. So why didn't we pick up the difference? I think the rest of the senators know how I voted on when they kept cutting aid to counties and cities: I voted no every time. And I could see where the handwriting was on the wall, because the local people, local control, was...have to pick up the cost. Most local people do not have any trouble, they can afford it. But when times get tough, like in the '30s, an old farmer in my area said lots of farmland had to be sold because they couldn't pay their taxes. So is that fun to see? I hope it never happens again. And I'd yield the rest of my time to Senator Ashford, if he'd so wish. [LB905]

SENATOR KRIST: Senator Ashford, 3:54. [LB905]

SENATOR ASHFORD: Thank you, Mr. President. This \$20 million...first of all, I'd like to also commend the work of the Appropriations Committee. I served on the committee for six years with many of the same people that are here today working on these issues. There is no question that, should this amendment pass, it'll literally decimate the prison reform effort. The \$13.8 million that is going to go into prison reform, in LB907, is directed throughout the state by increasing the number of day reporting centers, the community corrections facilities in three rural counties in Nebraska, expanding mental health services, and expanding vocational education. The program dealing with substance abuse alone, the expansion of what's called the SSAS program, substance abuse program, throughout the state is anticipated to divert 384 people out of prison in the first year. That doesn't even count...that doesn't even count the mental health piece, which is a major part of LB907. The mental health piece is a \$5 million appropriation to the community corrections facilities throughout the state. And now with an additional three community corrections facilities in rural Nebraska, we will be able to deal with many, many more potential incarcerated individuals. Remember, members, \$37,000 a year...\$37,000 a year per inmate; \$60,000 a year, approximately, for putting somebody in administrative segregation. We are one of the last states in the country to do prison reform; every state around us is doing this. We are...after nine months of working, straight, on this issue with the Appropriations Committee and coming down with a number, \$13.8 million, that will have a dramatic impact on our prison population; with the emergency clause, it will have a dramatic impact on our prison population in year one. To not do that, in the face of what we have seen with 163 percent overcrowding in the men's prison, over 240 percent overcrowding in the Diagnostic and Evaluation Center, we know...we know that this prison system will be sued, the state will be sued for dramatic overcrowding. The initiatives in LB907, \$13.8 million, \$14 million, in LB907, not counting Senator Seiler's initiative for Hastings and mental health facilities in Hastings, will be traumatic, tragic, and will set our state back again, as it has done over the last ten years; we are so far behind the curve that I can't express it, really, in the English language. Please, in all due deference to my good friend Senator Hadley and to those from rural Nebraska who have... [LB905 LB907]

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SENATOR KRIST: One minute. [LB905]

SENATOR ASHFORD: ...seen their property taxes go up, Senator Davis and others, who have dealt with this issue, I get it, but this \$20 million of the property tax credit, without any structural reform in our tax system, is not good tax policy to start with. This tax credit idea, in the first place, wasn't a good idea, because it doesn't have any kind of dramatic impact without structural change. But aside from that, please, members, please, let's not move forward with something that's going to make it even more difficult to bring our prison system under control and make our public safer. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Ashford. Senator Carlson, you are recognized. [LB905]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I am going to talk about LB905, because I'm in support of it and I'm in support of AM2019. But I want to share a few thoughts getting to a specific in the budget. I think that as a state we have a definite responsibility, and probably the number one responsibility is keeping our citizens safe. We need to properly fund education. We've got to have a good system of roads and bridges. And we've got to have help for those people in our state who absolutely cannot provide for themselves; the church needs to do that as well, but we have an obligation. We also need to help those people that, with an incentive, that can provide for themselves but for whatever reason that's not happening now; and I think that there's ways that we can work on that. But now I'm going to go to water. And water is our most important natural resource, aside from our people. But our people cannot live without water. And I consider myself a fiscal conservative, but we do have to make priority decisions on what we're going to spend our money on. And in this process, we say yes to some requests, and we say no to others. That is the appropriation process; that is the process of legislation: saying yes, and saying no. Water is important. Water is crucial. And as a state, we need to be on a path to water sustainability. That's a paramount issue. Now, to me, water sustainability means that on an ongoing process, over time, on average--you have to say average, because we have wet years and dry years--but on average, we don't use any more water than what our supply gives us. And if we're using more, we have two choices: we can use less, we can cut our use; or we can increase our supply. And we must manage our water for present and future generations. Now, to reach a position of water sustainability takes will, determination, and money. And I'm grateful for the Appropriations Committee and the work that they've done. I really do believe they understand the importance of water and a policy of water sustainability. I appreciate what several members have said, including Senator Harms, about the importance for scientific study to determine more about our need to manage our current supply of water and complete those projects to increase our usable supply of water. We can do it with the resolve and determination to get to where we need to be. Money in the budget

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for water is the right decision. It's the right thing for Nebraska. The appropriation starts us on a path to the best position of any state in the United States for manufacturing, for municipal use, for domestic use... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR CARLSON: ...for environmental concerns, for wildlife preservation, for outdoor recreation, for flood control, for water quality, and for livestock, production, and agriculture. I appreciate what the Appropriations Committee has recommended, and I ask for your support of LB905 and AM2019. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Carlson. Senator Hansen, you are recognized. [LB905]

SENATOR HANSEN: Thank you, Mr. President. Members of the Legislature, I would encourage anyone listening, in the body anyway, to turn to page 11, and there's a page in there...or a graph in there...not graph, just a table that shows the balance as a percentage of revenue. And if you...it goes all the way back to '83-84, and it's in the single digits. It finally reaches a double digit in 2006-07. And so when the term-limited senators, as someone mentioned a little while ago, were here in '07, we had a \$516 million cash reserve, and it was 15.1 percent of the budget, in revenues. So we go down, fast-forward, we had a...certainly had a bump downward. It went from 15.1 percent to 15.6 percent up to 17.2 percent, and then in fiscal year '10-11, when it finally...the bottom finally did go out, it was 8.9 percent. It has bounced back to 11 percent, and now they estimate it for '13-14 is 16.6 percent, where we have \$679 million in the cash reserve. That little bit of history tells you a little bit of why in 2007 we did pass the Property Tax Credit Fund...property tax relief credit fund. And it was important. We had \$500-and-some million in the bank; and it was income tax, sales tax that people had paid. They pay their property tax at the local level; that's the only thing that's local about property tax, is that it is all paid at the local level. I do support Senator Hadley's amendment AM2293 to add \$20 million to this...the property tax relief fund. When we did make the trip around the state with the Tax Modernization Committee, we did hear--and it was not a surprise to me, I don't know if it's a surprise to anybody--that property taxes were that important to people, but they certainly are. And another tax that we did not study was occupation tax. Senator Carlson was just on the mike talking about water, how important water is. It is important; it certainly is. And now we get \$31 million infused in the state funds to study water, to come up with a sustainability idea. Well, when those monies are gone, who's going to pay for it? It's going to get paid for by local landowners that have irrigation. The entire section of the Republican River Valley is paying \$10 an acre for occupation taxes. The entire district of the Twin Platte NRD, which is...goes from Keith County to the Dawson County line, is paying \$10 an acre for water projects. These are water projects that someone has come up with to solve a problem; it's solved on a local level through the NRD. But the local people pay for it: \$10

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an acre on all irrigated ground. There were some people really squawking about that when it came in their mailboxes last spring, when their property taxes were due. These ideas are great; water is important. But in the end, it seems like our property taxes are going to continue to go up. We looked...we tried several different ideas; this year we talked about several...to do something about property taxes. Our ag land valuation bill was certainly not a perfect bill. Some districts it did help; some it didn't. Some they thought it was going to hurt and didn't hurt. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR HANSEN: But to raise the amount of taxes...if a school district has to raise their mill levy to raise the amount of taxes that they had last year, it doesn't help. So those districts weren't going to get help by ag land valuation change. Game and Parks: I'm not sure what the total is that we're giving Game and Parks for; we're rewarding bad behavior. They've known about the ADA compliance for years, since the early '70s, but have done nothing about it. They continue to buy land along the rivers for recreational purposes. They continue giving away state parks because they can't maintain them. If this infusion of money corrects all the problems, it would be great; but I don't think it will. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Hansen. Senator Johnson, you are recognized. [LB905]

SENATOR JOHNSON: Thank you, Mr. President. I'll go back when I was serving as mayor of Wahoo and we had the situation where we knew we were going to be cut, the state aid for cities; the counties were affected the same way. By luck, we had a situation that came up and we annexed some property in, and that gave us a little more revenue, so we survived that. But not every community had that privilege, I guess, or had that program come to them. But I'd like to talk about the land...ag land property tax issue and compare that to the cities. In the cities, it's based on recent sales, both city...residential and land. In the cities, we've seen a decrease in some properties because of recent sales because of foreclosure. We've seen a few new homes built, which probably leveled that out. So city property taxes have been pretty flat. So let's talk about the property taxes and how they've changed. There's primarily two groups of landowners in the last five years that have created this. We have the group that's gone out and purchased land and purchased it at a higher price, causing recent sales numbers to go up. I don't know what percentage, but I would say it's less than 20 percent or 25 percent of the landowners went out and purchased new ground at higher prices. So that leaves 75 percent or 80 percent of the landowners that did not go out and purchase any new property at the higher price. But everybody pays that higher level because of recent land sales. So there's an inequity in that. And what caused these land prices to go up? It's the commodity price that drove it. Commodity prices went up; there was cash flow; and so they felt they could go out and buy more ground and pay a little higher for it.

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What needs to be looked at instead of the value of the crop is the production that that land can produce. We're improving our production practices, and crop yields are going up a little bit. But I think we need to look at what that land can produce as far as a quantity and not a dollar value of the...how many bushels can it produce. I think we'll have a more stable barometer to look at than we do if we base it on the cash sale of a property. The owners of property, elderly people, they're going to have to increase their cash rents in order for them to pay their bills. But the tenants right now--with four-dollar corn, four-and-a-half-dollar corn--are going to have to ask that they go down, because of the value of the crop that they're selling. We've created this situation, I think, because of one inequity. And that's how we value it for tax purposes. The other, and I know it was discussed some this summer, was the tie between TEEOSA, state aid for education, and property tax. And I think we really need to look at the way we value property for tax purposes and how it ties in with state aid for education. Senator Davis has done a good job of explaining the schools that are not equalized. The concern I see right now is land prices have gone up; I don't think they've caught up yet with all of the land that was sold... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR JOHNSON: ...so I think we're going to see probably a little bit higher land price values, maybe for another year, before that starts going down. But it's not going to go down as fast as it went up, because we're not going to see the land sales on a declining market...as many acres sold as what we saw when people could get more value for it. I would love to be able to create more support for tax relief. The amendment is to \$45 million instead of \$20 million. I'd love for it to be able to go that way...to that extent. I don't think that will still satisfy the total need. I've had people come to me and say...one of them came and said--my taxes went up 47 percent. And the way I've been getting the questions, I've answered it...or I've asked the question--that's over how many years? And he said--that's just this year. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR JOHNSON: Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Johnson. Those still wishing to speak: Senators Sullivan, Lautenbaugh, Dubas, Schumacher, Nordquist, Conrad, and others. Senator Sullivan, you're recognized. [LB905]

SENATOR SULLIVAN: Thank you, Mr. President. You know, it is hard to talk about a budget without talking about school funding and TEEOSA, because they are truly inextricably intertwined. And there is a lot of discussion going on about how, to a certain extent, it's TEEOSA that's the problem. But I want to call your attention to a few things in the current budget, and I will say up-front that I think the...thank you, Appropriations

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Committee, you've put before us a very reasonable budget. I think it's great that we're having such thorough discussion on it, and I know that when...at the end of the day, we'll end up with a good package. The current budget before you includes \$899 million for TEEOSA funding. I think it's important to note that in the approved budget that we enacted for the biennium there was \$940 million funded for TEEOSA. So what's the discrepancy between the \$899 million that's in the budget now and the \$940 million that was in the original enacted? Well, first of all, I think it reflects what we did with the TEEOSA formula to ramp down school district spending. And they rose to the occasion and did spend less because of those limitations that we put on them. Now, I will also tell you that with LB725, which now sits on Final Reading, per the request of the Appropriations Committee, that we are tweaking again the TEEOSA formula and lowering what's called the local effort rate, which means that...if you lower that local effort rate, that means more state aid goes into the TEEOSA formula; so, with LB725, it takes that \$899 million and adds \$33 million to it. And also, as I said, when you lower the local effort rate--and we're proposing it go down to a dollar--that means that a school district has...the formula says--school district, you have to exact less from property taxes. So in one small way, that is giving a certain amount of property tax relief. It keeps about six school districts from achieving that nonequalized status that's been referred to several times. I am not overlooking the fact that TEEOSA is an issue when we talk about property tax relief. But I am also not losing sight of the fact that this is truly, as Senator Hadley said, a balance. Yes, we heard that there was a need for property tax relief. We heard it at the Tax Modernization Committee; we heard it during the Education hearings this past summer. But we also heard that Nebraskans want quality education, and they want the state to put more aid into funding our public schools. Therein lies the challenge. Therein lies the balancing. We need to put in more state aid to our schools. What are we willing to give up? Or, as Senator Hadley said, are we willing to increase taxes so we can achieve that? Hopefully, in the not too distant future you will be hearing from me my priority bill, which I have referred to several times on this floor, LB1103, which proposes to do a visioning and strategic planning process for education so...what we can identify as our priorities and goals for education in this state. And I will tell you, if we can do that and if we can end up with what we say are our educational priorities statewide... [LB905 LB725 LB1103]

SENATOR KRIST: One minute. [LB905]

SENATOR SULLIVAN: ...then I think that will help us lead down a path of strategically putting resources behind it. But in the short run, I am always cautious about trying to achieve this property tax relief, which I know we so desperately need, and what we are going to give up. Or will we be able to provide the statewide resources? Because we certainly don't want to end up in a situation that Kansas is dealing with right now. So there is a balance needed. And I know that we need to achieve property tax relief, but also provide quality schools. Thank you, Mr. President. [LB905]

