

APRIL 11, 2005

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 38, 111, 111A, 274, 276

SENATOR CUDABACK PRESIDING

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

SENATOR KRUSE: (Prayer offered.)

SENATOR CUDABACK: We thank you, Senator Kruse. Senator Kruse is not only from the 13th District; he represents the 13th District. We call the fifty-ninth 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: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: Mr. President, I have no corrections.

SENATOR CUDABACK: Do you have any messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB 111, LB 111A, and LB 274 as correctly engrossed. Enrollment and Review also reports LB 38 to Select File with Enrollment and Review amendments attached. And, Mr. President, a communication from the Douglas County Board of Commissioners, to be on file in the Clerk's Office. That's all that I have. (Legislative Journal pages 1143-1145.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to first agenda item, Select File, 2005 Speaker priority bills. Mr. Clerk, LB 276.

CLERK: Mr. President, LB 276. Senator Flood, I have Enrollment and Review amendments pending, Senator. (AM7078, Legislative Journal page 1088.)

SENATOR CUDABACK: Senator Flood, for a motion.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 193, 276, 389, 389A

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 276.

SENATOR CUDABACK: The motion to adopt E & R amendments to LB 276. All in favor of the motion say aye. Opposed, nay. E & R amendments are adopted.

CLERK: I have nothing further on LB 276, Senator.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 276 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 276 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk, LB 389.

CLERK: Senator, LB 389. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the advancement of LB 389 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 389, E & R for engrossing. All in favor of that motion say aye. Opposed to the motion say nay. LB 389 is advanced. Mr. Clerk, LB 389A.

CLERK: LB 389A, Senator. I have no amendments to the bill.

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 389A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 389A to E & R for engrossing. All in favor of the motion say aye. All opposed, nay. LB 389A is advanced. Next agenda item, LB 193.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 82, 193

CLERK: LB 193, Senator. I do have Enrollment and Review amendments. (AM7076, Legislative Journal page 1088.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 193.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 193. All in favor of that motion say aye. Opposed to the motion, nay. E & R amendments are adopted.

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

SENATOR CUDABACK: Senator Flood, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 193 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 193 to E & R for engrossing. All in favor of the motion say aye. Opposed, nay. LB 193 is advanced. We now go to Select File, 2005 senator priority bills. Mr. Clerk, LB 82.

CLERK: LB 82, Senator Flood. I do have Enrollment and Review amendments, first of all. (AM7081, Legislative Journal page 1122.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 82.

SENATOR CUDABACK: You've heard the motion by Senator Flood to adopt the E & R amendments to LB 82. All in favor of the motion say aye. Opposed to the motion, nay. E & R amendments are adopted.

CLERK: Senator Baker would move to amend with AM0902.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 82

SENATOR CUDABACK: Senator Baker, you're recognized to open on your amendment to LB 82.

SENATOR BAKER: Thank you, Mr. Speaker. I would ask that we withdraw that amendment, please.

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

CLERK: Senator Beutler would move to amend with AM0976.

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

SENATOR BEUTLER: Mr. Clerk, Senator Cudaback, I'd withdraw that amendment.

SENATOR CUDABACK: The amendment is withdrawn. Mr. Clerk, when you get time, next amendment.

CLERK: Senators Beutler and Baker would move to amend with AM1139. (Legislative Journal pages 1145-1147.)

SENATOR CUDABACK: Senator Beutler, are you first? Senator Beutler, you're recognized to open.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Baker and I have worked together on this. And there are three little separate things that have been put together for purposes of looking at it as one amendment. Senator Baker will talk about the main thrust of the amendment. But it has to do with persons towing a motor vehicle, and what the notification requirements are with respect to the owner and with respect to lien holders. It deals with that business generally. One of the things that is required is a notice. That notice has several provisions, several items that are required to be given to the owner and lien holders. And among those is a statement that the motor vehicle is subject to a lien and to disposition within a certain number of days. One of my two parts of this little amendment is to give notice specifically to the owner and whoever else gets notice that the sale can take place within

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 82, 251

90 days after the date of towing. So not only do you get a notice that it's there, but you get a notice that it may be disposed of within a certain period of time, unless you take action. So that additional notice is the one provision. The other provision was brought to me actually by the bankers. And they pointed out that once property is sold, it's held for five years. And if at the end of that period of time no claim is made upon the money, then it goes to the State Treasurer. But they also pointed out that in the event there should be some faulty notice, or some mistake is made with notice at the front end of the process, and the lien holder doesn't take advantage of it at that point in time, that then he loses all right to take advantage of it. And what this amendment would say would be, as long as as these funds are held and not distributed to the State Treasurer, if in fact a bank has a legitimate lien, it can come in and exercise its right to a portion of the proceeds. It can't get the entire value of the car; it can only get the value of its lien, which is the way it should be. But basically, the right being afforded the banks is to come in at a later point in time, should somehow at the beginning of the process they fail to give notice, or otherwise fail to exercise their lien rights. So those are my two parts of the amendment. And with that, I would yield the remainder of my time to Senator Baker to explain his addition to the bill.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Baker, you have about seven minutes.

SENATOR BAKER: Thank you, Senator Cudaback and members. And thank you, Senator Beutler, for working with us on this. And Senator Janssen, particularly. This amendment is with his blessing. This was LB 251, which was heard in the Transportation Committee. There was no opposition. It came out of the committee with no votes against it. So it's fairly...it's obviously accepted. What it does is, if you recall a couple years ago, we increased the length of combination vehicles that are being towed. And primarily this was dealing with disabled vehicles on the Interstate. But it applied to any road. We increased the limit up to 130 feet for these towed vehicles. Combinations are the tow truck, the vehicles, and so on, to 130 feet. The bill, LB 251, which is

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 82

this...now in AM1139, increases that to 150 feet. The problem we were getting into is, these trucks were having an axle weight problem, so they want some triple-axle tow trucks. Some of them are 50 to 60 feet long themselves. They're very large tow trucks. And they were being issued tickets for towing these disabled vehicles off the Interstate. So that's one part of the amendment. Another part of it is dealing with how far they can tow these combination vehicles that length. And there was always the perception that they needed to tow the entire unit, say, back to a repair shop, which...sometimes they'd go past a so-called secure safekeeping facility. This states what a safekeeping facility is. It says, a secure safekeeping means a place off the traveled portion of the highway that can accommodate the parking of such vehicles in order for the vehicles to be repaired or dismantled and operated in separate units. So we clarified that. We've worked with the Department of Roads and, obviously, the Carrier Enforcement division of the State Patrol on this. We've clarified that. And as Senator Beutler said, the rest of it is dealing with lien and notification. It used to be, in current statute, that the tow company had 180 days to...I'm sorry, had 90...I got to get this straight. They had 180 days in which time to file a lien, and now it's down to 90. Part of the problem we had was, these lots were being filled with vehicles that really had not much value to them. And their storage fees were accumulating to where nobody would redeem the vehicles, just because of the cost of the storage and so on. So we've narrowed down the window that the tow companies have to get the notification out, and so on, and simply cleaned up the process to where we think it's a much more workable situation. And as Senator Beutler explained, his part of the amendment is dealing with the foreclosure of those liens and the proceeds and how those all go together. With that, I'd be glad to answer any questions. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the opening on AM1139, by Senator Beutler and Senator Baker. Open for discussion on that amendment to LB 82. Senator Beutler or Baker, there are no lights on. You waive closing. The question before the body is, shall AM1139 be adopted to LB 82? All in favor vote aye; those opposed, nay. The question before the body is the Beutler-Baker amendment, AM1139. Have you all voted

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 82, 351

on the question who care to? Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler and Baker's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Flood, I have nothing further on the bill.

SENATOR CUDABACK: Senator Flood, you're recognized for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 82 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 82 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 82 is advanced. Mr. Clerk, LB 351.

CLERK: Senator Flood, I have Enrollment and Review amendments, first of all. (AM7079, Legislative Journal page 1122.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 351.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 351. All in favor of that motion say aye. Opposed, nay. E & R amendments are adopted.

CLERK: Senator Preister would move to amend with AM1078. (Legislative Journal page 1120.)

SENATOR CUDABACK: Senator Preister, you're recognized to open on AM1078 to LB 351.

SENATOR PREISTER: Thank you, honorable President, friends all. I rise to introduce this amendment. It doesn't change anything substantively in what we're doing. What it does is allows for harmony with existing practice. It adds the E clause.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 351, 382

Currently, all of the Environmental Quality Council members' terms expire in different years, in June. So rather than waiting until September or 90 days after the session ends, this would just accelerate when the operative date takes place, to facilitate more of that consistency, so that these new people would be in sync more with the current practice. That's all that it does. Thank you.

SENATOR CUDABACK: Thank you, Senator Preister. You've heard the opening on AM1078 by Senator Preister to LB 351. Open for discussion. Senator Preister, there are no lights on. Senator Preister waives closing. The question before the body is adoption of AM1078, offered by Senator Preister. All in favor vote aye; opposed, nay. The question before the body is the Preister amendment, AM1078 to LB 351. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays on adoption of Senator Preister's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: Senator Flood, I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, you're recognized for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 351 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 351 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion, nay. LB 351 is advanced. We now go to the next agenda item, Select File, 2005 committee first priority bills. Mr. Clerk, LB 382.

CLERK: LB 382, Senator. I have Enrollment and Review amendments, first of all. (AM7062, Legislative Journal page 913.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 89, 306, 382

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 382.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 382. All in favor of adoption of E & R amendments say aye. Opposed, nay. E & R amendments are adopted.

CLERK: Mr. President, Senator Byars would move to amend with AM0951. (Legislative Journal page 1032.)

SENATOR CUDABACK: Senator Byars, you're recognized to open on AM0951 to LB 382.

SENATOR BYARS: Thank you, Senator Cudaback. When we...the body passed LB 306, the background check bill, earlier this session, we...I was asleep at the switch relative to temporary practice rights for dentistry, as we passed in LB 89 earlier, which was in the MOMs bill, the temporary practice...license to practice, locum tenens, for dentists that come in to do charity dental work in the state. And the Department of Health and Human Services has agreed, and the professionals have agreed, that an application for temporary practice rights for dentistry doesn't fit in this category. So AM0951 clarifies that the requirement for a background check does not apply to an applicant for temporary practice rights for dentistry, as passed by LB 89 earlier this session. So nothing...there's nothing controversial relative to the issue. It's clarification. Needs to be done, as far as locum tenens in dentistry, and we didn't do that in the earlier bill. So I would ask that you would adopt AM0951.

SENATOR CUDABACK: Thank you, Senator Byars. You've heard the opening on AM0951. Open for discussion. Senator Byars, there are no lights on. He waives closing. The question before the body is, shall AM0951 be adopted? All in favor vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382, 445

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Byars' amendment.

SENATOR CUDABACK: The amendment has been adopted. (Visitor introduced.) Also, in honor of a 32nd birthday, Senator Bourne has brought cookies from an entirely voluntarily smoke-free bakery in north Omaha, so. (Laughter) We welcome the cookies, anyhow. Thank you. Mr. Clerk, ...happy birthday, Senator Bourne. Mr. Clerk, announcement, please.

CLERK: Mr. President, Reference Committee will meet underneath the north balcony now. The Reference Committee, north balcony, immediately.

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next motion.

CLERK: Mr. President, with respect to LB 382, Senator Jensen would move to amend with AM1042. (Legislative Journal page 1138.)

SENATOR CUDABACK: Senator Jensen, to open on your amendment, AM1042.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. This was an amendment that I brought forward which included the...in LB 445, the Physical Therapy Practice Act. And this was an issue that was brought to our committee. And there was opposition from the physicians, occupational therapists, chiropractors. And after considerable amount of work and...those were all satisfied. However, the Lincoln Public Schools still opposes the bill. And so I'm going to ask, Mr. President, that we withdraw the amendment.

SENATOR CUDABACK: The amendment is withdrawn. Mr. Clerk, next amendment, when you get time.

CLERK: Mr. President, Senator Stuhr would move to amend with AM0816. (Legislative Journal pages 1148-1151.)

SENATOR CUDABACK: Senator Stuhr, to open on your amendment,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

AM0816.

SENATOR STUHR: Thank you, Mr. President and members of the body. I come before you today to introduce AM0816, which would add several provisions from the body art statute. And I did speak with Senator Jensen before introducing this amendment. First of all, the proposal would add a body art representative to the Board of Cosmetology. And I feel that it is important that this industry has representation on this board, as there currently are no board members who fully understand the complexity of the practices of body art. The second provision would increase the number of board members required in a quorum in routine business matters from six to seven members. It also increases the number of professional members required for a quorum in matters requiring professional judgment of competency or standards of professional conduct from five to six. Requires six board members instead of five to call a meeting of the board, other than regularly scheduled times. Some of these provisions were brought by the Health and Human...to the Health and Human Services Committee by the Board of Health. And the final provision proposed in this amendment was brought at the request of the body art industry. And it prohibits body artists from performing a tattoo, brand, or permanent color technology procedure on anyone under the age of 18. It would also prohibit them from performing a body piercing on anyone under the age of 16, with the exception of earlobes. I agreed to introduce this legislation because I continue to feel that young adolescents especially are unaware of the potential health consequences of unprofessional practices and their long-term effects. From the amount of mail and phone calls that I have had regarding this issue, I do believe that there are some individuals who do take advantage of our youth when it comes to tattooing, piercing, and branding. And I briefly wanted to take just a moment to share with some of the new members the body...of the body, the history of my involvement in this legislation. And in 1997, there were several parents who contacted me regarding their young daughters getting tattoos from a practitioner in his home. And so I started introducing legislation at that time. And last year, then, we passed the licensing of the body art practitioners. And I've always had in mind the safe...health and safety issues particularly associated with this work. And I appreciate the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

committee's work on this issue. And this bill actually was moved on to General File, and I'm now including it as part of LB 382. With that, I urge your support of the amendment, and would be happy to answer any questions. Thank you.

SENATOR JANSSEN PRESIDING

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

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask Senator Stuhr a question.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Stuhr, would you yield?

SENATOR CHAMBERS: Senator Stuhr, your amendment would put a body artist on the Cosmetology Board, is that true?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Is a body artist one who does art on the body, or one who draws the body?

SENATOR STUHR: One who does art on the body.

SENATOR CHAMBERS: Suppose one draws the body.

SENATOR STUHR: I don't understand your point. (Laugh)

SENATOR CHAMBERS: Well, maybe I can give you an example, right?

SENATOR STUHR: Yes, yes. I...all right. Body artist. Okay, yes. Yes.

SENATOR CHAMBERS: Would I qualify as a body artist?

SENATOR STUHR: Well, not according to our recent legislation.

SENATOR CHAMBERS: Would an undertaker qualify as a body artist, because of the artwork they do on a corpse?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR STUHR: No.

SENATOR CHAMBERS: Had anybody ever thought of that?

SENATOR STUHR: I believe we have it defined in the original legislation, Senator Chambers.

SENATOR CHAMBERS: Is there anything in the language that relates to tattooing that says the person who is the recipient must be alive? Does it say a living person?

SENATOR STUHR: I am not sure. I would have to check that out.

SENATOR CHAMBERS: But in order that the record is clear and we have a legislative history, it is your intent that the person be living?

SENATOR STUHR: Yes. Yes.

SENATOR CHAMBERS: Senator Stuhr,--and I ask this question on behalf of Senator Foley, because he hasn't been paying attention--would this apply to a fetus also, as one to be tattooed? If that process should be usable on a fetus, would it apply there, the same conditions and protections?

SENATOR STUHR: Are you asking...

SENATOR CUDABACK: Senator...

SENATOR STUHR: ...are you addressing...

SENATOR CHAMBERS: Yes, ma'am.

SENATOR STUHR: ...that question to me?

SENATOR CHAMBERS: Yes, ma'am.

SENATOR STUHR: Well, I believe that would be very difficult.

SENATOR CHAMBERS: I couldn't understand you, I'm sorry.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR STUHR: That would be very difficult.

SENATOR CHAMBERS: What would? To tattoo a fetus?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Thank you, Senator Stuhr. You've been very helpful. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the Stuhr amendment, AM0816 to LB 382. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature. Senator Stuhr, just a couple of quick questions.

SENATOR CUDABACK: Senator Stuhr, would you yield?

SENATOR BEUTLER: You prohibit...

SENATOR STUHR: Yes.

SENATOR BEUTLER: ...the application of tattoos to any person under the age of 18, and that's regardless of whether the person's parents consent to it or not?

SENATOR STUHR: Yes.

SENATOR BEUTLER: So you're taking this out of the family decision, and we are societally making the decision that this is not appropriate behavior. Is that right?

SENATOR STUHR: Yes. Because of the health issues involved.

SENATOR BEUTLER: Because of...and what are the health issues involved? Is there a record of health issues that are involved?

SENATOR STUHR: From visiting with many of the body art practitioners, I think that most of us would be probably shocked and very surprised with the number of parents that bring their

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

children to have tattooing and piercing done in areas that we would not be thinking about, and do provide some health hazards, in the fact that they often do not know how to care for the...after the procedure has been done, they don't know how to adequately prevent infections and such.

SENATOR BEUTLER: Has there been a medical history of serious problems relating to infections on these matters?

SENATOR STUHR: I think that's difficult. Sometimes they will come back to the practitioner and say, you know, what is the problem, when they haven't been...the aftercare hasn't been done properly. Yes, I'm sure there are cases. We don't have, you know, the documentation. I suppose we could ask for documentation. But there seems to be a concern. And the tattooing...I think oftentimes young people make decisions that they often regret. And parents. And sometimes children are used as pawns between a divorced couple. And one...they may have joint custody, and one parent agrees to it, the other parent does not agree to it, and...

SENATOR BEUTLER: Well, this can happen with regard to any decision...

SENATOR STUHR: Yes. Yes.

SENATOR BEUTLER: ...in a divorce situation.

SENATOR STUHR: Right.

SENATOR BEUTLER: I guess, you know, my main question is, is this really a health problem? Or are we just culturally deciding that we don't like this practice, so parents and kids who think it's a great thing, they're...we're just not going to allow them to do it? Which is it? Is it...?

SENATOR STUHR: I personally believe it is a health concern. The practitioners actually wanted it included last year when we passed the body art legislation. I did not include it at that time, because I felt it was essential to at least get, you know, the main part, and so that they would become licensed. And did

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

introduce it this year. There was no opposition at the hearing,...

SENATOR BEUTLER: Okay.

SENATOR STUHR: ...in...you know, at the...on this provision.

SENATOR BEUTLER: And then the provision with regard, prohibiting body piercing under age 16, that excludes earlobes?

SENATOR STUHR: Yes, that excludes earlobes. And...

SENATOR BEUTLER: Okay. And the reason that we're doing this is also a health reason?

SENATOR STUHR: Yes, it is.

SENATOR BEUTLER: It's healthy for earlobes, but not...

SENATOR STUHR: Yes. It...

SENATOR BEUTLER: ...in other places?

SENATOR STUHR: ...has to do with the amount of blood that is in the lower portion of your ear. And it does heal, and the chances for infection are less.

SENATOR CUDABACK: One minute.

SENATOR STUHR: And that is why.

SENATOR BEUTLER: And it's not just a cultural thing? It's a health...

SENATOR STUHR: Right.

SENATOR BEUTLER: ...it's a health thing again, is...

SENATOR STUHR: Yes.

SENATOR BEUTLER: ...would be your assertion?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR STUHR: Yes.

SENATOR BEUTLER: Okay.

SENATOR STUHR: Most of the reputable...if I might add, most of the...what I would say the reputable body artist will not now perform tattoos on someone under the age of 18.

SENATOR BEUTLER: Okay. Thank you very much.

SENATOR STUHR: Because of the health concerns.

SENATOR BEUTLER: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion of the Stuhr amendment. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Jensen yield to a question?

SENATOR CUDABACK: Senator Jensen, would you yield to a question from Senator Bourne?

SENATOR JENSEN: Yes.

SENATOR BOURNE: Thank you. Senator Jensen, I assume that the original bill came to your committee?

SENATOR JENSEN: That is correct.

SENATOR BOURNE: Okay. I have a question, if you could answer it quickly. It's on page 6, lines 1 through 7. And the original section of the statute said that you could not put a...apply a brand or a tattoo to...without prior written consent of the parent or the court-appointed guardian of such person. And then if they violated that, it was a Class III misdemeanor. And now, how the bill is worded is that no person shall perform body piercing on any person under 16 years of age. And here's the part that I want to ask you about. Violation of this section constitutes grounds for immediate suspension of the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

license to engage in any of the practices of body art of the person committing the violation. So the original version of the statute required permission. And if they violated it, it was only a Class III misdemeanor. And under this amendment, we're taking away this individual's right to...or ability to apply, or earn their...earn a living or ply their trade?

SENATOR JENSEN: Well, we took out the...yes, the criminal part of the Class III misdemeanor. And this follows up what we do also with other health professionals, that if they do something without permission, or in violation, that their license, yes, may be suspended.

SENATOR BOURNE: What is the mechanism...say an individual, a tattoo or a body artist, puts a brand or a tattoo on an individual under 16 years of age, and somehow it's discovered. So immediately that person's license is taken away. Well, then what is the process subsequent to that?

