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Floor Debate
April 02, 2009

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor Jordan Stubbendick of the Bethlehem Lutheran Church in Davey, Nebraska, Senator Haar's district. Please rise. []

PASTOR STUBBENDICK: (Prayer offered.) []

SENATOR ROBERT: Thank you. I call to order the fifty-fourth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR ROBERT: Thank you. Are there any corrections for the Journal? []

CLERK: I have no corrections. []

SENATOR ROBERT: Are there any messages, reports, or announcements? []

CLERK: Enrollment and Review reports LB532, LB511, LB464, LB464A, LB463, LB551, and LB517 to Select File, some of which have Enrollment and Review amendments attached. And that's all that I have, Mr. President. (Legislative Journal pages 883-884.) [LB463 LB464 LB464A LB511 LB517 LB532 LB551]

SENATOR ROBERT: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda: Legislative confirmation reports. []

CLERK: Mr. President, two reports this morning. The first by General Affairs involving a series of appointments to the Nebraska Arts Council. (Legislative Journal page 864.) []

SENATOR ROBERT: Senator Karpisek, as Chair of the General Affairs Committee, you are recognized to open on the legislative confirmation report. []

SENATOR KARPISEK: Thank you, Mr. President. Good morning, members of the body. The General Affairs Committee held confirmation hearings March 23 for five positions on the Nebraska Arts Council. The appointments for the Nebraska Arts Council included

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the appointments of: Louise Kent of Scottsbluff; Jeanne Ross of Kearney; and Robert Nefsky of Lincoln; as well as the reappointments of Vicki Bromm of Wahoo; and Julie Jacobson of North Platte. All of these appointees received unanimous support from the General Affairs Committee and I would ask the body to confirm these appointees. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Senator Karpisek. Are any of those wishing to discuss the report? Senator Price, you're recognized. []

SENATOR PRICE: Mr. President, members of the body, I rise in strong support of the committees' actions. I was there. I talked with them and/or their representatives. And I will say that the people that came forward, both existing members and new members, exemplified what we Nebraskans should hope to have on the council and the diversity and the experiences bar none, I'd hesitate to say. So again, I stand in strong support of what we saw from the people that came before the committee. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Senator Price. Senator Hansen, you are recognized. []

SENATOR HANSEN: Thank you, Mr. President. I, too, would second the nomination of the group that the General Affairs Committee is confirming this morning. Julie Jacobson is from North Platte and a very long-time supporter of the arts and will do a fine job on that, and so will Vicki Bromm from Wahoo. I thank the General Affairs Committee for bringing these names forward. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Senator Hansen. Seeing no other lights on, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. Members, the question before the body is, shall we adopt the legislative confirmation report? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. []

CLERK: (Record vote, Legislative Journal pages 884-885.) 35 ayes, 0 nays, Mr. President, on adoption of the report. []

SENATOR ROBERT: The report is adopted. Next item, Mr. Clerk. []

CLERK: Second report, Mr. President, by the General Affairs Committee involves two appointments to the State Electrical Board. (Legislative Journal page 864.) []

SENATOR ROBERT: Senator Karpisek, you're recognized to open on the legislative confirmation report. []

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SENATOR KARPISEK: Thank you, Mr. President, members of the body. The General Affairs Committee also held confirmation hearings March 23 for two positions on the State Electrical Board. The two appointments for the State Electrical Board included the appointment of Stanley Elsasser of Bellevue and the reappointment of George Morrissey of Omaha. Both of these appointees received unanimous support from the General Affairs Committee members. I ask the body also to confirm these appointees. Thank you. []

SENATOR ROBERT: Thank you, Senator Karpisek. Members, you have heard the opening on the legislative confirmation report. Are there any wishing to speak? Seeing none, Senator Karpisek waives closing. The question before the body is, shall the legislative confirmation report be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. []

CLERK: (Record vote, Legislative Journal page 885.) 37 ayes, 0 nays, Mr. President, on adoption of the report. []

SENATOR ROBERT: The report is adopted. Next item on the agenda: General File senator priority bills Christensen division. []

CLERK: Mr. President, an announcement if I may: The Revenue Committee will meet at 9:30 in Room 2022. LB430, discussed yesterday, a bill by Senator Christensen (Read title.) The committee amendments were presented by Senator Ashford as Chair of Judiciary. Senator Christensen had an amendment to the committee amendments that was adopted. I do have other amendments to the committee amendments, Mr. President. (AM835, Legislative Journal page 840.) [LB430]

SENATOR ROBERT: Senator Christensen, you are recognized to open on LB430 and bring us up-to-date on the committee amendments, please. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. What the committee amendments do is narrows this down to concealed carry only where it was broader to all firearms previously. It has a military exemption in there that allows if you're stationed here and not a resident paying taxes here to be able to carry. They are a most trained people which makes sense. And then this bill also allows reciprocity between the states. And that's probably a quick review of where we're at with the bill at the present time. Thank you. [LB430]

SENATOR ROBERT: Thank you, Senator Christensen. Members, we will move onto discussion of AM835. Those wishing to speak: Senators Fulton and Ashford. Senator Fulton, you're recognized. [LB430]

SENATOR FULTON: Thank you, Mr. President, members of the body. I put my light on

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right away. This is as much therapy for me as it is informative for you. I watched much of this occur yesterday from my sickbed yesterday at home, and it was killing me. This is my priority bill. I thank Senator Christensen for bringing the bill. This is an important bill because it is a perfection of the concealed carry law that was passed before I was in this body, before many of us, pretty much all of us, were in this body. Presently, we have a situation where law-abiding permit-carrying concealed carry citizens can find themselves in trouble breaking the law by moving from one city to another city. That needs to be rectified. There ought to be a consistency and that's what we're doing within this bill. And I understand there are going to be amendments to follow, and when those amendments come forward I'm hopeful that we're able to talk about some of the principles behind the Second Amendment, individual rights to protect oneself, and how that translates into the conceal carry policy that is the law of the state of Nebraska. As I watched yesterday, I was a little concerned that we were missing the very basic and fundamental point behind concealed carry. It's not that we're making policy such that we have a new way of enforcing law or getting bad guys. The underlying premise of concealed carry legislation is that an individual has the right to defend himself. And it's not so clear with concealed carry how that's an extension of the Second Amendment at the federal level, but it becomes more clear when we start to delve into the policy. But I'm hopeful that we can focus on that reality as the underlying premise behind the concealed carry legislation that is indeed the law of the state of Nebraska. So I will be...I have received my therapeutic treatment. I will listen in and I'm hopeful that we can move LB430 forward and will be attentive to the other amendments. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Fulton. Senator Ashford, you are recognized. [LB430]

SENATOR ASHFORD: Are there any other lights on? [LB430]

SENATOR ROBERT: Not right now. [LB430]

SENATOR ASHFORD: Are we going to go to the committee amendments or... [LB430]

SENATOR ROBERT: Yes. [LB430]

SENATOR ASHFORD: All right. I'll use this time just to go through the committee amendment. Just to refresh the memory of the body on this issue. We have adopted Senator Christensen's amendment which establishes that if someone has a permit to carry a concealed weapon and has gone through the training and successfully completed the training, has not violated...is not a violent offender, and has not committed a felony that those individuals would be able to carry a concealed weapon anywhere in the state of Nebraska. That is not excluded in state law. And, again, if you look in the green copy or if you look at the existing law there are a number of places that

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exclude carrying of a concealed weapon under state law. The idea behind the Christensen amendment, and I believe it's good policy, is that we have in my view under the concealed weapon law have enhanced the training and enhanced the requirements necessary to carry a gun in the state, a handgun in the state and to conceal that handgun. By doing so, in my view, that is a safer process and it's a statewide process than to have various city ordinances which may have different requirements for two reasons. One is we have a state policy now and the state policy is clear and it is...in my view, it does provide sufficient safety for the citizens of the state. In fact, enhances, in my view, the safety of the citizens of the state because we are now promoting the idea of having people adequately trained. We're promoting the idea of individuals who have not committed violent crimes getting the ability or receiving the license, in effect, to carry a concealed weapon. To me this is good policy. To me this is...we also have a highly regulated system here. We have the State Patrol issues the permits. The State Patrol keeps records of these permits, keeps records of those people who have had their permits revoked. And there have been a few revocations of permits since the concealed weapon law was originally passed, but a very few. To me it's a well-organized better way to encourage individuals to get training and to encourage law-abiding citizens to get training. And I was thinking about, you know, about this and have been thinking about it in great depth because years ago I certainly engaged in some pretty difficult battles with my allies now and that would be the gun advocate groups who did not like the permit to purchase back in the early nineties. And it was pretty tough, those were tough battles. And those of you who were here, and one the clerk and others, who will remember how difficult those battles were. But now with the permit to purchase system having been in existence for a number of years and talking to gun dealers and gun owners and whatever that there is a sense of security that this permit to purchase system is in place, that at least a retailer knows that...has some reasonable degree of certainty that when they sell a firearm to an individual an individual, handgun to an individual there's been a background check done. And now... [LB430]

SENATOR ROBERT: One minute. [LB430]

SENATOR ASHFORD: And now with this added level of protection we have individuals who not only have had background checks done but have gone through training. And we're not talking about thousands and thousands of people anyway, we're talking about a few thousand people who have obtained these permits. To me, it is good policy to promote this kind of training and this kind of skill. And that's why I support the Christensen amendment. I think we're safer for it. And that though there may be some conflicts with certain ordinances across the state...and I understand that cities would like to pass their own ordinances on these issues and sometimes they do, but to me the idea of safety and of doing these complete background checks does in fact balances out any local option argument. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Ashford. (Visitors introduced.) Mr. Clerk, do

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you have an amendment? [LB430]

CLERK: Mr. President, the first amendment this morning, Senator McCoy would move to amend with the committee amendments with AM936. (Legislative Journal page 881.) [LB430]

SENATOR ROBERT: Senator McCoy, you're recognized to open on AM936. [LB430]

SENATOR McCOY: Thank you, Mr. President and members of the body. I rise this morning to discuss AM936 to this bill. What this amendment would seek to do would to allow a place of worship to authorized its security personnel for concealed carry with a written notice given to the congregation. And here would be a few reasons why. Sadly and unfortunately in our country places of worship have been the target of a number of violent attacks in the last ten years. In the last ten years, 11 incidents have been reported of violence in places of worship in which 38 individuals have died with 17 injuries. Law enforcement also believes places of worship are a target that requires this type of protection, including Douglas County Sheriff Tim Dunning. I would note also that places of worship includes more than just churches. That's also our synagogues and mosques as well because unfortunately and sadly enough those locations also could encounter these types of violent situations. You received a handout this morning that shows that 38 states, including the District of Columbia, allow conceal carry or will in the next several weeks in places of worship. I also would note that of all the incidence of violence in places of worship in the last ten years, not one time has there been an incident of an accidental discharge of a weapon in those instances. So certainly in this particular case where we're talking about security personnel, certainly believe that this will give an added measure of protection to our places of worship. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator McCoy. Members, you have heard the opening to AM936 to the committee amendments. Those wishing to speak are Senators Karpisek, Wightman, and White. Senator Karpisek, you are recognized. [LB430]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I did want to stand today and say that I was wrong yesterday when I said that I think businesses should be able to disallow concealed carry. They are able to and I just wanted to clarify that fact. Again, I spoke yesterday about I am not real wild about the idea of the concealed carry in the first place, but I don't want to go through that whole discussion again, redebate that bill. That's past and that's fine. I am always on the side of local control, and that's where I'm having the biggest problem on this bill is the local control issue. However, I do agree that if someone has a pistol in their glove box or under their seat to keep it away so it's not in the public's view, and if they would be pulled over that they could be ticketed for that, I don't think that that is right. And when we do have a mismatch of different ordinances that it could be a problem. So I will support the original

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bill and the Judiciary amendment. I don't know that I will support any other amendments. But I just did want to say that at this one time I will step away from my local control issue and vote for the bill because it probably is the best thing to do. And I really hate to mar my record on standing up for local control, but this one time I think I'll have to step away from it. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Karpisek. Senator Wightman, you are next and recognized. [LB430]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would like to ask some questions of Senator Christensen if he would yield. Maybe he's not here. [LB430]

SENATOR ROBERT: Senator Christensen, will you yield to a question? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR WIGHTMAN: Glad you had your track shoes on, Senator. (Laughter) I wonder if you could answer some questions. You may not know the answers to these questions. How many conceal carry permits are there in the state of Nebraska? [LB430]

SENATOR CHRISTENSEN: Right here. Just a second. Four-thousand five hundred sixty-five as of mid-March. [LB430]

SENATOR WIGHTMAN: Okay. And those have all become registered to carry conceal weapons since January 1, 2007, is that correct? [LB430]

SENATOR CHRISTENSEN: Yes, at the start of the bill, yes. [LB430]

SENATOR WIGHTMAN: The bill was actually passed in 2006 that allowed the concealed carry. Senator Christensen, do you know how many NRA members there are in the state of Nebraska? [LB430]

SENATOR CHRISTENSEN: No, I do not. [LB430]

SENATOR WIGHTMAN: I assume we have a continuing number of conceal carry permits each year, is that correct? Do you know? [LB430]

SENATOR CHRISTENSEN: Say that again. [LB430]

SENATOR WIGHTMAN: Do we have additional permits issued on a monthly basis in the state of Nebraska for concealed carry? [LB430]

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SENATOR CHRISTENSEN: I believe that's true. There's generally a few applying all the time. [LB430]

SENATOR WIGHTMAN: Can you tell me, Senator, how long we had a ban on concealed weapons in the state of Nebraska? [LB430]

SENATOR CHRISTENSEN: I cannot. [LB430]

