

FEBRUARY 3, 2005

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February 3, 2005 LB 54, 62, 105, 110, 115, 151, 360, 362, 363
402, 419, 597, 648, 649, 650

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Kruse, from the 13th District. Senator Kruse.

SENATOR KRUSE: (Prayer offered.)

SENATOR CUDABACK: We thank you, Senator Kruse. It's appreciated that you do that for us. Call the twentieth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in.

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Any messages, reports, or announcements?

CLERK: Your Committee on Judiciary, chaired by Senator Bourne, reports LB 62, LB 105, LB 110, LB 360, LB 362, LB 363, LB 402, LB 419, LB 648, LB 649, LB 650 to General File; and LB 115 and LB 151 to General File with amendments. Your Committee on Transportation, chaired by Senator Baker, reports LB 597 to General File with amendments. And I have a communication from the Douglas County Board of Commissioners, Mr. President. That's all that I have at this time. (Legislative Journal pages 423-426.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File. Mr. Clerk, LB 54.

CLERK: Mr. President, LB 54 was a bill introduced by Senator Schimek. (Read title.) Bill was introduced on January 6 of this year, referred to the Government Committee. The bill was advanced to General File. I do have committee amendments pending, Mr. President. (AM0029, Legislative Journal page 330.)

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SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, you're recognized to open on LB 54.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members of the body. I rise for the purpose of introducing LB 54. And some of you who were here in the body last year remember that at one point the Attorney General was asked to offer an opinion on the term "honorably discharged" or its equivalent in relationship to veterans' benefits. And in that opinion, the Attorney General opined that there's no equivalent to an honorable discharge and, therefore, veterans with a general discharge under honorable conditions are not eligible for certain benefits. So last session then, the Government, Military and Veterans Affairs Committee introduced LR 399 to study the issue of veterans' benefits in response to that AG Opinion. This past interim the committee held two public hearings, one in Norfolk and one in Omaha, and we had really tremendous input and participation in those hearings. A number of veterans' service officers from throughout the state attended. After the hearings, the Government Committee decided the best policy decision was to restore the long-standing policy of allowing veterans with general discharges under honorable conditions to receive benefits. Now I want you to know that this was a 60-year tradition of offering those benefits to those with general discharges under honorable conditions. So LB 54 is a result of that decision to allow that tradition to continue and, just as an aside, just as a way of background, I might tell you that the whole Veterans' Aid Fund came about because Nebraskans chose not to give bonuses to their veterans when they were released from the service. Rather, they decided to set up this fund, which would perpetuate itself and be there to help veterans as time went on. So that's how we built the fund. Although the Attorney General's Opinion dealt specifically with the eligibility for the Nebraska Veterans' Aid Fund, many sections of statute dealing with veterans' benefits use the same language, which was called into the question by the opinion, such as that language in the homestead exemption statutes and those dealing with eligibility for admission to the state veterans' homes. When we started drafting this legislation, we realized there were many sections of statutes which use languages...language referencing military discharges. LB 54

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attempts to provide uniformity of language in the statute while maintaining the current practices that are used. For example, in Section 12-104, LB 54 removes the word "honorably" to clarify that the current practice is to allow any soldier to be buried in Wyuka Cemetery. And for those of you who don't live in Lincoln, Wyuka is a private cemetery here in Lincoln and they...pretty much it's been their practice to bury all veterans. Finally, the bill contains an emergency clause and provides that certain sections will become operative on July 1, 2004. During the interim, the Governor asked agencies which received application from veterans with general discharges under honorable conditions to place them in a pending file until the Legislature acted. For this reason, the bill provides that certain benefits are restored to veterans with general discharges back to July 1, 2004, the date which the Attorney General's Opinion took effect. And I would like to call your attention to the chart which was given to you minutes ago. It's the blue chart on your desk and it tries to outline for you the benefits that are now available according to the bill's provisions with the committee amendments, and that tells you which benefits are now due to veterans with either the honorable discharge or the general discharge under honorable conditions. That's the first part of sheet one. Then, under that, you'll see benefits for veterans with honorable discharge only. And then it tells you other minor changes in the bill, such as the soldier burial at Wyuka I just described, such as veteran burial in Nebraska veterans' cemetery, discharge record language changes, and so forth. Some of these are...some of these are a little obscure but, at the same time, needed to be cleaned up. I want to stress that what we did here was to pretty much maintain the status quo. What we wanted to do was clarify. Now I have to tell you that when...particularly in Norfolk, when I held the hearing there, there were some veterans who were questioning about whether we should include those with general discharges under honorable conditions in the benefits package. And it occurred to us during the course of that hearing that what they were really questioning or what they were really objecting to was to be defined the same as those with general discharges. In other words, they wanted the distinction to be kept, and that's what we've tried to do in this bill. We tried to say that honorable discharge and general discharge under

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honorable conditions are not the same thing, but in some cases, in many cases, they are both eligible for the same benefits, and that seemed to, at least mostly, take care of that objection. So, with that, that is what we offer to you today, Mr. President.

SENATOR CUDABACK: Senator Schimek, as Chairperson of the Government, Military and Veterans Affairs Committee, you're recognized to open on the committee amendments to LB 54, AM0029.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. One of the things I mentioned is that we tried to keep everything the same as it had been, as was current practice. And during the course of the committee hearing on the bill, we got some testimony regarding the county veterans service committees and the county veterans service officers, and we did receive testimony that said there was a preference to making certain that veterans service officers, which exist in every county--maybe there is a shared veterans service office in some counties, but every county has some way of veterans accessing those kinds of services--they should be those veterans with honorable discharges only. And they made a pretty compelling argument for that, because at the state level that is also the case. The veterans...well, the Veterans' director, for instance, has to have an honorable discharge, and others at the state level on committees and so forth. And so the committee decided to make sure that these veterans have only honorable discharges. In thinking about the amendment, we also investigated if there were any out there at the present time that had general discharges under honorable conditions, and we were going to maybe grandfather them in if that was the case. And we discovered that there weren't any serving at present time. So we also briefly discussed the actual committees themselves at the county level and discovered that there are committees that do have veterans with general discharges serving on those committees. We left that alone. That's current practice and we left that alone. So the committee amendment simply says that if you're going to be a veterans service officer at the county level that you need to have an honorable discharge. That's the only real substantive change from current practice, and you could say that it really is current practice,

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in a sense, in the bill. I think everything else tries to maintain the status quo but, again, clarify definitions for us. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the committee amendments to LB 54. Mr. Clerk, a motion on the desk?

ASSISTANT CLERK: Mr. President, Senator Cunningham would move to amend the committee amendments with AM0161. (Legislative Journal page 403.)

SENATOR CUDABACK: Senator Cunningham, to open on AM0161 to the committee amendments.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. This is a very simple amendment. It goes along with what Senator Schimek said, and she just mentioned that the county veterans service committees, they did not move up into needing an honorable discharge, and this amendment moves them into that category where they need the honorable discharge also. Senator Schimek also talked about in the Norfolk area, which is the area I'm from, many, many...there was a lot of sentiment that those people needed to have an honorable discharge, and I'm bringing that idea forward from some of those in that area. There also is a stipulation in here, Senator Schimek, that told you that some people currently serving on those committees do not have an honorable discharge now, and so one of the reasons they didn't want to move them into this category is it would eliminate some of them from their positions. So we've put a grandfather clause in that you do...if you're currently serving and you don't have an honorable discharge, that would not be required until the new appointed or elected person came in. And, with that, I will take any questions.

SENATOR CUDABACK: Thank you, Senator Cunningham. You've heard the opening on the Cunningham amendment, AM0161, which is an amendment to the committee amendments to LB 54. Open for discussion on that amendment. Senator Preister, followed by Senators Chambers and Schimek. Senator Preister.

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SENATOR PREISTER: Thank you, Honorable President, friends all. Could I ask Senator Cunningham a question, please, Mr. President?

SENATOR CUDABACK: Yes, you may. Senator Cunningham, would you yield?

SENATOR CUNNINGHAM: Yes, I will.

SENATOR PREISTER: I didn't quite hear everything. I didn't have a chance to see your amendment. Who would have to have had an honorable discharge in order to be appointed?

SENATOR CUNNINGHAM: It's the county veterans service committee.

SENATOR PREISTER: Okay.

SENATOR CUNNINGHAM: That's the committee that meets at least twice a year in each county, and they go over the...you know, some of the things that the veterans service officer does and recommendations for that office. And I'm introducing this because of veterans service officers that believe that the people below them should also have this requirement.

SENATOR PREISTER: I...

SENATOR CUNNINGHAM: Or I shouldn't say below them, but work with them and give guidance for their office.

SENATOR PREISTER: Okay. And when you say members of the county veterans service officers, is that one county, is that two counties? How many of those officers were wanting to have this changed?

SENATOR CUNNINGHAM: I visited with two counties. I would tell you that this isn't something that I'm going to fight for. I just bring this for the body to discuss and if you're interested, that's great, and I've brought it forward. So that's pretty much where I am.

SENATOR PREISTER: Okay. I was just curious and interested.

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Thank you, Senator Cunningham.

SENATOR CUNNINGHAM: Thank you.

SENATOR PREISTER: That's all I would ask you. I rise in support of Senator Schimek's amendment. I can go either way with that one. I guess I can go either way with Senator Cunningham's amendment too. I'm not trying to create more conflict here when we already had a lot of anguish by a number of veterans. I know and speak somewhat for veterans. Being one myself and having an honorable discharge myself, I support what Senator Schimek and the committee are attempting to do. In my mind, I make a distinction between the warrior and the war, and some of us served in wars because we thought at the time it was the right thing to do. Some of us then learned that maybe our leaders put us in harm's way when it wasn't the right thing to do. I had a very difficult opinion after having been in Vietnam than I did before I went, and I volunteered to go there. The same, I think, is true with the current war. I did oppose that. I did speak publicly against going in and, yet, I say that's not the reason that I'm standing today. I'm standing now because I think we've had a long-standing policy of providing some assistance through a Veterans' Aid Fund that has helped a lot of veterans and their families, and it has helped those who have served and gotten an honorable discharge, and it has helped those who have gotten a general discharge under honorable conditions. And I think it's important for people to know, these aren't people who received a dishonorable discharge, they are not people who have gotten a bad conduct discharge, and it does not include anyone who has received a general discharge under other than honorable conditions. These people have all served honorably. They may have been discharged because of medical reasons. They may have been discharged because of an unplanned pregnancy. And I may make the distinction, that doesn't just mean women either. It can also mean the man whose wife got pregnant but, because of a number of circumstances that complicated that, they needed to get...

SENATOR CUDABACK: One minute.

SENATOR PREISTER: ...a discharge. That discharge is a general

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discharge. These people could have served in war, in combat, under completely honorable conditions, and in my mind that is very comparable to an honorable discharge, but there were extenuating circumstances and those extenuating circumstances were such that they were separated from the military, but it was under honorable conditions. And for that reason I support the interim study that I attended also, support the committee action, and I stand to support not a particular war and, in fact, I think we need to make better diplomatic and better political decisions before we commit our young men and women to war and to putting their lives at risk than what we have done in the past. But I stand to support this because I think it continues a long-standing policy, a 60-year policy,...

SENATOR CUDABACK: Time, Senator.

SENATOR PREISTER: ...that we have done, and I encourage you to do likewise.

SENATOR CUDABACK: Thank you, Senator.

SENATOR PREISTER: Thank you.