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SENATOR KRIST: Thank you, Senator Sullivan. Senator Lautenbaugh, you are recognized. [LB905]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And that was a very timely segue. I, frankly, haven't heard anyone from my district telling me we need to spend more on education; that just doesn't happen. No, strike that; there was one e-mail today saying that we need to support the increased funding on pre-K that was in the editorial yesterday. And who could possibly be against that? I rise against that, and here's why: because, as I've said before at this mike, you are wasting your money on pre-K if you don't get post-K in order. And we are not getting post-K in order. And this is not just my opinion, folks; this is not just something I've dreamt up. The advantages of pre-K, comparing children who don't have pre-K to kids who have had pre-K, vanish if you track them to third and fourth grade and compare them to their experiences in just the garden-variety public schools. Think on that. And it does make sense: if you do not continue with quality education, you lose the advantages of pre-K. And we are being asked to put several million more, in this budget, into pre-K. And I know it's not politically popular to stand up here and say no to something like that. Who could possibly be against spending more on pre-K? It is the quintessential quality education bill, in that it spends more money. It's what we've all been accustomed to looking for in an education bill: spending ever more money. And I heard Senator Sullivan say that she thinks that we may get to her priority bill soon. Yes, we'd all like to get to our priority bills on the floor, believe me. You have a better shot than I do, currently. My priority bill has a relatively small fiscal note. But I've been talking about it all session long, because it has the advantage of providing, where it's tried, quality education for inner-city kids. We're seeing it now. There's practically a war breaking out in New York, where charters have been having success and bringing hope, and the new mayor is trying to shut them down. And the citizens aren't standing for it. And even The New York Times is editorializing against it. We're one of eight states that do not have charter schools. We know what works now. And I have to look with a certain cynical eye when I hear that we are going to have focus groups and more studies and come up with mission statements and whatnot. The thing that bothers me is that we do not find ourselves in a unique situation here in Nebraska. We are not the first state with children. Every state has children. And we cannot colorably (phonetic) call ourselves pioneers in education; that would be laughable. Certainly not in education reform are we pioneers, by any reasonable measure. And now we're jumping on the pre-K bandwagon, because everybody knows that's where we should spend our money. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR LAUTENBAUGH: Senator Harms said those are the most important years, 1 through 5. We cannot write off 6, 7, 8, 9, 10, 11, and 12, however. And in parts of my district we seem content to do that, whether we admit it or not. I'm tempted to ask for a gavel. I didn't, but I was tempted to. (Laughter) But, I'm sorry, this is important to me.

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We cannot embark on a new and expanded pre-K program if we're unwilling to do whatever it takes to put our house in order regarding K and beyond. And for some of us, at practically a cellular level, we are unable to embrace reform and embrace new ideas. And I just don't think we should be spending millions on pre-K when the benefits will vanish if we don't do better post-K. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Dubas, you're recognized. [LB905]

SENATOR DUBAS: Thank you very much, Mr. President. Would Senator Harms yield to a question? [LB905]

SENATOR KRIST: Senator Harms, would you yield to a question? [LB905]

SENATOR HARMS: Yes, I will, Mr. President. [LB905]

SENATOR DUBAS: Thank you, Senator Harms. On this list that we received from the administration over the noonhour, just your experience on the Appropriations Committee, how many of those items are we playing catch-up in? How many of those items... [LB905]

SENATOR HARMS: Well, can I just walk you through the names of them so that... [LB905]

SENATOR DUBAS: ...have we been neglecting, as far as providing adequate financial resources to, that now we're trying to pump those dollars back into them? [LB905]

SENATOR HARMS: Sure, I'd be happy to do that. Game and Parks maintenance is one that has continued to come up over the last few years. The Capitol improvements, the air conditioning and heating and also the windows, has been talked about but never really serious until this year; and we realize that unless we start now, it's going to be a really serious problem in the future and this is the time to actually do it. Job training comes up on a regular basis; the State Chamber has a constant concern with new people coming in that...or companies trying to come in that would have enough training funds in there; and that's one that continues to come up. Disability waiting list is a...that's been there for a long time, as you know; and it will continue to be there, but not at the level that it has, historically, about eight years ago. Provider rates, always an issue; whenever we have to cut, it seems like we reach down and cut the provider rates; and to be honest with you, where I live, unless we put some increases there, we're not going to have providers, third-party providers; they just can't afford to do it; so we've put that off for a long time. Early childhood development just recently has kind of come into the forefront, primarily because the scientists and the research, they've found...and the brain development and all those things are issues that have...we've talked about a little

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bit. And, surprising enough, the Capitol courtyard fountains was an issue when I first came here as a freshman senator, and it's always been...every year this seems to come up. Pediatric cancer is a new one; and I think later on, probably, we'll have that discussion about pediatric cancer. I think those probably are the ones that are...that have been delayed over a period of time. And I don't think we can continue to do that anymore. Water is another one that we've talked about historically, just haven't done anything with it until Senator Carlson introduced his legislation. I think it's important to address those issues. [LB905]

SENATOR DUBAS: Thank you very much, Senator Harms. And I...I think that's a point we need to take into consideration, that these aren't new ideas...people saw a few extra dollars lying around and so they decided to, you know, throw their hook in the water and see if they could catch any of them. We have an obligation to ensure that we're spending money prudently. Absolutely. But that does not mean to the point of squeezing budgets so much that, basically, we're cutting off our nose to spite our face, because, in the end, what have we gained? When in the end it's costing us more money than what we had ultimately thought we were so-called "saving"? It just is...it's just not good fiscal policy. You know, in regard to some of the issues that were on that list, we've talked about water for decades. We've talked about water ever since I came into the Legislature in 2007. We've had multiple studies telling us what we need to do, giving us guidance. And we move forward, we move forward, and then it comes to the point where, okay, we need to put a funding mechanism in here or we need to put some financial resources into these ideas and these issues. And then, all of a sudden, the political will to do something about water just goes away. Our state parks. I made this observation the other day when we were talking about Senator Avery's bill, they are state parks. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR DUBAS: We had to overcome a veto a few years ago to increase our park permit fees by \$5 to help find some financial resources for our parks. So again, you know, it's cost us money because we haven't put in the money to take care of these deferred maintenance projects. I support the underlying bill. I don't support Senator Hadley's amendment, not because I'm not supportive of property tax relief. I've introduced my own version of property tax relief at least three times since being in the Legislature. I've introduced various bills looking at a circuit-breaker approach. It's my hope and it's my understanding that the Revenue Committee, as well as others, will continue to look at this issue over the interim, because we need to come back...similar to water, this has been an issue that's been at the forefront for decades after decades after decades. We need to figure out a way to find sustainable property tax relief. And I guess some questions that need to be answered is--are we looking for property tax relief that encompasses everybody, whether you live in this state or not... [LB905]

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SENATOR KRIST: Time, Senator. [LB905]

SENATOR DUBAS: Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Dubas. Senator Schumacher, you're next. [LB905]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. As we look across the tax spectrum, it becomes pretty obvious that what amounts to a lot of money here, out of the state budget and state revenues, when trickled down through the system does not amount to much at the individual level, at least under the present situation. Let's step back a minute and look at where we've been. A couple, three years ago we passed an income tax cut; it cost \$8 million one year, \$20 million the next, \$50 million the next. Sounds like big money, almost as much as we're putting toward the LB84 roads program. However, as we found out, that translated to about \$1 dollar a week for a family in the average situation, about a bag of candy, peanuts. In fact, so little did it translate into the average situation that this year, 2014, when the big jump in that tax cut took place, the Revenue Department did not even adjust the withholding tables. Look at our property tax situation. We're talking in terms of \$45 million, should this amendment pass, in credit. That gets you about \$75, give or take, on a \$100,000 home; or if you have \$10 million in property, ag land, about \$7,500 in relief. Look at the idea of 65 percent to 75 percent change in agricultural values--taking it down to 65 percent from 75 percent--and it looks like the guesstimate on that, on a good quarter section of land, that would amount to about \$400. All of those, for the average Nebraskan, doesn't accomplish a whole lot. Nor does it satisfy the passions that we heard in the Tax Modernization Committee. One of the problems we have is there is a fixed amount of relief available. And we need to be able to target that relief in a manner that's fair and equitable. We cannot do that right now. We need to get relief to Grandma who's got 160 acres, whose rent is all going to the nursing home and whose property taxes are going up. We don't particularly need to get relief to the wannabe land baron who just bid record-high prices for a quarter section of land, bidding against other wannabe land barons. And the problem that we have--to not have flexibility in how we address this, whether it's with some type of circuit breaker, some type of proportionality in rates, anything like that, the slightest bit of creativity--is due to a clause in our constitution which says: Taxes will be levied by valuation uniformly and proportionately on all real property. Other states' Supreme Courts have cut the legislatures some slack. Ours has not. They say that means what it is and there's no wiggle room to treat Grandma any different than the land baron. And I would suggest that maybe what we need to do is take a time-out here, pass something like what Senator Hadley is proposing, throw an extra \$20 million, from maybe the reserve, maybe someplace else, out there for next year, with the general notion that it's a one-time thing, that we're going to offer the people an amendment so that we can do targeted tax relief, to put the relief funds that we have where they're needed, and that we do so as a matter of giving us the

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ability for one year to tread water, to see where the economic situation is, see how our projections, whether they're on target or not, whether we're facing another drought...look at the cracks in the ground; if you're in outstate Nebraska, you can see that it's a real spooky thing about to develop. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR SCHUMACHER: If we don't start getting some rains, we're going to have real problems with finances, that are not made by us but made by a higher authority. So I think there's a way out of this. I'm supporting Senator Hadley's amendment for an extra \$20 million simply as a message to the taxpayers: We hear you, and we're struggling; and we're going to give you an option to give us an option to get needed relief to where it is really needed, and that's something that we need the flexibility to do. And if the taxpayers say no, then it's no, and we're confined to where we're at. If they say yes, then next year we're back trying to figure out a better way to do taxes and maybe a new age of property taxation; and, hopefully, we can work on income and sales tax at the same time. But right now Senator Hadley's notion of an extra \$20 million one-time expenditure is not a bad one. It's simply a message to our taxpayers: We hear you. Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Schumacher. Still wishing to speak: Senators Nordquist, Conrad, Kolowski, Harms, Christensen, and others. Senator Nordquist, you're recognized. [LB905]

SENATOR NORDQUIST: Thank you, Mr. President and members. And I want to thank Senator Schumacher for his comments and working with me on the constitutional amendment that I introduced. And, hopefully, we can get that moving forward down the pathway out of the Revenue Committee and to be debated on the floor. I would just disagree with him that...I think, you know, we don't need to do the additional \$20 million to show Nebraskans that we're working on it. We did \$25 million a year already in the budget, which is an 18 percent increase over the \$115 million that's already in the budget. And I think that's a sign right there. And I just, you know, Senator Hansen got me relooking; I've, you know, read through the yellow sheet...yellow booklet over the weekend. And just looking at where we were with our cash reserve in 2010-2011--it's on page 11--\$313 million. That's after we eliminated a number of programs; we eliminated eligibility for some of our public assistance programs, we reduced eligibility; we eliminated state aid to cities and counties. And we went down to as low as \$313 million. But, again, that was with \$600 million of federal stimulus that came in and helped us supplant aid to education; we put \$50 million in Corrections that we didn't have to spend; and FMAP assistance was the other big one, for our Medicaid program. We were able to supplant, you know, essentially \$600 million worth of spending. Had that not been there, that \$300 million number, you know, would have been probably down to about nothing at that point. It's just prudent for us to maintain our cash reserve, and

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that's why, you know, I'm leery of doing any more right now on this property tax credit. The other piece to where our fiscal picture...if you look at the green sheet, under our agenda, it's our first green sheet of the year: Select File bills. If we look at our Select File bills that we've already advanced to Select, in the next biennium, we're already at \$17 million in the hole. If we do this, that adds \$40 million more in the hole. We have a General Fund bill, which I support, that came out of the Revenue Committee to index our tax brackets and make some progress on Social Security income, reducing the taxes on that. That, I think, is about \$60 million or \$65 million in the next biennium. Again, this does not address any changes to prison reform, which we know, between now and 2017, we've got some major challenges there. There's a need in juvenile justice this year that we'll have to enhance. All told, it's about an additional \$120 million we need to add to that \$17 million in-the-hole number. And then if you add this \$40 million on top of it, that creates a problem...a deeper problem. And this is all assuming, if you look on line 37, that we have a 4.6 percent revenue growth during that period, which is near the historical average. But, again, we know from cyclical patterns in our economy that you get about a four-year window of uptime and four-period of downtime. And we've had a number of years of good time here with our revenue coming into our state, so we need to be well prepared. And that's why making a long-term commitment of another \$20 million is probably a bit too far at this point. The last piece I want to address on this is just generally what we're doing here. We have a surplus--if you want to call it that--right now, of revenue coming into the state government. That revenue comes from income taxes, sales taxes, corporate taxes, miscellaneous tax. That's what comes into our General Fund. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR NORDQUIST: We have a little extra there to decide whether we return it to the taxpayers, and I've heard people say we need to return it to the taxpayers. And that certainly is something that we, you know, we're all willing to consider. But we need to remember we are not returning it to these same taxpayers, at least not in the same proportions as they paid in. We have the money that came in through income, sales, corporate taxes; and now we are going to say we're going to give it back to you, but we're going to distribute it based on how much land you own. That's what we're doing here. It is redistribution. So, you know, that certainly is a prerogative of this body; we have the ability to do that. But we need to stop and think, if we really wanted to return dollars to the taxpayers, maybe...you know, we have a bill that looks at income taxes, in Senator Hadley's bill. We didn't have anything looking at reducing sales tax, but certainly maybe that's something we should look at in the future. [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR NORDQUIST: Thank you. [LB905]

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SENATOR KRIST: Thank you, Senator Nordquist. Senator Conrad, you're recognized. [LB905]

SENATOR CONRAD: Thank you, Mr. President. And just to verify, is this my second time? [LB905]

SENATOR KRIST: Yes. [LB905]