SENATOR WIGHTMAN: Can you tell me what the background check consists of if you were going to get a concealed carry permit in the state of Nebraska? [LB430]

SENATOR CHRISTENSEN: Well, they check to make sure that you have no felonies and I guess I don't know beyond that. I would have to go look in the statutes, but I do know that felony is one of the main things they look at. [LB430]

SENATOR WIGHTMAN: Thank you. I am going to support LB430 with the committee amendment. I don't know that I'm going to support anything beyond that. I can see the confusion that is caused by people driving from one city to another not knowing whether a concealed weapon is going to be allowed and we have allowed them within the state. At the same time I have a lot of problems with expanding this and even with regard to AM936, and I know that that would be permissive only and would have to be voted on, I think, by the congregation of the church. And so it would require the church to take affirmative action. But it just seems to me that every time we allow an exception...for years I heard from NRA members that we didn't dare ban any weapon of any kind because if we let the camel get his nose under the tent, then the tent would be lifted up and we would no longer have a right to exercise the right granted us by the constitution to carry arms. It seems to me now maybe we've let the camel, being the NRA, get its nose under the tent and they want to limit every limitation that's been placed on it, on the right to carry concealed weapons. I just think that there's got to be a limit to this right to carry concealed weapons. It was suggested that I should feel much safer because a number of people within the state of Nebraska have the right to carry concealed weapons. Well, I don't feel safer as a result of that. I will go ahead and, as I say, vote for this to avoid the confusion of allowing cities to opt out. [LB430]

SENATOR ROBERT: One minute. [LB430]

SENATOR WIGHTMAN: Even that I have a lot of questions about, but I will vote for it. But as far as amendments that are going to further erode the right to certain types of institutions to not have concealed weapons carried in them--courts, courthouses, public buildings that post a notice, I do not think I'm going to vote for any further exceptions. So with that, I thank you, Mr. President. Thank you, Senator Christensen. [LB430]

SENATOR ROBERT: Thank you, Senator Wightman. Senator White, you are next and

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recognized. [LB430]

SENATOR WHITE: Thank you, Mr. President. I rise, actually, in support of Senator McCoy's amendment, and it seems to me a descent respect for my fellow senators and the citizens of this state demands that I explain why. I look at my church as a place of reconciliation, a place of peace, a refuge from violence, a place to contemplate, in my tradition, the message of Christ, the message of brotherhood, the message of forgiveness, hardly a place for weapons. Nevertheless, in my own church has been recently seriously victimized by people who do not see churches that way. They see churches as very inviting targets. My church had a very valuable South American painting cut from its frame, very valuable. It was then transported out of the country to Mexico. The perpetrator of that was recently arrested not only on that charge, but also on the charge of raping his daughter who was forced to watch and stand watch as he cut the painting from the frame. A gun would not have prevented this. But I am also mindful, and I am a civil rights attorney by avocation, that there have been long periods in our country when churches have been despised and hated, when they have been targeted. In the South not too long ago there was a long series of African American churches that were burnt to the ground, and it was a series of arsons that went on over years and many churches were destroyed. If a church deems it necessary that they have a security personnel armed, and then as many churches if they're carrying out their mission, they do not have a lot of extra money, they cannot afford an off-duty police officer, they cannot afford people to stand guard that they pay, but they need that. I have to tell all citizens that there is a history of violence against churches that extend because of religious differences, because of racial differences, because they're seen as inviting targets. Given that history, given the personal experience of my own church being victimized, I greatly and reluctantly acknowledge that the history of this country justifies a valid fear of churches that would warrant them to need security. You know, Christ calls us to be soldiers and to have the strength to be peaceful in the face of violence. That is not always something we can achieve, but the right and the need to protect churches and the role they've played in social change and otherwise convinces me that Senator McCoy's amendment is justified. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator White. Those wishing to speak: Senator Schilz, Council, Ashford, Stuthman, and Harms. Senator Schilz, you are next and recognized. [LB430]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning and I stand here in support of Senator McCoy's amendment. I think that just as Senator White so eloquently said, you know, it's a fact that we live in a world that sometimes you have to defend yourself. And I just look at the situation as one of those where it does make sense. You never like to think about it and as people have said, you know, you probably...do we really want people standing out in front of the church with guns hanging off of their hips and things like that. I think that in this case, you know,

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concealed carry makes some sense there. Why provoke something if you don't have to? So that's the way I look at it. I would urge everyone to support this amendment and support the underlying bill. I think that it gets us back to where our forefathers have always intended for those freedoms to be had by our citizens. So with that, I will cede the rest of my time to Senator McCoy, if he so chooses, and thank you very much. [LB430]

SENATOR ROBERT: Senator McCoy, 3 minutes 40 seconds. [LB430]

SENATOR MCCOY: Thank you, Mr. President. As Senator White so eloquently noted, churches have been targets of violence in our nation's history. And this amendment would merely seek to allow churches the ability to have their security personnel carry concealed weapons. I will also note that AM936 is much more restrictive than the statutes in the other 38 states that currently have this ability. And I believe that's prudent and wise that we are very restrictive to make sure that this is well-intended. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator McCoy. (Visitors introduced.) Retuning to discussion, Senator Council, you are next and recognized. [LB430]

SENATOR COUNCIL: Thank you, Mr. President. I rise, again, in opposition to the amendment as well as the underlying bill. I certainly appreciate and respect Senator White and his historical review of violence and churches. But I want to remind this body that in that same historical context when this body passed the carry conceal permit it believed then and I think it should continue to believe that a church is not a place to carry a concealed weapon. It was one of the specific places that this body determined to not be appropriate for the carrying of concealed weapons. And while there have been incidence of violence in churches involving weapons, I, again, would please ask my colleagues to review those incidents and look at each of those situations because in the overwhelming majority we were not talking about strangers entering the church and opening fire. In most of those cases those were members of the church itself. And so what we are saying is we're going to sanction shootouts in churches by allowing everyone to come in armed. And with regard to the underlying bill...and, Senator Wightman, I appreciate your comments, and we referred to what the real issue here, what is really being sought by this legislation and I think we ought to look at it because we have been told, this body has been told that we need this legislation because law-abiding citizens who drive from one city to another and have a carry conceal permit are at risk of violating the law as soon as they cross from one jurisdiction to another that has local ordinances. This legislation is a direct attack on local control of the carrying of concealed weapons. And I will direct you to the place in the current statute that supports my position that this is a direct attack on local control. We've heard about someone driving from La Vista to Papillion sitting at parking lot, sitting at a stop sign, crosses over, oops, gets stopped, and they're carrying a concealed weapon. And Papillion/La

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Vista has an ordinance against a person with a carry conceal weapon driving on the streets. You've already made provision for that situation. I direct your attention to the current statute, ladies and gentlemen; 69-2441(2) specifically states a permitholder carrying a concealed handgun in a vehicle into or onto any place or premise does not violate this section so long as the handgun is not removed from the vehicle while the vehicle is in or in the place or premises. So if a carry conceal permitholder is sitting at a stop sign in La Vista that has a ordinance prohibiting the carrying of concealed weapons on its streets, this statute already provides that that permitholder is not subject to any penalties. [LB430]

SENATOR ROBERT: One minute. [LB430]

SENATOR COUNCIL: You're made provision for that. This is all intended to override the will of communities who have decided to restrict carry conceal. Now, I find it interesting that everyone is willing to bow to the will of individual churches who say we want to have guns, but you're not willing to bow to the wishes of citizens who have elected officials in their local communities who have passed ordinances restricting where carry concealed weapons can be held. So, ladies and gentlemen, I ask you to carefully look at the statute as it's currently written. None of these people if they're inside their car driving through a community are subject to any violation of any local ordinance because you're already provided for it. And if they get out of a car and walk into a store and there's a sign there, they should already know it. And if there are any other places, and commonly the places that people gather...and to Senator Janssen's point yesterday, interestingly enough, ladies and gentlemen,... [LB430]

SENATOR ROBERT: Time. [LB430]

SENATOR COUNCIL: ...you specifically accepted this body. [LB430]

SENATOR ROBERT: Thank you, Senator Council. Senator Stuthman, you are next and recognized. [LB430]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. As I stated yesterday, I did not support the conceal carry when it was passed at that time because I really don't think that people should be having concealed carry. The thing that really concerns me...and I haven't made a decision yet on if I want to support this amendment or not, and the issue that I have is the fact that, you know, how many churches or places of worship have security at the present time? I do not know. So, Mr. President, I would like to ask Senator McCoy a question. [LB430]

SENATOR ROBERT: Senator McCoy, will you yield to a question? [LB430]

SENATOR McCOY: Yes. [LB430]

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SENATOR STUTHMAN: Senator McCoy, would you have any idea as far as how many places of worship have security 24/7 on their premise? [LB430]

SENATOR McCOY: I do not know, Senator Stuthman, the exact number of that. I will give you a little bit of information on...Nebraska is currently the home of nearly 30 what are considered and categorized as megachurches. And these places of worship have approximately 500 families or more or 2,000 or more members. And my wife and children and I are a member of one of those churches in Omaha. So nearly 30 churches. Now, of those churches which have 24-hour security I don't know the answer to that question. I can speak to our church, our place of worship. And we have security systems, obviously, 24 hours a day. We have a security team and security personnel in place on Sundays during worship and during worship hours. As far as the specifics on that I don't know the exact number of churches that have 24-hour security. [LB430]

SENATOR STUTHMAN: Okay. Thank you, Senator McCoy. I think the fact is and I think there are a lot of churches in the past years have installed security systems, have locked up churches. And, you know, it used to be the church, in my opinion, was never locked up because it was open to anyone that wanted to come there any time of the day or the evening to worship if they wanted to. And I think that's very important. I would like to ask Senator Council a question if she would respond. [LB430]

SENATOR ROBERT: Senator Council, will you yield to a question? [LB430]

SENATOR COUNCIL: Yes, Senator Stuthman. [LB430]

SENATOR STUTHMAN: Senator Council, you had just stated in your testimony in your conversation the fact that an individual as long as he's in the automobile and he came from a community that allows concealed carry and he travels to another community that doesn't allow concealed carry, as long as he's in the vehicle he is exempt because he's not actually in any part of the area that does not allow concealed carry. That is correct? [LB430]

SENATOR COUNCIL: Well, as I read the statute, Senator Stuthman, that is correct. A permit holder carrying a concealed handgun in a vehicle into or onto any place or premise does not violate this section so long as the handgun is not removed from the vehicle. So unless these people are jumping out of moving vehicles, they are not subject to any sanction by a local community because this law allows them to carry that weapon in that vehicle. [LB430]

SENATOR STUTHMAN: In other words, the individual that does have a concealed carry permit and he's got a concealed carry and he drives into a community that doesn't allow the concealed carry, that individual could remove it from his body and place that

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handgun... [LB430]

SENATOR COUNCIL: In the glove compartment. [LB430]

SENATOR STUTHMAN: ...in the glove compartment, which is concealed. [LB430]

SENATOR COUNCIL: Yes. [LB430]

SENATOR STUTHMAN: And that would take care of that if the individual is aware of, you know, the fact that that community does not allow it. [LB430]

SENATOR ROBERT: One minute. [LB430]

SENATOR STUTHMAN: But the fact is he can go to that community, still have his gun with him or his weapon with him, and place it in the glove compartment while he attends a function or a business or whenever he does an activity in a community he's still in compliance. [LB430]

SENATOR COUNCIL: According to the express language of the existing statute, Senator Stuthman, that is correct. And in that community he or she could do whatever he or she could do under the statute. If you look at the places where carrying the concealed weapon is prohibited...I want someone to come and tell me what the problem is that the permitholders are having in terms of where they're being denied the right to carry their concealed weapon. [LB430]

SENATOR STUTHMAN: Okay. Thank you, Senator Council. I think this answers quite a few of the questions that I have because I have constituents that say that, well, they carry...they drive to another community and they... [LB430]

SENATOR ROBERT: Time. [LB430]

SENATOR STUTHMAN: Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Stuthman and Senator Council. Senator Harms, you are next and recognized. [LB430]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator McCoy, would you please yield for just a couple questions? [LB430]

SENATOR ROBERT: Senator McCoy, will you yield to a question? [LB430]

SENATOR McCOY: Yes. [LB430]

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SENATOR HARMS: Senator McCoy, I'm struggling a little bit with your amendment. Primarily I've listened to Senator White and all the comments that have taken place or I get kind of pulled astray in regard to the fact that this is a house of God. And what's happened to America that now we have to authorize security and someone to carry a gun in the Lord's place? To a certain degree it has a tendency to offend me. But I want to go to the amendment if I can, Senator McCoy, and I want you to look at security personnel. That's where part of my problem lies. And that is the fact that we do not have a formal certification training program or approval process for security personnel. It depends a great deal upon the company that you might have, but in this great state of Nebraska we do not have security, excuse me, we do not have certification to meet specific requirements or training. And for me that's where that problem, the major problem lies. And the only reason, Senator McCoy, that I'm familiar with this is because I was asked to introduce legislation this year to address that issue. And I didn't quite have enough time in my schedule to do that, but I have every intention to introduce legislation hopefully to bring before the Judiciary Committee to address this issue. That's where my fear lies. Some of these companies just put a gun in a person's hand with very little formal training and said now you're a security guard. Folks, I think we're asking for an accident waiting to happen here and I don't think this is right. I think before we go any further with this piece of legislation we should define what this personnel is and what are your thoughts about this? Are you aware of that? [LB430]

SENATOR McCOY: Um-hum. I am. [LB430]