SENATOR JENSEN: Well, it is grounds to take away that license; it doesn't say that it will be taken away.

SENATOR BOURNE: Okay. So is there a hearing?

SENATOR JENSEN: Yes.

SENATOR BOURNE: Okay. Is there a mechanism by which they can get the license back? Or how is that determined?

SENATOR JENSEN: They can get it back. I don't know exactly the procedure, but yes, I know they can get it back.

SENATOR BOURNE: So you...so is that in the rules, in the regulations? Or is that elsewhere in statute?

SENATOR JENSEN: It's in rules and regs.

SENATOR BOURNE: Okay. Is there...could you check or have staff, legal counsel, check to see what...how long that license would be taken away?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR JENSEN: I sure can.

SENATOR BOURNE: Okay. I just want to make sure...if they're doing this contrary to law, they should be punished. But I don't think that they should lose their license forever. And I'm curious what the regulations call for in terms of a suspension. It has to be significant enough to make sure they don't do this. But it can't be so significant that they shouldn't be able to earn a living.

SENATOR JENSEN: I'll be glad to check into that and get you that information.

SENATOR BOURNE: Thank you very much.

SENATOR JENSEN: Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Beutler's discussion called something to my attention. And the issue is whether a person under 18, with the consent of a parent or guardian, should be allowed to avail himself or herself of the services of a tattooist. Contrary to what Senator Stuhr said, I don't think it's a matter of health at all. If somebody is 17 years, 364 days old, there's not that much difference between that person on Monday and that person Tuesday, when he or she will be 18 years old. So if it's health, then we should drop that age a lot lower. This is a cultural notion which some people have. And they think they should be able to impose their view, through the law, on everybody, and how everybody looks at his or her child. If tattooing is going to now be regulated by the state, the state has to be careful that it doesn't go beyond what regulation would be designed to do, and get into the area of dictating certain attitudes, certain mores, certain notions of morality and propriety. The reason earlobes are left out is because women pierce the ears of their little baby girls, and sometimes little baby boys now. So that is a cultural thing. Pierced ears is something...are things...let me make it singular all the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

way through. A pierced ear is considered acceptable. I have seen young girls, when I was growing up in the neighborhood, and since I've been an adult, who had ulcerating earlobes. Maybe the needle was not properly sterilized. Maybe care was not given to the wound to prevent infection. Maybe after an infection was noted, proper treatment was not accorded. But earlobes do become infected. We are dealing in a realm of cultural preferences. And I'm going to offer an amendment which would say that if a person has parental consent or the consent of a guardian, then he or she can be tattooed. Senator Stuhr first started on this crusade because some parents in her district did not want their children getting tattoos without knowledge or permission. Now it's gone beyond a matter of permission, to dictating which parents and guardians are allowed to give that permission. If the state were not going to regulate, we wouldn't be having this discussion. But the state has chosen, under the guidance and pushing of Senator Stuhr, to regulate this area. Maybe there are tattooists who would not choose to give tattoos to somebody below the age of 18. But others may. We should not restrict people in a profession from granting their services to whomever may want those services. And if we are going to talk about denying parental consent, I'd like to ask Senator Stuhr a question.

SENATOR CUDABACK: One minute. Senator Stuhr, would you yield to a question?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Senator Stuhr, if somebody had an infant and wanted to make some identifying mark on the infant, that would be illegal, even in the parents wanted it done, isn't that true?

SENATOR STUHR: Yes, if this amendment were to pass...

SENATOR CHAMBERS: Suppose...

SENATOR STUHR: ...in the present form.

SENATOR CHAMBERS: Suppose there were a culture where a part of their culture is to mark their children. They could not do that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

legally in Nebraska, through the services of a licensed tattooist, could they?

SENATOR STUHR: Not in Nebraska.

SENATOR CHAMBERS: So who is so arrogant as to have made this decision that below the age of 18 no tattoo or body art can be provided?

SENATOR STUHR: That will be for the body to decide. But I do want you to know that I have just submitted an amendment to remove Sections 11 and 12 of the amendment that I have, so that we would be addressing only adding the member...

SENATOR CUDABACK: Time is up, Senator.

SENATOR STUHR: ...to the Cosmetology Board. Thank you.

SENATOR CUDABACK: You may continue, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, now that this has been brought to my attention, even if Senator Stuhr attempts to remove the sections, one of which would deal with what I'm talking about on this age, then I'm going to offer that as an amendment of my own. We're on Select File. The only opportunity to do anything about this at all is now. If this amendment had been offered on General File, there could have been some additional discussion, and we could do as we always say, we'll work on that between now and Select File. But I'm going to...I want to ask Senator Stuhr a question.

SENATOR CUDABACK: Senator Stuhr, would you...?

SENATOR STUHR: Yes.

SENATOR CHAMBERS: Senator Stuhr, I want to do something about that age requirement. If you pull your amendment, the portion of it that relates to the age, then I'm going to offer amendments to LB 382 to make sure it doesn't go anywhere until I have the opportunity to draft my amendment to do something about

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

that age. So I would like to ask you what your preference is on that matter. Mine would be dealing with Section 12, as presently included in the amendment before us now that you're offering. And Section 12 begins in line 26 on page 5, and continues through page 6.

SENATOR STUHR: I really...I guess we need to visit a little bit. Because right now, they need...the bill would remain the same, that performing body art on any person under 18 years of age, they would need to have a prior written consent of the parent or a court-appointed guardian, and then they also must retain a copy of that. I didn't understand what you were planning to do.

SENATOR CHAMBERS: Okay. So then let me be clear.

SENATOR STUHR: Okay.

SENATOR CHAMBERS: If you withdraw the portion...

SENATOR STUHR: Right.

SENATOR CHAMBERS: ...of your amendment that you're talking about,...

SENATOR STUHR: Yes.

SENATOR CHAMBERS: ...a person would be able, with parental consent,...

SENATOR STUHR: Yes.

SENATOR CHAMBERS: ...to get the body...

SENATOR STUHR: Yes.

SENATOR CHAMBERS: ...art.

SENATOR STUHR: Yes, they would be. Yes. That is the way the law is presently written. And that is on page 5, number (17).

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR CHAMBERS: I see, yes. And this brand-new language is interposed.

SENATOR STUHR: Yes. Yes.

SENATOR CHAMBERS: Let me ask you something then about this new language.

SENATOR STUHR: Right.

SENATOR CHAMBERS: Because it seems to contradict the other idea. Which is more intrusive to the body--a tattoo or a piercing?

SENATOR STUHR: Well, a tattoo is more permanent.

SENATOR CHAMBERS: Which is more intrusive and invasive--the tattoo...?

SENATOR STUHR: Depending on where the piercing is.

SENATOR CHAMBERS: Well, let's say through your nose.

SENATOR STUHR: Well, I'm also thinking of the tongue and the cheek and some of these areas that do...

SENATOR CHAMBERS: Well, that would be even more consequential than what I'm talking about, through the cartilage of nose.

SENATOR STUHR: Right.

SENATOR CHAMBERS: Well, why, then, should somebody 16 and older be able to get body piercing, but somebody 16 and older could not get tattooing? Tattooing is less invasive than piercing the tongue, the cheeks, and other body areas.

SENATOR STUHR: Well, there may be a slight scar, but the tattooing does last...I mean, there also has to be surgery to cover a tattoo if they wish...

SENATOR CUDABACK: One minute.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR STUHR: ...to have that removed.

SENATOR CHAMBERS: Suppose...

SENATOR STUHR: So the process is probably more costly and...

SENATOR CHAMBERS: Suppose I were going to have tattooed, on the pillow portion of my smallest finger, a star the size of a grain of rice. I couldn't have that done if I were under 18, could I, even with parental consent?

SENATOR STUHR: Yes, if we do not pass the amendment. I mean, if we keep the law just as it is.

SENATOR CHAMBERS: Okay, then...

SENATOR STUHR: With parental consent.

SENATOR CHAMBERS: ...if you're going to withdraw Section...I meant part 12 of your...

SENATOR STUHR: Eleven and 12.

SENATOR CHAMBERS: ...amendment, then I will not have any problem.

SENATOR STUHR: All right.

SENATOR CHAMBERS: Okay.

SENATOR STUHR: Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Madam Clerk, a motion.

ASSISTANT CLERK: Mr. President, Senator Stuhr would move to amend. Senator, I have FA154. (Legislative Journal page 1151.)

SENATOR CUDABACK: Senator Stuhr, you're recognized to open on FA154.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382

SENATOR STUHR: Thank you, Mr. President and members of the body. I am removing the controversial...supposedly the controversial part of Sections 11 and 12, which have to do with the age requirement. And what remains in the amendment has to do with adding a member to the Board of Cosmetology, and then also some references to a quorum. With that, I would ask your support of this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Stuhr, your light was on. Did you wish for that? Thank you. Open for discussion on the Stuhr amendment, FA154, which is an amendment to AM0816 to LB 382. Open for discussion. Anybody wishing to discuss the Stuhr amendment to the amendment? There are no lights on, Senator Stuhr. She waives closing. The question before the body is adoption of FA154, which is an amendment to AM0816. All in favor vote aye; opposed, nay. We're voting on the adoption of the Stuhr amendment, FA154, which is an amendment to the amendment. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays on adoption of Senator Stuhr's amendment to her amendment.

SENATOR CUDABACK: FA154 has been adopted. Anything further on AM0816, Mr. Clerk?

CLERK: Nothing further on AM0816.

SENATOR CUDABACK: Anybody wishing to address AM0816 as amended? There are no lights on. Senator Stuhr, you're recognized to close on AM0816.

SENATOR STUHR: Thank you, Mr. President and members of the body. What this amendment does is increase the number of board by one member, to represent the body art, to the Cosmetology Board. And then also, some of the other provisions have to do with the number of members needed for a quorum. And with that, I ask for your support. Thank you.

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

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 382, 739

closing on AM0816. The question before the body is, shall AM0816 be adopted to LB 382? All in favor vote aye; opposed, nay. The question before the body is the Stuhr amendment, AM0816. Have you all voted on the question who care to? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays on adoption of Senator Stuhr's amendment.

SENATOR CUDABACK: AM0816 has been adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 382 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 382 to E & R for engrossing. All in favor of the motion say aye. Opposed to the motion, nay. LB 382 is advanced. Mr. Clerk, next bill will be LB 739.

CLERK: Mr. President, LB 739, Senator, I have Enrollment and Review amendments first of all. (AM7071, Legislative Journal page 1054.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 739.

SENATOR CUDABACK: Heard the motion by Senator Flood, adopt E & R motions (sic) to LB 739. All in favor say aye. Opposed, nay. The E & R amendments are adopted. Mr. Clerk.

CLERK: The first amendment, Mr. President, Senator Loudon, AM0813, but I have a note that Senator Loudon wished to withdraw.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CUDABACK: Senator...with no objection, the motion is withdrawn.

CLERK: Mr. President, Senator Beutler, AM0935.

SENATOR CUDABACK: Senator Beutler, to open on AM0935 to LB 739.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Cunningham has done his usual hard work and has endeavored to resolve the last remaining issue on this bill, as far as I'm concerned, and we've worked out an agreement which we hope will be appealing to you all and that agreement is contained in a joint amendment that we filed, AM1159, on down the list a ways. So, with that, I would...with that...with that information to you, I would withdraw this amendment.

SENATOR CUDABACK: AM0935 is withdrawn. Mr. Clerk, next amendment.

SENATOR BEUTLER: Mr. President, I now have amendments from Senator Chambers.

SENATOR CUDABACK: Is Senator Chambers on the floor? I do not...roll over the amendment, please, Mr. Clerk.

CLERK: Mr. President, Senator Cunningham, AM1029.

SENATOR CUDABACK: Senator Cunningham.

CLERK: But I have a note you want to withdraw that, Senator. Is that right?

SENATOR CUNNINGHAM: Yes.

CLERK: Thank you.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk.

CLERK: Senator Cunningham, AM1148. (Legislative Journal pages 1151-1152.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CUDABACK: Senator Cunningham, AM1148.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. In making a final review of the bill, it was found that a few technical changes are in order to coordinate dates and sections. When the committee asked that abuse in the workplace be added as a good cause quit, it was not intended that those quits should be excused from an employer's experience account, and have...we've added language to page 27 and 55 to clarify that if an employee quits due to an abuse within the workplace, the employer's experience account will be charged. The language added to page 33 to clarify the differences between 2000 and 2006 when subsequent claims were filed. The amendment also inserts language on page 48 that mirrors our current system, so that the employer that has less than 16 consecutive calendar quarters can be rated based on the four calendar quarter periods for which contributions are payable. By inserting this lesser time period, the employers can be rated equitably with other employers. The new language that is added to page 50 clarifies that all calculations are done as of September 30 date each year. Additionally, this change provides definitions for the term "total wages," as used in this section, as all wages paid in covered employment. This paragraph also strikes the phrase "years indicated" as originally used in the bill because the immediate implementation of the array system, the phase-in, is obsolete. And with that, that I think explains the amendment.

SENATOR CUDABACK: Thank you, Senator Cunningham. Heard the opening on AM1148, offered by Senator Cunningham to LB 739. Open for discussion. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, Senator Cunningham, just let me ask you one general philosophic question, and you've been very straightforward about everything you've advocated with respect to this bill.

SENATOR CUDABACK: Senator Cunningham, would you yield?

SENATOR CUNNINGHAM: Yes, I would.

SENATOR BEUTLER: These amendments are hard to read and this is

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

the first time I've seen it, but is there anything in this amendment from the perspective of laboring people that would be a matter of philosophic difference and a matter of policy dispute? Or would you...or can this fairly be characterized as technical amendments only from the department?

SENATOR CUNNINGHAM: Senator Beutler, I truly believe there is...this is only technical. I don't believe, and to the best of my knowledge, there would be anything in here that labor would object to.

SENATOR BEUTLER: Okay. I appreciate that. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion, the Cunningham amendment. Seeing no lights on, Senator Cunningham, you're recognized to close. Senator Cunningham waives closing. The question before the body is adoption of the Cunningham amendment, AM1148, to LB 739. All in favor vote aye; opposed, nay. The question before the body is adoption of the Cunningham amendment, AM1148. Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Cunningham's amendment.

SENATOR CUDABACK: The Cunningham amendment has been adopted. Mr. Clerk.

CLERK: Senator Beutler would move to amend with AM1159. (Legislative Journal pages 1152-1153.)

SENATOR CUDABACK: Senator Beutler, to open on AM1159.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is the agreed-upon amendment that Senator Cunningham and myself have filed, but which Senator Chambers has also been a very active part of the discussion on, and it goes to that part of the bill that is in the E & R amendments on page 26, if you want to follow, and talks about the \$10 alternative methodology that can be used to calculate the weekly benefits of a worker under the system. And you may vaguely recall that when we had

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

this discussion on the floor it was pointed out and acknowledged that it could have the effect of permanently lowering the worker's benefit to something lower than what it was before this bill came about and before the whole reform movement came before you. So what we've agreed to is that, yes, for a period of years the benefits may be lower by virtue of allowing for a period of time the \$10 alternative calculation to be in the bill, but in the year 2011 it would go back to the standard calculation that was in effect before Senator Cunningham came forward with his bill. We would go back to that calculation which then would stay in place permanently. And the whole idea is, yes, the workers are going to accept part of the burden of making this system right and the way that will be done is by a temporary reduction in benefits for a period of time. It could be as much as six years. But at that end of time, without further action by the Legislature, the benefit calculation will revert back to that which existed before this bill was filed, so that the workers suffer no permanent disadvantage by virtue of participating in this major corrective action on the system. I think that's as good an explanation as I can give on it. And, Senator Cunningham, did you want me to yield time to you for further comment on the amendment? If Senator Cunningham would like the remainder of the time, I would gladly yield it to him.

SENATOR CUDABACK: Senator Cunningham, there's about seven minutes left.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members, and thank you, Senator Beutler. I just want to stand up and say I appreciate you sitting down and working with me on this and I did, as you recall, agree with you on the floor in first-round debate that in a period of years out that it could be a problem the way the bill was worded, and I thought we needed to do something at that time. I just wasn't sure quite what that was. But I do fully support this amendment, and thank you for your time, Senator.

SENATOR CUDABACK: Thank you, Senator Cunningham. Heard the opening on AM1159. Open for discussion. Senator Beutler, there are no lights on. Senator Beutler waives closing. The question before the body is adoption of the Beutler amendment, AM1159, to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

LB 739. All in favor of the question vote aye; those opposed, nay. Question before the body is the Beutler amendment, AM1159. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: AM1159 has been adopted. Mr. Clerk, next motion.

CLERK: Mr. President, the next motion, Senator Chambers, FA106. (Legislative Journal page 909.)

SENATOR CUDABACK: Senator Chambers, you're recognized on FA106.

SENATOR CHAMBERS: Mr. President, it will be clear shortly that this is not home on the range. Home on the range, Senator, is a place where never is heard a discouraging word. (Laughter) What I have here in this amendment is something that might appear to be a discouraging word to Senator Cunningham and those who support this bill. I have suffered a great deal mentally, emotionally, yea, and spiritually, Senator Connealy, because of this bill and inequities that I perceive as being perpetrated and maintained against working people. However, much effort has gone into the bill by a collection of individuals and organizations. But I still have some things that I need to say, otherwise I will burst. This first amendment is found on page 7 of the committee amendment and it would be in line 2. If you have it on your gadget you will see the words. Here is what those words would be attached to: The cash value of all remunerations in any medium other than cash. I would then add: but the wages of sin is death. This, I think, is an admonition which everybody ought to keep in mind always. Whether at work, at home, at school or at play, when they lie down to go to sleep at night, when they awaken to embark upon the day's journey, they should keep in mind always, the wages of sin is death. I would like to ask Senator Cunningham a question or two.

SENATOR CUDABACK: Senator Cunningham, would you yield?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CHAMBERS: Senator Cunningham,...

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: ...let us first look at the words themselves. Do you agree that this statement is true, the wages of sin is death? Do you...do you agree with the truth of that statement, or do you think it is untrue?

SENATOR CUNNINGHAM: It is probably true.

SENATOR CHAMBERS: All right. Do you favor the truth, Senator Cunningham, or do you favor falsehood?

SENATOR CUNNINGHAM: I favor the truth, Senator.

SENATOR CHAMBERS: Senator Cunningham, truth improves everything that we do, doesn't it?

SENATOR CUNNINGHAM: Yes, Senator.

SENATOR CHAMBERS: It is also true that there are some truths which are unpleasant. Would you agree with that?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: And those truths we would rather not have to confront or deal with. Would you agree with that?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: Do you remember reading where Pilate asked Jesus, what is truth? Do you remember reading that or hearing about that having been done?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: And Pilate didn't stay for an answer. He left. Had he stayed for an answer, we might have had something that would be of value to this day. If these words are true, do you object to my adding them to this bill?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CUNNINGHAM: Senator, I believe the words are probably true, but I don't know that this is the place to insert them in legislation.

SENATOR CHAMBERS: Where in this bill would be the appropriate place to insert them?

SENATOR CUNNINGHAM: Well, I'm not certain that there probably is a good place.

SENATOR CHAMBERS: Would these words harm the bill?

SENATOR CUNNINGHAM: I don't believe so.

SENATOR CHAMBERS: Would they maybe serve notice to those who might be of a mind to exploit and misuse this system? If those words were there, might those words not be a caution to those people that they should not cheat and try to beat this system, for the wages of sin is death?

SENATOR CUNNINGHAM: That's possible, Senator. I just don't think that we should put that in legislation in words.

SENATOR CHAMBERS: Why not?

SENATOR CUNNINGHAM: You know, it's difficult when you don't know exactly where you're going to go with this, Senator, but I'm just...I just don't think we should be cluttering up our statutes with phrases like that.

SENATOR CHAMBERS: So this truth, and by the way it comes from the "Holly Bible," this biblical truth would be considered clutter by you. Is that true?

SENATOR CUNNINGHAM: Only clutter in statute.

SENATOR CHAMBERS: So you're concerned about the way we draft statutes.

SENATOR CUNNINGHAM: Yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CHAMBERS: Are you willing to put hunting, fishing, and trapping into the constitution?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: You're willing to put...

SENATOR CUNNINGHAM: Well,...

SENATOR CHAMBERS: ...you're willing to clutter the constitution...

SENATOR CUNNINGHAM: ...I actually...my...if you look, my name is one of the cosponsors of the bill, Senator.

SENATOR CHAMBERS: It is or is not?

SENATOR CUNNINGHAM: Is.

SENATOR CHAMBERS: So you're willing to clutter the constitution with those words, but you don't want to clutter statute with biblical words. Is that true?

SENATOR CUNNINGHAM: Yes, Senator.

SENATOR CHAMBERS: You think more of the statute than you do the constitution. Is that correct?

SENATOR CUNNINGHAM: No, I think very highly of the constitution.

SENATOR CHAMBERS: But you're willing to clutter it.

SENATOR CUNNINGHAM: In that case I don't know that I feel it's clutter, because I do think we have a definite problem, and I know that you're on the other side of...side of that issue. I've not been involved at all in the floor debate on that, but I am worried about the future of hunting and trapping in Nebraska, yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CHAMBERS: Now you touched on a key point. We have a different point of view as to what constitutes clutter. You agree with that?