SENATOR CONRAD: Thank you. Because I want to reserve my third time at the mike specifically to talk about pediatric cancer and the historic investment that is included in this budgetary package that I brought forward; and if I have time in my second at the mike, I'll take an opportunity to do that as well. But I do want to talk about the pending amendment, the issue at hand. And I think sometimes it's easy to simplify aspects of this debate or the decisions before us and say, oh, if you're not for AM2293, well, you're not listening to property taxpayers or you're not for property tax relief. And I just don't think that's the case. I think that each of us in the body is very responsive to the property tax burden that plagues our citizens. But I think that we also, as part of that, as conscientious legislators, have to recognize that we do have other options available to address that burden; and at the end of the day we're not responsible for the property tax burden, which is levied by other entities of government. But, of course, our actions impact their actions as well. So I am definitely attuned to that dynamic. But let's be clear here, we're talking about an option to provide another \$10 to \$12 for the average homeowner, per year, under this program. And I want to make sure that particularly new members are aware that the original appropriation for this fund has somewhat diminished in impact over time, not because of a deliberative policy choice where the Appropriations Committee said, well let's just cut down or let's eviscerate the property tax credit program; no, it's rather a product of inflation and a variety of other factors beyond the Appropriations Committee control or purview. So I do want to be very clear in that regard, that the diminishing effects or impact of the original property tax program over time that Senator Hadley is seeking to address with his amendment is not a deliberative policy choice that was made by the committee or this body. I also want to talk about taxes in context here, and I talked about it a little bit in my first time at the mike; but it's almost as if we have amnesia at times when the tax debate begins. But we know, in fact, that this body has been very aggressive when it comes to cutting taxes. Those of us in our class were a part of the largest tax cut in state history. Since that time, we have made significant tax cuts in relation to passing a variety of sales tax exemptions. Just in the last few years, we cut income taxes, which we're still paying for, tens of millions of dollars' worth. We took care of AMT issues. We took care of a corporate look-back issue. We took care of an expansion of extraordinary capital gains just last session. And we have before us this session many other important tax cut bills. So just because you may be opposed to the approach or the number in AM2293 does not mean that you are not aggressive when it comes to providing tax relief to our citizenry, because, in fact, our record is very clear in that regard. But the bottom line is

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this, in the context of a budget it's about taking care of state obligations as well. And as others have mentioned, this budget does just that. But we still have work to do. These historic investments in water and Game and Parks and continued improvement in the number of citizens on the developmental disabilities waiting list... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR CONRAD: ...those are good things, but we haven't solved those problems. Those obligations, those needs will continue to rise and to need your attention and need additional investment. So giving a \$10 tax cut with this amendment is a very shortsighted investment, because if we don't take care of those obligations on prison or human services or water resources, they're going to cost our taxpayers a lot more down the road. The final point is, is that some on this floor have indicated that they're very concerned about state spending, and that was the main impetus of the Governor's letter that we received today. Folks, I know you don't want to hear it, but the fact is this: If you're concerned about state spending, you shouldn't vote for AM2293, because it increases state spending by \$20 million a year. It ultimately ends up on the bottom line of our budget, and it drives up the percentage of growth. Thank you. [LB905]

SENATOR KRIST: Thank you, Senator Conrad. Senator Kolowski, you are recognized. [LB905]

SENATOR KOLOWSKI: Thank you, Mr. President, members of the body. I'll start with a quote, I guess: It's hard to see the history when you're totally involved in the current events. And that's where we are right now. One of the speakers before me here talked about the passing on to the property taxes tax relief by this body as they cut money to the cities, counties, and NRDs. And I was serving in that capacity, at that time, when the NRDs were cut, and we had to raise property taxes to make up the differences. And many of you were also with city or county positions when that happened, and you know what you had to do in the same situations. As we look back on that, it was a difficult time and a time that has reverberated right down to our present time. I want to thank the Appropriations Committee for its work, what we have before us. I'm for LB905 and AM2019. I do not stand for AM2293; I don't think we need to do that at this point in time. I would like us to think in terms of the areas of concern that we have and that have been talked about and listed and where this Legislature is. We're dealing with legacy issues, and I don't use that term lightly, when we look at where we are and the things that we're dealing with. Taxes have been mentioned, water sustainability, TEEOSA school aid, early childhood education, Game and Parks repairs and upgrades, HHS issues; all of those are important items before us as we move on to make decisions on this budget and how this body, this time, on these dates, will be remembered in the future. In 1967, my wife and I moved to Nebraska, wonderful move in our lives, and we've been here all that time; and 2017 is approaching, that's 50 years. We moved on the hundredth anniversary, and we're looking forward to the hundred and fiftieth anniversary of this

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state, which is our home. When we look at this building, when we look at the things that we were talking about as far as upgrading--this building was built in the 1930s--to finish the fountains, upgrade this Capitol Building, HVAC, windows, painting, we can do all those things and take care of what has been given to us, take care of what Nebraskans had built and paid for at an earlier time; or you can continue and let me make snowballs on the inside of my window ledge after every storm, because that's what happens right now. All economic indicators in our state are extremely positive at the current time. You've heard our Chairman of the committee, Appropriations, Senator Mello, talk about the ups and downs of that and where we're trying to save the money and keep the rainy day fund healthy as we move on. I am for that. We have choices. We could continue to neglect, we could continue to deny the science, we can bury our heads in the sand; or we can stand up and make a difference, leave a legacy, a legacy we can afford, a legacy this state deserves. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Kolowski. Senator Harms, you are recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President and colleagues. I want to take a...just a moment, if I can, to talk about Senator Hadley's amendment. Colleagues, as you look at this, in adding more dollars to a tax relief, it means that we're going to have to take it from somewhere else. And I'm not sure you really want to tap our reserve and say it's a one-year deal. One of the things that I've learned around here is that when you start dealing with taxes, it's never one year. When it comes back to pick that difference up, you're going to have difficulties actually doing that; you're not going to change that. So the only other choice I see that we have--and that's really your policy, your decision, as colleagues on this floor, because this would be the public policy that we'll live by for a couple of years--is you have \$91 million crossing the floor for A bills. If that's where you want to go and you want to add that other...additional dollars, to me, that's where you're going to have to take it. Now, when you do that...when you do that, it's going to leave less money for the other issues that are huge coming across our floor, like prison reform, other issues that are going to come forward. So I think, as policymakers, you'll have to decide what is it you want to have. This is really your budget. I think we've done a very good job in building this budget. But you'll have to decide if that is the priority you want, then you need to understand that when you add that you're going to take from somewhere else. And the only place that I can see that would not be harmful to the budget would be the \$91 million crossing the floor. But it does hurt the A bills that are still yet to come. And those of you who have bills coming across that you want to get approved that have a funding tag to it, that's where that will come from. Don't fall into the trap of thinking you can take it for one year, take it out of a rainy day fund; that just doesn't work. It just doesn't work. And when it comes to property tax or tax relief, my experience is it's never one year. You'll have more difficulty trying to take it out in the future, or you're going to have to find another way to fund it. So I hope you would keep that in mind as you kind of ponder what you want to do. As I said, this is your decision to

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make; it's not the Appropriations' decision. It's your decision to make as policymakers. If that's the policy you want to have in our state, then that's where you probably should go. Now, I will tell you that I served on the Tax Modernization Committee, went to every hearing. They started in Scottsbluff, went to North Platte, went to Omaha and Lincoln. And the greatest amount of comments and concern for people, as we crossed the state, was property tax relief, and primarily in the agricultural communities. When we got to Lincoln and Omaha, I was relatively surprised. I thought there probably is going to be a change here in views and thoughts and ideas here; maybe they'll be...want to be...deal more with corporate taxes, income tax, the kind of things that I thought might be an attraction to the urban environment. It was the same thing: property tax. So when you keep that in mind, you have to decide whether the money we've set aside is appropriate. And if you want to make that next step and go further, then I think that's what your options are going to be. It simply shortens you in the dollars crossing the floor out of that \$91 million that's there. So... [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR HARMS: ...thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Harms. Senator Christensen, you are recognized. [LB905]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'll be brief; I don't have much voice. But, you know, this debate here on doing some more property tax relief really stems back to TEEOSA. In the west, we don't get any. Generally, I look at my district, is one or two schools will get some, or such a minimal amount. You know, that's the whole issue here. We have changed the formula so many times. And I realize it's needs minus resources, but the way it's structured, that's what makes it so severe. You know, I've told you guys before...but the property tax. I live on six-tenths of an acre; I've got a 2,062-foot house with a full basement. It's \$700 a month property tax. I live on a gravel street we have just paved; I've got to pay for that, too, now. Property taxes are outrageous in western Nebraska, even on homes. Land is far worse than homes. I don't know if it was last year or year before, I brought that statement down and photocopied it and handed it to anybody that wanted to see it. I'll bring it down again if you want. You know, how can you have a home no larger than that on that small an acreage--it's in town--cost that much? You know, that's the problem we have, is the actual cost of what property tax is on land. You know, I remember when I paid twenty on irrigated; it's closer to fifty and sixty now. Ongoing expenses. And I understand, people have bid up the prices that's driving that. But when you start looking at what it costs somebody, that's like another whole house payment, just to pay that property tax. And that's what, really, this comes down to. Our schools are 100 percent off of our property tax, haven't had TEEOSA since my first year or two. And yet people wonder why we want property tax relief. You know, I'll still tell you, it's come back to the way we have done schools. And I

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really think there needs to be a major change, a shift on how we're doing things. When you look at the rural areas, we've sold all the state lands in eastern Nebraska, we've kept them in the west; but yet it's distributed by pupil. Why isn't it distributed by the district? In eastern Nebraska they've got the funds in savings. I don't know who made them decisions; they were poor decisions. So we shift them dollars east because that's where all the kids are. When you start thinking about it, this is something that's very needed and needs to be a priority. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR CHRISTENSEN: Thank you, Mr. President. It needs to be a priority to address. And if anybody would like to see that statement, I'd be glad to bring it down. Thank you. [LB905]

SENATOR KRIST: Still in the queue: Senator Bloomfield, Wightman, Nelson, Brasch, Bolz, and others. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I support AM2293. I'm not so sure about LB905 yet. But we've heard the Tax Modernization Committee folks say everywhere they went in the state they heard: We need to do something with property tax. I attended the meeting in Norfolk; that's the only one I was able to make. And that's what I heard: We need to do something about property tax. I didn't hear anybody say we need to give \$15 million, \$17 million to Game and Parks. I didn't hear anybody say we need to spend \$15 million, \$20 million more on early education. What we heard and what they heard across the state by the people that elect us and send us here to represent them is: Let's do something about property tax. Colleagues, AM2293 does a little something about property tax. It's not the route I would have chosen to go. I would like to have seen the valuation change. That was not to be. We had three senators introduce similar bills. They all still lie in committee; we don't get to talk about them on the floor. But AM2293 gives us a little bit of a foot in the door, again. Agriculture, we all recall, carried us through the last recession. Those days are gone. Seven-and-a-half-dollar corn is gone. We're looking at four-dollar corn, four-and-a-quarter, four-and-a-half if you're lucky. Farm income is dropping by 40 percent, 35 percent, 40 percent. Property tax, as it stands now, is unsustainable. We will put farmers out of business. We will keep young people trying to get into farming from getting there. This has got to change. Thank you, colleagues. And I'd yield the rest of my time to Senator Hadley. [LB905]

SENATOR KRIST: Senator Hadley, you've been yielded 2 minutes and 30 seconds. [LB905]

SENATOR HADLEY: Mr. President, members of the body...thank you to Senator Bloomfield. We're having a great discussion on this. You know, it's a problem we have.

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And we've been having discussions off the mike as to what we can do with the current problem. Obviously, there are some people that feel we need more money in property tax relief right now, this coming year. And the second part--and I think this has some merit--is Senator Schumacher's and Senator Nordquist's idea of a constitutional amendment to look at ways that we could free our hands from the way we have to handle property taxes in the state. So we're trying to work on a compromise that might be able to get both of those ideas into one possibility. So with that, I will continue to listen to the conversation. I think it's worthwhile, and I think people are giving us good ideas. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Hadley. Senator Wightman, you are recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President. When I spoke before, I did not thank Senator Mello for chairing the committee. He did an extremely good job. As he said, I think all of the members did a good job. But Senator Mello did an excellent job, I think, in my opinion, in putting together the budget or at least giving us guidance in putting together the budget. There was a lot of compromise as we went through, and that's what came out in the form of LB905. And I do rise in support of AM2019, which, of course, is the budget, for all practical purposes, or all of the changes in the budget. Just a few things that I'd like to talk about. Again, this water sustainability fund and the second part of that, the...oh, I don't see the figure, but about \$32 million is to at least begin a project that might improve our water sustainability, use more of the water that is being lost through the Platte River into the Missouri River eventually. And I think that needs to go forward, and I think it's one of the most important things we're doing as a Legislature and certainly in our committee. So I think that's extremely important. I've talked about many of these issues before. As I said, we're doing about three...first three years of that HVAC, \$11.7 million; the total is going to be about \$77 million; and I think it's time we get started on that. I've discussed the disability waiting list; I think that's a very important thing. The Game and Parks, I know there's been a lot of discussion on that, but I think it is absolutely necessary that we do something to sustain our Game and Parks maintenance. So I do support the budget. I...I'm opposed to AM2293 to AM2019 for the reason that I think we need to look further than that. I would be much more in favor of support of decreasing the rate on farm property taxes from 75 percent to 65 percent, but it appears that is not going to happen. I do think that if we were to pass AM2293, we're probably looking at a likelihood that that's less likely to happen in future years. And that wouldn't really change our appropriation at all. It would change who pays property taxes and at what rate they pay them. So with that, I'll close. And thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Wightman. Senator Nelson, you are recognized. [LB905]