SENATOR HARMS: And you still feel comfortable, Senator McCoy, with where we are? And I guess, you know, in urban American and megachurches, you know what, you might be okay. But where I worry about is you get into rural America and further away where you don't have the kind of training programs that might be available and they hire anyone to be a security guard, give him a gun and say, you're going to make my place secure, I'm really offended by that. Taking my grandchildren in that church and looking around and thinking my, this person has a gun, maybe concealed, but I don't think he or she is trained to deal with the issues. I guess that's my problem and I'd like to hear what your views are about that. [LB430]

SENATOR McCOY: Well, thank you, Senator Harms, for your comments and I'd be happy to address those. You're probably aware of this, it was brought to my attention in the last few days that the Department of Homeland Security held a conference in Kansas City a few weeks ago for this specific area of security of our large churches in the Midwest. And it's my understanding that similar conferences were held in other parts of country. I might also note that it's my understanding that virtually all of these large churches where this is sadly enough been an issue across the country has mostly been in significantly-sized churches. These security teams are usually off-duty police officers or sheriffs deputies or retired or active duty military... [LB430]

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SENATOR ROBERT: One minute. [LB430]

SENATOR McCOY: ...that have had a lot of experience in this. Thank you. [LB430]

SENATOR HARMS: Senator, I think that's good, but that's not going to be true in every place that you go and that's my problem. Okay. And I think that if we're going to do that, then we ought to be indicating rather than security personnel we ought to say policemen or off-duty because I think we're asking for a problem here and I have great concerns about this part of it because I just know what's going to happen in some of these smaller rural churches. I know that we've used...in my previous life we used policemen off duty for security and things. I understand all that. But in these small churches I have fear for that and I don't think it's going to happen. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Harms and Senator McCoy. Senator McGill, you are next and recognized. [LB430]

SENATOR MCGILL: Mr. President and members of the body, I stand opposed to this amendment. As I talked about a little bit yesterday I'm not the biggest fan of conceal and carry, but I can understand the uniformity as far as traveling with guns in cars and etcetera, etcetera. But when it comes to an amendment, as Senator Council put most eloquently and several other senators had made this point too, this list that Senator Christensen gave us of all of the exceptions of where a permitholder cannot carry a gun, this is just going to be eroded year after year. It's churches this year. It'll be universities next year, which have also historically been a target. Political rallies is on this list historically have been targets to violence. This is just the beginning of peeling away bit after bit. In fact, the last couple of years we've had bills to deal with the conceal and carry uniformity issue that didn't include these other amendments, but already every year they come back wanting something bigger and something broader to allow conceal and carry in more places. You know, if you want security with weapons in church just don't conceal them. You can have them there, just don't conceal them. If you really want a deterrent, then that's the way to do it. I just can't comprehend why we would want to start peeling away at this list this year because it's just going to keep coming back with more and more issues because, you know, you can make an argument for any of these exceptions to conceal and carry that somebody should be able to protect themselves. Well, bring a weapon, just don't conceal it then. I honestly just don't get it, and we're just starting a snowball effect with an amendment like this. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator McGill. Senator Hansen, you are next and recognized. [LB430]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Senator McCoy, would you yield? [LB430]

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SENATOR ROBERT: Senator McCoy, will you yield to a question from Senator Hansen? [LB430]

SENATOR McCOY: Yes. [LB430]

SENATOR HANSEN: Senator McCoy, can you describe a little bit about your church and some of the security measures that you do now and how that would change between that and a security...I don't remember what it says in your amendment, but the security people...personnel in a church. What would be the difference of what you're doing now and if the amendment would pass? [LB430]

SENATOR McCOY: Well, thank you for the opportunity to address that, Senator Hansen, I would be happy to do so. In the case of my particular place of worship we hire off-duty Douglas County sheriffs deputies that are uniformed and armed as security personnel. It's usually two or three depending on the Sunday, and I assume probably depending upon the availability of who we can get that stand guard, for lack of a better term, over the entrances to our church. This amendment's intention is not to supplant such hired security personnel. It's merely intended to supplement and enhance such security personnel. And that would be the case of our place of worship. [LB430]

SENATOR HANSEN: Thank you, Senator McCoy. Our church in North Platte is a Lutheran church and we have about 120 members. We would probably never use this amendment, but it certainly...I think it should be there. I support your amendment. I think that in the larger churches you need that. If we had a uniform guard at the entry of our church I think the little kids would be looking at that person instead of paying attention to the children's sermon or the rest of the church service. But I do agree with your amendment and I will support it when it comes time to vote. Mr. President, if I could have just a moment of time I would like to explain what happened in North Platte yesterday just a little bit about the Housing Authority refusing stimulus money of \$588,000. Did look into it a little bit last night. Several of the senators have asked me about it. They have \$500,000 in their fund pot right now. They think that they don't need the stimulus money so they returned it. It was conservatives standing up for their conservative principles. There are people out there, believe it or not, that don't agree with the stimulus package. This is a group that doesn't. Has no effect on the school system. Has no effect on other county governments. Doesn't have anything to do with the other smaller village governments that's in my district, but it just had to do with the Housing Authority in North Platte, and it was an example of one local entity refusing stimulus money. So I hope that answers questions that anybody has. You're more than welcome to come and talk to me. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Hansen. (Visitors introduced.) Seeing no other lights on, Senator McCoy, you are recognized to close on AM936. [LB430]

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SENATOR McCOY: Thank you, Mr. President. Again, I'd seek to clarify what exactly is the intention of this amendment. As I noted earlier, and as the handout that was given to you this morning shows, 38 states allow or will allow concealed carry in places of worship. It's my understanding that this amendment would be either the most restrictive or one of the most restrictive languages of those statutes in those individual different 38 states. And that's for a reason. I think it's important to note that we're talking about authorizing, a church authorizing its security personnel, folks that they know and that they trust to help protect their parishioners and their worshipers during worship. As Senator White noted, a house of worship is a sacred place. And as such, it should be kept that way. And I believe that this amendment and the underlying bill, but this amendment as it relates to places of worship helps protect those very sacred places to Nebraskans. And I would also note as it's been indicated and as Senator Harms brought up some very valid concerns that during the last decade of the outcropping of violence in our churches across the country there has not been one incident of an accidental discharge of a weapon or in a way that would wound or, in worst case, kill folks in a place of worship. I would bring to your attention the event in December of '07 in Colorado where a gunman went to two different places of worship, and sadly enough walked into the last place of worship in Colorado Springs with over 1,000 rounds of ammunition with a rifle. And the security personnel of that church wherein 7,000 parishioners were worshipping that morning was able to wound that attacker saving an untold number of lives. This is a commonsense amendment to a very good underlying bill. And I would ask for your support. Thank you. [LB430]

SENATOR ROBERT: Thank you, Senator McCoy. Members, you have heard the closing to AM936. The question before the body is, shall AM936 be adopted? All those in favor vote yea; opposed vote nay. Senator McCoy, for what purpose do you rise? [LB430]

SENATOR McCOY: Call of the house, please. [LB430]

SENATOR ROBERT: Members, there has been a request for a call of the house. All those in favor vote yea; opposed vote nay. Mr. Clerk, please record. [LB430]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB430]

SENATOR ROBERT: Members, the house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. Senators, the house is under call. Please return to the Chamber. Senator Heidemann, Senator Gay, Senator Cornett, Senator Ashford, please check in. Senator Nantkes, please return to the Chamber. Senator Heidemann, the house is under call. Please return to the Chamber. Senator McCoy, how would you like to proceed? You can accept call-in votes or a roll call. [LB430]

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SENATOR McCOY: Roll call, please. [LB430]

SENATOR ROBERT: Mr. Clerk, there has been a request for a roll call vote. Please call the roll. [LB430]

CLERK: (Roll call vote taken, Legislative Journal page 886.) 29 ayes, 15 nays, Mr. President, on the amendment. [LB430]

SENATOR ROBERT: AM936, the amendment to the committee amendments is adopted. Next item, Mr. Clerk. And I raise the call. [LB430]

CLERK: Mr. President, Senator Price would move to amend the committee amendments. Senator, I have FA24 in front of me. (Legislative Journal page 881.) [LB430]

SENATOR ROBERT: Senator Price, you are recognized to open on FA24, the amendment to the committee amendments. [LB430]

SENATOR PRICE: Thank you, Mr. President, members of the body. This amendment comes about from the fact that there's currently a requirement that a military member reside in the state for 180 days before they can apply for this permit. And I believe that military members should be able to apply as soon as they establish residency or I mean as soon as their permanent duty orders assign them and they are here and have arrived on station in Nebraska. In talking with members on the floor and with Senator Christensen, there was no understanding direction of why the 180 days was there. And I would call attention to the fact that when a military member shows up in the state and registers their vehicle they can do so on that day of arriving, showing their permanent orders. And I believe that should be the standard that we set, and that's why I would urge everybody to support this amendment and to support our military members. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Price. Members, you have heard the opening to FA24, the amendment to the committee amendments. Those wishing to speak are Senator McCoy and Christensen. Senator McCoy, you are recognized. Senator McCoy waives. Senator Christensen, you are next and recognized. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. This is not something that we dealt with in the original bill and when Senator Price brought this, I said I didn't know why the waiting period was there other than that was the same rules that everyone else falls under. And I told him that I didn't have a problem with it because the military already trained. They're probably the most responsible people that we have to go ahead and have the permit. And for limiting the days I didn't know why. They're already here a

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very limited time. So to me it personally made sense that we go ahead and allow this to be removed, so. But I'll be interested and hear to the discussion of the body and support that. Thank you. [LB430]

SENATOR ROBERT: Thank you, Senator Christensen. Are there other members wishing to speak? Seeing none, Senator Price, you're recognized to close on FA24. [LB430]

SENATOR PRICE: Thank you, Mr. President and members of the body. Again, I would urge that you support this amendment and support our military members with a green light vote. Thank you, Mr. President. [LB430]

SENATOR ROBERT: Thank you, Senator Price. Members, you have heard the closing to FA24, the amendment to the committee amendments. The question before the body is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB430]

CLERK: 33 ayes, 3 nays, Mr. President, on the adoption of Senator Price's amendment. [LB430]

SENATOR ROBERT: FA24, the amendment to the committee amendment, is adopted. Next item, Mr. Clerk. [LB430]

CLERK: Mr. President, Senator Price would move to amend with AM940. (Legislative Journal page 887.) [LB430]

SENATOR ROBERT: Senator Price, you are recognized to open on AM940. [LB430]

SENATOR PRICE: Mr. President, thank you, members of the body. I rise to, again, address a military issue here. Right now I have a constituent who is the spouse of a military member who maintains her Nebraska residency, lives in another state, and she cannot apply for the permit. The Catch-22 is she doesn't physically reside in Nebraska. She's not a resident of the other state, ergo she cannot apply for the permit. What I'm asking is that the spouses and members of a military member be allowed to establish a residency requirement even if they're not here for the purposes of applying for the permit. Now, again, they could only utilize that permit at this time until there's reciprocity--and yes I learned how to use that word now--until we have that reciprocity established. But, again, we shouldn't penalize the members of our military community who want to maintain their Nebraska residency. So, again, as long they're maintaining their residency here in Nebraska and would like to apply, I believe that they should be afforded that opportunity. And this is why I rise with this amendment and I would urge your support. Thank you, Mr. President. [LB430]

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SENATOR ROBERT: Thank you, Senator Price. Members, you have heard the opening to AM940, the amendment to the committee amendments. Those wishing to speak: Senator White, you are recognized. [LB430]

SENATOR WHITE: Thank you, Mr. President. I have some concerns about this, and would Senator Price be kind enough to yield to some questions? [LB430]

SENATOR ROBERT: Senator Price, will you yield to a question? [LB430]

SENATOR PRICE: Absolutely, Senator White. [LB430]

SENATOR WHITE: One of the key components of the concealed carry law are background checks and training. If folks are not physically in Nebraska, how can we (1) assure that they've been trained properly, taken the classes, gotten trained, and (2) how can law enforcement do an adequate background check if they're not physically present? [LB430]

SENATOR PRICE: Thank you, Senator White. And, again, my understanding of this would be that the background check most likely would still be performed, and we'll look into that. The other about the training, this is even just for the application process of it. This is a stumbling block. That part wasn't brought to me as the issue about training. They can...like this person is in another state, they could take the training that's offered in another state or...and maybe that will suffice. The point I'm trying to get fixed is the residency requirement within the body of requirements. [LB430]

SENATOR WHITE: Senator, and I'm more than willing to work to help people in this situation, but it is essential that the laws be vigorously enforced and applied in terms of background checks and actual training. I for the life of me cannot see how we can do that if they're not physically present. Now, you can be a resident in Nebraska and be absent. Okay. All you have to do is really declare this is your state and this is what you intend to be...reside at, put a mail here. I'm okay with that. What I can't see and what I don't want created is people saying, well, I'm really going to be a resident in Nebraska, never been here, no ties here, and they just get an application. And we don't then have them physically present to have a law enforcement examine them, make sure that they're capable of handling a firearm, both physically and mentally, that they come here and they get trained in our laws. Therefore I have a real problem that this destroys the essence of what is I guess the social agreement. We'll let you carry a weapon. We'll let you carry it concealed, but you have to submit yourself here physically. You have to go through training that we can verify. You have to go through background checks. If you can assure me or figure out a way that we can reconcile those two different things, you know, I would tend to be supportive. But until then, Senator, I cannot. And I appreciate your courtesy. Thank you, Mr. President. [LB430]

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SENATOR FRIEND PRESIDING []

SENATOR FRIEND: Thank you, Senator White. Senator Price, you are recognized. [LB430]