SENATOR CUNNINGHAM: Yes, I do.

SENATOR CHAMBERS: Are there any punishments or sanctions in this bill that would be applied to an employee who leaves work for an unjustified reason? Is there a sanction that would be imposed upon that employee?

SENATOR CUNNINGHAM: For an employee who leaves work without a justified reason?

SENATOR CHAMBERS: Yes.

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: There would be a punishment...

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: ...in the form of a reduction in the number of weeks that that person can receive unemployment compensation. Is that true?

SENATOR CUNNINGHAM: That's correct.

SENATOR CHAMBERS: Is there any punishment or sanction imposed on an employer who would violate the requirements placed on such an employer by this bill?

SENATOR CUNNINGHAM: Yes, there are. In some of the instances we've called them good cause quits.

SENATOR CHAMBERS: Now, if a good cause quit occurs, it means the employer did something or failed to do something because of which an employee can leave justifiably. It'd be a condition created by the employer, correct?

SENATOR CUNNINGHAM: Yes, that's correct.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CHAMBERS: So the idea of punishment is not foreign to this bill. Isn't that correct?

SENATOR CUNNINGHAM: That would be correct.

SENATOR CHAMBERS: Which is better in your mind, prevention or cure?

SENATOR CUNNINGHAM: Most of the time prevention.

SENATOR CHAMBERS: Would you rather have to punish people for violating the law, or would you rather prevent them from violating the law in the first place?

SENATOR CUNNINGHAM: Could you rephrase that, Senator?

SENATOR CHAMBERS: Would you rather be in a position where you punish people for violating the law, or have a situation where you can prevent them from violating the law in the first place?

SENATOR CUNNINGHAM: I would rather prevent them.

SENATOR CHAMBERS: Do you think that warnings can prevent people from engaging in conduct that might not be appropriate?

SENATOR CUNNINGHAM: In some cases.

SENATOR CHAMBERS: Can you think of any warning that is more ominous than this--the wages of sin is death? Isn't that an ominous warning?

SENATOR CUNNINGHAM: Yes, it is.

SENATOR CHAMBERS: And you believe it's true.

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: Then why don't you want it in this bill?

SENATOR CUNNINGHAM: I just would prefer not to put it in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

statute, as I stated earlier.

SENATOR CHAMBERS: In those particular words.

SENATOR CUNNINGHAM: Correct.

SENATOR CHAMBERS: What do you think I ought to do with this amendment then?

SENATOR CUNNINGHAM: (Laugh) Well,...

SENATOR CUDABACK: One minute.

SENATOR CUNNINGHAM: ...how about withdraw it?

SENATOR CHAMBERS: Mr. President, I would like to withdraw this amendment.

SENATOR CUDABACK: Thank you, Senator Chambers. The amendment is withdrawn. Mr. Clerk, next amendment, please.

CLERK: Senator Chambers, Mr. President, would move to amend with FA107. (Legislative Journal page 910.)

SENATOR CUDABACK: Senator Chambers, to open on FA107 to LB 739.

SENATOR CHAMBERS: Mr. President, this amendment is number FA107. Somebody in the lobby had said that the wages of sin is death, but you can get unemployment if you're alive. But if you wanted to be biblical all the way, you say the wages of sin is death but the gift of God is eternal life, eternal, forever, Senator Cunningham. Senator Cunningham, if you would turn to page 15, in line 15...

SENATOR CUDABACK: Senator Cunningham.

SENATOR CHAMBERS: ...of the committee amendment,...

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: ...we're talking, in subsection (8) about an

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

Indian tribe. It says, starting in line 12: "If an Indian tribe fails to make payments required under this section, including assessments of interest and penalty, within ninety days after a final notice of delinquency, the commissioner shall immediately notify the United States Internal Revenue Service and the United States Department of Labor." Senator Cunningham, you went to elementary school, didn't you?

SENATOR CUNNINGHAM: Yes, I did.

SENATOR CHAMBERS: What was a person called who always went and told on everybody?

SENATOR CUNNINGHAM: A tattletale.

SENATOR CHAMBERS: A tattletale. What my amendment would do is strike the word "notify" and insert the two words "tattle to." And it would then say, "the commissioner shall immediately tattle to the United States Internal Revenue Service." Do you object to this amendment?

SENATOR CUNNINGHAM: I would prefer it not be there, yes.

SENATOR CHAMBERS: But if it were put there, it wouldn't hurt anything. Would it?

SENATOR CUNNINGHAM: Probably not.

SENATOR CHAMBERS: And it would still mean that this commissioner of labor has to go tattle because an Indian tribe did not do something that the law required. Is that true?

SENATOR CUNNINGHAM: That's true.

SENATOR CHAMBERS: Would you vote for this amendment?

SENATOR CUNNINGHAM: I guess I would like to see the will of the body. You're right, it probably wouldn't hurt anything, but I don't like language like that in the statutes.

SENATOR CHAMBERS: Why not? You don't want to be direct,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

forthright and accurate?

SENATOR CUNNINGHAM: Well, it just...

SENATOR CHAMBERS: You want to prettify it?

SENATOR CUNNINGHAM: Just doesn't sound right, Senator Chambers.

SENATOR CHAMBERS: We're not looking at sound. We're looking at sense. Regardless of the sound, the sense is there. The commissioner of labor is being instructed to go tattle. Isn't that true?

SENATOR CUNNINGHAM: That's pretty much right.

SENATOR CHAMBERS: So again, I'm offering words that, in themselves, are true. Is that right?

SENATOR CUNNINGHAM: Yes, you are.

SENATOR CHAMBERS: And once again you are reluctant to accept the truth. Is that right?

SENATOR CUNNINGHAM: I guess you could say it that way.

SENATOR CHAMBERS: I think I'm going to take this one to a vote. Mr. President, members of the Legislature...and that's all I'll ask you on this one right now, Senator Cunningham. Thank you.

SENATOR CUNNINGHAM: Thank you.

SENATOR CHAMBERS: It should be clear that I don't like this bill. Many things can be done with it. Many messages can be delivered and many subjects can be discussed. It would go without saying that working people's interests are not predominant in most people's minds when we deal with workers' comp, workers' compensation in the case of injury, or unemployment compensation in the case of a person being out of work and needing some money to sustain himself or herself while trying to find other employment. I don't see any need to use euphemisms or kind words toward management, toward the things

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

that the commissioner of the Department of Labor will do when so much of what they do is harmful to the workers. I do not believe this bill is in the best interest of working people in this state. Because of the hard work that I did and the hardhearted stance I took toward this bill, some modifications were made that mitigated the damage that would be done. But not all of the injustices have been removed from this bill. I have no doubt that Senator Cunningham believes in what he's doing. I just don't see life the same way he does. Because of all the work that others have done, I'm not going to do everything in my power to stop this bill. There are some essential portions of it, that means they are necessary, and I recognize that. We don't always get what we want. But I'm going to write a little rhyme for Senator Cunningham and others on this floor who believe in having a preacher pray up there every morning, a genuine preacher who is certified and stamped as approved to be a preacher. We have ad hoc preachers among the members of the Legislature, we have fly-by-night preachers, we have freelance preachers, and all of them stand up there and ask the same thing. There's an expression, be careful what you ask for or pray for because you may get it. Well, what my little rhyme will have is this message--you got what you asked for, but it was not what you wanted. People don't think about the consequences of their words. That's why, if there is somebody sitting up there in the sky, the big guy, the answer to most prayers is, no, you don't know what you're asking, you don't know what you're talking about; I'm not a messenger boy, I'm not a flunky, I'm not a gopher; you're smaller than a microbe to me and you're going to dictate to me what I must do, what I am, what I think, what I mean, what I'm going to do with those creatures that I created? Now, if there is a big guy, that's the nature of the big guy that I would create. Others on this floor have had a big guy created for them and their big guy can be dictated to. That's why prayers which don't even catch the interest of the senators are uttered, I should say mouthed, every morning. You ought to get rid of it. And I told you if you'd stop doing that, I'd stop bringing up the "Bibble" and these other kinds of religious matters. But if you're going to inject it into our proceedings every day that we meet, then I'm going to offer my point of view on religion, the "Bibble" and all these other things, and you have no right whatsoever to take

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

offense. I tried to get that out of the Legislature. We can get it out voluntarily. We can amend the rules and just take all of that away, but you want it. You got what you asked for; now you're getting what you don't want. You don't want me doing this. I don't want you praying. So we're at an impasse. We're at stalemate. I cannot check your king; you cannot check mine. So you move yours a square, I move and I say, check. You move again, I move--check. But I can never put you in a position where your king cannot move. You can never put my king in a position where my king cannot move, so there's no checkmate. There's stalemate. Neither of us can win. Neither of us loses. Well, I think there are losers when you all have people up there praying every morning, but you don't. You probably think eventually some preacher is going to say something to save my slightly soiled, well-used soul. But the reason it's not going to work on me, it doesn't work on you. And you say you believe it. If you're the doctor dispensing patent medicine that's supposed to make me look youthful and you've got more wrinkles than Methuselah, and he lived 969 years, I'd say if what you're offering is good you ought to try it first on yourself and let me see how it works on you. And in that regard, I think that all of these chemical companies that put out herbicides, pesticides, and other toxic substances should be required to subject themselves...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and their significant other to these chemicals before they're allowed to be distributed to the public. And if the one selling it doesn't want to be exposed to it, it should not be used in a way that would expose anybody else to it. I'll stop for now, Mr. President, but I'll turn on my light.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Further discussion on the Chamber's amendment, FA107, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Since this is a bill that I think tilts in favor of the biggies, I want to mention that on Friday, in the evening World-Herald, in the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

business section on page 1 is a large headline that runs about four-fifths of the way across the page, "Buffett's tip led to AIG probe"; then, you could call this a subhead, "The Berkshire chairman's actions in another reinsurance case led authorities to expand their investigation." Buffett, in a bid to win leniency for Berkshire from prosecutors in an unrelated case directed his outside lawyer several months ago to turn over documents describing a suspect transaction between a Berkshire unit and AIG. Buffett had a friend named Maurice "Hank" Greenberg, and he's the one who lost his job because Buffett ratted on him. I think I'm going to use this opportunity to go after one of these big shots who is not particularly concerned about the workers. Superwealthy Warren Buffett, man, he's filthy rich; / Warren Buffett also is a billion-dollar snitch, / Scratching for a bargain deal, his own sad woes to end, / Wily, wealthy Warren Buffett ratted out his friend. / In the cutthroat world of business there is a well-worn signpost-- / Every rogue goes for himself; the devil take the hindmost. / Maurice "Hank" Greenberg is Buffett's ex-friend's name--ex-friend; / X does always mark the sneaky snitch's game. / Wealthy Warren did his snitching not to do what's right, / But to garner leniency to mitigate his plight. / Wealthy Warren, rationalizing, cooed "I'm not the worst; / He'd have snitched on me if I had failed to get him first. / Hank's aware of how this game is played, forget the hype, / Though outsiders may not understand, Hank's got no gripe." / Thick eyeglasses, ruffled suits, his tousled hair and grin, / Perfectly do camouflage the predator within. / Oh, he is a predator, no doubt; best get that right. / Were he in the realm of sharks, he'd be the greatest white. / Buffett's homespun manner--aw gee gosh, folks, and aw shucks-- / do divert attention as he lines up all his ducks. / Business ethics, deeply flawed they are to say the least, / ethics flawed or otherwise can never tame that beast. / Money grasping draws respectable men into a scuffle. / Ethics, ah, poor ethics always get lost in the shuffle. / Flush and satisfied investors stomach everything, / Regardless how unethical, as long as there's a "cha-ching." / Futile is the effort with the brush of blame to paint / Buffett. Worshipful investors laud him Warren the Saint. / Baggy britches, oversized coats enclose investor hope. / If but one man could survive, it wouldn't be the Pope. / For investors papal blessings nor the sign of the cross / Carry any

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

weight when contemplating profit and loss. / In the real world, Warren Buffett holds the upper hand, / Let the Pope and all his ilk be seated heaven's land. / Satan rules this world. We have the man to kick his door in. / Let us give hip, hip, hooray for our savior Warren. / What if love of money is the root of...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...evil? Shoot! / Warren, all our faiths in your get us more of that root. Why don't people go after these big shots when they snitch, when they face prosecution and will run and say, I'll rat out my friend to get myself a break? But because has so much money, I think he's richer than Bill Gates by 13 cents. Why are they given a free pass? Where much is known, much is required, unless you're rich, you have political status, or social standing. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, there are no further lights on. You're recognized to close on FA107.

SENATOR CHAMBERS: Thank you. And, Mr. President, members of the Legislature, this amendment deals with tattling by the commissioner of labor on an Indian tribe if it fails to do certain things. The current word used is "notify." That is designed to give a bit of dignity and cover to the lowdown action that the state is demanding that the commissioner of labor engage in. To whom must the commissioner of labor tattle? The United States Internal Revenue Service and the United States Department of Labor. I'd like to ask Senator Cunningham a question.

SENATOR CUDABACK: Senator Cunningham, would you reply?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: Senator Cunningham, are you familiar with the language that I'm discussing here about the Indian tribes and what...

SENATOR CUNNINGHAM: Oh.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CHAMBERS: ...they are required to do?

SENATOR CUNNINGHAM: Not totally, Senator. That was part of the old section of language. It's not anything that we changed.

SENATOR CHAMBERS: Do you think it merits changing, or you haven't...you haven't examined it enough to be sure of that?

SENATOR CUNNINGHAM: I've really not examined it, Senator.

SENATOR CHAMBERS: Okay. How many times has it come to your attention, and I'm phrasing the question so it's based on your personal knowledge, that an Indian tribe has failed to make payments required under this section, including assessments of interest and penalty, within 90 days after a final notice of delinquency? First of all, how many tribes do you know of which have been delinquent in this regard?

SENATOR CUNNINGHAM: I don't personally know of any, Senator.

SENATOR CHAMBERS: So, for all we know, this language has never been invoked against any tribe.

SENATOR CUNNINGHAM: As far as I know, that's true.

SENATOR CHAMBERS: And this language would be put into the law so if a tribe should engage in this conduct or fail to do what this language would want to require them to do, then the tattling should occur. Is that correct?

SENATOR CUNNINGHAM: That's correct.

SENATOR CHAMBERS: If the original language said "tattle to" and I wanted to change it to "notify," would you be willing to strike "tattle to" out of the statute and substitute the word "notify?"

SENATOR CUNNINGHAM: I probably would, yes.

SENATOR CHAMBERS: Why? Is one more...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CUNNINGHAM: I just think...

SENATOR CHAMBERS: ...accurate than the other?

SENATOR CUNNINGHAM: Probably not, Senator. I just think "notify" sounds like a better term.

SENATOR CHAMBERS: Better in what way? It's not more accurate? It's not more truthful? How is it better?

SENATOR CUNNINGHAM: Well, I would tell you, and you are fully well aware, I'm not trained in the law, but it just sounds...

SENATOR CHAMBERS: I'm not talking about the law.

SENATOR CUNNINGHAM: ...it just sounds more legal.

SENATOR CHAMBERS: And...legal?

SENATOR CUNNINGHAM: Well, maybe not legal, but more dignified, is the word from the...

SENATOR CHAMBERS: Je ne sais quoi. (Laugh)

SENATOR CUNNINGHAM: (Laugh)

SENATOR CHAMBERS: Senator Cunningham, if you will vote for this amendment, I won't offer another amendment to this bill.

SENATOR CUNNINGHAM: Could you repeat that?

SENATOR CHAMBERS: Yes. If you vote for this amendment, I will not offer another amendment to this bill, and that means even the one already on the desk now.

SENATOR CUNNINGHAM: So that...there's no requirement to what anyone else does, just me? Everybody is on their own?

SENATOR CHAMBERS: It's your bill.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

SENATOR CUNNINGHAM: Pardon me?

SENATOR CHAMBERS: It's your bill. I don't think anybody else cares about the bill. You're the one who's been pushing and working so hard. If the...if this bill went away, Senator Cunningham, one of the big issues that is of concern to me would be resolved, wouldn't it? You would not have every person who is disqualified...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...being disqualified a maximum of 13 weeks and a minimum of 10. That's what it would be. It would be a sliding scale from 10 to 13,...

SENATOR CUNNINGHAM: I can't hear him.

SENATOR CHAMBERS: ...from 7 to 10 weeks. Correct?

SENATOR CUNNINGHAM: Yes.

SENATOR CHAMBERS: But under this bill, as amended, everybody would be disqualified for 12 weeks. Is that true?

SENATOR CUNNINGHAM: Not everybody. There's a lot of good cause quits in there.

SENATOR CHAMBERS: Those who would face disqualification...

SENATOR CUNNINGHAM: Correct.

SENATOR CHAMBERS: ...would not be on a sliding scale. It would be a flat 12 weeks...

SENATOR CUNNINGHAM: Oh, yes.

SENATOR CHAMBERS: ...for everybody.

SENATOR CUNNINGHAM: That's correct.

SENATOR CHAMBERS: Currently, with the sliding scale from 7 to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

10 weeks, most people are given 7 weeks' disqualification. Isn't that true?

SENATOR CUNNINGHAM: I believe it's like 7.9 is the average.

SENATOR CHAMBERS: Let's say 8,...

SENATOR CUNNINGHAM: Okay.

SENATOR CHAMBERS: ...8 weeks.

SENATOR CUNNINGHAM: So, by accepting the bill as it is now, those people who would have gotten 8 weeks are now going to get four additional weeks of disqualification. Isn't that true?

SENATOR CHAMBERS: Yes, but there will be some people that will get more unemployment. The good cause quits are going to get more than before.

SENATOR CUDABACK: Your time is up, Senator Chambers. Your closing is up. You've heard the closing on advancement of FA107 to LB 739.

SENATOR CHAMBERS: Call of the house.

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. We're voting on a call of the house. Record please, Mr. Clerk.

CLERK: 21 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. Unauthorized personnel please leave the floor. Unexcused senators please report to the Chamber. The house is under call. Unexcused senators please report to the Chamber. The house is under call. Senator Dwite Pedersen. Senator Cunningham, would you check in, please? Senator Foley, would you check in, please? Senator Mines. Senator Beutler, would you check in, please? Thank you. Senator Connealy. Senator...Senator Dwite Pedersen. I'm sorry.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 739

You're here. I didn't mean, sorry you're here, but you are present. Senator Mines. All members are present or accounted for. Senator Chambers, how did you wish to proceed?

SENATOR CHAMBERS: Roll call vote, beginning with Senator Cunningham. (Laughter)

SENATOR CUDABACK: I'm sorry, that's out of order. Did you wish to proceed from the first of the alphabet?

SENATOR CHAMBERS: In regular order.

SENATOR CUDABACK: Thank you, Senator Chambers. Mr. Clerk, when you get time, call the roll, please, on the question of FA107.

CLERK: (Roll call vote taken, Legislative Journal page 1153.)
3 ayes, 35 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not adopted. I do raise the call. Mr. Clerk, next motion, please.

CLERK: Mr. President, Senator Chambers would move to amend with FA116.

SENATOR CUDABACK: Senator Chambers, to open on FA116.

SENATOR CHAMBERS: Mr. President, members of the Legislature, a deal is a deal. Senator Cunningham lived up to his part. I will withdraw all pending amendments that I have.

SENATOR CUDABACK: FA116 is withdrawn, as well as FA117. Mr. Clerk, anything further?

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

SENATOR CUDABACK: Thank you, Mr. Clerk. No discussion. Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 739 to E & R for engrossing.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 361, 739

SENATOR CUDABACK: You've heard the motion to advance LB 739 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 739 is advanced. Mr. Clerk, LB 361.

CLERK: Senator, I have Enrollment and Review amendments pending to LB 361. (AM7070, Legislative Journal page 1077.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 361.

SENATOR CUDABACK: You've heard the motion to adopt E & R amendments to LB 361. All in favor say aye. Opposed, nay. The E & R amendments are adopted.

CLERK: Senator Bourne would move to amend with AM1114. (Legislative Journal page 1126.)

SENATOR CUDABACK: Senator Flood (sic), to open on AM1114.

SENATOR BOURNE: Thank you, Mr. President, members. This is just a...basically a clarifying amendment that would change, on page 7, line 23, where it says, from "statewide associations," it would change it to a singular, so it would be "a statewide association." I'd appreciate your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the opening by Senator Bourne to amend with AM1114, LB 361. Open for discussion. Seeing no lights on, Senator Bourne. He waives closing. The question before the body is adoption of AM1114. All in favor vote aye; opposed, nay. The question before the body is the Bourne amendment. Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Bourne's amendment.

SENATOR CUDABACK: The Bourne amendment has been adopted. Mister...

CLERK: Senator Flood would move to amend with AM1144...I'm

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 361, 410

sorry, with FA153, Mr. President. Excuse me. (Legislative Journal page 1154.)

SENATOR CUDABACK: Thank you. Senator Flood, to open on FA153.