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SENATOR NELSON: Thank you, Mr. President. Members of the body, I'm probably the last member of the Appropriations Committee to stand up and speak in support of both LB905 and the committee amendment, AM2019, and appropriations. And as a member of the committee, then, I would oppose AM2293 to AM2019. In following Senator Wightman, he kind of beat me to the punch in thanking Senator Mello for his leadership this past year of the committee. As Senator Mello said, there were four of us, actually five, that came in as first-year members of the Legislature and began serving on the Appropriations Committee: John Wightman, John Harms, Senator Conrad, Senator Hansen was there for four years until he took his fiscal expertise over to the Revenue Committee, and I think that's been very helpful for them probably. Nevertheless, we were elected in 2006, came in then in January of 2007, which was the long session, and found out that we had signed up for a physically demanding and mentally exhausting committee. But you learn to live with that; you learn a lot about fiscal matters. And most of us elected, why I don't know, to stick with the Appropriations Committee. So here we are in our last year, in our eighth year. And I think it's a very good budget this year. I support it strongly. One of the things about those of us that have been there for that length of time is that we have always been supportive of a good cash reserve. And you can see the figures on...in our budget recommendations, on page 11 and also, I think, on the last page, where it talks about the variances in revenue, page 51. But I just want to point out that when we came in, the cash reserve stood at \$273,616,000; that was at about at 8.2 percent of the balance of...as a percentage of revenue. And we took it upon ourselves--and I think it was well that we did--to try and improve the condition and build up the cash reserve, so that in our first year, at the end of the year, we had it up to \$516 million, the following year \$545 million, and then in 2008-09 fiscal we had an ending balance of \$578 million, which probably seemed high at the time, and that was about 17 percent of the balance, as a percent of revenues. But we see that's about where we should be as of right now. And one of the great things, one of the things I look back on, is the fact that, because we had that high cash reserve, as we hit the downturn there of...I think in 2008-09 we were down in revenue 4.9 percent. The crunch came in 2009-10: we were down 7 percent in revenue, had to make a lot of cuts; that's been talked about on the floor before. And it helped us a great deal, especially, as Senator Mello said, even with the other funds we received, it kept us out of trouble, and it's kept us ahead of a lot of the states...other states. So I...I, along with the other members of the committee, will take credit for taking that position. And there are always a lot of other projects that you can fund, demands, but I think our position in maintaining a good cash reserve balance has been proven out. [LB905]

SENATOR KRIST: One minute. [LB905]

SENATOR NELSON: I would be remiss if I didn't say that when we came in at that time we then spent six years with Senator Lavon Heidemann as the committee head and we learned a lot from him. And I want to also applaud him for his hard work and efforts, which have brought us to the point where we are. So again, I support the Appropriations

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Committee amendment, AM2019 to LB905, and I encourage you to vote in favor of that and against the amendment. Thank you, Mr. President. [LB905]

SENATOR KRIST: Thank you, Senator Nelson. Senator Brasch, you're recognized. [LB905]

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues. And thank you to the Appropriations Committee and the Revenue Committee. They had some difficult decisions to make, some balance and some determination to make. I do stand in support of AM2293 to AM2019. And the reason I do so is...a quick look back at recent history when many of us took our seats here representing our districts in this body and to represent the state in the year 2011, as we sat down, I remember looking at the fact sheet--we were facing a \$986 million projected deficit. We needed to borrow, to take from the cash reserve \$200 million to meet our obligations that year. And thank goodness that we live in a great ag state, where our grains, our livestock, our produce, our agribusiness men and women were able to help us weather the national recession that was surrounding us. As I remember visiting our manufacturers at that time, CON-E-CO up in Blair, for example, they once had a robust employment of 300-some employees. And they had been laid off and cut back gradually over the years, reflecting the national recession. That was to the east of us. Going to the west of us, you went to Smeal's, and they also experienced effects of the national recession. But thank goodness agriculture sustained us--and the prices--helped grow our Main Streets, helped keep us strong. It brought back a few young men and women to return to the family farm and continue the tradition of growing food for fuel, for humans, for sustainability. That's a good thing. But what I didn't like hearing earlier on the floor was the conversation of we need money for Grandma in the home versus money for the land barons. Grandma does need money. Most of the land barons, so-called, they have private pay for Grandma, and they're paying \$60,000 a year or more so Grandma can live well and have a good life being cared for. But that's private pay, when you're the land baron. That same, said land baron, the average farmer and rancher in our state...farms are about 1,000 acres. And I, for one, know many of these...these people that are being critical here, do you realize that at the end of their workday their work clothes need to be soaked overnight to get the dirt, debris, the oil, and whatever else to come out and then washed again, because that job is not an easy job. That job goes on when the sun is shining and others are at the lakes camping and whatnot. They're also out there in the freezing temperatures looking after livestock and moving forward. That is work with great sweat equity in it. And to say that lightly that...when you talk about facts, the fact is that agriculture and agribusiness, ag land values, property tax, our property tax is the third-highest in the country. That's something to look at. And since the year... [LB905]

SENATOR KRIST: One minute. [LB905]

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SENATOR BRASCH: ...2006, we have seen those values increase 23 percent to 30 percent. When you want to work on what's right, let's look at what has grown the greatest, the greatest amount of taxation...we also addressed in 2012, I believe, income tax relief; we tried to do that then. We do need to look at relief, we do need to work on the TEEOSA formula; education is a priority, and it is important, but the funding isn't working, to have one industry be the major contributor to that. And it is very important that AM2293 to AM2019 be moved forward, because as we had all of our Tax Modernization meetings, as I held town hall meetings, our surveys, people stepped forward and said that that tax was one that needed addressed. Let's take tax reform a step at a time... [LB905]

SENATOR KRIST: Time, Senator. [LB905]

SENATOR BRASCH: ...let's look at our needs. Thank you, Mr. President. And thank you, colleagues. [LB905]

SENATOR KRIST: Thank you, Senator Brasch. Senator Campbell, you're recognized. [LB905]

SENATOR CAMPBELL: Question. [LB905]

SENATOR KRIST: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; opposed nay. All those voted that wish to? Please record, Mr. Clerk. [LB905]

CLERK: 25 ayes, 11 nays to cease debate. [LB905]

SENATOR KRIST: Debate ceases. The question before us is the...I'm sorry. Senator Hadley, would you like to close? [LB905]

SENATOR HADLEY: Thank you, Mr. President, members of the body. We've had a spirited discussion. I think we've raised the level of awareness of the concerns of both the people who have future bills before us, spending bills, tax relief bills. But the problem isn't going to go away. I think this is a way of sending a very solid message to our citizens in Nebraska that we understand the problem, we're going to continue to work on the problem. And I think there's a rationale for the number I gave, the \$45 million. It brings it back to basically the same percentage as when we started. So often the things we do in this body, we take a one-time whack at it and then we just let it go, and it gets less and less and less as a proportion to the problem. I am trying to bring this back, to bring the problem to the forefront and get a possible help to that problem. Does this solve the problem? Absolutely not. I hope those...as you vote today either yes or no, I hope that we have a constitutional amendment come out of the Revenue Committee that goes before the people and says, we've got a problem with property

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taxes in this state, our hands are tied, by the way our constitution is, in finding solutions to that problem, and we want you to give us the key to unlock the handcuffs on those problems. But until we can unlock that set of handcuffs, we have to continue to help those people who are paying the high property taxes, those people that are seeing 20 percent and 30 percent increases in property taxes every year. With that, I would appreciate a green vote on AM2293. I would like a call of the house and a roll call vote, please. [LB905]

SENATOR KRIST: 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; opposed, nay. Please record, Mr. Clerk. [LB905]

CLERK: 42 ayes, 0 nays, Mr. President, to place the house under call. [LB905]

SENATOR KRIST: House is under call. Senators, please record your presence. All unexcused senators please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lathrop, Senator Lautenbaugh, please return to the Chamber. Senator Hadley, please confirm, you said, roll call regular order? [LB905]

SENATOR HADLEY: Yes. [LB905]

SENATOR KRIST: Thank you. Members are accounted...oh, I'm sorry, we're still missing senators. Senator Lautenbaugh, please return to the Chamber; the house is under call. All members are accounted for. There's been a request for a roll call vote regular order. Mr. Clerk. [LB905]

CLERK: (Roll call vote taken, Legislative Journal page 843.) 20 ayes, 18 nays, Mr. President, on the amendment. [LB905]

SENATOR KRIST: The amendment is not adopted. Please raise the call. Mr. Clerk. [LB905]

CLERK: Mr. President, Senator Kintner would move to amend with AM2282. (Legislative Journal page 843.) [LB905]

SENATOR KRIST: Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. You know, this amendment will strike spending \$2.5 million on fountains. You know, when were in our Appropriations hearings on this, Senator Conrad very succinctly said we have wants and we have needs, and this is clearly a want, it's clearly not a need. And when can't give the people of this state credible tax relief, we certainly ought not to be building fountains with

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taxpayer money in interior courtyards not visible by the public, not able to be seen by most people. It will pretty much give fountains to staff here and senators. Staff and senators will have nice fountains, and the taxpayers will get stuck with \$2.5 million. That doesn't mean I don't like fountains. I love fountains. And I certainly think that we ought to get some corporate money and go after some donors and people who appreciate things like this, who have money, and get these things built. But when people in our state are being taxed out of their homes, when people in our state are leaving when they retire because taxes are so high, we ought not to put it in their face, give them a Bronx salute, and say, up yours, we're going to take your money and buy fountains with it. It just isn't what we ought to be doing. And I appreciate Senator Nelson and his passion to take care of this Capitol and to really make it a place a beauty, and I want to do it. I just don't want to do it with taxpayer money. That's it. So that's all it is. It just strikes \$2.5 million out of this budget and then we can go about our regular spending. Thank you. [LB905]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Kintner. Members, you've heard the opening to AM2282...excuse me, you've heard AM2282 to AM2019. Senator Janssen, you're recognized. [LB905]

SENATOR JANSSEN: Thank you, Mr. President and members. And I concur with Senator Kintner's assessment and agree with his amendment not due to anything against my esteemed colleague, Senator Nelson, who was probably one of the first people I spoke to after I was elected to this office and had a great conversation with him, and he made some very valid points. And he said, Charlie, sometimes you've got to stop to smell the roses. And I can concur with that and in certain scenarios. I don't agree with it on the taxpayer's dime all the time and certainly in this situation. But, you know, that said, I think...I will be voting with Senator Kintner to strike this from the budget. We do have several places that this could be spent. That said, though, out of deference to my esteemed colleague Senator Nelson, I would yield the balance of my time to him so he can get on record as soon as possible. [LB905]

SENATOR COASH: Senator Nelson, you've been yielded 4 minutes. [LB905]

SENATOR NELSON: Mr. President and members of the body. Thank you, Senator Janssen, for that. I don't know whether I can get through this in 4 minutes, but I want to stand in strong opposition to Senator Kintner's amendment, AM2282. This originally was LB797, which was referred to the Appropriations Committee, and now is part of our appropriations budget. I want to give you a little history that...well, first, let me say all of you were elected senators and you walked into this building for the first time, and you realized you were going to spend a considerable amount of time here. And I don't know if you felt the same way that I did, but I was in awe of this structure, of its spaciousness,

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of its beauty, of its architectural history and all the history behind it, and also what went into the building of this. In 1922, construction started on the State Capitol, and the architect, who was Bertram Goodhue, his design called for the installation of a bronze fountain in each of the building's four open-air courtyards. The construction went on, and it was funded as it went. It was to cost \$10 million, and that's what was spent on it. But construction came to an end in 1922 because of the Great Depression. And because of that, several of the design elements were not completed. Over the ensuing years, over a period of time, all but one of the design elements have been completed. Those that were completed include 20 murals placed in the Great Hall, in the Rotunda, in the Memorial Chamber, on the 14th floor, rather; and those were completed between 1957 and 1993. Early in this century, it became apparent that the building was deteriorating on the exterior, and with a project that I think that went for 8 or 9 years at a cost of \$57.4 million in public funds, we completed the renovation of the exterior and installed new copper roofs, which will last reportedly for another 80-90 years. Senator Scott Price started a private fund-raising effort a couple of years ago to finance the fountains, but he was not successful. He collected about \$4,000 from fourth-grade school children; and that money is still available in a fund. The courtyard fountains are the last and only unfinished element of this building's original design. This appropriation will allow for the installation of the four fountains by 2017, when we're going to celebrate, as our state, the 150th anniversary. There will be a formal dedication at that time of a completed building, because we've never had a dedication. The Capitol has never been completed. And that will be an appropriate part of the sesquicentennial celebration which is going to be headed up by a commission that will be brought about by Senator Avery's bill, LB744, establishing the Nebraska Sesquicentennial Commission. I want to point out that the fountains will be a symbolic representation of the importance of our state's water,... [LB905 LB797 LB744]

SENATOR COASH: One minute. [LB905]

SENATOR NELSON: ...and that's an important part...one minute? And that's an important part of our discussion at this time with the budget, which is otherwise unrepresented in the building's design. The fountains are going to be dish-like in shape, with bubbling water in the center. And they will be made out of cast bronze, which is important, and that's an expensive item: about \$99 million (sic). The reason for that is, those too, the cast bronze will last about 80-90 years, much longer than any cement fountain which is subject to cracking and deterioration. So the plan then is a one-time funding through the Cash Fund for \$2.5 million. That will be spread over three years... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR NELSON: ...so that the fountains can be completed. Thank you, Mr. President. [LB905]

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SENATOR COASH: Thank you, Senator Nelson. Senator Karpisek, you are recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I had my light on during the property tax discussion, and I don't want to revisit that now, I guess. Now we are to fountains, and where do we...? This is tough for me because we have cut all these programs. I guess I can go back a little bit to what I wanted to say on property taxes, but it's been said a lot of other times: The money that we have as surplus we did not get in property taxes. We all know that, or we should. It's not where we got that money. So then we turn around and want to give it back in property taxes. Property taxes are too high; especially, the ag sector is paying terribly high property taxes. Right now, things are going pretty good in the ag sector. They're making money, or they should be. But what's going to happen when that isn't the case? I remember not that many years ago that we were here for a special session, cutting the budget. So now I'm having a very hard time returning money to property taxes when we're not returning it to where we got this surplus. City and county aid, aid to the, say, the "develop...developmentally disability"--wow, that was a bad one--the BSDC group. We had so much trouble there--I was on that committee--so much trouble there, and in my opinion a lot of it is because we didn't spend the money there. We ended up spending much more money. So now when we do have some money and I wouldn't argue that maybe we have more than we want to keep in the rainy day fund, or not, but we could do something with some of it. But why not give it back to where we took it from? Why not give it back in city and county aid? Why not give it back to some of the places that we took it, where we cut it? I kind of thought when we did that, that it was always to say, well, take a little cut now and we'll get it back to you when times are better. Well, it sounds like times are better. But we don't want to give it back; not that way. So round about the fountains. The fountains, this whole building, is the state's. It's not ours. I don't think any of us think it's ours. It's the state's. I know I've had quite a few people say, well, you can't spend money for people that can't help themselves; why on earth would you buy a fountain--or a plane? Those are all good arguments. But I think that we could finish the Capitol. We have to put money in all the time to keep it the way it is, and more money needs to go in because it's showing some wear. I will listen on this some more. I just wanted to get in the part about... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR KARPISEK: ...why not give back where we cut? We devastated some people's lives. We devastated some programs, and, in my opinion, promised that we'd give it back when we could. And now we're not. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Karpisek. Senator McCoy, you're recognized. [LB905]