SENATOR CUDABACK: Thank you, Senator Preister. Senator Chambers, followed by Senator Schimek.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is not home on the range, where never is heard a discouraging word. I'll have a few discouraging words to say, but I've got to get something very clear first. I wanted to do last session, by way of a floor amendment, what is being done now. I felt that Senator...former Senator Hilgert rolled over too easily under that bogus Attorney General's Opinion. I didn't think it was valid, and it should have been fought, but my understanding is because funds may have been going low, getting low, this was an easy way around the situation. I agree with everything that Senator Preister just said. These people who got a general discharge under honorable conditions have the characterization of honorable. If a rose is a rose is a rose, and a rock is a rock is a rock, a veteran is a veteran is a veteran. I have to be careful when I'm saying something that

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Senator Cunningham brings, because certain rumormongers have given him the impression that I have something personal against him and I want to make it clear on the floor I don't, and any of those people who are putting that nonsense in his head, you hear it from me this morning. I don't have anything against Senator...Cunningham. (Laughter) That was to lighten the mood. This provision, however, is insidious. Senator Cunningham is merely helping to carry out what some people asked him to do. I will not support this. I think this not only demeans the bill, but it actually defames people who served honorably. Their discharge doesn't have any of those negative connotations, as Senator Preister so thoroughly explained, and I will not agree to anything being affirmatively put in this bill that would become law that makes these arbitrary, insulting distinctions. I'm going to oppose his amendment, and I hope people don't make the bill controversial by accepting it. These people who were discharged with a general discharge under honorable conditions, focus on honorable, they did everything that was required of them. They were as patriotic as any of these funny-hat-wearing veterans who came to Senator Cunningham and said, these people make us look bad, or whatever they told him. That is BS. When they bring something like this, they make themselves look bad. They are not elite. They might consider themselves elitists. And if they need something like this to give themselves a feeling of being above and better than somebody else who served as honorably as they did, something is wrong with them and I am not going to facilitate what they are trying to do with this pernicious, insidious, discriminatory proposal. Maybe they brought it to Senator Cunningham because he was the only one who would bring it, but he does bring some bad legislation and it happens that I have to oppose it when he brings it. But others have been on the receiving end of my gentle admonishments and expressions of disagreement, and that will happen more during the session. But I am strongly in favor of this bill.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: How are you going to sweeten the rose? If people were...here were from England, they'd understand what it means when they make the expression, bringing coal to Newcastle. This is a bad, unnecessary amendment, and I wish Senator

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Cunningham would withdraw it, but I can't tell him how to conduct his business. But if the body adds it, I'm going to make you go to cloture on a bill that I agree with because you will have tainted, contaminated it unnecessarily, and insulted people who don't deserve to be insulted. Remember, the ones who are going to gain benefits as a result of this bill had been receiving them until a "scwevy"...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: That was a quote from Elmer Fudd.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. Senator Cunningham and I actually had a chance to talk about this a little bit and I told him I didn't think I was going to be supportive, but it's not a huge issue. But, Senator Chambers, you've put it in a light for me that I think we really ought to think about. And before you're too hard on the director of the Veterans' Department, Senator Hilgert, or former Senator Hilgert, you know, he said at the hearing, I believe it was in Norfolk, when talking about those with general discharges, he was of the firm opinion that those who receive general discharges under honorable conditions did so for a whole...were discharged that way for a multitude of reasons, sometimes because the base commander might have been a really cranky guy. I mean, there were...there were reasons that some people had to take general discharges. There were people who may not have even been capable of handling the job, who did not...did not have bad conduct, but were just given a general discharge. There were people, frankly, who had terrible problems at home with their families, as you mention. So Director Hilgert really said, you know, we could make it so that we could distinguish between the reasons that people were given discharges, but that would be an administrative nightmare. We ought to include them all or exclude them all, and he said, we favor including them all. And, of course, you know that former Senator Hilgert was also a veteran and served. So I guess I do need to tell you what I told Senator Cunningham off the floor several days ago

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and that is, even though this isn't a huge issue, we do have some committees that do have people with general discharges under honorable conditions serving on those committees, and I think that, if you could get down there with a little microscope and look at this, you would see that it's more of a personality kind of conflict. And I'm not going to go into detail, but I think there's just some of that underlying all of this, and I don't think that's a good reason necessarily for adopting the policy that Senator Cunningham is proposing here. So I just would urge us to be cautious. It probably will bring some controversy to the bill also. So, Senator Cunningham, would you like the rest of my time? I don't think I've used...

SENATOR CUNNINGHAM: Sure.

SENATOR SCHIMEK: ...more than about half of it probably.

SENATOR CUNNINGHAM: Sure. Thank you.

SENATOR CUDABACK: Senator Cunningham, about a minute and a half.

SENATOR CUNNINGHAM: Thank you, Senator Schimek. And I, as I told you off of the floor, Senator Schimek, I mean to not bring peril to the bill, your bill, at all. I bring it for the matter of discussion. At this point, I would hope to not just withdraw it. I would hope to hear what other people have to say, but I definitely am not here to bring defeat to your bill. So I would like to listen just a little while longer, and thank Senator Chambers for his comments earlier. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I came here this morning with the intent not to be cranky. Yesterday, we were dealing with wars and things in a different context, and I made clear my views at that time. I knew this bill was coming up, and there's no need for me to make comments of that kind because we're not discussing anything, from my point of view, related to the issues that I saw yesterday in the

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bill that was before us. As a person who has suffered every manner of racial discrimination, except being bashed in the head by a cop's club--I've been falsely arrested, exonerated; when I was younger, cops tried to intimidate me, but I would stand up to them and not be intimidated, and I wouldn't be arrested and I wouldn't be beaten. I've been in grocery stores and department stores where I would be the first one at the counter and the white clerk would go to a white person who came up after I had. I've attended nothing but white schools all of my life, and I've heard racist, demeaning, derogatory comments in the classroom. When I was a little fellow, I had nothing to say because I had been taught to respect my teacher, so I just had to swallow it. But it taught me that these white people that my parents taught me to respect have no respect for me, so I have no use for them. But when I got a little size and got in the higher grades, when I heard something I thought was wrong, I immediately took issue with it. So, as one who has suffered discrimination--not for anything that I had done, because if it was for what I had done it wouldn't be discrimination; it would be a due "compensant," due recompense of reward for inappropriate conduct--when we come to a bill such as this which has a very high-minded and maybe even noble purpose, it should not be tarnished with the alloy of base metal, which is what we're being asked to put into the statute now. Remember, brothers and sisters, friends, enemies, and neutrals, if you've paid attention, there are people right now serving on these very committees who we would be saying, by statute, are unfit to be there and we're going to make sure from this day forward that none of these unfit people can be there. But if they are unfit, why are you going to let them stay there? If their presence somehow harms the work of these committees, why not get rid of them now? Are you saying that if a priest raped a child and now we're going to say raping children is no longer acceptable to the church, but we're going to grandfather in all those priests who happen to have done their raping before we became enlightened? No. Whenever you find out the rat did it, he should go, although that's not the policy of the Vatican and not the policy of every bishop or archbishop in this country. I do that to give you a stark example, if I can. These people serving on these committees have done nothing deleterious to the work of these committees. It's just that you got some wrong-headed, old, dyed-in-the-wool-hat fools who are

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saying, I want to be made better than them and I'm going to get the Legislature to make me better by statute;...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...nothing in my conduct makes me better, nothing makes me worthy of respect, so I'm going to get the Legislature to legislate me some respect and legislate an inferior status to these other people who served as I served, who were as honorable as I was, who was discharged under honorable conditions, as was I; but I want to be better and I'm going to get the Legislature to make me better. If this is added to the bill, it will be more than controversy and I will carry it over to other bills. If you add this to this bill, I'm going to try to stop it. And if you get cloture, I promise you that I will make you go to cloture on every bill that comes after it, and I will do it. And if people think I don't care about these veterans, this will show just how much I do care about them. It's one thing to talk patriotism and wrap yourself in the flag. Now we have a chance to do the right thing and you're...the first thing you're going to do is defame those who served honorably. It boggles my mind. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of AM0161. Senator Preister, followed by Senator Beutler and Chambers.

SENATOR PREISTER: Thank you, Honorable President, friends all. I would like to offer an additional reason to vote against Senator Cunningham's amendment, if you would indulge me. Senator Chambers has made some. Senator Schimek has made some. I would like to offer you the fact that there are people who want to serve on these committees and we're seeing, in service organizations, in neighborhood groups, in veterans organizations, fewer and fewer people, including legislative and other governmental bodies, where there are fewer people even available and willing to serve. We should not, in my view, further reduce the pool of available, willing, capable people who could otherwise serve again honorably. All of these people who currently are serving on the veterans service committees,

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who have a general discharge under honorable conditions, would, I think, be sent the wrong message that we don't really respect what they have done. That's not going to encourage them to want to stay involved. We need more involvement by more people if things are going to actually get accomplished. And as our pool of available resources gets diminished, we get less done. We're stronger when we're united. We're stronger when we have more people putting their efforts forward. I think to limit and to send the message that people who have served honorably but got a general discharge is really not a good message to send. But the additional message is, we really don't think we want you serving again. And by doing so, those people and others just pull out of that reserve of volunteers who would be available. So I think that's an important reason to vote against Senator Cunningham's amendment. Senator Cunningham is doing something to represent constituents, and I respect that. They asked him to bring this amendment. He has done so. He now has a couple of options. One, he can withdraw the amendment, and he has good justification to those constituents to say, this would have made the bill controversial, it would have bogged it down, it would have defeated the purpose, and I made a judgment call and I just withdrew it. That's an honorable way to do it. He could take it to a vote and tell those folks he kept his commitment, he held the line and he did what he said he was going to do. That kind of hard-line approach I could still respect. Then two things could happen--we could vote it up, or we could vote it down. If it gets attached, I think that's the wrong message that we send and I've outlined my reasons why. If it gets voted down, then we move on and we go to the committee amendments. Voting it down, I think, would be the best course of action, if it does go to a vote. It would be easier and, in my view, make it straightforward if it were withdrawn, but that's not my call. And, Senator Cunningham, if you would like the remainder of my time, I would certainly yield it to you.

SENATOR CUDABACK: Senator Cunningham, about 1, 32.

SENATOR CUNNINGHAM: Yes, thank you, Senator Cudaback. Thank you, Senator Preister. I have been up front looking at the lights that are pushed to talk, and it doesn't appear to me that there's anybody willing to talk that's in favor of this

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amendment. And, as I told you earlier, it's not as though I'm going to fight for this amendment. I just brought it for consideration of the body. It doesn't appear that there's much support and, with the idea of not wanting to hinder Senator Schimek's bill and with the interest of time, I'm going to withdraw the amendment. Thank you.

SENATOR CUDABACK: It is withdrawn. Speaker Brashear, you're recognized to speak, as the Speaker.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body, and I'll try not to do this in the middle of ongoing debate, but I have another obligation as Speaker so I needed to do it now. Please forgive me. I'm getting a number of questions and so I'd like to be responsive to those in order that everybody knows what I know. First of all, the pages, when I'm done, will distribute a written copy of what my policy will be with regard to putting a hold on a bill that is on the agenda, or in sequence, and I think that's best just left to the written explanation which we have prepared. There is a methodology in place for putting a hold on a bill. And it is my preference...I've always had a frustration as a member when I have come to the floor and expected to see an agenda flow and been relying upon the order, and then I find out that we're passing over, passing over, passing over. The only people that that works to the advantage of are the people who are getting the pass over, if that's what they want. So I'm trying to put together agendas in which we will, in fact, deal with each and every bill in the order that it's presented, and that's the object of putting out the hold policy the way it is. The second thing is that within that hold policy is a policy for absences. We have to consider the needs of the members of the body with regard to absences, and those will be accommodated and you will not be penalized for an infrequent absence. I think that doesn't relate to all of us doing all of our duties. The third thing I'd like to mention to you is that tomorrow is an unusual day in recognition of what some would consider to be a nonevent and others would consider to be an important event. I don't want to get into that. I'm simply saying that out of...yes, tip of the hat...out of courtesy to the body, when we're convening at 11:00 and adjourning at 12:00, if somebody gets caught in

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some traffic or an absence or something else, you are not going to be penalized. We'll stand at ease if we have to, or we'll adjourn early. So I'm trying to take stress out of others' lives with regard to tomorrow. We will begin committee first priority bill debate next week, and I'm...it will not be Monday morning at 10:00. That's not the style I'm trying to develop. But we will begin committee first priority bill debate next week and we will have no Select File prior to the week following. Thank you for your time. I'll try to keep these brief. I'm trying to pass along information so you can plan your lives. Thank you.