SENATOR FLOOD: Thank you, Mr. President, members. This amendment represents kind of a compromise between Senator Beutler and myself with regard to a bill that was incorporated into LB 361, and that specifically was LB 410. This allows an attorney representing a client, or a petitioner or respondent in a divorce action, to use a certificate of dissolution that may be filed with the register of deeds, signed by the clerk of the district of court, evidencing the court's order, by and through its decree, transferring real estate from one party to another or one party's interests to another party, all inside of the divorce action. This simply states that that certificate of dissolution does not operate by itself, in and of itself, as a conveying...as a document or deed of conveyance. And this was agreed to by Senator Beutler and myself. Thank you, Mr. President. I yield the balance of my time.

SENATOR CUDABACK: You've heard the opening on FA153. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I just wanted to thank Senator Flood for being willing to work on it. It's a small matter. I understand better what he thinks the benefits of the new certificate will be. And I think he has a case there. So hopefully this works it out in a way that is agreeable to him, and doesn't do more than he expected it to do in the first place. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion on the Flood amendment, FA153? Seeing no lights on, Senator Flood waives the opportunity to close. The question before the body is FA153, offered by Senator Flood to LB 361. All in favor vote aye; those opposed, nay. We're voting on adoption of the Flood amendment. Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 361, 401, 734

SENATOR CUDABACK: The Flood amendment has been adopted.

CLERK: I have nothing further on the bill, Senator.

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 361 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 361 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 361 is advanced. We now go to Select File, 2005 committee second priority bills. Mr. Clerk, LB 401.

CLERK: Mr. President, LB 401. I do have Enrollment and Review amendments first of all, Senator. (AM7073, Legislative Journal page 1077.)

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 401.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 401. All in favor say aye. Opposed, nay. They are adopted.

CLERK: Senator Friend would move to amend with AM1038. (Legislative Journal page 1104.)

SENATOR CUDABACK: Senator Friend, to open on AM1038.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, this amendment...and I talked to Senator Fischer about this a couple of occasions. We discussed it again this morning. The amendment consists of the provisions of a bill, Urban Affairs bill, LB 734, and the adopted committee amendments to that bill. And it was introduced by the Urban Affairs Committee, and advanced unanimously to General File by the full committee. Basically, the bill deals with sanitary and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

improvement district elections and the right to vote in board of trustee elections as a resident of the district. The bill proposes to redefine the term "trust" for the purpose of permitting certain residents holding their property in trust to vote and to be elected to the board of trustees as bona fide residents. And the provisions would be applicable to all sanitary and improvement districts. A little bit of background. We all need to be aware that voting in SID elections is based upon property ownership, with owners of lots granted one vote for each platted lot, or one vote for each unplatted acre or portion thereof. And additionally, the statutes provide that a majority of the members of the board, three to five trustees, must be elected by resident owners at the election held eight years after the formation of the district. Only resident owners can vote for these three trustees, while all owners vote for the other two trustees. This change--and it was dated back to the early eighties--was adopted to provide residents with additional protection of their interests, which might differ from those of the developer. A recent review of the section at issue here, which is Section 31-735 by the Cass County clerk and the Cass County attorney revealed the presence of an absolute prohibition of any trust property being the source of a resident vote. This meant that several residents who had previously voted as residents were denied that opportunity because their property was owned by a family trust created for testamentary purposes, even though they were in fact actual residents of the property. To reflect the true situation, this bill redefines the term "trust" in Section 31-735, changing it from the current general term applicable to trusts of any form or nature, to the more specific irrevocable trust, in order to distinguish property...excuse me, and in order to distinguish property held in a family trust or trust created for a state purposes from all other forms of trust. Under the current form of the statute, bona fide residents of the property in the SID who would otherwise qualify as residents for the purpose of voting a resident trustee on the board of trustees are prohibited from doing so, because their property is held in the family trust. The change proposed would limit the prohibition on resident status only to property held in an irrec...irrevocable trust. Excuse me. With that, I would ask for the advancement...or, excuse me, the adoption of AM1038, and the advancement of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

LB 401. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. You've heard the opening on AM1038, offered by Senator Friend to LB 401. Open for discussion. Seeing no lights on, Senator Friend, you're recognized to close on AM1038. He waives the opportunity to close. The question before the body is the amendment, AM1038 to LB 401. All in favor vote aye; those opposed, nay. The question before the body is the Friend amendment, AM1038. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment.

SENATOR CUDABACK: The Friend amendment has been adopted. Mister...

CLERK: Senator Beutler would move to amend with AM1145. (Legislative Journal pages 1154-1155.)

SENATOR CUDABACK: Senator Beutler, to open on AM1145 to LB 401.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is a clarifying amendment that applies in two different sections of the bill. And I think they're agreeable to all the people involved. But I must confess that in the rush this morning, I'm not sure I was able to get to everybody who was concerned. In fact, I've kind of forgotten which part of this bill belonged to who at what point in time. But hopefully they will speak up. But on General File debate, I think there was general acknowledgement of the possibility of clarification, even though they may not have exactly seen this amendment. The two parts of the bill that are affected, in one part, the general intent of the language is to allow citizens who have never resided in the country to vote by registering in this state under certain conditions. And those conditions were that they're a citizen of the United States residing outside of the United States and have never resided in the United States, and if they...and who has a parent registered to vote in this state, parents registered to vote in this state. And the amendment simply clarifies that they shall not have registered to vote in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

some other state, so that it makes clear what should be obvious, but in order to...since this is a penalty provision, we need to state the obvious. And secondly, it makes clear that it doesn't have to be either...both of the parents; it can be either one of the parents. And so long as one parent resides in some county in Nebraska, that would be an appropriate place for this foreign resident to register. And then it follows through and puts that language into a statement that's required to be made by such person when they register to vote. The second thing that it does deals with the provision relating to satellite voting. That's the idea that in addition to voting places that are identified by your local election commissioner, the Secretary of State can experiment with having other election voting sites, such as in a mall or some popular place where people stop, I guess. Some experimentation is thought desirable by the Secretary of State, or perhaps the committee, on this matter. And so there is a provision allowing for that kind of experimentation with satellite voting places. And all the amendment does is to say that that shall be done with the consent of the local election commissioner, so that there's coordination there, and approval, and joint agreement as to the necessity for or the advisability of a satellite voting place. And it further clarifies that these satellite polling places are in addition to whatever the normal voting places are identified by the local election commissioner. That's all the amendment does. And I would recommend it to your approval.

SENATOR CUDABACK: Thank you, Senator Beutler. (Visitors introduced.) Mr. Clerk, next motion.

CLERK: Mr. President, Senator Schimek would move to amend Senator Beutler's amendment. (FA155, Legislative Journal page 1155.)

SENATOR CUDABACK: Senator Schimek, to open on FA155.

SENATOR SCHIMEK: Thank you, Mr. President and members. This is a very simple amendment. And it would amend line 19 of the Beutler amendment. And it would simply insert the words "a Class IV felony." And it...the sentence reads: I hereby declare, under penalty of election falsification, a Class IV

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

felony, that the statements above are true to the best of my knowledge. Everywhere else, that I can think of, at least, in the Election Act, we call it a Class IV felony. The words following tell what that penalty is. But I thought it would be good to just be consistent. So, very, very immaterial kind of amendment, in a way. I would like to speak on behalf of the Beutler amendment, and say that I think that this does add some probably worthwhile verbiage to the original bill. I think what we had thought was that the Secretary of State would provide that there be some kind of a form like this. But it certainly doesn't hurt to have it in statute, and I support that part of the amendment. I also support the other part of the amendment, that having the election commissioner, county clerk sign off on that satellite voting place would be good. But I'd also like to make just an editorial comment here. I keep seeing little jabs in some of the newspapers, whether it's in the editorial cartoon or in some kind of an editorial itself, about voting in retail establishments. That's not what the satellite voting provision is about. It could be...you could put a satellite voting in a retail outlet. But it also could be in a hospital or a college or a community college, or any place where the public would be likely to gather or to identify. I would also like to reiterate that this is an experiment only, at this point, and it will not be used widely. But the Secretary of State will use it sparingly, to see if it works in some of the counties that he chooses. So I think it's probably a worthwhile experiment. I don't think it should be done on a statewide basis at this point. But I support that portion of the bill, and would simply ask that you add the words "a Class IV felony" to the Beutler amendment.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on FA155. Open for discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I do have a question for Senator Schimek, if she would respond.

SENATOR CUDABACK: Senator Schimek, would you respond?

SENATOR SCHIMEK: Yes, I would. Thank you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

SENATOR REDFIELD: Senator Schimek, the penalty here for election falsification is imprisonment for up to five years, or a fine not to exceed \$10,000, or both. This would be a fine or an imprisonment of someone who has never resided in the U.S. And I would ask you how we would enforce that penalty.

SENATOR SCHIMEK: (Laugh) It might be difficult. But that person is a U.S. citizen, and so therefore are subject to the laws of the United States. Now, you could argue, I suppose, that this person has never been a resident of Nebraska, so how are you going to enforce it? I think that the idea here is that it is, like any other part of the Election Act, that it is a very serious offense, and we mean to tell people that. I don't seriously think this is going to apply to but a minuscule number of people. And so I wouldn't expect that that enforcement would be a really big problem.

SENATOR REDFIELD: Well, I understand you're trying to be consistent with our penalties. But I think that we have to be sure that in fact we have enforceable penalties. Otherwise we somewhat make a mockery of those penalties.

SENATOR SCHIMEK: And I see your point. And you might wish to ask Senator Beutler that question, because Senator Beutler has the penalty in here in his amendment.

SENATOR REDFIELD: Thank you. Senator Beutler perhaps might have some comment or suggestions?

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Redfield, I didn't look back at the penalty provisions, because there are penalty provisions that apply to these sections of law. So I didn't look to change the penalty provisions. But it would be difficult getting somebody back here to prosecute them, I'm sure. But I'm...I don't think that the difficulty of obtaining jurisdiction over them should mitigate against, or should argue against having the provision in law.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401

SENATOR REDFIELD: You don't...

SENATOR BEUTLER: If you're going to reach out and let these people vote, then I think you need to reach out and let them know there are certain penalties that go along with the privilege and obligation to vote.

SENATOR REDFIELD: Generally, in qualifying for filling out the documents and verifying, the penalty has been the enhancement to ensure that people are in fact telling us the truth. But when you have a penalty that would be very difficult to enforce for someone who's not in the United States, I'm wondering whether in fact we might have to have some other kind of identification in order to verify that they were indeed a registered...or, a citizen of the United States and were not registered in another state. And I will give you the remainder of my time.

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator, you raise a series of questions that certainly pertain to this whole area. But it actually goes back deeper into the bill than this amendment. This language was proposed by the committee. And I think Senator Flood originally, and as they proposed it, originally it would have the Class IV penalty...Class IV felony penalty attaching to it. So I'm somewhat unable to answer your question, because I haven't taken that step back further into the bill to reassess its underlying premises.

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

SENATOR BEUTLER: Senator Cudaback, I just wanted to say that I think the Schimek amendment does add a nice clarifying piece. It's like notice to the person registering. And it's really like a little Beutler amendment. And Senator, I guess what's good for the goose is good for the gander, always.

SENATOR CUDABACK: Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Transportation, chaired

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 275, 277, 689, 709, 753
 LR 67, 70, 71-73, 75

by Senator Baker, reports LB 275 to General File with amendments; LB 277, General File with amendments; those reports signed by Senator Baker. A confirmation report from the Natural Resources Committee, signed by Senator Schrock. And amendments to be printed: Senator Beutler, LB 689, LB 709; Senator Bourne, LB 753. New resolution, LR 75, by Senator Don Pederson, that calls for a study. Reference report. (Legislative Journal pages 1155-1160.)

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

SENATOR CUDABACK: You've heard the motion to recess till 1:30 p.m. All in favor say aye. Opposed, nay. We are recessed.

RECESS

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Members, good afternoon. The Legislature is ready to reconvene. Will you please check in. Mr. Clerk, please record.

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

SPEAKER BRASHEAR: Thank you, Mr. Clerk. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 67, LR 70, LR 71, LR 72, and LR 73. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Mr. Clerk, we will now go to LB 401. Mr. Clerk, please inform the body where we were when we recessed for lunch.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 401
 LR 76

CLERK: Mr. President, if I may, right before that, one new resolution, LR 76, by Senator Landis. That will be laid over. But then, pursuant to that, Mr. President, I have a communication from the Speaker regarding the referral of LR 76. (Legislative Journal pages 1161-1162.)

Mr. President, LB 401, by Senator Fischer, is on Select File. Senator Beutler had offered AM1145 as an amendment to the bill. Senator Schimek had moved to amend Senator Beutler's amendment with FA155. FA155 is pending.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek, your light was on when we recessed for lunch. We were discussing floor amendment, as stated by the Clerk, FA155 to AM1145 to LB 401. You're recognized, Senator Schimek. Senator Schimek waives the opportunity. Any further discussion on the Schimek amendment, FA155, to the Beutler amendment? Any discussion? Senator Schimek, you're recognized to close on FA155.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I will just briefly explain that this adds the words "a Class IV felony" into the Beutler amendment, after the words "election falsification" on line 19 of page 1. It just is more conforming to the Election Act itself, in which we usually describe the punishment for falsification as a Class IV felony.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the closing by Senator Schimek on FA155 to the Beutler amendment. The question before the body is, shall FA155 be adopted? All in favor vote aye; opposed, nay. We're voting on the adoption of the Schimek amendment to the Beutler amendment. Have you all voted on the Schimek amendment who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Schimek's amendment to Senator Beutler's amendment.

SENATOR CUDABACK: The Schimek amendment has been adopted. Anything further on the Beutler amendment, Mr. Clerk?

CLERK: Nothing further on the Beutler amendment, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 401

SENATOR CUDABACK: Back to discussion of the Beutler amendment, AM1145, to LB 401. Anybody wishing to discuss the Beutler amendment? Senator Beutler, there are no lights on. You're recognized to close.

SENATOR BEUTLER: Senator Cudaback, members of the body, just to remind you, these are clarifying amendments that nobody had any objection to, I believe. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the closing on AM1145. The question is whether that should be adopted to LB 401. All in favor vote aye, and opposed, nay. The question before the body is the Beutler amendment, AM1145, which is an amendment to LB 401. Have you all voted on the amendment who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: AM1145 has been adopted. Mr. Clerk, anything further on LB 401?

CLERK: I have nothing further on the bill.

SENATOR CUDABACK: No discussion? Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 401 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 401 to E & R for engrossing. All in favor say aye. Opposed, nay. Ayes have it. LB 401 is advanced. Mr. Clerk, LB 161.

CLERK: LB 161. Senator Flood, I have Enrollment and Review amendments first of all. (AM7072, Legislative Journal page 1077.)

SENATOR CUDABACK: Senator Flood, please, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 474

amendments to LB 161.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 161. All in favor of adopting the amendments say aye. Opposed, nay. They are adopted.

CLERK: Senator Jensen would move to amend with AM1044, Mr. President. (Legislative Journal page 1089.)

SENATOR CUDABACK: Senator Jensen, to open on AM1044 to LB 161.

SENATOR JENSEN: Thank you, Senator Cudaback, members of the Legislature. LB 1041 is really...or, excuse me, AM1044 is LB 474. It was introduced by myself and cointroduced by Senator Brown and Senator Mines. The bill and the amendment would allow a zoning change to be approved by a majority vote of the city council or county board, if the change would be in accordance with a comprehensive development plan for the area. In some cities and counties, a supermajority is necessary for approval if a number of protests are filed, even if the proposed change is in accordance with that comprehensive plan. LB 474 had a hearing without opposition. There were no committee amendments. And the League of Nebraska Municipalities, Nebraska Association of County Officials, and the city of Lincoln and Omaha, have no opposition to the bill. AM1044 lends integrity to the planning process. And after a comprehensive plan is developed for an area, with hearings and approval by the planning commission and city county...or, by the city or county, then those seeking a zoning change should be able to rely on that plan for development of a zoning...as far as zoning goes. And a simple majority should be required for a vote of approval of the zoning change. The bill is really straightforward. That's all it does. I would just ask for approval of AM1044.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on the Jensen amendment, AM1044 to LB 161. Open for discussion. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Jensen yield to a question, please?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 474

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes.

SENATOR BOURNE: And Senator Jensen, if this had come up on General File, I wouldn't ask you this on the mike. But I look at the committee statement for LB 474, and I see where the city of Omaha testified in a neutral capacity. Could you articulate for us the concerns or the reason they testified in neutral, what they expressed at the hearing?

SENATOR JENSEN: The day I introduced this bill, I needed to get back to my committee. So I really did not hear their testimony. However, we have met with them and also Douglas County and others, and they did not oppose this amendment.

SENATOR BOURNE: I'm sorry, Senator Jensen. I thought it went to the Health Committee. Maybe I'll ask a question of Senator Schimek,...

SENATOR CUDABACK: Senator Schimek, would you...

SENATOR BOURNE: ...if she would yield.

SENATOR CUDABACK: ...yield? You may go on.

SENATOR BOURNE: Thank you. Senator Schimek, I see this bill, LB 474, went to your...the committee of which you're Chair. And I see...

SENATOR SCHIMEK: The Government Committee?

SENATOR BOURNE: Yes, ma'am.

SENATOR SCHIMEK: All right.

SENATOR BOURNE: And I see where the city of Omaha testified in a neutral capacity. Now, again, I had mentioned to Senator Jensen I wouldn't even ask if this didn't come up on Select File, but I'm curious, can you indicate what...the reason that they testified in a neutral capacity, or the comments regarding

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

this?

SENATOR SCHIMEK: Senator, I have to confess, I wasn't listening to your conversation. I was actually looking at the next amendment. And I don't recall right off the top of my head why they came in in a neutral capacity. Maybe somebody else on the committee does.

SENATOR BOURNE: Okay.

SENATOR SCHIMEK: Senator Mines says he doesn't. And I don't see anybody else in the committee shaking their head vigorously.

SENATOR BOURNE: (Laugh) Well,...

SENATOR SCHIMEK: Sorry.

SENATOR BOURNE: ...then as usual, I guess. Maybe there was nothing to be said. But actually, the reason, again, I wanted to talk about this is because, you know, if it's Select File and it goes over, it tends to expedite things. I'm going to go talk to the lobbyist for the city of Omaha to see what issues there are regarding this. Thank you.

SENATOR CUDABACK: Are you...thank you, Senator Bourne. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Bourne a question or two, if I may.

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

SENATOR BOURNE: (Laugh) Yes.

SENATOR CHAMBERS: Senator Bourne, I was listening very carefully to see what would be answer...given as an answer to your question. Suppose Omaha had been opposed to this rather than neutral. Would that have influenced your view on the bill?

SENATOR BOURNE: Well, Senator Chambers, to be honest with you,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 474

I tend to review bills that are prioritized and are...whether it be an individual priority or a committee priority or a Speaker priority. And I've read most of those. And I have not read this bill. And so this is the first time that I've seen the bill, and so I'm simply trying to ascertain what exactly, precisely, the bill does. And so yes, it would matter to me whether or not any entity, whether it be the city of Omaha, or the city of Hastings, or the city of Grand Island, it would matter to me on Select File why there was an opponent to the bill.

SENATOR CHAMBERS: And Senator, you're not talking about LB 181 (sic) now. You're talking about the amendment?

SENATOR BOURNE: As I understand it, AM1044 that Senator Jensen is proposing was actually LB 474.

SENATOR CHAMBERS: Okay.

SENATOR BOURNE: And so I'm asking about LB 474. I see there are no opponents, but the city of Omaha did testify in neutral, and I'm simply trying to ascertain why.

SENATOR CHAMBERS: Okay. That's all I will ask. Thank you, Senator Bourne. Now I'd like to ask Senator Jensen a question.

SENATOR CUDABACK: Senator Jensen, would you reply, please?

SENATOR JENSEN: I will reply.

SENATOR CHAMBERS: Senator Jensen, the original underlying bill, LB 181, does what, briefly?

SENATOR JENSEN: LB 161?

SENATOR CHAMBERS: LB 181...is...oh, LB 161, yes.

SENATOR JENSEN: Of Senator Aguilar's bill?

SENATOR CHAMBERS: Is that the one we're talking about, and you have something you want to amend into it?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR JENSEN: Yes, I do have something I want to amend into it.

SENATOR CHAMBERS: Okay. What does the underlying bill do? Just briefly.

SENATOR JENSEN: I've got to think for a moment.

SENATOR CHAMBERS: Okay. Take your time. I'll ask Senator Aguilar. He's standing up. If you will, Senator?

SENATOR CUDABACK: Senator Aguilar.

SENATOR AGUILAR: Yes. Basically what that does is expand the time frame that both cities and homeowners can repay special assessments.

SENATOR CHAMBERS: Okay. I thought, but I wasn't sure. Thank you. Now, Senator Jensen, what does your amendment do?

SENATOR JENSEN: Okay. Most cities have and introduce a comprehensive plan whereby they'll set forth how they foresee the city being developed.

SENATOR CHAMBERS: Yes.

SENATOR JENSEN: There should be commercial here, residential here, industrial wherever it might be. And if that comprehensive plan is filed, and then builders, developers go by that plan, and they introduce a zoning change, there are some communities that, if a minority of protests, 20 percent, should object, then they need to get a supermajority in votes on the council, commission, whatever that might be,...

SENATOR CHAMBERS: In order to put the zoning change in?

SENATOR JENSEN: Yes. And even after this comprehensive plan has been set forth by the city.