SENATOR PRICE: Thank you, Mr. President, members of the body. Thank you, Senator White. And I, too, vigorous support the assertions you've made and want the body to know that I, too, want that very same thing, that the training. And this situation that we're trying to do, as I understand it, the individual is a taxpaying member and, like you said, declares residency here. But we don't want anything that would erode the integrity of the process and the law as it is, and I agree with you. And I have asked the members bringing this forward, Senator Christensen and the Attorney General's Office and others, to look into it to ensure. So in light of that, Mr. President, I'd like to withdraw my amendment and bring it back on Select File. [LB430]

SENATOR FRIEND: Without objections, so ordered. [LB430]

CLERK: I have nothing further pending to the committee amendments, Mr. President. [LB430]

SENATOR FRIEND: Senator Ashford, you are recognized to close on AM835 to the committee amendments. [LB430]

SENATOR ASHFORD: Thank you, Mr. President and members. I'd like to urge the body to adopt the committee amendments and adopt bill, but I think there have been some excellent points raised. Senator Council has raised some issues regarding 69-2441(2) and I think that has to be looked at to clarify that section of the law. Senator Avery has a bill actually in our committee, the Judiciary Committee, LB145 which adds clearly in the statute that colleges and universities would be areas that could be...or where concealed weapons would be prohibited. I would love to get that bill amended to LB430 on Select File. I think that would clarify an issue. I would think there would be very little object to that. The city of Lincoln has brought to my attention some variety of local laws or laws that...criminal laws that are in the ordinance in Lincoln that allow the city of Lincoln to prohibit the carrying of weapons or concealed weapons. And I think it would be very appropriate between now and Select File to list those particular violations in state statute. We'd have to go through and make sure that there is a state statute that would be consistent with what the city of Lincoln has done in its ordinance, but I think that's very doable. It should be done. We don't want...obviously as a body, we don't want to condone individuals who have committed offenses like stalking and other like offenses to have a permit to carry a concealed weapon. And I think that's a reasonable, responsible request and I think we can adequately address that between now and Select File. With that and with the amendments that have been adopted I think we have done the work that we need to do on General File realizing that there will be some more

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discussions between now and Select File. The comments made by Senator McGill and other members of the committee are very thoughtful and need to be heard and listened to. And we're going to continue to think about that between now and Select File and have some amendments for you. With that, Mr. President, I would urge the adoption of the committee amendments at this point and the advancement of LB430. [LB430 LB145]

SENATOR FRIEND: Thank you, Senator Ashford. Members of the Legislature, you've heard the closing on committee amendments AM835. The question is, shall the amendment be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have you all vote who wish to? Record please, Mr. Clerk. [LB430]

CLERK: 39 ayes, 2 nays, Mr. President, on the adoption of committee amendments. [LB430]

SENATOR FRIEND: Committee amendments are adopted. [LB430]

CLERK: I have nothing further on the bill, Mr. President. [LB430]

SENATOR FRIEND: Senator Christensen, you are recognized to close on LB430. [LB430]

SENATOR CHRISTENSEN: Thank you, everybody. I appreciate all the debate and the discussion on this. And, again, as Senator Ashford said, if there's additional concerns, bring them to us, we'll be glad to look at them between the next two votes. And we'd just appreciate your vote to advance this forward. [LB430]

SENATOR FRIEND: Thank you, Senator Christensen. Members of the Legislature, you've heard the closing on LB430. The question is, shall LB430 advance to E&R Initial? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB430]

CLERK: 40 ayes, 4 nays, Mr. President, on the advancement of the bill. [LB430]

SENATOR FRIEND: LB430 does advance. Next item. [LB430]

CLERK: Mr. President, LB679 is a bill by the Performance Audit Committee. (Read title.) Introduced on January 21, referred to Health and Human Services Committee. The bill was advanced to General File. At this time I have no amendments to the bill. [LB679]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Harms, you are recognized to open on LB679. [LB679]

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SENATOR HARMS: Thank you, Mr. President, colleagues. LB679 would require any potential Foster Care Review Board state board member to disclose to the Governor's Office any income he or she receives from the Department of Health and Human Services, any funding his or her employer receives from the Department of Health and Human Services. And this would allow the Legislature to decide what level of Department of Health and Human Services financial involvement they are comfortable with prior to appointing an individual to this board. The Performance Audit Committee's decision to introduce LB679 came from our recently released audit report of the Foster Care Review Board. During the course of that audit, concerns were raised about possible conflicts of interests for several current state board members due to this: One of the main scope questions of the audit asked if any Foster Care Review Board members have employment or other interests that create a conflict with that responsibility as a member of this board. In order to determine if any current state board members had conflicts of interest, Performance Audit staff looked to the state's accountability and disclosure laws which are the only legal requirement for Nebraska state employees regarding conflicts of interest. While the act does not define the phrase "conflict of interest," it addresses a relatively narrow set of possible conflicts involving the potential financial impact certain decisions made in a course of public service may have on a state employee. For a conflict of interest to be present under the Accountability and Disclosure Act a state board member would have to be in a situation in which they could benefit or they could be harmed financially from an official action they took as a board member. But board members told staff and our independent study, their independent research confirmed that the votes taken by state board members from January 2006 to May 2008 did not have a financial impact on any of the state board members business associations. Consequently, the audit staff found that none of the state board members had encountered a conflict of interest as defined by the Accountability and Disclosure Act. While several members have links to the Department of Health and Human Services and foster children in various capacities, the members have not been in a position to make decisions as board members that would trigger the provision of the Accountability and Disclosure Act. The audit did raise, however, a policy question relating to the allowable financial connections between state board members and the Department of Health and Human Services, which the Foster Care Review Board oversees via the board's review of foster care cases. Currently, there are no limits on financial connections for state board members. A little background information may be helpful in order to understand that current makeup of this membership. In 2005, the Legislature adopted LB761 which increased membership from 9 to 11. [LB679]

SENATOR FRIEND: (Gavel) [LB679]

SENATOR HARMS: The bill also added requirements that the state board members include: a pediatrician; a child clinical psychologist; a social worker; an attorney; a representative from a state child advocacy group; a director of the child advocacy

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center; a director of court-appointed special advocate, which would be CASA; and an individual with background in business and finance. Through the 2005 membership changes to the Foster Care Review Act and Legislature intended for board members to have an increased level of experience in a child welfare system which was bound to result in some members having connections to the Department of Health and Human Services. In the audit report findings and recommendations, the previous Performance Audit Committee stated that they believed there should be some limit on the extent of board members affiliated with the Department of Health and Human Services and encourage the current committee to consider introducing legislation to address this issue. LB679 attempts to preserve the policy decision made in 2005 while also addressing the committees' concern requiring disclosure of any funding a potential member may receive from the Department of Health and Human Services. And I would urge you to support this piece of legislation. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Harms. Members, you have heard the opening on LB679. There are number of senators wishing to speak. Senator Hansen, you are recognized. [LB679]

SENATOR HANSEN: Thank you, Mr. President. Takes a little while to get Senator Price out of the road. (Laughter) I do agree with the Auditor's report that we do have some conflicts of interest, and especially with the Foster Care Review Board and working with children, and that's their job. They're the advocate for those foster children that are state wards of this state. I received a letter from a former Foster Care Review Board, actually a past president, and he had some suggestions that I would actually like to read into the record for sure. And this includes people that are on the Foster Care Review Board at present with what could be considered a conflict of interest the director of Sarpy County court appointed special advocates. This person's spouse is an attorney and DHHS contract employee. The executive director of the Nebraska Children and Family Foundation depends upon approximately \$1.5 million in funds from DHHS where this person's organization and salary of over \$86,000 and distributes roughly \$500,000 through her organization to Project Harmony. The executive director of Project Harmony in Omaha depends on over \$500,000 from DHHS funds passed throughout the Nebraska Children and Family Foundation for this person's organization and salary of \$114,000. The point is we're working with kids, we're working with providers, and I feel that we should not have the providers on the board that they are asking for money. They are getting money from the Health and Human Services Department and also serving on the Foster Care Review Board. A similar thing would be to have contractors, road contractors serving on the Department of Roads. I don't think that's right. I think it's a conflict of interest. I appreciate Senator Harms and the Auditor Committee bringing this to our attention, and I think that we need to do something about the conflict of interest even above and beyond what the Auditor Committee came up with. Thank you, Mr. President. [LB679]

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SENATOR FRIEND: Thank you, Senator Hansen. Senator Gay, you are recognized.
[LB679]

SENATOR GAY: Thank you, Mr. President. I did want to discuss and Senator Hansen brought up a point, Senator Harms did in his opening of this that membership was changed to include people that have unavoidable connections. A CASA member who works for a county and working with the state. Some of these are unavoidable where they are going to...their business or their nonprofit works with the state and that's fine. But that was when we dealt with that...well, we didn't because that was done prior to us being here. But to get the professionals on board that was a decision made to expand the committee. And Senator Harms talked about the makeup of the membership of the board. I do want to say this is...I support the bill and we discussed this in Health Committee, but the membership of the board, there are some unavoidable conflicts. What this does in my opinion is spell out just what are they. Where are you receiving your income. And I think that's fair. For one thing. the Foster Care Review Board does a great job. There are some differences of opinions on what that makeup should be. The makeup under the current law, as Senator Harms described, is made up of professionals that deal with these issues day by day. And that was the will of the Legislature four years ago, I think. And then that's still what it is today. So I support this. I just want to make sure that the body knows the makeup. Some of these are unavoidable and what the Performance Audit Committee in that audit, they found out there was no conflicts or anything. This is just to state those. So I perform it. I just did want to get on record, though. The Health Committee had a little bit of...we support the current makeup of the board and this is just...would help tighten those disclosures. So I do support the bill, but I did want to be on record stating where we came from when this came out of committee. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Gay. Senator Carlson, you are recognized.
[LB679]

SENATOR CARLSON: Mr. President and members of the Legislature, I, too, rise in favor of LB679. I've spoken on other occasions in this body about the serious responsibility that we have in bringing people onto committees and okaying their appointments. And I think that the hearings that we have in committee too many times we slight those hearings. We don't ask enough questions. We don't have a good enough discussion. We don't ask people the right questions sometimes because we don't have the information. And I hope that this bill helps clear that up. And then when it comes to the floor I don't think that many times we have enough discussion on the floor. Too often an appointment to a committee is, I would call it, a casual rubber stamp vote. And these are important appointments. And when something goes wrong, we're responsible if we've been the body that...we're partially responsible. We've been the body that okayed an individual to serve on a board. I would like to address a question to Senator Harms if he would yield. [LB679]

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SENATOR FRIEND: Senator Harms, will you yield? [LB679]

SENATOR HARMS: Yes, I will. [LB679]

SENATOR CARLSON: Senator Harms, on page 3 lines 12 through 14, and that's the new language, "Prior to appointment, each potential member shall disclose any and all funding he or she or his or her employer receives from the Department of Health and Human Services." Now, I don't have any qualms with that wording at all. This does certainly indicate that if they disclose they can still be appointed, correct? [LB679]

SENATOR HARMS: Yes. I think that's correct. And what this is about, Senator, is about transparency in government. I know that Senator White has some legislation coming forward on transparency. It all fits together in making sure that everybody has a clear view. What we're really trying to find is, is there a certain level of funding that you receive that would make us uncomfortable that the public would perceive that maybe this might be questionable. And this is really what that's about is try to find that line, and we won't know that until we start asking these people to disclose to a certain degree. [LB679]

SENATOR CARLSON: I agree with you. I appreciate that answer. However, in the process could be an individual that is up for appointment that at the present time isn't really in much of a position to be receiving money or having an advantage that way, but it could be preplanned and it comes shortly after appointment. Those are things that this can't handle but we need to be alert for. But the other question is, what about a spouse, a child or a close relative because this simply says the potential member? [LB679]

SENATOR HARMS: Well, it definitely could be. I guess this is what this is all about. The reason we wanted to bring this to the floor is for our public policy decision. If we really feel comfortable as a body that this, Senator Carlson, that we would like to have we can amend this bill and move it forward, whatever you would like. It's really a full discussion about disclosure and to make sure that what we...that we feel comfortable. And if we feel comfortable in adding certain things and this makes it better, feel free to do this. We're not...this is not anything that's in cement as far as we're concerned. We want it for just discussion and then move forward and make sure that we have a policy that works well for us as a body. [LB679]

SENATOR CARLSON: Okay. Thank you, Senator Harms. And I may discuss that with you before Select File. I'd like to address a question to Senator Gay if he would yield. [LB679]

SENATOR FRIEND: One minute. Senator Gay, will you yield to a question? [LB679]

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SENATOR GAY: Yes, I would. [LB679]

SENATOR CARLSON: Senator Gay, you used the term there's some unavoidable situations, and we don't have much time, expound on that a little bit because I don't know why we would have unavoidable situations. [LB679]

SENATOR GAY: Well, and Senator Harms would go over again who's on there because if you are on some of these, it's inherent you work with the government and the state being one of the largest forms of the government there's going to be a grant that maybe you're receiving, things like that. So a CASA who works for the county is working with state agencies all the time. That's their job. So you're going to see some of those. And I will go back again on the membership, we'll talk. But it's just unavoidable. That's part of your job to deal, interact with the state. They do it day by day. And that was the makeup of the prior legislation to increase the board. [LB679]

SENATOR CARLSON: Well, it appears that some of these committees lend themselves to that... [LB679]

SENATOR FRIEND: Time. [LB679]

SENATOR CARLSON: Thank you. [LB679]

SENATOR FRIEND: Thank you, Senator Carlson and Senator Gay. Senator Wallman, you're recognized. [LB679]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Would Senator Harms yield to a question? [LB679]

SENATOR FRIEND: Senator Harms, will you yield to a question? [LB679]