SENATOR CUDABACK: Thank you, Speaker Brashear. We appreciate your comments. On with discussion of the committee amendments to LB 54. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I just wanted to speak once on this bill, because I do have feelings about it. I am a veteran. I spent my time in Thailand. Nobody ever shot at me. But I've met a lot of people who were shot at, and most all those people...I wasn't here for the first part of the debate, but I thought it might be worth reminding you that an awful lot of people who have discharges of any type were people who came into the service very young, 18, 19, 20 years old. Many of them had come from totally undisciplined environments, feeling the freedom of youth. Many of them may not have adapted easily to the harsh discipline of an army at war; may not have adapted easily to the authority of a commanding officer; may not have adapted easily to abrupt variations in family life; may not have made good judgments, perfect judgments. But they served and, if the organization they served for determined that they served in an honorable way, whether that discharge was general or whether it was identified as honorable I think is enough. Many of these people didn't even want to serve, and that, too, I think should be taken into consideration. Having said that, Senator Schimek, I did want to ask for one clarification on the committee amendment. In lines 18 through 23, you indicate that all members of the veterans service committee and all personnel, except--and here are the words that I want to ask you about--"certain special and clerical help," shall have all of the qualifications described.

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"Clerical help" seems fairly identifiable. The words "certain" and "special" help, is it intended that the amendment would leave it to whoever was in charge of this particular committee, whoever is in charge of the county veterans service offices, that they would have the power to determine which help was certain and special? And can you give us some idea of what that means? I'd yield to Senator Schimek.

SENATOR SCHIMEK: Thank you.

SENATOR CUDABACK: Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President. Senator Beutler, I believe this language mirrors current language and we never questioned it or thought about it, but Senator...or Director Hilgert is in the Rotunda and I've just sent the legal counsel out there to find out for sure. It's probably, you know, temporary help or something like that, but we're going to see if we can get a more definitive answer for you.

SENATOR BEUTLER: It'd be nice if there was some more definitive language. I mean, unless you just want to make it...

SENATOR SCHIMEK: It's probably served us for 60 years, Senator Beutler. (Laugh)

SENATOR BEUTLER: I know, and...but maybe it serves us because it's been interpreted to mean that whoever is in charge has the power to make that determination. And if that's what you intend, that...we can make that clear enough in the floor intent, I guess.

SENATOR SCHIMEK: I feel pretty certain that we are talking about...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...employees of the service committee, of the service officer, and I'm not real concerned about that language, but I get your point and we will try to...try to find out the answer for you.

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SENATOR BEUTLER: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion of the committee amendment. Senator Johnson. Senator Johnson.

SENATOR JOHNSON: Mr. President, members of the body, I won't talk very long on this occasion, but would like to point out one thing and that is, both with the amendment that Senator Cunningham has withdrawn and what we're talking about now, is that these appointments are made now, not 20 years ago or whatever. So we're talking about honorable people being appointed to honorable positions at this time, and it's a reflection of what people think of these candidates now, not what might have been 20 years ago. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Chambers, the committee amendments.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Beutler touched on something that I had questions about because I didn't understand. And when it's put into an amendment, it will draw your attention to it. But since that's going to be looked at, I don't have to go into that. That word "general" in a military context is very interesting. There is what is known as the general staff. These are the high-ranking people. The general staff were the ones who were going to be charged with war crimes at Nuremberg. The general staff are at the top. A general officer is not what somebody might think of as a utility person, a flunky who does any and every thing. Those who bear the title "general," one star, two star, three star, whatever, they are general officers. So if you want to apply the term "general" in that respect, a person with...who...with a general discharge under honorable conditions has a higher discharge than some with merely honorable, just to show that there are ways to apply words, and the term "general" is a part of military jargon. But I'd like to ask Senator Schimek a question about something she had said earlier.

SENATOR CUDABACK: Senator Schimek.

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SENATOR CHAMBERS: Senator Schimek, you had said something about veterans being buried at Wyuka Cemetery. What had you said? What was that in connection with?

SENATOR SCHIMEK: That was in connection with who could be buried at Wyuka Cemetery. The present policy of Wyuka is to bury all veterans, no questions asked, no discharge papers required.

SENATOR CHAMBERS: Um-hum.

SENATOR SCHIMEK: And so all we were doing was incorporating that into...the existing practice into statute.

SENATOR CHAMBERS: Okay. What about the family members of veterans, if you know?

SENATOR SCHIMEK: I don't know, and I don't think that...I'm not even sure they have a policy on that, Senator.

SENATOR CHAMBERS: Okay. Because here's what I want to bring up, to show how those who have been around awhile know things and why black people such as myself, who will not forget...people are not offended when Jews say we'll never forget and never again, but when black people talk about what has happened to us that will give us our attitude, white people want to say, well, don't talk about that; if you don't talk about it there will be no racism. They're crazy. My example is, that's like telling a microbiologist, if you don't see microbes everywhere there won't be any. They're seen everywhere under a microscope because they are everywhere. There was a time when military people were stationed in Lincoln. A black member of the United States Air Force had an infant child who died. That child was buried in Wyuka Cemetery. When they went to the cemetery to decorate the grave, or whatever people who do such things wanted to do, the child was not there. The child who had been buried was not there. So they naturally were traumatized, and when they began to inquire they were told that at the time they didn't realize this was a Negro's child, but when they became aware of it that child was dug up and buried in

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the Negro section of Wyuka Cemetery. You all didn't know that, did you? And I shouldn't be offended about that, should I? It shouldn't make me any difference because black people are a little bit more than the four-footed animals, but not quite human. And since we're not quite human, we're not entitled to the consideration or the rights of human beings. So these generous white people, exercising their Christian charity, will bestow on us certain privileges, but we have nothing we can demand as a matter of right. And I, for one, will never accept as a privilege that which is mine as a matter of right. And if somebody tries to stop me from exercising a right, I will not come begging for it, I will not come whining. You will never see me on this floor ask for quarter. I sometimes will give it because I'm merciful on occasion. But there are many things that these bills touch on that gives me the opportunity to talk about experiences we've had that you all wouldn't even believe take place. So you wonder why black people are upset.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Any black person who is conscious is upset; lives in a constant state of "upsetness." Why do you think we have a higher overall rate of high blood pressure, hypertension? Because of the conditions we live under in this country. And after I see Bush and these other white people imposing democracy around the world, I'm going to see if they can find just a little time to bring some democracy to a America, where I live, and then we'll go from there. I have one more comment I have to make, which is not on the bill, though, because I support that.

SENATOR CUDABACK: Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Then I won't have to say anything else on this bill. I just want to reemphasize that what the bill is doing now I wanted to do last session by way of a floor amendment, and Senator Schimek, on the mike, requested that I not do it at that time; not that she disagreed, but that a study could be undertaken to see what the ramifications would be and to do what they did during their interim study. And true to what she represented to the body, they brought us back legislation which is going to take care of the problem and they

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did not totally forget the ones who had been cut off from access to this assistance by the Attorney General's bogus, ill-considered opinion. I'd like to ask a question of Senator Schimek, if she knows. Senator Schimek,...

SENATOR CUDABACK: Would you yield, Senator?

SENATOR CHAMBERS: ...who was the Attorney General when that opinion was written, if you know?

SENATOR SCHIMEK: The opinion that we...the one that triggered the study?

SENATOR CHAMBERS: Yes.

SENATOR SCHIMEK: Yes, I know.

SENATOR CHAMBERS: Who was it?

SENATOR SCHIMEK: The present Attorney General.

SENATOR CHAMBERS: Oh, my God! Excuse me, God, if you're up there. I took your name in vain. My goodness! Here is somebody who had trouble getting out of school without trouble, and he's going to say we're going to defame these veterans? Why, if I'd have known that, I...if it had a been...I wouldn't have withdrawn my amendment. I would have pushed it then. (Laugh) I thought this was an opinion written by somebody who was at least thoughtful and knew what he was talking about. I don't know if he was even in the Boy Scouts. And if he was, he's probably one of those who'd see an old woman standing on the corner and he'd grab her by the arm and start dragging her and she'd say, let me go; he'd say, no, no, no, we got to go across the street. So she'd say, okay, okay, and stop resisting. And after he drags her across the street, puffing, he'd say, whew, why did you resist me so much? She said, fool, I didn't want to go across the street. He doesn't think all the time. But here's what I want to say, the last thing. When I talk about the United States of America, I never say "my country." I say "this country" or "America." When the President is mentioned, I never say "my President." I say "your

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President" or "the President." When I talk about the country, I never say "my country" or "our country." I do not use possessive pronouns when I'm talking about the flag, the country, the United States, the administration, the President, or any of those things, because I do not identify with those things the way you all do. So, for all of the reporters, don't put in quotation marks any of those pronouns and attribute them to me. I do not say "our country" or "my country"; "our flag" or "my flag"; "our administration," "my administration"; "my President," "our President." I don't say that. And I've tried to make it clear, I choose my words. I know what I do not say. If I ever said "my country," talking about America...now I did my time, not in prison, but that would be a good example to give you. You don't find inmates, when you talk to them, saying "my penitentiary." They say, "this hellhole," "this prison," not "my prison." And that's what America has been to black people. So I'm telling reporters, if you take an interview with me or you quote me on the floor, you call yourself doing that, don't use those possessive pronouns and attribute them to me when you're talking about the things that I mention, because I do not talk that way. Now, on this bill I want to applaud Senator Schimek and the committee for the work that they did. I am especially grateful for the comments of Senator Preister this morning, and Senator Beutler kind of tied the ribbon on the package. So I think this has been a very worthwhile effort.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: People may wish that I hadn't said anything, but you know how I'm going to be. But overall, not only are we getting a good bill, but I think some things were said that will put thoughts on people's minds which were not there before, and they'll get a better and deeper understanding of what being a veteran means and the way we ought to treat these people. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Schimek, there are no further lights on. You're recognized to close on committee amendments to LB 54.

SENATOR SCHIMEK: Thank you, Mr. President and members. Just a

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brief reminder that the committee amendment simply says that those who are veterans service officers at the county level will be...will have honorable discharges. And I told you in the very beginning that the committee counsel attempted to write the bill with no changes from current practice, and we thought that the current practice was to allow both and, upon receiving comment at the hearing here in Lincoln, we started checking around and found that the current practice, now it could have been different in the past, but the current practice is that those with honorable discharges are the ones who are serving. I'd also like to say that we have heard from many veterans service officers on the bill and, by and large, 80 percent of them, 90 percent of them do support the bill and do support the issue. I would like to just briefly read from a veterans service office in Seward County, and he says: In the past year or so it seems that veterans benefits on our state level have gained quite a bit of notoriety and created quite a stir. I believe that what is needed is clarification, not change. I believe that what happened was that our Attorney General was asked to provide an opinion concerning the status and equivalency of the discharges our veterans receive when they are released from the armed forces according to the way our state laws are written. The Attorney General gave that opinion. Throughout this whole process, I don't feel that anyone involved had any intention of either adding to or taking away any benefits that were already in existence for the veterans of our state. It seems that as time and correspondence went on, it became an issue. And I think that represents fairly well the majority, more than a majority of the veterans service officers and probably committees throughout the state. So, with that, I guess, Senator Beutler, did you wish to have a little time to ask the question that you and I talked about off the mike?