SENATOR CHAMBERS: So that I can follow you, there's a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

comprehensive plan, somebody builds in accord with the zoning pursuant to that plan, then subsequent to that person having built there is a different zoning that will come in that would put this person out of compliance? Is that what you're talking about?

SENATOR JENSEN: Well, somewhat. You know, everything usually has some sort of a holding. In Omaha, it used to be Suburban 2, that all land was in that zoning category until it was rezoned. However, the city came up with their...would come up with their comprehensive...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...zoning plan, that might say that this is how they envision the city's growth. Now, if you come in as a developer or builder and want to make a change, you still have to go in for a zoning change. All that is the normal situation. However, in...if there has been...if 20 percent of the individuals object, then you have to have a supermajority from the council, zoning, whatever,...or, the council or the commission.

SENATOR CHAMBERS: So then the objection is not to what the council did, but to what this person wants to do in order to get a zoning change to build or develop in the way he or she chooses to do?

SENATOR JENSEN: The whole question on this is the vote.

SENATOR CHAMBERS: But we're talking about...the thing that's going to be voted on is whether somebody is allowed to build outside of what zoning allows. This person wants an exception...

SENATOR JENSEN: Wants to...

SENATOR CHAMBERS: ...to the existing zoning?

SENATOR JENSEN: Wants to change the zoning, yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR CHAMBERS: And if 20 percent of the people who would be affected object, then the only way that zoning change can be granted is by means of a...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...supermajority of the body?

SENATOR JENSEN: That is correct.

SENATOR CHAMBERS: Thank you.

SENATOR CUDABACK: You may continue.

SENATOR CHAMBERS: Oh.

SENATOR CUDABACK: You may continue. Your light is on.

SENATOR CHAMBERS: Okay. I think I've got it Senator Jensen. So I'm going to say it, then I don't have to do it through questions. We have the plan in place. There is zoning pursuant to that plan. Or, we can say zoning. An individual wants to construct an edifice, or do some type of developing that would not be allowed under that zoning. And this person would seek an exemption from the zoning for his or her development, whatever it happens to be. The people who would be affected, who are in the area, can say, with 20 percent opposition, a supermajority would be required before the council, or it could be the county board, whoever is going to do the zoning, a supermajority would be required to grant that exception. Is that what you're talking about here?

SENATOR JENSEN: That is correct. And there's not uniformity. In some places it might be three-fourths of the voting members; in others it might be two-thirds. But still, the city has already come out with a zoning comprehensive plan that says, this is what we would endorse, that type of zoning. Then the developer comes in and says, okay, that's what I want to have. I want to go to that zoning. But however, when he applies, if there is a 20 percent objection, then he must go to this supermajority. And like I said, if you're asking for

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

three-fourths, if there's a 12-member board, that would be 9 of the 12...

SENATOR CHAMBERS: You may have thrown me a curve. Did you say the developer is going to build according to what the zoning is?

SENATOR JENSEN: According to what the comprehensive zoning plan is. Now, this is...this comprehensive zoning plan is for land that has not really been zoned yet. But they're...

SENATOR CHAMBERS: So there is...

SENATOR JENSEN: ...indicating that this is what they think it should be used for.

SENATOR CHAMBERS: That's what I need to get clear. There is no zoning at this point, of a formal nature. There's just a plan, a proposed plan for the development and the type of zoning which would facilitate that development or that movement. But the council or the board has not put in place any specific zoning in that area. Is that what you're telling me?

SENATOR JENSEN: I guess what they have put in place is suggested zoning. And then the developer says, okay, I would like to zone it for that. All land is zoned something.

SENATOR CHAMBERS: Right.

SENATOR JENSEN: And in Omaha...I'm not familiar with Lincoln, but in Omaha it used to be everything was zoned Suburban 2, until you would come in and zone it for Residential 3, Residential 2, commercial zoning, whatever it might be. But still, you would look at what the overall city or county said what their comprehensive zoning plan would be, and then you rely on that, and then you go in and ask for zoning.

SENATOR CHAMBERS: And if you're asking for zoning that complies with that plan, this process you're talking about would still come into play, and 20 percent objection would require a supermajority?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR JENSEN: No, if your plan, that the developer, builder, relied on, fit the comprehensive zoning plan, he would only need a majority, not a supermajority.

SENATOR CHAMBERS: Right. But if...that's what I keep wanting to ask. Whatever it is that it's an exception to, we're talking about an exception to this plan, something that would not fit the planned zoning?

SENATOR JENSEN: Okay. Okay.

SENATOR CHAMBERS: That's what I'm not getting.

SENATOR JENSEN: No, no, no, no. If it is an exception to the comprehensive zoning plan, yes, he would need then to get that supermajority. But if it complies with the comprehensive zoning plan, he would only need a simple majority.

SENATOR CHAMBERS: That's what I was trying to get at.

SENATOR JENSEN: Okay.

SENATOR CHAMBERS: The only time a supermajority...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is needed is for an exception or an exemption that would be away from what that comprehensive plan has proposed.

SENATOR JENSEN: I think we got it. Yes.

SENATOR CHAMBERS: Okay. Now why...well, I will wait. I'll listen before I ask any more questions. But I'm going to turn on my light in case nobody else asks a question.

SENATOR CUDABACK: Thank you, Senator Chambers. Thank you for waving. Senator Schimek, you're next, followed by Senators Wehrbein, Byars, and Senator Chambers.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

Senator Bourne, I've had my memory refreshed for me a bit here. And I remember this bill very well now. It's coming back. This was a bill that the committee advanced with a one-word amendment on it. And the one-word amendment was to take the word "development" out of "comprehensive development plan." So meanwhile, E & R had told us that they could take care of that on Select, without a one-word amendment. So we brought the bill back into committee. We hadn't reported it out yet. And we took the amendment off and we readvanced the bill, so that, you know, we thought we could take care of that on Select File. And I don't know if you have any follow-up to that explanation I just gave. I'd be happy to try to answer...okay. Then I'd like to give my time to Senator Wehrbein, Mr. President.

SENATOR CUDABACK: Senator Wehrbein.

SENATOR WEHRBEIN: I'm trying to remember...thank you, Mr. Speaker and thank you, Senator Schimek. Senator Chambers, I...an example usually works. And maybe Senator Jensen remember this. But as I remember the testimony, I can't explain why Omaha was neutral. But the issue really was, as a comprehensive plan, there were some areas developed, and some...and in line with the comprehensive plan. Then, several years later hence, there's something happen on one side...in one area, but the area that the new developer...the developers want to develop, they see it then it's not compatible what's grown up. Let's say there was a housing district, or something like that, as I recall. Then there may be...then they may want to put in retail outlets or something like that. And it was within the original comprehensive plan, but because of what's happened in the last, say, 10 or 15 years, it...now it is not as compatible with what has actually happened on one part of it, as what they want to have on the next part. So they were going to allow for some changes as time goes along, as I recall the reason for the bill. Senator Jensen may want to comment. I'll give you...if I can give some more time, or I'll give my time...or, I'll just quit and let...thank you, Senator Cudaback.

SENATOR CUDABACK: Senator Schimek, did you wish to use your...remainder of your time?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR SCHIMEK: Yes. And it's very embarrassing, Mr. President. I just screwed up my explanation of what happened. We didn't...weren't going to take out the word "development," we were going to take out the word "comprehensive." Because Omaha calls it a development plan, not a comprehensive development plan and not a comprehensive plan. I apologize. It's my fault. My staff tried to tell me, but she wasn't very successful. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Mr. Clerk, announcement, please.

CLERK: Mr. President, Senator Schrock would like to have an Exec Session of the Natural Resources Committee underneath the north balcony now. North balcony, Natural Resources, immediately.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of AM1044. Senator Wehrbein. Senator Wehrbein waives his opportunity to speak. Senator Chambers.

SENATOR CHAMBERS: I waive off. Senator Wehrbein answered it. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. Any further discussion on AM1044, offered by Senator Jensen? Senator Jensen, there are no other lights on. You may close on AM1044.

SENATOR JENSEN: Thank you, Senator Cudaback. I think that we...everybody understands the circumstance, that the only...this would...if you were following the comprehensive development plan, or, as Omaha refers to it, their development plan, and you asked for zoning, you would need a simple majority. If you're doing an exception to that comprehensive development plan, then yes, the supermajority, or whatever that county or city has, would be there. That's all the bill does. I would just ask for its adoption. Or, excuse me, the amendment, AM1044. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the closing on AM1044. The question before the body is, shall that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 302

amendment be adopted to LB 161? All in favor vote aye; opposed, nay. The question before the body is the adoption of the Jensen amendment, AM1044, amendment to LB 161, introduced by Senator Aguilar. Have you all voted who care to? Record please, Mr. Clerk.

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

SENATOR CUDABACK: The Jensen amendment has been adopted. Mr. Clerk, next motion.

CLERK: Senator Price would move to amend. AM1054.

SENATOR CUDABACK: Senator Price, you're recognized to open on AM1054 to LB 161.

SENATOR PRICE: Mr. Speaker and members of the body, I wish to withdraw AM1054, and substitute AM1162. (Legislative Journal pages 1162-1164.)

SENATOR CUDABACK: Any objection? So ordered. Mr. Clerk.

CLERK: Senators Price and Beutler would move to amend with AM1162.

SENATOR CUDABACK: Senator Price, are you going to be the first to open? You may do so.

SENATOR PRICE: Thank you, Senator Cudaback, members of the body. You have heard this proposed legislation...this proposed amendment before. We've been educating members of the body, and hope that you will understand better. And I have provided handouts, and will discuss this. This was originally LB 302, which gives the cities of the primary class the authority to assess all benefited properties the cost of planting, maintaining, protecting, and removing of public city trees for the general welfare, safety, and benefit of the public. This legislation and this amendment affects only Lincoln, because it is limited to cities of the primary class. Lincoln's city charter gives it the authority to enact a special assessment for

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 302

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, and 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. The cost for local improvements to establish and maintain public trees do provide tangible benefits to abutting property owners that are assessed. In general, a neighborhood full of trees is going to be more valuable than a barren neighborhood. An assessment based on street frontage would...makes costs for local improvements more predictable than a property tax levy that can fluctuate uncontrollably from year to year. Assessment districts would provide consistent and dedicated municipal funding, used exclusively for the proactive management of Lincoln's public tree infrastructure for the welfare, safety, and benefit of its citizens and its public. Trees are a unique component of a city's infrastructure. And with proper maintenance, they appreciate in value and benefits over time, instead of depreciating. That ends my explanation of my amendment. And I would like to defer to Senator Beutler. He will explain the procedure for written protest of citizens, based on work with the committee counsel, the city attorney, the city of Lincoln attorney, and himself. And I would like to give the remainder of my time to Senator Beutler. Thank you.

SENATOR CUDABACK: Senator Beutler, about 7, 10.

SENATOR BEUTLER: Senator Price, thank you. Senator Cudaback, members of the Legislature, at Senator Price's direction, I took a look at the legal details of these petition processes. And using some very good information supplied by committee counsel for the Urban Affairs Committee, working together with the county attorney...or, the city attorney of the city of Lincoln, so that everything melded together with Lincoln's city charter and the recognized procedures within the city, we worked out a petition process whereby people could object to the formation of the district. Or, on the other hand, they could petition for the formation of a district. All of this is being done because we perceived, on the last round of debate, that what you all wanted to see was some sort of petition process in place. So

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

that's basically what we're doing here. And most of this language came from two sources--either from language that pertained to cities of the first class and cities of the second class and villages, and language that is already in the city charter of the city of Lincoln. You may recall that we indicated to you in the last round of debate that already in the city procedures is a provision that generally requires a petition from at least a majority of the people proposed to be assessed in order to create a district in the city of Lincoln. That's our general operating principle. But there was concern on the floor that we needed to put that language in the bill. So what we have done is put that kind of language in the bill. And it indicates that the city may create these districts by ordinance. It goes through a notification process. It indicates the mailing out of specific information with regard to the proposed creation. And then it indicates that there are two processes that can be followed. The first process, which is the one that the city follows now all the time and there's no reason to expect that they would do otherwise, but it indicates that no improvement shall be finally ordered by the city council until a petition signed by the owners of the record title representing a majority of the front footage of property directly abutting upon the street, et cetera, is presented and filed with the city clerk. So that is one of two processes that's provided for. In the alternative, if the city council wants to go ahead and create the district, they can do so. But then it's subject to public hearing. And it's also subject, in addition, in that instance, to a petition process whereby 51 percent of the property owners can object to the ordinance, and the ordinance will then be void. So the period of time that they have to do that objection is 30 days from the publication of the passage of the ordinance. I wanted to make that clear. I think the processes are reasonably clear in this amendment. And in any event, by and large, we allow the details of these kinds of processes to be worked out at the local level, whenever it's possible to do so. So that's basically the background of this amendment. I would ask you to keep in mind two other things that were true on the first round of debate and are true today. That is, that the city of Lincoln, under its charter, has an initiative petition process, and also has a referendum petition process. An ordinance like this one that created an assessment

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

district or assessment methodology is subject to referendum in the city of Lincoln. A referendum in the city requires, on the petition, 4 percent, 4 percent of the total participating city voters at the last general gubernatorial election. So it's fairly easy in this town to get a referendum put on the agenda. We did it for smoking. We did it for sidewalks. And there also is the initiative process. If they decided, with respect to trees, that they didn't want to do any assessment districts ever with trees, by initiative they could preclude that possibility. So there's lots and lots of involvement by law in the city of Lincoln. And by practice there is even more, because we have the habit and the custom of always going to neighborhood associations before we do anything affecting neighborhoods, and attempting to get the approval of the neighborhood association. And with regard to things that are particularly local in nature, we almost never do anything without the approval of a neighborhood association. So I hope we've gone the extra step and put into the statutory language that which the city of Lincoln would do anyway, but which can provide you with a reassurance with regard to what they will do. I might point out to you that we're doing even more for these tree districts than is already in the bill for sidewalk districts in cities of the second class. You've already put a provision in the bill for sidewalks that indicates that no petition process whatsoever is necessary in that instance. So we're doing a lot more here with trees than you've required for sidewalks in cities of the second class. With that, I think I'll stop. And Senator Price, unless you want the time back, I would...return the time to you.

SENATOR CUDABACK: Senator Price, did you wish to utilize your minute and five?

SENATOR PRICE: Thank you, Mr. Speaker and members of the body. I will welcome any questions that you have. As I had a...there was a good editorial in the Lincoln Journal-Star this morning, and there have been other handouts that have gone through the body, addressing...providing information, addressing some of the concerns. And so I would encourage your support so that we can move on this afternoon. And I thank you.

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

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

opening on AM1162 by Senators Price and Beutler. (Visitors introduced.) On with discussion of the Price-Beutler amendment. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Senator Beutler, would you yield to a quick question or two?

SENATOR BEUTLER: Sure.

SENATOR BOURNE: And again, I have...

SENATOR CUDABACK: Senator Beutler.

SENATOR BOURNE: ...I'm just trying to understand exactly how this works. So an individual...or, excuse me, the city council would propose a special assessment district. Is that accurate?

SENATOR BEUTLER: If you're identifying a beginning point, Senator, that may or may not be a beginning point. The beginning point might be that a neighborhood association would circulate a petition asking for the creation of a district, and then it would come to the city council and they would act upon the petition. Or it could start with the city council also.

SENATOR BOURNE: And then once a special assessment district, the proposal goes forward, it goes through the city council, from wherever it generate, then those people impacted, directly impacted--and by that I mean those that will have to pay a special assessment--they have an opportunity to go back to the city council and say, we don't want this.

SENATOR BEUTLER: They do.

SENATOR BOURNE: And is it...when you mentioned referendum, I mean, it does not have to go to a vote. It simply...if there's 100 property owners impacted, if 51 of those property owners say, we don't want to do this, then it's dead?

SENATOR BEUTLER: Senator, that's right. I may have confused you by referencing the initiative and referendum alternatives in the city of Lincoln. I just meant to point out that those are

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

alternatives in addition to...

SENATOR BOURNE: Understood. And again, I'm not opposed to this at all. I'm just trying to get sure in my mind clarity how it works. Can you tell me generally how large a special assessment district might be? I mean, are we talking about 50 homes, 100 homes, 1,000 homes? And I think it's relevant when you talk about organizing an effort to, you know, stop some sort of a special assessment, given there's 30 days to respond.

SENATOR BEUTLER: Yeah. Senator, there's nothing in the language of the bill itself that says how large or small a district might be. In fact, I think you would be hard put anywhere in the statutes to find out...to see any sort of size limitation like that anywhere in any of the statutes relating to any special assessment districts. It would be akin to an ornamental lighting district, such as we have in Lincoln. And normally, those are not more than a block or two of streets.

SENATOR BOURNE: And does the (inaudible)...

SENATOR BEUTLER: But just to be clear on the technical language of the bill, there's nothing that says what size it might or might not be.

SENATOR BOURNE: Okay. But no matter the size, there still is a 30-day time period by which those people affected in the designated special assessment district can protest and obtain relief, for lack of a better work, from this new tax?

SENATOR BEUTLER: That's right.

SENATOR BOURNE: Okay. Can I ask you another quick question? On the bottom of page 2 of the amendment, AM162, in line 25 it says, "as a special assessment against the property specially benefited to the extent of benefits received." Now, is...does that mean, to you,...if the price of the trees and labor and that to be planted is \$500, but does this language allow...it seems to me that the language is broader than that of the value of the trees and the labor it requires to put it in. Do you see where I'm coming from? The extent...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR BEUTLER: Senator, I'm not sure I do.

SENATOR BOURNE: When it says "benefited to the extent of benefits received,"...

SENATOR BEUTLER: Right.

SENATOR BOURNE: ...that's how much the special assessment against the property will be.

SENATOR BEUTLER: Right.

SENATOR BOURNE: If the actual dollar value of the tree is \$50 and it costs \$20 to put it in, the assessment is \$70. But the way this is worded, if...it's subjective as to how much value or benefit the planting...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...of those trees imparts upon the property. I mean, is the intent...?

SENATOR BEUTLER: No, the intent is that the city can recover its costs, Senator.

SENATOR BOURNE: And not recover the benefits, whatever that may be, the extent of the benefits received?

SENATOR BEUTLER: I believe if we looked in the law, in the case law on the interpretation of benefits, that it would indicate that we're talking about costs.

SENATOR BOURNE: Okay.

SENATOR BEUTLER: It's not an enhancement to real estate value, for example, if that's (inaudible).

SENATOR BOURNE: Okay. And that's what I'm suggesting. The language as drafted would imply that it could be the enhanced value. And you're saying, for the sake of the record, that it

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

is...the amount the assessment can be is the actual cost to the city of the planting.

SENATOR BEUTLER: Senator, I am. And legal counsel points out to me that there is also a...as part of this process, a preliminary statement of assessment that...

SENATOR CUDABACK: Time, Senator.

SENATOR BEUTLER: ...identifies those costs.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) On with discussion of the Price-Beutler amendment, Senator Janssen, followed by Senator Stuthman and eight others.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. I remember hearing this bill in Urban Affairs. And I...right away, I felt as though this is something that every city should have. But it only affects a primary city, as I read the legislation. It looks like the objections to Senator Price's bill have been met. We need to have these types of situations in cities, in my estimation anyway. And we need to go back and get more plantings in the urban area. Because as you all know, most of Omaha and Lincoln at one time were agricultural areas, where you didn't worry about the greenery that was there, and the oxygen produced by those growing things. And if you want to look at it a different way, I believe that this would enhance the value of your property. If you live on a street that there are, say, a nice row of the catalpa (sic) pears, that this time of the year are blooming to a great extent. They're the white flowers. At one time, I believe 17th Street was lined with those catalpa (sic) pear trees. Very beautiful trees. And during an ice storm they were taken out, and never replanted as far as I can tell. But I believe that, Senator Price, this piece of legislation is important enough, I think we need this discussion and we need to take another look at it. And hopefully we can get this through, and allow the city to get on the bandwagon again and start something that they had started years ago. And I think it's very beneficial to any city. And with that, I give the rest of my time to Senator Price, if she'd like to have it.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR CUDABACK: Thank you, Senator...who did you refer to, Senator Janssen?

SENATOR JANSSEN: Senator Price. I'll give her the remaining of my time.

SENATOR CUDABACK: Senator Price, about 2, 30.

SENATOR PRICE: Thank you, Senator Cudaback and members of the body. I want to remind you that included in this amendment is a procedure to allow citizens to stop the formation of an assessment district. This is nothing that's going to be done without their wishes. And assessment districts can be very small, they can be medium, or they could be large. But the larger they are, the harder they are going to be able to manage. Similarly, in statute there already exists the creation of districts for city sewage, drainage, and water service in cities of the first class. This legislation requires the city council to send out notices to affected property owners when a special assessment district is formed. This is by U.S. mail, to the property owner. Probably not the tenant if it's a rental. But it's to the property owner. And remember that it includes the statement that if more than 50 percent of the property owners in the proposed district protest the district formation by written protest to the city council and a petition form, that the district will not be formed. And so this is nothing that will be done without the will of the majority of the people. Thank you.

SENATOR CUDABACK: Thank you, Senator Price. Senator Stuthman, followed by Senator Smith and others.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I did engage in the debate, I think it was last week or the week before, when this bill was presented to us then, and it failed at that time. The thing that I want to get some more information on is, I would like to engage in a little conversation with Senator Beutler, if I could, please?

