

MARCH 30, 2005

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March 30, 2005 LB 39, 121, 131, 144, 234, 242, 299, 352
361, 382, 485, 492, 516, 668, 684, 684A

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Langemeier, from the 23rd District. Senator Langemeier.

SENATOR LANGEMEIER: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Langemeier, for doing that for us. We appreciate it. I call the fifty-second day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB 39, LB 121, LB 131, LB 144, LB 234, LB 242, LB 299, LB 352, LB 485, LB 492, LB 516, LB 668, LB 684, LB 684A as correctly engrossed. An amendment to be printed, Senator Byars, to LB 382. That's all that I have, Mr. President. (Legislative Journal pages 1031-1032.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File, 2005 committee first priority bill. Mr. Clerk, LB 361.

CLERK: Mr. President, LB 361, a bill originally introduced by Senator Bourne. (Read title.) Introduced in January, referred to Judiciary, advanced to General File. There are committee amendments. Committee amendments were divided. Two of the four components have been adopted, Mr. President, to the committee amendments. I have pending now FA127, which is the third component of the committee amendment. (Legislative Journal page 1032.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Members, it's a little

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noisy in here. So if you would, please, show respect for the Clerk and the speaker. Senator Bourne, would you review LB 361?

SENATOR BOURNE: Thank you, Mr. President, members. As the Clerk mentioned, this is the first committee priority bill. The bill was divided into four sections. The first two sections were adopted. And Mr. President, if you'd allow me, I'll just go ahead and open on the third section of the divided committee amendment.

SENATOR CUDABACK: You may do so.

SENATOR BOURNE: Thank you. Members, this third component of the divided committee amendment is LB 130, introduced by Senator Brown. Essentially, LB 130 repealed LB 625...it would repeal LB 625, which is an act relating to housing discrimination complaint procedures, that was passed last year. The language in LB 625 resulted in the Nebraska Equal Opportunity Commission being out of compliance with federal HUD requirements, thus making the commission ineligible for a federal housing discrimination contract. As reflected in the committee amendment, LB 130 brings the Nebraska Fair Housing Act into compliance with federal HUD law. The amendment exempts from public release all records compiled in the course of conciliation activities related to housing discrimination investigations. It limits access to information derived from an investigation until after the investigation is complete. Current law allows the aggrieved party or respondent access to these records at any time. Any information released is subject to the Federal Privacy Act of 1974, as amended, and any other federal or state law limiting the release of confidential information. The committee amendment reflects the suggestions forwarded to us by HUD. And Senator Brown has an amendment to the committee amendment which is a compromise that I believe carries out the intent of LB 130, brings us into compliance with HUD, and goes no further. And that is what the committee amendment does, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. Mr. Clerk.

CLERK: Mr. President, Senator Brown would move to amend this

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component of the committee amendments with AM0838. (Legislative Journal page 979.)

SENATOR CUDABACK: Senator Brown, you're recognized to open on your amendment to the third component of the divided committee amendments.

SENATOR BROWN: Mr. President, members, as Senator Bourne explained, when we passed LB 625 last year, which was a very small bill that made a very small change to the law, we were unaware that the NEOC was already being considered for noncompliance because of an Attorney General's opinion that indicated that the public records law...that the NEOC, in their conciliation agreements, were not exempt from the public records law. And so that, in concert with the passage of LB 625, led to the possible decertification of NEOC to receive these HUD funds. At the time that we voted on LB 625, I pledged that if it jeopardized funding for the NEOC, that we would revisit the issue. And that's what we are doing. Actually, it has been a long and sometimes torturous process of revisiting the issue. But Senator Chambers and I agreed at the time that the bill was passed that we would revisit it. And I...part of my belief in it, in us maintaining those HUD funds, is that we must protect the real people that are possibly subject to discrimination, those very real cases. And this really has to do with the testing process, that is somewhat separate, but the money could have been jeopardized for everything. And so the NEOC has worked very hard with various constituencies. They've actually worked very hard through a number of issues. And I must congratulate them for holding the agency together, in light of their executive director leaving, then changing his mind. The board, who has...you know, when...I suppose when you're...this would probably not be a good poster for the Governor about getting people to serve on boards, because it has turned out to be, I think, probably more than they had reckoned with, in the middle of all of this, finding out that they might lose the fair housing funds. And so they...the chairman of the board is the acting executive director right now of the NEOC. And through this, they have negotiated with the constituencies. They have worked with the realtors who, in good faith, also agreed at the passage of LB 625 that if it jeopardized the funds, we would get

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it fixed. They have come up with an amendment which is what I have before you right now. And we do have a letter from HUD, saying that if the amendment is adopted just as it is--they're not willing to say what would happen if we changed anything--if it's adopted just as it is, they will say that we are substantially equivalent, which we are in compliance with their rules for...around disclosure. I will go through a summary of the changes that are proposed by this amendment. On page 2, line 16 through 20, there is some guidance on rule-making for the NEOC. And some of these things are very small, technical changes that the board of the NEOC really thinks will help facilitate their work. On page 2, lines 21 through line 2 on page 3, provides statutory authority for NEOC to contract with HUD and other organizations, and prohibits bounty contracts. On page 3, line 25 through line 2 on page 4, it strikes language from the existing statute that was determined to be problematic. This was the language that was agreed to at the time LB 625 was passed, and this is being struck. On page 5, line 6 through line 9, requires the NEOC commissioners to approve conciliation agreement. This language was based on discussions between the NEOC and interested parties. Page 6, line 9 through 11, provides that all records compiled during the conciliation are exempt from public release, allows that fully executed conciliation agreements may be released. This language was proposed to meet the requirements of HUD, and was a part of the original committee amendment to LB 130. Page 6, lines 14 through 15, changes existing statute regarding when information may be released. This language was agreed to at the time that LB 625 was passed. Page 6, lines 18 through 23, requires that the NEOC's release of information comply with federal regulations. This language was proposed to meet the requirements by HUD. Page 6, lines 24 through 27, gives NEOC discretion to disclose certain materials to complainant and respondent during investigations and conciliation discussions. This language is based on Arizona statute and federal rules, and was proposed by the NEOC. Page 7, lines 1 through 11, strikes language from the existing statute that was determined to be problematic by HUD. This language was agreed to at the time that LB 625 was passed. And so these are the changes that are proposed in the amendment. And as I said, this amendment was the creation of the NEOC, and has been agreed to by HUD. And I

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do think that we're all on the same page, finally, in this whole process. And I would urge the adoption of the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. You've heard the opening on AM0838, which is an amendment to third component of the divided committee amendments, offered by Judiciary Committee to LB 361. Open for discussion, Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I just wanted to rise in support of Senator Brown's amendment. I appreciate the hard work she's put in on this. Sometimes, dealing with the federal government, it's difficult to get answers in a prompt manner. When we adopted the committee amendment, we had drafted the committee amendment based on letters we had received from HUD. And we agreed in committee to make the amendment so that...make the language in the amendment so that it would qualify, or so that the NEOC would maintain certification and do no more. And I think Senator Brown scales back, to a certain extent, the committee amendment, and yet maintains our compliance. I'm comfortable with the amendment, that it does everything that it should, and I would urge your adoption of Senator Brown's amendment. Thank you.

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

SENATOR CHAMBERS: Mr. President, friends all, Senator Brown did a very thorough and competent job of explaining the amendment. Senator Bourne gave appropriate accolades to Senator Brown for the hard work she did. But I want to point out that in order to have applause, there are two hands. You cannot have a hand clap with but one hand. You can pop a finger. There was somebody else working very hard on this matter, and that person is speaking to you now. My main intent was to make sure that the NEOC would be in no way crippled as far as its ability to carry out its job to fight against discrimination in housing. I had told Senator Brown that the amendment she proposed ought to be run by HUD, and if HUD agreed that there was no problem as far as decertification, I would support the amendment. As Abraham Lincoln said on one occasion, the promise, having been made, must be kept. I support her amendment. And I don't think it's

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necessary that I add anything to what she has completely and thoroughly explained. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator...I'm sorry, her light went off. Senator Brown, there are no other lights on, so I do recognize you to close on your amendment, AM0838.

SENATOR BROWN: Mr. President, members, I would just urge the adoption of the amendment. And I would provide the other hand to Senator Chambers' (laugh) for the clapping. Thank you.

SENATOR CUDABACK: You've heard the closing on AM0838. The question before the body is, shall that amendment be adopted to FA127? All in favor vote aye; opposed, nay. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the amendment to the committee amendments.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further pending to FA127, Mr. President.

SENATOR CUDABACK: Open for discussion on the adoption of FA127. No discussion, no lights seen, Senator Bourne, you're recognized to close. He waives closing. The question before the body is adoption of the third component, divided committee amendments to LB 361. All in favor vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the third component of the committee amendments.

SENATOR CUDABACK: The third component has been adopted.

CLERK: Mr. President, Senator Bourne, as Chair of Judiciary, would offer the fourth and final component of the committee amendments, FA128. (Legislative Journal pages 1032-1033.)

SENATOR CUDABACK: Senator Bourne, on FA128.

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SENATOR BOURNE: Thank you, Mr. President, members. This last component of the committee amendments consists of LB 755 and LB 756, as introduced by Senator Chambers. I'll point out for the record, at the beginning, there was no opposition whatsoever to either of these bills. And I'll tell you what they do. LB 755 prohibits the taking of a DNA sample from any person by law enforcement without probable cause or with receiving the voluntary consent of such person in connection with the investigation of a particular crime. The bill establishes procedures that law enforcement must utilize when obtaining consent to take a DNA sample. It establishes procedures for law enforcement agencies regarding the handling of DNA test samples and results. It establishes a right of action to person whose rights have been, under...whose rights, under the act, have been violated. The committee amendment to LB 755 changes the procedure for obtaining consent for a DNA sample, and removes the criminal penalty for violating the provisions of the act. The written declaration is amended to only require that a person be notified of their right to refuse the request to donate DNA, and that such a refusal does not constitute probable cause or reasonable suspicion that a crime has been committed. The requirements that the sample is knowingly and voluntarily given, and that no threat, pressure, or coercion was employed still must be adhered to, but no longer have to be included in the written declaration signed by the donor. LB 756 amends Section 29-3303 of our statutes to require that police seeking a court order to obtain identifying physical characteristics from an individual must establish probable cause that the individual subject to the order committed the offense in question. Currently, Section 29-3303 requires law enforcement to establish probable cause that a crime has been committed, and that obtaining physical identifying characteristics from the individual in question may contribute to the identification of the offender. The Nebraska Supreme Court, however, in the case of State v. Evans, interpreted the Fourth Amendment to the Nebraska and federal constitutions to require probable cause that a person subject to such an order committed the crime in question before he or she can be required to submit to nontestimonial identification procedures. LB 756, contained in this component of the committee amendment, updates the language

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in Section 29-3303 to comport with the existing judicial interpretation of the statute. And again, I want to point out that there was no testifiers in opposition at either the hearing for LB 755 or LB 756. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) Mr. Clerk, a motion.

CLERK: Mr. President, the first amendment I have to this component of the committee amendments is by Senator Friend, AM0903. (Legislative Journal page 976.)

SENATOR CUDABACK: Senator Friend, to open on AM0903 to FA128.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, Senator Bourne did a good job of describing what we're dealing with here on this division of the question. What my...what this proposed amendment does, AM0903, to FA128 and then the bill, it's essentially...AM0903 is what I believe, based on my investigation of the issue, an enhancement; this amendment, an enhancement; and will provide uniformity in the rest of the statute change. Subsection (2) of the...of FA128 says, in the absence of probable cause, more or less, here are the exceptions: that the sample is knowingly given, that refusal is there, and refusal doesn't provide the probable cause, and that no pressure or threats or coercion or et cetera were involved in the situation. The new language that I am proposing...and it reads as such, starting with the old language. On page...or, excuse me. A court order...excuse me. The new language provides uniformity in the statute by pointing out that the exceptions are there in subsection (2). So the new language would essentially be this: No DNA sample shall be obtained from any person for any law enforcement purpose whatsoever without probable cause, a court order, or voluntary consent, as described in subsection (2) of this section. So that's essentially it. I did talk to Senator Chambers about the amendment. Like I said, I think it provides some uniformity, and hope you'll, I guess, be in agreement with that assumption. I would ask for the adoption of AM0903 to the Judiciary Committee amendment. Thank you.

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SENATOR CUDABACK: Thank you, Senator Friend. You've heard the opening on AM0903. Open for discussion. Senator Brown.

SENATOR BROWN: Mr. President, members, I am going to support the Friend amendment to this bill...I mean, and to the committee amendments and to the bill. And I believe that we...that DNA is a very important tool for the...for police to use to solve cases. But it is too personal of information to be used...to be acquired without some plan for the destruction in those situations where the individual is proven to have no connection to the case, and to be used...to be acquired in any sort of an indiscriminate way. Senator Friend's amendment deals with the legitimate use of DNA, and being able to have it for introduction into a case when it is appropriate. And I believe that we need to do it. But I also believe that we absolutely need to require a system for the destruction of DNA evidence in those cases that the individual is not shown to have any connection to the crime. We have a DNA database for convicted offenders. And that is something that we have approved of as a policy. But I don't believe that we should have any sort of a policy that allows for the acquisition of DNA material in individuals who are proven to have absolutely no relationship to the crime. And so I think that Senator Friend's amendment bridges what some might consider a gap in the use of...the maintenance of the DNA, when appropriate, for criminal use in a trial. But the underlying bill that is proposed in the Judiciary Committee amendment is something that we do need to pass. And so I would urge the adoption both of the Friend amendment and the Judiciary Committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Chambers, on AM0903.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I also agree with Senator Friend's amendment. There had been much discussion about what this bill actually does. And it is very simple in what it does. There are two circumstances under which DNA evidence may be sought: one, against the person's will--and this bill deals only with the investigation of a crime--against the person's will; or voluntarily. The voluntary part has not posed a problem. When the bill was being heard, there was no

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opposition. The County Attorneys Association sent a representative to appear in a neutral capacity because the organization was not prepared to go on record opposing the bill. So if you look at the statement, the committee statement, you will see no opposition. One of the people who testified for the bill is a man named Dick Davis. He had played fullback for UNL, which probably carries more weight with some people than the fact that he has become a successful businessman. I believe he's on the commission...the Coordinating Commission for Higher Education, whatever the official title is. And his son was one of the victims at OPPD who had his DNA sought pursuant to a dragnet-type approach by the Omaha Police Department. Mr. Davis pointed out that his son did not fit within the description. The tallest that the person would have been was 5 feet 9, had a big belly, and was bald. His son was over 6 feet tall. He was in the process of working toward a position in management. When this traumatic experience occurred, it set him back tremendously. And the way the police would do it is to go to somebody's house in the evening. Hopefully, if the person is married, the wife and the children would be home. And they would have several unmarked cars come and park in front of the house. The officers would descend on the dwelling. And if the man was home, they would point out that they want to take a DNA sample in connection with a serial rape, and suggest that he certainly shouldn't have any opposition to it, because if he hadn't done anything, then he should be willing to give it. This is the kind of not-so-subtle coercion and pressure that was being used. In this case, and similar cases, the wife or the significant other would look with suspicion at the man if he didn't agree to give the swab. Some men refused anyway. Others, because of the embarrassment caused to them in front of their wife or their significant other, their children, and neighbors who were wondering why all these police were at the house, would agree to give the swab. In one case, a man had been cleared by one of the victims in a one-person lineup. She looked at the man. She said, he is my neighbor. I know him. He did not have anything to do with this. The police went and got a court order to compel the taking of a sample from him, after he'd already been cleared. That is how messed up that so-called investigation was. I was critical. The judge was aware of the fact that he should not have issued such an order,

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so he sealed the affidavit and the order. I and a lawyer named Bill Gallup filed motions to unseal those documents. When they were unsealed, it was clear to everybody that there was no probable cause stated in the officer's affidavit, no probable cause in the order that was issued by the judge. So the bill is brought to make sure that when a person is having DNA taken against his or her will, there must be probable cause. Senator...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...Friend's amendment goes to that part of the law. Because it is written saying that notwithstanding any other provision of law, Senator Friend's amendment is designed to make it clear that we are not doing away with the part of the law that allows such a sample to be taken in compliance with a court order or if it's voluntary. So I agree with Senator Friend's amendment. He had it drafted in connection with the city attorney, the city prosecutor in Omaha. So the three of us are in agreement. And I hope you will support his amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Erdman, on AM0903.

SENATOR ERDMAN: Thank you, Mr. President. I wonder if Senator Friend would yield to a question.

SENATOR CUDABACK: Senator Friend, would you yield?

SENATOR FRIEND: Yes, I will.

SENATOR ERDMAN: It's not a tough question. You didn't have to take that long. Is this a friendly amendment?

SENATOR FRIEND: Well, I'll let anyone that's actually interested be the judge of that. But I believe it is, yes.

SENATOR ERDMAN: Okay. Thank you.

SENATOR CUDABACK: Anybody else wishing to speak to the

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amendment, AM0903. Seeing no lights on, Senator Friend, you're recognized to close. He waives closing. The question before the body is adoption of AM0903 to the fourth component of the divided committee amendments. All in favor vote aye; opposed, nay. The question before the body is the Friend amendment, AM0903, to the divided committee amendments. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment to the committee amendments.

SENATOR CUDABACK: AM0903 has been adopted. Mr. Clerk, next motion.

CLERK: Senator Friend would move to amend with AM0907.

SENATOR CUDABACK: Senator Friend, to open on AM0907.

SENATOR FRIEND: Mr. President, excuse me, I'd like to withdraw that amendment, please.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, when you get time, next motion.

CLERK: Mr. President, Senator Beutler, AM0980. I have a note you want to withdraw that, Senator?

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Mr. Clerk, Senator Chambers and I have had a further conversation about that, and I would go with the following amendment and withdraw that one.

CLERK: You want to go with FA133, right, Senator? The one you just gave me?

SENATOR BEUTLER: That's right.

CLERK: Okay. Senator Beutler would move to amend, Mr. President, with FA133. (Legislative Journal page 1033.)

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SENATOR CUDABACK: You're recognized to open on FA133.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I think this part of the bill is a very, very good part of the bill. And it's really a little bit embarrassing, considering what the country has gone through in the last 50 years, and where we were and where we've come to, that this sort of incident should raise its head again in our society. And I think that the reaction that we're having to it is entirely appropriate. The only thing that my amendment seeks to do is to protect Section 29-4106 of our statutes, which is the provision that has to do with the taking of DNA from convicted felons in certain instances, including sex offenders. The broad language that was originally included by Senator Chambers I don't think he intended to cover all these different existing areas. Senator Friend's amendment protected the paternity area, for example, by requiring court order. And the last amendment that I think is to be recommended, in order to protect Section 29-4106 of our statutes and allow the continuing of taking DNA from convicted felons is this amendment. And that's the only thing that the amendment seeks to do. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on amendment FA133. Open for discussion on that amendment. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, friends all, Senator Beutler and I did discuss this, and he is absolutely correct in pointing out that my intent was not to abrogate or do away with the sections of statute that he is talking about. So the adoption of his language will leave intact those statutes that he was talking about, so I support his amendment. The bill with his amendment will still say that when a crime is being investigated, there must be probable cause before DNA can be taken against a person's will. What Senator Beutler is concerned about in the statutes he is mentioning is not the investigation of a crime, but existing authority to take DNA samples from certain convicted felons. Since it is not my intent with this bill to affect those statutes, I am in support of Senator Beutler's amendment. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the Beutler amendment, FA133. Seeing no lights on, Senator Beutler. He waives the opportunity to close. The question before the body is adoption of amendment FA133 to the last component of the divided committee amendments. All in favor vote aye; opposed, nay. The question before the body is adoption of amendment FA133. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment to the committee amendments.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further pending to committee amendment FA128, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Open for discussion. Seeing no lights on, Senator Bourne, did you wish to close? He waives closing. The question before the body is adoption of the last component of the divided committee amendments, FA128 to LB 361. All in favor vote aye; opposed, nay. The question before the body is adoption of the fourth component of the divided committee amendments to LB 361, offered by the Judiciary Committee. Have you all voted who wish to? Record please, Mr. Clerk.

CLERK: 40 ayes, 0 nays, Mr. President, on the fourth and final committee amendment.

SENATOR CUDABACK: Committee amendments have been adopted.

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

SENATOR CUDABACK: Open for discussion on the advancement of LB 361. Open for discussion. Seeing no lights on, Senator Bourne, you're recognized to close.

SENATOR BOURNE: Thank you, Mr. President, members. Members, thank you for your indulgence. I know it's taken a while to get through all these. But I think this is a good package of

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legislation that will be good for Nebraskans. I'd appreciate your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the closing. The question before the body is, shall LB 361 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 361. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB 361.

SENATOR CUDABACK: LB 361 does advance. We now go to General File, 2005 committee second priority bills. Mr. Clerk, LB 401.

CLERK: LB 401, by Senator Fischer. (Read title.) The bill was introduced on January 12, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM0369, Legislative Journal page 493.)

SENATOR CUDABACK: Senator Fischer, to open.

SENATOR FISCHER: Thank you, Mr. President, members of the body. The purpose of this bill is to provide a voting alternative for large geographic counties with populations of less than 7,000 in Nebraska. As a result of the Help America Vote Act, each polling site will be required by 2006 to have certain pieces of costly equipment available, such as touch screen devices. This will prove very expensive to counties with a small budget. It may not be the wisest course to purchase this equipment for the use of 13 or 38 people that might reside in some of these more sparsely populated precincts. Additionally, it is getting more and more difficult to find polling sites in these areas that meet the accessibility features required of all polling sites. Under LB 401, the Secretary of State, upon the request of the county election commissioner, can designate one or all of the precincts in a county as mail-in-only precincts. Under this scenario, no polling place will be set up in the precinct. Every registered voter will receive a ballot by mail 20 days prior to the election. The voter will need to return the ballot

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to the election commissioner, either by mail or personal delivery, by 8:00 p.m. the day of the election. All elections by mail will be conducted under the procedures outlined in Sections 32-953 to 32-959. This is not intended as a precursor to all-mail voting. That is spelled m-a-i-l. But instead, it is a viable alternative in specific situations. The limitation on counties with less than 7,000 is an arbitrary figure. But it is expected that the bulk of the precincts where this will be a positive step will be in the smaller population counties. As you know, I represent the largest geographic district in the state. In the 43rd District, 11 of my 13 counties would meet that 7,000 population figure. These 11 counties could realize cost savings if this bill is passed, and if the local citizens, through their county election commissioner, choose to take advantage of the provisions of this bill. LB 401 will at least give the election commissioners of these smaller population counties the option to conduct elections in an effective and cost-saving method. Thank you. With that, I will turn the rest of my time back to you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Fischer. You've heard the opening. There are committee amendments, as stated by the Clerk. Senator Schimek, Chairperson of the Government, Military and Veterans Affairs Committee, you're recognized to open.