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Schimek, thank you for asking, but the matter is too small. Maybe John and I can have a conversation, if it...if he thinks there's anything worth doing, and let it go for now.

SENATOR SCHIMEK: That would be fine. And then the last thing I

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want to mention...and, Senator Chambers, I would like to follow up on our visit about Wyuka Cemetery. And it is our belief that anybody who wants to be buried in Wyuka can be buried there, so that would include the families of veterans. It would include anybody. It's a...it's a for-profit, (laugh) I guess, cemetery. It's not a...it's not a state-operated cemetery. So, with that, Mr. President, I would urge the adoption of AM0029.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the closing on AM0029, the Government, Military and Veterans Affairs Committee amendments to LB 54. The question before the body is, shall those be adopted? All in favor vote aye; opposed, nay. The question is, shall the committee amendments be adopted to LB 54? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The motion was successful. The amendments have been adopted. Mr. Clerk, announcements?

CLERK: Mr. President, Transportation Committee will have an Executive Session underneath the south balcony now; Transportation, south balcony now. And Health and Human Services will have an Executive Session at 10:45 in Room 2022; Health and Human Services, 10:45, 2022. That's all that I had, Mr. President. I have no further amendments to LB 54.

SENATOR CUDABACK: Okay. Thank you, Mr. Clerk. On discussion of the bill itself, advancement to E & R Initial, Senator Johnson, you're recognized.

SENATOR JOHNSON: Mr. President, members of the body, rise this morning to very strongly support LB 54. One of the things that we sometimes forget, and it has a very big bearing on this legislation, is this: When we ask our young men and women to serve in the military for us, we often forget the stress that we put these people under. One of the things, for instance, if you go back to the Second World War, to cut down on the amount of stress, it was thought well to put cigarettes in with the men's

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rations and, obviously, we know what that led to. But there are other conditions where the stress does things, like, people descend to alcoholism. There are other instances, however, that I'd like to allude to that are very applicable to this. I know of a case where a person was on a submarine, and when they were caught in a situation where they were on the bottom and were not allowed to come up, this proved to be so stressful to the person that he asked to be transferred, and indeed was asked to transfer to another service. To do this, you get a general discharge. He then immediately was transferred to another branch of the service. There has been a case here recently that made all the papers, from a young man in my area, where, because of debts, he was late returning to his duty. He's now solved those debts. He was given a general discharge. He now has re-upped and is on his way to Iraq as we speak. One of the things, a question of those us that do have an honorable discharge--does this legislation distract from those that have the honorable discharge? I don't see where that is the case at all. Indeed, what we are talking about here is a general discharge under honorable conditions. I think this is a case where it's a chance for the state of Nebraska to honorably discharge its duties. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Preister, on the advancement of LB 54.

SENATOR PREISTER: Thank you, Honorable President, friends all. I want to extend my thank you to Senator Schimek and to the Government, Military and Veterans Affairs Committee for all their work on this legislation. I think it is good legislation. I don't think, as Dr. Johnson, Senator Johnson stated, that this is a threat to those of us who have honorable discharges. You've heard from four people this morning who all have honorable discharges and who all support this: Senator Chambers, Senator Beutler, Senator Dr. Johnson, and myself. And when Senator Johnson talks about the stress that you're under in those situations, he speaks from his experience as having served in the Vietnam area on a ship where they operated on the casualties that were brought to them. That's a stress situation, and nobody really knows what it's like unless they've served under those conditions. Those conditions can cause

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people to react in ways that may not be apparent for years later, and there are a lot of effects of those conflicts and wars that people bury and don't deal with until many years later. We're going to be seeing the effects of that in our hospitals. We're seeing the effects of that in the homelessness of a lot of veterans, many of them who didn't get the counseling, the support, who found other outlets to deal with those stressors that they encountered. And because of our training, you're expected to deny your feelings, to suppress your feelings, to only deal in anger and aggression, and for a lot of those veterans who are now on the streets, who are now homeless, who are dealing with substance abuse, many of them are largely forgotten. Many of them won't even apply for these Veterans' Aid Funds because they've disengaged from society as a direct result of the circumstances that our nation has put them into and then, not totally, but largely ignored and forgotten. We need to reach out to more of those homeless veterans, more of those that are suffering, more of those who have never been welcomed home, never been appreciated, have never seen the distinction between their honorable service and sometimes the conflicts that they were involved in that were seen in a very different light. I want to thank the committee for their work. I want to thank everybody in the body for your support in passing this legislation. I want to thank the veterans who have served, regardless of their discharge paper, who have served and served because they believed they were doing the right thing. And particularly, especially, to all of those that served in Vietnam I want to say, thank you and welcome home, a welcome home that most of you never got. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Preister. Senator Schimek, there are no further lights on wishing to speak. You are recognized to close on advancement of LB 54.

SENATOR SCHIMEK: Thank you, Mr. President and members of the body. And I thank you also to everybody. Senator Preister, appreciate your remarks very much. I...for those of you who may not know, I had the opportunity to interview Senator Preister for the veterans' history project recently and it was a great interview, Senator Preister, and it is being sent...has been sent to the Library of Congress for posterity. So that's a

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great project, too, and thank you for being involved in it. I also want to...I also want to thank Senator Cunningham for bringing up the discussion that we had on his amendment today, and Senators Beutler and Johnson. But I particularly want to thank Senator Chambers, first of all, first of all, for agreeing to let the committee to look into this more thoroughly during the summer and fall, and for being...for being so supportive of the bill, Senator Chambers. And I need to acknowledge the committee who took this work seriously and who made it happen. I would like to just remind you that this bill codifies basically what has been practiced for the last 60 years. It has an E clause on it for some sections, and for some sections it has a July 1, 2004, date, which means that it will be retroactive and that we will be able to take these waiting lists and help these veterans who have not been eligible for the past, what, seven months. So thank you all for your attention to the discussion and thank you for your support.

SENATOR CUDABACK: Thank you, Senator.

SENATOR SCHIMEK: I return my time to the Chair, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the closing on advancement of LB 54. The question before the body is, shall LB 54 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 54. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB 54.

SENATOR CUDABACK: LB 54 does advance. Mr. Clerk, LB 16.

CLERK: LB 16, Mr. President, introduced by Senator Landis. (Read title.) Bill was introduced on January 6, referred to the Revenue Committee. Bill was advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Senator Landis, you're recognized to open on LB 16.

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SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. A year or so ago, the state of Nebraska authorized our participation in the Streamlined Sales and Use Tax process, and that we essentially set out to make a Streamlined Sales and Use Tax Agreement. To that end, what we do is we try to structure our tax code in a way that will be able to fit into a binary computer process, so that a computer would be able to say, is this taxed or not taxed in Nebraska? The payoff of being able to regularize our process and definitions to that extent with other states is that large mail order houses, large companies who do business across state lines but do it largely by mail order, have agreed that they will start paying sales tax on a voluntary basis on their sales to states if the states can come up with a system that is easy to comply with. To do that, we have to be able to take the 6,000 taxing jurisdictions and to get a simple system for which a computer program could be derived that will tell the retailer to either assess a tax or not. We are far along in that process. We are gaining momentum with states that will participate. Once we have the threshold amount of states and population across the country, this will go into effect. Once it goes into effect, we have retailers who already said that they're willing to participate once we get to that level, and Nebraska can start receiving sales tax proceeds from sales done by mail order and catalog sales across the country which it's not now receiving. There is a provision that we need to make explicit. It is something that we always expected. We thought we'd be able to do it by rules and regs, but in fact the Streamlined Commission said, you know, it'd be better if this was in statute, and so, for our application for agreement, we would very much like to be able to say this affirmatively in statute. By the way, as I say, the commissioner has always told us that this was expected of us; that we were prepared to do this as we went into streamlined, but we simply needed to recite it in the statute, and that is that a retailer who signs a voluntary agreement saying we will start paying or collecting and sending to you sales tax that comes from people who do business with us from Nebraska, something that they don't have to do, but something that they've voluntarily stepped forward and choose to do, if they choose to do that, there will be an amnesty provision that says what the

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state of Nebraska can't do is to go back into previous years and say, h'm, you always should have been filing taxes and, now that we know about you, we want to start an action retroactively for past taxes that you should have paid when we didn't know that you were there, or we never made the case, or you never filed a return and we hadn't alerted you as to your need of filing tax forms. In other words, when we do these agreements, it will be a forward-looking process. Since we are not receiving dollar one from these people anyway, an amnesty provision doesn't hurt us at all. It's a necessary piece of this. And our early estimates from the streamlined process is that Nebraska could, within a matter of a couple of years, be over \$20 million and perhaps up to \$40 million of sales tax proceeds under the streamlined approach; in other words, taxes that were always due and owing the state if we could meet the standard of ease for the retailer, which we will now meet, and then be able to collect. It's worth it to do this. I ask for the advancement of this bill, which was unanimously passed out of the Revenue Committee. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on advancement of LB 16. Open for discussion on that motion. Anybody wishing to speak? Senator Beutler, you're recognized.

SENATOR BEUTLER: Senator Landis, if I may, to the extent that you have any update on how the agreement is coming and whether states are joining and whether it looks like maybe this is going to work or not. I realize I'm putting you on the spot a little bit, but share with us whatever you can, because, for new members of the Legislature, this is a big, big item. I think they probably realize that we're losing sales tax revenues hand over fist to catalog companies and organizations in other states, and that we're not really collecting the sales taxes on an awful lot of products, and that this is an effort to get the states together to do that. But could you...

SENATOR LANDIS: I can.

SENATOR BEUTLER: ...go forth?

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SENATOR CUDABACK: Senator Landis, would you yield to a question?

SENATOR LANDIS: I would. Thank you. Senator Beutler, to make the compact work, we have to have a percentage of the population of the country. That standard has been met. We have to have a number of states, and the number of states that are now...are parties to the agreement is someplace between 16 and 18. And the effectiveness of the agreement, the deadline for the beginning of the agreement to be in effect, is July 1 of this year, so it looks as if we are on the cusp of an operating streamlined agreement during this year.

SENATOR BEUTLER: And as a member of the Appropriations Committee, I'm extremely anxious to hear, Senator, what the estimated new revenues will be for this year and the next year.

SENATOR LANDIS: (Laugh) I do not have a number at this moment, but I'm sure that the Tax Commissioner will, in her hot little hand, bring over what ever number she can come up with as soon as possible, and I'll ask her that question.

SENATOR BEUTLER: Good.

SENATOR LANDIS: Thank you.

SENATOR BEUTLER: She won't keep it a secret for even one little minute, huh?

SENATOR LANDIS: That's right, not one little minute of secrecy.

SENATOR BEUTLER: Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. Any further senators wishing to speak to the advancement of LB 16? There are no lights on. Senator Landis, you're recognized to close on advancement. He waives closing. The question before the body is, shall LB 16 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 16. Have you all voted on the question who care to? Record please, Mr. Clerk.

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CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB 16.

SENATOR CUDABACK: The motion was successful. LB 16 does advance. Mr. Clerk, LB 17.

CLERK: LB 17, introduced by Senator Landis. (Read title.) The bill was introduced on January 6, referred to the Revenue Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on advancement of LB 17.