SENATOR CUDABACK: Senator Beutler, would you yield?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR BEUTLER: I would.

SENATOR STUTHMAN: Senator Beutler, the property that we're discussing is the city's right of way. It's not the property owner. Yes, the property owner does own that property, but it's on the right of way of the city. Who is responsible for maintaining or taking care of that property that's the city property, it's owned by the property owner, but it's the right of way for the city? Whose responsibility is that to maintain it, and whose responsibility is it for the elements that are on that right of way?

SENATOR BEUTLER: Senator, if I'm remembering correctly, it's the responsibility of the homeowner to maintain the right of way in front of their property.

SENATOR STUTHMAN: So in other words, if there's trees, you know, on that property, that would be the responsibility of the property owner, then, to maintain those trees? I think what we're trying to discuss now, whether, you know, the city is responsible for them. Is the city the one that's supposed to remove the trees? Is the city the one that is supposed to replant the trees? Or better yet, if there's a new development, you know, is the city responsible for planting the trees on their right of way? We also discussed a little bit about, you know, it's going to add valuation, beautification of a district, or add valuation. What is it going to add valuation to? It's going to add valuation to the property owner. If we develop these districts and assess them a tax to improve the valuation of their property, what happens when your property value increases? Your tax burden becomes greater. Let's say, if you have a \$200,000 home and it benefits you by \$20,000, \$220,000, you're going to be taxed on that \$220,000, and you're also going to be paying an assessment tax, in my opinion, for the beautification to improve your value. Yes, it improves the value of the individual property owner, but it also improves the total value of the area, the value of the city. That's all included in that. I would like to ask Senator Price a question, if I may.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR CUDABACK: Senator Price, would you yield?

SENATOR PRICE: Yes, I would

SENATOR STUTHMAN: Senator Price, are there other ways that, in these areas, in these districts, that if trees are needed, are there organizations that could donate trees, that could work with the city council? Or is this not possible? Maybe there's laws, there's jurisdictions, that don't allow anything like that, that there can be an organization, a boys group, girls group, any type of an organized group that could adopt an area to maintain, upgrade, plant trees? Can this be done?

SENATOR PRICE: With approval of the Parks and Rec, that this could be done. But it would have to be done with their approval.

SENATOR STUTHMAN: I think you're correct there, also because, you know, things that are put on that right of way need to be of a certain height, so it's visible on intersections or anything like that. But I'm really concerned, you know, are we trying to adopt something that people are going to be assessed on their property taxes, that they're going to be paying more in the long run? I do realize, you know, that there is a method, you know, of how...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...it can be taken care of, as far as, you know, if you don't want to get involved of it. But if 49...if 51 want to do it, there's 49 that don't want to do it, but they're going to be paying the bill also. So I'm really concerned about this. Yes, I realize that it doesn't affect me because it affects the city of Lincoln, the property owners of Lincoln. And you know, I think we as a legislative body need to take a look at everything in the state. So with that, I'll give the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Smith, followed by Senator Schimek and six others.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR SMITH: Thank you, Mr. President, members. Would Senator Price yield to some questions?

SENATOR CUDABACK: Senator Price, would you yield?

SENATOR PRICE: Yes, I would.

SENATOR SMITH: Senator Price, thank you. I apologize if you've already answered some of these concerns. We were in Exec Session for committee. But is this still subject to the lid? Would these...would this tax authority be outside the lid or inside the lid?

SENATOR CUDABACK: Senator Price or Beutler, are you responding?

SENATOR PRICE: It is outside the lid, Senator Smith.

SENATOR SMITH: So any further taxation...is the city of Lincoln up against the lid for property tax?

SENATOR PRICE: No, we are not, Senator Smith.

SENATOR SMITH: And so they would have the authority under the current lid to carry this out, but it would be across the whole city? Is that accurate?

SENATOR PRICE: Yes. The city currently budgets \$1.1 million for the planting and replacement of trees and tree maintenance. And so when budgets are tight...I know I'm on your time...this is the last project that generally is done.

SENATOR SMITH: The last project that...in comparison to what? I'm just curious.

SENATOR PRICE: Well, with other services that the city provides, the planting of trees is lowest on the list of projects for the city to do, compared to all of the services in the city.

SENATOR SMITH: Okay. But it's a prioritization set forth by the city council? Is that accurate? I mean, the city council

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

establishes those priorities. Okay. Thank you, Senator Price. I'm trying to wrestle with these issues. And I know this only has to do with cities of the primary class. But I also try to see how other towns have done tree programs. I know that the city in which I reside does a fine job with incentives for tree removal, incentives for replanting. Didn't need to be done outside the lid. That is something that I would like to add to this discussion and to this issue. It's just very difficult for me to say, yes, let's establish this outside the lid, when already there is some room within the lid. Perhaps I'm wrong. Perhaps I'm unreasonable. And I'm certainly willing to look at some of this. But those are my initial thoughts. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. (Visitors introduced.) On with discussion of AM1162. Senator Schimek, followed by Senator Chambers and others.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. Thank you, Senator Beutler and Senator Price, for bringing this amendment, and for trying to relieve some of our anxieties about this particular approach. Senator Beutler, I still have a couple questions, because I'm not sure if I have this procedure in my mind. And I tried to listen carefully, but I'm still not certain. First of all, I know that the assessment district can be set up by the city council. And upon that establishment, then they have to mail to all those residents in that particular assessment district. And then at that point, the...what can the residents of that assessment district do? They can at that time take out a petition saying either they do or they do not want that assessment district?

SENATOR BEUTLER: Yes. Senator, we provided two different ways of doing it, as is done in other sections of the statutes now. The alternatives are taken from the statutes. And the two different methods are this. You can start with a petition.

SENATOR SCHIMEK: I understand that.

SENATOR BEUTLER: Okay.

SENATOR SCHIMEK: But I'm asking about when the city council

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

establishes an assessment district. At that point, are the options for those residents to take out a petition either for or against that assessment district? Or am I misunderstanding?

SENATOR BEUTLER: Well, they wouldn't...at that point, they wouldn't have the option to do a petition for. I mean, a petition for would come in advance of the process. But they...but if there was not a petition....

SENATOR SCHIMEK: For.

SENATOR BEUTLER: ...for...to create it, by the time the ordinance was passed, then they would have the opportunity to do a petition against it.

SENATOR SCHIMEK: Okay. Well, I thought that's what I heard you say. But then when I looked at the language of the bill, I wasn't certain that I had heard right. So I wanted to make certain about that. And then the other part of it that I still have remaining questions on are on page 2. Somebody already started...I think Senator Stuthman started to ask you about this. And it says, "To provide for the planting, maintenance, protection, and removal of shade, ornamental, and other useful trees." The planting...

SENATOR CUDABACK: Senator...

SENATOR SCHIMEK: The maintenance, protection, and removal. Right now, once a shade tree goes in my yard on that city property, then I believe that the city maintains it and protects it and removes it. Am I wrong about that?

SENATOR BEUTLER: No, I think that's right. I mean, it's different from mowing your grass.

SENATOR SCHIMEK: Right.

SENATOR BEUTLER: I'm told that the city, by ordinance, requires the city to do all these things with respect to trees.

SENATOR SCHIMEK: Why would we ask the people in the protection

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

district or the assessment district to maintain, protect, and remove their own trees, then?

SENATOR BEUTLER: Well, Senator, if they want...if they want to handle the trees in their neighborhood in a manner, and to support them in a manner that the city is not able to do with the small amount of general funds that it can allocate to that work, then the idea is that they ought to have the ability to do that, the option to do that. Our city budget...

SENATOR SCHIMEK: But at the same time,...

SENATOR BEUTLER: ...our city budget for trees is not very large. And...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...any time there are significant budget problems, it's always the Parks Department and the peripheral kinds of things that are hit the hardest. So this is seen as a means whereby certain neighborhoods might want to do more.

SENATOR SCHIMEK: Do we have any idea of what part of the budget is for planting and what part of the budget is for all the rest of it, the maintenance and the removal and so forth?

SENATOR BEUTLER: Well, I think we do. I think the budget for actually dealing with trees in the city of Lincoln is set in a dollar-specific amount.

SENATOR SCHIMEK: I guess what I'm getting at, Senator Beutler, is, wouldn't it be fairer to ask everybody to plant their own trees but then have the city maintain everybody's trees, and not having the city planting any trees at all...

SENATOR CUDABACK: Time, Senator.

SENATOR SCHIMEK: ...anymore?

SENATOR BEUTLER: Did you say "planning" or "planting"? I'm sorry, I didn't...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR SCHIMEK: Planting.

SENATOR BEUTLER: Is that what...did you say...

SENATOR CUDABACK: I'm sorry, Senator Beutler, the...

SENATOR BEUTLER: ..."planting" in your prior question, too?

SENATOR CUDABACK: ...time is up. Thank you, Senator Schimek.
Senator Chambers, followed by Senator Bourne and six others.

SENATOR CHAMBERS: Thank you. Mr. President, members of the
Legislature, I'd like to ask Senator Beutler a few questions, so
that I'm clear on what's being discussed in terms of Lincoln.

SENATOR CUDABACK: Senator...

SENATOR CHAMBERS: Senator Beutler, in Omaha, there would be the
street, and there is a curb at the edge of the street. Between
that curb and the sidewalk is what may be referred to as the
parking.

SENATOR CUDABACK: Senator Beutler,...

SENATOR CHAMBERS: Now, in that parking, is that where these
trees will be located? Oh, and on the other side of the parking
is the sidewalk. Are the trees going to be on the other side of
the sidewalk, which would be in the property owner's yard? Is
that where these trees would be placed? Or would they be on the
parking between the curb and the sidewalk?

SENATOR BEUTLER: They would be almost exclusively between the
curb and the sidewalk, because that is the city right of way.

SENATOR CHAMBERS: Now,...

SENATOR BEUTLER: There's also...just to be clear with you,
Senator, there are also some streets in Lincoln that have
medians...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR CHAMBERS: That have what?

SENATOR BEUTLER: ...in the middle. Medians.

SENATOR CHAMBERS: Oh, yes, yes.

SENATOR BEUTLER: There could be trees in the medians.

SENATOR CHAMBERS: Okay. But I'm looking at that which is close to the property owner.

SENATOR BEUTLER: Right.

SENATOR CHAMBERS: Now, in Omaha, the property owner has to do everything with reference to those trees that are in the parking. They have to trim them so high above the sidewalk, so high above the street. And if they get diseased and have to come down, the property owner has to pay to take them down. I know this from very recent experience. In Lincoln, is that the way it is, that the trees in the parking are maintained and the responsibility...maintained by and are the responsibility of the property owner? Or is that the city's responsibility in Lincoln?

SENATOR BEUTLER: Senator, in Lincoln, that is the city's responsibility.

SENATOR CHAMBERS: So if these trees are placed in the parking for these purposes mentioned in the bill, the property owner would be assessed the cost of planting, maintaining, and whatever else has to be done with those trees?

SENATOR BEUTLER: If they created a district, that would be true.

SENATOR CHAMBERS: And that is not the case now? The property owner now in Lincoln is not responsible for those trees?

SENATOR BEUTLER: That's right.

SENATOR CHAMBERS: They've got a deal that Omaha...people in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

Omaha don't have. Now, if this district is created in Lincoln, and those trees are planted, if that tree falls on somebody, is the property owner liable, when the city planted the tree? Or is the...

SENATOR BEUTLER: No. No, that would be city responsibility also. I think that would logically follow, Senator.

SENATOR CHAMBERS: Okay. So all of the things I mentioned, trimming however high the branches have to be above the sidewalk and the street, the city would do that and then assess the property owner? Is that what would happen? Or, once the trees are there, there city would then take care of the maintain...let me ask it this way. Is there a one-time assessment on the property owner for this tree, no matter how long the tree is going to be there, or whatever has to be done to maintain it or even remove it? Is there that initial assessment and that's it?

SENATOR BEUTLER: I understand. The way this is structured, it would be possible to do that. But it would also be possible to engage the district in an overall tree program, where you did the planting, the maintenance, the protection, and the removal. It would be a total tree program for the neighborhood.

SENATOR CHAMBERS: And that assessment would cover all of those activities, whenever they would occur?

SENATOR BEUTLER: Yes.

SENATOR CHAMBERS: So a property owner could be assessed the cost of planting the tree. Then, let's say 20 years down the line, 10 years, the tree grows large enough to need the branches trimmed and some removed because they're diseased. The city would do that work and then assess the property owner the cost of having done it?

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Is that what would happen?

SENATOR BEUTLER: That's what would happen.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR CHAMBERS: Would the property...

SENATOR BEUTLER: Assuming you created that type of tree district.

SENATOR CHAMBERS: Yes. And I...this is hypothetical, so we can get at these issues. Is the property owner in a position to do with the tree what he or she pleases? Or that's within the province of the city as to how that tree will be trimmed, branches removed, maintained, and so forth?

SENATOR BEUTLER: That is within the province of the city.

SENATOR CHAMBERS: Okay. For now, that answers the questions I had. Thank you, Senator Beutler.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Foley, followed by Senators Hudkins, Friends, Beutler, Redfield, Smith, Schimek. Senator.

SENATOR FOLEY: Thank you, Mr. President. Senator Price, I wonder if you might yield to a couple of questions.

SENATOR CUDABACK: Senator Price, would you yield?

SENATOR PRICE: Yes, I would.

SENATOR FOLEY: I'm trying to follow all this. Let's say, hypothetically, the language becomes law, and the Lincoln city council then takes the action needed to create the districts, these tree districts. And I live in District 200, let's say. What's the next step? Does the city then say, okay, District 200, we're going to put trees in your neighborhood? Or is it the residents of District 200 who take the first step and say, we want trees in our neighborhood. Who takes the next step after these districts are created?

SENATOR PRICE: The city council, this is under their auspices, and they will create the district. And then a letter will be mailed to each of the property owners. Not the residents, but

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

the property owners in the district. Then there would be a chance then, once the city council visits with the...visits among themselves. The second time, there's a public hearing, so people can come together and either approve or protest. And then the city council then will take a vote.

SENATOR FOLEY: Okay. So the city council takes the initiative to say, okay, District 200, you've been selected for the tree program and you're going to get the trees. Then the people who live in 200, then they've got 30 days to react to that. Is that how it works? And you can file your petition to try to stop that. And then it's based on 50...or a majority of the record title property owners, based on front footage. But some of those property owners might not be taxpayers, for example, a school or church. They get to vote also, correct?

SENATOR CUDABACK: Senator...who are you asking, Senator Foley?

SENATOR FOLEY: I was asking Senator Price. But if Senator Beutler wants to jump in, that would be fine, if he'd care to. Either one.

SENATOR PRICE: Looking at the Urban Affairs legal counsel, he says, yes, that churches, schools, entities like that would be assessed.

SENATOR FOLEY: They would be assessed, based on their front footage, but they would not pay...would they pay the assessment? If the program were approved in that district, and 51 percent voted yes, based on front footage, would they be assessed also? Or just the...those who do not have a tax-exempt status?

SENATOR PRICE: Churches, schools, and so forth would be assessed, yes.

SENATOR FOLEY: They would be assessed as well. So they get to vote and they pay. Okay. Now, what if a neighborhood association...without this law, what if a neighborhood association wanted to take it upon themselves to initiate a tree planting program? How would that work, under existing law today? Do you know?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR PRICE: My understanding, Senator Foley, is that if...that would be welcome, I'm certain, but it would have to have city approval.

SENATOR FOLEY: So the neighborhood association would convene a meeting of the property owners and come up with a plan, and then they would file that with the city, and...

SENATOR PRICE: Because there are certain kinds of trees that are selected for certain areas. They just don't let anybody plant any kind of tree. So there are certain guidelines that would be urged to follow.

SENATOR FOLEY: Okay. All right, thank you. That helps me to understand the amendment. Thank you, Senator.

SENATOR CUDABACK: Thank you, Senator Foley. On with discussion. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members. I'd like to ask Senator Price a few questions, if I may.

SENATOR CUDABACK: Senator Price, would you yield?

SENATOR PRICE: Yes, I would.

SENATOR HUDKINS: Senator Price, I'm reading this amendment and I am really confused. If you look on page 3 of the amendment, AM1162, in the third line it says, "Upon the proposed formation by ordinance of a special assessment district." And then you go down a little further, and it says, no such improvement shall be finally ordered until a petition, signed by the owners, and so forth. And then, a little further down, it says, the sufficiency of the petitions and objections as presented. Who starts the ball rolling? Is it the city?

SENATOR PRICE: My understanding is that the city...probably the desired plan--and not being not respectful of taxpayers--is that the city, if this legislation is passed, they would create, based on their master plan, assessment districts. And then this

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

would be given to the city council to go on their agenda. And then the process begins in the hands of the city council.

SENATOR HUDKINS: Okay. And then on the next page, the fourth page of the amendment, it says, "If an assessment district is proposed without a prior authorizing petition." Well, you just said that the city council is going to start this, and now we're talking about a prior authorizing petition? I don't understand this at all. And then further down, it said, if more than 50 percent of the front footage...the parties may, by petition, stop formation. Are we going to have a petition to...?

SENATOR PRICE: I have the answer, Senator Hudkins.

SENATOR HUDKINS: Okay. Thank you.

SENATOR PRICE: At least something for you to respond to. There are two ways, when we talk about petition. A neighborhood or a group of people could petition for, and then it's turned over to the city council. And then, two, the city then could define the district, and then there would be a petition process for those in opposition. There could be a petition in support of, which would try to bring them up in priority order, and is turned over to the city council for them to act on. Number two, the city could designate an area, and then, if people are opposed, they could petition in opposition.

SENATOR HUDKINS: And before, someone asked you if Lincoln was up against its levy lid, and you said no.

SENATOR PRICE: Excuse me, I didn't hear you.

SENATOR HUDKINS: Before, you had said that the city of Lincoln was not up against its levy lid. And so this particular assessment would be outside the levy limits. Is that right?

SENATOR PRICE: This is what Urban Affairs legal counsel said, it is above the lid, yes.

SENATOR HUDKINS: And the new parts of town, the new additions, is it true that the developers, whoever that might be, provides

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

the first plantings of the right of way trees, or bushes, whatever?

SENATOR PRICE: I am being told that yes, the developer does the initial planting, and it becomes part...

SENATOR CUDABACK: One minute.

SENATOR PRICE: ...of the property, of course.

SENATOR HUDKINS: All right. So you're asking the people to pay a fee, and then they can form a petition to opt out? Is that correct? Yes or no?

SENATOR PRICE: Now, are you speaking of new developments only? On just citywide?

SENATOR HUDKINS: Citywide.

SENATOR PRICE: Citywide, if a tree assessment area is designated and it appears as a reading before the city council, on the second reading then, it is discussed and has public input. And then there's 30 days then for people to come up with petitions in opposition. There doesn't have to be any petitions in support. But petitions in opposition within 30 days of the hearing of the city council.

SENATOR HUDKINS: If these districts are large, it's going to be very difficult for 51 percent of the people to respond. Don't you believe?

SENATOR PRICE: Well, this is why in my earlier remarks I said that large...too large of districts are going to be...

SENATOR CUDABACK: Time.

SENATOR PRICE: ...too hard to manage.

SENATOR HUDKINS: Thank you.