SENATOR SCHIMEK: Thank you, Mr. President and members. I'd like you to follow along, if you would, on the committee statement. And it will explain...it does explain the committee amendment. And there are actually four bills that are attached to this. And I want to make certain that everybody understands what we're doing here. The first bill that is attached is LB 408, which was introduced by Senator Flood. And it allows a person who's the age of an elector and a citizen of the United States who has not resided in the U.S. to register to vote and vote in the county in which his or her parents were registered to...or are registered to vote. The bill also allows residents of Nebraska who are overseas citizens, members of the armed forces, and other citizens temporarily residing outside the country, to receive and return an absentee ballot using any method of transmission authorized by the Secretary of State. Current law allows the receiving of an absentee ballot by

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facsimile, but requires the return by mail. This provision was a recommendation of the Vote Nebraska Initiative. And the initiative was mindful of the current deployment of National Guard troops, and wanted to take all reasonable steps to accommodate overseas voting. The Secretary of State testified in favor of this bill, and there were no opponents. The second bill is LB 233. And incidentally, all these bills are on your gadgets, because there are committee statements on all of them. LB 233 was introduced by Senator Pahls. And that requires the election commissioner or county clerk to receive authorization from the Secretary of State before dividing precincts into two or more parts between the statewide primary and general elections. The purpose of these provisions is to allow an election official to divide a precinct when it becomes obvious the precinct has grown faster than anticipated. There were several opponents who testified at the hearing, including...I'm sorry, there were several proponents at the hearing who testified, and those included the Secretary of State, Douglas and Lancaster County election commissioners, and a representation from the Nebraska Association of County Clerks, Register of Deeds, and Election Commissioners. There were no opponents. The third bill is LB 290. And that was introduced by Senator Mines, and allows the Secretary of State to adopt rules and regulations establishing polling places which may be used for voting for 20 days prior to election day. The polling places do not include already established polling places or the office of the election commissioner or county clerk. Allowing for alternative polling sites before election day is often called satellite voting. The Vote Nebraska Initiative recommended satellite voting once the statewide interactive voter registration system is implemented and other voting equipment is acquired. And this will happen in 2006, incidentally. With this equipment, allowing voters to vote early at shopping malls, hospitals, colleges, and other locations becomes possible. The initiative also recommended a plan to rotate the satellite voting sites to ensure fairness and equal protection of all voters. The Secretary of State, Lancaster County election commissioner, and a representative of the Nebraska Association of County Clerks, Register of Deeds, and Election Commissioners testified in favor of the bill. I might mention the Douglas County election commissioner opposed

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the bill. LB 477, the fourth bill, was introduced by me, and it allows a voter whose absentee ballot is destroyed, spoiled, lost, or not received to cast a provisional ballot on election day, or to obtain a replacement absentee ballot. The replacement absentee ballot may be obtained by signing an oath stating the absentee ballot was destroyed, spoiled, lost, or not received, and delivering that statement to the election commissioner or county clerk. The replacement ballot can be received in person or by mail. The committee amendment eliminates the language in LB 477 providing that if a voter casts more than one absentee ballot at the same election, or casts both an absentee and a provisional ballot at the same election, the voter's ballots will not be counted. This provision was removed because it's not workable. The absentee ballot would likely already be counted by the time the provisional ballot would be investigated to determine its validity. Current penalty provisions--and I want you to hear this, because it's similar to the provisions on falsifying information on your voter registration. But provisions for election falsification, again, voting more than once, would be a Class IV felony. There were no opponents to the bill. A representative from the Nebraska Association of County Clerks, Register of Deeds, and Election Commissioners testified in favor, and the Secretary of State testified in a neutral capacity. With that explanation, I believe that all five of the provisions that would be encompassed in the bill would be...would help make our election process better. Some things are a little innovative, but they are done on a small scale, so I believe that we would be very safe in trying them. And I would ask for your adoption of the committee amendments to LB 401. Thank you, Mr. Chairman.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the Government, Military and Veterans Affairs Committee amendments to LB 401. Open for discussion. Senator Pahls.

SENATOR PAHLS: Mr. President, members of the body, I would like to speak to LB 233, which is in the amendment, just a brief review of that. It allows election commissioner or county clerk to divide a voting precinct into two or more distinct parts.

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And the reason for this is because of the growth in some parts of the state, such as Douglas County, Sarpy County, between the primary and the general election. The number is so large that what we are trying to do is make the lines shorter. So in order to do this, the election commissioner or county clerk would talk with the...or discuss with the Secretary of State, get permission to do...to divide that precinct. And it could not...it's sort of a check and balance. They all need to be in agreement with this. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. Senator Beutler.

SENATOR BEUTLER: Senator Schimek, if you would yield a couple minutes of time, I wanted to get a better understanding of a couple of parts of the bill, or the committee amendment.

SENATOR SCHIMEK: Certainly.

SENATOR CUDABACK: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes.

SENATOR BEUTLER: And I wanted to direct your attention to page 3, Senator Flood's contribution to the bill. And perhaps I should address the question to Senator Flood. I would invite his comment, too, obviously.

SENATOR SCHIMEK: Are you talking about page 3 of Flood's original bill?

SENATOR BEUTLER: I'm sorry. Page 3 of the committee amendment, which we're...which is before us now.

SENATOR SCHIMEK: Okay.

SENATOR BEUTLER: And I'm talking page 3, at the bottom of the page, not the numeric pagination on the left side of the...

SENATOR SCHIMEK: Okay.

SENATOR BEUTLER: ...amendment. It's Section 5, which starts

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out, "A person who is the age of an elector." I understand, I think, the whole intent of the amendment. And obviously, it's a good purpose. And I want to understand just two things. One: Is it conceivable that other states are doing the same sort of thing? And is there any uniformity across the states in how this is being done? I assume, perhaps, not, since this is an individual state thing. In which case, would it make any sense to have a provision in there that prohibits you from doing this if you've registered in another state pursuant to their provision? Or is that taken care of someplace else? And also, an adjunct question, is there a penalty that goes along with double registration? Those would be my questions.

SENATOR SCHIMEK: I think that's a very good question, Senator Beutler. And I can't honestly tell you that I know the answer to all the parts of your question. It is my belief and assumption that other states have these same kinds of provisions. But we didn't do any research on it when we adopted this particular provision. I believe that the person who registered to vote here would still be subject to Class IV felony offenses if they were registered in another state and voted in another state. I think they would still be subject to those kind of penalties, because you have to swear to certain things when you register to vote. So I think that would take care of registering in another state.

SENATOR BEUTLER: Perhaps it would kick in, but it would have to be explicitly prohibited by our state. And I assume maybe it is otherwise in statute, but it is not in this particular provision. So anyway, that was one of my questions. The other question had to do with page 2 and the provision authorizing the Secretary of State to adopt and promulgate rules and regulations to establish polling places other than polling places established as otherwise provided in this section, which means, I take it, polling places that are established by the local county...

SENATOR SCHIMEK: Yes.

SENATOR BEUTLER: ...election commissioner or county clerk, right?

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SENATOR SCHIMEK: That's correct, yes.

SENATOR BEUTLER: Okay. And I'm sure I don't fully understand this concept of satellite voting. But when you say "other than polling places established," this is not to allow a substitution of one polling place for another, or an overriding of the election commissioner's polling places; but when we say "other than," it means "in addition to?" Is that...

SENATOR SCHIMEK: In addition to, exactly.

SENATOR BEUTLER: Is that accurate?

SENATOR SCHIMEK: That's accurate.

SENATOR BEUTLER: So do...if they...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...have polling places in addition to, do those polling places have to be approved by the local election commissioner? Would it make any sense to have some required coordination with the local election commissioner?

SENATOR SCHIMEK: I believe that what this section says is that the Secretary of State may adopt and promulgate the rules and regulations that would allow this to happen in the individual counties. And then it would be up to the individual county clerks or election commissioners to decide to have satellite voting places in their county.

SENATOR BEUTLER: Okay. So it's not intended that the Secretary of State could impose this system on any election commissioner?

SENATOR SCHIMEK: No. That's not my understanding of it, anyway, Senator.

SENATOR BEUTLER: Okay. So if that...if there was an amendment to make that clear,...

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SENATOR CUDABACK: Time, Senator.

SENATOR BEUTLER: ...there would be no objection to that?

SENATOR SCHIMEK: No.

SENATOR BEUTLER: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion, committee amendments, Senator Mines, followed by Senator Flood.

SENATOR MINES: Thank you, Mr. President, colleagues. Senator Beutler, an opportune moment for me to jump in. The polling that you were just talking about with Senator Schimek was included in a bill I introduced, LB 290. And what it does...as I understand it, it also establishes polling places; would allow the Secretary of State to promulgate rules and regulations and then determine polling sites, pre-election polling sites, similar to other states, where, as an example, the Secretary of State could establish a polling site in Westroads Mall, or Gateway Shopping Center, 20 days in advance, and allow people to vote early. And I think the point that Senator Beutler raises is reasonable, that the Secretary of State should notify the local election commissioner or county clerk if a temporary site is put in. And I'd also like to comment on the bill itself. The Secretary of State intended this to be a temporary measure, to see if it works. This would be a trial period that would allow the Secretary of State to set up early voting sites, encourage people to vote early, and in addition to on the day of election. So I...in response, perhaps, Senator Schimek, to Senator Beutler's question, I would say that it does establish polling places. And an amendment that would allow, or would direct the Secretary of State to coordinate with the local election commissioner or the county clerk would certainly be in order. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Flood.

SENATOR FLOOD: Mr. President, members, this committee amendment does contain a bill that I introduced, together with the help of

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the Secretary of State's Office, that allows men and women serving in the military...the prime purpose of the bill is to let men and women serving in the military vote. As we have already addressed this session, if we're going to let people that have been convicted of felonies vote, at the same token, I think a service man or woman sitting in a ditch in Iraq, serving their country, should have the ability to vote. And what I like about this bill is, it recognizes and acknowledges that somebody serving their country doesn't always have access to the postal service so that they can use an absentee ballot. They can use whatever method is approved by the Secretary of State, whether that be an e-mail, or a fax, whatever is more appropriate, that they can use while serving in Iraq. And I think that says a lot about somebody serving our country, because they essentially, at that point, would waive their right to have a secret ballot, and would go on record, obviously, with their name at the top of the e-mail or the fax, that says, this is my ballot; I live in Otoe County, Nebraska, or Douglas County, Nebraska, and I want to vote this year. So that's why I really got excited when I saw this bill. And I know that Senator Beutler has some questions about some of the provisions, specifically those provisions found in Section 5 of the committee amendment. And I guess I would yield any time to Senator Beutler to maybe flesh out some of his primary concerns.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Flood, thank you. My concern is very limited. It...and it just has to do with a situation like this. What if, in Nebraska, we pass this law, but in Ohio they passed a law applying in the same way except they said, anybody born in Ohio can vote here? You know, hopefully, this population that we're talking about would never think of registering in two different places, but we always make laws to anticipate the worst situation. And all I'm saying is, would it make sense to put language in here saying, you can do this here in Nebraska, but not if you've registered in some other jurisdiction?

SENATOR CUDABACK: Are you through, Senator Flood, with...

SENATOR FLOOD: I can appreciate your use of the state of Ohio

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in our last presidential election, because it was a very close race. But I think that's appropriate. You know, the Department of Defense has really made this one of their initiatives throughout the nation, to get and make it easier for men and women serving our country in the armed forces to vote and participate in political life and electing our leaders nationwide. Nine or ten states have this, so your concern is legitimate. And I think what you're working toward is preventing a voter from, essentially, double-dipping and casting two votes in a national race, or taking advantage of maybe the nonuniformity of the laws across the nation. I will tell you that this bill incorporates language suggested in part by the Department of Defense to make this more uniform across the country. And I don't think a provision making it, you know, maybe voter fraud, or a crime, or prohibiting this specifically, would be inappropriate. I think that would be an appropriate response to a legitimate concern that you may have. And when you get into a state like Ohio, where they're actually counting ballots by hand in some precincts in a very close election, I think it makes a lot of sense.

SENATOR CUDABACK: Thank you, Senator Flood. On with discussion, Senator Schimek, followed by Senator Beutler.

SENATOR SCHIMEK: Yes, thank you. Mr. President and members, I turned my light on because I think that I needed to answer Senator Beutler's original question a little bit better. And also, I wanted him to have the chance to ask more questions if he had them. But committee staff has just informed me, Senator Beutler, that there are nine or ten states which presently do allow that person from overseas to vote in the county in which his or her parents are eligible to be voters. And apparently, this is another national kind of push, so there...I imagine eventually all 50 states will have the same kinds of provisions. So I wanted to put that on the record, and ask you if you want to do any follow-up questions to that.

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

SENATOR BEUTLER: Senator, with regard to that particular provision, just one follow-up question. It indicates that you

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can vote if you have a parent registered to vote within the state.

SENATOR SCHIMEK: Right.

SENATOR BEUTLER: Well, as you know, in modern society, parents don't often...often don't live together. One may be in one state, and one in another. In that instance, what is the intent of the bill?

SENATOR SCHIMEK: Well, the intent would be that...I mean, I think the supposition is that you would have to pick one or the other of those parents. And I think that we were often thinking, when we were doing this, of younger people, 18 years of age maybe, who are just getting ready to vote, who would still be living with their parents overseas. But your question, I think, illustrates that it could be a person who is 25 or 30 years old wanting to register to vote for the first time, and not living with their parents overseas. But they would pick, then, the state of the parent in which they wanted to vote, and it would most likely be the case of both parents. But one doesn't know that.

SENATOR BEUTLER: Thank you, Senator.

SENATOR CUDABACK: Are you finished, Senator Schimek?

SENATOR SCHIMEK: I am. I appreciate the discussion. I think the questions are good. And Senator Beutler, in your questions to Senator Flood, I guess I think the concern of some of us with the military voting provision was more along the line of the secrecy of the ballot and being concerned about that. That was my biggest concern, and the fact that when you are overseas in a military situation, that sometimes there may be some subtle...I don't want to say intimidation...some subtle influence going on there. And we discussed that in the Vote Nebraska Initiative. But in the long run, I came out finally in support of this measure, because I think that we have to risk, maybe, that in order to let our troops vote. And there is a way in which these troops will be asked to sign a waiver of whether or not...a waiver saying that they know that their ballot is not

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necessarily going to be a secret ballot. When you fax something,...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...you know that other people may see it other than the person who is counting the ballot. So that was my biggest concern. And I think my fears and objections were overcome on this provision.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Beutler, followed by Senator Brown.

SENATOR BEUTLER: Senator Schimek, I'm sorry. With regard to that particular provision, let me ask you one more question that was not clear to me.

SENATOR CUDABACK: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes, I will try to answer your question, Senator Beutler.

SENATOR BEUTLER: The rule indicates that this provision would be applicable to those...to a person who has not resided in the United States.

SENATOR SCHIMEK: You're back on Section 5, now?

SENATOR BEUTLER: I am.

SENATOR SCHIMEK: Okay.

SENATOR BEUTLER: Residing outside the United States, who has not resided in the United States. So if this person has at any point in time in their life resided in the United States, they would be required to register to vote in the state where they resided?

SENATOR SCHIMEK: Yes, I would believe so, and where their parents resided, because they would have no other way of establishing any kind of residency, I don't think.

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SENATOR BEUTLER: Well, do they have the choice of registering where they once resided or registering under this? Or is that...or does the fact that they resided in one place previously prevent them from registering, using this provision to register?

SENATOR SCHIMEK: Now, this only applies to those who have never resided in the United States.

SENATOR BEUTLER: Okay. Well, that was my question.

SENATOR SCHIMEK: Yeah. And you know, I suppose this would apply to...

SENATOR BEUTLER: They never resided at any time...

SENATOR SCHIMEK: That's right.

SENATOR BEUTLER: ...in the United States.

SENATOR SCHIMEK: That's right.

SENATOR BEUTLER: They've never established a residency.

SENATOR SCHIMEK: That's the way it reads.

SENATOR BEUTLER: Okay.

SENATOR SCHIMEK: This would be the children of missionaries in China, or somebody like that, who just never had occasion to live in the United States.

SENATOR BEUTLER: Okay.

SENATOR SCHIMEK: It would apply to very few individuals, I would think.

SENATOR BEUTLER: Okay. Then my last question. And Senator Fischer, I'll give you an opportunity to educate me a little bit here. I really like your provision. It makes a whole lot of

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sense to me to provide for another way of doing things out there in your country. And the only question I had...and I'm sure this is probably answered by other sections of the statute, but the very last sentence that says, except that the deadline for receipt of the ballot shall be 8:00 p.m. on the day of the election. So under the other provisions of statute, it either has to be...does the ballot have to be in hand, if it's mailed, by that time, in the course of the regular mail? And can it be hand-delivered? And if it's hand-delivered, where is it hand-delivered? Or is all that taken care of by other existing statutes?

• SENATOR CUDABACK: Senator...

SENATOR BEUTLER: I would yield to Senator Fischer.

SENATOR CUDABACK: Senator Fischer, would you yield?

SENATOR FISCHER: Thank you. Senator Beutler, on the part by mail, I can't tell you right offhand if that has to be at the courthouse in the clerk's office, I would assume, or the election commissioner. In the case of many of these counties, the county clerk is also the election commissioner. So I would assume that it would be treated as an absentee ballot under statute, when that has to be in. And the personal delivery I would also assume--I don't have the statute here on that--but that it would have to be in hand to that election commissioner by 8:00 p.m.

SENATOR BEUTLER: But it could be hand-delivered?

SENATOR FISCHER: Yes. Under LB 401, it could be delivered personally, is the way it is, personal delivery.

SENATOR BEUTLER: Okay. Thank you very much. I appreciate the indulgence of the introducers and the body. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. (Visitors introduced.) On with discussion. Senator Brown.

SENATOR BROWN: Mr. President, members of the Legislature, the

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committee...I support all the amendments that make up the committee amendment to this bill, and the underlying bill. I did feel that I had to respond to a comment about the voting for our active military personnel who are overseas, and the concern about whether influence can be...they can be influenced in terms of their vote, or feel some sort of problem. My father served in Vietnam, and I know that voting would have been one of the most important acts that he would have wanted to be able to do, whether he was in a situation where it was an easy thing for him to be able to do to mail it, or in a situation that it wasn't an easy thing. And I have absolutely no concern that he would not have acted in what he thought was the best interest of his vote and his country. And so I have...I absolutely support this provision. And I would yield...no, thank you. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Further discussion? Seeing none, Senator Schimek, you're recognized to close on the Government, Military and Veterans Affairs Committee amendments.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I would like to thank Senator Beutler and others for their questions, and remind you that the amendment actually incorporates four bills; LB 408, which allows someone who has not resided in the United States to register to vote in this country where their parents registered, and also made the military provision. LB 233 allows the division of precincts when precincts have gotten so unwieldy and so large that they, to accommodate voters, need to be divided, and it can only be divided. LB 290 allows Secretary of State to adopt the rules and regs to allow satellite voting. And finally, LB 477 allows an absentee voter to receive a new absentee ballot if their original one is destroyed, or it allows them to vote provisionally if their original ballot is destroyed or lost or whatever. So I think those are all good changes to our election law. Some of them...some of the ideas come from the Department of Defense. Others come from the Vote Nebraska Initiative. Others come from individual members. I would urge the adoption of the committee amendments. Thank you.

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

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closing on the committee amendments to LB 401. The question before the body is, shall they be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments offered by the Government, Military and Veterans Affairs Committee to LB 401. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: Committee amendments are adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion on advancement of LB 401. Open for discussion. Seeing no lights on, Senator Fischer, you're recognized to close.

SENATOR FISCHER: Thank you, Mr. President, and thank you, members, for the discussion on this bill with the committee amendments. I thought it was a healthy discussion. I am in favor of the amendments tacked onto my bill, LB 401. And I would urge you to support LB 401 as it now stands, and advance it. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. You've heard the closing on LB 401. The question before the body is, shall LB 401 advance to E & R Initial? All in favor vote aye; those opposed vote nay. Have you all voted who care to? Please record, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB 401.

SENATOR CUDABACK: LB 401 does advance. Mr. Clerk, do you have any items for the record?

CLERK: Not at this time, Mr. President.

SENATOR CUDABACK: Okay. Thank you. Mr. Clerk, LB 753.

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CLERK: LB 753, by Senator Bourne. (Read title.) The bill was introduced on January 19, referred to the Revenue Committee, advanced to General File. I do have Revenue Committee amendments. (AM0643, Legislative Journal page 663.)

SENATOR CUDABACK: Senator Bourne, to open on LB 753.

SENATOR BOURNE: Thank you, Mr. President, members. I ask that you bear with me this morning. This is a very confusing issue. Let me tell you exactly what LB 753 does. The intent of this bill is to clarify a contractor's obligation to collect sales tax related to the installation of telephone and cable television. The bill will not make changes to the current sales tax policy, but will clarify when the requirement for these contractors to collect the sales tax actually began. To give you a little of the history, in 2003, the Legislature passed LB 759, and under this measure, building contractors were required for the first time to collect sales tax on their construction labor. However, there are still some issues that need to be resolved, and the Legislature passed LB 1017 in the following year. As the law stands now, it is clear that labor charges for placing outlets, wiring, or cabling within a building, or telephone, telegraph, and cable television service, are taxable. However, these services are also exempt from the sales tax if done on a project that is exempt. The uncertainties that arose prior to the passage of LB 759, and in the time between the passage of LB 759 and LB 1017, have created an adverse situation for the contractors, and this bill seeks to remedy that situation. Its intention is not to result in the refund of taxes already collected, but to spell out which taxes shouldn't be collected retroactively. That, in a sense, is what LB 753 does. Senator Landis and the committee have worked on this and scaled this bill back, and there is a committee amendment which maybe Senator Landis can offer a little more enlightenment. Again, it's a confusing issue. It's designed to clarify what is and isn't collectible, and at what time frame those taxes should be collected. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening on LB 753. There are committee amendments, as stated.

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Senator Landis, Chairman of the Revenue Committee, you're recognized to open.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. There are two stories, and it depends on which of the two stories you listen to as to the origin of the problem. However, the solution to the problem and its impact is relatively clear. That part we can solve by looking at AM0643. Probably easiest to figure out the implication of this amendment by saying what it does; and to do that, you need a little bit of the time line over which the installation of telephones and cables into houses has arguably been taxable and also is a disputed issue with the construction industry. Truth of the matter is, we've solved the problem as of last year. There is no controversy. There is no lack of clarity. We have a clear, bright line rule right now, and it passed last year. It was in LB 1017. LB 1017 said this: If the project is taxable, it falls under the category of a construction...piece of construction that is taxed, then the installation of cable and telephone lines as part of that project is taxed. If it's a project that is not taxed--let's say, because it's a new house--then the installation of cable and telephone lines and the like is not taxed. So the bright line that we created in what was or was not taxed last year solved this problem on an ongoing basis. Revenue is clear, the industry is clear. We're not collecting taxes and then refunding them, or we're not having disputes that people aren't collecting taxes. And the reason is, we've got a clear rule. Before last year, however, it wasn't clear. And this goes back and solves the lack of clarity before last year. Now, the Revenue Department will say, it's not that unclear. In fact, we think it was clear; they should have paid taxes. The industry says, no, no, no, no, it really was unclear. Many of us did not pay these taxes because we thought they weren't taxed. Many of us read the statutes and didn't think we were covered. And those of us who did pay taxes want them back, because we don't think we should have paid them. And about...a number of them have a bunch of claims that are in to have this money refunded to them, when they did pay the taxes. So the bright line rule that we have last year: If a project is taxed, these services are taxed; if the project is not taxed, these services are not taxed. This bill moves that line back to the

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passage of LB 759, which was the creation of the tax on construction services. We did it about three years ago. We did it in the height of the difficulty that we had financially. And it was part of the cut services and raise taxes solution to the budget problems that we had. So, this moves the LB 1017 bright line from 2004 back to the LB 759 date in 2003, and says that option two and three contractors before that date, that we waive any claims for them to have collected these taxes as well. Here's the impact. The bill is drafted with \$6 million. This amendment is \$1.5 million. It's arguably money that we have in our pocket, or are pursuing in the form of lawsuits against construction companies; or, the construction companies are asking for refunds and that the state is resisting. So you need to know that. This is money that we have in the bank. It is not money that is in dispute, and it's money that we give back. The virtue of it is, we take our clear, bright line that we had, that we constructed last year, that all parties understand, and is patently clear, and for which, by the way, we've had no difficulty in the last year about this particular problem, and we've moved that back in time to where we made the significant change in construction law. I want to tell you how it's possible that such a thing could come about. That is, that if you were to get out the contractor regulations in the Department of Revenue's book of regulations of what's taxable or not, and you were a contractor, and you asked for the pertinent regulations, there would be no mention of this tax obligation. However, there is a section in the regulations about installation services. And if you happen to be a contractor who is doing this service, and you didn't get that section of law, you wouldn't know you had this obligation. The Department of Revenue says, it's crystal clear, there's something in our installation sections you should have read. Contractors say, wait a second, we read the regulations for contractors; it's never mentioned. Ignorance of the law is not an excuse. We just made it very difficult to find, very difficult to read. And we had something that was clumped up that said, here's your contractor regulations. Contractors read them, and it never said anything about this being taxed. And the reason is, the instructions were someplace else. This was a good faith controversy that came about. It would have been easy to have fallen into this trap. We have a clear, sensible rule right now

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that nobody has problems with, and we're going to push that clear rule back in time, and we're going to waive the claims that are out there now between the Revenue Department and the industry, and we're going to move our bright line back to the time that we passed the construction law. It will have an impact. The current impact is \$1.5 million. Between here and Select File, my guess is, Senator Bourne and I will do our very best to think if there's any way that we can narrow the application so it can cost us less. Is it a firm \$1.5 million? No, it isn't. This is money, in some cases, that is, in fact...it's money that is under controversy, let's put it that way, that there are open court cases about, or dockets. I'm not sure that we should consider ourselves as winning every case that's to a docket. And that's...right now, this number looks as if we were going to win every case, and that just isn't true. But if we can minimize the cost, we should. Ultimately, we get to a very sensible policy. And the reason is, it's easy to administer, and it's easy to follow. What we don't want are taxpayers who are trying very hard to comply, and we don't give them an instruction book that a good faith party trying to comply is so confused by that they get into these kinds of problems. And by adopting the Bourne...this amendment to the Bourne bill and then passing the Bourne bill, we will have a simple rule that will be easily, easily followed, not confusing. And I think that's probably the best policy that we can get to. I support the Bourne bill. I ask you to adopt this amendment. And I think Senator Bourne and I should probably do our work between here and Select File to do whatever sensible minimizing that we can. We understand from the industry that there is some that we can do on that score. And we'll do our best, I'm sure, to bring this back and narrow whatever fiscal impact there is. I ask for the adoption of the committee amendment.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Landis. We go to debate on the committee amendment. Senator Redfield, you're recognized to speak.