SENATOR LANDIS: Thank you, Senator Cudaback, Mr. President, members of the Legislature. The homestead exemption system falls into two categories: a general homestead exemption based on age and income; and a second homestead exemption that is on medical conditions. The evidence necessary for the medical condition part of the homestead exemption requires a physician's certificate; however, the Department of Revenue says, look, there are areas where that's rather difficult to come up with in rural areas, and compliance is not a problem; we don't have serious difficulties with compliance; it would be just as easy for us to accept a physician's assistant or an advanced practice registered nurse to certify the disability for the purposes of disabled homestead exemption. And I think that if we use a licensed healthcare professional, the broader we make that definition, the easier compliance will be in the rural areas. There is no downside risk of fraudulent use of the law, to my knowledge, and I think that the Department of Revenue was on the right track when they brought the bill to have introduced. I was pleased to introduce it on their behalf. It was reported out unanimously by the Revenue Committee. This allows for general homestead medical disability certificates to be signed by physician's assistants or advanced practice registered nurses, in addition to doctors, so we can have easier compliance around the state. Thank you, Mr. Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the

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opening on LB 17. It's open for discussion. Senator Landis, there are no lights on. Did you wish to close? He waives closing. The question before the body is, shall LB 17 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 17 to E & R Initial. Have you all...record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 17.

SENATOR CUDABACK: LB 17 does advance. Mr. Clerk, LB 15.

CLERK: LB 15, introduced by Senator Landis, relates to revenue and taxation. (Read title.) Bill was introduced on January 6, referred to Revenue, advanced to General File. I do have committee amendments, Mr. President. (AM0030, Legislative Journal page 331.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LB 15.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. This bill was brought to us by Bob Wickersham, I think on behalf of the TERC Commission, the Tax Equalization and Review Commission. Their statutes, relatively involved, and every now and then something will come up in the practice that they have over there for which their existing law either creates a hurdle or does not provide them an answer. And, as you can imagine, former Senator Wickersham is quick to have some kind of solution, an amendment, a change in policy to address each and every circumstance that they have that falls to them over there. Let me tell you about what this administrative bill does. Some of the changes that it allows for is to solve a problem from a case that occurred this last year, Falotico v. Grant County Board of Equalization. Taxpayer has a valuation increase by the assessor. Normally, you get a notice of that fact. Well, the notice didn't get sent. So it came to the time to send out a tax notice, the tax notice went out, the tax notice went out and Ms. Falotico noticed that her taxes had gone up and that the valuation upon which the taxes were assessed had gone up as

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well, and she had no notice that the valuation had gone up. So she appealed her taxes. And the process that they had would not allow her to appeal the process because, rather than appealing her taxes, she should have appealed her valuation. But she didn't get notice of her valuation. Ultimately, it got to the process for which both the county board and TERC did not have a process to allow for this to occur; went to court. Court said, yep, in fact, the taxes aren't binding because the valuation wasn't set appropriately to begin with; don't have to pay taxes on the new valuation; start over next year, do the valuation, do it again. That is a really convoluted process with a lot of steps for a taxpayer to have to go through, so what TERC says is this: Look, if you've got a person who fails to get notice of valuation, we will take jurisdiction of the case. The taxpayer who can bring the action to us has until December 31 to file for relief in front of TERC and then, because of this provision, we will have the authority to handle a case in which the valuation notice did not go out. What we will do is we will examine the question of whether the valuation was appropriate or not. The very thing that the county would have done, had the notice been given, the taxpayer seen that their valuation had gone up and they'd filed their valuation controversy, the taxpayer will now have, should their failure to be...to have appropriate notice, they'll have it before TERC because they'll be able to take their tax statement in, do it by December 31, last day of the year, file the notice and be able to get to this underlying issue of valuation without having to go to district court. One of the reasons you want to be able to do this is because TERC is cheaper than court. TERC is faster than court. TERC doesn't require the use of lawyers in nearly so much of the cases as courts do, so it is significantly more taxpayer friendly. This is a better place for it than district court. This modifies the evidentiary rules for TERC's hearings, to allow them to exclude incompetent or irrelevant testimony. It allows them to honor privileges that occur in the evidentiary code. It allows TERC ten days to correct errors in their opinions. It reduces the number of cases where the TERC receives notice of appeal of their decision. One of the things that it says is, the current...there is a current requirement that TERC be served with a petition for appeal, even when they're not a party to the action. It's not necessary, a lot of paper folding, paper

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passing, and expenses. This deletes that requirement. This changes the TERC's responsibility in terms of preparing a record for submitting to the court of appeals. It eliminates the 30-day deadline. And it does place on the appellant the obligation to pay for the record before the record is sent to the court. I can tell you, there are a handful of other such changes. They are, I assure you, technical in nature. I will, if you want me to, to go into greater length and greater detail if this holds interest for you. I will, however move on to the committee amendment if you would like me to do so at this point. Mr. President,...

SENATOR CUDABACK: You may do so if...

SENATOR LANDIS: ...that is an accurate description of the most significant elements. But I must tell you, there are a dozen to 20 minor technical changes in the bill.

SENATOR CUDABACK: Chairman Landis, as you're...as Chairman of the committee, you're recognized to open on the committee amendments to LB 15, AM0030.

SENATOR LANDIS: Well, one of the virtues of dealing with Bob Wickersham is, once he brings you his bill, he goes back and grades his own paper. And you know what? He doesn't give himself a passing grade. He always had red pencil marks on his previous work, that he's...there's an even higher standard that he could achieve. And so he brings his own committee amendments with him to the committee for the bill that he just talked you introducing, because he got a new idea and a better way to say it in the committee amendments. So I would like to essentially pass on the committee amendments that were offered to us by Senator Wickersham for his bill, which is to harmonize decisions and appeal deadlines; to clarify that only persons that could have appealed the original decision are allowed to petition TERC for relief if he or she failed to receive notice--in other words, that Falotico case. The only people who can make use of that section are people who appealed...who could have appealed the original decision, and didn't because they didn't get notice. It clarifies the kinds of protests and petitions to which this right applies, the Falotico decision response

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applies. It takes out a section that was in the bill that will be dealt with by a bill that will come before the Revenue Committee this coming week, and that has to do with the handling of property tax exemption issues under LB 775. We're going to deal with that separate and alone in a separate bill. So that was the right format. We struck it from this bill. It clarifies that TERC not only has the power to hear and grant petitions, but may also deny. You would have thought that the power to hear and grant a petition would have implied the power to deny. But TERC also wants to be able to say that we can say yes and we can say no. So we're going to put in the power to say no as well as the power to say yes. There is one amendment that, by the way, essentially comes from the committee. And I think it's a subsequent amendment that will be handled separately. But I will tell you about it now. The bill originally allowed TERC commissioners living more than 100 miles from Lincoln to receive one paid round-trip every two weeks, and to start court late, if you will. And we struck that provision. So these are the committee amendments. And I would offer the committee amendments. When we're done, I will bring up that special one about the travel round-trip, and we'll take that one up after this. Mr. President, those are the committee amendments to LB 15.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the committee amendments. Mr. Clerk, motion on the desk.

CLERK: Senator Landis would offer AM0194, Mr. President. (Legislative Journal page 411.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on that amendment to the committee amendments.

SENATOR LANDIS: Thank you. This was the work of the committee. And the commissioners had asked for 100...those living further than 100 miles away from Lincoln to receive one paid round-trip every two weeks. And the committee was not of a mind to do that. So we struck that provision from the bill. These are well-paid commissioners. To the extent that they have expenses that are legitimate from other state employees, they would be

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able to submit those expenses. But to recognize statutorily a right to a round-trip every two weeks was unique, it was different than other judges, other statuses, and we were just not comfortable setting this precedent at this time.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the amendment to the committee amendments, AM0194. Open for discussion on that amendment. Senator Landis, there are no...he waives closing. The question before the body is, shall AM0194 be adopted to the committee amendments to LB 15? All in favor of the motion vote aye; those opposed, nay. Voting on AM0194, which is an amendment to the committee amendments. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. We're now discussing the committee amendments themselves, AM0030. Anybody wishing to address committee amendments? There are no lights on, Senator Landis. He waives closing. The question before the body is, shall the committee amendments be adopted, offered by the Revenue Committee to LB 15? All in favor vote aye; opposed, nay. The question is, shall the committee amendments be adopted? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The committee amendments are adopted. Back to discussion of the bill itself, advancement of LB 15 to E & R Initial. Senator Landis, there are no lights on. He waives closing. The question before the body is, shall LB 15 advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. The question before the body is, shall LB 15 advance? Have you all voted on the question at hand who care to? Record please, Mr. Clerk.

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

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LB 15.

SENATOR CUDABACK: LB 15 does advance. Mr. Clerk, LB 18.

CLERK: LB 18, by Senator Landis. (Read title.) Introduced on January 6, referred to the Revenue Committee, advanced to General File. There are committee amendments, Mr. President. (AM0032, Legislative Journal page 331.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on LB 18.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Several years ago, I had a taxpayer who came to me and told me the story of going to the courthouse with a lot of cash to pay back taxes. Went to the courthouse, asked for last year's back taxes, and didn't have all the money necessary to pay all of last year's back taxes. The delinquent taxes were, for our purposes, on the order of \$1,000, because, of course, there's interest. And they didn't predict the interest accurately, so they had, let's say, 950 bucks. And the treasurer...he said, well, here's 950 bucks; when he paid 950 bucks, the treasurer said, no, no, you can't pay the whole thing, so you can't pay anything. So the guy said, wait a second, we do taxes in two increments. So let me at least today pay half of the back taxes, and then let me come back with the other half, you know, when I can. They said, no, we can't take any of this money, because you're not paying all of the money. Well, it struck me that it was pretty odd to show up with money in hand, prepared to pay your taxes, and have people say, oh no, no, no, no, we're not going to take the money today. So we passed a law, originally over the objection of county officials, in which we said, permissively, county treasurers could accept payments in increments, in other words, in those six-month increments, for back taxes. We did it because there were some counties who said, you know, we could do this, we've got a computer system, we can keep track of this money. And we had counties who said, we're so small, we're in such trouble, we do everything by hand, it's so much of an accounting nightmare, we don't want to do this. So we did it permissively. This year, the county officials came in with this bill, asked to have it

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introduced, to say, look, you know that rule that you adopted with respect to property taxes on real estate? That would work for personal property taxes as well. We have money that's paid for past personal property taxes that go to the county sheriff as part of the delinquency on personal property taxes under a distress warrant. And maybe we should allow them to match the current statutes with respect to partial payment of real estate taxes by allowing partial payment of personal property taxes. Under the bill, the sheriff is to hold such partial payments until enough is accumulated to pay one-half the amount currently due, or the full amount of any delinquent taxes. In other words, you know, that half year or the full year for delinquent taxes. That was in the bill. What we did in the committee was to make this bill permissive rather than mandatory. The counties brought it as if it was mandatory. This would make it permissive, because the skill, ability, and accounting resources may vary by county. Secondly, it did say that we were going to move the language from where the counties who brought us this language had it, to a different section of law. And lastly, we said, look, the money comes to the county sheriff to accept the partial payment, it will be held by the treasurer, the treasurer will retain these delinquent taxes for up to one year, but--and they'll retain them because they aren't completely paid up--but at the end of one year, they will be distributed to the local governments, rather than waiting for all the delinquent taxes. Because what happens now is, the money gets to the county treasurer, and it languishes there until all the taxes are paid, and then the schools, the NRDs, and all the rest of the political subdivisions, get their money. This says, county treasurers, you can hold the money up to one year for back taxes, but at that point, distribute the money out to the political subdivisions, get the schools their money in that time frame, even if it's only been a partial payment up until then. So that's LB 18. And in fact, I've described the committee amendments as well. But that's the introduction to the bill. And its source is NACO.

SENATOR CUDABACK: Thank you, Senator Landis. You may open on the committee amendments to LB 18.