SENATOR HARMS: Yes I will, Senator. [LB679]

SENATOR WALLMAN: Thank you. Senator Harms, do you feel there is too much...a lot of money changing hands from one agency or one company or corporation, healthcare agencies? [LB679]

SENATOR HARMS: Senator, I really don't know the answer to that question. This is what this is all about is to really find out where we feel comfortable with as a body and what the policy should be. Truly what the public policy should be in regard to this particular concern. Yeah, I really can't answer that. Until we find out and we get this integrated and we can start to study it and find exactly what's happening, we really won't know that. And then I think later on we can say, you know what, at this certain level we don't feel comfortable. So that's what it's about. Thank you. [LB679]

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SENATOR WALLMAN: I thank you for that information. I too, if we want trust in our form of government, employees, senators, staff, agencies, especially HHS is huge, it's tough to get a handle on everything. But if we have a performance audit, maybe it's a good start just to actually get the biggest bang for our buck, and that's what we're all after. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Gloor, you are recognized. [LB679]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I'm in support of LB679, but let me put a different spin on this. I know we are all concerned about abuse of the system: people taking advantage of the positions they hold on boards and, as a result, steering business their way, making decisions that are better for their particular employer. My spin on this would be I am also concerned about abuse of volunteer board members. Let's remember that these are not high-paid positions. They're not paid positions at all; reimbursed for expenses. I have experience with my own organization of requiring conflicts of interest to be filled out. And I can't tell you the number of times that board members came to me saying, I am selling office equipment to the hospital; I represent natural gas interests and we sell natural gas to the hospital; is that a conflict of interest? And my advice was always, always, if you think it might be, put it down, disclose it, make sure you're transparent about it so there's never any question, because I don't want you to be put in the position where somebody thinks you're making decisions as a volunteer, spending your own time and in many cases money, since time is money, in the interests of your own personal business enterprise as opposed to you're helping out and you're helping the system. Disclose, always disclose. And the line of questioning we've had here today points out that we are quick to jump to the conclusion that the problem here is that people are taking advantage of the situation. We don't know that's the case. Might be, might not be. The lack of disclosure feeds that concern, feeds that myopia that we sometimes have that people only serve in volunteer capacities on the multitude of boards we have across the state, watching out for their own interests. Is that true or us also? Some would say we volunteer our time. Are we only doing that here because we're watching out for own interests? I don't think so. In fact, having been her for awhile, I know that's not the case. I would urge passage of this for the reason that, as important as foster care is to the issues we're dealing with on behavioral health of adolescents, it's also important for the integrity of that board, that people in the public know that these people are serving because it's the right thing to do, it's a good thing to do--they're volunteering their time, they're trying to make a difference--and requiring them to fill out a disclosure and to be transparent helps remove this whole dialogue above what we jump to as a public--an assumption that they do it for their own self-interests. Please keep that in mind as a reason and rationale to vote for LB679. Thank you. [LB679]

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SENATOR FRIEND: Thank you, Senator Gloor. Senator Hadley, you are recognized. [LB679]

SENATOR HADLEY: Mr. President and members of the body, I think this is great discussion. I would liken it to my profession, one of my other professions which is being a certified public accountant, because CPAs are always worried about independence. And that's what we're talking about here: Are people independent when they get nominated to these boards? And just for some background, CPAs worry about independence in two different ways. They worry about independence in fact and in appearance. And what we're dealing with here is what the CPAs would be independents, in fact, because what we're saying is that a person who owns or has a connection where they receive funding from HHS, that's a fact. It is out there, it's a fact. Does that disqualify a person from being on a board? Obviously not, but we should recognize that this can be a conflict of interest and can lead to problems with independence. What this bill doesn't impact is independence in appearance. And independence in appearance is where there isn't the direct connection but there can be an appearance of a person not being independent. And I think in this case, for example, if I read the bill correctly, you would not have to disclose, for example, if a close blood relative received payments from HHS, or maybe part of a family didn't receive...or received funding from HHS. So I applaud the bill. I'd like to see the bill even go further, and maybe we can in the future, and I'd like that concept held to all boards, that we talk about independence in appearance and independence in fact for any board that we have at the state level, so that people understand what it means to be truly independent when they take that position on the board. And we must make sure that it is not only independence in fact, but what the public perceives as independence when they look at the makeup of boards. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Hadley. (Visitors introduced.) On with the discussion of LB679, Senator Hansen, you are recognized. [LB679]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. This issue is all about oversight and transparency. As a member of the Appropriations Committee, I had to file a disclaimer of a conflict of interest when we talked about the Board of Educational Lands and Funds because we rent a section, 640 acres from the Board of Educational Lands and Funds. I had to disclose that. I participated in the discussion but I didn't vote. I'd like to ask Senator Harms a questions if I could, please. [LB679]

SENATOR FRIEND: Senator Harms, will you yield to a question? [LB679]

SENATOR HARMS: Yes. Yes, I would. [LB679]

SENATOR HANSEN: Senator Harms, on page 2, line 20, the sentence reads, "No

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person employed by a child-caring agency, a child-placing agency, or a court shall be appointed to the state board." That is in the stricken language. Is that being adhered to now? [LB679]

SENATOR HARMS: That's in the present bill, the law as it is today. The only thing that we've taken out is what's underlined and marked out. [LB679]

SENATOR HANSEN: Is it being adhered to, the stricken part? [LB679]

SENATOR HARMS: You know, I don't have any idea, Senator, whether it is or it isn't. [LB679]

SENATOR HANSEN: Well, that's my contention, that maybe that's the part that got ignored the last four years and that's why we have a problem with some conflicts of interest right now. [LB679]

SENATOR HARMS: Senator, that could very well be. And you know, as we...if we choose to move it on, these are things we can take a look at. The whole object of this is to make this a good bill and making sure that it's the right public policy that we want as a body. And if we feel like we want to amend that, let's just do so and make sure that it's enforced. [LB679]

SENATOR HANSEN: All right. Thank you very much. Thank you, Mr. President. [LB679]

SENATOR HARMS: You're welcome. Thank you. [LB679]

SENATOR FRIEND: Thank you, Senator Hansen. Senator Nelson, you are recognized. [LB679]

SENATOR NELSON: Thank you, Mr. President and members of the body. We need to keep Senator Harms on his feet here, so will Senator Harms entertain a question or two? [LB679]

SENATOR FRIEND: Senator Harms, will you yield to a question? [LB679]

SENATOR HARMS: Yes, I will. [LB679]

SENATOR NELSON: Thank you, Senator Harms. Can you tell me how you visualize this disclosure would be made? Is this going to be through the Accountability and Disclosure Commission or is this just a separate...? [LB679]

SENATOR HARMS: No. It simply will be, when people are appointed they go through

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the Governor's Office and that's where we'll have that information available and submitted, so then it's available to not only the committee but eventually to the Governor and to the committee and then to the Legislature. [LB679]

SENATOR NELSON: I'm also interested in a little bit about the duties of the Foster Care Review Board. Are they merely an advisory board? What...can you tell me a little bit about what they do on the state level there? [LB679]

SENATOR HARMS: You know, I really can't get into their complete responsibilities and duties, Senator, but it is spelled out and I know that I'd like to...we could yield to Senator Stuthman. I think he has been working with this and he could probably give you some information on that. [LB679]

SENATOR NELSON: All right. Senator Stuthman, could you... [LB679]

SENATOR FRIEND: Senator Stuthman, will you yield to a question? [LB679]

SENATOR STUTHMAN: Yes. [LB679]

SENATOR NELSON: Did you hear the question, Senator Stuthman, the duties of the State Foster Care Review Board, what they do? [LB679]

SENATOR STUTHMAN: Yes. The duties of the State Foster Care Board are to review the situations of foster care. On the local level there are foster care review committees that review the situations. They review different foster care individuals, how they're being placed, where they're being placed, the movement or the activity or recommendations. And on the local level they report to the State Foster Care Review Board and they go over the situations. If there should be some foster care client that needs to have attention, they address that. [LB679]

SENATOR NELSON: So they have the responsibilities of a policeman? I mean, they can affect what some of these agencies are doing? They're more than just an advisory agency. In other words, can you go into a little detail about that? [LB679]

SENATOR STUTHMAN: Senator Nelson, I'm not sure as far as the fact that they can be the policeman or not, but they are the board, you know, under the direction of the administration as far as reviewing situations that are of concern of foster care individuals and foster care parents. I mean, it's as much as far as foster care parents and foster care children, they look into those situations. They take recommendations from the groups that meet regularly in communities and they take that under consideration and make recommendations to the foster care system and to the HHS. [LB679]

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SENATOR NELSON: When you speak of administration you're not speaking about the Governor's Office then? You're talking about HHS. [LB679]

SENATOR STUTHMAN: Yes. Yes, that is true. [LB679]

SENATOR NELSON: All right. Thank you. Thank you, Senators. Some mention was made about the difficulty of getting people to serve on the boards, and I guess I have a little bit of concern whether we have instances of abuse or whether we're going to attract members to serve on a board such as this, if they're going to have to disclose, to a certain extent, some financial information to the effect that they are receiving funds or their employer from the Department of Health and Human Services. I guess I will support the bill but when we get into... [LB679]

SENATOR FRIEND: One minute. [LB679]

SENATOR NELSON: ...areas of privacy of this sort and people have to disclose business affairs and matters and financial matters, we run into the same thing attracting people to run for the state Legislature. They don't want to do that. So hopefully this will not inhibit people from serving on a foster care review board if they're qualified. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Nelson. Senator White, you are recognized. [LB679]

SENATOR WHITE: Thank you, Mr. President. I want to thank Senator Hansen for bringing forth the comments by John Seyfarth. I was so intrigued, I went forward and asked him about him, and he handed a copy to me. And there is a section he had not yet read into the record that I am deeply concerned about and I would urge my fellow members to also be concerned about. The stock and trade of this body is information: information freely gathered, honestly exchanged. Sometimes debate are hot, sometimes debate is cool, but no debate exists in the absence of the free flow of information to this body so that we can make decisions on an informed basis. We will regularly disagree with each other, honorably and honestly, but none of that will work if we do not have the facts and the information. I would like to read this paragraph from that letter that was read by Senator Hansen and I can assure that if we establish that this is, in fact, the truth, I will have grave concerns and will take every action, whether as a senator or as an attorney, to pursue this and those who are responsible, if in fact it is borne out. Let me read this to you please, and this is from the letter: Perhaps the most chilling incident occurred a few months back during the time that the original safe haven law was in effect. The executive director was asked by senators to provide information on these children, about what services these children needed, all of whom were in foster care. At the leadership of those with conflicts--and by conflicts I mean huge financial stakes--at the leadership of those with conflicts the board members prohibited

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the director from providing this information to us, to the Legislature, even though it was within the agency's mandate. In the calmest of possible terms, I want the folks at the agency to know that if I find that out, that in fact they hid evidence because people who they had in their pocket pushed it, there is no place to hide. I will pursue you and I urge every member of this Legislature if you care one whit about this body, if you care one whit about the process, wherever you stand on the issues, any time people urge governmental agencies to hide information from us, that is the most profound threat to the integrity of this entire system that can exist. Thank you. [LB679]

SENATOR FRIEND: Thank you, Senator White. Senator Carlson, you are recognized. [LB679]

SENATOR CARLSON: Mr. President and members of the Legislature, I simply respond to what Senator White just said and I agree with him 100 percent and I think this is a part of the reason that Senator Harms brought this forth. We need to deal with it. We need to make it right. We need to make this procedure transparent and we need to get the right people on these commissions and on these boards. Thank you. [LB679]

SENATOR FRIEND: Thank you, Senator Carlson. Are there any other members wishing to speak? Seeing none, Senator Harms, you are recognized to close on the advancement of LB679. [LB679]

SENATOR HARMS: Thank you, Mr. President and colleagues. This was good dialogue. I think it's important public policy. We're open to whatever changes you think are going to make this better. Nothing that we have here is in cement and we're open to having further discussion because we want to make it a good policy and make it right for the people and make sure we have transparency throughout our government. So I would urge you to go ahead and support LB679. Thank you, Mr. President. [LB679]

SENATOR FRIEND: Thank you, Senator Harms. Members of the Legislature, you've heard the closing on the advancement of LB679 to E&R Initial. All those in favor please signify by voting aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB679]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB679. [LB679]

SENATOR FRIEND: LB679 does advance. Next item. [LB679]

CLERK: LB198 by Senator Stuthman. (Read title.) Bill was introduced on January 12, referred to the General Affairs Committee. Bill was advanced to General File. There are General Affairs Committee amendments pending. (AM679, Legislative Journal page 732.) [LB198]