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SENATOR McCOY: Thank you, Mr. President and members. And I also have had my light on for a significant amount of time, as many of us have in this discussion. I voted to support Senator Hadley's amendment that did not advance a few minutes ago, and I believe that it should have. It's interesting we would have a discussion on the Capitol fountains right behind that. I love this building as much as any of us do. It's a treasure. I've had the opportunity with the traveling that I've been able to do the last six years, to see a lot of our state capitols around the country, and they are all treasures in their respective states. Ours is no different. It's a beautiful building. We have the opportunity and the blessing to work in a beautiful Chamber. But we have survived many decades in our Legislature without these fountains. They were taken out of the plans because the Great Depression hit. And I think that it's been a testament to our state and to this Legislature, that we paid for this building as we went. They didn't have the money for fountains. They were seen as a luxury that didn't comport with what had to be done for this Legislature to function. We've had good times and we've had bad times in our state since the mid-1930s, and at no point in time in all those decades did we install these fountains, did we appropriate the money to do it. Would they look nice? No question about it, in cast bronze or concrete or whatever the material would be. Would they add to the overall beauty and architectural quality of this structure? I won't dispute that. But I would guess, although I don't want to suppose that I would know the minds of the majority of Nebraskans out there, but I bet if you were to go out and ask Nebraskans on the streets of Lincoln today, or Omaha, or any other community, border to border across our great state, and if you asked them, which would you rather have, more money back in tax savings or fountains at the Capitol, I bet not too many of us have to think very long what the answer might be to that question. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator McCoy. Those still wishing to speak: Senators Hansen, Kintner, Nelson, Mello, and others. Senator Hansen, you're recognized. [LB905]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to thank those 20 people that did vote for some property tax relief. Unfortunately, we came up a little short. Speaking of coming up a little short, my arm got twisted by Senator Nelson a while back when he came up with this idea of the fountains. And when I was here in...I think it was the first year, 2007, and Senator Schimek was here and she had an idea, a bill, to finish the fountains. She went back in her records and found out that my grandfather, who served here between '24 and '37, somewhere in that time frame anyway, he was here when they were building the Capitol. And he had a vote that was recorded, and Senator Schimek told me that he voted to spend some money to finish those fountains. Well, that money didn't get spent; so here I am. Senator Nelson twisted my arm and I promised him that I would vote for that on the first vote. If we bring this up again I probably wouldn't do it again. But I have to stand here and honor my heritage with a position against AM2282. Thank you, Mr. President. [LB905]

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SENATOR COASH: Thank you, Senator Hansen. Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. And well, if...Senator Hansen, if it's arm twisting, maybe I can twist harder than Senator Nelson and we can twist you back onto the taxpayer's side here. Well, you know, what? If I asked people in my district, when I ran into them, do you think we should take \$2.5 million and spend it on fountains? Oh, I don't know, it would be 75-80 percent would say, are you kidding me; no, don't do that; don't spend that money; you spend money down there like crazy; stop spending the money. That's exactly what they would tell me. They would tell me that when I go to their doors. I hear it all the time. You know, I...people say, you know, I play by the rules; I save my money; I work hard; you know, I'm going to retire, and you tax me every step of the way; and there are people that don't play by the rules and they don't pay the taxes that I do. And I hear that all the time. And I feel for them. And it's been imprinted on me. It's been branded on me that we need to start respecting the taxpayers and we need to respect their hard work and their thrift and all the things that they do right. And I just don't think that sticking this in their face and saying we're going to spend \$2.5 million of your money, more than we're spending right now. Remember, it's going to be about 6.2 percent plus whatever else we spend...or 5.9 percent plus whatever else we spend on the floor after this budget, if it goes through as it is. You know what? That's just not respectful of the taxpayers and it's not respectful of how hard they work and how much of their money we take. We've taken too much money and we take too much money. We should give it back. We shouldn't spend more of it. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Kintner. Senator Nelson, you're recognized. [LB905]

SENATOR NELSON: Thank you, Mr. President, colleagues. I think I'll have to take a bit of issue with Senator Kintner. I think we are showing respect for our taxpayers, for our constituents, if we complete this Capitol. This...in the terms of all the money, whatever surplus we have in the Cash Reserve Fund, this is a moderate use of our Cash Fund. And I understand what Senator McCoy and Senator Janssen and Senator Kintner are saying. This is an issue. We've just had a tough issue here as far as appropriating more money for tax credit. The vote was taken. It is what it is. Now this is not the time to beat up on the final project, the final element that can be done here in this Capitol Building. This building is on the National Cash Register...(laugh) on the National Historic Register. It is probably, from my reading, one of the seven top capitols in the United States, and there are a lot of really nice capitols. And I want to point out that over the years there have been good times and bad times. But it's been during the good times that we've continued completing the elements of the original design. I'm old enough to remember there was a lot of controversy about some of the murals, one in particular,

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that had a square bull up there. And a lot of our constituents, constituents of the senators at that time, did not approve of that. But it's still there. It was part of the artwork. It was part of the element of design that was supposed to go in here. I was present on the State Day celebration on March 4, and a lot of the beauty of the Great Hall and some of the symbols in there were pointed out to us; it gives me an even more better appreciation or a greater appreciation of this building. If you have never taken a tour of the building, you should. We have a lot of school children that come through here. Someone whose office, and they're a longtime member of the staff here, pointed out how delightful it was to see children that came into the courtyards. They were kind of protected there and within a protective area, and the fun that they had. And it occurred to me how much additional fun they're going to have when there are fountains in there. This is a special day for me because it was my father's birthday, March 10. He was a hardworking farmer. I think probably pretty much along the same lines as Senator Watermeier's father, Gene: very active in the community, a good farmer, very conscious of keeping improvements up, soil conservation. I remember several times, as a younger man, that he would point out to me the fields, the green grass, all the things that we have a tendency to overlook when we're trying to get crops in and trying to get crops out. But there's a lot of beauty there and he recognized that, and he said, stop and take a look at that and appreciate it. I don't think he would have minded getting...not getting some tax money back if it meant that he could pay his small share of completing the Capitol fountains and doing what we can there. As has been said, this Capitol Building is a state treasure. There are always going to be projects that seem to have more priority and seem to be more important. They will constantly be there. We've tried several times to complete the fountains in the courtyards. We are at a point now that we can do it. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR NELSON: We can finish the job. We can get this done once and for all. As someone said, let's get it done. Now is the time to do this and we owe it to the people of Nebraska. And you can go out and say, yes, I'd rather have tax money back; but I think we have the responsibility of completing this. It will be to our credit as a legislature to do it. I can't think of a better way and a more long-term way to leave our mark on this wonderful building by completing the final element of the original design. Thank you, Mr. Speaker. [LB905]

SENATOR COASH: Thank you, Senator Nelson. Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I think we should be very careful when we talk about whether or not we're, quote, unquote, respecting taxpayers. In trying to create a paradigm in regards to what taxpayers may or may not pick, Senator McCoy asked, would taxpayers rather have this or a little bit more

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in their property tax bill? I'm sure if I walked out on the street and asked taxpayers would they rather have us provide the Governor a salary increase or put money back in their pockets, I'm sure I'll know what taxpayers will say. If we were to go out and ask constituents, do you want us to buy the Governor a new plane or do you want us to give you tax cuts, I'm sure I would know what taxpayers would say. But when Senator Kintner says we're not respecting taxpayers, I think if we wouldn't ask taxpayers, would you rather have us spend \$22 million repaying the federal government because we have an administration that's mismanaged our child welfare system and we have to pay a \$22 million fine to recover what we made mistakes on over the last three years? Would you rather have us do that \$22 million fine or would you rather have it given back to you in tax cuts? Would you rather have us pay and cover the \$50 million that we have to cover to run the Beatrice State Developmental Center because we have an administration who grossly mismanaged the Division of Developmental Disabilities to the point that the federal government stepped in, or do you want that money in tax cuts? I'm sure if we asked taxpayers between those items, I think we'd know what they'd say. So I think we need to be very cautious when we create this false dichotomy that it's an either/or kind of scenario and that we're not respecting taxpayers, when as we heard earlier the Legislature doesn't own the Capitol, the Governor's Office doesn't own the Capitol; the people of Nebraska own the Capitol. There can be honest disagreements, colleagues, on whether or not we want to do a one-time capital construction appropriation to renovate the courtyards. And yes, there would be new fountains installed in that renovation. But it's a whole another if we try to start creating a paradigm of whether or not what taxpayers want to see us do in respects to developmental disabilities, buying the Governor a plane, replacing lost federal funds due to mismanagement in different departments, providing funding to fix failing schools. I'm sure if we asked taxpayers, we kind of know where they'd fall on a majority of items. And sometimes we side with what we think is common sense, and sometimes, colleagues, we decide to make an argument. We make an argument about what is government's appropriate role and whether or not we're meeting it. There's no one else who takes care of the Capitol. The Legislature is the body that appropriates money to the Capitol Commission. So whether or not you want to appropriate money to fix the courtyards is one thing, because I'd also make the argument...I haven't heard Senator Kintner, Senator McCoy, or anyone else who opposes this particular appropriation, stand on the floor talking about the purchase of a state plane--a state plane that one guy or gal gets to use, roughly. One person, one office is the primary user of this aircraft. I haven't got on the floor and said anything about it. I haven't gotten up and said it's a good or bad item. But the reality is this, if the body is willing to move forward on something like that, that only one office gets to essentially use, and yet we're up in arms about putting money in a facility that belongs to the people that every Nebraska taxpayer has the ability to come down and visit, spend time with, bring their kids down, have a breakfast, have a lunch, bring a classroom of kids down; if that's the debate, then let's have it then, because I haven't heard that on any of the other bills. I don't know if it's because we don't want to attack this administration in regards to them

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wanting a plane, in comparison to them wanting to put money towards the people's Capitol. But if that's what we're going to stand up and say, then let's say it. Because as I've mentioned before, there's items in the budget... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...that I don't ultimately always support. But the reality is, this was the majority will of the committee, just like buying a new plane will be the majority will of this Legislature. And I'm not going to stand on the floor and berate anyone or say that you're disrespecting taxpayers because you choose to buy a new state airplane. I won't do that. I may not agree with it, but that's a decision that you as an individual policymaker get to make. And you can explain to constituents, to taxpayers, whoever you'd like, here's why I thought we should do what we do on the plane, on the courtyard renovation, on any item in the budget. I just hope that we take that into consideration as we move forward on this particular amendment. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Senator Chambers, you are recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I had nothing to say on the previous issue. There was one time a matter pertaining to the schools in Omaha, or maybe state aid, in general, and I said nothing. And senators asked me and the media asked me why I didn't say anything. And that's when I stated a truism: The "King Cobra" wastes no venom on dead or fleeing things. That prior offering by Senator Hadley was dead, DOA. This one is too. Beauty is its own reason for being. Sometimes it is necessary to try to make people understand that beauty, in and of itself, although its own reason for being, is useless. If you don't prune and shape a tree, it's still a tree; it still gives shade. If you don't trim and manicure your bushes and your lawn, they will still serve the function that those types of vegetation serve. We could meet in a barn, but decades ago people chose not to do that. And as for what Senator McCoy said about pay as you go, I'm sure some of those people had the idea that future generations of lawmakers will understand and recognize the significance of this building, the beauty of this building, and finish the work that remains to be done. What did Abraham Lincoln say? Paraphrasing: It is for us the living to finish the work that they who fought here and died so nobly advanced. We are to finish that work. He made another statement and I'll apply it to this discussion: The world will little note nor long remember what we say here--or even who said it. But if we do the right thing for this building, the world will never forget what we did here. Why do you think this building is recognized nationally for its architecture, it's beauty? Because there were people who had the foresight to say, even though a building could be square walls, four-sided, a rectangle; that wasn't enough. I care about this building. And if you asked children, would you rather have a piece of candy or a spoonful of broccoli, you know what the answer is going to be. So that's not even a part of the discussion, and I'd hate to have it

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be reduced to that level, because that indeed shows disrespect for the intelligence of our constituents. What Senator McCoy and Senator Kintner don't know is that when I came down here they had thick, heavy drapes along those walls--walls that were filthy--and rain was coming through the windows and running down the walls; and they had the drapes to hide that. And I ridiculed them. I talked about them, that they were harmful to the cause of white supremacy: Look at your building, look how you're letting it fall into disrepair. The walls were filthy. You wouldn't have known that there were different color blocks of stone here. You come here and find something and you think it was always like this. I was on a subcommittee that went to Chicago with Bill...with Bob Ripley, so we could get furniture for your offices before you even came here. Mismatched ticky-tacky. There were old school desks, and if you leaned on it then it leaned whichever way you leaned. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: They had all kind of mismatched chairs, splinters sticking out of them. In those days women wore what were called knit skirts. And if she made the mistake of walking too close to one of those chairs, by the time she got to that door she looked like Gypsy Rose Lee, except she didn't have the feathers to cover her nakedness with. That's what was here. And we have people saying, don't spend that money for this. But I bet they all sit in those plush chairs. You should have seen the condition of the hearing rooms. None of that was like it is. I'm going to put my light on again because I've got a bit more to say. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I'm going to support AM2282. I don't know if this is the time to be building gurgling fountains in the state of Nebraska. I'd like to ask Senator Nelson a couple questions if he'd reply. [LB905]

SENATOR COASH: Senator Nelson, will you yield? [LB905]

SENATOR NELSON: Yes, I will. [LB905]

SENATOR BLOOMFIELD: Thank you, Senator Nelson. Right at the beginning of session you came around with a little piece of paper and asked me if I wanted to avail myself of an opportunity. Your opportunity was to sign on to building your fountains. I declined respectfully as I could at that time and I will continue to do so. Have you...do you have any numbers on what maintenance and upkeep on these will be through the years? [LB905]

SENATOR NELSON: What the maintenance costs will be, was that...? [LB905]

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SENATOR BLOOMFIELD: Yes, sir. [LB905]