SENATOR LANDIS: I see that...according to my notes, that I

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actually ran through the committee amendments. The committee amendments are the permissive rather than mandatory language for this idea; secondly, the moving of some of this language to the correct section of law that we should actually be amending; and lastly, to tell treasurers that they've got one year to hold the funds, but at that point, even if they don't have all of the delinquent taxes on the property, distribute the money to the political subdivisions. Those are the committee amendments.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the committee amendments to LB 18. Senator Wehrbein. I'm sorry, your light went off. Anybody else wishing to speak to the committee amendments? Senator Landis, there are no lights on. Waives closing. The question before the body is, shall the committee amendments be adopted, offered by the Revenue Committee to LB 18? All in favor vote aye; opposed, nay. We're voting on the adoption of the committee amendments. Have you all voted who care to? Record, Mr. Clerk, please.

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: Committee amendments have been adopted. Back to the advancement of LB 18. Anybody wishing to speak to the advancement of LB 18? There are no lights on, Senator Landis. He waives the opportunity to close. The question is, shall LB 18 advance to E & R Initial? All in favor of advancement vote aye; those opposed, nay. Have you all voted on the question at hand who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 18 does advance. Mr. Clerk, LB 263.

ASSISTANT CLERK: LB 263 was introduced by Senator Landis. (Read title.) The bill was read for the first time on January 10 of this year, referred to the Revenue Committee. The committee reports the bill to General File with committee amendments attached. (AM0033, Legislative Journal page 331.)

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SENATOR CUDABACK: Senator Landis, you're recognized to open on LB 263.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. We have a property tax administrator in the Department of Revenue. It's actually sort of a walled-off area. This property tax administrator is the tax assessor for nine of our Nebraska counties. And we've allowed that takeover for the purpose of reducing property taxes, efficiency, good assessment practices, and the like. The property tax administrator has consolidated a lot of functions that used to be in the Department of Revenue. And by having a sort of a stand-alone operation, it has allowed us to professionalize and focus property tax administration in the state. Almost on an annual basis, DPAT, as it's called, brings us a bill again to review and update, harmonize, improve their underlying statutes. That's this bill. Among the things that it does is it provides a definition of "parcel" for land. And this refers to a piece of land that is a single assessment record. It adds a definition: For property tax purposes, a parcel means a contiguous tract of land in the same ownership and the same tax district. Parcel also means an improvement on leased land. Secondly, it changes the five-year plan required of county assessors on what they're going to do to improve assessment practices in their counties, and it changes it from a five-year plan to a one- and a three-year plan, because that harmonizes better with county budgeting processes. One of the things that DPAT does is to oversee the operation of county assessors and to improve their professionalism, and in fact, assist in the training of them to do their job. So this is one thing that NACO liked very much, because it would mean less labor and it would make the information more usable in the budgeting process of counties. It also requires that DPAT develop a statewide property coding system. This is a precursor, I think, for the eventual database for the state, which could be computerized. And to do that, we're going to need to have the same coding system across all counties. DPAT is the right person to do that. It provides procedures for valuation and appeal of property granted special value, after the normal valuation protest periods have run. It separates omitted property tax procedures from undervalued or overvalued property procedures,

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because those are two different functions. And it allows the property tax administrator to make recommendations in reports and opinions given to TERC for the purposes of intercounty equalization. Those are, for the most part, the highlights of the measure. There is a committee amendment. And oddly enough, I'm going to recommend that we defeat the committee amendment. But I'll explain that when we get to that provision. Thank you, Mr. President.

SENATOR CUDABACK: Senator Landis, you're recognized to open on those committee amendments, offered by the Revenue Committee to LB 263.

SENATOR LANDIS: The committee amendment strikes a cross-reference to Section 77-1507. This was done because we thought it was unnecessary in this context, if 77-1507 deals only with admitted property. Upon further review, and even after the hearing and our Exec Session that reported the bill out, the property tax administrator came over and suggested that other provisions in 77-1507, dealing with clerical errors, might be applicable in this context. Also, the Revisor's Office found a couple of other references like this one that we wanted to take more time to review before including them in the bill through an amendment, through this amendment. So this section implies that...this section also implicates clerical errors. The best thing to do at the moment, because of this one provision, is to kill the committee amendment. The committee amendment was offered by DPAT to the committee. We accepted it. But upon reflection, DPAT and our own Revisor's Office says, ah, too early to act; this language isn't up to snuff. And the best way to handle that, rather than to go back into Executive Session and take the amendment off, was to simply defeat it here. I would ask...while I move the amendment, I will be voting red. And I would suggest that by simply not receiving 25 votes and calling for the question, we will do the better bill drafting, which is to strike the committee amendments. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on AM0033, offered by the Revenue Committee. The question is, shall that amendment be adopted? All in favor vote

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aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 2 ayes, 21 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The committee amendments were not adopted. Back to discussion of the bill itself, advancement. Senator Louden.

SENATOR LOUDEN: Thank you, Senator Cudaback and members of the body. When I've looked this bill over here, there's some questions that I would have about it. And may I ask Senator Landis if he would yield for questions?

SENATOR CUDABACK: Yes, you may. Senator Landis, would you yield?

SENATOR LANDIS: (Microphone malfunction)...do my best.

SENATOR LOUDEN: On...like, on page 8 there, at lines 1, 2, and 3, I think, county assessor may amend a plan if necessary after the budget is approved by the county board. Well, what's this? I mean, is that the plan for the next year, or what? Because once the county board has made their budget, they...what's the point in amending the plan, I guess? I mean, can you give me some clarification on that, if you would, please?

SENATOR LANDIS: And Senator Louden, would you cite the page number again? I think I might have missed...

SENATOR LOUDEN: Page 8 in the green copy, I guess.

SENATOR LANDIS: Uh-huh. And now, what line are you talking about?

SENATOR LOUDEN: Line 1, where it starts, "The county assessor may amend the plan, if necessary, after the budget is approved by the county board."

SENATOR LANDIS: Ch, okay. Starting on page 7, the provision is

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talking about not a current plan, but for a future assessment year. So starting on page 7, it will say, the county assessor shall, on June 15, prepare a plan of assessment which shall describe the assessment actions the county assessor plans to make for the next assessment year, and two years thereafter. The plan shall indicate the classes or subclasses of real property that the county assessor plans to examine during the years contained in the plan of assessment. The plan shall describe all the assessment actions necessary to achieve the levels of value and the quality of assessment practices required by law, and the resources necessary to complete those actions. So it's a plan, right? It's going to say what we're going to do in the coming year and two years forward, and the resources necessary to complete it. The plan will be presented by the county board of equalization by July 31. So they got...you know, 15 days later. The county assessor may amend the plan, if necessary, after the budget it approved by the county board. A copy of the plan and other amendments thereto shall be mailed to DPAT. The county assessor has no resources except those authorized by the county board's budget. When they make a plan, they're showing that to the world and to the county board. If that...in which case, if they identify resources in the plan, and the county board doesn't authorize those resources, what are you going to do with the plan? You're going to have to amend the plan. What this doesn't do is give assessors any power to command resources and undo or fail to honor what a county board would authorize in the budgeting process. What it allows is to conform the plan back to what the county board said they could do, you know, by whatever resources were authorized. In the...however, understand that since it's a plan with no authority, even if the plan didn't match the county budget, the plan is not binding. The plan is a planning document. It is not a grant of resources or authority to the assessor. I hope that answers your question.

SENATOR LOUDEN: Okay. Thank you, Senator Landis. Yeah. I think that part...also, if you would continue answering questions for me. On page 15, oh, starts at about line 16 there,...

SENATOR CUDABACK: One minute.

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SENATOR LOUDEN: ...to determine the level and quality of assessment in the county, the property tax administrator. There's been added language into that there. And is this setting something up so that there will be either a statewide marketing areas, or...how is that going to affect marketing areas? I guess my concern is, are we going to have valuations from, say, oh, clear over in Rock County or Brown County, to be used in...for valuing range land over in Sioux County or something like that, that would be, oh, 250 miles away? I have concerns about, if the property tax administrator is using the entire state, or a larger area for...to find that...to figure out valuations, that we're probably getting into completely different areas and marketing areas.

SENATOR CUDABACK: Senator Louden, your time is up. Did you wish to push your light again? You may. You may continue.

SENATOR LANDIS: Senator Louden, the language that you're pointing to on that page, 16, is essentially a rewording of existing authority. It's not essentially a grant of any new authority.

SENATOR LOUDEN: Right.

SENATOR LANDIS: But I think your underlying question is this: How far can an assessor or DPAT go, or anybody go, with respect to coming up with a comparable sales matrix?

SENATOR LOUDEN: Exactly.

SENATOR LANDIS: Can you reach across from Crawford, Nebraska to Omaha sales, and willy-nilly pull out Omaha sales for Crawford, Nebraska? Let me tell you what the operative principle is. You start where the property is, and you go in a concentric circle. You go outwards from that until you have enough comparable sales, comparable sales, to be able to do an assessment. If you've got them in the county, then you stay in the county. If you've got to go to the contiguous counties, go to the contiguous counties. You go in a concentric circle as far as it takes to get genuinely comparable sales. And when you get them,

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you stop. And that's the way you do the assessment practice.

SENATOR LOUDEN: Well, how many sales do you need to consider it a comparable sale, I guess? And I mean, when you say, I understand, it sounded like a good idea, you start and you go until you find enough. But I mean, you could actually search until you found the right kind of numbers that you were looking for. If there aren't any numbers available within a certain geographical area, perhaps there doesn't have to be any valuation changed. And I guess that's where I have my concern, is how far we should be allowed to go. Should there be a perimeter on the distance out? This...

SENATOR LANDIS: If there was a perimeter that kept out, so that you didn't have a comparable sales file, you would defeat assessment practices, because you wouldn't have comparable sales. If you create a boundary, and inside that boundary there isn't enough sales for a comparable sales study and finding, then you don't have actual market data, and the system fails. What you do is, you go until you have a usable, comparable market sale. And you may find it easy, for example, in an urban area, where houses sell quickly. You can find comparable sales very easily. When there are thousands of house sales, it's not difficult to come up with comparable sales value. In agricultural areas, it's much more difficult. And the reason is, sales are rare and comparability is difficult to establish. Soil is different. Availability of water is different. It's harder to do. The law still requires us to find market data. One of the things that we've given ourselves tools is to be able to go back three years. So one of the ways in which we get to comparable sales is, concentric circle out to comparability, and you can use three years of data to do that. If there is a question about the problems that we have now in the assessment practices, it is not exacerbated by the language in this bill. If you wanted to try to make a suggestion, this would be a platform, if you wanted to use it, for assessment practices. But there isn't something in this bill that essentially changes assessment practices to make it harder or easier, I must confess, than what we're doing now.

SENATOR LOUDEN: In other words, you feel that the language in

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here doesn't affect the underlying...

SENATOR LANDIS: That's right.

SENATOR LOUDEN: ...reason for what's in that bill. And I probably agree with that. So I guess my question is, what is the language in there for?

SENATOR LANDIS: What I can tell you is that there isn't a substantive change in...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...assessment practices, but for what I described to you as a working definition of "parcel." Because "parcel" is something that is going to...needs to be defined. And that is a contiguous tract of land in the same ownership and same tax district. "Parcel" is used repeatedly throughout the statutes, and apparently we needed to have a definition for it. Other than that, there is not a substantive change in the way that we assess. I will tell you that the language essentially is meant to be better language to say than what we do now. What you were referring to on page 15 says, the property tax administrator shall--and this used to be the language--for preparation of his or her reports and certification--an unnecessary phrase we strike--employ the methods specified in Section 77-112--okay, unchanged--the sales assessment--this now says, the comprehensive assessment ratio,...

SENATOR CUDABACK: You may continue.

SENATOR LANDIS: ...it's simply a change of a name, but it's the same process--the comprehensive assessment ratio study which was specified in Section--so it cites the one that we're talking about--other statistical studies, and an analysis--rather than "studies," it uses the word "analysis"--of the assessment practices of the county. What that is, is for the most part substituting language for existing language in which you describe the process better. We say a comprehensive assessment ratio instead of a sales assessment ration. We say an analysis instead of a study. That's what that language does. It's not a

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change in practices.