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

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

followed by Senator Beutler and others.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, who would have thought that a few trees would bring the passion that I've heard so far today? Actually, I haven't heard a whole lot of passion, just a lot of general discussion. Wanted to add a couple things here that I think...we're heading down a path here, and I think that we...part of the reason, when it came through Urban Affairs Committee, I think part of the reason we got to where we are now, and the reason this came out to the floor, is because we really felt, I thought, the innocuous nature of the bill, that it wouldn't be as hard-hitting or impact-filled. Now, maybe we're wrong. Maybe we were wrong. But what I would say is this. We talk a lot out here on this floor. We've talked about it...we brought this up the last time this was out here, talked a lot about this in the past on different issues, about local control. What is appropriate type of local control? If you look at the verbiage, line 1, for example, on page 3 of AM1162, I guess, "The city may create districts by ordinance which shall designate the property within the district to be benefited." I...that is the epitome of local control right there, I think. I mean, it's...there's also notice. A little further down, in line 7, property abutting upon the street, streets, public way for public grounds proposed to be improved or parts thereof which are within such district not less than ten days prior to the public hearing for the ordinance. There's notice there. We're talking about taxing...we're talking about local taxing authority. How much could we offer them? How much could the Legislature, how much could the state give up? How much could we shift? How much needs to be shifted? They complain all the time to the Legislature about not having that type of authority. Line 15 on page 3, "no such improvement shall be finally ordered by the city council until a petition, signed by the owners of the record title representing a majority of the front footage of property directly abutting on the street" et cetera, et cetera. Now, kind of goes to the questions that were raised about the schools and the whole bit. I know that the city of Omaha, or city of Lincoln, I would imagine, in a situation where they've got the majority of that footage, is going to turn around and say, hey, look, this is not going to be a tree district; go

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

elsewhere, go forth and go find your tree district elsewhere, because this is not the place for it. So I think that that's a little bit unrealistic. Finally, I'd say this. We've added the safeguards, I think, to the degree Senator Beutler brought that up. An assessment district is being proposed without a prior authorization petition as described in this subdivision, the owners of the record title representing more than 50 percent of the front footage of the property abutting upon the streets, avenues, or parts thereof, which are within such proposed district, may, by petition, stop formation of such district. What we're doing now is empowering...I think we're empowering these local entities. We have to make a decision whether this empowerment is appropriate or not. I'll continue listening to the discussion. But I guess I'm beginning to think that with term limits, things happening...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...from a state level to our type of representation, maybe this type of creative thinking is important at this point. With that, I believe that's all I have here. Mr. President, thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Beutler, followed by Senator Redfield and others.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, if we pass this amendment, it will be one of the most conservative special assessment districts created in the state of Nebraska. It surprises me that all of a sudden people are giving such thought to special assessment districts, when we go on and on creating them without this kind of in-depth questioning. Well, it's a good debate. But just for an example, if you look on page 4...page 6 of LB 161, the very bill that we have, it says that cities of the second class can order the repair of sidewalks and assess it against the owners, without any petitioning, without any remonstrance, without anything except an ordinance. So what we're doing is a very conservative methodology, pursuant to the directions you gave us on General File. We have created a petition process whereby, by one method or the other method, 51 percent of the people in the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

assessment area are going to control what happens. And that's basically as we do for a whole large number of other types of districts. Your street goes through your neighborhood. The paving is done by special assessment, oftentimes, and assessed to the property owner. Does it increase the value of a home? It probably does. So we're not asking that anything be treated...created any differently. In terms of who pays the assessments, we're not asking for anything different there. When you do paving in front of a nonprofit corporation, establishment of one type or another, they pay part of the assessment. That's the way it is now. So it would be with trees. Of course, they also have the right to protest, though. So you know, if they...if they're going to protest, then you're probably not going to get a district. But the thing I want to continue to emphasize is that this is one of the most conservative forms of an assessment district. And I would hope it would be acceptable to you. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. Why don't we just remove the lids? Why don't we just remove the property tax lids? Senator Friend stood here at this microphone and talked about empowerment, and he talked about local governments making the decisions. Then I'm going to say, the ultimate empowerment is to remove the lids. Because it seems to me that we're doing our best to try to find ways around the lids that the Legislature has created to keep property tax burdens down for our citizens. Now, there are a number of things that enter into this picture. We have a series of boulevards through our cities. They're beautiful. They're fun to drive. And when the trees enhance the view, it benefits all of the citizens of the city, and all of the citizens from outside the city that come and drive down those streets. I drive into Lincoln every morning. I've enjoyed the roses during the summer, I've enjoyed the daffodils in the spring. And those are planted in the parking areas. There is something to be said for the general population sharing the cost of beautifying the cities. Because, in fact, everyone enjoys the view, not just the people who live along the square footage. Senator Stuthman

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

is right. It will raise the property taxes for those people as the trees grow up. And they will pay double, because they will in fact pay for the assessed value of their house as it increases. There are programs in place. We have, through the Environmental Trust Fund, Keep Lincoln Beautiful. There are some grant programs. Certainly, neighborhood associations can plant trees. And I will tell everyone that the thing I hate the most about New York City is the fact that there is not enough green. I abhor cities that don't have trees. But I will tell you that Nebraska has done a good job. In fact, last week, we had awards given to I don't know how many cities for planting trees and having trees throughout their cities. I don't know if Lincoln was one of the recipients. My guess is they were. Senator Hudkins, she alluded to 51 percent of the property owners having to gather a petition within 30 days. And that is a protection. But it is also a burden on those folks to find the notice, to have time in their schedule to go out and get those signatures. And remember that it is not the person living in the house you have to get the signature from, but the person who owns the house. So if there is a distant property owner, you don't even know who they are, and it would be pretty hard for anyone organizing a petition to get those signatures, if in fact the owner did not reside in the house. There is a provision in the handout from Senator Price. She said that service would be reliable, that street tree assessment districts would provide adequate resources for maintenance and upkeep of Lincoln's public tree infrastructure. And Senator Price, I'm going to give you the rest of my time to respond. My question is this. Once a tree district is formed, is this in perpetuity? Or is this a one-time assessment? Because if it's a one-time assessment, it can't deal with maintenance and upkeep. It can only plant trees. But the wording we see in the amendment would include maintenance. It would also include removal. So we could actually have an assessment to just remove trees, and nobody gets a tree at all. So I'm going to give you the remainder of my time to address those questions. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Schimek. I'm sorry. Senator Price, did you wish to use some of her time?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR PRICE: Yes. Thank you.

SENATOR CUDABACK: You may.

SENATOR PRICE: Senator Redfield, thank you for your time. And the information provided to me is that a special assessment district...

SENATOR CUDABACK: One minute.

SENATOR PRICE: ...can have a one-time fee, which includes planting, trimming, and removal, or they can...they can have this one-time fee, or they can revise it every once in a while, you know, based on their needs. But it...again, it has to be a majority of the people in the assessment district, to see if it's going to be a one-time fee. Because the cost of planting compared to the cost of removal is going to be much less. And so that would be up to the tree assessment district to make that decision. And so, again, we're having very good questions. I know that this is a bill that's concerned many people. And I thank you for your time, Senator Redfield.

SENATOR CUDABACK: Thank you, Senator Redfield and Senator Price. On with discussion. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I, too, have...had many questions, and some questions still linger, but I do think that Senator Beutler and Senator Price have done a good job in making certain that there's some protection for the citizens in these areas that would be special assessment districts. I also kind of related to what Senator Friend said, and I think, too, we often overmanage some of our local governments, and all we are really doing here is giving them the ability to establish these districts if they and their citizens so choose. Now I do still have questions about the inequities and what I perceive as three different classes of citizens that could be established by this, depending on whether they've already had their trees planted and the city maintains them and removes them; or whether they planted them themselves at their own costs, but the city still maintains them and removes them; or whether under this special assessment district they have to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

do all three. And that, I understand, could be done a variety of ways. But the bottom line, I guess, is that the city is going to have to justify to its citizens these special assessment districts, and I don't think it's going to be easy for them, but they ought to have that ability to try to convince their citizens that this is the thing to do. And I think that you will have a number of citizens who will not mind having that responsibility, who will not mind having those trees, will want those trees in their front yards. There will be those, however, who do not want to pay the costs. And so it may get down to a district-by-district vote, where some districts say, yes, we want to do it, and others say, we don't. But I guess at this point I'm going to vote for the amendment. I think there are protections and I think the citizens are protected. So I'm going to vote for your amendment, Senator Price.

SENATOR CUDABACK: Thank you, Senator Schimek. (Visitors introduced.) On with discussion of the Price-Beutler amendment. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I didn't realize my light was up quite this quick. I thought there was a lot of lights before me. But the thing that really does concern me is what is taking place right now in the city of Columbus with their right of way with the trees, and maybe I could refer that question to Senator Beutler, if I may, if he's here.

SENATOR BEUTLER: Sure.

SENATOR CUDABACK: Senator Beutler.

SENATOR STUTHMAN: Senator Beutler, how is this being...how is this taking place right now, the removal, replacement of trees?

SENATOR BEUTLER: Senator, I can tell you, I think accurately, for the city of Lincoln that with respect to trees it's the obligation of the city to plant trees if the budget is...if the general fund budget has money to do that, which it ordinarily does not have adequate money to do it. They're years behind. It's their obligation to trim trees. It's their obligation to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

remove trees. It is the city's obligation altogether with respect to those trees. I don't know how it is in the city of Columbus, because I'm not familiar with the laws that apply to cities of the first class and in that regard.

SENATOR STUTHMAN: Thank you, Senator Beutler. What I'm trying to really deal with here is, you know, what are we trying to accomplish with this? Are we realistically trying to get a method of trying to have additional taxation to certain areas? I understand, I've been kind of listening, that it's the group in the area that wants to do it and wants to be taxed more for that, and then again I'm kind of thinking it's, you know, the city that wants to develop these districts. Now, I would also like to ask Senator Price a question.

SENATOR CUDABACK: Senator Price, are you available?

SENATOR PRICE: Yes, sir.

SENATOR STUTHMAN: Senator Price, give me the basics of how this really starts. Does it come from a petition drive of a community that wants to be involved in the improvement and betterment of that? Or does it come from the top down from the city, from the local city administrator or city council? Where does the grass roots start from?

SENATOR PRICE: Either/or. If I live in my neighborhood and I see a need for trees, I can build a group of people out there and we can all get together and we can petition the city. And then with the petition then we can get on the list of the master plan for the city. And I don't know how their priority status is, if a petition moves ahead of their regular planting. So it could be done by a desire of the people. The other choice, and I don't know which one has priority, is where the city, with the passage of this legislation then, would establish tree districts, assessment districts for trees, and then the city council, with the approval of the city council and the input of the people, you know, for or against, if it's below 50 percent of the people that do not file a protest then these will be established. So it's either/or.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

SENATOR STUTHMAN: Thank you, Senator Price. That is what I kind of wanted to hear. I've been hearing different conversations that it just comes from the people in that area, and then I've also heard that it comes from, you know, the city jurisdiction down. That's a concern that I have. You know, I'm...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...sure that if there's an area that maybe had a lot of tree damage in a storm or something like that, they could create a district and then get those property owners, if they voted to, you know, to create that district and be assessed a taxation for improving that area. I just...I'm not comfortable with this. I realize that this is a Lincoln issue, but I'm really not comfortable because there is a method in place already to accomplish what they're trying to accomplish, but it seems like the dollars are not there and they're trying to find a way, you know, to create more dollars, put more dollars in the fund. I'm just really concerned about this, so I'm going to continue to listen to the discussion. Thank you.

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

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. Folks, we're looking at another choice situation here. If you're going to form one of these districts, it is up to the people who live within that area who are going to decide whether they want to impose a fee on themselves for beautification of their neighborhood. That's what it is. You look to the west side of this Capitol. Look at the mall that's out there. My gosh, you know, that thing is impressive to someone who's coming into this city and looks down that mall. I remember here a few years ago Senator Beutler would have liked to have established that same type of thing to the east side of the Capitol. And wouldn't that be impressive to someone coming into this state and getting up eight or ten floors here in the Capitol and looking out across that area? It's beautiful. Now if the neighborhoods who want to impose upon themselves an obligation to pay for this district, they may do so. If they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

don't want to do it, they don't have to. It's that simple. This is a choice of the people in that district. If they want to establish these plantings and so on and pay for the perpetual care, all at once if they want to, or they may pay it on a payment plan, the way I understand it. So I can't...I'm going to vote for this amendment and I'm going to vote for the bill. I think it's important. I think it's important to the city of Lincoln to have something that is that impressive, and I wouldn't doubt if other cities wouldn't come in and, after they see eight or ten years down the road what this city has done, wouldn't try something like that themselves. So thank you for the time.

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

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is not about lids. City of Lincoln is not trying to avoid a lid rule. They don't have to. It's not about creating inequities. You all know that in the large mass of improvements that go on in a community there are always going to be some perceived inequities. I bet every one of you lives in a town where there are some unpaved roads. Is that fair to all the taxpayers that there's unpaved roads in certain parts of town that aren't required to be fixed up like everybody else's? There are inequities all over the place, but that's part of the reason we have local control, to try to sort out those inequities at the local level and make the best of what we can. And that's what we're trying to encourage here, is to allow the citizens of Lincoln to deal with this on the local level. You know, trees have been a special thing in this state from the very beginning of the state. The diaries...the diaries of the pioneers are filled with this agonizing distress that people felt when they came out here on the plains and there were no trees, and Arbor Day was born. And Arbor Day has been associated with Nebraska for 100 years. The National Arbor Day Foundation, we're associated nationally with trees. And beyond that, within the state of Nebraska, I really feel like the people of the city of Lincoln have a special affinity for what they call their urban forest, and they want it to be special, and they don't want it to be run down for lack of funds. We just recently had a whole large citizen group form to deal with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

the question of financing of trees and parks and all those different things. It comes from the root. It comes from the grass roots. People in Lincoln like their green space, and the question is, will you allow us at the local level to create financing mechanisms whereby a majority of the people might express their interest in a higher quality, a higher level of care through these kinds of districts? And maybe it's an experiment that you should look at in terms of how it goes and what happens, what can happen in other communities. But is is a case of people feeling in a special way about something and wanting alternatives with how to do with it, and I hope you'll let us do it. Thank you.

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

SENATOR LANDIS: (Microphone malfunction)...call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM1162? All in favor vote aye; opposed, nay. We're voting on ceasing debate. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 1 nay to cease debate, Mr. President.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Price, did you wish to close, or Senator Beutler? Senator Price, you may close on AM1162.

SENATOR PRICE: Again, I thank you all for this good healthy debate that we have had. Let us do remember that this is nothing that's going to be forced on the public out there. These assessment districts will be created either by people who are residents, taxpayers of the city wishing to establish a district, or it can be established by the city council with approval at the second meeting of the city council, or disapproval by the citizens who this impacts. This is a Lincoln bill and, again, I appreciate all of the input. Yes, we are doing differently on tree planting here in Lincoln. One point one million dollars in the budget which is set by the mayor, and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

the budget is then approved by the city council, but those dollars there can be diverted for other uses as tree planting is on the lower part of the totem pole here in Nebraska in the city of Lincoln. Lincoln is the Tree City U.S.A. We have received this award. In 1997 there was this ice storm which devastated a lot of our trees. We are way behind in our planting and replacement of trees. I have assurance that all of these trees that are planted will not go just to the new areas, that they will also look at the existing areas of the city, the older neighborhoods. This is a bill that is extremely needed, as we need roads and as we need sidewalks, but this one is designated for trees. And I thank you for your good debate on this. I urge you to support this legislation, and as we travel to and from Lincoln you will see the fruits of your labors, of your vote. Thank you.

SENATOR CUDABACK: Thank you, Senator Price. You've heard the closing on AM1162. The question before the body is, shall AM1162 be adopted to LB 161? All in favor vote aye; opposed, nay. The question before the body is, shall AM1162 be adopted? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President, on the adoption of Senator Price's amendment.

SENATOR CUDABACK: The motion was successful. AM1162 has been adopted.

CLERK: Mr. President, the next amendment, Senator Beutler, AM1087. (Legislative Journal page 1165.)

SENATOR CUDABACK: Senator Beutler, you're recognized to open on AM1087 to LB 161.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, these are just two small cleanup amendments that the League of Municipalities is fine with, I think everybody is fine with. One simply with respect to the right reserved in the city to maintain and operate a sewer line, that word was expanded to "public utilities," because there will be situations in different cities where it's more than sewers, more than sewer

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 558

easements, that might be transferred to the city or to abutting landowners. So it would be advantageous to the League of Municipalities and the municipalities generally to have that be a little broader. And the second amendment simply clarifies that with regard to the easements that would transfer, we're not...we're talking about existing easements that are valid easements at the time title to the property is transferred. We're not talking about creating new easement rights, and so that clarification also is simply put into the bill. Again, technical amendments. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM1087. Open for discussion. Seeing no lights on, Senator Beutler. Senator Beutler waives closing. The question before the body is, shall AM1087 be adopted to LB 161? All in favor vote aye; opposed, nay. Voting on adoption of the Beutler amendment. Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment.

SENATOR CUDABACK: The Beutler amendment has been adopted. Mr. Clerk, next motion.

CLERK: Senator Dwite Pedersen would move to amend with AM1165. (Legislative Journal pages 1165-1166.)

SENATOR CUDABACK: Senator Pedersen, to open on AM1165 to LB 161.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. AM1165 is Senator Beutler's bill, LB 558, which I signed onto, and we heard it in the Transportation Committee and it had no dissension. Was all proponents; no opponents. We had one vote, present, not voting, and the rest of the committee voted it out; one...nobody absent. It basically takes the 25-year limitation off from railroad transportation safety districts for being able to bond. We only have two railroad safety transportation districts in the state. One is out of Norfolk and the other one is out of Lincoln. It is something

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161

that is very, very beneficial. They were formed to work on the safety problems with transportation in the cities, and they've done a good job. They continue to work, and all this does it take the 25-year limitation off from it. I would give the rest of my opening to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, about 8, 30.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this is...this is not a large item, but it's a kind of district that deals with those kinds of railroad problems that are important, I think, in most cities, certainly important in Lincoln, but probably more...even more important in cities of the first class around the state where crossings across railroads that go right through the middle of downtown and right through the middle of town are increasingly necessary, and this kind of district that can be formed by an agreement between the county and a city are essential to helping to build viaducts and accommodate the railroad coming through the middle of town and creating safety for the citizens and dealing day-to-day with that railroad line that comes through the middle of the town. So the purpose is as Senator Pedersen explained. It's simply to allow them to continue the work in the same forms that they've done the work in the past.

SENATOR CUDABACK: Thank you, Senator Beutler and Senator Pedersen. Open for discussion on AM1165. And there is an amendment. Mr. Clerk.

CLERK: Senator Chambers would move to amend Senator Pedersen's amendment, Mr. President.

SENATOR CUDABACK: Senator...is he...is he...is Senator Chambers present? Senator Chambers is not present so we will go ahead and discuss the present amendment before us. Open for discussion. There are no lights on. There are no lights on. Senator Stuthman.

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

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 558

SENATOR CUDABACK: Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Will try.

SENATOR STUTHMAN: Could you refresh my memory as to what was your original bill number?

SENATOR Dw. PEDERSEN: The original bill number was LB 558.

SENATOR STUTHMAN: LB 558. And again, what was the voting on that bill when it was in committee?

SENATOR Dw. PEDERSEN: Seven yeses and one present and not voting. You were a one who voted for it.

SENATOR STUTHMAN: And I was the one that did not vote, right?

SENATOR Dw. PEDERSEN: No, you are not.

SENATOR STUTHMAN: But I voted for it.

SENATOR Dw. PEDERSEN: You voted for it.

SENATOR STUTHMAN: Okay. That was a...that was a concern of mine and I didn't remember exactly what bill that you had. I guess I'm not listening enough or what I should be listening to. But realistically then, Senator Pedersen, this doesn't change anything, it just changes the bonding authority as far as railways creating viaducts, or can you relate that again to me one more time, please?

SENATOR Dw. PEDERSEN: All it does is change the bonding time, (inaudible) extends it; takes the 25-year limitation off, period.

SENATOR STUTHMAN: So that is the only major effect of this bill then, the way I understand it.

SENATOR Dw. PEDERSEN: The only.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 161, 551

SENATOR STUTHMAN: Okay. Thank you. And that's all that I have and I'll return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: There are no more lights on. Senator Dwite Pedersen, you're recognized to close. He waives closing. The question before the body is, shall AM1165 be adopted to LB 161? All in favor vote aye; those opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Dwite Pedersen's amendment.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Is anybody present authorized to handle the Chambers amendment, FA156? Seeing nobody present to handle the Chambers amendment, any further discussion on advancement of LB 161? Seeing none, anything else further on the bill, Mr. Clerk?

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

SENATOR CUDABACK: Senator Flood, you're recognized for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 161 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 161 to E & R for engrossing. All in favor say aye. Opposed, nay. LB 161 advances. Mr. Clerk, LB 551.

CLERK: LB 551. Senator Flood, I do have Enrollment and Review amendments pending. (AM7075, Legislative Journal page 1077.)

SENATOR CUDABACK: Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 551.

SENATOR CUDABACK: You've heard the motion to adopt the E & R amendments to LB 551. All in favor say aye. Opposed, nay.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

They are adopted.

CLERK: Senator Jensen would move to amend with AM1113.
(Legislative Journal page 1138.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on AM1113.

SENATOR JENSEN: Thank you, Senator Cudaback, members of the Legislature. AM1113 is a technical amendment that was brought to me by the Douglas County Attorney's office. The amendment deals with the commencement of a mental health board proceedings. Last year when we passed LB 1083, a provision was deleted which provided that a mental health board proceedings commencement, when the county attorney indicated his or her intentions to file a mental health board petition. AM1113 would reinsert that provision with slightly revised wording. The exact provision would read as follows: Mental health board proceedings shall be deemed to have commenced upon the earlier of (a) the filing of a petition under Section 71-921 or (b) notification by the county attorney to the law enforcement officer who took the subject into emergency protective custody under Section 71-920 or the administrator of the treatment center or medical facility having charge of the subject of his or her intention to file such petition. The county attorney shall file such petition as soon as reasonably practicable after such notification. The Douglas County Attorney's office indicates that this is a very helpful provision to retain because of the inability to actually file a petition with a court on a weekend or a holiday. This would retain the ability of the county attorney to indicate his or her intention to file a petition when a person has been placed in emergency protective custody, and it is not immediately possible to file a petition with the court. The amendment is technical in nature and deals with reinserting a provision that the...earlier was removed when we passed LB 1083 in 2004. I would ask for its adoption. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Discussion on the Jensen amendment? Senator Jensen, there are no lights on. Did you wish to...he waives closing. The question before the body

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 177, 551

is adoption of the Jensen amendment to LB 551. All in favor vote aye; those opposed, nay. We're voting on adoption of the Jensen amendment, AM1113, which is an amendment to LB 551. Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Jensen's amendment.

SENATOR CUDABACK: AM1113 has been adopted. Mr. Clerk, next motion.