SENATOR NELSON: Yes. It's estimated the maintenance will only be about \$1,500 a year. That's on all...I mean, the entire four fountains. And that basically is putting a cap on as the weather gets cold and then removing the cover when spring rolls around. [LB905]

SENATOR BLOOMFIELD: And that covers the cleaning and everything else that would have to take place with them, or has that become part of... [LB905]

SENATOR NELSON: The cleaning you say? [LB905]

SENATOR BLOOMFIELD: Yes. [LB905]

SENATOR NELSON: Yes, it does. It...the complete maintenance of the fountain. And that's a figure that we received from the Capitol Commission or Bob Ripley. [LB905]

SENATOR BLOOMFIELD: Okay. That doesn't seem to me like it would hardly cover the water bill. But that's (laugh)...that's where we'll leave that. I just don't believe that we should be going forward with this, at this time. I know we have the money in the budget. The money is in the rainy day fund. Well, it may not always be rainy days we're looking at. We could be looking at some very dry days coming up too. If we don't get some rain, and sufficient rain, this spring, we're going to be looking at real problems in this state. I don't believe a gurgling little bauble is the place we need to be spending this kind of money. So we'll just leave it there. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Avery, you're recognized. [LB905]

SENATOR AVERY: Thank you, Mr. President. I am going to vote against this amendment and I want to take this time on the microphone to congratulate and to praise Senator Nelson for stepping forward with this proposal. He has made a number of important points that are worth repeating, and they include the fact that we started using this building after ten years of construction work. And it wasn't finished at the time, in 1932, when we started using the building; so they delayed the dedication, which has never taken place. One of the many unfinished items in the building in 1932 were a number of design elements, and Senator Nelson has pointed those out. The fountains in the four courtyards are the only design elements that we did not finish. We did the Memorial Chamber. We did the Great Hall. This is something we have not done yet, and it is worthy of completion. We've tried in the past to get it done. In 1999, actually, authority was given to DAS to place fountains in the courtyards. That was part of the Capitol renovation and restoration project. But that authority was removed in 2004, and

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it has not been resurrected, of course. Senator Wallman introduced a bill in 2009 that failed to advance. Senator Price, former Senator Price thought that the project could be funded by private donations raising money through the efforts of fourth-graders, much the same way that the bronze mammoth, Archie, in front of Morrill Hall at the university was funded. But that also failed. One thing that we have to remind ourselves is that much of what we want to do in this state and in this Legislature cannot be done on the cheap. I know it's tempting to always look for the option that allows us to do what we want to do and often what we ought to do, to do it on the cheap. Senator Nelson also mentioned something else important, and that is that we will be celebrating our sesquicentennial in 2017. As part of that celebration, the Capitol needs to finish its design. We need to do what Goodhue had envisioned at the time that he put the architectural drawings together. We need to finish, install the fountains, because they're not going to get cheaper and we need to have this to be part of the sesquicentennial celebration in 2017. There is a group of private citizens formed to make sure that the celebration in 2017 will be properly done, and we have a bill that is making its way through this body now that will help do that. I am pleased to remind you that former state senators, which formed an organization back in 1976 for the purpose of getting together periodically and reminiscing about the good old days, they have gotten behind this, and I think a number of them are still in the Rotunda waiting for us to get through this budget. This shows their continuing love for this magnificent building. It's our obligation, I think,... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR AVERY: ...to help finish this project, because it is a project that is deserving of our support and our attention. So I will be voting no on this amendment and I will be voting yes on the underlying bill LB905. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Avery. Senator Davis, you are recognized. [LB905]

SENATOR DAVIS: Thank you, Mr. President. I just want my colleagues to take a look around at the building and remember and just observe what a grand space it really is. And if you look up here at the top, you've got the figures going around the wall and the United States Survey, and the cattlemen, Lewis and Clark. It's just a grand, beautiful building. And it was built in very difficult times. Our senators at the time had the forethought to move forward and set aside money every year to renovate it, get it finished. They had to tear down the old building, which was inside. After they built the exterior, then they built the tower after that. It's a remarkable structure and it's got four projects that need to be finished for the...to complete the project, a vision that the architect had. We can always say there's not a good time to do something. But this is a project that is very worthy and needs to be completed, and I think we'll all be proud when that happens. Those courtyards are quite accessible, and adding these fountains

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is going to do a lot to make them more appealing. They're right off the cafeteria, as you know. We have weddings that go on here. So it's very much a public space, and it's the responsibility of the public to take care of that space and finish it. You know, we shouldn't look to Tostitos to put in a fountain for us, or the Burlington Northern. You know, if we did that, what would we have? We'd have little labels all over that say, you know, this chair, the courtesy of the O-L-O ranch, which is out at my place. I think we need to finish the project, get the building up and done for the sesquicentennial. So I would urge the body to vote against that and I would like to yield the rest of my time to Senator Chambers. [LB905]

SENATOR COASH: Senator Chambers, 3 minutes. [LB905]

SENATOR CHAMBERS: Thank you. Thank you, Senator Davis. Thank you, Mr. President. Members of the Legislature, the kind of issues that I brought to the Legislature when I first came here, and continue to bring now, resulted in some people being surprised that I would feel so much concern for a mere building, as they might call it. Well, everything that I view in the same way that I say white reporters view the world through white eyes, those are the only kind of eyes that a reporter has. I view everything through the eyes of an African whose ancestors were brought to America. And when the white Christian missionaries went there to Christianize and civilize my ancestors, my forbears, they saw artwork which now is treasured. But you know what they called it in those days? Heathenish idols--and destroyed them. Destroyed it. But when they went to the white countries of Greece and Rome, they have not stopped trying to preserve all the things that any human hand did, because they called it art. Anything is art which is contrived by a human being. Whether it's good or not is in the eye of the beholder. But because of what happened in my history, it didn't put in me a desire to see everybody else's destroyed. It put in me the mind to try to get people to appreciate those things that are contrived by human beings, because they record history. They capture forever moments in time in the same way that amber, a million years old, can encase an insect; and scientists will come along and be able to discover marvelous things because the amber was a preservative. And here we are, in 2014. If we are not the best people to be in this place... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: ...the public had the opportunity to put the best people here. So if we're not, why don't we pretend that we are, and why don't we behave the way the best people would behave. If we can see value and splendor in what is here, what was here when we came, we can go ahead and add to it. This amount of money is a pittance. And I hate to say it, but sometimes people with an ideology or a particular political persuasion will attack what seems to be the most vulnerable. And often, beauty is the most vulnerable. They say justice is ever on the gallows, injustice forever sits on the throne. There comes a time when we have to do the right thing because it's right,

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and the right thing for us to do is to spend this little money to finish these fountains.  
[LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Brasch, you are recognized. [LB905]

SENATOR BRASCH: Thank you, Mr. President. And good afternoon, colleagues. I am caught in a dilemma here, and I want to thank Senator Nelson for bringing this forward because this is the people's house. This house was not built by benefactors. If we put the fountains up and it's contributed privately, who does that fountain belong to? Does it belong to the Buffetts or does it belong to Union Pacific or does it belong...I mean, who will those fountains belong to, the people or not the people? That's why I liked this bill. That's why I initially supported this bill and still do. But now I'm in a quandary. And the quandary...and when we talk about the right thing to do, as senators we will do the right thing, but there's times that we can do something, but we will not do it. On the top of this people's house stands a sower. Agriculture. The sower. And I imagine every former senator that once walked these halls, that the majority were not lawyers or attorneys, but it's farmers, it's people who came to settle these Great Plains and sow those seeds, those same seeds. And they worked on this Capitol. Times were tough. It wasn't easy. And they quit upon the Great Depression. They had no more funds. It was over. And they did a wonderful job and I thank them. However, my heart is broken, just broken, to see that the Revenue Committee wanted to do the right thing. It's not that we could not give property tax relief to ag and others; it's that we will not. This body said we will not do that. So now we move forward. What will this body do? An amendment to replace the sower perhaps with another sculpture that's less agricultural? Who built this house? Who built the economy during the Recession? Farming had a recession during 1986. It was tough. Banks were foreclosing. Times were tough, and on the backs of one industry, those who pay income tax, personal property tax, sales tax, and then ag land. And then we...it's not that we cannot; we will not give them the relief that across the state the Modernization Committee had asked for. I told Senator Nelson that I'm having a difficult time now, because knowing the direction of all these representatives, every one here said it's not important to give back to those who are taxed--up to 30 percent. You look at income tax. Has it gone up 30 percent, 20 percent? We tried to lower it and we'll try to lower it again. This week are we are going to look at lowering that income tax and we'd better do it. We'd better do something. But the institution, this wonderful building here, we should take such great pride because across the world, globally, we are recognized for the institution that has all these murals about justice, about law, about our Native Americans, about those who broke the sod. This is the people's house. And there's a sower who sits on top of this building and he's watching. And I think the

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fountains are something that we should do. But we should have done the property tax relief as well, and we did not. So that's the dilemma today, and it's something to think about when we move forward. I don't want to see another... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR BRASCH: ...ag recession, farm recession; I don't want to see a manufacturing recession. But I want to see this body do the right thing, not what we can do but what we will do. I hope there's a moment to reconsider and reflect on who has paid the brunt of property tax. On whose shoulders did this ride? On whose...who stands above us every single day when we come here? It's that sower. So thank you, colleagues. I think I've made my peace here today, and thank you Ag Committee, Appropriations, and colleagues. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Brasch. Senator Smith, you're recognized. [LB905]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I am going to speak on AM2282, but I wanted...I've been in the queue for a while, and I wanted to speak on AM2293, which was Senator Hadley's amendment that was up prior to this. From my not voting on that particular amendment, you can probably see that I was not entirely supportive nor was I entirely opposed to AM2293. I would have preferred to have seen more personal income tax reduction, at least equal to the property tax relief that we were talking about with that bill. Now with that said, Senator Hadley's amendment would have made property tax reductions somewhere in the neighborhood of about 2:1 to the likely personal income tax relief that we will be discussing here in the next few days. I believe income tax reduction has a greater impact on economic activity for our state, and is more fair to all taxpayers. When we're looking strictly at property tax relief, we're not addressing those taxpayers that may not own personal property. So I do...I would prefer to see more personal income tax relief as we go forward. With that said, I will likely support a constitutional amendment, if one is arrived at, that reflects some of the goals of what we were trying to accomplish with AM2293, but with some protest that we are not addressing income tax reductions in the same manner as we should be. So I'm looking forward to seeing another amendment come up where we're further discussing that property tax relief. But I am hopeful that we will arrive at something that benefits all taxpayers in Nebraska through some type of income tax relief. Now turning my attention to AM2282. Colleagues, you know that I'm not a native Nebraskan, but I have come to value this state and to call it home. This structure is a key part of the history of Nebraska and the heritage of this state. And I signed on to Senator Nelson's fountains amendment or bill because I do want to see the completion of this Capitol. I do want to be fiscally responsible however. I'm concerned that those that would deny the expenditure for fountains are not thoughtful in their opposition but rather are saying no to spending strictly on the basis of not wanting to

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spend. I understand that. But we also have to be mindful of the heritage and the history of this state and of this building. I signed on to the fountains bill with my constituents in mind, and I was hopeful that we would have some type of expenditure, and maybe not the full \$2.5 million, but we would have some type of expenditure that could be matched by private sector funding. And I'm still hopeful we can arrive at that. I am not supportive of throwing out the entire expenditure at this point. I'm hopeful that we can come up with some type of a compromise to where perhaps it's a lesser amount that seeks out private sector matching funds. I understand from Senator Nelson, this is roughly about \$625,000 per year over a number of years with a phase-in. I'm hopeful we can arrive at something that we can help to complete the Capitol and be mindful of the way the public spending takes place. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Smith. Senator Schumacher, you're recognized. [LB905]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Great monuments, great buildings, great pieces of art all embody a history. Would any one of us take the Mona Lisa and perhaps try to change something that was left undone or that we thought was left undone on the Mona Lisa? So it is with this project. Four courtyards remain unfinished for want of fountains. Unfinished because of the Great Depression. Unfinished because lots of lives were unfinished, lots of stomachs unfilled, lots of aspirations unacknowledged. If we put those fountains in those courtyards, then 100 years from now people will have no reason to remember the Depression. People will have no reason to think that it's anything different than the rest of this building. Those empty courtyards, for as little as they're noticed, are permanent monuments to the sacrifice, to the economic failure, to the great pain of the Great Depression. There is a reason that artists leave things undone. There is a message in the undone. We are not commemorating the memory of the Depression by finishing those fountains; we are destroying it. There is a powerful message there echoing from the past to the future that says, don't spend money you don't have; do well with what you have. Realize that the future needs your message. And what a powerful message it is: a message that we have the ability to preserve throughout time by leaving those courtyards empty. We can destroy that history with a \$2.5 million that maybe could be used better someplace else. We can destroy it. But once we destroy it, it's gone. We can't bring it back. Are we preserving history by destroying it; by putting those fountains there and so that a hundred years from now nobody realizes that they never were there? Or is there something that can be said for leaving that last stitch undone, that last stroke of the brush unpainted, that last chip of the marble not made? Those empty courtyards are monuments to our past, monuments to the greatness of the people of the Great Depression, monuments to the wisdom of those who have gone before us. [LB905]

SENATOR COASH: One minute. [LB905]

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SENATOR SCHUMACHER: They should remain unfinished in their honor. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Schumacher. Senator Karpisek, you are recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I was really scared that I might be after the theatrical workings of Senator Schumacher on that. I cannot be near as theatrical nor eloquent. [LB905]

\_\_\_\_\_: Oh, really? [LB905]