SENATOR LOUDEN: Okay. On...what would it be, subsection (4), I guess, and just above all of this, there's all new language in there, in addition to an opinion of level of the value, and the county property tax administrator may make nonbinding recommendations for consideration by the commission. Now, these are recommendations that they're making for the TERC commission? Is that what you're talking about?

SENATOR LANDIS: What it does is that it says, we now are out getting a consultant's view on what should happen in the equalization process, and turning that over to TERC for TERC's use. This says that we can allow...that the property tax administrator may make recommendations for TERC to consider with respect to assessment practices, particularly across county lines. TERC wants suggestions. TERC wants recommendations for what should be done. And it's a nonbinding one. But DPAT is in a pretty darn good position to give information and recommendations to TERC. This authorizes them to do that.

SENATOR LOUDEN: Okay. Thank you, Senator Landis. There are parts of this bill that I think probably have cleaned up some of the language and some of the statutes, and some of that I would agree with. There's parts of it in here that I worry that perhaps we're giving property tax administrator more authority all the time. I think we have to be very careful about that. I don't know if this is the type of bill that is one we need. So at the present time, I myself will oppose LB 263. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. No further lights on. Senator Landis, you're recognized to close on the advancement of LB 263.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. People may well have questions and problems with the assessment practice. This bill does not substantively change those in any significant way. But it does provide a platform for changes if you want to make changes. I would suggest, however, that if we do make those changes, depending on their substantive nature, Select File might be the time to do

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that. Put an amendment into the mix, put it into the Journal, let us all take a look at it, and let us have a chance to review it. It seems to me that that would be an appropriate place to do it, at...depending on how significant it is, the argument might be made that there was no public hearing on it. But this is an appropriate bill for those of you who want to improve the assessment process to use it. It does not contain dangerous or problematical errors. If you don't like existing assessment processes, it's in the statutes there already. If you want to change them, you could use this bill. But this is not where the problem is. By the way, DPAT hired a consultant last year, and the whole purpose of the consultant was to review our process to make recommendations. One of the recommendations of that consultant was, they told DPAT, you know, you ought to have the authority of making nonbinding recommendations to TERC. So that's one of the reasons that they put that provision in this bill. I would ask for the advancement of the bill. If you're reluctant to advance it, which I can understand, because you harbor some concerns about assessment, I would suggest perhaps not voting, or voting no, and then thinking of the bill as a staging area or platform for recommendations that you want to make on Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on the advancement of LB 263. The question before the body is, shall LB 263 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 263. Have you all voted on the question who care to? Record please, Madam Clerk.

ASSISTANT CLERK: 27 ayes, 0 nays on advancement of the bill, Mr. President.

SENATOR CUDABACK: LB 263 does advance. Madam Clerk, LB 283.

ASSISTANT CLERK: Mr. President, LB 283, introduced by Senator Raikes. (Read title.) The bill was read for the first time on January 10. That bill was referred to the Revenue Committee. That committee reports the bill back to General File with committee amendments attached. (AM0031, Legislative Journal page 332.)

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SENATOR CUDABACK: Thank you, Madam Clerk. Senator Raikes, you're recognized to open on LB 283.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. LB 283 allows county boards of equalization in counties with more than 100,000 residents to extend the deadline for reviewing and deciding valuation protests from the current date of July 25, to August 10. To extend the deadline, the county board of equalization must adopt a resolution prior to July 25. And any such resolution would extend the period only for that year. If the board of equalization adopts such a resolution, the county waives the right to petition TERC for an adjustment of an entire class or subclass of real property. This bill is intended to help accommodate counties that have the potential to receive a high number of valuation protests. Although the period for submitting protests begins June 1, many protests are not received by the county until near the June 30 deadline, leaving the board only 25 days to review and decide the bulk of its protests. This bill would help alleviate such a situation by allowing the county board of equalization, if it so chooses, to extend the period by an additional 15 days. The Revenue Committee has an amendment to the bill to correct a drafting oversight, and to adjust later periods in the protest process affected by adding the additional time proposed in this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on LB 283. There are committee amendments, offered by the Revenue Committee. Senator Landis, Chairman, you may open on those committee amendments.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. The committee did report out the Raikes bill. And it contemplates this extension of time frame for hearing protests. What wasn't done was the creation of due process, or a mechanism for appealing with...under the auspices of this new time line. So we needed to go back in and just make a slight change that said, to extend the appeal deadline as well for counties passing a resolution to extend the deadline for hearing protests. So this committee amendment just makes sure that we

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have due process available, should the county have used the extended time frame. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the committee amendments offered by the Revenue Committee. Open for discussion on that motion. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. I think Senator Landis has explained the committee amendment well. I urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion on the committee amendments? Seeing none, did you wish to close, Senator Landis? He waives closing. The question before the body is, shall AM0031, offered by the Revenue Committee, be adopted? All in favor vote aye; opposed nay. The question before the body is the Revenue Committee amendments offered by the Revenue Committee, AM0031 to LB 283. Have you all voted on the question who care to? Revenue Committee amendments. Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: The motion was successful. The Revenue Committee amendments have been adopted. Back to discussion of advancement of LB 283 to E & R Initial. Senator Raikes, there are no lights on. Did you wish to close?

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I would just urge your support in advancing this measure. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. The question before the body is, shall LB 283 advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. Have you all voted on the advancement who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance.

SENATOR CUDABACK: LB 283 does advance. (Visitors introduced.)

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Mr. Clerk, LB 329.

ASSISTANT CLERK: LB 329, introduced by Senator Stuhr. (Read title.) The bill was read for the first time on January 11, referred to the Retirement Systems Committee. That committee reports the bill to General File, no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, to open.

SENATOR STUHR: Thank you, Mr. President and members of the Legislature. Currently, at least 16 school districts in the state of Nebraska provide payments to their employees in order to induce them to take early retirement. Such payments or inducements are deposited in qualified retirement accounts, and may be paid to the retiree during retirement in the form of annuity payments. LB 329 intends to codify this current practice into state law. But it also seeks to limit such inducement payments from being counted as compensation towards the calculation of retirement benefits. There was a concern about a possible loophole in the law, and it was felt that clarification such as we're providing in this statute was needed. LB 329 would permit a school board or board of education to make contributions for the purposes of separate payments made at retirement and for early retirement inducements. Such contributions would be picked up under Section 414(h) of the Internal Revenue Code, and would be deposited into qualified plans permitted under Sections 401(a) or 403(a) of the Internal Revenue Code. In addition, LB 329 would make changes to the definition of compensation found in Nebraska Revised Statutes 79-902, to provide that the employer contributions made for the purposes of separate payments at retirement and early retirement inducements are not defined as compensation for the purposes of the calculation of retirement benefits. Last session, the Retirement Committee heard this issue in LB 1080, and it was evident that more work was needed on the issue. LR 256 was introduced, and we continued reviewing appropriate language during the interim session. We worked with the concerned parties involved in order to put forth language that was agreeable and consistent with the current practices in place. And it should be noted that there were no opponents to

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this bill when it was heard in committee. In closing, LB 329 proposes that such retirement inducement payments would not count as compensation towards the calculation of retirement benefits, and it puts into statute the current practice being utilized by school districts. I would appreciate your consideration on this proposal. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the opening on the advancement of LB 329. Open for discussion on that motion. Any senator wishing to speak? Senator Louden.

SENATOR LOUDEN: Yes. Thank you, Mr. President and members of the body. I would have some questions to ask about the retirement, whenever a school district is putting out money for something like this. I guess, where is the money coming from? Is that money that comes out of their retirement that's been deducted from their particular wages or whatever? May I ask Senator Stuhr some questions, please?

SENATOR CUDABACK: Yes, you may. Senator Stuhr, are you available? Would you answer a question from Senator Louden?

SENATOR STUHR: Yes.

SENATOR LOUDEN: Senator Stuhr, when these payments are made, where does this...where this money comes from in the school...from the school districts that are making these payments? Is this money that's raised by tax revenue? Or is this money that's some way or another filtered through state aid to education? Or where does this money originate to be paid to these people to induce early retirement?

SENATOR STUHR: There are certain provisions under the Section 79-931 that permits a school employee to take this early retirement. And it allows the school districts to deposit this retirement into a qualified account. And I think that most generally, it does come from the budget. It has been sick pay, sick leave, or something that...you know, that they have actually earned, and it's not going to be counted as part of their compensation. I think that's what we need to clarify,...

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SENATOR LOUDEN: Okay.

SENATOR STUHR: ...that it is...it's a separate...it provides for a separate account. And 16 school districts are already doing this. And we just...there was an allowance, but we wanted to make it very clear in the statute that this could be done.

SENATOR LOUDEN: Now, as that comes out of there, this money, is that considered part of the needs when they...for their state aid to education formula?

SENATOR STUHR: I can't answer that. I'll try and find you the answer. Okay?

SENATOR LOUDEN: Well, yeah, I would be concerned. Because I think, you know, if we're giving schools more authority to have an inducement for early retirement and some...or that sort of thing, that I question whether the state of Nebraska should be the one funding it through their needs, if it's considered part of their needs or not. So that would be my main question on that. I would like to, you know, see some clarification on this, if we could, about where the money is coming from and what's happening to it. Because school systems...any funding that goes out of school system has a direct effect on property taxes. And we have to be very careful on what we do about the authority on funding school systems, and who's paying for it, and where the money is coming from. Thank you. I'll return the rest of my time back to the Chair.

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Thank you, Senator Louden. Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Janssen, members. Senator Louden, relative to your question, perhaps I can help on some of your questions. And I would just like to thank our very capable Chair, Senator Stuhr, for introducing this bill. This has been a problem. And the problem embodied in this, Senator Louden, is that the teachers are under a defined benefit plan. In other words, their benefits are defined. And part of that

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equation is their salary at time of departure. And what we detected was happening, what was...what has come to us as a problem, Senator Louden, was that these inducements were being calculated as part of their compensation, and thus would artificially inflate their retirement benefits and retirement, because they're under the defined benefit plan. And by doing...by these school districts providing this inducement for an early retirement, and by having it as part of their compensation plan, it would artificially inflate, if you will, their retirement benefit. And I would welcome Senator Stuhr to correct that if I'm wrong. But that was my understanding, as we went through this bill in the interim study. The retirement inducements are brought on by the school district. It's done--and maybe Senator Raikes can have some comment relative to this--the inducements are done, Senator Louden, so the district saves money, so that...if you have a teacher or administrator that is close to retirement age, theoretically, they are those within your school district that get paid the most money, because of their time of service. And the inducements are done, in--as you look at it from a universal view--are done as a means or a tool, a tool for the school district to save money. Again, I just want to thank Senator Stuhr for bringing this. This has been an ongoing issue that has been taken up by the Retirement Committee. This seems, I think, a good attempt to remedy some of the problems relative to, if you will, artificial or enhanced compensation at the end of a career which brought about enhanced retirement benefits, which was a problem in terms of the balances of these retirement plans. Thank you, and I'll give back the rest of my time to Senator Janssen. Thank you.

SENATOR JANSSEN: Thank you, Senator Synowiecki. Senator McDonald.

SENATOR McDONALD: Mr. President and members of the body, I'd like to ask Senator Stuhr a question.

SENATOR STUHR: Thank you. Yes.

SENATOR McDONALD: Is this money deposited annually? Or is it at time of retirement? When is this annuity purchased?

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SENATOR STUHR: I'm not sure, Senator McDonald. I do know that we're not creating something new here. We are just recodifying the language to be able to make it clearer. And I think what Senator Synowiecki said, I would certainly add to it that it is actually an opportunity, usually, for the districts to save money in the long run, and that it does come from the General Fund. And whether this is done annually, I'm not sure.