SENATOR REDFIELD: Thank you, Senator Schimek, members of the body. I rise in support of both the committee amendment and the

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bill. I would tell you that good government is not about playing "gotcha" with its citizens. We have, in fact, a situation that was not as clear as we believe it should have been. When LB 759 was passed, there was a great deal of confusion, and there was difficulty with implementation. That is the reason why we had to come back last year and address it and design the clear bright line that Senator Landis explained to you. If we found it necessary to come back legislatively and create that clear bright line, I don't believe that it is unusual for us to expect that our citizenry might have also experienced some confusion. I would ask you to adopt this. I believe it's fair, it's good government. And I would draw your attention to the committee amendment, which shows you that the Revenue Committee voted unanimously. Senator Connealy was absent, but everyone there is in support of the bill. There were no opponents to this bill. I think it's good government. It's fair. We want to make sure we collect the taxes that are due, but make sure that people understand when they are due, so that they can follow the rules to the best of their ability. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. Senator Stuthman, your light is next.

SENATOR STUTHMAN: Thank you, Mr. (sic) President, members of the body. The discussion this morning leads me to think that what was done several years ago in LB 759 was realistically not a very clear-cut message to our taxpayers. And I'm referring to LB 759, the sales tax on the reconstruction, remodeling labor; not very simple, interpreted in many ways; created a real problem for the accounting and the bookkeeping system, because we had almost a promise that it was going to relieve us of \$50 million of burden towards our debt, that this revenue would be generated. I don't feel we have an accurate record of how much...how many dollars that really, really was supposed to bring in. I do not know if we can really account as to how many dollars it did bring in. A year ago, we passed one that clarified certain parts of that bill. This year, we're back again. We've got one part that isn't very clear again, the telecommunications part of it. We're taking that part of it out. The fact that that was supposed to generate \$6 million of

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that \$50 million, I realistically don't think those figures are even close, mainly because \$6 million of the \$50 million, with just one component in it of the telecommunications, doesn't seem like that factor would have generated that many dollars as far as the sales tax on the labor of that portion of it. So whatever the numbers are, you know, I can't argue with them, because those are what we're dealing with. They're dealing with the fact that, you know, we need to do something. Are we going to come back next year again with something else? You know, that something isn't working; we need to get that back out. In my opinion, I tried with no avail two years ago to get that portion taken out of it because of the confusion on how it was going to affect things, but I wasn't successful. I do support this amendment. I do support the bill, because I think we're going in the right direction. But we've got a lot more work to do on this because we are still targeting one group of people. Now we have, with this bill here today, we're taking out one small portion of that target, the telecommunications portion of it. What's going to come back next year and the next year? But if we're going to be doing this, we should have never done it to start with. We should have a broad tax, not a broadening, and now what we're doing with this broadening of the tax base is we're exempting a little thing out every year. So I just...I just think we're spending some time, you know, on things that if it was thought through a lot better several years ago, we wouldn't have got into this situation. So those are my comments. I do support the bill. I think we're going in the right direction because this was a...this was a very complicated situation. Interpretations were, you know, everywhere across the board as how it was supposed to be implied and what taxes were supposed to be sent in. But I think we're going in the right direction. You know, maybe next year it will be the time to repeal the whole reconstruction labor of it. Maybe it should be done today as an amendment on it. But I'm not as educated yet as my...

SENATOR SCHIMEK: One minute.

SENATOR STUTHMAN: ...colleague here. Senator Chambers, if I had that much intelligence, I would have tried to put something on. So, thank you. I'll return the balance of my time to the

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Chair.

SENATOR SCHIMEK: Thank you, Senator Stuthman. The Chair now recognizes Senator Don Pederson to speak. Senator Pederson.

SENATOR D. PEDERSON: Madam President, members of the Legislature, ordinarily in this situation I would stand up and say, we want to do something that's going to get rid of \$6 million worth of revenue? And I would say, no, we don't want to do that. But in this particular case, I think this is something that we absolutely have to do. I've...I have verified that what would happen in this situation is they can't get a fiscal note on what will happen when the amendment is done until the amendment is passed, and so at that time we will know what the figure is. But I think this is something, we were never intending when we did this tax on...in the matters that we're talking about today, we never intended to take advantage of anyone. We were simply trying to open and broaden our tax base. And I think in this particular case, this simply clarifies what we were intending to do. And I think that up until now it's been in the air and it's basically not fair, and I think that what is proposed in the amendment is absolutely something that we need to do, irrespective of the fact there will be a fiscal note that will go with that in the form of loss of revenue. But I think we have to be fair to our taxpayers. Probably, when we did the tax on...in that particular bill that this is part of originally, there's probably nothing that I heard more complaints about than the way in which that was being applied and used and what we were trying to do, and I don't remember all of the adjectives that went with it, but I think you probably know some of them yourselves. But I think this is something we have to do. I would urge that we adopt both the amendment and the bill. Thank you.

SENATOR SCHIMEK: Thank you, Senator Pederson. Senator Cudaback, you are the next in line to speak.

SENATOR CUDABACK: Madam President, members, if there's one issue that I have received many phone calls, many letters and many conversations with my constituents, it's this issue here, when we passed this. I mean it's really a...I mean, it really

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got their attention, and it should have, because we kind of jumped into it. Did we need to do it? Probably. We need revenue. I don't think I probably agree with Senator Stuthman all the way that we should replace this or do away with it. Remember, if we do away with this, we're going to be short whatever, \$50 million give or take \$10 million. We got to replace that some other way. When you take away, you got to replace. So what are we going to replace it with? I don't know. But anyway, we probably need this, but we're going to have to overhaul it step by step. Senator Landis says it will do one thing. Maybe we do one thing now, one thing later, one...you know, but we got to work on this because it probably wasn't fair, as pointed out earlier by Senator Redfield and several others. People got my attention. They really, really did. And, of course, it don't take much to get my attention, as you know. But anyway, I support this, and anything we can do to make it better, hey, I'm all for it. Thank you, Revenue Committee and Senator Bourne.

SENATOR SCHIMEK: Thank you, Senator Cudaback. Senator Beutler, for debate on the committee amendment.

SENATOR BEUTLER: Senator Schimek, Senator Landis, just a quick question, if I could. I think I understood all of your explanation. The part that I didn't get is that there appears to be one part of the amendment that applies to things that occurred prior to October 1, 2003, which was the effective date of LB 759, and that part has to do with the Option 2 and Option 3 contractors. So we've pushed the date back, as you have described, for the bright line, to October 1 of 2003, the effective date of LB 759, and that was done because LB 759 created confusion, which I can understand. Now, relate for me what this provision relating to Option 1 and Option 2 contractors prior to LB 759, how that relates to the explanation that you went through.

SENATOR LANDIS: The bill and the committee amendment now waives claims for disputes prior to that time as well. Contractors would argue they weren't subject to taxation or, if they were, that it was a surprise to them because contractor regulations did not make reference to that. The Revenue Department will say

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they were obligated to pay taxes on that because there were provisions in the installation sections that should have been followed, and there are a body of disputed claims that predate LB 759...

SENATOR BEUTLER: Well,...

SENATOR LANDIS: ...because of that source of confusion.

SENATOR BEUTLER: Okay. I guess I certainly have one attitude with regard to claims that derive from LB 759 and any confusion we may have created by not having a bright line. However, wouldn't it be generally true that on complicated matters of sales taxes and as they apply under the statute that there are always going to be some disputes with regard to how a particular provision is interpreted? And so let me ask you one more question, Senator Landis. How much of the \$1.5 million relates to the problem we cause by a arguably less than...well, you know, in some ways, I don't even want to say this, because I think the committee did a fantastic job with LB 759, and I think some of the complications that people perceived as being terribly complex came about because the committee made gigantic efforts to be fair and to distinguish so many things in response to the lobby that was upon you at that particular moment in time. So, first of all, I'm not sure I blame the committee for LB 759 and whatever complexities might have been there. If anybody is to blame for those complexities, it's probably the lobby that insisted upon distinguishing in so many instances that the law became complex. In any event, if we want to take on the burden of saying, yes, we were the bad guys on LB 759, how much of the \$1.5 million backing away is related to the process of going back a year to LB 759, and how much of it is related to pre-LB 759 disputes with the Department of Revenue,...

SENATOR SCHIMEK: One minute.

SENATOR BEUTLER: ...which I don't...I'm not sure we should get involved with? Can you tell us that?

SENATOR LANDIS: I can't, but I can ask and give you that

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information as quickly as I can arrive at it, but I don't know. I am...if this...this is not a relevant piece of information that is dispositive, but it might give you some signal, and that is maybe a quarter of this refund money is under current docket dispute.

SENATOR BEUTLER: So we're interfering in litigation that's going on right now and resolving it on behalf of taxpayers currently involved in litigation.

SENATOR LANDIS: That's true. Yeah. About a quarter of this...of this amount represents open dockets that the Revenue Department is pursuing.

SENATOR SCHIMEK: Time. Thank you, Senators Beutler and Landis. Senator Raikes, you are recognized to speak.

SENATOR RAIKES: Thank you, Mr. President...Madam President, excuse me, and members. To give you my impression, at least, Senator Beutler, as to how this comes about, LB 759 was actually not the critical factor in this. There was confusion in the statute, or at least it can be argued from the viewpoint of those attempting to comply with the statute there was confusion before LB 759. What LB 759 does and what this bill does is say, okay, as of the effective date of LB 759, October of 2003, from here forward we all know what the rules are. The confusion in the past is eliminated and we are going forward, and these services are going to be taxed. So I think some people have gotten the impression that we're giving up something in the way of tax revenue from services as we go forward. That's not the case. These services will be taxed as we go forward. All we're doing, as Senator Landis pointed out, is when you look before October 1 of 2003, when there was confusion...and there was confusion apart from LB 759. LB 759, I would argue, was a very, very small part of any confusion. It was there without LB 759. When we go back before that, we are resolving the conflicts in the favor of the taxpayers and some of them paid the tax. That would be where the refunds come in. Some of them didn't pay the tax and so, in some cases, I assume, the Department of Revenue has initiated action to collect that money. So, in both of those instances, that obligation is going to go away. The

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\$1.5 million, I think, just refers to the refunds that will actually be paid out. You could probably add to that, if you wanted to, that maybe, you know, if this bill didn't pass, some of the claims or some of the actions about...brought by the Department of Revenue against contractors for obligations prior to that point would be successful. So you might want to add that to the \$1.5 million. The point is I think the committee decided, and I certainly agree, that we make the date, the effective date, October 1 of 2003; we go forward from that date, these services are taxed. There's no question. What happened before that date we're going to...we're going to allow the refunds; go...treat everybody the same, that we're going to assume that those taxes before that date were not...don't have to be paid because the statute was, in fact, confusing. So LB 759 is involved in the sense that...but probably only in the positive sense that it made it clear that these...well, actually, LB 1017 following that made it absolutely clear that these taxes would...or these services would be taxed, and that's the way it's going to happen. Going forward, these services are all taxed and I think that is well known so that we have that bit of agreement to operate on. Thank you.

SENATOR SCHIMEK: Thank you, Senator Raikes. Senator Beutler, your light is next.

SENATOR BEUTLER: Senator Raikes, let me carry on that same conversation with you a little bit. First of all, with regard to the matters that were before LB 759 and constituted something other than what we did with LB 759, did that concern...and the pending litigation, does that all revolve around one question, or more than one question?

SENATOR SCHIMEK: Senator Raikes, would you respond to a question?

SENATOR RAIKES: Yes, I would. Senator, or at least the part I'm focusing on deals specifically with the issue of whether or not the installation of utility cables, that sort of thing, is a taxable service or not. And going back well before LB 759, there was confusion about that, at least that's the allegation and I think it's...

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SENATOR BEUTLER: Okay.

SENATOR RAIKES: ...there was confusion about that in the regulations.

SENATOR BEUTLER: Let me ask you this. When that...when did that confusion begin? When did we make the law that was...that resulted in the confusion?

SENATOR RAIKES: I'll have to...it was back...I am told, it was back in the 1980s, so it had been there a long time. But if you want a specific date, I'll have to...I'll have to dig for that.

SENATOR BEUTLER: Well, so we made a law sometime back in the 1980s that was confusing. Nobody ever brought a bill. The Revenue Committee never had a bill to correct the confusion for 15 or 20 years.

SENATOR RAIKES: I can't speak to that exactly, but I suspect what happened is that there were...there were changes in the statute made at different times that ended up being in conflict, at least in the view of people who were trying to comply with those things. And as far as I know, yes, until LB 759 and then LB 1017, the issue remained unresolved.

SENATOR BEUTLER: Let me ask you a more general question. In instances where there develops a dispute with respect to the interpretation of a tax statute, in what instances do you think it's appropriate for the Legislature to step in, when pending...when litigation is pending, and resolve that matter on behalf of one litigant or the other?

SENATOR RAIKES: My immediate answer, Senator, would be if...sort of an objective person can look at the statute and/or the regulations and see that there is a conflict; that it could be interpreted two different ways. And then the second point I would make is that if you are going to do it, it seems to me like this is a fair way, what is being proposed in Senator Bourne's bill here, is a fair way to address it from the standpoint that from here forward it's going to be taxed and we

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basically are taking the tax obligation back to the time of LB 759, which was when the base was expanded.

SENATOR BEUTLER: If you establish this precedent, is there any danger that any time a taxed entity can establish some sort of confusion with a tax code provision that they're going to come running to the Legislature on the theory that, at the very least, we shouldn't pay because it was confusing?

SENATOR RAIKES: It's...

SENATOR BEUTLER: I mean, isn't...

SENATOR RAIKES: ...it's obviously a fair question and a fair point to raise. I don't know, given that it is a good point to raise, that it necessarily bears on this particular decision. As I say, at least from my perspective, this seems like a reasonable way to approach this and one that is fair...

SENATOR SCHIMEK: One minute.

SENATOR RAIKES: ...to both sides, considering the state, the revenue collector, and the contractor is the payer. So I think you go ahead and address this one the way it's being proposed. And does that mean you'll never face it again? Well, probably not.

SENATOR BEUTLER: Senator, do you think the people who thought the statute was confusing didn't have some obligation to come to the Legislature before so many years had passed, rather than come and say all the taxes we paid in the past we want you to forgive?

SENATOR RAIKES: Well, I think that has been probably the position of the Department of Revenue that, well, yes, we've got...we say things two different ways in the regulations. I'm sure this isn't what they said, but suppose it is the case that things are said two different ways in the regulations. You should have looked at the regulation that was most adverse to your own self-interest rather than the one that was most favorable.

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SENATOR SCHIMEK: Time. Thank you, Senators Beutler and Raikes. Senator Howard, you're recognized to speak.

SENATOR HOWARD: Thank you, Madam Chairman. It troubles me deeply, and I feel I need to stand and address this, that so often the concerns that receive the most attention have the most effective lobbyists. The district I come from is composed, in large measure, of very old homes owned by people that have maintained those homes and have valued those homes, and yet we, and I'm very frustrated in this, have been unsuccessful in having the issue addressed regarding sales tax on repairs of these homes. And yet, a concern is here asking for relief on sales tax when, in fact, I don't feel their concern is nearly as justified as the homeowners' would be in my district. And although it is a good measure to begin with one concern, why would this be the one? I support Senator Beutler in his concerns, and I, too, am very concerned about this. Thank you for allowing me the opportunity to speak, and I return my time to the Chair.

SENATOR SCHIMEK: Thank you, Senator Howard. We are on the debate of AM0643, the Revenue Committee amendment. Seeing no further lights, Senator Landis, would you like to close on the Revenue Committee amendment?

SENATOR LANDIS: Thank you, Senator Schimek. Members of the Legislature, good discussion; certainly two points of view here; no reason, you know, that there isn't a second point of view. If you want to vote against the Revenue Committee amendment, that's fine. It would return us to the green copy of the bill which, by the way, is broader and costs \$6 million. But you may also oppose the bill itself. If you oppose the bill, it will leave the question of the application of the bright line between the time that we passed LB 1017 last year and the time that we passed the construction bill the year before. However, I understand that, at least from Senator Beutler and Senator Howard's point of perspective, there is a concern about pre-LB 759 cases and that would constitute, I understand, the large majority of this amount of money. It is not a significant amount of money between LB 759 and LB 1017. In the end, you're

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going to have to choose who bears the burden for the confusion. Either the taxpayer is going to bear the burden, or we're going to bear the burden. Will there always been a rule that says one...we should pick on one side of that fence or another? I can't think of one. I think it's going to be case by case. This Legislature on occasion have said the taxpayer bears the burden of the confusion. On occasion it said this state ought to bear the burden of the confusion. What I can tell you is that for years, if you were a contractor and you went to the contractor regulations for our Department of Revenue, pulled them out and read every word, it would never tell you to collect sales tax for this service. It did appear in the regulations, but it appeared in a different place. From my perspective, this time I'm choosing that the state bears the burden for the confusion; that we forego these claims; that we take the clear rule that we created last year, that we move it backwards and we forget the claims before that time on the rough justice of the factual setting, not because there's an absolute principle involved that the taxpayer is wrong until they prove themselves right, or that the state is right until there's enough special interests out there to prove us wrong, or what 25 votes is. It's just a rough justice situation. You look at the regulations. You're a contractor. You take a look at what you're supposed to charge taxes for, and the rule book never tells you to collect the tax. I can throw in the towel in that circumstance, but it is a value choice and it is choosing the taxpayer over the state when we do this. And I would be hard-pressed to find the line in which we'll know when we should answer this question each and every time. My guess is that we're going to continue to do just what we do now, which is sometimes we pick the state and sometimes we pick the taxpayer, and this time the Revenue Committee chose the taxpayer. Thank you.

SENATOR SCHIMEK: Thank you, Senator Landis. You've heard the closing on the Revenue Committee amendment. The question is the adoption of AM0643. All in favor vote yea; all those opposed vote nay. Have you all voted? Have you all voted? Record, Mr. Clerk.

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

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SENATOR SCHIMEK: The amendment is adopted. We are now on the discussion of the advancement of LB 753. Seeing no lights, Senator Bourne, you're recognized to close on the bill.

SENATOR BOURNE: Thank you, Madam President. Members, I'd like to thank Senator Landis and the Revenue Committee for their work. I think this just adds a bit of clarity to a very confusing and complex area of law. And if anyone has any questions between...after this goes over to Select File, I'd be happy to see what I can do to answer them, and of course work with Senator Landis and any other interested parties to see if we can't reduce the fiscal note. I'd appreciate your support to move this to Select. Thank you.

SENATOR SCHIMEK: Thank you, Senator Bourne. You've heard the closing on LB 753. The question is, shall LB 753 advance to E & R Initial? All in favor vote aye; all opposed vote nay. Have you all voted? Mr. Clerk.

CLERK: 32 ayes, 0 nays, Madam President, on the advancement of LB 753.

SENATOR SCHIMEK: The bill advances. Mr. Clerk.

CLERK: Madam President, the next legislative bill, LB 161, introduced by Senator Aguilar. (Read title.) The bill was introduced on January 7, at that time referred to the Urban Affairs Committee, advanced to General File. I do have committee amendments, Madam President. (AM0318, Legislative Journal page 463.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Aguilar, you're recognized to open on LB 161.

SENATOR AGUILAR: Thank you, Madam President and members of the body. Now we're going to go from a very complicated bill to a very simple one. LB 161 quite simply extends the time frame for repayment of special assessments for property owners and bonded indebtedness for cities to pay for water and sewer mains and improvements. A community generally pays for these costs

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up-front with finance dollars and passes the cost on to the property owner. As with everything else these days, construction costs increasing, and cities are finding a need to spread these costs over a longer period of time. Right now, state law gives four to ten years for this financial process. This bill would extend the repayment period to a maximum of 20 years. This bill would affect the repayment of special assessments for curbs and guttering, sewer mains and water mains, sewer and water improvements, water service district bonds. The committee amendment changes the repayment period for the property owner to the equal length of the city financing. If the improvements are made without financing, the repayment period is at the discretion of the governing body, such as the city council, subject to a fair and reasonable requirement. Senator Friend, as Chair of the committee, will address that amendment. This bill has been introduced four times in varying forms. Thanks to the committee, this year it has prioritization. The committee unanimously voted to place the bill on General File. I'd like to thank the committee members and the staff, Bill Stadtwald, for his work on this bill. I ask for your support of this bill and your vote to move it to Select File. I'd yield the rest of my time to Senator Friend, if he would like to address the committee amendments with it. Thank you.

SENATOR SCHIMEK: Senator Friend, you're recognized.

SENATOR FRIEND: Thank you, Madam President. How much time does Senator Aguilar have left?

SENATOR SCHIMEK: Eight minutes.

SENATOR FRIEND: Then I will use that time. Thank you. Members of the Legislature, AM0318 to LB 161, Senator Aguilar's bill, what the committee did, we proposed...the language of the bill is technically unexceptionable and the committee determined that some clarification and further...excuse me. I was interrupted. (Laughter) Further explanation, probably in order to avoid further problems, was necessary, the committee discovered. While the provision of the...calls for the adoption of an ordinance to create the special assessment district for trees

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and for...excuse me. You know, these interruptions are driving me crazy, Madam President. I grabbed the wrong one.

SENATOR SCHIMEK: I'm sorry to hear that, Senator Friend.

SENATOR FRIEND: I apologize. How much time do I have remaining?

SENATOR SCHIMEK: You now have seven minutes.

SENATOR FRIEND: That should be...that should be plenty. (Laughter) The committee amendments do two things, members of the Legislature. First, the maximum and minimum periods for assessments to be paid to the city for the proposed improvements are eliminated, and the length of the payment period is made equivalent to the length of the period within which the city must repay the bond indebtedness incurred to finance the project. So if the bond is to be repaid by the city over a 20-year period, the assessments would be levied for 20 equal annual installments. Secondly, if the projects are to be paid for out of municipal funds without issuing any of the bonds, the length of the assessment period would be at the discretion of the governing body of the municipality, subject to the requirement that the length of the period be reasonable and fair. Now, that's really the gist of it. Senator Aguilar did a good job of explaining what the underlying bill did. Came out of committee 7-0. We believe that this amendment, again, adds some uniformity, and I would ask for the adoption of AM0318. What I was referring to, the paper that I grabbed earlier, Senator Price will actually later on have an amendment and I will speak to...already have spoken to a little bit, but I will speak to that amendment a little later on. Thank you, Madam President.

SENATOR SCHIMEK: Senator Friend, was that your opening on the committee amendment?

SENATOR FRIEND: Yes, it was.

SENATOR SCHIMEK: Thank you. We are now on discussion of the committee amendment. Seeing no lights, no further lights,

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Senator Friend...oh, Senator Kremer, I...his light just did go on.

SENATOR KREMER: I'm sorry. Thank you, Madam President and members of the body. Senator Aguilar, I guess I'd like to ask you a couple questions, or Senator Friend. What is the time period now to pay back the bonds or...

SENATOR SCHIMEK: Senator Aguilar, would you respond?

SENATOR AGUILAR: Yes, I will. It's between four and ten years.

SENATOR KREMER: Between four and ten. So if the project, like they're thinking maybe, Grand Island, looking at building a new jail, it's just too short of a time to have the bonds repaid back in that time. Is that the purpose then of the bill?

SENATOR AGUILAR: Yes.