SENATOR KARPISEK: (Laugh) But I was going to go back to when we talked about if we asked people what they think. Should we do this; would you rather have more money? And I can't help myself but to say I've been around a lot and I had a gambling bill about casinos, and a lot of those people thought they'd like to vote on that. Or...but do we want to let them vote on it? Do we want to let them vote on historic horse racing? Some of us don't. So if we're going to talk about what the people want, let's listen with both ears, not just what you want to hear or the rhetoric that you're out there pushing and talk about all these things that the people want. It's very easy to get up and talk about those things and get everyone all stirred up. And if you want to do that, maybe you should look into being on talk radio, because that's their profession and they make a lot of money doing it without really saying anything. And that's on both sides. But people are out there just to wind people up without the facts, just putting something out there, would you rather have this or would you rather have that? Of course, almost everyone is going to want something that's good for them, not maybe what's good for others. They argue about...we hear about taxes all the time. They don't so much worry about the other person not paying taxes; it's me; well, I don't care if that guy has to pay taxes or not. I think we need to listen to ourselves, what we say, and do that. If we really want to talk about what the people want, then don't stand up here and tell me that we shouldn't let people vote on a gambling issue, because you're talking out of both sides of your face. We can hear the rhetoric over and over. And boy, it looks good in the paper and it looks good on our door hangers and it looks good when we put it on TV or on the radio. But when we talk about what are we going to actually do, are we going to put a bill in to do something; well, no, I probably haven't done that, but I'm going to stand up and rail on everything else. It's going to get really long. The days are getting long, it's getting warm in here. It's going to get longer. Let's think about some of those things. I didn't really know where I was on these fountains before, but after I listened to all the railing about what a terrible thing they are, that we have other things to do, I decided that they're probably a good idea. So I will vote to keep the fountains. I hope that we can do that. I did sign on earlier in the year with Senator Nelson,... [LB905]

SENATOR COASH: One minute. [LB905]

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SENATOR KARPISEK: ...not thinking this would even come up. And just in my real quick closing on this, I don't know how many bills are in this bill, I think there's three. And if people don't like part of them, I don't know why we didn't divide the question. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Karpisek. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm sorry the "Professor" is not here, but he's listening. He spoke learnedly and well on the wrong side of an issue. This building is not to commemorate the Depression. People don't even know that there were to be fountains in those courtyards. If there are no fountains in that courtyard or those courtyards, people are not going to come here generations from now and say those courtyards are empty because of the Depression. They may not even know what the Depression was. And as for agriculture having done so much, as a result of the Depression, there was a lot of federal government intervention creating jobs, giving assistance, the Tennessee Valley Authority, various dams were built by the federal government. So if we're going to make an appeal to history we ought at least know what history says. And as for the Mona Lisa, the final brush stroke was painted. As far as that magnificent statue of David that...some people don't even know who did that. Michelangelo. They know him for the Sistine Chapel. And by the way, Michelangelo was a homosexual, but the Pope wanted Michelangelo because he was the best artist. And he did not defile that temple; he created something that nobody else could, and it's more famous for Michelangelo's work than it is for anything connected with the church. Most people can't even tell you the name or the numbers of the Pope who told Michelangelo you're going to stay up there on that scaffold till you get this work done. But Michelangelo was a great sculptor. He was a great painter. He was also a poet. There are many things that people who are temperamental, who are creative, who are artistic, will do, because it takes more than one medium to express everything they have to say. He probably was even somewhat of a musician. Now I can't sing so don't worry about me trying to do anything like that. But I'm for these fountains. I want Old Faithful to continue to be Old Faithful. I want Niagara to continue to fall. I want the Colorado River that carved the Grand Canyon to continue to flow. And we need to take a broader view. We do not honor anything by leaving a great work undone. We should finish this work. And had I taken the attitude that some people on this floor are taking, you all wouldn't even have the office space that you had, because I had to bring a bill to take away and give strictly to the Legislature the authority to assign space, and the Supreme Court was going to be moved outside the building; the Governor might have been moved outside the building. Then suddenly, people came to talk to me about how we can arrange to bring the senators' offices closer to where the Chamber is. You all didn't know that. You were not here. You don't know how things came about. I've told some of you how you get your

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expenses during the session. Do you know why all this ties in? There has to be somebody with a vision that is translated into action. Everybody, especially the rural people, said I would rather get expenses than my salary, because I would make more in expenses. And because of me, who they thought was their enemy, they get both of them. But you don't know that unless I told you. You think it was always the way that it is now. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: And there are people who may think that this building is complete, until they read some history and they say, why did not any Legislature in all those generations ever see fit to spend the piddling amount necessary to finish this building? We're not artists. We don't know when the artist has completed his or her work. We are the ones who appreciate what the artist has done. The artist, no matter how great, is fighting for your attention as somebody who will observe and appreciate what he or she did. That beam of light that will strike that piece of artwork and reflect it onto the part of your eye that let's you see, is what the artist knew about and what he was appealing to. We've got to finish the work. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Kintner...excuse me, Senator Chambers. (Laughter) Senator Wallman, you are recognized. [LB905]

SENATOR WALLMAN: (Laugh) Thank you, Mr. President and members of the body. Good evening, everyone, friends all. Three Coins in the Fountain. The reflection of this water and the sun will be magnificent with the tile and everything, I have no doubt about it, if you've seen them in Europe. But come on, folks. This is a pittance. I had a passion about this when I first got in the Legislature, to see that this would get done. And hopefully...I thank Senator Nelson for bringing this forth again, and I'd yield the rest of the my time to Senator Nelson. [LB905]

SENATOR COASH: Senator Nelson, you've been yielded 4 minutes 20 seconds. [LB905]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Wallman. And I want to commend you on your passion on this and what you tried to do several years ago. Just a few points--and I appreciate this time. I want to reiterate, I think just so Senator Bloomfield understand, I was correct in \$1,500 a year in maintenance. When the fountains are built, there's going to have to be some landscaping. There also will be cement poured underneath the fountains. The bronze, the cast bronze, is also going to be coated with some sort of finish that will inhibit any deterioration of those, you know, rust spots and things like that. It's...the bronze...the cast bronze is the expensive part of it: about \$990 million (sic). The rest can be done. The bill that I had originally, spread it out over three years. Senator Smith, I know, is looking for a way to do it less

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expensively. But it's going to...in any event the money will be there in the fund. It will take about \$625,000 the first year to get started; about \$1.5 million for the bulk of the work; and then maybe \$625,000 to finish it up. There's a possibility that we could come under that estimate right there. Senator McCoy mentioned that we didn't complete the fountains during good times in the past. Well, for some reason, that was probably the last element. I want to point out that we did 20 murals, and I talked about those, and those took time and took money. Finally, with our good "Professor," I was reminded of Thus Spake Zarathustra, the oracle. It occurred to me we don't have fountains now. I walk by in this sunny corridor here and look out into that bare space there with nothing, with tiles and no landscaping. It occurred to me, I guess if we can do the fountains and I certainly hope that we can, that perhaps the remainder of the ground there, the grass should be torn out, it should be turned into fine dust and we should put a large fan in there that will blow the dust around, out where people can see us, and remind us of the Great Depression. (Laughter) So we'll have the best of both worlds. That concludes my remarks. I probably will not speak again, but I thank you for your consideration of this and I urge you to vote red on AM2282. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Nelson and Senator Wallman. Senator Wightman, you're recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President. I stand in support of the money that we have previously provided for doing the work on the fountains. I know that Senator Kintner says that if you went out and asked people--and I don't see him here now--but that 70 percent of them would vote against it. And I would suggest that that probably depends upon who asks them and what they told them. And it might be 30 percent, it might be 80 percent, but whoever is going to suggest to them what we ought to be doing and then tells their side of the story, I think will make a tremendous percentage difference in who supports it and who doesn't. So I do, as I said, support the funding of this project. After 92 years--and there's apparently, from what we're hearing, one item that hasn't been completed and that is the fountains--after 92 years it seems to me that we can afford the financial situation that these would cost. We're talking about \$2.5 million. If we have 1.8 million in the state, that would be about \$1.30, which wouldn't be a great amount. I realize that some families might be paying a little more than that, but it's certainly not a very big fund, so if you look at it as far as the state is concerned. I agree with a lot of what Senator Karpisek said. I think he has stated pretty well why we should be doing this, and Senator Wallman as well, after we've gone almost a century and we're close to the sesquicentennial, if that happens to be the right name, it seems to me that this would be the time to do it. So with that, I thank you. [LB905]

SENATOR COASH: Thank you, Senator Wightman. Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. You know, I think the first thing I

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want to say is I am not anti fountains. I like fountains. I really do like fountains. I would love to go smoke a...well, you can't smoke cigars out there. But I'd love to go...I like to go sit by a fountain, eat a doughnut, smoke a cigar, kick back, have a nice cup of coffee, spend a nice spring day. I mean, I like doing all that, like anybody else. But you know what? I don't like taking the money from the taxpayers, the overtaxed taxpayers, and spending it on something like this, when we could go to the private sector, I...and, you know, I've got to tell you, look, pennies for fountains is not the way to fund a fountain. Don't tell me we went to the private sector...or, I mean, the private sector wanted to drink their milk. They didn't want to give up their pennies for a fountain. I got that. When they're older, they'll like fountains more. Right now, for a little kid, (inaudible) thing for the fountain is something to pee in. So I understand. I totally understand why pennies for fountains didn't work. But that's not going out to the private sector and saying, you know, this is our need, this is what you can do, this is how you can help the citizens of our state with a fountain. So I don't want anyone to think that I'm against the fountains. And second, I didn't say this before, I do want to say, Senator Nelson is a man of integrity, and if you look in the dictionary, probably next to the word "class," is a picture of Senator Nelson. He's thoughtful. He's respectful. He brings serious legislation to this floor for serious debate. So when he brings something to this floor, it deserves serious debate, because he's thought it through; he's done his homework on it. And we just disagree on who should pay for the fountains. We both love fountains, we both think it's appropriate for the 150th anniversary, and we just disagree on how it should be funded. And we're going to have...we're going to have disagreements of that type, and that's healthy. It's good to talk about it for an hour or so. And so I just don't want anyone to think that I have anything against Senator Nelson or I have anything against fountains. I do have something against making the taxpayers pay for it. And if I have any time left, I'd like to yield it to Senator Nelson, since I just mentioned him. [LB905]

SENATOR COASH: Senator Nelson, you've been yielded 2 minutes 30 seconds. [LB905]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Kintner, for the time. And I understand where you're coming from, certainly. I own a little bit of farmland, and I'm going to have to pay taxes here on that and it's gone up again. I take the hometown newspaper and I see that the superintendent of schools out there is exultant about the fact that the levy can go down because the valuations are up. But nevertheless, I can expect another 2 or 3 percent of tax out there, probably, to fund the school. And I don't have any representation out there because I live in Omaha and not in my home county. So I agree with you, we need to do the best we can as far as reducing taxes for not only out on the farm real estate but also in town, if we can manage to do that. And I'm hopeful that we can work out a compromise here or something that will let us do that. Be that as it may,... [LB905]

SENATOR COASH: One minute. [LB905]

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SENATOR NELSON: ...I still stand by my contention that this is the time to do this. Senator Chambers says in his mind it's a small amount, even though in my mind, as one who has been around a long time, \$2.5 million is a substantial sum. But in comparison with our overall budget and the size of the Cash Reserve, this is the time to do it, and I just fear that if we don't do it at this time, it's not going to get it done. Finally, Senator Schumacher, as part of his comments said, Nebraskans finish what they start. And I agree completely with that comment. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Nelson. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, if I were commissioned to do a decorative fountain, I would have a pillar, very plain, no ornamentation, but atop that pillar would be a mountain lion crouched, not to spring but observing. And from the mountain lion's mouth would come a stream of water, and the words would be etched: I bestow the water of life on those who would take my life--to give a message. That's what art is for. We have to establish priorities. I understand very well what Senator Brasch was talking about. I understand anybody who experiences a setback on the floor of the Legislature. I've probably had more of them than any ten put together. But it does not cripple me. We have to continue moving forward, and those things that are important have to be treated as though they're important. These fountains should be placed in those courtyards. A lot of people are not aware of the fact that train tracks were built through this building and they stopped under the dome and that sower was lifted up and bolted to the metal frame, and then the dome was built around the sower. You should talk to Bob Ripley. When you walk through the halls, especially when you come in the doors and your voice echoes and you see those vaulted ceilings, how they put those curves in the ceiling with individual stones. This building can stimulate the brain and fire the imagination if you will just see what is in front of your eyes. And unfortunately, familiarity does breed contempt. People who come into this building every day will see far less than a tourist walking through it for the first time. There are the oohs and the aahs. At some point I'm going to copy some of the words that are in this building. Paraphrasing...no, I won't paraphrase it because I want to give it to you, but it has to do with wrath and what it was that stayed the wrath without which there would have been utter and total destruction. This that is being attempted here by Senator Kintner is doomed to fail. I said the "King Cobra" wastes no venom on dead things, and I think his offering is dead. But the subject compelled me to say what I've said for these fountains. I also have a reason to feel a bit sentimental about those courtyards. I performed a wedding for a former legislative employee. Yes, I perform weddings. I am a minister. Maybe a sinister minister, but I am a minister with as much standing... [LB905]

SENATOR COASH: One minute. [LB905]

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SENATOR CHAMBERS: ...in this state as the Pope would have, as Billy Graham would have, as anybody would have. And I purchased mine honestly. I came by mine honestly. And I don't charge for performing weddings, and I'm requested to do it because people want something that I would offer that others don't. So those courtyards have served a multitude of different purposes. I've seen foreign students come here and eat lunch in the courtyards, and they talk about how beautiful what it was that they saw. But the fountains will even add more to it. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Nelson yield to a conversation? [LB905]

SENATOR COASH: Senator Nelson, will you yield? [LB905]

SENATOR NELSON: Yes, I will. [LB905]

SENATOR BLOOMFIELD: Senator Nelson, I...you and I are going to be on different sides of this and that's all right. But I think you may have misspoken in your price of the brass in the fountains. Would you reiterate that number, please, the cast bronze? [LB905]

SENATOR NELSON: The...what I...thank you, Senator Bloomfield. What I thought and I think I said, it's the price of, oh, \$991,000. [LB905]

SENATOR BLOOMFIELD: Okay. [LB905]

SENATOR NELSON: I'll bet I used million. Is that correct? [LB905]

SENATOR BLOOMFIELD: I believe you did use million. [LB905]

SENATOR NELSON: Oh. [LB905]

SENATOR BLOOMFIELD: So I wanted to get that straight on the record so that there was no question about it. That's really all I have, Mr. President. I wanted to get that correct. [LB905]

SENATOR NELSON: Slight, slight... [LB905]

SENATOR BLOOMFIELD: And if Senator Nelson has anything more to say, he can use the remainder of my time. I will still be opposed to this... [LB905]

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SENATOR NELSON: Oh, I... [LB905]

SENATOR BLOOMFIELD: ...fountains, but... [LB905]