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SENATOR FRIEND: Senator Stuthman, you are recognized to open on LB198. [LB198]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. LB198 is the Reduced Cigarette Ignition Propensity Act. And I want to thank Senator Karpisek and the General Affairs Committee for prioritizing this LB198, and I want to also thank Senator Cornett for working with me, as she had introduced a bill similar to mine and these bills were put together. What this bill does is...the main thing for this bill is for fire protection, fire protection and safety. As I'm passing out right now, the pages are passing out a paper that shows how many states have adopted these cigarettes in their regulations. I think it's...I think it's very important. I think it's very important. One of the main things is this bill, you know, when we talk about cigarettes or smoking or anything like that, this bill was brought to me by a tobacco company, and I think that speaks highly of that tobacco company. And 39 states already have adopted legislation requiring reduced cigarette ignition propensity. As I mentioned before, it's mainly for safety. And I've got several illustrations of one of the main reasons that I supported this bill and introduced this bill. We have had numerous times within the last year or two when there's been a lot of loss of property, loss of life, and I want to alert you to a couple of those. Here we have, on April 1 of this year, which just was a day or two ago, maybe just one day ago, discarded smoking materials appear to be the cause of a garage fire in a duplex Tuesday night. There was about \$40,000 worth of damage. Another one: Fire destroys Lincoln home. Fire destroyed a home, you know, on Monday night. The chief said that fire was started by careless smoking, caused \$95,000 worth of damage. Cigarette causes bar fire and this was out on West O. The Red Fox Steak House and Lounge, you know, had a fire and that caused \$7,000 worth of damage mainly because of a cigarette that was placed in a wrong container. Another situation was in Grand Island. State fire official says that it was careless handling...a carelessly handled cigarette that led to a deadly mobile home fire. In this situation, two individuals lost their life. Another situation, cigarettes cause fatal apartment fire, and that was here in Lincoln not very far away from here. This was caused by a cigarette that fell on a mattress and started the fire in the apartment. There was \$80,000 worth of damage and the loss of life, and the value of the life cannot be...cannot be measured in dollars. An Easter Sunday house fire in 2008, by careless disposal of smoking materials, another \$70,000 worth in damage to the house and its contents. There's been many instances in the past when people have been smoking in their private home, watching television, and the cigarette fell out of their hand as they probably took a little nap, and then the...it's...the cigarette smoldered for quite a bit of time and then it started the house on fire. What my bill is doing is that these cigarettes, these cigarettes will have a portion of the paper that is on the cigarettes, and this really only applies to the cigarettes that are paper-wrapped tobacco, tobacco that has paper wrapping, and there are bands that are a very heavy band that if you continue to smoke that cigarette you can smoke right through that band. It will keep going. But if you do not draw the air through that cigarette, when it approaches that band, which the first band is 15 millimeters from the lit end and it will go out then if you don't smoke it, or if you get past that first band there

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is another band. There is another band and that band is 10 millimeters from the filter. And I think that's very important because, you know, it will go out, and they are tested that they will go out. I think one thing about this bill is the fact that we are trying to make it safer for the people that do smoke and want to smoke, and it's a fact of loss of property and loss of life. The main thing is a loss of life. There are many, many other instances that are...that are brought to my attention, mainly because of the fact that I am a volunteer...a rural volunteer fire member, and there's many times in the fall when a cigarette is thrown out in the road ditch and it starts a fire and burns many acres off and people have to go and put this fire out. So I think this is one of the things that I am very supportive of. It's the fact that if people want to continue to smoke, and I respect them for that, that we want to try to make it safer for them that these cigarettes will go out, you know, if there's not oxygen or air moving through them at certain points in that cigarette. So with that, there are committee amendments on this and I will stop my conversation at this time. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Stuthman. (Visitors introduced.) As the Clerk stated, there are amendments from the General Affairs Committee. Senator Karpisek, as Chair of the committee, you're recognized to open on the amendment. [LB198]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. AM679 to LB198 becomes the bill. The committee amendment is comprised of an agreement reached between Senator Stuthman's office and Senator Cornett's office. I'd like to thank both senators and especially their staffs for all the time and hard work they've put into reaching this agreement. Senator Cornett's LB404 is very similar to Senator Stuthman's LB198, and AM679 is a compromise of these two bills. This is a list of the substantive changes to LB198. Number one, cigarettes must be recertified every four years. LB198 requires certification, sorry, recertification every five years, LB404 required recertification every three years, so we went with four years, in the middle. The committee amendment incorporates LB404's fine structure in the following way: manufacturers, wholesale dealers, agents or other persons or entities that knowingly sell or offers to sell cigarettes in violation of the act are penalized \$10,000 per each sale for a first offense; the penalty for any subsequent offense is not to exceed \$25,000; and the total fine is not to exceed \$100,000 during any 30-day period. Retail dealers who knowingly sell cigarettes in violation of the act are penalized with a fine not to exceed \$500 for a first offense, or \$2,000 for any subsequent offense, if fewer than 1,000 cigarettes are in violation. If 1,000 cigarettes or more are in violation, then the penalty is not to exceed \$1,000 for a first offense and not to exceed \$5,000 for any subsequent offenses. Corporations, partnerships, sole proprietorships, limited partnerships, limited liability companies, limited liability partnerships, or associations engaged in the manufacture of cigarettes that knowingly make a false certification is liable for subsequent offenses, a civil penalty not to exceed \$250,000 for each false certification. Number three, the committee amendment makes it clear that the act is terminated if a federal reduced cigarette ignition propensity standard that preempts this act is adopted

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and becomes effective. Finally, the committee amendment clarifies that Sections 1 through 10 of the act become operative July 1, 2010, while the other sections become operative on their effective date. This allows the State Fire Marshal to develop rules and regulations ahead of the act otherwise becoming effective. That is the major part of the amendment. Again, I'd like to thank Senators Stuthman and Cornett for bringing these bills and allowing their staffs to work in a great deal with General Affairs' legal counsel to put out a bill that I think is a very good bill. Thank you, Mr. President. [LB198 LB404]

SENATOR FRIEND: Thank you, Senator Karpisek. Members of the Legislature, you've heard the opening on the General Affairs Committee amendment, AM679. There are a number of senators wishing to speak. Senator Gloor, you are recognized. [LB198]

SENATOR GLOOR: Thank you, Mr. President, members of the body. Senator Stuthman referenced the unfortunate death of several volunteer fire department members as a result of a fire not that many years ago--there is a memorial walkway at the hospital in Grand Island that has two stones that represent the lives of those two volunteer fire department members--as a result, as he pointed out, of a fire that was felt to be started by a cigarette. Those two firefighters will not be the last firefighter or volunteer firefighters who die fighting a blaze, but they could be the last ones who have to give their lives as a result of a cigarette fire if this legislation passes. Therefore, I am in support of LB198 and the amendment, AM679. On a bit of a lighter note, I will...I was referencing back in my own mind my days as a Cub Scout, which were many years ago, and the fact that we had a little project as Cub Scouts in our den. This will also explain to you how attitudes towards smoking have changed over the years. Our den project, which natural...which National Boy Scouts Association gave the den mothers as a project to do, was to make ashtrays for our parents. Hard to believe that as Cub Scouts our project was to make ashtrays for our parents. We used 78 records, as I recall, melted them. For those of you who I know are young enough not to know what a 78 record is, believe me, it's too big to fit in a iPod. But we were to...we were instructed to put those by our parents' beds because cigarette fires in beds, one of the ways people were seriously burned or lost their lives, and it was something we were taught as a result of this project oh those many years ago. It is nice that I have been around long enough to find myself going from Cub Scout to state legislator, in a position to make a difference, not to have an ashtray next to my parents' bed so that they didn't burn themselves up as the result of a nonextinguished cigarette, but that we have cigarettes now that will in fact take care of that for us. It's nice that technology has put us in that position. I appreciate the fact that the industry is supportive of this and I would urge us, in the interest of safety, to vote for LB198. Thank you. [LB198]

SENATOR FRIEND: Thank you, Senator Gloor. Senator Price, you are recognized. [LB198]

SENATOR PRICE: Mr. President, members of the body, I rise in strong support of this

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bill and the amendment. We were listening to this in committee and one of the things that I as struck by as a memory as a young man, wishing that we'd had this available at that time. I didn't extinguish a cigarette completely and properly and when I woke up in the morning the inside of my car was pretty much gone, a nice smoldering burn in the seat. And my father, the pragmatic man that he was, he allowed me to clean out the car and continue to drive it sitting on the springs of the former seat. I did have to put a new seat belt in it. So I would have appreciated this technology and effort existing back then. And again, so in light of my experiences and in the idea of the safety and the cost to our public, I urge all the members of the body to give this a green light. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Price. Members of the Legislature wishing to speak are Senators Carlson, Lautenbaugh, Cornett, Campbell, and Hadley. Senator Carlson, you're recognized. [LB198]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to have a little fun with my brief testimony in support of this bill and the amendment, and in the good tradition of Senator Chambers I would say that cigarettes are a blot on the whole human race; a man is a dummy with one on his face. Here's my definition, dear sisters and brother, fire on one end, a fool on the other. I'm Senator Carlson and that's the way I see it. (Laughter) [LB198]

SENATOR FRIEND: Please hold your applause, members. Senator Lautenbaugh, you are recognized. Senator Lautenbaugh, you are recognized. Senator Cornett, you are recognized. [LB198]

SENATOR CORNETT: Thank you, Mr. President, members of the body. First of all, I would like to thank Senator Stuthman for working in cooperation with my office on this bill. We've put in a lot of hours on this. I just wanted to stand and give my...lend my support to this bill and urge the body to pass this. I truly believe it is a lifesaving measure and will do nothing but help the state of Nebraska. And again, to thank Senator Stuthman for all of his assistance. Thank you. [LB198]

SENATOR FRIEND: Thank you, Senator Cornett. Senator Campbell, you're recognized. [LB198]

SENATOR CAMPBELL: Thank you, Mr. President. I rise, too, in support of this bill and appreciate the work that Senator Stuthman put in to bring it before us. If Senator Stuthman would yield to one short question... [LB198]

SENATOR FRIEND: Senator Stuthman, will you yield to a question? [LB198]

SENATOR STUTHMAN: Yes. [LB198]

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SENATOR CAMPBELL: Senator, my question, and I had asked Senator Cornett this but I thought it was worthwhile that we at least put it on the floor, that is, are there a great number of cigarettes sold in the state that do not meet the standard right now? [LB198]

SENATOR STUTHMAN: At the present time, you know, I think all of the cigarettes sold in the state do not meet the standard. I am not aware of any company selling cigarettes in the state that already have these bands, but I could be wrong. I'm not aware of any cigarettes presently being offered in the state of Nebraska. [LB198]

SENATOR CAMPBELL: Thank you. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Campbell and Senator Stuthman. Senator Hadley, you're recognized. [LB198]

SENATOR HADLEY: Mr. President, members of the body, would Senator Karpisek yield to a question? [LB198]

SENATOR FRIEND: Senator, Senator Karpisek, will you yield to a question? [LB198]

SENATOR KARPISEK: Yes, I will. Sorry, Mr. President. [LB198]

SENATOR HADLEY: Senator Karpisek, I just want to be absolutely sure, what is the absolute date that a wholesaler has to discontinue selling the old cigarettes? Is it...if I read your bill, is it correct that it's, what, July? [LB198]

SENATOR KARPISEK: July 1 of 2010. [LB198]

SENATOR HADLEY: That is the date that...I just want to be sure because we need to give the wholesalers a chance because they cannot return cigarettes to the manufacturer, so we've got to be sure that, from a warehousing standpoint and such as that, that we give them adequate time. So it is July 1, 2010. [LB198]

SENATOR KARPISEK: Yes, and while the other sections become operative on the effective date in the bill, but July 1, 2010, is the drop-dead date. [LB198]

SENATOR HADLEY: Okay. Well, I just think it's important that we work with the wholesalers to make sure that they don't get stuck with the different kinds and I think that basically gives them over a year to work through it, so I think they can do that. [LB198]

SENATOR KARPISEK: I agree, Senator, and we have been in talks. They've been involved in some of the negotiations, not to say that they agreed on all points, but they

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have been aware, they've been involved. [LB198]

SENATOR HADLEY: Okay. Thank you. I do rise in support of LB198 and the underlying...the amendment, AM679. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senators Karpisek and Senator Hadley. Senator Gloor, you are recognized. [LB198]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Stuthman would yield to a question. [LB198]

SENATOR FRIEND: Senator Stuthman, would you yield to a question? [LB198]

SENATOR STUTHMAN: Yes. [LB198]

SENATOR GLOOR: Senator Stuthman, how will we be able to assure that cigarettes being sold in the multitude of places that cigarettes are sold in around the state remain this new type of a less combustible cigarette as opposed to the existing brand? [LB198]

SENATOR STUTHMAN: Senator Gloor, it is my understanding that there will be a type of a stamp that are placed on these cigarettes that they are...that...compliant with the Ignition Propensity Act. They will...they will have to be identified. They will have to be stamped by the commissioner, I think the tobacco commissioner. There is a method that they will be stamped that they are compliant. If anyone does purchase cigarettes after that time, you know, that aren't compliant, you know, they can be, you know, turned in and I'm sure that everybody will be compliant at that time because of the tobacco companies. They have 39 states that they already do it with. [LB198]

SENATOR GLOOR: Does the Revenue Department or does anybody do inspections that you know of to look at brands? I mean are we putting ourselves in a position where we pass legislation which we have a hard time enforcing? [LB198]

SENATOR STUTHMAN: Senator Gloor, I don't think it will be an issue of hard time of enforcing. It's the fact that I think there will be these stamps placed on these when the tax is collected, you know, from the commission, the Revenue Department, because they will be collecting the tax on them and affixing the stamp on it that tax has been paid on them and that these are compliant cigarettes. [LB198]

SENATOR GLOOR: I understand. Thank you. [LB198]

SENATOR FRIEND: Thank you, Senator Gloor and Senator Stuthman. Senator Stuthman, you're next and recognized. [LB198]

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SENATOR STUTHMAN: Thank you, Mr. President. I just...I just want to take just a little bit of time and explain, you know, there is portions in the bill that deals with the fact that if there are wholesalers and dealers that do have cigarettes that are not compliant, you know, they will be able to sell their existing inventory if, in fact, that there is a tax stamp, you know, placed on those cigarettes and the date on that stamp is prior to the effective date of this, this bill. So they will be able to get, you know, take those...they will be able to sell those, you know, until their inventory is out and they need to sell the new ones. But they will...they will have a tax stamp on them and they have to have a tax stamp on them, and the date of that tax stamp has to be prior to the effective date. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Hadley, you're recognized. [LB198]