SENATOR KREMER: Okay. And this would make it 20 years, but it's permissible, but it could be paid back earlier than that. Is that correct?

SENATOR AGUILAR: Yes, on the special assessments.

SENATOR KREMER: Okay. Thank you. I support the bill and appreciate that.

SENATOR SCHIMEK: Thank you, Senators Kremer and Aguilar. We are on discussion of the committee amendments. Senator Friend, I see no further lights on the committee amendments. You're recognized to close.

SENATOR FRIEND: I'll need to waive.

SENATOR SCHIMEK: Senator waives closing, so the question is the adoption of AM0318 to LB 161. All those in favor vote aye; all those opposed vote nay. You all voted? Record, Mr. Clerk.

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

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SENATOR SCHIMEK: Thank you. Are there further amendments?

CLERK: Madam President, Senator Price would move to amend with AM0978. I'm sorry, Senator Friend, this is your amendment, Senator. I'm sorry. Senator Friend, AM0978. (Legislative Journal pages 1034-1036.)

SENATOR FRIEND: Thank you.

SENATOR SCHIMEK: Senator Friend.

SENATOR FRIEND: Thank you, Madam President. Members of the Legislature, think I'm on the right page now and if certain members of the Legislature would cut me some slack, we can move on without further ado. This amendment consists of the provisions of two other bills heard and approved by the Urban Affairs Committee. Section 4 of the amendment, starting on page 2, line 22, consists of the provisions of LB 22, as amended by the proposed committee amendments. That bill was advanced to General File with committee amendments by the committee, with 6 favorable votes, 1 member absent. This deals with the authority to require sidewalk construction, repair, and maintenance in second-class cities and villages. The changes would provide parallel authority for these municipalities to that currently granted to first-class cities. Basically, the bill provides the authority for a city and village not only to do the construction or repair work itself and assess the costs to neighboring landowners, but also to cause the work to be done by the property owners in the manner determined to be appropriate by the city council or village board of trustees. A new subdivision (2) is added to the amended statute which specifically provides that if the city or village orders the owner of the abutting property to undertake the work and the owner fails to do so within the time provided and in the manner specified by the municipal authorities, the mayor and the council or board of trustees may cause the construction or repair to be done and the costs assessed against the property. Section 1, starting on page 1, line 2, and Section 5, starting on page 3, in line 20, consist of the provisions of LB 92, as amended by the proposed committee amendments. That bill was

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advanced to General File with the committee amendments by committee with 7 favorable votes. LB 92 proposes to change the manner in which the property...in which property, which was formerly a street or alley, is disposed of following its vacation by a first-class city, a second-class city or village. Two sections of the statutes are amended: Section 16-611, which governs first-class cities, and Section 17-558, which governs second-class cities and villages. Under current law, such vacated property is automatically vested to the owners of the abutting property, one-half to each side. This legislation broadens the options available; first of all, by authorizing the municipalities, at their discretion, to retain title to the land in the city and then authorizing to the city to dispose of the property by sale, conveyance, exchange, or lease upon terms and conditions determined by the city to be in its best interest. The city or village retains the option of proceeding in a manner specified under current law with automatic vesting in the neighborhood...neighboring owners. The legislation provides explicitly that the city or village may reserve an easement through the vacated property. The amendment inserts new language preserving any city, utility, cable television easements, and the vacated right of way existing at the time of the vacation, and preserving the right for the entities possessing the easements to come onto the property for the purpose of inspecting, constructing, maintaining, or constructing the lines present on that property. With that, I would say also Senator Price has a amendment following mine, which was LB 32. That also passed out of committee, believe on a unanimous vote. I would ask, with that, for the advancement of AM0978...or, excuse me, the adoption of AM0978 and the advancement of LB...eventually, the advancement of LB 161. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Friend. (Visitors introduced.) You've heard the opening on the amendment, the Friend amendment, AM0978. Senator Engel, you are the first to be recognized to speak on the amendment.

SENATOR ENGEL: Mr. President...I mean Madam President, rather, and members of the body, I just have a question for Senator Friend. The...as far...is this really necessary? Because where

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I live, when the alleys have been vacated up there, they have just, in our city, they've been automatically given to the abutting property tax...I mean the property owners in our city and...or, if the city retained it, you could buy them from them. But that's what the...their practice. Then as far as sidewalks and so forth, they've always had that in our community where, if the city deems it's necessary to put in sidewalks, if you didn't do it yourself, they would put them in and assess you for that. So I'm just wondering if this is necessary.

SENATOR FRIEND: Thank you. I would only answer that by saying it sounds like you have a really well-run community, Senator Engel.

SENATOR ENGEL: Well, maybe I wouldn't have had to put those sidewalks in until now, huh? (Laugh)

SENATOR FRIEND: No, I don't mean to be flippant. I think it's a legitimate question. I think part of the reason that it came about is I don't think it's a consistent pattern throughout the state, but I do think that we've run into issues, particularly with easements, two years ago in that committee. I heard testimony I think...and I think the committee can vouch for this, Omaha, others, came in and just said we've got...we've got problems dealing with this issue. But I don't think it was a consistent pattern of communities around the state marching in and saying this has got to happen now. I don't know that...I guess what I'm...my way of answering is to say I don't know that we have a persistent, consistent problem statewide, but there are issues that come up that it's not, I guess, not covered by statute, and we're covering it here. As far as the sidewalks are concerned, I don't know that I have a good answer for that. I mean I would go back to what I...the way I answered the easements issue. There are a couple of communities that have raised this as a concern, so...

SENATOR ENGEL: Well, I guess what I was leading up to is whether local authority could...I mean whether local governments could exercise this authority without having a state statute to back them up, I mean where they'd have to comply to state statute. Do they have the authority now to do it as a city or

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community?

SENATOR FRIEND: Well, I would say the answer to that is no, and Senator Beutler's original bill as far as the easements are concerned and the concerns that the city of Omaha and, for all intents and purposes, if I remember right, city of Lincoln and others brought up. I mean, they...that's exactly their reason for seeking that statutory language, that they don't have the authority now.

SENATOR ENGEL: Okay. Thank you very much.

SENATOR FRIEND: You're welcome.

SENATOR SCHIMEK: Thank you, Senators Engel and Friend. The Chair recognizes Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Schimek. Members of the Legislature, when we heard this bill in Urban Affairs, you know, I could understand, I think it was a year or two years ago when the city of Omaha had some problems. They could not vacate an alley and they came in and asked for the right to do so. Listening to Senator Friend give his report on the amendments, he did mention the fact that where there is an alley going between a block and that alley is to be vacated...if I'm misquoting here, Senator Friend, you please rebut me, but I believe that when that alley is vacated, the adjoining property owners take control of that portion of the alley. It's divided down the middle if there are...if there are homes on each side of that alley. Is that correct?

SENATOR FRIEND: That is, that's correct, and that is the testimony that we had heard as to how a lot of these cities were approaching that, and they considered it a problem.

SENATOR JANSSEN: Now, if there is infrastructure, such as a water line, sewer line, so on and so forth, then the governing body--the city, village or that board--does reserve that right then to go in and maintain, repair that piece of infrastructure that's in that alley?

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SENATOR FRIEND: Yes.

SENATOR JANSSEN: Okay. All right. Then I had it right. And this is a good bill and, you know, it probably doesn't come up too often, but when there is a case that it needs to be decided, that was why the legislation was brought to us. It's not going to happen too often, but in cases where it does, something needed to be in the statutes. So it is a good bill, a good amendment. The committee amendments are fine. Thank you.

SENATOR SCHIMEK: Thank you, Senators Janssen and Friend. Senator Erdman, you are next in line to speak.

SENATOR ERDMAN: Thank you, Madam President. Senator Friend, thank you for your unexceptionable leadership and your willingness to broaden our vocabulary. I rise in support of the Friend amendment. Section 4 is a bill that I introduced. It was actually a result of a realization of the second class and villages throughout the state that they didn't have similar authorities in regards to sidewalks that other cities in the state did. The language that's in there is an attempt to bring their authority into compliance, or into a similar line with those other communities. And I appreciate Senator Friend and the committee advancing the bill, the work they did, and their willingness to amend it into this legislation. Thank you.

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Byars, your light is next.

SENATOR BYARS: Thank you very much, Madam Chair, and thank you, Senator Friend, also for bringing this part of this bill on the vacation of streets and alleys. Just to clarify a little bit, in last year's legislation, we gave what we're trying to do in this bill. We gave the rights to the first-class cities, but we did not extend that to all other cities and villages. And what this part of this amendment does is to extend the same authority to second-class cities, villages, the same authority that first-class cities had. It seems unlikely, but you still have the option, the city still has the option, of giving title to the property to the adjoining, the abutting landowners. But in some circumstances, in some villages and cities, they don't want

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it, and you have a situation where you need to have some additional authority for the cities to be able to make that decision. They still can do that, as they could in the past, but they can also make other decisions. And so it's good legislation. The easement amendment that was offered by the committee I think was very good and I would urge your support of the amendment and the bill.

SENATOR SCHIMEK: Thank you, Senator Byars. We are on discussion of AM0978. Seeing no further lights, Senator Friend, would you like to close on your amendment?

SENATOR FRIEND: Thank you, Madam President. Only to say one of the questions Senator Engel asked earlier was in regard to the...in regard to the sidewalk issue as far as situations I think in respect to South Sioux City, for example, keeping in mind though that the sidewalk issue deals with only second-class cities, Senator. Senator Engel, and that's...I just wanted to point that out. I guess I would ask, short of that, I would ask for the adoption of AM0978. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Friend. You've heard the closing on AM0978. The question is the adoption. All those in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Madam President, on the adoption of Senator Friend's amendment.

SENATOR SCHIMEK: The amendment is adopted. Mr. Clerk, are there other amendments?

CLERK: Senator Price would move to amend, AM0989. (Legislative Journal pages 1036-1037.)

SENATOR SCHIMEK: Senator Price, you're recognized to open on your amendment.

SENATOR PRICE: Madam President and members of the body, I appreciate the cooperation between Senator Friend's office and his staff, and Senator Aguilar's staff, and my office in working

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together on this amendment. I am introducing AM0989, and if you will refer back to the second page, line 21, this is my bill, which advanced out of the Urban Affairs Committee, LB 302, and it has now been integrated into this amendment. And LB 302 gives cities of the primary class the authority to assess all benefited properties the cost of planting, maintaining, protecting, and removing all...removing of public city trees for the general welfare, safety, and benefit of the public. I was asked to introduce this bill by the city of Lincoln. Lincoln's city charter gives it the authority to enact a special assessment for city trees. This provision dates back to 1919, but it has long been believed that the city needed state authority to enact this provision in its charter. LB 302, now in this amendment, simply gives cities the authority to provide an exclusive funding source for trees through a special assessment. Any details of this assessment would be worked out at the city council level. And I urge your support of LB 302, which is now AM0989. And I'd be willing to answer any questions.

SENATOR SCHIMEK: Thank you, Senator Price. We are now on discussion of the Price amendment. Senator Friend.

SENATOR FRIEND: Thank you, Madam President. Members of the Legislature, Senator Price did obviously a good job of explaining what LB 302, the original, if you'd look on your...what people like to call a gadget, I don't know who named it that, on the Chamber Viewer, you can see a little bit about what the bill...what the bill does or the intent of the bill. What I would say is the bill was amended, like Senator Price had mentioned, by the committee, and some of the concerns or what we've essentially done, the provision called for the adoption of an ordinance to create the special assessment district for trees and for the purpose of designating the property to be benefited. There is no requirement for a general ordinance to specify the manner in which assessments are to be calculated. The committee amended...the committee amendment contemplates the adoption of a preliminary general ordinance that would define how such districts are to be formed, what process will be followed, for what purposes such districts can be formed, and, probably the most important thing, by what method the benefits to the

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property will be calculated and the costs of the district assessed. I would just sum up by saying it did come out unanimously. There were some folks absent from the...as you can see on your gadget, from the Executive Session. But I would ask, with that, for the advancement of AM0989...or the adoption of AM0989 and the advancement of the bill. Thank you.

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Madam Chairman and members of the body. I would like to engage in a little conversation with Senator Price, if I may, please.

SENATOR SCHIMEK: Senator Price, would you yield to a question?

SENATOR PRICE: Yes, I would.

SENATOR STUTHMAN: Senator Price, what do you mean by creating this district? How would you create a district for assessing people for the planting or the removal of trees? It seems really gray to me. Give me an instance of how this would be created.

SENATOR PRICE: As the city forester and the Parks and Rec visited in front of the committee, it would be like a neighborhood organization coming together, and the neighborhood would be informed of...by the city forester of the plan for the replacement of trees in their neighborhood, whether it's a new neighborhood or an old neighborhood, and they would have an opportunity to look at the available trees, select the trees that would be planted then by the city on their property, and they would have a choice in the selection of the trees in their neighborhood.

SENATOR STUTHMAN: Okay. Thank you. Would this involve property that is owned by the city, under the city's jurisdiction or village jurisdiction, or is this on private property? Could you answer me that, please?

SENATOR PRICE: This would be all properties in the city.

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SENATOR STUTHMAN: All properties of the city. Then it would realistically not be private property adjacent to a project that they're maybe going to have a playground or something like this? This is what I would envision this to be, of what to plant, what to remove in something like this. Would this...would this constitute creating a district like that?

SENATOR PRICE: Sir, I believe I misspoke. It is all properties in the city. Is that how you heard that?

SENATOR STUTHMAN: Yes, I was wondering, you know, does it include the private property? Does that mean that if I have a tree that needs to be removed in my front yard and I want to have a new tree planted there, I can get my neighbors together and create a tree-planting district and then every one of my neighbors would be assessed an amount that would have to help me pay for my tree and replace my tree that would benefit just one individual, and the amount of money would be assessed to your district or ever how that is created? That's a concern of mine. You know, this looks really gray to me.

SENATOR PRICE: The trees, the brand new trees, that would be planted would be planted by the city. They'd be eight- to ten-foot trees, and they would be removed by the city as the city needs to remove trees.

SENATOR STUTHMAN: Yes, I do see that, and I thank you for your answer. But the question that I have is, you know, are the trees in a city on private property, are those the property of the city? Are they the property and the responsibility of the individual that owns the property? If a tree needs to be removed or it falls down on the street, who's the one today that's really realistically responsible for that tree as to where, you know, who has to pay for it? I don't know. I don't know what the regulations are right now. And thing that I concern...I'm really concerned about is, you know, are we going to create a district? Who's going to create the district and are there going to be people that are going to be assessed a tax that is going to be utilized for improving somebody's property other than all of the individuals' property?

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SENATOR SCHIMEK: One minute.

SENATOR STUTHMAN: And I'm really concerned about this. Maybe it's okay, but I think we're trying to create something that's going to end up in a tax to individual property owners where realistically they've got the responsibility of doing right now. So, with that, I'll return the balance of my time to the Chair. But I do have a real concern with this. Thank you.

SENATOR SCHIMEK: Thank you, Senator Stuthman and Senator Price. Senator Janssen, your light is next.

SENATOR JANSSEN: Thank you, Senator Schimek. Members of the Legislature, in committee, we did have some questions about what was going to happen if one of these districts was formed and the plantings in four or five years, if they died, if this was going to be the obligation of the person whose property they sat on was going to have to remove that tree. But, Senator Friend, if I'm correct, we did take care of that, isn't that true, and found out that it would be the city who would remove that planting if it died?

SENATOR SCHIMEK: Senator Janssen, were you asking...

SENATOR JANSSEN: Yes.

SENATOR SCHIMEK: ...Senator Friend?

SENATOR JANSSEN: Yes.

SENATOR SCHIMEK: Senator Friend, would you respond?

SENATOR FRIEND: That was my understanding, and that's why we moved the bill when we had the Executive Session...

SENATOR JANSSEN: That's correct.

SENATOR FRIEND: ...where there was some absenteeism.

SENATOR JANSSEN: That was my understanding also. So I believe, Senator Stuthman, that should help some of your problems,

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because I did have the same question and it was taken care of in the committee. So if those plantings do not work out or they die, it's not going to be up to the property owner that they sit near. The city or the forestry service, or whoever it is, is going to be responsible for removing those trees. With that, thank you.

SENATOR SCHIMEK: Thank you, Senator Janssen. Senator Beutler, you are recognized to speak.

SENATOR BEUTLER: Senator Schimek, members of the Legislature, would just note a couple of things. First of all, this bill applies only to cities of the primary class, as the other bill applied only to cities of the first class, that sort of thing. So it's not something that is being requested by everybody in the state. But Lincoln is particularly proud of its trees, its urban forest, as we call it. We've been "Tree City U.S.A." for as many years as I can remember. And this bill doesn't apply to putting trees on private property. It involves only putting trees on the street right of ways, where the city owns the property, and it's a mechanism by which neighborhoods can choose to get together and forest their neighborhood using this process. Lincoln is a city charter city, which means we give it, generally speaking, all of the details of working out these sort of districts, and they've done this upon authority given by the Legislature, you may recall, Senator Janssen, for ornamental light districts, which has worked very well in Lincoln. Every here and there around the city there are neighborhoods that now have ornamental lighting. If the neighborhood is not in support of it, they don't have it. That's the way they've set up the city charter rules on that, and they would set up some sort of system of rules pertaining to the details of this. But what they need from...generally, it's just a general authority from the Legislature to use this mechanism. I think you would find fairly broad support in the city of Lincoln for this idea because trees are important to us. So I would just throw in those comments. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you. Senator Friend.

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SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, I just wanted to point out again, there's been some discussion here in regard to it, the language that was removed by the committee. Senator Janssen did a good job of describing what the conversation in Executive Session went like. The language that was removed in committee, one of the pieces, was...could be interpreted as mandatory language requiring the formation of such an assessment district whenever the new authority regarding trees is exercised. The change would leave it to the discretion of the city whether or not to use General Funds of the city, or to create an assessment of a district when dealing with a tree improvement authority, what is essentially saying, to my understanding, is city council. We're talking about a primary class city. We can count them on one finger. I think we know what we're dealing with here. And I wouldn't say it was innocuous. Any time you make changes like this, they're not, but I think we did have this discussion and Senator Janssen did a pretty good job of explaining and asking questions in regard to that. So, again, I would ask for the adoption of the amendment and the advancement of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President and members. If I could ask Senator Friend a question or two, Senator, I don't know as much as I should about assessment districts. Do I have the right term there? This is...this is a creation that has some sort of a boundary, as I understand it, and everybody within that boundary, all property owners, could be assessed additional property taxes. Am I on the right track there?

SENATOR CUDABACK: Senator Friend.

SENATOR FRIEND: Thank you, Mr. President. I would say the answer to that question is yes.

SENATOR RAIKES: So these get formed by action of the people within the district, the property owners within the district, or by whom?

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SENATOR FRIEND: Well, I think ultimately city council, but, yes. I mean, those are established. My understanding, the Haymarket business community would...

SENATOR RAIKES: So is the gist of this to add trees? I mean, I assume there are these sorts of things for other purposes. I can't think of one right off the top, but maybe lights, special lighting or something like that. So we're going to now allow these sorts of districts to deal with trees? Is that the main issue here?

SENATOR FRIEND: Well, the main issue, I don't know, but my answer to that would be there are a lot of...there's been a lot of discussion out here about how something like this could be or could potentially be used. What I would say, this specifically would be for that. So the answer would be, yes, because it discusses that practically in the language. So, because it's that narrow, I felt it to be a little less...and I think the committee did, a little less precarious than something that could be used in a more harmful way, I would say.

SENATOR RAIKES: Okay. I think I understand your direction there. But we're not going to plant a tree in somebody's yard, right, next to their house?

SENATOR FRIEND: No.

SENATOR RAIKES: That's not...

SENATOR FRIEND: No, the answer is no.

SENATOR RAIKES: So we're talking about planting trees in areas that heretofore have been the city's responsibility.

SENATOR FRIEND: Correct. It's my understanding that, let me...let me use a hypothetical, and I'm not saying that that's the problem down there. You talk about the Haymarket and talk about some of the enhancements and the aesthetic enhancements that have been going on down there over the years. One could be...one or two or ten business owners can be concerned about right of ways that could maybe seek some of that beautification.

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Senator Beutler and some of the other folks in Lincoln can correct me if I'm wrong, but that's my understanding, based on the...based on the testimony that we received in the committee, is that they felt like statutory language prevented them from taking advantage of some of those, what they considered to be beautification efforts, that they couldn't take advantage of before.

SENATOR RAIKES: Well, as I understand it, the statutory language they're concerned about would prevent them from charging property owners for this. They could still...the city could still plant the trees even without this, right?

SENATOR FRIEND: But it's my understanding...right, but it's my understanding that a business owner couldn't be necessarily...I mean if it's helping that business owner in the...please, somebody again correct me if I'm wrong, but it's my understanding that if that business' owner is being enhanced or those...that business district is being enhanced by that beautification, then...

SENATOR RAIKES: But...

SENATOR FRIEND: ...then should they be...

SENATOR RAIKES: ...I think you make a good point,...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...but if that were...excuse me? Did you say time?

SENATOR CUDABACK: I said one minute, Senator Raikes.

SENATOR RAIKES: Oh, thank you.

SENATOR CUDABACK: I'm sorry.

SENATOR RAIKES: But if it were enhanced, if the property were enhanced, wouldn't that show up in the assessed value of the property and therefore show up on the property tax bill

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otherwise?

SENATOR FRIEND: That's...I believe you're right. Yes.

SENATOR RAIKES: Okay. Well, thank you, Senator Friend. I'm not ready to move in this direction, I must tell you. I...

SENATOR FRIEND: Well,...

SENATOR RAIKES: ...maybe I just am...no doubt I'm uninformed, but what I'm gathering right now, my concern is that we're shifting a burden to taxpayers that has been a burden of city government, and I guess I'm not convinced but what it shouldn't be a burden of government rather than the taxpayer. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Schimek, on the Price amendment.

SENATOR SCHIMEK: Thank you, Mr. President and members. I originally wasn't going to speak on this issue, but...because I was in the Chair, but Senator Cudaback came and allowed me to speak. I'm somewhat troubled by this amendment and I did not vote to vote it out of committee. I was one of three people who weren't present for the vote. The other four people did vote unanimously to move it forward. But even though I know that this bill only gives the authority for that district to be set up, I don't think that the people in Lincoln are going to be too excited about the whole idea. And I know that times are tough in Lincoln and I know that we're having some...our share of financial woes. But I'm thinking back to the whole sidewalk uproar of a few years back when, if I'm remembering this properly, and I won't guarantee that I am, but I think there was an uprising because the city all of a sudden was going to assess individual property owners for their sidewalk improvements when heretofore it had always been the city that had taken responsibility for that. And I'm afraid that this same kind of tax assessment authority would have repercussions, even though I think, if I'm understanding the bill correctly, that it would be up to the city council to establish such districts. I just think this is kind of flying under the radar screen a little bit and people aren't aware of it. And I don't think, at this time

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anyway, that I'm ready to vote yes on it, and I'm willing to listen to the discussion and the arguments, but I'm very nervous about this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Beutler, on the Price amendment, AM0989.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, just a couple things to put things in perspective. First of all, this deals with the planting of city trees along the right of way. As you know, the city owns up to so many feet from each side of the street. The city levies property taxes, as all cities do, and part of those property taxes are used to plant trees now, but the size of the budget is so small that they go along very slowly and they have this enormous list of requests from homeowners to plant the trees. They say, we'll pay for it, but there's no mechanism to do that. And the city doesn't levy enough property taxes to go any faster. So it's not a city obligation to plant those trees. They can plant those trees or not plant those trees. So we're not shifting a responsibility. The city can choose not to plant the trees at all. They choose to plant the trees because people want trees, and a lot more people want trees and are willing to pay for trees than they have means or mechanism to work with them. So this would allow them to create districts. If the Near South Neighborhood Association wanted to have a district, this would allow the city to set up, under the city charter, as they did with ornamental lighting, a process by which you can petition to have a district and if so many people object you cannot have a district, and they can set up under their city charter the rules for these districts. But it's not shifting taxes. It's basically designed for people, as has worked with ornamental lightings in the city of Lincoln very well, it's worked to allow people to do more in instances where they want to do more. So that's what it's all about and it...I don't think it's anything radical in nature. And, again, it applies to the city of Lincoln. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Stuthman.

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SENATOR STUTHMAN: Thank you, Mr. President, members of the body. Could I engage in a little conversation with Senator Beutler, please?