SENATOR NELSON: Thank you, Senator Bloomfield. Thank you for that, calling that to my attention. Yes, \$991,000, slightly under a million, and that would make more sense since that will...the bulk of that will be done probably during the second year where the anticipated cost is \$1.5 million. So again, I appreciate your correcting the record on that. Thank you. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Nelson and Senator Bloomfield. Senator Wallman, you're recognized. [LB905]

SENATOR WALLMAN: Thank you, Mr. President. I still stand opposed to the amendment and for the bill. And the people that are against spending this money, I wonder how they're going to be about the airplane. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Wallman. Seeing no other lights on, Senator Kintner, you're recognized to close on AM2282. [LB905]

SENATOR KINTNER: You know, I think we've had a full and thorough debate like I think we should. I think that's what this body should do whenever we spend money. And you know, I'm not a big fan of tucking everything into a budget and having to vote for everything, so I think at least having an individual vote, everyone has had their say. You know, this is just a small little bit of all the money we're going to spend that's going to add up to be about 7 percent increase in our budget. But I think this was something that I just found to be, when I talked to people and I read my e-mail, that, you know, this is something that just grates wrong on people. And I had somebody send me an e-mail, a constituent, and you know what he said? He called this budget "no dollar left behind." And I think there's a lot of wisdom in my constituents and these...and there's people that watch what we do and they scratch their head and they just don't understand why we keep spending and why we cut taxes. So I'm going to go with that. I like that. I'm going to call this budget "no dollar left behind." I encourage everyone to vote for this, stand by the taxpayers, and let's get these fountains built with private-sector money. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Kintner. Members, you've heard the closing to AM2282. The question for the body is, shall AM2282 be adopted? All those in favor vote aye; all those opposed vote nay. There has been a request for a roll call vote. Mr. Clerk, please read the roll. [LB905]

CLERK: (Roll call vote taken, Legislative Journal pages 843-844.) 5 ayes, 27 nays on

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the amendment. [LB905]

SENATOR COASH: AM2282 is not adopted. Next item, Mr. Clerk. [LB905]

CLERK: Mr. President, Senator Bloomfield would move to amend with AM2308. (Legislative Journal page 844.) [LB905]

SENATOR COASH: Senator Bloomfield, you're recognized to open on AM2308. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, this is a very simple amendment that I really don't intend to take anywhere. I want to talk a little bit about the Midwest Rail Compact. I'm going to open on it, I'm going to ask some questions about it, then I'm probably going to pull the amendment. I guess I'll use that as my opening and then I'd like to ask Senator Mello some questions about it. [LB905]

SENATOR COASH: Senator Mello, will you yield? [LB905]

SENATOR MELLO: Of course. [LB905]

SENATOR BLOOMFIELD: Senator Mello, we have \$45,000 in the budget to pay back dues on the Midwest Passenger Rail Compact. Can you explain to us a little bit what that's for? [LB905]

SENATOR MELLO: Well, Senator Bloomfield, I'll do my best. One, the...there is a handout here from the Council of State Governments that walks people through a little bit of what the Midwest Interstate Passenger Rail Compact does. And part of it is to promote the development of passenger rail across the Midwest, serving as kind of a hub and an advocacy entity for Midwestern states both with state policy, as well as primarily federal policy. And what you see with the appropriation, Senator Dubas, we had this appropriation in the budget last year. The Legislature passed it, the Governor vetoed it, and the committee ultimately chose not to override the Governor. Senator Dubas chose to try to override on the floor and that unfortunately failed. And she brought the bill back to the committee with the auspice that the Legislature, as you can see a couple of handouts that Senator Dubas gave us, the Legislature has a financial obligation to pay its bills as a statutory member of this compact. We had heard from members within the committee and we heard a little bit last year on the floor of what we're getting out of this compact. And I think to some extent we still had members going to some of their conferences. They were nonvoting members. I believe Senator Hadley and Senator Price were our nonvoting members of the compact. But Senator Dubas brought this issue back to the committee this year and the committee favorably looked on it to incorporate into our budget proposal because the general premise is we as a Legislature and as a state shouldn't be able to decide what bills we choose to pay and

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what bills we don't need to pay because, this particular case, we are a statutorily required member of this compact. And until the Legislature chooses to eliminate that statutory requirement, we have an obligation to pay our back dues. And I think that was more than anything else the committee felt that was the overriding policy that we needed to move forward of paying these back dues. I won't speak for Senator Kintner, but he made the argument in the committee that if we do this or we don't do it, he will bring a bill next year to eliminate us from the compact so we're not put in the situation again of having to pay dues for something that we're a quasi member of. And so I think the policy here is we fully understand regardless of what happens there will be a motion next year or a movement to try to get rid of Nebraska as a member of this interstate compact. But until that time comes, I share the philosophy that if the state has a bill, we need to pay it. And I get nervous about when the state starts to selectively choose what bills we want to pay and which bills we don't want to pay based on ideology or based simply on some view that we don't want to pay this bill so we're not going to pay it. And that's kind of where the general committee consensus was. [LB905]

SENATOR BLOOMFIELD: Okay. When we...if and when we pay this...I understand part of it is back dues from two or three years ago and that they are actually cutting us a little slack if we pay up now. But if we write a check for our dues, where does that go? How is it spent? And what good does it do the state of Nebraska? [LB905]

SENATOR MELLO: That's a great question, Senator Bloomfield, and the Midwest Interstate Passenger Rail Commission is cutting us some slack. They were cutting us some slack last year when they came in and testified and offered that olive branch to the state, knowing we were in \$60 million...\$60,000--I apologize--\$60,000 in arrears for our dues. They came in and said, if you join for this biennium, we will cut those past dues in half as an effort of good faith that the state is trying to make good on your back dues. That's why the committee last year chose to incorporate it in the budget. This year it's a somewhat similar situation. We've got to do \$45,000 in this current fiscal year to pick up for the \$30,000 in back dues, \$15,000 for this current fiscal year, and \$15,000 for next year. The check would go, essentially, to the Council of State Governments, who oversees the Midwest Interstate Passenger Rail Compact. And what the state gets out of it is voting membership as part of this statutorily entered into compact. I mean, I want to reiterate that over and over again, and Senator Dubas will probably stand up and talk a little bit about this as well, is statutorily we are members of this compact. And so we've had past members, Senator...former Senator Cornett was an active member of this compact even while we were non-arrears-dues-paying members, so to speak. We weren't paying our dues; we were in arrears. She was still an active participant on behalf of the state. She was just unable to vote in respects to some of the compact business, so to speak, moving forward. They cut us some slack because they thought and assumed that we were going to rejoin and it was purely only because of the Great Recession budgetary issues that we chose not to pay our bills. I think to some extent they cut us some slack. They've now informed us that: You have a bill to pay and you've

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got to pay it, we're trying to be flexible here. But if the Legislature chooses not to move on it, I don't know if it's...moves to a bill collection type of process. I think with a number of senators actively engaged in the Council of State Governments, I hope that's not what we do. I think that shows bad faith and bad form on behalf of the state. We could have the policy debate on whether or not we want to be a member of this moving forward, but we have to have a bill to have that conversation, that consideration, and likely that won't happen until the next legislative session. So hopefully that answers your questions, Senator Bloomfield. [LB905]

SENATOR BLOOMFIELD: Thank you, Senator Mello. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Bloomfield. Members, you've heard the opening to AM2308. Senator Dubas, you're recognized. [LB905]

SENATOR DUBAS: Thank you, Mr. President. And I appreciate Senator Bloomfield's willingness to pull this amendment if that's what he chooses to do. For me, there are two issues that need to be decided. The one is, will we continue to be a member of this compact? That's not something that we will decide this session. That's something that the next Legislature will have the opportunity to decide. What we need to decide right now is, do we pay our bills? Do we pay our dues? And my philosophy and my firmly held belief is if you have a bill that's due, you pay it. And the compact has been willing to give us a little bit of a break on what we owe. Last year we could have gotten off with \$45,000; now, this year, we're going to owe another \$15,000 to bring us current. And I guess, just for the record, I want to make sure the body understands that this is a statutory requirement. It's contained in Section 74-1601, Article IX, that withdrawal from the compact shall be enacted by statute repealing that membership. It further states that withdrawal will take effect one year after the effective date of the new statute and that withdrawing...and the withdrawing state shall be liable for any obligations incurred prior to the effective date. I passed out the letter that was sent to the Department of Roads saying that we owed money and also stating that payment of dues to the Midwest Rail Compact is a contractual obligation pursuant to that statute. And then I also passed out the total bill that we owe is \$75,000. So I really hope the Legislature will stand by paying this bill this legislative session. Like I said, next session you can come back and make your decision about whether we should continue to be a part of this compact. I could stand up and make my arguments about why I think we should, but I won't be here to make that decision next year. So I'm just going to make the argument that we pay our bills. This is what we owe. Let's take care of it. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Dubas. Senator Kintner, you are recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. I think someone needs to talk on

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behalf of the taxpayers today here on this issue. The reason that they're cutting us a deal, because there's no way to get the money out of us. We haven't used their services. There isn't any service. They don't provide us anything that we need or anything I think we particularly want as a state. There are still people, still people that hold out hope that maybe we can get some of that Obama money in our state and we can build some high-speed rail or something or some kind of rail between Lincoln and Omaha. There's a dream of that. But I don't...Obama money is gone. There's a new Congress. That was 2009, 2010. There's a new sheriff in town. They're not handing out money right now. So to think that we're going to be in a rail compact and we're all of a sudden going to get rail service in this state, I mean, I don't think that's in the top 50 issues of any taxpayer that I know in this state. So, you know, we...they keep billing us. We don't get any services. We don't get to vote. We don't get to do anything. You know, and because they're cutting us deals, that pretty much tells me they know that they can't get paid. I don't think they're going to go down to the local collection agency and get Vinny and Tony to come over here and give us a visit and force a little money out of us. I think it's time to walk away from this. We'll introduce some legislation next session to formally end it and we can just strike one up to a bad choice of a previous Legislature and we can move on. But to think that we need to pay money for services that we did not receive I think is just the wrong way to go. And I don't see any push for rail service in our state and it's kind of a dream. I mean, I like a choo-choo as much as the next guy. There's nothing I probably like more than riding on a nice train. It's relaxing. But you know what? It's going to take massive, massive, massive amounts of taxpayer money to make this rail dream come true and I don't see anyone in this state that knows where that money is going to come from. So I think it's in our best interest to walk away from it. We can do that next year. Let's don't give them any money. They haven't done anything for us. And we'll just end the relationship next year. We'll call it a day and we'll learn our lesson--don't enter into these type of compacts. It's not good for the taxpayers. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Kintner. Senator Chambers, you are recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm thoroughly disgusted. These hypocritical conservatives talk that mess all the time and then they don't want to pay their bills. What could be more honest...dishonest than that? You enter a contract. You should have sense enough to read the contract, and then you enter it. Then you don't like the way things are going so you're not going to pay your debts. That's what made some of these foolish "Repelicans" in Congress go along with raising the debt limit because they said they don't want the federal government to default on its debts. Then we've got people here in this Legislature saying, walk away and don't pay. You know what I'd do before I'd let that happen? If you all kill this, challenge me. I'd like to ask Senator Mello a question. [LB905]

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SENATOR COASH: Senator Mello, will you yield? [LB905]

SENATOR MELLO: Of course. [LB905]

SENATOR CHAMBERS: Senator Mello, how much money is being appropriated to pay what the state owes? [LB905]

SENATOR MELLO: Forty-five thousand dollars this current fiscal year and \$15,000 next fiscal year. [LB905]

SENATOR CHAMBERS: I'll tell you what I'll do. I will get the \$45,000 and I will pay it out of my pocket to shame all of these white people. You all are the ones who set the rules. You all are the ones who talk about dignity. You all are the ones who wrote contract law. You signed the contract, and I'm going to teach you how you ought to stick to your word. Your dignity ought to mean something to you. What does "good faith" mean? I went to a white law school and I listened to all these white professors talk to me about white law. I hear white people talk about white justice, white dignity, and then listen to you, to even have the nerve to stand up there and say, we'll walk away and we won't pay and what are they going to do, take us down here and sue us, or whatever the silly thing was that was said. A state, the state of Nebraska, talking about not paying its debts. Who made you sign the contract? I voted against the adoption of the permanent rules of the Legislature and I told you why I would do it. I would be able to come back and rub it in your face and show you that even though I voted against the rules, I play by the rules, and I'll beat you by the rules. And how do you play? You've signed the contract then you say, we're not going to pay and let them try to make us. Why, if you've got people stupid enough to bring a bill in here to say that sheriffs are going to arrest federal agents who are trying to enforce the federal law, then I can understand something like this. We had a senator tell us in the Judiciary Committee that the sheriff is going to arrest FBI agents; is going to arrest representatives of the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; who will arrest people who represent Homeland Security; will arrest members of the Secret Service; who will arrest members of the National Guard if they're federalized. And if because the state didn't have law and order and could be said to be in the state of rebellion, troops came in. What would happen to the troops? Well, they're disobeying our law, I guess the troops would have to be arrested too--that was said before the committee by a member of the master race. I am sick of this. It's your Legislature. You ought to be embarrassed, not me. But you know why I'm embarrassed, because I chose to be a part of you. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: And because I chose to do that, I have an obligation. And if every one of you turns your back on what your duty is as a representative of this state and this government, I will pay. And I am truly a man of means by no means, but I'll tell

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you how I'll get this money. I'll go out and I'll stand on the corner and I'm going to have a big tub and I'm going to have a sign and beg money from the public. I'm going to beg money from the public to pay the debt that this state contracted for and senators said, but don't pay it. You ought to be ashamed of yourself. But I'm delighted because it bears out the truth of every criticism I have ever expressed. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Mr. Clerk. [LB905]

CLERK: Mr. President, items. Senator Davis offers LR480, a new resolution. That will be laid over. Amendments to be printed: Senator Gloor, LB717; Senator Lathrop, LB1072; Senator Lathrop, LB949. Enrollment and Review reports LB1014 and LB986 to Select File. Senator Cook would like to add her name to LB907 as cointroducer. (Legislative Journal pages 844-846.) [LR480 LB717 LB1072 LB949 LB1014 LB986 LB907]

And Senator McGill would move to adjourn the body until Tuesday morning, March 11, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.