SENATOR HADLEY: Mr. President, members of the body, Senator Stuthman, would you yield to a question? [LB198]

SENATOR FRIEND: Senator Stuthman, will you yield to a question? [LB198]

SENATOR STUTHMAN: Yes. [LB198]

SENATOR HADLEY: I guess I go back to the effective date again and the reason I ask this is that I am, you know, have some concern for the wholesalers and such as that. It's my understanding right now that some of the wholesalers do have these cigarettes in their warehouse and are available for sale. Would there be...could you see any problem of moving up the effective date? [LB198]

SENATOR STUTHMAN: Senator Hadley, I don't really see a problem with it, but...and...but the main issue is, is I think that, you know, if the tobacco companies want to, you know, supply these retail or wholesale and retail outlets, you know, with only those cigarettes, they can do that right at the present time. And I was informed that there are cigarettes available already at this time that are compliant to this act and I think that is because so many other states have it already and it may get down to the situation where a company will not manufacture any of the ones without those ignition places placed in the paper. [LB198]

SENATOR HADLEY: Okay. Thank you, Senator Stuthman. I may just be doing just a little research to find out about the effective date and possibly bringing an amendment to move it up when it goes on to Select File. But I think anything that we...if we're going to do anything, moving it up is much better than moving it back. So thank you, Senator Stuthman. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Hadley and Senator Stuthman. Senator

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Giese, you are recognized. [LB198]

SENATOR GIESE: Thank you, Mr. President and members of the body. Just a point of information for Senator Hadley, I think that a lot of wholesalers now are currently stocking both types of cigarettes and they find that it is more costly now to stock both of these kinds of cigarettes. And as far as moving up the date, I don't think that would be a big concern for most of them because the ones that are proactive stock both kinds and it would be very easy for those to switch over. So just a matter for the record and I am in support of LB198. [LB198]

SENATOR FRIEND: Thank you, Senator Giese. Senator Lautenbaugh, you're recognized. [LB198]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Stuthman would yield to some questions. [LB198]

SENATOR FRIEND: Senator Stuthman, will you yield to some questions? [LB198]

SENATOR STUTHMAN: Yes. [LB198]

SENATOR LAUTENBAUGH: Senator, I would just like an occasion to discuss this bill a little bit to make sure there are no loopholes of any kind in it, if I could. How did you arrive at the 25 percent regarding the...in trials for the full-length burn? [LB198]

SENATOR STUTHMAN: The 25 percent in the trials? [LB198]

SENATOR LAUTENBAUGH: Yes. [LB198]

SENATOR STUTHMAN: That is because of the New York standards, is the standards that we're going to utilize. [LB198]

SENATOR LAUTENBAUGH: Do you know who will actually be doing the testing, as in the specific individual? [LB198]

SENATOR STUTHMAN: The testing, the testing will be done by...initially we had the testing done by the State Fire Marshal, but I am not sure. I will have to get that. I will get the information and get back to you because I do remember the testing was one of the issues that was a concern of the State Fire Marshal, if they had to hire people that, you know, would be doing the testing or making sure that it was compliant, and that is the reason we went with the New York tests as far as the testing regulations are concerned. [LB198]

SENATOR LAUTENBAUGH: Thank you, Senator Stuthman. And in a related vein, I

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think I heard you say earlier that we were doing this to make it safer for people who smoke? Why would we want to accommodate such people? [LB198]

SENATOR STUTHMAN: Well, to tell you the truth, I think I'm just trying to accommodate those few people that want to smoke, you know, in their home, which they can do at the present time, but I don't...and it's because of the property that is lost and the loss of life. And the majority of the loss of life comes when they are in their home, they're watching TV and they fall asleep and the cigarette falls out, starts the couch on fire. Well, we want to have it so that that cigarette goes out before the couch starts on fire. [LB198]

SENATOR LAUTENBAUGH: Wouldn't it be easier just to ban smoking in homes? [LB198]

SENATOR STUTHMAN: It probably would be. Maybe we should ban smoking altogether. But I don't think that is the issue that we're addressing right now because we have allowed people in private, not in public, you know, to smoke and the issue is, you know, I do respect the ones that want to smoke, enjoy the smoking in their private homes. [LB198]

SENATOR LAUTENBAUGH: But you're not concerned about...I guess that wouldn't happen anyway. So we're going to have to have people recertify these cigarettes every four years. Is that correct? Is every four years enough? [LB198]

SENATOR STUTHMAN: I think every four years is enough, and the reason I say every four years is because of the fact that with newer technology coming aboard, the fact is that 39 states already have it and hopefully all the states will have it, and I think in the future all cigarettes will have these safety parts in the paper. This is a situation where this does not involve cigars. Cigars are not wrapped with a paper because they're wrapped with a tobacco, so there really is no way that we can... [LB198]

SENATOR FRIEND: One minute. [LB198]

SENATOR STUTHMAN: ...we can effectively do anything with the cigar portion of it. [LB198]

SENATOR LAUTENBAUGH: I understand that and I appreciate that. Do you know how the testing will be done? Will it be monitored or is it just some individual certifying a written report of a test? [LB198]

SENATOR STUTHMAN: In the New York standard, there is a method of when the cigarette is lit and it's drawn up to that line, which is 15 millimeters from the lit end is the first thick paper wrap in there where it goes out, and the only way to keep it going is the fact that it has to have oxygen drawn through. What happens in the testing is the fact

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that they light the cigarette, they draw it up to that point, place the cigarette down, and it has...it will go out. If it doesn't go out then that would be one of the instances of saying, well, you know, maybe that isn't good enough. [LB198]

SENATOR FRIEND: Time. (Visitors introduced.) On with discussion of AM679, Senator Lautenbaugh, you are recognized. [LB198]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Stuthman would yield. [LB198]

SENATOR FRIEND: Senator, Senator... [LB198]

SENATOR STUTHMAN: Yes. [LB198]

SENATOR FRIEND: ...Stuthman, will you yield to a question? [LB198]

SENATOR STUTHMAN: Yes. [LB198]

SENATOR LAUTENBAUGH: Senator, I guess my concern is, and you'll concede, there is a human element to the testing of this, is there not, and someone has to fill out the forms? [LB198]

SENATOR STUTHMAN: Yes. Yes, there would be. [LB198]

SENATOR LAUTENBAUGH: So wouldn't that be subject to manipulation possibly? [LB198]

SENATOR STUTHMAN: I really, in my opinion, I really don't feel it would be and mainly because of the fact that, you know, the State Fire Marshal had some concerns about them developing a method of testing. That is why we went with the New York test part of it and those brand of cigarettes have to comply with the New York test. Now maybe in New York some of those individuals are not respected and would not be doing the right thing, but we are relying on that New York test, which I feel the majority of the states rely on that test, because that is a test that has been performed that is a good test and I see no reason why someone would...that would be taking the test or seeing that that cigarette was in compliance would try to manipulate that. [LB198]

SENATOR LAUTENBAUGH: Well, I could conceive of a scenario where someone could say, if you certify my cigarettes, say, you get a free steak dinner or something like that. Do you see any risk of anything like that happening? [LB198]

SENATOR STUTHMAN: No. To tell you the truth, it would be kind of nice if we could offer steak dinners. You know, I'm in the cattle business and the more steaks that we

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can get out there for people to consume, I think that would probably good. [LB198]

SENATOR LAUTENBAUGH: Do you know if the documents that certify all this have been drafted yet? [LB198]

SENATOR STUTHMAN: Can you explain to me what do you mean by the documents? [LB198]

SENATOR LAUTENBAUGH: Just for the certification process and whatnot. I assume there have to be written documents and forms with the State Fire Marshal. [LB198]

SENATOR STUTHMAN: Those will be the rules and regulations that will be adopted and those will be...will be adopted by the tobacco commissioner. The Revenue...the Revenue Department will adopt those and as far as the rules are concerned, and the rules are pretty well spelled out in the amendment as far as cigarettes that are already in existence that are not compliant, what happens to those, and then when all cigarettes and cigarette brand family and all the cigarettes that are sold in the state of Nebraska. And I would like to add that, you know, this bill was brought to me by the tobacco company and the other bill that was incorporated in my bill, Senator Cornett's bill, was brought to her by the State Fire Marshal. So this is an issue that the tobacco companies have a real concern of the loss of life and loss of property because of the fact that these cigarettes do not go out and they're trying to make them as safe as possible. [LB198]

SENATOR LAUTENBAUGH: Thank you, Senator Stuthman. Colleagues, I think I've raised a number of concerns here that are patently absurd and I do, of course, rise in support of this bill. It's a good idea. It's a warranted idea. And I would point out that, you know, if you look hard enough on any bill, you can find cause for people misbehaving with out-and-out fraud, deception and whatnot. That's why we have other laws. I do rise in support of this bill and I urge you to vote for it. [LB198]

SENATOR FRIEND: Thank you, Senator Lautenbaugh. Any other...are there any other senators wishing to speak? Seeing none, Senator Karpisek, you are recognized to close on AM679. Senator Karpisek waives closing. Members, the question is, shall AM679, the General Affairs Committee amendment, be adopted? All those in favor please signify by voting aye; all those opposed vote nay. Have you all voted who wish to? Record please, Mr. Clerk. [LB198]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB198]

SENATOR FRIEND: Committee amendments are adopted. [LB198]

CLERK: I have nothing further on the bill, Mr. President. [LB198]

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SENATOR FRIEND: Thank you, Mr. Clerk. Members, back to discussion of the bill, LB198. Are there senators wishing to speak? Senator Stuthman, there are no senators wishing to speak. You are recognized to close on LB198. [LB198]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. First of all, I want to thank everyone for support of this bill, this amendment, but I want to give some special thanks to some individuals, Senator Karpisek and the committee and the legal counsel and Senator Cornett and my staff. We worked very hard on the amendments, trying to get it all ironed out as far as the concerns that the Fire Marshal, the State Fire Marshal, had with this bill, and I think...I think we've got this pretty well ironed out now so that, you know, it's an issue, in my opinion, that it's a safety issue. It's an issue that we need to save property and, most of all, we are very much concerned about the loss of life. And, you know, just within, like I had stated before, just within the last six months or three months, you know, we have lost a few individuals because of careless smoking handling, and the situation of, you know, the cigarettes do keep burning. With this, hopefully the cigarettes will go out, but I'm sure that some of them, you know, may yet start a fire down the road. But I'm very, very happy, you know, that we're trying to address the problem, especially for safety, the loss of life. So with that, I ask for your support in advancing this bill. Thank you, Mr. President. [LB198]

SENATOR FRIEND: Thank you, Senator Stuthman. Members of the Legislature, you've heard the closing on the advancement of LB198 to E&R Initial. All those in favor please signify by voting aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB198]

CLERK: 37 ayes, 0 nays on the advancement, Mr. President. [LB198]

SENATOR FRIEND: LB198 does advance. Next item. [LB198]

CLERK: LB322, a bill by Senator Avery. (Read title.) Introduced on January 15, referred to the Government, Military and Veterans Affairs Committee for public hearing, advanced to General File. At this time I have no amendments, Mr. President. [LB322]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Avery, you are recognized to open on LB322. [LB322]

SENATOR AVERY: Thank you, Mr. President and colleagues. LB322 was brought to the Government, Military and Veterans Affairs Committee by the Governor. It prohibits an official or employee of the executive branch from engaging in nepotism and from acting as a supervisor to his or her family member. Nepotism means, of course, offering employment to relatives without regard for qualifications or merit. It has its origins in the Latin word "nepos" which means nephew or grandchild. The bill also provides that while

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there is a good...when there is a good cause for a family member to supervise or hire another family member, the head of an agency may grant an exception from this general prohibition. The bill also provides that an executive branch employee or official who becomes a supervisor to his or her family member other than by nepotism, that is inadvertently, will notify the head of the agency within seven days of becoming aware of the situation. Any person violating these provisions will be subject to disciplinary action in addition to other penalties that may be authorized under the Nebraska Political Accountability and Disclosure Act. There are no criminal penalties for violating these provisions. Family member is defined in LB322 as an individual who is a spouse, a child, parent, brother, sister, grandchild or grandparent by blood, marriage, or adoption of an official or employee. In current law, immediate family member is defined as a child residing in the household of a spouse or an individual claimed by that individual or an individual's spouse as a dependent. LB322 expands and clarifies the list of people who are considered immediate family members to more closely comport with what most people would consider to be a family. With this bill, laws regarding nepotism and supervision or family members are clarified. They are streamlined so that it would be easier for officials and employees in the executive branch to understand the prohibition. Currently, nepotism is addressed in two different sections of law. This would clarify and streamline that. The bill also provides that the Legislature intends that the legislative and the judicial branches of government will implement policies regarding nepotism and supervision of family members. I believe we have one in place in this Legislature and I believe also the judicial branch, as well, has one. The need for this legislation was brought to light in 2007 when it was discovered that five children of five managers had been hired for temporary jobs in the Department of Labor. Some of these relatives who were hired received higher wages than those paid in some regular...by some regular...or paid to some regular full-time employees doing similar work. These children did not live with their parents who employed them, so it was not a violation of existing law. This bill would clarify and tighten that law. The committee advanced the bill on an 8-0 vote. There was no opposition expressed at the hearing. Those supporting the bill included the University of Nebraska, the Department of Administrative Services, and the Accountability and Disclosure Commission. Mr. President, I urge all of my colleagues to support this bill. Thank you. [LB322]

SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you've heard the opening on LB322. There are senators wishing to speak. Senator Langemeier, you are recognized. [LB322]

SENATOR LANGEMEIER: Mr. President and members of the body, would Senator Avery yield to some questions? [LB322]