SENATOR CUDABACK: Senator Beutler, would you yield? Senator Beutler.

SENATOR STUTHMAN: Senator Beutler, by creating these districts, will that be an assessment towards the people that are in these districts, or does this have anything to do with assessment of the property owners?

SENATOR BEUTLER: Well, Senator, the mechanism is an assessment mechanism, as it is for paving or ornamental lighting or any of the number of things that cities do now to improve property. But simply, they would have to do two ordinances under this. They'd have to do an ordinance describing how they're going to determine benefits and how they would do assessments, and lay out the whole process. And then there would have to be a specific ordinance with regard to the creation of a particular district in a particular area of town for purposes of doing this in some part of town or another. Did that answer your question?

SENATOR STUTHMAN: Yes. Yes, that does. Does that mean that the city has the possibility of creating a district? Where they see that there needs to be an improvement, they designate that district for a time frame and, as time goes on, they'll create another district when improvements need to be done? Or how...how is this really going to be handled when it's, in my opinion, it's not things that are put on private property, it's on city property? And I think no matter who it's going to benefit, I realistically think when it's on city property I think possibly everyone, you know, should possibly be assessed this. But the way I'm understanding what this bill is, they're going to just create a district and assess those property owners for that improvement, just like a SID or any one of those created districts. Is that the way this plan is...the process is going to be?

SENATOR BEUTLER: Yeah, they...under the statute, under this statute, just as we do for all these other kinds of districts,

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they have to establish principles of benefit. You can't do any special assessments anywhere without establishing principles of benefit. You know, front footage; we do it different ways with different kinds of improvements, and they...and they would have to do this. And if a particular neighborhood wanted to have this sort of a district, then they would establish a process for doing that whereby people can object, or file petitions, you know, however we've done it for ornamental lights and other kinds of districts in the city of Lincoln. They would have to go through that process at the local level but, again, the benefit of it is that if a group of people want to have their...an assessment district in their area, they would be able to do it and, by means of that, have trees now that they may not get for 20 or 30 years down the line if they are in order for the regular tree program of the city.

SENATOR STUTHMAN: Thank you, Senator. I'm concerned about, you know, how these are going to be created. In the amendment here, it says that the city will create by an ordinance, you know, the districts. Will that be coming from the city because of the property owners, that they want to create this? I do not know, you know, totally how the mechanics works about creating those districts, and that's what I'm concerned about.

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: But I do see some value in it. If there's a lot of, you know, older trees in that area and they want to put some new ones in, possibly there's a benefit to that community, to that area what realistically is not a benefit to anyone else in the city. And, rightfully so; then they should be assessed the tax on it. So I am just...I'm undecided on this, but I just wanted to raise these questions to try to get it clarified. And I thank you for the discussion. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Friend, and this will be your third time, Senator.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, I just wanted to say one more time, I wanted to add something to this. I don't think it's been discussed,

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necessarily, yet. I could relate this a little bit to a storm water issue, and bear with me for a second because here is the way I see this. The storm water issue, there was a lot of folks that wanted a few to pay for the problems or the issues caused by many, okay? Many paying for...my opinion and my attitude toward storm water all along has been let's get many people paying for the problems and the issues of those many people. I mean, it's more equitable. That's what I felt all the way along. Now, this analogy might not play out, but bear with me and I won't belabor it. A tree district, it's very specific, you can look at the language, a few people for a place like the Haymarket or wherever, name a really nice area of Lincoln...a few people paying for the enhancement and the beautification and the pleasure of many as opposed to a lot of folks who take advantage of the enhancements and the beautification of that particular area in Lincoln as opposed to more of those people paying for that. That, to me, is more equitable. Haymarket wouldn't exist if the people of Lincoln didn't go down there and use it. So my feeling is, and the reason I think this came out of committee and that I...and I would raise my hand, one of the...trying to be one of the most fiscal conservative people out here if I can help it, or if I can do it, that's why I didn't see a whole lot of problem with this. And that's how I'd sum it up. Again, I ask for the advancement or the adoption of AM0989 and the advancement of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. (Visitors introduced.) On with discussion. Senator Connealy.

SENATOR CONNEALY: Thank you, Mr. President, members. As you see from the committee statement, I was one of the senators that were...was absent when the Exec Committee met. And Senator Schimek noted that she would have voted against. I probably would have voted for it. It is a Lincoln issue. This just deals with the primary class cities. I think that allowing the city council to have this power to ask its people in an area if they want to be assessed to improve their area I think is a power that I would be...that I would allow cities of a primary class to do. It can't be abused, I don't think. I think that there are checks and balances here. You have a check and balances with your council. You have the check and balance of a

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community putting up people that say they don't want this to happen and having enough votes to make it not happen. So I believe that this is a limited power that we allow cities of primary class to do, the same as we do with lighting and other improvements. And I believe that because of the fashion that we do with cities here in Nebraska, we have a strong city system, I believe that this fits within the mold of the powers that we've allowed cities like Lincoln to do. And maybe we ought to all just let the city...the senators who represent Lincoln decide this, because there is some division within that delegation, but I do agree that this ought to be a power that Lincoln ought to have. I return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Connealy. There are no further lights on. Senator Price, you're recognized to close on your amendment, AM0989.

SENATOR PRICE: Thank you. Senator Cudaback and members of the body, thank you for this good, healthy discussion on this amendment. Taxpayers in Lincoln are already paying for trees. They're paying for it in a different way. What we're doing here is establishing districts and assessing for the planting of trees, which will be a benefit to our city after the storm of 1997 and all of the trees that we lost during this time. It is a change of practice, something that could have been done since 1919 in our city charter. There have been questions raised; there will be answers given. I encourage people to visit with me. I appreciate the support of Senator Beutler and Senator Friend, and I encourage a good conversation between now and Select File, because I want the questions and the concerns to be answered. And I appreciate the time, and I urge your support of AM0989. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Price. The question before the body is adoption of AM0989 to LB 161. All in favor vote aye; opposed, nay. The question before the body is the Price amendment, AM0989, to LB 161. Have you all voted on the question who care to? We've voting on the Price amendment, AM0989. Have you all voted who care to? Senator Price, for what purpose do you rise?

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SENATOR PRICE: Senator Cudaback, could I ask for a call of the house, please?

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. Senator Price, for what purpose do you rise?

SENATOR PRICE: I would accept call-in votes also, sir.

SENATOR CUDABACK: We'll get everybody checked in, first. Members, the house is under call. Senator Synowiecki, Senator Louden, Senator Friend, Senator Kruse, Senator Bourne, Senator Heidemann. Mr. Clerk, you're now authorized to take in call-in votes, please. Senator Price has authorized call-in votes. Have you all voted who care to?

CLERK: Senator Kruse voting yes.

SENATOR CUDABACK: Senator Price, for what purpose do you rise?

SENATOR PRICE: I would request a roll call vote, please.

SENATOR CUDABACK: Mr. Clerk, there's been a request for a roll call vote. Mr. Clerk, call the roll, please.

CLERK: (Roll call vote taken, Legislative Journal page 1038.)
19 ayes, 9 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is not agreed to. I do raise the call. Are there any discussion on the bill? Senator Aguilar, to close.

SENATOR AGUILAR: Thank you, Senator Cudaback. Just to remind everybody what LB 161 is really about, it simply extends the

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time frame for repayment of special assessments for property owners and bonded indebtedness for cities to pay for water/sewer mains and improvement. I want to thank Senator Friend for all his help, and all my other friends for their help, and please vote green and move this over to Select File. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Aguilar. You've heard the closing on advancement of LB 161. The question before the body is, shall LB 161 advance to E & R Initial? All in favor vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB 161.

SENATOR CUDABACK: LB 161 does advance. Mr. Clerk, items for the record?

CLERK: Yes, Mr. President. Thank you. A hearing notice from Education Committee regarding gubernatorial appointment; an amendment, Senator Fischer, to LB 373. Your Committee on Enrollment and Review reports LB 206, LB 217, LB 268, LB 439, LB 675, and LB 675A as correctly engrossed. Enrollment and Review reports LB 566, LB 274, LB 111, and LB 111A to Select File, some of which have Enrollment and Review amendments. And a new A bill, Mr. President. (Read LB 589A by title for the first time, Legislative Journal pages 1038-1045.)

Mr. President, a priority motion: Senator Bourne would move to recess until 1:30 p.m.

SENATOR CUDABACK: The motion to recess till 1:30. All in favor say aye. Opposed, nay. We are recessed.

RECESS

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to convene. Senators, please check in. Record please, Mr. Clerk.

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR CUDABACK: Mr. Clerk, do you have any items for the record?

ASSISTANT CLERK: Not at this time.

SENATOR CUDABACK: Thank you. We are now on General File, 2005 committee second priority bills. Mr. Clerk, LB 16...I'm sorry, we did that one. LB 551.

ASSISTANT CLERK: Mr. President, LB 551 was introduced by Senator Jensen. (Read title.) The bill was read for the first time on January 18, referred to the Health and Human Services Committee. That committee reports the bill to General File. There are committee amendments attached. (AM0695, Legislative Journal page 748.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Jensen, to open on LB 551.

SENATOR JENSEN: Thank you, Senator Cudaback, members of the Legislature. LB 551, yes, is the second priority bill of the Health and Human Services Committee. The bill relates to behavioral health services and the Nebraska Behavioral Health Services Act. The act was passed in LB 1083 last year. And LB 551 updates the act with two changes. First, the bill deals with consumer representation on the state advisory committees, and the State Behavioral Health Council. It requires that at least three appointed...three members appointed to the State Advisory Committee on Substance Abuse Services be consumers of substance abuse services; and at least three members appointed to the State Advisory Committee on Problem Gambling and Addiction Services be consumers of problem gambling or addiction services. The bill also requires at least two members appointed

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to the State Behavioral Health Council from each of those advisory committees, and from the State Advisory Committee on Mental Health Services, be consumers. We have heard from the consumers in this state. They want a greater participation. Who knows better what a consumer is faced with than a consumer of those services? Secondly, the bill expands membership on the Behavioral Health Oversight Commission of the Legislature from 20 to 25 members. The commission has now met seven times. And I've provided you with a brief fact sheet as we've moved along through that. And members of the Health and Human Services Committee have expressed an interest in seeing more consumer representation and rural representation on the commission. And should this bill pass, those additions to the commission would be from rural communities, and also we would look at increasing the consumer participation. Also, I might add that on the Behavioral Health Oversight Commission, we don't have a rural doc out there, who is usually the one who is first presented, in many of the rural communities, with a consumer of mental health services. And so we very much would like to have that representation. There are committee amendments to the bill, and also an amendment to the committee amendment. And with that, I'll stop there and be willing to open on the committee amendment, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. (Visitors introduced.) On with LB 1...or, LB 551, rather. And Senator Jensen, you're recognized to open on AM0695 to LB 551.

SENATOR JENSEN: Thank you, Mr. President. AM0695 adds provisions from LB 618, which was a bill introduced by Senator Flood; and LB 534, which was introduced by Senator Synowiecki; and adds an emergency clause. I might mention to you that Senator Synowiecki's bill has advanced on a consent calendar. And so even though I'll be talking about that, that particular bill, through an amendment to AM0695, will be withdrawn from the amendment. It requires the division of Health and Human Services, in consultation with the regional behavioral health authorities, to establish and maintain a data and information system for all persons receiving state-funded behavioral health services under the Nebraska Behavioral Health Services Act. Information maintained by the division must include, but is not

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limited to, (a) the number of persons receiving regional center services, (b) the number of persons ordered by a mental health board to receive inpatient or outpatient treatment and receiving regional center services, (c) the number of persons ordered by a mental health board to receive inpatient and outpatient treatment and receiving community-based services, (d) the number of persons voluntarily admitted to a regional center and receiving regional center services, (e) the number of persons waiting to receive regional center services, (f) the number of persons waiting to be transferred from the regional center to community-based services or other regional center services, (g) the number of persons discharged from a regional center who are receiving community-based services or other regional center services, and (h) the number of persons admitted to behavioral health crisis centers. Regional behavioral health authorities are required to provide necessary information as requested by the division for such purpose. The division is required to submit quarterly reports of such information to the Governor and the Legislature, beginning July 1 of 2005. There is no fiscal impact intended by these provisions, as...if you'll notice on your computer, it does mention one. But we've cleared that just this morning. There is no fiscal impact to this reporting section. The division is required to contract with one or more national entities to review current Medicaid funding for behavioral health services. A report of recommendation to increase such funding for such services is required by December 1, 2005. This also comes from LB 618, introduced by Senator Flood. The anticipated fiscal impact of this part of the amendment, as reported by the Fiscal Office, is \$175,000 in General Funds, and \$175,000 in federal funds. I would like to look at this number between now and Select File, also work with Senator Flood to see if there needs to be a fiscal addition to this. And so if you would allow us to work on that between now and Select File, I'd certainly like to have the opportunity to do that. I might mention, if many of you will recall, we one time had a contract with MAXIMUS, where there was a percentage that they participated in that...to improve or to bring more Medicaid funds into the state. That did not work out well. And as a matter of fact, we introduced legislation later on that said we're not going to go down that road again. So we're not looking at a contractor that would say, if we bring in so many

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Medicaid funds we'll get a certain percentage of that. We've done that. Don't want to do that again. So this would be general fund expenditures. But I'm hopeful that we can perhaps find another way to bring in some of this funding. The amendment also contains provisions of LB 534. It includes advanced practice registered nurses with psychiatric or mental health specialty within the definition of "mental health professional" under the Nebraska Mental Health Commitment Act, Section 71-906. LB 534 has already passed on consent calendar, and I have an amendment that would delete that section. So Mr. President, I would stop here and ask to introduce the amendment to AM0695.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on committee amendments to LB 551, offered by the Health and Human Services Committee. Mr. Clerk, a motion.

ASSISTANT CLERK: Mr. President, Senator Jensen would move to amend the committee amendments with AM0987. (Legislative Journal page 1046.)

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

SENATOR JENSEN: Thank you, Mr. President. And what this does is it just removes the provisions of LB 534, Senator Synowiecki's bill, from the committee amendment. And I would just ask for its adoption. Like I said, it's already on its road...or, on the road...on the consent file, and it is on Select File at this present time. So AM0987 just removes that from AM0695. I'd ask for that adoption. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Now we'll have discussion on AM0987. There were four, five lights on prior to this. If you don't wish to speak to the amendment, you may say so. Senator Cunningham. Senator Flood. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, sometimes I seek my pound of flesh. When that MAXIMUS boondoggle came before the Legislature, I took my lumps. I

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fought against it. I told how ridiculous it was, that it was not going to work. But the senators, who were so much smarter than I am, passed it anyway. It was like the pot of gold at the end of the rainbow. They acted like some people high on flavored malt liquor, going to the lottery, buying a lot of tickets, because the same one who sold them the liquor was selling them lottery tickets and said, you're sure to win, and they bought the lottery tickets. Then they had to come back and undo it. If I don't mention this, they won't. And when I'm gone, there are a lot of things that the Legislature is going to do or undo which nobody will be able to tell what brought the Legislature to the condition and position it happened to be in. You know why I want my pound of flesh? Because even this session, you all are not going to heed what I say. But I want the record to be crystal clear. Someday I may write my memoirs, or somebody else may want to write something. And I will tell them, don't take what I'm saying now after the fact. Go back to the contemporaneous discussion, when the issue was on the floor of the Legislature. Do not rely on how I characterize it now. Go back and read what was actually done and what was actually said. And then you know what I tell them? You'll be even more amazed then, because at this late date, I don't remember every argument that I gave, because there are too many issues that I get involved in. But now that that's out of the way...and I'm glad Senator Jensen mentioned it and acknowledged it. But it was not to give me my pound of flesh; it was to justify a different approach. Now, I want to have the opportunity to examine this approach and see where it's going to take us. And the only way I can determine that is by finding what the true intent of this bill is. Senator Jensen, I'd like to ask you a question or two.

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes, I will.

SENATOR CHAMBERS: And I'm going to need your assistance in giving me information, because I've been tied up with other bills and haven't had a chance to review this one. But it deals with an area that I think is very important. If this bill...first of all, the committee amendment will become the

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bill. Is that correct?

SENATOR JENSEN: No, not necessarily. The committee amendment brought two other bills into the original bill.

SENATOR CHAMBERS: Does the committee amendment contain those other two bills yet, or they're going to be offered?

SENATOR JENSEN: Well, if we pass this amendment to the amendment, this will take one of those bills out.

SENATOR CHAMBERS: Okay.

SENATOR JENSEN: So there's only one bill still left in there. That's Senator Flood's bill, LB 618.

SENATOR CHAMBERS: So LB 709 becomes, in effect, LB 618?

SENATOR JENSEN: No. No.

SENATOR CHAMBERS: So then tell me what...

SENATOR JENSEN: All right. LB 551 dealt with additions or consumer individuals on various addiction boards, just to call it that.

SENATOR CHAMBERS: Okay.

SENATOR JENSEN: That was LB 551. Then...and it expanded the number on the Behavioral Health Commission from 20 to 25, 5 more members. Then we took Senator Flood's bill and added that on, LB 618. We added a couple measures in his bill, not the entire bill, onto LB 618, which really provides a tracking system for those individuals coming out of the regional centers, as well as tracking system for all those with behavioral health services. And then it added this Medicaid section that would hire somebody to expand and explore how the state can get more Medicaid dollars.

SENATOR CHAMBERS: Senator Jensen, we're on LB 551?

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SENATOR JENSEN: That is correct.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Did you ever watch Laugh-In, and that lady would get all exercised about something, and she would have it called to her attention that she was going down the wrong path, and she'd say, oh, I'm sorry? I thought you were on LB 709. That's what I have on my gadget, because I was reviewing it. So let me turn my light off, and wait till we get to that bill. Thank you.

SENATOR JENSEN: Thank you, Senator.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. There are no further lights on. Senator Flood, you didn't...Senator Flood, you did not wish to address this? Senator Jensen, you're recognized to close on AM0987.

SENATOR JENSEN: Pardon?

SENATOR CUDABACK: You're recognized to close on your amendment.

SENATOR JENSEN: Oh, yes, thank you. I'm sorry. I was visiting with counsel. All this amendment does is take the bill out, of Senator Synowiecki's. And I said it was passed from General File. It's actually passed on Final Reading. So that bill is gone. And this just takes it out of AM0695. I'd ask for that adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. The question before the body is adoption of AM0987, which is an amendment to the committee amendments, AM0695. All in favor vote aye; opposed, nay. The question before the body is an amendment to the committee amendments offered by the Health and Human Services Committee to LB 551. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of the Jensen amendment to the committee amendments, Mr. President.

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SENATOR CUDABACK: The amendment has been adopted. Back to discussion of committee amendments themselves. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. As you know, I represent District 19, which is home to the Norfolk Regional Center. And as you might recall from last year, was a very bitter and at times very contentious debate about what should happen with behavioral health care reform in Nebraska. I brought LB 618 in the spirit of changing the face and changing the tone of what's happening in Madison County, and in an effort to participate in a positive manner for responsible behavioral health care reform. I want to thank Senator Burling, from Hastings, for joining me in sponsoring LB 618. That initial bill did three things, two of which have been incorporated into LB 551. The two most important parts of LB 618 were a tracking system, so that when that van leaves a regional center with patients headed for District 6, District 1, District 3, Scottsbluff, Omaha, Hastings, wherever the patient may be from, as they go back home, the regional center staff put aside all the other arguments that have been made about jobs and money and economic impact. The people at the regional center in Norfolk and the one in Hastings, they care about their patients. They invest their professional life in caring for those people that need services. And when the van leaves, let's know what happens to that person, if we value that person. Senator Jensen, Senator Byars, have been great to work with on this. They recognized, as well as the rest of the committee, the value in making sure that we as Nebraskans, as state government, are accountable for the services provided to a patient in our behavioral health care system. Our biggest fear in District 19, and I'm certain Senator Burling would agree, is that people will leave our regional centers, walk in the front door of a community-based service provider, walk out the back door, commit a crime, and end up in jail. We do not want these very valuable citizens of our state to serve time in county jails when they could be receiving treatment, or to commit crimes. We want them to receive the care they need. And for that reason, I would suggest that a tracking system is the most reasonable approach to making sure we are accountable. And as many downs as it may have...if we see gaps in the system, we can certainly fix those. But this is also a way for the community-based providers across

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Nebraska to point to success stories. And there will be success stories. There will be people that respond well to community-based treatment. And that's why we believe in making sure that we have the best community-based treatment in Nebraska. The bill we initially introduced says nothing about the issues surrounding long-term locked secure care, which we still believe is a necessity. But it's an effort to address those that are released. The second part of this bill directs Health and Human Services to make sure we are maximizing the amount of Medicaid we receive from the federal government, so that we can make sure community-based service providers and whatever the state deems necessary as far as inpatient acute long-term secure care, we want to make sure that's still provided for and we maximize any Medicaid reimbursement possible. I realize there's a \$175,000 appropriation that would be necessary from General Funds, and \$175,000 from federal funds. Maybe in the next two weeks Senator Jensen and I can discuss this issue with Senator Erdman, who has a bill, priority bill, that will be coming up to discuss Medicaid funding. But I would ask for your approval at this time, knowing that we're acutely aware of the amount of money necessary to do this. Maybe it's possible that Dick Nelson at Health and Human Services could engage people already on staff at Health and Human Services to relook at issues surrounding Medicaid reimbursement, and provide us a report to the state of Nebraska. There are ways to address this issue.

SENATOR CUDABACK: One minute.

SENATOR FLOOD: But we do feel that it's important to get on top of Medicaid reimbursement in the state. Again, I would just say, this is a proactive approach from two districts that have a lot invested in behavioral health care. A tracking system is absolutely necessary. It's not a "gotcha" system. It's a way to say, we are taking care of our responsibility to a patient that needs behavioral health care services. And I would urge your support. Thank you, Mr. President. I would return the balance of my time.

SENATOR CUDABACK: Thank you, Senator Flood. (Visitors introduced.) On with discussion of AM0695, Senator Cunningham,

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followed by Senator Burling and Senator Pederson.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I'm going to be very brief here. But I would like to say that I appreciate the work that Senator Flood and Senator Burling have put into this portion of the bill. I very much appreciate that. And last year, I was involved in the debate on LB 1083. And I had some concerns, and we pretty much got them worked out. But after it was over, one of the major concerns we had was the rural representation on the oversight commission. And Senator Jensen has gone out of his way to make sure that's taken care of. We're going to get some more representation in that way, so I'd like to thank him for that. And I think this is very good for the bill. So with that, I will return my time.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Burling.

SENATOR BURLING: Thank you, Mr. President and members of the body. I want to thank Senator Flood for his work on LB 618. He came into this behavioral health reform subject at a difficult time for him, and he's trying to address the concerns of his people. And so I cosigned onto LB 618, to try to be supportive of some of the concerns I had with LB 1083 last year. The...this discussion today will help remind us, I think, of the fact that the behavioral health reform plan is an expensive proposal. It's going to cost us more, I think, than we thought it would. And it's going to be an ongoing process for several years. And increased funding is going to be sought over the years to develop community-based services, especially in rural Nebraska, where people are affected the most in...at least in the Norfolk and Hastings area. The two parts of LB 618 that are in here that I want to significantly bring up to you are the importance of tracking the number of people receiving regional center services. Those numbers are pertinent to shape what the behavioral health reform should follow, and significant in the continuing discussion regarding adequate care. Those are in this amendment. And I hope that the division that is charged with requiring to contract with one or more national entities to review Medicaid funding for behavioral health services will accept this responsibility and will rise to the challenge. It

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is an opportunity for Nebraska to explore avenues of funding available at the federal level that may have been overlooked in the past. So I support AM0695 and LB 551, and again thank Senator Flood, Senator Jensen, Behavioral Health Committee, for their support and willingness to work together all these months over an issue that is very important and of a lot of interest to all of us, but the solutions are not easy. And so thank you very much, and I return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Burling. (Visitors introduced.) On with discussion of AM0695. Senator Don Pederson, followed by Senator Johnson, Senator Flood.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, these are always confusing when you incorporate bills within bills. And looking at the fiscal note on LB 618, it calls for a \$5,990,000 fiscal note. And I know it's only money, Senator Janssen, but it is money. And I've talked to Senator Flood, and he said that the fiscal note should not be that much. Would you please explain to me, Senator Flood, why I should ignore this fiscal note?