SENATOR McDONALD: So as a teacher is teaching, you know, is this purchased along the way? Or is it waiting until they're ready to retire to purchase this? I guess that's my concern.

SENATOR STUHR: Okay. I...it is provided at the time of retirement. So...and what might be in that fund, as I mentioned before, might be accumulation of sick leave, of days that they have had, and so that is put in this separate fund. Instead of adding it to compensation, it is not allowed to be added to compensation. So that is what forms this separate fund.

SENATOR McDONALD: So what you're saying is that you basically are accumulating benefits, so to speak,...

SENATOR STUHR: Yes.

SENATOR McDONALD: ...as far as sick time.

SENATOR STUHR: Right.

SENATOR McDONALD: And then at time of retirement, that's calculated in dollar figure.

SENATOR STUHR: Yes, and is placed in this fund then. And then they can get that upon retirement.

SENATOR McDONALD: Okay. And it has to be at retirement age? If they would retire early, at any point in time when they're ready to retire, they can obtain these funds?

SENATOR STUHR: Yes, at the time of requirement. Yes.

SENATOR McDONALD: Okay. And is there a time that...do we do

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the state statutes, as far as when it's time to retire?

SENATOR STUHR: Right.

SENATOR McDONALD: Or can they retire...say they retire from one district and go to another, and they're leaving.

SENATOR STUHR: Yes, I have two special circumstances. An employee who has completed 35 years of credible service may retire at any age; an employee who has completed at least 5 years of plan participation and who is at least of 60 years of age. So there...you know, there are some limitations.

SENATOR McDONALD: So it's clarified in the bill.

SENATOR STUHR: Yes.

SENATOR McDONALD: Okay.

SENATOR STUHR: Thank you.

SENATOR McDONALD: Well, I will continue to listen, and I'll turn the rest of my time over to the Chair.

SENATOR JANSSEN: Thank you, Senator McDonald. Senator Louden.

SENATOR LOUDEN: Thank you, Senator Janssen and members of the body. I guess my question was, is the money that's used to finance this thing still part of the...considered part of the needs that comes out of the...and is used in the education...or the state aid to education formula? And I guess I would...may I ask Senator Synowiecki a question, please?

SENATOR JANSSEN: Senator Synowiecki, will you respond?

SENATOR SYNOWIECKI: Yes.

SENATOR LOUDEN: Senator, you're on this Retirement Committee, right?

SENATOR SYNOWIECKI: Yes.

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SENATOR LOUDEN: Yeah. Does this in any way affect...have anything to do with this...what is it, the 85 rule, or whatever it is, if they've been there past 50 years old and taught for 35 years, or whatever that rule is? Does this have anything to do with that rule?

SENATOR SYNOWIECKI: I have no idea. But it is my understanding that all these expenditures by the school board relative to compensation for their teachers is under the cap, though.

SENATOR LOUDEN: Yeah.

SENATOR SYNOWIECKI: But I have no idea, relative to...

SENATOR LOUDEN: Now, there are other mechanisms for them to retire early if they want to. If they've had a certain number of years in and they're a certain age, they can still retire early, can't they, with a significant retirement (inaudible)?

SENATOR SYNOWIECKI: Absolutely. Senator Louden, as Senator Stuhr has mentioned, this is a practice that has been going on for quite some time. And the purpose of LB 329 is not to initiate this process of what school districts have been participated in. The purpose of LB 329--and I'll leave it to Senator Stuhr, I don't want to speak for her--but the purpose is, as I see it as a member of the Retirement Committee, is that we do not end up with inflated retirement compensation, that these inducements that the school boards use, that these tools that are used by the school boards do not end up being calculated as compensation in their last year of employment, and thus they would receive an enhanced retirement benefit as a result of that. LB 329, in my mind, addresses a practice that has been ongoing for some time.

SENATOR LOUDEN: Well, true. But if you get...if they got the money, you got the money. I mean, no matter how you call it, they still...if they get...whether they get their retirement and an inducement besides, whether you add it together and call it all one, it's still the same amount of money. Is that correct?

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SENATOR SYNOWIECKI: It's the same amount of money, but how it's defined in terms of, is it compensation or is it a retirement benefit, are two different things.

SENATOR LOUDEN: Now, we get back to my original question then. If it isn't compensation then, is it used in...as part of the needs for calculating their state aid to education formula?

SENATOR SYNOWIECKI: It's my understanding--and I would defer to Senator Stuhr--but it's my understanding that all of these expenditures relative to retirement and compensation and salary for teachers is under the cap and is part of the formula. Now, that's my understanding.

SENATOR LOUDEN: Okay.

SENATOR SYNOWIECKI: Perhaps Senator Kopplin could be of assistance here as well.

SENATOR LOUDEN: Well, I guess that's fine. What I was getting at is, perhaps they've been using it for years and that sort of thing, but if we're going to look at the cost of education and what the state has to pay, is this something that we should be doing in...as part of our education formula? Should retirement inducements be considered part of the needs? Myself, I don't think so. I think that should be outside of it. I think the retirement fund, the way the retirement fund has been set up,...

SENATOR JANSSEN: One minute.

SENATOR LOUDEN: ...there are probably some mechanisms that these teachers can retire early if they so desire. Because on this, where you're using these inducements, that's to get someone to retire. If they don't want to retire, why, it...you can't use it as inducements. Most of it is, if you put enough money out there, why, somebody will retire. So I still kind of question whether this is something that we really should be doing, until we...until it's studied further, and that sort of thing. And I'll return the rest of my time to Senator Synowiecki if he so desires to have it.

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SENATOR JANSSEN: Elaine, you have 23 seconds left. So we'll go to the next speaker. Senator Kopplin.

SENATOR KOPPLIN: Thank you, Senator Janssen and members of the Legislature. Having used early retirement incentives many times in my career, and accepted one on my own retirement, I'd like to tell you, this is a good bill. The idea behind incentives usually comes when you have a teacher or school employee who has been there for a long time. In my particular experience, the board used that you had to be in that employ for 20 years. So you're talking about high-paid individuals. The idea was, okay, they take early retirement, we can replace them with a beginning teacher or someone in that category, and we'll save a bunch of money the next year. It's budgeted for, so I suppose you would have to say, yes, it's figured in your needs. But along with that, you also budget what it's going to cost you for the next teacher the following year. So in a sense, you're saving your district money. In my case, both I used and received compensation, we timed it so that we received our compensation in September following retirement. It no longer affected the retirement formula. But I can see that if a school district decided to pay this in June in one lump sum, it currently could affect retirement payments. That was never our particular choice to do that. It is taxable money as far as the IRS is concerned. Social Security was not...ended up not taking a...coming from that. And that happened because of a lawsuit in some other state, saying that that was not compensation anymore; it was beyond that, it was a payment. It works well. It saves the districts money. And I would encourage you to move this bill forward.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Kopplin. Appreciate it. Mr. Clerk, announcement.

ASSISTANT CLERK: Mr. President, the Education Committee will hold an Executive Session under the north balcony at 11:45. That's Education, 11:45, north balcony.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion,

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Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been listening to the discussion, and I need to have a few things clarified. And I would like to ask if Senator Stuhr would be willing to engage in some conversation.

SENATOR CUDABACK: Senator Stuhr, would you yield?

SENATOR STUHR: Yes.

SENATOR STUTHMAN: Senator Stuhr, on page 2 of the green copy, this...it states in line 18, the school district can offer to offer a separate plan, classified as a qualified plan under that section. Is this, what they're offering, is this an additional plan to their other plan, other retirement plan?

SENATOR STUHR: Senator Stuthman, this is...what we are allowing in this bill is simply trying to codify and make a clearer understanding of what is presently allowed right now, and that is this special qualified, you know, retirement buy-out section. And it has been in effect. We're just trying to clarify the language. But evidently we're having a difficult time doing that.

SENATOR STUTHMAN: Okay. And this is a plan that is...the contributions come from both the employer and the employee?

SENATOR STUHR: Yes.

SENATOR STUTHMAN: It does?

SENATOR STUHR: Yes, I believe so.

SENATOR STUTHMAN: It does, so. And you're trying to clarify it. So this is really not an additional plan that you can opt into?

SENATOR STUHR: No, it is an early buy-out payment opportunity.

SENATOR STUTHMAN: Yeah.

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SENATOR STUHR: And I think as been stated before, it actually will save the school districts money, and also the...yes, it will.

SENATOR STUTHMAN: It will save the school districts money. But the one that is in the retirement mode, it won't affect him in any way, will it, then?

SENATOR STUHR: No.

SENATOR STUTHMAN: Okay.

SENATOR STUHR: No.

SENATOR STUTHMAN: Okay, thank you.

SENATOR STUHR: It would be separate.

SENATOR STUTHMAN: Yes. That is the question that I have. And...

SENATOR STUHR: Yes.

SENATOR STUTHMAN: ...I'll return the balance of my Chair...time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Redfield, on the advancement of LB 329.

SENATOR REDFIELD: Thank you, Senator Cudaback, members of the body. I rise just to clarify into to the record, for Senator Synowiecki, that early separation payments are outside of the levy lid, and can actually increase property taxes for that district. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Synowiecki, you're recognized.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. Thank you, Senator Redfield. I was unaware of that. Thank you. Senator

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Kopplin, thank you for your comments as well. And I just want to reiterate that this is a practice done by school districts across the state. It's a cost-saving tool for school districts. I think Senator Kopplin very eloquently, by giving examples, indicated to us exactly how much a school district can save with this tool that is available to them. And what LB 329 is attempting to do is to make clear that these separation payments cannot be considered compensation. In particular, on page 10 of the green copy, line 21, it explicitly indicates that employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided in this section, that they are not to be considered compensation for purposes of a retirement benefit calculation. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Stuhr, yours is the last light, if you wish to speak. Or do you wish to close?

SENATOR STUHR: Okay. I believe that I will use this as my closing, if I may.

SENATOR CUDABACK: You may do so if you care to. You are closing.

SENATOR STUHR: I have appreciated...thank you, Mr. President and members of the body. I have appreciated this discussion. I do want to point out that LB 329 does not create for the first time this practice of providing retirement inducement or buy-out payments. It was our point that we wanted to make some clarification. It does propose explicit language in the section that payments are not used for purposes other than what they were originally intended, such as providing a separate retirement benefit. As been pointed out before, it would not count as compensation toward the calculation of retirement benefits. And I think that this is important. Currently, up to 16 school districts across the state are utilizing this particular plan. And I do have a list of those if anyone is interested. And there are certain early retirement provisions, and those were stated before, that an employee who has completed 35 years of credible service may retire at any age, and an

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employee who has completed at least 5 years of plan participation and who is at least 60 years of age. So we are not making any changes. We are just trying to be more specific. And the schools had come to us and wanted the clarification in this language. So I ask for your advancement of LB 329. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the closing on the advancement of LB 329. The question before the body is, shall LB 329 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is, shall LB 329 advance to E & R Initial? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: The motion was successful. LB 329 does advance. Mr. Clerk, items for the record, and messages or announcements?

ASSISTANT CLERK: Mr. President, I do. Amendment to be printed by Senator Engel to LB 205. New A bill, LB 28A, offered by Senator Connealy. (Read LB 28A by title for the first time.) A series of name adds: Senator Redfield to LB 26, LB 63, and LB 65. (Legislative Journal pages 428-429.)

Mr. President, I do have a priority motion. Senator Connealy would move to adjourn until Friday, February 4, at 11:00 a.m.

SENATOR CUDABACK: You've heard the motion from Senator Connealy to adjourn until Friday, 11:00 a.m. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned.

Proofed by: AEG