CLERK: Senator Jensen would move to amend with AM1122. (Legislative Journal page 1139.)

SENATOR CUDABACK: Senator Jensen, to open on AM1122.

SENATOR JENSEN: Thank you, Mr. President. LB...or AM1122 contains provisions of LB 177 as amended by the Health and Human Services Committee relating to the licensure of alcohol and drug counselors. The amendment deletes a requirement that psychologists and physicians who serve as practical training supervisors for persons seeking provisional license as an alcohol or drug counselor, Section 71-1,356, or as clinical supervisors for supervised clinical work experience required for licensure as an alcohol or drug counselor, Section 71-1,358, to have a specialized training in alcohol or drug counselling and the 12 core functions sufficient to protect the public. The amendment requires that psychologists and physicians who serve as practical training supervisors or as clinical supervisors have sufficient training as determined by the Board of Medicine and Surgery for physicians or the Board of Psychologists for psychologists in consultation with the Board of Alcohol and Drug Counseling, and adopted and promulgated by the Department in rules and regulations. The committee amendment to LB 177 was intended to recognize the necessity of having qualified persons to supervise persons seeking licensure as an alcohol and drug counselor. It also recognizes the autonomy and uniqueness of the various professional boards in overseeing practitioners of that profession. It recognizes that the Board of Alcohol and Drug Counselors...Counseling has a legitimate interest in the qualifications of psychologists and psychiatrists who are going

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

to supervise prospective licensees. The amendment also seeks to give clarity to the issue by requiring adoption of rules and regulations. This is a public process which will also allow for open debate about the issues involved. With that explanation, I would ask for adoption of this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on AM1122. Discussion? Senator Jensen, there...Senator Howard.

SENATOR HOWARD: Thank you, Mr. President. Would Senator Jensen yield for a question or two?

SENATOR JENSEN: Yes.

SENATOR HOWARD: Thank you, sir. I had a concern brought to me by a constituent and I would appreciate information, basically, on the matter. To raise the issue of the drug or alcohol evaluation, if an employer requires an employee to undergo a drug or alcohol evaluation, a chemical evaluation, and the stipulation is the payee of this evaluation, would there be any stipulation on which licensed evaluator they could use? Could...do you see an instance where this would be a questionable situation?

SENATOR CUDABACK: Senator Jensen.

SENATOR JENSEN: Yes. Senator Howard, and I've been thinking about this issue and you had related to me off the floor, and it would seem to me that my experience, when an employer requires an employee to get an evaluation, typically that is at the employer's expense. Certainly...and I had a son of mine who recently went to work for a company and they required a UA, but that was paid for by the employer, required of the employee. Now it's my understanding that if he would have failed that UA, urine analysis, that the employer could have said, you need to go then for an SAP, I believe they're called; anyway, an evaluation. And it would seem to me in most cases that the employer would pay for that. Now maybe some employers have some different requirements that, since you failed the UA, you must

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

get this evaluation and you must pay for it yourself. I really don't know what the circumstance might be there, but that would certainly be my understanding generally, that the employer would stand that expense.

SENATOR HOWARD: Well, sir, in following up on this, would it seem to be...would it seem to make sense to say that if the qualifications of the evaluator were equivalent, were equal, and both are recognized as individuals qualified to do this, that if one, in fact, were less expansive than another and the employee were required to pay for this, that he would have the option to avail himself of the less expensive evaluator, if you'd know the answer to that.

SENATOR JENSEN: And I don't know, and I...I would certainly be willing to work on this between now...and yes, I know the next is Final Reading. But I would have no objection pulling this back from Final Reading to take care of that issue. And the only thing that I might add is that if there would be a federal law that says something different, then that be taken care of. But that's something I think that we could explore between now and Final Reading.

SENATOR HOWARD: Oh, thank you. Thank you, Senator. I appreciate that very much. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I'm only going to speak for a couple of minutes and speak about the drug and alcohol counseling. That's what I do for a living. I am a drug and alcohol counselor. And it's not any different here, as I see it, than it is when we're working for the criminal justice system. I'm a licensed alcohol, drug abuse counselor. Do I do the same job as every other counselor does? No, I don't. And there are people and organizations who probably have preference in who they want to do their work. What I want to mention here hasn't got a lot to do with this bill, but it's to bring you a little bit closer to what we deal with on a daily basis. We have a lot of people

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

send us people and want us to treat people just because they've got in trouble with one of the substances. The one I want to talk about most is alcohol because the other substances outside of, say, alcohol, marijuana is what I'll talk about...the other substances, usually if they're using them, we're talking about addiction almost immediately. But there's no sense in sending somebody to treatment and sending somebody to counseling who may not be an alcoholic or a drug addict. And this happens on a regular basis, that the society wants these people to have treatment and wants them to have counseling because it thinks it's going to make them well. There's not a counselor out there I know that can heal anybody. If you're not willing and wanting to change, you can work any program and any counselor. I've been in the business for 23 years, and I know that I'm taken for a ride at least once or twice a month, if not more. So, we don't heal people, but we offer a program, and sometimes we offer programs to people who don't need it because we sell programs. And that, I think the counselors are working on much more closely together now in the state than they ever did before. We must work on society more to say that, you know...I have people for instance, judges who send me people who want them to have treatment, think we're going to heal them. But they don't need any aftercare and they don't need any follow-up afterwards. And they don't require any self-help meetings in the meantime. Go over and see Dwite for...once a week for 14 weeks and you'll be healed. That doesn't happen. Senator Jensen's bill here is a good bill. I am supportive of it. I know that I'm not really talking about that, but I have some real frustrations in the counseling business. I see Senator Synowiecki down there looking at me. We worked together for years--it's when he was a probation officer and I as a counselor--how this business can be overused, and by being overused, cutting out services for some of those people who really need it. So, what Senator Howard is talking about, I would think if an employer wants a special counselor to go to, then the employer ought to pay for it. If they want the employee or the candidate to pay for it, then I think they ought to be able to pick their own. And can there be games played with that? There could be games played on either side, people, either side. Thank you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

SENATOR CUDABACK: Thank you, Senator Pedersen. Further discussion, Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. I appreciate Senator Dwite Pedersen's remarks. Senator Jensen, would you yield for a question or two?

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes, I will.

SENATOR SYNOWIECKI: Senator Jensen, as a follow-up to Senator Howard's expressed concerns, I think her concerns are relative to access on the consumer level to some of these services. But correct me if I'm wrong, Senator Jensen. Statutorily, the scope of practice to perform substance abuse evaluations is related to a psychiatrist, a psychologist, a licensed mental health practitioner and a LADC are all the professions, if you will, that can provide substance abuse evaluation services. Is that correct?

SENATOR JENSEN: To my knowledge, yes, that is correct. I'm quite sure.

SENATOR SYNOWIECKI: And this amendment really has nothing to do with consumer access issues. It's really related to practical training and supervision of the LADC. Isn't that correct?

SENATOR JENSEN: That is correct.

SENATOR SYNOWIECKI: So these issues relative to access by the consumer is not embodied at all within your amendment that you're presenting here. Is that correct?

SENATOR JENSEN: Yes.

SENATOR SYNOWIECKI: Okay. So I just wanted to make sure we're clear that this is not in any way, shape or form mandating the use of a psychiatrist or mandating the use of a psychologists, a LADC or an an LMHP. It simply sets out the parameters by which if you're a psychiatrist or if you're a psychologist, what the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

criteria is needed to be a practical training supervisor. Isn't that correct, Senator?

SENATOR JENSEN: That is correct.

SENATOR SYNOWIECKI: Thank you, Senator. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Further discussion on AM1122? Seeing none, Senator Jensen, you're recognized to close.

SENATOR JENSEN: Yes, Senator. I just want to say I appreciate the conversation, both from Senator Synowiecki and Senator Pedersen. And Senator Howard, I will...let's look at this a little further between now and Final Reading. If we feel it is deemed necessary to pull this back, I don't have an objection to do that. With that, I would just ask for AM1122 to be amended into LB 551. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the closing. The question before the body is, shall that amendment be adopted, AM1122? All in favor vote aye; those opposed, nay. We're voting on adoption of AM1122 to LB 551, introduced by Senator Jensen. Have you all voted who care to? Record please, Madam Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays, on adoption of the amendment, Mr. President.

SENATOR CUDABACK: AM1122 has been adopted. Madam Clerk, next amendment, please.

ASSISTANT CLERK: Mr. President, the next amendment I have is from Senator Jensen. Senator, I have AM1146. (Legislative Journal page 1166.)

SENATOR CUDABACK: Senator Jensen, you're recognized to open on AM1146.

SENATOR JENSEN: Thank you, Senator Cudaback. This is the last

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551, 709

amendment. And this amendment concerns itself with actually a bill that Senator Flood introduced that did two things. It talked about a tracking system on those individuals coming out of the regional centers, and then also that we would maximize Medicaid for behavioral health. And through that maximize...would be to bring in a contractor in order to help the state of Nebraska maximize that. There was some discussion that this could be maybe a \$175,000 expense, and so there would be an A bill attached to LB 551. With the passage last week of LB 709, the Medicaid bill, perhaps it would be better that that cost, if we do bring in somebody to maximize Medicaid, that it be part of LB 709 rather than of LB 551. I have visited with Senator Flood, and I think he's acceptable to this. So all this would do is remove that section from the committee amendment that requires the division of Behavioral Health Services to contract with one or more national entities to review current Medicaid funding for behavioral health services and to make recommendations about increasing that funding. So this section...and the section requires a report to the Governor and the Legislature on or before December 1, 2005. So by removing that section, it would remove any General Fund fiscal impact from this bill and it allows for a broader and more thorough review of Medicaid program under LB 709. That is what it does. It removes a section so there would not be an A bill attached to LB 551. I'd ask for its adoption. Thank you, Mr. President.

SENATOR CUDABACK: You've heard the opening on AM1146. Senator Flood, for discussion.

SENATOR FLOOD: Thank you, Mr. President and members. I want to thank Senator Jensen for working with me so well on this. I'm okay with this amendment because I do think that looking at Medicaid is very important and it will find a nice home on Senator Erdman's bill, it would be my hope. But it is very important that we look and spend the money needed to make sure we maximize our resources so that we're getting as much Medicaid as possible, especially when it comes to behavioral health. And there is probably no one in here that would disagree with that, and I just want to put a pitch in early for this amendment that will come back on Senator Erdman's bill. It's worth the \$175,000 if we're going to maximize our funding and get more

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 551

back to help supplement the behavioral health efforts. So I would just urge your support at a later date and I'll certainly support this amendment in the spirit of moving along a very good bill that the Health Committee has put a lot of work into, and that also includes a tracking system when it comes to behavioral health, so we can keep an eye on these folks when they leave the regional center and make sure they receive quality services following their departure and transition from regional center. I yield the rest of my time to the Chair. Thank you.

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Thank you, Senator Flood. Senator Jensen, there are no further lights on. He waives closing. Okay. Jensen amendment AM1142. All those in favor signify by...excuse me. Okay. All right. All those in favor by voting aye; those opposed, nay.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Jensen's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 551 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 551 to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. We now go to Final Reading. Mr. Clerk.

CLERK: Mr. President, I have a motion on the desk with respect

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

to LB 503. Senator Raikes would move to return the bill to Select File for a specific amendment, AM1046. (Legislative Journal page 1098.)

SENATOR CUDABACK: Senator Raikes, you're recognized on your motion to return for a specific amendment.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is an issue that is being revisited. You may recall that on Select File we considered and did not adopt an amendment that would have provided school districts additional budget and levy authority to deal with the increased contribution rates for employers in order to make up the state's...well, or the shortfall, I should say, in the retirement funds. That shortfall amounts to about \$15 million per year. About half of that is being made up by increased rates, contribution rates, by employers, and the other half by employees. This amendment, the one I'm asking you to consider is a...what I would consider a compromise amendment on this issue. It would give school districts additional budget authority, but not levy authority, to deal with the retirement contributions that they are...they would be obligated to under LB 503. The approach taken here is, rather than a once and for all increase in the budget base, it is a specific budget exception for the two years. And I hope that you have a handout in front of you which describe...the heading reads, AM1046, and so on. Explains the specific provisions. It would allow for a .74 percent increase in the budget exception, if you will, in 2005-2006 school year, and a .59 percent in the 2006-2007 school year. The budget exception corresponds exactly with the increased contribution rates that are called for. The levy limitations would not be modified under this amendment, proposed amendment. And also, the increased contributions by the employees, not the employers, would also not be reflected. There is a fiscal note. Well, or there a fiscal impact, I should say. Because we would be increasing the spending allowed by school districts by...our estimate is about \$10 million of budget authority in the '05-06 year, about \$8.4 million in the '06-07 year. The increased aid obligation in '07-08 could be as much as \$9 million. And the increased aid obligation in '08-09 could be as much as \$7 million. So there is a fiscal

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

impact. You should be aware of that. But the belief is that this is an obligation being placed on school districts. It seems appropriate to allow them this additional spending authority, not levy authority, for the two years, and only the two years involved, in order to deal with this obligation that they now face. So with that, I would be happy to address any questions. I would ask your support to return LB 503 to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on the motion to return for specific amendment. Open for discussion on that motion. Senator Stuhr, followed by Senators Smith and Kremer. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. First of all, I want to rise in support of the amendment. As you recall from the earlier debate on this bill, the employee and the employer retirement contributions would be increased for a two-year period in order to meet the required actuarial contribution amount as determined by the State Actuary's report last November. Under LB 503, the employee contribution rate will be increased from 7.25 percent to 7.98 percent for '05 and '06, and then to 7.83 percent in '06 and '07. Thereafter, the rate would return back to 7.25 percent. Because the employer rate is determined by the employee contribution rate, the employer rate will be increased from 7.32 percent to 8.06 percent for '05-06, and then to 7.91 percent in '06 and '07. That .74 percent in '05-06 and that .59 percent in '06 and '07 is the exact budget authority that we are asking for in this amendment. Had the schools and the school members not come forth and agreed to do this rate increase, the state of Nebraska would have had to pay about \$14.9 million each for the next two fiscal years. The state is required to fund the actuarial contribution shortfall from a defined benefit plan, unless a structural change is made to the retirement plan, such as the change that we have done in LB 503. There has been some discussions on whether school employees and employers should be responsible for this amount, or should this state be responsible for the additional contribution. The additional contribution rate needed now is because of the downturn in the market in 2001 and 2002. In 2006, even if the market does perform according to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

its historical trend, and with these increased contributions from the school and the school employees in LB 503, it is expected that the state will be required, or will need to make an additional contribution to the school fund. And I believe that the Appropriations Committee is aware of that. I think that LB 503, with this amendment, it does strike a good compromise. And I do really appreciate the respective school districts and the employees coming forth to approve this contribution rate. And I would hope that the body would approve this amendment, which would provide some additional budget authority to the school districts. With that, I ask for your support to return this to Select File. Thank you.

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

SENATOR SMITH: Thank you, Mr. President. Would Senator Raikes yield to a few questions?

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR SMITH: Senator Raikes, I'm trying to piece together the proposal here with my own thoughts. And you said that we wouldn't be setting this outside the lid, or there wouldn't be a relaxation of the lid, but this would affect the budget authority. Is that accurate?

SENATOR RAIKES: Yes. What I should have said is, we're not going to do a once and for all increase in the budget base. Rather, there would be a budget exception for this...the amount that would...they would actually be obligated for, for two years and two years only.

SENATOR SMITH: Okay. So if a district has...or, is not up against the lid of property tax...the levy limit, I should say, so there's some capacity there, this...these expenditures would fit within that capacity?

SENATOR RAIKES: They could. I think the obvious way to see the benefit would be, if a school had, as you described, capacity on

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

the levy side, but were up against the budget lid, then this would give them an opportunity to do the additional spending to cover this amount, and they could raise the funding via property taxes. Now, if they still have room under the budget lid, then there probably would not be a whole lot of benefit to them from this, because they could increase their spending amount even without this particular exception. Keep in mind, there are two lids--one dealing with the ability to levy; the other one,...

SENATOR SMITH: Right.

SENATOR RAIKES: ...the authority to spend.

SENATOR SMITH: And so those with the ability to levy could accomplish that with the levy; those without the ability to levy would get it through state aid?

SENATOR RAIKES: No. If in fact...let me make sure I understand the scenario you're painting. If you've got a school system that has...is up against the levy lid, but not up against the spending lid, then the only way they could cover this obligation would be to shift spending within the school budget from something else to cover this. And they would be required to cover it. If the school district had a levy authority but was up against the spending lid, this would allow them additional spending authority, which they could fund by moving closer to their levy lid.

SENATOR SMITH: Right. But if they're up against the spending limit and the levy limit, then it would come out of state aid?

SENATOR RAIKES: Well, state aid is based on actual expenditures by the school system two years down the road. The increased impact on state aid from this results from the fact that there would be additional spending allowed by this, and that that would thereby increase general fund operating expenditures, which drive needs calculations two years down the road. But in terms of an immediate impact on state aid, say for the '05-06 school year, there would be none.

SENATOR SMITH: But the long-term impact, you're saying that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

there could be.

SENATOR RAIKES: The long-term, yes. Two years down the road, there would be additional...to the extent there is additional expenditures for equalized school systems, it will end up as additional state aid.

SENATOR SMITH: Okay. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Kremer.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. Senator Raikes, I'd like to kind of follow up. And I think you answered some of the questions that Senator Smith asked. What would happen then this next year if they need to contribute more to the retirement? But you say it would not be more money coming in the next '05-06, I think you said?

SENATOR RAIKES: That's correct, Senator. There...this would give them additional ability, if you will, to operate within their own fiscal situation, given the state...we certified state aid February 1, this past.

SENATOR KREMER: Okay.

SENATOR RAIKES: And so without some change beyond this, that amount of state aid is set. So...

SENATOR KREMER: Okay.

SENATOR RAIKES: ...this is not going to affect the state aid that will be available for the 2005-2006 school year, or, in fact, for the 2006-2007 school year. To the extent there were more expenditures because of this, there would be an impact on the 2008-2009 state aid.

SENATOR KREMER: But...so if they were against the levy lid, then where do they come up...they have to adjust their spending somewhere else, then,...

SENATOR RAIKES: Right. Right.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

SENATOR KREMER: ...for the next couple of years?

SENATOR RAIKES: This doesn't give additional...

SENATOR KREMER: Are they...?

SENATOR RAIKES: ...authority to raise money with a levy.

SENATOR KREMER: Are they supportive of doing this? I know it's going to be shared by the employees also. But then...

SENATOR RAIKES: It's a good question, Senator. And as I say, I think this is a...probably somewhat a reluctant, but an agreement,...

SENATOR KREMER: Okay.

SENATOR RAIKES: ...that this is...it's less than the amendment that was offered on Select File. There's not both levy and budget authority here. It is going part way. But I think for a number of school systems, it will help.

SENATOR KREMER: Okay. One other question. In a nonequalized school, it would really have no impact on state aid, even down the road; they would just have to go higher on their levy assessment until they get up to lid on that?

SENATOR RAIKES: Right. To the extent they remain nonequalized,...

SENATOR KREMER: Okay.

SENATOR RAIKES: ...that's true.

SENATOR KREMER: Okay. Thank you.

SENATOR RAIKES: Thank you.

SENATOR CUDABACK: Senator Raikes, there are no further lights on. Do you wish to close on your motion to return?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 503

SENATOR RAIKES: Thank you, Mr. President. I would just say that, again, this is something...an agreement that is maybe reluctantly come upon, but I believe there is agreement. So I would urge your support in the motion to return. Thank you.

SENATOR CUDABACK: You've heard the close on the motion to return. The question before the body is, shall LB 503E be returned for a specific amendment? All in favor vote aye; those opposed, nay. The question before the body is, shall the bill be returned from Final Reading? Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR CUDABACK: The motion was successful. Mr. Clerk, please.

CLERK: Mr. President, Senator Raikes has AM1046.

SENATOR CUDABACK: Senator Raikes, to open on AM1046.

SENATOR RAIKES: Thank you, Mr. President, members. I hope the amendment has been adequately explained. If it hasn't, why, I'd be happy to try to respond to questions. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening. Open for discussion. Senator Raikes, there are no lights on. Senator Raikes waives closing. The question before the body is, shall AM1046 be adopted to LB 503E? All in favor vote aye; those opposed, nay. The question before the body is AM1046. Record please, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes' amendment.

SENATOR CUDABACK: The motion was successful. AM1046 has been adopted. Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the advancement of LB 503E to E & R for engrossing.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 11, 2005 LB 13, 389, 503
 LR 76

SENATOR CUDABACK: The motion is to advance LB 503E to E & R for engrossing. All in favor say aye. Opposed, nay. It is advanced. Mr. Clerk.

CLERK: Mr. President, excuse me. I have a Reference report, referring LR 76. And Senator Landis, an amendment to be printed to LB 13. Senator Price would like to add her name to LB 389 as cointroducer. (Legislative Journal page 1167.)

And finally, Mr. President, priority motion. Senator Mines would move to adjourn until Tuesday morning, April 12, at 9:00 a.m.

SENATOR CUDABACK: The motion is to adjourn until April 12, 2005, 9:00 a.m. All in favor say aye. Opposed, nay. We are adjourned.

Proofed by: AEG