SENATOR CUDABACK: Senator Flood, would you yield?

SENATOR FLOOD: Yes, I will. Mr. Chairman, members. I guess, Senator Pederson, just to give you a little background, LB 618 initially did three things. It...number one, it would have appropriated an additional \$4 million from the Health Care Trust Fund for the next two years to pay for additional community-based services across Nebraska in all different regions. The second thing it would do would...is the tracking system. And the initial estimate from Health and Human Services was \$1.5 million. And then you have the remaining balance that you alluded to in your comments there, that would have paid for the study to be conducted on Medicaid. The \$4 million appropriation, or really \$8 million, over the next two years, did not make it into LB 551. The \$1.5 million figure--and Senator Jensen can probably shed more light on this--we worked it out with Health and Human Services that they can track this information without any additional cost. And the fiscal note, obviously, goes down to zero, as I understand it, according to

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Health and Human Services, because we've modified some of the things that we've asked them to provide, and maybe limited our language a little bit more. So it's my understanding that Health and Human Services--and Senator Jensen can probably step up and give you a more accurate reading on what's going on over there--but they have told me and members of the Legislature that it will not have the \$1.5 million fiscal note attached to it to set that system up.

SENATOR D. PEDERSON: Thank you, Senator Flood. I'd like to ask Senator Jensen to approach the microphone and verify what we're talking about here in connection with the fiscal note on this incorporation of LB 618 into LB 551.

SENATOR CUDABACK: Senator Jensen, would you respond?

SENATOR JENSEN: Yes, I would. And Senator Pederson, have you moved from a baritone to a bass?

SENATOR D. PEDERSON: I...it may even go lower than that soon.

SENATOR JENSEN: Oh, very good.

SENATOR D. PEDERSON: But Senator Flood has given me drugs, so...called Advil Sinus and something else. Hopefully I'm better.

SENATOR JENSEN: Yeah. Certainly. And Senator Flood is exactly right. We didn't take all of LB 618. We did not take in the \$4 million a year that was in the bill to increase community-based services. And then the tracking system, we already have a tracking system started. So that \$1.5 million is not necessary. And just today, we again went back to Health and Human Services, and they said, no, there will be no fiscal expense there. Now, we still do have this \$175,000 perhaps on entering into a contract with someone to maximize Medicaid. That is one thing that between now and Select File Senator Flood and I would like to examine, to see if there is another way of doing that, and if there are other funds out there, so that when we get to Select File, hopefully we can also zero that portion out. But at this point in time, that \$175,000 for contracting

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with somebody to maximize our Medicaid on behavioral health is the only fiscal part that should be part of this bill.

SENATOR D. PEDERSON: Okay. Do you have written verification of this from Health and Human Services?

SENATOR JENSEN: We can certainly get that.

SENATOR D. PEDERSON: I would appreciate that. And then I assume that when this is incorporated...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...into the major bill, we will have a new fiscal note that will show what the actual fiscal impact is before we approach it on Select File.

SENATOR CUDABACK: I understand. Sure.

SENATOR D. PEDERSON: Thank you. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Johnson.

SENATOR JOHNSON: Mr. President, members, I rise to support both the amendment and the bill itself. One of the things is that I really believe that we do need to add the consumers to these services. They know how they affect these patients. Mental health has always had a stigma. And by including these people in the treatment plans, it will help all of us understand the problems that these people need to overcome. It will not only help them, but it will help us. And in so doing, it will help erase the stigma that they have to live under. We often hear in such cases that they could do this if they really wanted to. Well, they want to. Let's let them. One last thing is that Senator Flood, I think, is really to be commended for his efforts in this, as Senator Burling. But in his opening statement, Senator Flood said that after the contentious nature of the discussion sometimes last year, that we needed to build some bridges to Madison County. I think that's a great idea. Might even want to save that and make a movie of it someday.

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SENATOR CUDABACK: Were you asking a question, Senator Johnson?
(Laughter)

SENATOR JOHNSON: No, sir.

SENATOR CUDABACK: I'm sorry.

SENATOR JOHNSON: I'm done. In fact, I've been asked to sit down.

SENATOR CUDABACK: I'm sorry. Senator Flood, you're next.

SENATOR FLOOD: Thank you, Mr. President and members. I want to thank our colleagues for the discussion this afternoon. One thing that I think we have to keep our eye on is responsible behavioral health care reform will not come cheap. We cannot do this on the cheap, because we have people's lives at stake. And I am certainly appreciative of the significance of a fiscal note that looks ominous. I can appreciate Senator Pederson's concern. And I will do everything in my power to see that we are using or at least proposing to use state resources the most efficient way possible. But if we do not fully fund behavioral health care reform when we need to...and maybe this tracking system will show a gap or an area or a service that needs to be enhanced. We need to take that responsibility as lawmakers seriously, and look the taxpayer in the eye and say, we have to pay for this, because this is a person's life. It's a relative of somebody in our state. It's a Nebraskan that needs our help at a time when there's nowhere else to turn. That's why we have to take this very seriously. And I...in Norfolk and Hastings, we've been on the job for over 100 years. We've been caring for the people that nobody else knew how to care for. And when that van leaves, it's quite personal to the providers in Norfolk. So while I'm interested in doing whatever I can to make sure that we keep the cost down, at some point, if we can justify it and it's needed, we have to spend the money necessary for responsible behavioral health care reform for all Nebraskans across the state. I just would urge you to support the amendment, and I return the balance of my time.

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SENATOR CUDABACK: Thank you, Senator Flood. Senator Engel, on AM0695.

SENATOR ENGEL: Mr. President, members of the body, I'd like to commend Senator Flood and Senator Jensen and others who are bringing this bill to the floor today, and this amendment. I mean, in the past, I lived right next to District 19, and I know there's been a lot of controversy up there, and a lot of effort on different people's parts, and a lot of money spent. This cooperative effort is what we need to make this thing work. And as far as getting the consumers involved, I think that's very, very important. And Alcoholics Anonymous, that's why that is so successful, because those people who are afflicted are part of the healing process. They...because they've been there, they know what they go through. The outsiders, you're saying, this is what we should do for you. Well, I think those people who have been afflicted with these...with this...in these situations, they know better, because they've been there. And they still need all the help of the professionals. But at least they can...their input is...I think, is so, so important. So I certainly support the amendment and the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Synowiecki, on the committee amendments.

SENATOR SYNOWIECKI: Thank you. Senator Cudaback, members of the Legislature, I too would like to join kind of the chorus in thanking Senator Flood for his kind of refreshing demeanor as it relates to our mental health reform efforts in our state. And I would like to ask Senator Flood a question, if I may.

SENATOR CUDABACK: Senator Flood, would you respond?

SENATOR FLOOD: Yes.

SENATOR SYNOWIECKI: Senator Flood, I agree, we need to track the clients coming out of the Norfolk Regional Center. We need to ensure that we have successful outcomes. What I would be interested to know is, does the regional center currently track their discharge planning efforts at this time? Do you know that, Senator Flood?

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SENATOR FLOOD: I can't say with 100 percent confidence that they do. But I know that when a patient leaves the regional center, there is communication between the providers in Norfolk and wherever they go for their next level of care. And then, when that level of care doesn't work, they often see the patient back.

SENATOR SYNOWIECKI: I guess what I'm trying to get at, Senator Flood, don't you think there would be some value if we had some historical comparative analysis in terms of the discharge planning, say, for the last five years, and the outcomes, and have the ability to compare them, post-LB 551, in the sense that, have the outcomes for these patients improved with the arrival of LB 1083? Have they remained the same? How has the discharge planning changed? To what degree? And where do these patients now go, compared to where they went before? Do you think there would be value in that sort of tracking, from a historical perspective?

SENATOR FLOOD: You mean if we were to go back into our files and look at our patients for the last five years?

SENATOR SYNOWIECKI: Yes, Senator.

SENATOR FLOOD: Yeah, I'm sure there would be value. The providers in Norfolk will stand behind their work and their record. I guess there's going to be problems in any system. And there are patients in Norfolk that will respond very well to community-based care. And I think this is a...that's a positive move for somebody to transition from that long-term locked secure care to community-based care. So I wouldn't have any problem with that.

SENATOR SYNOWIECKI: Yeah. Five years might be a bit too long to go back. But I would be very interested to incorporate, as part of this report, at least a two-year look-back on discharge from the regional center, where these patients went, what were their outcomes, and be able to compare that from here on out, to see if indeed we are realizing improvements in consumer outcomes. I think there might be value in that.

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SENATOR FLOOD: Well, that being said, Senator Synowiecki, I think it's important to note that before this reform really got going, a lot of times providers in Norfolk would try and find placement specifically in the Omaha area, and for whatever reason, the community-based services didn't exist. And they would say, I'm sorry, we can't take any patients from Norfolk. And Omaha hospitals' emergency rooms would be calling Norfolk, saying, we've got two patients that we need to get up there. So we can look back as long as you want. But as far as the Norfolk Regional Center's track record, those doors are open to whoever is admitted, or committed, I should say, by the mental health board of an appropriate region. So I wouldn't have a problem with that. And I think you'd find that the Norfolk Regional Center, when necessary, would take back anybody as long as they had room.

SENATOR SYNOWIECKI: Again, Senator Flood, I appreciate your approach, and I appreciate your refreshing demeanor and what you bring to the debate relative to mental health reform in our state. Kind of switching gears a little bit, is it your experience, in talking with the folks at the regional center, that a critical link in...that we're missing, in terms of discharge planning for these patients, is the critical need...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...for housing? Can you speak to that at any level, Senator, with your relationship with the regional center administration? How critically important is the housing issue relative to discharge planning for the patients at Norfolk?

SENATOR FLOOD: Senator Synowiecki, I appreciate that question, because residential care is absolutely lacking across the state in a community-based setting. We have a provider, a private provider in Norfolk, Liberty Centre Services, that has kind of a clubhouse concept with residential services available, and has been a model nationwide, in fact. And there is a considerable amount of residential behavioral health services that are lacking statewide. And I think they've been frustrated because

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not all their patients can respond to just maybe a day center where they can go and check in and maybe get their medications. A lot of these patients need that nonconfined, nonsecure residential approach. And that is certainly a service that they're concerned about.

SENATOR CUDABACK: Time, Senator.

SENATOR SYNOWIECKI: Thank you.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Jensen, there are no further senators wishing to speak. You're recognized to close on AM0695.

SENATOR JENSEN: Thank you, Mr. President. And I appreciate the comments that Senator Synowiecki mentioned there about, perhaps can we even go back a little further and establish that baseline. I think that would be very well, and something that I think we can look at between now and Select File. And Senator, also, housing is a very, very important part of the reform process. Without housing for these individuals to go to, there is no recovery. And then you need to wrap services around that housing. So hopefully, that we can look at that as we move further through the session. I, too, appreciate Senator Flood and his involvement. And we thought LB 618, at least a portion of that bill, belongs into the committee priority bill. And that's what we've done through this amendment. And so I would just urge the body to adopt AM0695, and also the bill, LB 551. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. The question before the body is adoption of the committee amendments offered by the Health and Human Services Committee to LB 551. All in favor vote aye; opposed, nay. We're voting on the adoption of the committee amendments. Have you all voted on the question who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the committee amendments, Mr. President.

SENATOR CUDABACK: The committee amendments are adopted.

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Mr. Clerk, anything further on the bill?

ASSISTANT CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Back to discussion of advancement to E & R Initial, LB 551. Anybody wishing to address? Senator Jensen, there are no senators wishing to speak. Senator Jensen waives closing. The question before the body is, shall LB 551 advance to E & R Initial? All in favor vote aye; those opposed, nay. The question before the body is, shall LB 551 advance? Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 42 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 551 does advance. We will now go to General File, 2005 senator priority bills. Mr. Clerk, LB 273, when you get time.

ASSISTANT CLERK: Mr. President, LB 273 was introduced by Senator Cunningham and others. (Read title.) The bill was read for the first time on January 10, referred to the Government, Military and Veterans Affairs Committee. That committee reported the bill to General File. The bill was considered on March 23. At that time an amendment to the committee amendments offered by Senator Synowiecki was adopted. I have nothing further pending to the committee amendments, Mr. President. (AM0639, Legislative Journal page 654.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Cunningham, would you give us a quick review on the purpose of LB 273?

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. LB 273 provides grants of up to \$75,000 if two or more local political subdivisions are collaborating. And these grants can be received if you come under the condition of chronic economic stress. And that would be described as unemployment that exceeds the state average, per capita income that's below the state average, or a population loss of 10 percent or more over 20 years. And if you get one of the grants, there is a

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dollar-for-dollar local match. Now I said the grants are up to \$75,000, but as I would envision it, a good share of the grants that communities would receive would be in the neighborhood of \$5,000, \$10,000, \$15,000, and then when they have the local matching money, it will give them some serious money to do some things on the local level. But the biggest thing that I would envision is leadership development. We need to develop leaders in rural Nebraska. And from those leaders, we get entrepreneurial development. In rural Nebraska, it's different than in urban areas. It's hard for us to create 10 and 15 and 20 and 30 jobs. We need people out there that will come in. They will go to work, they will create one, two and three jobs, but we need to develop those leaders. I could envision you could also use these grants for community endowments to help with business transfers, and that is one of the...business transfers, by the way, is one of the biggest problems in rural Nebraska. People are getting ready to retire and they have no one to sell their business to, and they haven't really planned ahead. And when that business closes, even though it's only those one, two or three jobs, that is a major problem for a rural community. And as you remember, on...when we talked about this bill on opening day, Senator Synowiecki had a bill to amend in the enterprise zones. And when Senator Synowiecki came to me with that amendment, I initially told him I would be opposed to it because there wouldn't be enough money. But what I did say is if he could get the more money, I would support his amendment, and he did get it. It did pass with \$1 million. But I would tell you after that passed and listening to the tone of the body, I don't think we're going to get \$1 million, so I do have an amendment that is filed, and the amendment would lower the A bill to \$500,000. And I am handing a handout out that you can look at. But we've also heard on the floor that we have a scatter-gun approach and we're not targeting our development, but I don't believe that's accurate. If you look at the handout I sent you, you know, this is from the Rural Development Commission, and this is exactly what they are targeting. In rural Nebraska, you can't just say, create so many jobs and we're going to give you an incentive. There is much, much more to it. We're working on a much smaller scale, and we need to develop those leaders. So I believe that some of the things you see, Senator Stuhr's bill, LB 71, that's for value-added

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agriculture. We've had that bill before. It was a great, great asset to rural Nebraska, but it's a totally different concept than is in this bill. That helps agriculture. The bill I've introduced is more for things in the communities, so it's totally, totally different. You know, in the past...the thing that bothers me is in my district I support, and I heavily support, LB 775, and I know some senators in here don't support that, but I would tell you, as a rural senator, I support it very, very much.

SENATOR CUDABACK: Senator Cunningham, I'm sorry, but your time is up.

SENATOR CUNNINGHAM: Oh. Thank you.

SENATOR CUDABACK: Sorry about that. Senator Schimek, would you give us a quick review on the committee amendments beings it's been a while since we have debated them?

SENATOR SCHIMEK: Well, yes. Thank you, Mr. President and members. I think Senator Cunningham, in a way, gave a little preview or review of the committee amendments, which basically took the amount down from \$1 million to \$200,000. That's the committee amendment, but there is...that has been amended with the enterprise zone amendment that Senator Synowiecki introduced. And the idea behind that was \$1 million, to take it back up to \$1 million, but I think you just heard Senator Cunningham say that he would be offering an amendment to take that down to \$500,000. But the committee amendment basically or originally was to lower the amount of the bill to \$200,000. It has subsequently been amended.

SENATOR CUDABACK: Thank you, Senator Schimek. Now we will discuss the committee amendments to LB 273. Senator Wehrbein, followed by Senators Stuhr, Chambers and Cunningham. Senator Wehrbein. Is Senator Wehrbein present? I do not see Senator Wehrbein. We will pass over him for the time being. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I'm going to talk just a little bit about the concept of

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the bill because I do stand in support of LB 273. It is another tool, I feel, that communities can use in Nebraska. I think in reality, we have to realize that our resources are generally very limited, considering the size of the state and the diversity of the communities that we have throughout the state. I was trying to assess how many communities we actually might have. I know that I have 23 communities in my district alone, and I really don't know, but I'm sure that it is in...well, I know it would be in the hundreds of communities that we have. I wanted to share with you a couple of comments also from the Rural Development Commission. And Senator Cunningham passed out what we felt were our three priorities this year. And I wanted to just read to you the mission of the Rural Development Commission which proposes administrative and policy changes that enhance the quality of life and the business environment, making Nebraska the premier state in which to live and to develop business opportunities. And that is one of our basic goals. The commissioners that serve represent almost every...well, they do represent throughout the state every corner, as I mentioned, from Scottsbluff to Nebraska City to northeast Nebraska to southeast Nebraska. I did also just wanted to point out a couple of things. Senator Cunningham stated this has to do with building, education, and development of communities, leadership within those communities. Just talking about small businesses, I received some business statistics for Nebraska. And businesses with five or fewer employees are the bedrock of Nebraska's economy. The 2000 census showed the total of 152,000 businesses in the state having four or fewer employees. This equates to 85 percent of the businesses operating in Nebraska. So when we talk about small businesses being the bedrock, this is certainly what we are talking about and trying to encourage in this bill is that we strive to work to have new businesses. I also wanted to talk a little bit about Senator Landis' comments the last time we discussed the bill, saying that we have a lot of repetitive organizations and a lot of the same kinds of programs. He mentioned the EDGE program. This is a training program. It was started in 1993. It is a program through the University of Nebraska. It does offer business training to about ten communities, but each training course costs around...that community around \$10,000. And this is what we are talking about then in LB 273 is to allow those

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communities to have some grants that they might partake in some of these training programs. The cost also is shared then by those participating, and it is shared three ways: by the university, by those communities and then also by the participants, those that might be interested in starting a new business. Also, the GROW Nebraska program,...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...I think that was mentioned. This is strictly a membership organization. It is dealing primarily in trying to focus on markets, new business people looking at how they can better improve their business. They have an evaluation process. They look at their labeling, their packaging, their pricing, and how they might find new markets. This is entirely different than what we're talking about in LB 273. Again, we are looking at trying to develop education programs in communities that would...those local communities then would support those local entrepreneurs. And it is a cycle that we could keep going. Another point that I found interesting, according to the Center for Entrepreneurial Leadership Clearing House,...

SENATOR CUDABACK: Time.

SENATOR STUHR: Thank you.

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

SENATOR CHAMBERS: There's a song that says, "Yes, it's me and I'm in love again." But I couldn't sing that one when it comes to this bill. Members of the Legislature, this is a bill which I still am opposed to. Senator Cunningham did make the offer that the bill be allowed to advance to Select File if it could get enough votes and sit there until some of these other proposals come out and we see just what form these giveaways will take. I use the term "giveaway," he didn't. He may have said incentives or whatever. I don't believe in giving my opponent a free ride that will take my opponent steps closer to achieving a victory to which I'm opposed. All of these fine comments expressed by people like Senator Stuhr, and I believe she's very sincere, cannot withstand scrutiny or analysis. The

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talk is about education. You could not endow a good scholarship for \$200,000. And Senator Cunningham talks about building leadership. Are you going to pay somebody to make a person a leader? These are just fine-sounding words with no substance. If Senator Cornett were going to get involved in the discussion based on her studies in classical English literature, she'd be saying, "Yes, as the Bard said, full of sound and fury, signifying nothing." Shakespeare saw this coming, but he knew that he wouldn't be around, so he was going to give words that could be used by those who would be around and have to confront this kind of political nonsense. If the people pushing this bill were serious, they'd be trying to get something like \$10 million, but they are so desperate, they are so eager to have anything, they will say, let's drop the amount mentioned in the bill from \$1 million to \$200,000. Then it goes up to \$1 million because they want Omaha in it. Again, my analogy--the big jockey on the little-bitty horse. This started out to be a rural bill. I always try to get it through the skulls of my colleagues who are from the rural areas. But here's how we can solve this whole problem. Let's just define the word "rural" which has never done. Rural embraces all of the territory within the geographical boundaries of the state of Nebraska. Then you can justify letting Omaha come in and take over a bill like this which starts out as a rural bill. You all are so desperate, you are so lacking in leadership, you lack coherence. You can't do anything. This is not a scatter-gun approach. This is total chaos, going off in all directions with no notion of what the ultimate destination is other than to say, I got my name on a bill and the bill passed. Well, what does it do? Well, actually it doesn't do anything but I got the bill passed. This is preposterous, but since this is the way you all want to spend our time, in the sandbox, I'm going to spend that time with you. And I'm not going to treat you like little children. You all are grown men and women. You are supposed to be hard-nosed politicians. You need to thicken your hide, and don't let your little feelings get hurt so badly when you bring this kind of bad legislation. You know how I feel about it. When we were talking about the checkoff, do you know why people who support that checkoff being...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...mandatory will say? Mr. President, you said I have one minute?

SENATOR CUDABACK: I did, Senator.

SENATOR CHAMBERS: Okay. I will have to hold that off until I get a chance to be recognized again because it will take me more than one minute. But there's a practical application I want to make. And I don't know why I keep thumping my rural friends upside their skull. They don't learn. They will not learn. None are so blind as those who will not see. Look at this little piddling piece of legislation you got here, and then look look at all the wonderful things you're going to get, because in the rural area, things come cheaper. And you were the ones who bring it so the urban people laugh at you, and they say, well, if they swallow that, they'll swallow anything; I think I'll put Omaha in it and take over the whole thing. Omaha has the population, Omaha has the political power, Omaha will get all the money. And then you wonder why, when you open your croker sack, there's nothing in it but air.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Senator Cunningham, followed by Senators Redfield, Stuhr and Chambers. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I didn't quit...get quite finished with my opening, so I'll finish on that now. But I...what I started to say, in the past I and many other rural senators have supported economic development bills, we've supported LB 775, because we realize how important they are for Omaha, Lincoln and the state of Nebraska as a whole. And I go home to my district and I'm chastised regularly for supporting that. Many, many people in my district, and I would venture to say a considerable percentage of them, are against incentives for business, but I really believe that they help the state of Nebraska. But I believe also that we need to stick together and we need to help rural Nebraska help

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themselves, and that's what I would hope here. I would hope that we could all stick together and we could do that because I believe, with given the chance, we can grow rural Nebraska. Thank you, Senator Cudaback. I'll return my time.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. The bill as it was introduced and then amended by the committee amendment would allow \$200,000 a year. The grants may be for up to \$75,000 each, and the fiscal note tells us that it would take approximately \$67,000 the first year and \$69,000 the second year in order to provide for the staff and operating costs at the state level. That means that, out of that \$200,000, we can do two projects a year, two projects a year. The Revenue Committee has had a whole litany of bills that have been introduced. I actually had a stack on the desk here this morning with me, looking at some of the economic development packages for small businesses, rural areas, ag areas. And the one question that I have continually asked to the people as they come before the Revenue Committee is, how can we best utilize our money? What is the most important thing to do, and how can we consolidate these programs so that, in fact, we are not continually hiring one or two people to administrate each one of these programs and distribute very few dollars actually out into the rural areas and the small towns? I'm looking for something that we can consolidate, we can put together the minimal operating costs, and we can have the maximum amount of dollars to actually distribute. I don't believe it serves our people well, our businesses well or economic development goals well if, in fact, we keep scattering these dollars out in a parcel of \$100,000 here, \$200,000 there. I hope that we do a study. I hope that the Performance Audit Committee will examine all of these programs and come back with some recommendations for us that are coherent, so that we can put together a program and lump the dollars together in a very efficient manner so that, in fact, we can distribute the most bang for the buck to rural areas. I am not going to support the bill, not because I don't support its goals, but because I don't believe that \$200,000 or two projects a year is going to accomplish what we want to

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accomplish. We need to lump the dollars together and make a difference. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr...rather, Senator Redfield. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I believe that there is some confusion and I don't exactly know, but Senator Synowiecki's amendment, I believe, was to the committee amendments which did add those two enterprise zones, which we're talking about depressed communities. And I guess that's really what we were talking about in rural Nebraska is looking at those depressed communities. Also, Senator Synowiecki's amendment changed the funding to \$1 million. So I think we have to keep that in mind as we are discussing this bill right now. And I was in the midst last time of sharing with you, because this bill has to do with entrepreneurship and is something that, according to the Center for Entrepreneurial Leadership Clearing House, on entrepreneurial education Nebraska was among the bottom ten states in the nation for entrepreneurial activity. Again, this is what this bill is centering on is trying to develop those entrepreneurs in communities, but first of all, giving some grant money to these communities so that they may educate and develop some community leaders and then fill that gap. Right now, there is a huge gap between the resource providers and the entrepreneurs, and this leadership will help communities learn to help themselves and sustain themselves in the future. As I said earlier, one time we did...a few years ago, we did have a rural development program. I think it was introduced in 2000. It was one program that was supposed to meet all of our needs. Well, let me tell you, in Nebraska that doesn't work. I know that we need to work together in looking at what programs might be but we do...we have very many diversified communities across the state. We have many communities of different sizes, and these are what we're trying to fit in. These are all tools that we can use in the different communities. One has an emphasis on marketing, one might have an emphasis on leadership development. Most all of them have different emphasis, so...and we're not talking about huge amounts of money. But \$25,000 for a person that is just beginning a new business does make a difference. He can

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have that training. And this is what we're talking about is trying to provide some of those tools for those, to develop new businesses in these communities. A couple other; I think that we have a real problem that banks in Middle America aren't typically equity lenders. And they're very hesitant to lend to entrepreneurs. And I think that there's a good example of that, and so that any kind of funding that might be available will help, will spark those new businesses. According to a Gallup study, seven out of ten high school students say they want to start their own businesses. And as I said earlier, this is what 85 percent of all the businesses in Nebraska are small businesses. It is the bedrock of our economy. And I guess I just...I have a passion that we need to have...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...not just one program, but we need to have...just like a carpenter has in his tool box, we need different tools that help in different communities to assist not only that community but also those young entrepreneurs. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Chambers, on AM0639.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I want to go back to the point that I was going to make using the beef checkoff analogy. I've been told that the reason those who support the checkoff do not want it to be voluntary is because they are freeloaders who will not voluntarily put any of the money into the pot, but nevertheless, they want the pot to be replenished by people who are willing to put in the money, and the freeloaders will take advantage of that which the others did. You know why that doesn't register with me? Because there are so many freeloaders and freebooters in this Legislature who watch me do the heavy lifting on bills. They hate the bills, but they know I don't like them so they'll sit back and let me fight it and won't speak a word. That hunting, fishing and trapping abomination they wanted to put in the constitution, if you check the transcript, you'll see that there are lot others weren't talking about it. They're hoping I

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can stop it. They know it shouldn't be there, but they know I'm not going to be like them and sit back and say, well, since you all won't do it, I'm not going to do it. That's why I won't buy their argument when they do it in the beef checkoff. I look at the freeloaders around here, and if they're going to freeload in the Legislature, let those freeloaders out there do their freeloading. Until the legislators can be an example of what they're talking about, don't set a higher standard for other people than the one maintained here. Back to this bill; Armand Hammer was an industrialist, very wealthy man. He always paid high salaries. They could be considered extremely high salaries. And when Armand Hammer was asked why he always did that, he said I want the people who work for me to know that they're going to be well paid for the work that they do. But if they don't do the work, they'll know that there are plenty of people who will do it who want that good salary, and I will fire them and hire somebody else, so there's the incentive. You get the good salary but if you don't work, you're going to get fired. And he said, there's another point that he makes. If you pay peanuts, all you get are monkeys. If you pay peanuts, all you get are monkeys. Peanuts. Peanuts, not even hot roasted peanuts. That's what the rural people are willing to accept. So they throw peanuts to you and have no respect for you and you wonder why. You don't conduct yourself in a way that demands respect. Anything. Give me a crumb. Give me a penny. Give me a peanut. That's all I want. That'll make me happy. You come in here with a bill that starts out as a rural bill, then look at the amendment which "Ole Wily Senator Snicky" got the...that's what Senator...our former colleague used to call Senator Synowiecki, managed to get. Where it said "rural," you strike "rural" and put "Department of Economic Development." Where the...where it said Department of Economic Development, which was to work with that rural commission, you then put the rural commission. And instead of being the dominant player, it is reduced to second fiddle. And the Department of Economic Development, which was to play second fiddle and advise, has now been put into the prima donna's role. See how you do these rural people. You see the shell game you can run down on them. Why, my colleagues ought to be ashamed of themselves. They're lucky that the statutes that criminalize child abuse don't apply in the Legislature because Senator Synowiecki would be facing

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some charges. And the ones who voted for his amendment would be there as aiders and abettors. But you don't apply what happens in one part of life to that which happens in the other. That's why people like to burn philosophers and others at the stake...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...because they would make people think. Why do you think they made Socrates take hemlock? Why? He didn't have an army. He didn't counsel insurrection. All he would do was ask people questions. And he had to take hemlock. Maybe Socrates will commit suicide, but I will not. I'm going to keep badgering my rural colleagues, I'm going to keep battering my rural colleagues because I believe that it's possible to find a crevice somewhere in that thick skull through which a little bit of sense can be driven, if I just keep trying hard enough. I'm not a gonna quit. I'm a gonna use as my example the Colorado River. Through those hard rural skulls, I'm going to craft a Grand Canyon into which can be poured good sense. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Cunningham, followed by Senator Chambers.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. Senator Chambers, I probably would agree with you. I do have a thick skull. So I hope you are successful in helping me. Senator Redfield, could I ask you a couple of questions?

SENATOR CUDABACK: Senator Redfield, would you respond?

SENATOR REDFIELD: I'll try.

SENATOR CUNNINGHAM: Senator Redfield, I was busy when you were speaking and I missed some of what you said, but you were talking about two projects would be allowed under this bill. What did you mean by that?

SENATOR REDFIELD: I was looking at your bill as amended by the committee amendment was \$200,000 a year. And the projects themselves, you could give up to \$75,000 each. So if you did

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two, that's \$150,000. But the fiscal note said that they wanted \$67,000 the first year, \$69,000 in the second, in order to administer it. So you actually couldn't fully fund two projects up to \$75,000, under your bill with the committee amendment.

SENATOR CUNNINGHAM: Does the fiscal note right now say \$67,000 with \$200,000,...

SENATOR REDFIELD: It would depend on...

SENATOR CUNNINGHAM: ...or was that for the...

SENATOR REDFIELD: The fiscal note, I understand, has changed in order to fund the portion of the amendment that Senator Synowiecki passed, but I don't know that that would change the portion that would go to your project.

SENATOR CUNNINGHAM: Okay. Well, I'll have to look into that some more, Senator, but I would tell you it was a maximum grant level of \$75,000. That's maximum, and I envision these communities getting \$5,000 and \$10,000 and \$15,000 in grants. So we will be able to fund a considerable number of projects. And yes, I would like...like Senator Chambers, I'd like to ask for \$10 million for rural Nebraska, but you see the problem we're having here. We're talking a small amount of money and we have a lot of opposition. But I think rural Nebraska is very, very deserving of that, and if we continue to support the bills for the urban areas, why shouldn't rural Nebraska get their share? I mean, 80 out of 93 counties have lost population in the last census. Eighty out of 93 counties. We cannot wait any longer till we get that approach that's going to be the savior for rural Nebraska. We have to start and we have to start now, but we have to go at that. In rural Nebraska, if we can get just a few people to stay in any given community a year, just...it makes a big difference. You're all tired of hearing it, but you've heard me talk about the call center in Wausa, those 30 jobs in Wausa. That's equivalent to around 16,000 to 17,000 jobs in Omaha. That's what the economic impact is. It is absolutely huge. So calculated out, if we get one job or two jobs or three jobs, it makes a difference to us, and we can't wait. We have to start doing that. Right now the annual wages

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in rural Nebraska, \$10,000 a year less than they are in Omaha and Lincoln. And if you go to the Sandhills area, some of the Sandhills area anyway, they're about \$20,000 a year less. So we need to keep working on that. But we have a lot of promise out there. We...I've talked about it before but the community of Verdigre that I represent, there's two people in that community that work out of an office building. They just rented space. The one fellow works for Boeing Airlines. They have his computer set up. He has to change some secrecy things every morning when he comes in, but he's able to sit right there in Verdigre, Nebraska, and do his work for Boeing Airlines. There's a young lady that sells some school educational material. Her parent company is in London, England. We can do those things, but we have to develop leaders, we have to get entrepreneurial spirit going. We have to teach people what they can do.

SENATOR CUDABACK: One minute.

SENATOR CUNNINGHAM: And if we develop those one, two, three and four jobs, it's going to be very, very beneficial for us in rural Nebraska. So I would just hope that everybody would stick together and realize that we need this. And if I was able to get a lot more money, I would. I would take it for rural Nebraska. I would believe that we could help turn around this state. But we have to have the chance to do that. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Chambers, and as you know, it will be your third time.

SENATOR CHAMBERS: Yes, Mr. President. Members of the Legislature, is Senator Synowiecki here?

SENATOR CUDABACK: Senator Synowiecki.

SENATOR CHAMBERS: Oh, I'd like to ask Senator Synowiecki a question.

SENATOR CUDABACK: Senator Synowiecki, would you yield to a question from Senator Chambers?

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SENATOR SYNOWIECKI: Yes.

SENATOR CHAMBERS: Senator Synowiecki, would you be willing to have your amendment stricken from this bill?

SENATOR SYNOWIECKI: No, Senator, no. The amendment was adopted. We looked at the criteria for...the guidelines and the criteria for an enterprise zone, and they were a unique fit with the criteria laid out under the green copy of the bill.

SENATOR CHAMBERS: Okay. Senator Synowiecki, did you sign onto this bill, LB 273, when it was introduced?

SENATOR SYNOWIECKI: I don't believe I did, Senator.

SENATOR CHAMBERS: Okay. I'll take your...you don't have to check it.

SENATOR SYNOWIECKI: No, I did not.

SENATOR CHAMBERS: Okay. Was your amendment in the form of a bill at any time this session?

SENATOR SYNOWIECKI: Senator, I introduced two bills relative to enterprise zones. Number one, it would have re-upped them. Some of our state enterprise zones have elapsed.

SENATOR CHAMBERS: Well, did any of those...did either of those bills get out on the floor?

SENATOR SYNOWIECKI: No. No, Senator.

SENATOR CHAMBERS: But you saw an opportunity with this bill to add the amendment which you added. Correct?

SENATOR SYNOWIECKI: Right. But the...

SENATOR CHAMBERS: Are you willing to bring down somebody else's bill with your amendment, because if the bill comes down, you don't get your amendment either. So are you willing to bring

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down the bill with your amendment, if that's what it comes to, right?

SENATOR SYNOWIECKI: Well, I brought this concept to Senator Cunningham. Senator Cunningham indicated the only way he would support it if I got more money within the amendment. I was successful in getting a little bit more money. So...

SENATOR CHAMBERS: Well, Senator Synowiecki, have you amended the A bill?

SENATOR SYNOWIECKI: Senator Cunningham has an A bill pending that amends it further.

SENATOR CHAMBERS: Well, but I meant where...did you put more money into the A bill?

SENATOR SYNOWIECKI: I put...

SENATOR CHAMBERS: Is that what your amendment did?

SENATOR SYNOWIECKI: I put more money into the...no, not into the A bill, into the committee amendment. I amended the committee amendment.

SENATOR CHAMBERS: And that amends the green copy, right?

SENATOR SYNOWIECKI: Yes.

SENATOR CHAMBERS: And you know that putting a dollar amount in a bill does not appropriate any money. You know that, don't you?

SENATOR SYNOWIECKI: Yes, Senator.

SENATOR CHAMBERS: So in reality, all you did that has practical effect is to put the enterprise zone language into this bill.

SENATOR SYNOWIECKI: Yes.

SENATOR CHAMBERS: That's the only thing that has practical,

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legal effect. Isn't that true?

SENATOR SYNOWIECKI: Yes.

SENATOR CHAMBERS: Thank you, Senator Synowiecki. I know my rural friends were not paying attention. They don't listen. You don't pay attention. Senator Synowiecki has acknowledged that the only thing that his amendment put into this bill was the enterprise zone, not any more money. If you talk about amending...you could put in this bill itself \$50 million, and there is no money appropriated thereby. You've got to put it in the A bill and persuade the Legislature to pass the A bill. We have not dealt with the A bill. There is no money. The only thing that you can talk about in terms of what will be appropriated is whatever amount is in the A bill as introduced. When Senator Synowiecki said he got more money, he did not get more money. The shell game. My rural colleagues are so inattentive that all Senator Cunningham got was an additional heavy jockey on his little-bitty nag, swaybacked, knock-kneed, as it is. That's what condition this bill is in now. The focus of the bill has changed. Where Senator Cunningham put "rural," you have "Department of Economic Development."

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: That changes it altogether. What will it take for me to get you to pay attention? But if you want to do it this way, I'm going to do what I can to kill this bill. I'm going to save you from yourself. This bill is not going to get any money. And there are some rural senators who realize that if you happen to get something like this, you're going to be told you got yours, that's all. All this other stuff can now be flushed, because that the way the "ruralies" are dealt with. I'm trying to help you. There is an enterprise zone in my district. I could try to use this bill to get more money for that. I'm trying to help you. How many times have any one of you in the rural area said you'd go against something in your district to help my district? Not one. You scarcely would help my district...

SENATOR CUDABACK: Time.

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SENATOR CHAMBERS: ...if it won't hurt yours. Thank you, Mr. President.

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

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. The amendment of mine that was adopted essentially did those three things we're speaking of. It expanded the scope of the bill to include enterprise zones. We have a history in the Legislature of linking the economic development interests within our rural areas with our established federal enterprise zones. The 2003 LB 608, which was referred to as the Rural Employment Investment Incentive Act, included enterprise zones within its scope. When Senator Cunningham speaks of the good that this bill will bring to him rural areas of the state, I can correspondingly indicate that, within my small community, within the south Omaha community, and perhaps in Senator Chambers' community in northeast Omaha, where two federal enterprise zones exist, the same argument could be made that this could provide real economic relief to depressed areas of our state. The criteria for an enterprise zone is one of pervasive poverty, unemployment and general distress, and it involves the need for physical restructuring, the need for entrepreneur initiatives and these sort of things that are spoken to in the green copy of the bill. A majority of the members of the Legislature agreed with that concept. A majority of the members of the Legislature agreed that we have a history of linking rural enterprise interests, rural economic development interests with our federally-recognized enterprise zones. I'd also like to address the fact that there's been some mention that, you know, including the enterprise zones will provide for Omaha gobbling up all the resources provided for within the bill. On page 3 of the bill, it indicates that there's no political subdivision shall receive funding for more than one project. So the city of Omaha, for example, a political subdivision can only apply...even though there are two federal enterprise zones within the city of Omaha, they're only allowed to provide for one grant opportunity under the provisions of the bill. Thank you, Senator Cudaback.

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SENATOR CUDABACK: Thank you Senator Synowiecki. Mr. Clerk,
motion on the desk.

ASSISTANT CLERK: Mr. President, I do have a priority motion.
Senator Chambers would move to bracket the bill until the 25th
of May.

SENATOR CHAMBERS: That's a unanimous consent motion.

SENATOR CUDABACK: Any objection? Objection? Stated...do you
object, Senator Cunningham?

SENATOR CUNNINGHAM: Yes.

SENATOR CUDABACK: Okay. Senator Chambers, to open on your
bracket motion.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator
Cunningham. Members of the Legislature, were you listening to
your good friend and savior, Senator Synowiecki? A political
subdivision can only get one grant for how much--\$75,000. I'd
like to ask Senator Cunningham a question.

SENATOR CUDABACK: Senator Cunningham, would you...

SENATOR CHAMBERS: Senator Cunningham, what is a maximum amount
of a grant that a political subdivision can be given?

SENATOR CUNNINGHAM: \$75,000.

SENATOR CHAMBERS: Now, if Omaha pulled \$75,000 out of this
little amount of money that's going to be there anyway, that's a
substantial portion of the money, isn't it?

SENATOR CUNNINGHAM: It's quite a bit, yes.

SENATOR CHAMBERS: Thank you. Members of the Legislature,
please try to use the brains you were born with, to think. Use
your brains, put on your thinking caps. Do I sound
condescending? Then you picked it up. Do I sound patronizing?

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You scored again. I cannot just stand here and try to speak logically. You don't get it. So I have to prod you. I have to do you like your parents did you when you will a little kid. Get in there, you didn't eat your spinach. Go to bed with nothing to eat then. Okay, if that's what it takes, that's what I'm going to do. Omaha is not your friend. If I were going to try to do something to help the rural areas, I would be saying, seek enough money so if you get it, you can at least make a dent in the problem. This stuff of symbolic votes and symbolic little crumbs doesn't amount to a hill of beans. This bill is more of a bill designed to aid political subdivisions than it is the people in the rural areas, whatever rural happens to mean. The thrust of the bill has altered entirely. It is not what it started out to be. I wrote you all a little rhyme about Dr. Jekyll and Mr. Hyde. Well, this bill itself is a regular Heckle and Jeckle. If you get this bill in its present form, what have you got? You've got Omaha directing. You've got the Department of Economic Development in the driver's seat. As drafted, that's not what was intended, and that's not the intent of the bill in the minds of those who might have wanted to support it. There are rural senators who are not going to support this bill. It should not have gotten out of committee. But it's that little sop that will be thrown to the "ruralies." Because the committee, not me...you all are mad at me because I will speak openly. Judge by the conduct. A tree is known by the fruit it bears. You might look at me as a tree where a lot of wind passes through and the leaves rustle and the boughs bend and sway and make noise, but you were not told judge a tree by the sound made when the wind passes through the leaves and among the boughs. Judge the tree by the fruit it bears. Judge what is being done by the actions that are placed. What action was placed on this bill? An action that changed the entire direction of the bill, altered the scope and put Omaha right in the middle of it. You all know that Omaha has the political power. That's where the big business interests are. They get all of the giveaways and the giveaway programs are geared to them. Any entity that is going to make a decision about where money is going to go is not going to tell Omaha you can't get any of this money. Omaha will be right on the top, \$75,000 dollars sucked out of this little bit of money. And Senator Redfield tried to show you where a good percentage of it is

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going to be eaten up in other things besides grants. The grants go to political subdivisions. As loosely as the language has been fashioned in this bill, that money can be spent for practically everything. What does education mean? What is leadership? If anybody has ever gone to a conference on leadership, what you wind up with, and these are all supposed to be leaders, you will find one or two people who will emerge as the dominant individuals or personalities and all of these other leaders are now followers. That's what happens. This is a Legislature of followers. The rural people have been beaten down and conditioned so much to expect so little that when they get next to nothing, they are grateful. We should not put our colleagues in the rural areas in that set of circumstances. Excuse me, I have to cough. That was not for dramatic effect.

SENATOR CUDABACK: You're excused.

SENATOR CHAMBERS: Thank you, Mr. President. I appreciate that. If this bill makes it to Select File, if this bill is enacted into law, what will you have? You don't even know how much money is going to be appropriated. When a bill like this has to compete with the budget itself and other projects that have far more support, that are far more rational even, what chance has this got? Slim to none. I see Senator Synowiecki's conscience has gotten to him. He's going to go tell Senator Cunningham that he will restore this bill to its pristine purity. He will withdraw the Omaha amendment and let this be a rural bill once again. I'd like to ask Senator Synowiecki a question.

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

SENATOR SYNOWIECKI: Yes.

SENATOR CHAMBERS: Senator Synowiecki, are you prepared to withdraw your amendment now?

SENATOR SYNOWIECKI: Senator, it's not my amendment. It's the committee amendments that we're on.

SENATOR CHAMBERS: I know. But I've been discussing another

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amendment. Are you willing to have it struck from the bill?

SENATOR SYNOWIECKI: No, I...

SENATOR CHAMBERS: Okay.

SENATOR SYNOWIECKI: I would like to take the committee amendment to a vote as amended, and then we go to Senator Cunningham's amendment relative to the A bill vote.

SENATOR CHAMBERS: Well, let me ask you a question then. Let's deal with the amendment before us. What does the amendment, the committee amendment, do?

SENATOR SYNOWIECKI: It expands the scope of the bill to the federal enterprise zones which has...I know that we have a history of linking rural interests, economic interests to our federal enterprise zones. It changes the oversight to the Department of Economic Development in collaboration with the Rural Development Commission, and it increases...and as you already indicated, within the bill, it increases the amount to \$1 million, but we need to take up the A bill relative to that.

SENATOR CHAMBERS: Now is that the committee amendment?

SENATOR SYNOWIECKI: As amended, yes, Senator.

SENATOR CHAMBERS: What was the committee amendment, if you recall?

SENATOR SYNOWIECKI: The committee amendment originally, Senator, had...

SENATOR CHAMBERS: It would strike...

SENATOR SYNOWIECKI: ...one thing and it lowered the amount to \$200,000.

SENATOR CHAMBERS: In the bill, which meant nothing anyway, wouldn't you agree?

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SENATOR SYNOWIECKI: Yeah, I would agree, Senator. Yeah.

SENATOR CHAMBERS: Okay. Now, if a motion is made to strike the language that your committee...that your amendment consists of, you would oppose that?

SENATOR SYNOWIECKI: Yes. I...it's now incorporated into the committee amendment which is now...we're now debating.

SENATOR CHAMBERS: That doesn't mean anything. We can undo it. You would not support undoing this?

SENATOR SYNOWIECKI: You could simply vote down the committee amendment.

SENATOR CHAMBERS: Are you Senator Cunningham's good friend?

SENATOR SYNOWIECKI: I consider him a personal friend, yes.

SENATOR CHAMBERS: And you do this to his bill? This how you treat your friends?

SENATOR SYNOWIECKI: Well, it depends on the outcome of the vote on the committee amendment.

SENATOR CHAMBERS: I've listened now, Senator. You made me...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...me listen a second time. If we don't like your amendment, what do we do to handle your amendment if we don't like it?

SENATOR SYNOWIECKI: You would vote down the committee amendment.

SENATOR CHAMBERS: That's a good recommendation. Thank you, Senator Synowiecki. Members of the Legislature, you won't listen to me. You listen to Senator Synowiecki. The committee amendment has been amended by his. That's where the Omaha amendment is. Now, if you really support Senator Synowiecki's

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amendment, you will vote yes on the committee amendment if we get to taking a vote. If you don't like Senator Synowiecki's amendment, you will vote down the committee amendment. What will you lose that the committee wanted to put into the bill by way of its committee amendment? You lose nothing. All that the original committee amendment did was to lower...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on the bracket motion. Open for discussion. Senator Langemeier.

SENATOR LANGEMEIER: Mr. President, members of the body, and being on the committee and came up with this committee amendment, we were well aware of the \$200,000 in the bracket really does not affect the dollars. I guess my light was on prior to the bracket motion, as it came up, and I would be opposed to the bracket, as well as opposed to the committee amendment. Seeing the fact that Senator Synowiecki's amendment on there, which I was not in real favor of in the first place, could be voted down, as well as the committee amendment, and then go back. Senator Cunningham has offered a following amendment that would take it to \$500,000. I was part of that committee that went to the \$200,000 for a purpose. As we look at developing rural Nebraska and programs that are out there, and as we create leaders, as we create leaders we need other tools, like LB 71, that provides some actual money out there for businesses to move on and develop and grow. We can only create leaders so long, and so that's why we put the limitation, from the million bucks, to try and create some leaders out there and then put that money in other areas that would help them actually progress and start businesses in rural Nebraska and keep our young people, as well as our current businesses that are out there going in rural Nebraska. And with that, I'll return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Langemeier. On with discussion of the bracket motion. Senator Redfield.

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SENATOR REDFIELD: Thank you, Mr. President, members of the body. I don't want to speak directly to the bracket motion, but to the bill that you're talking about bracketing, because in fact I ran down to my office and pulled some of the bills that we...were before the Revenue Committee this year. This is just a portion of them. But I will tell you in the 2004 annual report, which we receive from the Department of Revenue on our economic development programs, I have a report here on the Rural Economic Opportunities Act, LB 936, when it was passed. There were no takers, zero takers. We were trying to help. I believe this Legislature is trying to do everything it can to promote job growth and economic development in rural areas--zero takers. The Invest Nebraska Act, of course, we have been looking at, and we are looking at incentives this year in the Revenue Committee, and there will be a package out that will have a low tier that will be usable throughout the state. This is LB 273 that we're talking about here. Again, the grant maximum is \$75,000. It goes to political subdivisions. It includes education and training and it requires some funding for staff, \$67,000, \$69,000 the second year. This one is LB 71. This was Senator Stuhr's bill and we have already advanced this to Final. Again, staff need \$67,000 the first year, \$69,000 the second year; another \$20,000 a year for other operating costs. This is a \$1 million. The maximum grants are \$75,000 and, again, it does not go directly to any single business or individual in the state. LB 334, this is Senator Janssen's bill; it is also on Final Reading. This one has been whittled down to \$250,000. It's a nonrefundable tax credit for contributions to community development. LB 543, this is Senator Wehrbein's bill, it's Certified Local Investment Fund Act. Again, staff needs, first year, \$67,000; second year, \$69,000. This one has \$3 million a year in it, and it is a nonrefundable 40 percent credit for investment. LB 404, Senator Wehrbein's bill, an income tax credit for livestock modernization or expansion. Expect staff, \$67,000 the first year; \$69,000 the second year; again, maximum of \$75,000. At least some of these go actually to businesses and individuals who could use them to grow a business. LB 309, the microenterprise tax credit act (sic), this is Senator Connealy's bill, and this is one that we are looking at very seriously in the Revenue Committee to incorporate the elements

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into an economic development package. This one, in fact, does have a \$2 million tax credit, which is refundable, amount to it. LB 498, this is Senator Landis' bill, the Nebraska Venture Capital Forum Act. This again requires funding of only \$200,000 a year and that purchases two employees within that division, trying to merge capital with companies that are in dire need of money. And, in fact, it's interesting, one of their referrals that they've made was that a new customer was found for reselling returned jewelry from Wal-Mart. This is the list of the bills that were before the Revenue Committee. The Revenue Committee, as well as all of you, are working very, very hard to find the answer for rural Nebraska and for Nebraska as a whole, because we're not separate parts of a state. We are one state together. And when you're healthy, urban areas are healthy. And when urban areas are doing well, it helps you because there are monies that can come out to your schools and cities and counties to help you. We're looking for the answer.

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: We want to send as much money there but we want it actually to go to the businesses and the people who can use it to grow and make jobs. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. On with discussion of the bracket motion. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I thought of a song that would be appropriate for me to sing to Senator Red...not Senator Redfield, she was just making a good point, to Senator Cunningham as he thinks about what is happening with his bill, thanks to the Omaha amendment. It's like the Titanic. (Singing) He's got that sinking feeling. He has, because he did not total up the cost of entering an agreement. There are people sometimes who could hastily agree to something and then, upon further review, determine that that was not the wisest thing to do. If Senator Cunningham realizes that he made an unwise decision, he can explain that it was unwise and that he wants to rectify a mistake. That's not the same as breaking one of these blood oaths. But if he wants to stick with it, let him stick with it. I've done the heavy

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lifting for him. I'm not going to take this bracket motion to a vote. I wanted to give the opportunity to have more discussion without people voting in haste and doing things which they might find difficult to undo later on, just as Senator Cunningham agreed with Senator Synowiecki to not oppose his amendment, but now he realizes he ought not to have entered that agreement. When I withdraw my motion to bracket, you all will get a chance to vote on the committee amendment, as amended by Senator Synowiecki's amendment. I'm not going to support LB 273 with or without his amendment. But here's the weighing exercise he has to go through. He can't get my vote no matter what. Will he gain more votes by leaving Senator Synowiecki's amendment on than he would have if he took it off? How many rural people who may have been of a mind to support this bill, as bad as it is, will continue to support it now that it's, in effect, an Omaha bill? So you can vote to adopt the committee amendment and I am still not going to support LB 273. You can vote to reject the committee amendment. All that the original committee amendment did was nothing. Written into the bill is an amount of \$1 million. That amount that was written into the bill, inappropriately, would be changed to \$200,000. Whatever amount you decide to put into it, in the bill itself, will be stricken if you adopt an amendment I have pending that would take that kind of language out of the bill. You should not mislead the public. You should not give the impression that we were...we are ignorant of our own processes. We do not appropriate money through a piece of legislation. So why are you going to enact a bill that makes it look like we don't even understand our own process? I don't know who drafted LB 273, but now that it is before us, I'm going to perform some corrective surgery.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Maybe I won't. Maybe I need to let you go ahead and pass a bad bill with this inappropriate language to show how little you care or how little you know about legislating. Maybe I don't encourage my colleagues to be more careful by my efforts. It encourages them to be softer and lazier and they will let me do it. So I haven't arrived at a point in my mind where I'm sure exactly what I'm going to do, but I have filed that amendment. I'm going to see if anybody

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else wants to speak. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Mines, followed by Senators Schimek and Louden. Senator Mines. Senator Mines waives the opportunity. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. I've been listening and I've...I just have a suggestion or an observation to make, I guess, and that is that we ought to vote down the committee amendments. As Senator Chambers and others have explained, the \$200,000 isn't probably relevant, because we can always take care of that in the A bill, although, Senator Chambers, I would argue with you about language about money being included in bills, because it's done a lot in here, all the time. And maybe we shouldn't do it, but it's not unusual. So I don't think the bill, you can say, is badly drafted. But anyway, I would like to suggest that we vote down the committee amendments and then we proceed with some of the other amendments that we have. And, Senator Synowiecki, I did not vote for your amendment, even though I had great sympathy with your amendment, and I think that it's something that does need to be addressed. I think that we need to do what we talked about in the committee, and that is we need to have a really structured, comprehensive kind of look at our economic development as it applies to local areas and local areas within cities, such as Omaha. And we need to have some kind of an umbrella organization so that you don't have all these tiny little separate administrations and all of this kind of thing going on, which takes a lot of money away from those projects that we could do. And I could go on and on about that, but I think that we need to look at this in depth. But meanwhile, I'd like to see this bill have a chance to proceed and I don't think it has a chance to proceed with the Synowiecki amendment on there. Because if you look at the vote on that, there were 25 votes. Now, I don't know if you called the house on that or not, Senator Synowiecki, but I suspect that a lot of these votes would drop off of the bill if this were included and if we continued with it. So I really think that we ought to proceed and we ought to vote down the committee amendments and then we can start over again perhaps with a clean slate. That's my observation and my recommendation at this point. Thank you.

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

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I haven't weighed in on this thing yet today. The other day I talked on it once or twice, but at the present time on today I haven't. I decided to probably make some observations, and the first one I was...may I ask Senator Synowiecki a question, if I could, please?

SENATOR CUDABACK: Senator Synowiecki, would you respond?

SENATOR SYNOWIECKI: Yes, of course.

SENATOR LOUDEN: Now, the way I understand, Senator Chambers mentioned that this was a bill that you amended into this committee amendment?

SENATOR SYNOWIECKI: Senator Louden, no. This is not a bill. Senator Louden, I introduced two bills that relate to our enterprise zones. When Senator Cunningham brought this bill I seen an opportunity to perhaps get something in through the legislative session this session for our enterprise zones, so I developed this amendment to this bill, but it is not one of my enterprise zone bills.

SENATOR LOUDEN: Okay. What...where...what happened to your enterprise zone bills or what were the numbers of them?

SENATOR SYNOWIECKI: Oh, I don't know right offhand, Senator. The one bill was to simply re-up our state enterprise zone allocations. They were LB 610 and LB 612, Senator.

SENATOR LOUDEN: I see.

SENATOR SYNOWIECKI: And one was to re-up them. Another was to provide an exemption to the tax on reconstruction labor within an enterprise zone.

SENATOR LOUDEN: Yeah. Now...and both of those got indefinitely postponed. Is that correct?

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SENATOR SYNOWIECKI: Correct.

SENATOR LOUDEN: Yeah. And then you, what, did you take parts out of those bills? I mean I'm a little bit new around here. How did you take parts out of those bills and then...and then amend them to something else? I thought there were some rules on that, that govern how you can do that.

SENATOR SYNOWIECKI: This is an amendment, Senator, that I amended the underlying bill, LB 273, to expand the scope to include enterprise zones for the reasons that I've given, and 25 members agreed with that and were sympathetic to that.

SENATOR LOUDEN: Yeah, and but those...but that wording then came out of either LB 610 or LB 612. Is that what you're telling me?

SENATOR SYNOWIECKI: No.

SENATOR LOUDEN: Okay. Well, thank you, Senator Synowiecki,...

SENATOR SYNOWIECKI: Thank you.

SENATOR LOUDEN: ...for clearing that up for me. I...to me, this probably isn't quite enough. I have a problem with whenever we appropriate some money or do something like this, right away we have to hire more people to put in with this Department of Economic Development or whatever agency does. Right away we have to hire more people. I would think for what this was going to entail that there was probably already enough staff around someplace to take care of it. I would like to see our money either put into some other bill that's...we've got several bills out there this time that are going to be asking for appropriations and I think if we put our money all together, we can probably do a lot more with it than coming along with a little piece here and a little piece there. Perhaps somewhere along the line this bill should have been amended into another one. I don't know. We've got...Senator Stuhr has some other legislation that we discussed the other day. So, at the present time, I'm not in favor of the way the thing is put together so

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I'll probably consider voting against it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Cunningham, on the motion to bracket.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I would like to just clarify a couple things. Senator Redfield, would you...

SENATOR CUDABACK: Senator Redfield, would you yield to a question from Senator Cunningham?

SENATOR REDFIELD: Yes.

SENATOR CUNNINGHAM: Thank you, Senator. I didn't finish before. I forgot to ask you a couple things. But you had mentioned the \$69,000 that was in the fiscal note.

SENATOR REDFIELD: Yes.

SENATOR CUNNINGHAM: And that was from the...that was from the Fiscal Office, but in the A bill we don't have anything. Actually, in my upcoming amendment to the A bill, where I have \$500,000, there's \$33,500 in there for the A bill and \$21,000, or something like that, goes to staff. So, you know, I don't believe the \$69,000 is accurate. Would you like to respond to that in any way?

SENATOR REDFIELD: Senator, I was just reading the A bill that we had before us. I can't address what might happen with an amendment here coming up.

SENATOR CUNNINGHAM: Okay. Thank you, Senator. Well, I would tell you where we're at right now. I oppose the bracket motion, definitely oppose the bracket motion. Kind of in a precarious situation; as Senator Synowiecki has told you, when he put his amendment on the other day, I did agree to his amendment if he got more money. I wouldn't agree to it without more money. Now, technically, he got his amendment passed, but we don't have more money. As Senator Chambers pointed out, you only get the

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money in the A bill. But because of an agreement that I have with Senator Synowiecki, it's hard for me to go against that and vote against, you know, the committee amendments here. But the reality is, if you were to vote against the committee amendments, we would be back to the way the bill was originally, in the original form, and in that form then I also have an A bill, as I told you, for \$500,000. So we will try to get \$500,000 with the bill, as it was originally introduced. I personally, because of my agreement with Senator Synowiecki if this amendment or this part of the enterprise zone is still in there at that point, I personally will vote for that for the committee amendments. But you're going to have to make that decision on your own. If you think this bill is a worthwhile bill with the enterprise zones, we need your vote there. If you think we can do better for rural Nebraska without the enterprise zones, we need your vote there. I just please ask you, we need to pass this bill in some form, because we do need this money. Even though Senator Chambers says it won't help rural Nebraska, it will very much help rural Nebraska and we need to get this bill through and we need to get it through now. And I will explain that again later. We're only talking on the bracket motion at this point, so I will explain my position again before the final vote. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I will be opposing the amendment, the committee amendment. I think that...I know when that vote was taken there was a lot of indecision and not knowing for sure exactly what we should do. If we vote against the committee amendment, that will remove Senator Synowiecki's amendment. And again, I'm looking at the concept of the bill, which was to lend support and some funding for education and development of community leaders who will then support local businesses and help connect the resources that we have. It has to do with entrepreneurial partnerships. I believe I mentioned below...or before that Nebraska ranks in the bottom ten states in entrepreneurialship, and I think this gives us an opportunity to at least do something in that area. We talk about self-employment.

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Thirty-three percent of all of the jobs in rural America from...in rural Nebraska from '90 to '94 had to do with small businesses. Small businesses make up 85 percent of all of the businesses. So, in reality, folks, we know that these big businesses are not going to come to rural Nebraska, and what this bill is trying to do is assist those small businesses and help those communities assist those businesses. So I will be voting against the committee amendment. Thank you, and I give the rest of the time back...and urge you to do the same. I give the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Mines. The question has been called. Who called the question? The question has been called. Do I see five hands? I do see five hands. The question has been called to cease debate on the motion to bracket. All in favor of ceasing debate vote aye; those opposed, nay. We're voting on ceasing debate. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 4 nays to cease debate,
Mr. President.

SENATOR CUDABACK: Debate does cease. Senator Chambers, you're recognized to close on your motion to bracket.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this time that we spent on this motion has not been wasted because people did become aware of where we are with reference to the bill procedurally. If you vote against the committee amendment, you get rid of Senator Synowiecki's amendment. To make sure that nobody misunderstood what I was saying when I spoke earlier about his amendment, Senator Synowiecki didn't do anything underhanded. Senator Synowiecki went to the introducer, made clear what his amendment would do, and the introducer agreed. But all I wanted to do was characterize that amendment so the rural people would understand how drastically the bill had been altered. If you vote down the committee amendment, you just leave the green copy where it was. And as for my good friend Senator Schimek, who mentioned that there are bills which have written into them amounts of money so it's not unusual, it just means that a low standard of bill drafting is

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not unusual for the Legislature. That's all that means, not that it should be indulged in and continued. It means we should try to bring it to a halt and that's my job. I'm the mentor. Remember, brothers and sisters, friends, enemies and neutrals, I've been here longer than anybody else. I'm known as the dean of the Legislature. I'm old. Old people are entitled to have moods. Every now and then I feel a mood coming on and I indulge myself in that mood. You all are close to being old. If you're not old or you won't admit it, you know old people. You know we have moods, don't you? You don't know what we're subject to do. You don't know what we're subject to say. But if we say something you don't like, you just say, well, he's old, she's old. But we get said what we think needs to be said, and you all go along wearing a false face. I tell my colleagues frequently, don't run around here counting votes. It's not going to pan out that way, in most instances, if the particular bill is controversial or can generate controversy. I said I'm not going to carry this motion to a vote, and I don't intend to. Mr. President, I withdraw that pending motion.

SENATOR CUDABACK: The bracket motion is withdrawn. We are back now to discussing AM0639. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I will use this opportunity again to explain what I just a few moments ago explained. But where we are at this point, if you adopt the committee amendments, we have the Synowiecki amendment in there that includes enterprise zones. That includes the enterprise zones. So that's where we are with the committee amendments. We still have to pass the A bill and, as I've stated also, I have an amendment to the A bill to make that \$500,000. Because of an agreement that I had with Senator Synowiecki, when he came up and asked me if he...if I minded if he included the enterprise zones, I said I would be against that unless he brought more money. In his amendment, his amendment said \$1 million, but that was in the bill itself and, as Senator Chambers has explained to you, that doesn't mean anything. The money comes in the A bill. So, very clearly, I will support the Synowiecki amendment because of the agree...or the committee amendments because of the agreement I had with Senator Synowiecki. I find it very hard to go back on my word. I find

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that very hard. But you need to make your decision on whether you think the bill is better with the enterprise zones or without the enterprise zones. If you think it's better without the enterprise zones, you need to defeat the committee amendments. You need to vote red. If you think it's better with the enterprise zones, you need to vote green. And with that, I will return my time, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Cunningham. There are no further lights on. Senator Schimek, you're recognized, as Chairperson of Government, Military and Veterans Affairs, to close on the AM0639. Senator Schimek, to close on AM0639 to LB 273.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. With all due deference to Senator Synowiecki, I know that I am going to vote against the committee amendments. And I know where Senator Cunningham is coming from and I respect him for that, but I don't think this bill is going to go anywhere, probably, unless we manage to dump the Synowiecki amendment. Thank you.

SENATOR CUDABACK: You've heard the closing on the committee amendments. The question before the body is, shall the amendments be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments, offered by the Government, Military and Veterans Affairs Committee to LB 273. Have you all voted who care to? Have you all voted who wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 13 ayes, 20 nays on the adoption of committee amendments, Mr. President.

SENATOR CUDABACK: Committee amendments are not agreed to, not adopted. Mr. Clerk, a motion?

ASSISTANT CLERK: Mr. President, the next amendment is offered by Senator Beutler. This is FA118. (Legislative Journal page 989.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on

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FA118 to LB 273. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I have a series of amendments, all of which are designed to try to define what it is we're talking about here. I do, notwithstanding what's been indicated, have a problem with the focus thing, and I think it's worthy of considerable discussion to try to ascertain exactly what it is we think we might be able to get done with this bill. Let me back up and say, myself, like all of us in here I think, whether we come from urban areas or rural areas, but certainly more so those who have come from rural areas, have struggled with the decline of the rural areas, have struggled with what we can practically do about it, have struggled with the different notions over time, many of which have failed, most of which have failed in the 20 years that I've been here. And I think each of us believes, whether we are talking about economic development that might pertain primarily to an urban area or to a rural area, that we want that which we do to be effective and not wasted money. I have supported, in the past, economic development efforts for rural areas that I think are effective. In fact, I've gone out on a limb on some. Senator Schmit and I were supporting ethanol plants back in the early 1980s, before most of the rural senators were on board with ethanol plants. But that was something specific. It was something focused. It's time has come now and everybody recognizes it. We have a lot of ethanol plants. We can have more. They may not even need assistance any longer, the way the economic factors have switched in recent times. I have also voted against some economic development measures that were supposed to help my own city. Things, like the Cornhusker Hotel, were built with economic incentives that I, in fact, voted against. So I hope that the series of inquiries and the series of remarks that I make on this bill are not perceived as being anti-rural, because in my heart they are not. But here is what I perceive to be the problem in terms of how we assist the rural areas. There are some parts of rural Nebraska that we can't fix, and I think that we cannot fix them because those huge economic forces that have led to the overall decline in our rural areas over the last few decades, those forces are not being changed, are not changing, continue to roll out and to play out. The rural agricultural technologies continue to

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develop. World trade agreements continue to be entered into, making more competition, allowing products from around the world to compete even in our home markets. So it seems to me that what we have to do is to identify those economic factors that are advantageous to rural Nebraska and to Nebraska generally, and build on our strengths. That is, don't try to put money in certain areas of the rural community where you can build all the entrepreneurial spirit that you want, but if the basic underlying factors for locating or building a particular business or industry in that community is not there, it may never be there, probably will never be there. And I think that's what I mean by focus. There are things that we can focus on. We know the I-80 transportation system is a strength that we have, and we know if there's a place that we can make a change with money, it's probably in areas in the proximity of that backbone. We know we have some great tourist attractions, but even there I don't believe we can put money, scatter money, into all of them. I think we need to focus on those things that can truly draw from the rest of the nation and draw money into Nebraska. The problem is political will. We don't have the leadership yet that's willing to do the in-depth analysis that says, Nebraska, these are your strengths, these are the things you build on, these geographic areas have the potential of great enhancement, focus your scarce resources there and build and grow Nebraska. But we are not willing to make that political decision when it comes to rural Nebraska, for example. We want to help everybody all at once with a little puny amount of money that we have, and it's a puny amount of money even if you're talking about the whole state and everything we're doing. And that's why I have a lot of trouble with a bill like this that is not geographically focused, it's not programmatically focused. It's saying let's just find little bits and pieces everywhere that we think will help and we'll pour some significant money into it, and I don't think that's going to work. And this grieves me to say this about this bill, in particular, because a lot of people that I have enormous respect for I know are in favor of this bill. And so, in asking these questions and in presenting these amendments, I'm going to try to seek out what it is in this bill that can really help. The first amendment goes to the question of focus with respect to the political subdivisions that are...that are seen in this bill as being

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helpful or potentially helpful. It suggests that we limit the political subdivisions involved to cities and counties. Now, maybe all political subdivisions could help in some way. Maybe we want rural fire districts and other kinds of political subdivisions to be a part of this. But again, I question what the focus is here, whether some of these peripheral political subdivisions can really be of any significance, assistance or not. And so I put this amendment in front of you for discussion on that particular point of why is this open to all political subdivisions. Is it simply a matter that we haven't given thought to what our instruments of change really are and so we leave it wide open to everybody? Or do we really believe that each and every political subdivision is a part of this thing we call community capacity and we can build a little building here or a little building there, or enhance...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...this portion of the infrastructure of a particular political subdivision and that's going to be sufficient? I'm really bothered and I try to understand statements like create community capacity to build and sustain programs to generate and retain wealth. It seems to me that that gets almost three steps away from the actual entrepreneur that needs the money or the business that needs the money to do something. I, you know, I don't know, Senator Cunningham. I just feel so much more comfortable giving it to an individual or a business that's going to try something rather than backing up and sustaining a program and, in turn, backing up and creating community capacity to sustain the program...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...that, in turn, will generate the wealth. Thank you.

SENATOR CUDABACK: You've heard the opening on FA118, offered by Senator Beutler to LB 273. Open for discussion. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members.

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Senator Beutler, I guess I understand your concerns and I don't fully know the answers. It's just that, you know, out there in rural Nebraska...and I should be careful saying rural Nebraska. I've been chastised before. I should say outstate Nebraska, but that comes hard for me to say that, but outstate Nebraska would be the better term. But we...let me give you an example. In Knox County there's a group. They're working with high school students. In Cedar County, through the extension agent, they're working with high school students, trying to develop, develop leadership, trying to get those students so they will realize the benefits of staying and living in their home communities. After they go to college, they can come back. But we need to develop, we need to develop that. There are many, many programs, and I couldn't even begin to sit here and tell you what they are now, but we need to work at that. We have the community colleges that are very interested in getting involved in this and putting on programs for leadership development, entrepreneurial development. As I've stated earlier, you know, it just doesn't work the same in outstate Nebraska where we have the economic development bills create so many jobs and spend so much money, because so many times we're trying to create one and two and three jobs. So it just does not work the same. And I think we have so many opportunities if we can just give us a little bit of a boost to work towards those goals. I mentioned earlier, well, when...I don't know what the A bill will be when this bill passes, and I'm hoping this bill passes and we get an A bill passed, but when the A bill was at \$200,000 I was told that we had businesses that were willing to contribute to the other half of these grants for these leadership programs. They were ready. They had enough money for those \$200,000 at that point. And so I don't know what to tell you, Senator Beutler. You know, I hear all the time we're going in all different directions, but it seems to me all we do is talk about we're going in different directions and we don't do anything about it. Senator Chambers mentioned earlier that I made the comment to him that I'd be willing to move this on to Select File, I'd be willing to write a letter to the Speaker to hold it until we see what comes out of the Revenue Committee, what the package is. But we need to guarantee, whether it be this bill or what comes out of the Revenue Committee, we need to stand up and fight for outstate Nebraska, and we don't do a very good job of doing

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that. We give in too easy. Senator Chambers is right. We had \$1 million. I amended it down to \$500,000. But, you know, that's the sense I get from the body. Everybody says, oh, we don't have that kind of money, we don't have that kind of money, and I'm as fiscally responsible as most anybody in here, but I believe that spending the money in this area is going to grow outstate Nebraska and we're going to play our part in helping Nebraska turn around. And so if you...if anybody has better ideas, I'm willing to listen to those ideas, but don't just tell me it won't work, it won't work, it won't work, and do nothing, do nothing, do nothing. What are the ideas? And then let's pursue those ideas. Maybe this bill isn't the right way, but let's pursue the ideas. Let's help outstate Nebraska. With that, I will return my time, Senator.

SENATOR CUDABACK: Thank you, Senator Cunningham. Mr. Clerk, items for the record?

ASSISTANT CLERK: Mr. President, I do. New bill. (Read LB 4A by title for the first time.) Amendments to be printed: Senator Loudon to LB 484, and Senator Don Pederson to LB 47. New resolutions: LR 67 by Senator Thompson; LR 68 is an interim study offered by Senator Schimek and others; LR 69 by Senator Aguilar. Name adds, Mr. President: Senators Don Pederson and Engel to LB 542, Senator Thompson to LB 577, Senator Redfield to LB 753. (Legislative Journal pages 1047-1049.)

Finally, Mr. President, a priority motion: Senator Don Pederson would move to adjourn until Thursday, March 31, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn till Thursday, 9:00 a.m., March 31. All in favor of the motion to adjourn say aye. Opposed, nay. Ayes have it. We are adjourned.

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