SENATOR FRIEND: Senator Avery, will you yield to a question? [LB322]

SENATOR AVERY: I will. [LB322]

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SENATOR LANGEMEIER: Senator Avery, for the record, LB322 is dealing with nepotism on the executive branch at the state level only? [LB322]

SENATOR AVERY: That is correct. It does not apply to local governments. [LB322]

SENATOR LANGEMEIER: And so it would only apply to the Governor's Office, state employees. Is that correct? [LB322]

SENATOR AVERY: All employees of the state other than those who work for the Legislature and the judicial branch. [LB322]

SENATOR LANGEMEIER: Okay. That's all I wanted to clarify at this point. I'll have a couple questions when they get the bill to me on my next turn. Thank you. [LB322]

SENATOR FRIEND: Thank you, Senator Langemeier. Senator White, you are recognized. [LB322]

SENATOR WHITE: Thank you, Mr. President. And generally I support this bill. Senator Langemeier had brought a concern to me and I just raise this. There are literally counties and small towns in this state that, if this policy extended beyond the state governmental level, would disqualify, in some cases, the only person who might be qualified to hold the job in the county, and that becomes a concern. I applaud the no nepotism rule where you have sufficient people; there are a lot of qualified people and that can work. But literally you could have situations where if a county board were prohibited from hiring certain people, CPAs or even grader operators or others, it makes it impossible to reasonably govern. With that limitation that Senator Langemeier pointed out before and Senator Avery's assurance, I support the bill. Thank you. [LB322]

SENATOR FRIEND: Thank you, Senator White. Senator Pirsch, you are recognized. [LB322]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. I rise today in support of LB322. I did serve on...do serve on the Government Committee and it did pass through our committee with an 8-0 vote. Last year I did offer a similar type of bill dealing with nepotism. And just to inform the body a little bit from a historical context of why this bill is so necessary, there is currently in the law a number of statutes that deal with nepotism relationships. However, there are currently two different standards, and taken together, they are oftentimes confusing to employees who don't know if they're governed by standard A or standard B, and they have carried with them significant penalties. And so that is the underlying basis or rationale why it is so necessary to have one standardized, unified standard when it comes to nepotism, and I think that this bill is a more palatable, more streamlined version of that which was set off

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with last year. And to address Senator White's contention that in certain cases you might be in a rural area, a rural county where a certain expertise is needed in an employee, and it may well be that it just so happens that that needed resource comes from a relative of a currently employed employee of the state of Nebraska and that...and with respect to that concern, there are safeguards built within this bill, within LB322 to address those rare situations and other situations where you need to have an expertise or an employee or there's no other alternative option. And I think I'll let Senator Avery comment as to that...if Senator Avery would yield to a question. [LB322]

SENATOR FRIEND: Senator Avery, will you yield to a question from Senator Pirsch? [LB322]

SENATOR AVERY: Yes, I will. [LB322]

SENATOR PIRSCH: And Senator Avery, could you just address the concern that was expressed by Senator White with respect to certain areas of the state perhaps not having...I mean, needing an employee who has certain knowledge and that, all candidates or the only candidate having some sort of a familial relationship that would otherwise violate the nepotism standard, could you comment on some of the safeguards that are built into this statute? [LB322]

SENATOR AVERY: Yes. I'm glad Senator White raised that, and Senator Langemeier, because the committee did discuss extending this, and the very reason that we didn't were the questions they raised: because there are many municipalities and smaller governments or local governments that simply couldn't abide by such a law because of the limited labor pool of qualified people. And that's the reason it's not in this bill. Thank you. [LB322]

SENATOR FRIEND: Thank you, Senator Avery. Are there any other senators wishing to speak? Seeing none, Senator Avery, you are recognized to close on LB322. [LB322]

SENATOR AVERY: Thank you, Mr. President. This is a bill that we took two years to bring to the floor. The problem we had last year was that we were trying to make sure that we didn't get involved in encroaching on the turf of other branches of government, this body, and the judicial branch. We worked that out this year. It is a good bill and it does close a loophole that needs to be closed. I urge your support for it. Thank you, Mr. President. [LB322]

SENATOR FRIEND: Thank you, Senator Avery. Members of the Legislature, you've heard the closing on the advancement of LB322 to E&R Initial. All those in favor please signify by voting aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB322]

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CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB322. [LB322]

SENATOR FRIEND: LB322 does advance. Next item. [LB322]

CLERK: Mr. President, LB549, by Senator Adams. (Read title.) The bill was introduced on January 21, referred to the Education Committee, advanced to General File. There are committee amendments, Mr. President. (AM822, Legislative Journal 837.) [LB549]

SENATOR FRIEND: Thank you, Mr. Clerk. Senator Adams, as introducer of LB549, you are recognized to open. [LB549]

SENATOR ADAMS: Thank you, Mr. President, members of the body. This is the technical bill from the Department of Education. And I will tell you that it's been quite a while since the Ed Committee brought forward a technical bill. So we've got about five or six years of accumulation of places in the statutes that need to be repealed, language that needs to be corrected. Literally, most of this is procedural that over time the Department of Ed has said we need to fix. And so what I'm going to do for you is to highlight some key components rather than to go through all of this. You don't want that. And then I'll try to respond to any questions that you have. One area is in the option enrollment area. You all know what option enrollment is. We have some clarifying language as to when applications have to be formally submitted, clarification as to when school districts have to be notified. Another area is in the area of transportation, defining, you know, how much transportation does a school district pay for a student, and specifically we're looking at the pickup point of the bus, from the student's home to the pickup point, the reimbursement if they qualify for that transportation. It's a matter of clarification of what we already do. We have another section on student records. And basically, what it says is that with the written consent we would...with written consent it would be possible for someone else, for instance it may be a behavioral counselor, to access students records if the parent or guardian of the surrogate agreed to that in written form. Our exempt schools, basically, what we say in this portion of the bill is that if you bring in the birth certificate at the time of enrolling, designating your enrollment, that's sufficient. Doesn't have to be earlier than that. Under the category of school boards, currently we have a requirement in the law that requires school boards to hold a public hearing on environmental hazards, accessibility barrier, modification, elimination for life safety codes, indoor air quality. We would modify that and say you don't have to do that because, quite frankly, when a school board goes through its budget hearing, which is a public hearing, these are some of the things that are already talked about. So it would just simply eliminate one of the public hearings. There is a portion in the bill on reorganization. And what it simply would do is say that if a school district is closing and they are contracting out their students to another school district, rather than be allowed to do that for three years, it would be reduced to just two years. On school district reporting to the Department of Ed, we eliminate some of the categories on boys and girls. We would also eliminate the requirement that the districts swear an oath before

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they submit some of these documents to the state. We have a section on special education that we clear up. Just a host of things in here. We eliminate the word "child" and "student"...or "child" and "pupil." We put in the word "Student." The state board has jurisdiction over the administration and supervision of on-the-job and apprenticeship training, on-the-farm training, flight training for veterans, the list goes on. I think that I will end the list right there and try to deal with questions as they come up, Mr. President. [LB549]

SENATOR FRIEND: Thank you, Senator Adams. (Visitors introduced.) As the Clerk stated, members, there are amendments from the Education Committee. Senator Adams, as Chair of the committee, you are recognized to open on that amendment. [LB549]

SENATOR ADAMS: Thank you, Mr. President. In the amendment, ladies and gentlemen, what we have basically done is to further respond to some additions that the Department of Education would have liked to have seen...or would like to see to this bill. We have also taken some other bills that we had in committee that we felt were primarily technical kinds of things and rolled them in here. Let me give you an example. LB257, that was originally introduced by Senator Harms, on the seamless delivery system pilot project to eliminate it, we take that language and we simply would be eliminating that program and repealing it. LB530, which was introduced by Senator Sullivan, which was designed to plug a gap on early childhood education, and we have an issue there to deal with. And the issue is very simply that if you are currently a school district that is receiving federal money and/or state money for an early childhood program, currently the state disallows a child that is currently of mandatory kindergarten age from repeating an early childhood. Now not only does the state do that, but the federal does too. If you have federal money, Title I or Head Start, they don't let you do that. We have heard several bills over time and have heard from a lot of school district people about this issue. And basically, what we would be doing here is saying that as long as you aren't getting federal money, and as long as you're not getting state money for your early childhood, then for one more year the state will waive its requirement and we will let those children repeat. Now the reason we're doing this for one more year is this, it was the opinion of the committee that we have a substantive issue here that has come about, I think, primarily because of the disparity in our state of populations, the availability of early childhood. And we really need to look at this. And we felt in committee we really didn't have time to examine the educational benefits as well as this disparity across the state. So what we are in essence saying, we're going to grant that one-year reprieve and I'm going to file for an interim study so that during this session we can really take a serious look at this and maybe come back next session with some more substantive legislation that really tries to address the issue. So we have rolled back LB530 into here. LB548, which was originally another technical bill, and basically what it says, we have a transfer of student records, and when a student's records are transferred, if that student has been involved in a disciplinary action, if it involves

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expulsion or suspension, then those portions of the record need to be transferred to the next school. So the school administration can see what's transpired. Other things would not. If some of you will remember, we had a few rough edges last session between the body here and the state Department of Education and the commissioner. And as a result of that, the Education Committee did an interim study and reviewed the statutes regarding the state Board of Education, the Legislature, and the commissioner. And we found that some of those statutes were pretty old, some of those statutes need clarifying. And basically what we did was during the summer several of us sat down with the state Board of Education and we compared notes and said, what do we need to do in the statutes; what do we need to do to fix things? And what you're seeing here in this amendment is some clarifying language that was agreed upon by both the state Board of Education, our new commissioner, and the Education Committee. And it clarifies the qualifications to be a commissioner, and it clarifies some of the duties of the commissioner and we believe, kind of remedies some of the rub that we've had in the past. Those things are included in this amendment, Mr. President. Thank you. [LB549 LB257 LB530 LB548]

SENATOR FRIEND: Thank you, Senator Adams. Members, you have now heard the opening on the Education Committee amendments, AM822. Senator Price, you are recognized. [LB549]

SENATOR PRICE: Thank you, Mr. President, members of the body. I would like to ask if Senator Adams would yield to a few questions? [LB549]

SENATOR FRIEND: Senator Adams, will you yield to a question? [LB549]

SENATOR ADAMS: Yes, I will. [LB549]

SENATOR PRICE: Senator Adams, you might anticipate some of my questions here. This is an expansive bill here with a lot of pages, a lot of changes. And going over it, still taking some time, so please bear with me as I try to articulate the questions I have. When we talk about transportation and the reimbursements and the costs, has this bill attempted to address that for those that are involved in the learning community? [LB549]

SENATOR ADAMS: No. [LB549]

SENATOR PRICE: Do you anticipate that there be any difference because of an area of the state is in a learning community versus those not in a learning community? [LB549]

SENATOR ADAMS: This addresses...the learning community language dealing with transportation is unique to the learning community. This is for the rest of the state. [LB549]

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SENATOR PRICE: Okay. So once again, we have a very unique opportunity there. And the next part, as I was reading through, on page 13, line 3, paragraph 4 we talk about...and this isn't necessarily a change, but we talk about when you're in a learning community you have a second priority for option enrollment. And my question is, wouldn't this have been an opportunity to provide the same benefits to the rest of the state when that same condition exists? So I mean, how is it beneficial for a learning community to do this and not for the rest of the state where the same conditions exist? [LB549]

SENATOR ADAMS: I'm sorry, Senator Price, but this is a very comprehensive bill and I'm trying to get some guidance on these very particular things that you have. The language on the option enrollment in the learning community, if you'll recall, that was one of the first bills up this session, in LB62, which clarified that. I don't know that that answers your question. But that was unique to the learning community as well. [LB549 LB62]

SENATOR PRICE: Right. And again, my question was just to kind of call attention to the uniqueness of it. But my second question, again, where we're talking about that second priority, how is it advantageous to a child who meets those needs as defined in the learning community, if that condition exists elsewhere in the state, is it not also an opportunity to assist those children by saying that they would have a second priority? [LB549]

SENATOR ADAMS: I think you're right. I would say so. [LB549]

SENATOR PRICE: So we see...but now we see where we're going to put a condition only on the learning community area and not give that advantage to the rest of the state. That's just a question, I noticed, Senator Adams, and I don't want to go around the May pole flag with you on this. I just call that out. There's about another 83 pages for me to reference against the leaning community on this bill. Thank you very much for your time. Thank you, Mr. President. [LB549]

SENATOR FRIEND: Thank you, Senator Price and Senator Adams. Mr. Clerk, items for the record? [LB549]

CLERK: Mr. President, new resolution, LR80, Senator Cornett. That will be laid over. Revenue Committee reports LB386 as indefinitely postponed. Senator Haar would like to add his name to LB481; Senator Nordquist, LB675; Senator Mello, LB675. Judiciary Committee will have an Executive Session today at 12, over the noonhour, in Room 1113; Judiciary at 12:00 p.m. in Room 1113. (Legislative Journal pages 888-889.) [LR80 LB386 LB481 LB675]

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And Senator Schilz would move to recess the body until 1:30. []

SENATOR FRIEND: Members, the motion is to...for the Legislature to recess until 1:30 p.m. All those in favor please signify by saying aye. All those opposed say nay. The ayes have it; we are in recess. []

RECESS []

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Do you have messages, reports, or announcements? []

CLERK: I have neither messages, reports, nor announcements at this time. []

PRESIDENT SHEEHY: Thank you. We'll proceed to LB549. [LB549]

CLERK: Mr. President, the bill was introduced this morning...or this morning Senator Adams opened on his bill and on the committee amendments. (AM822, Legislative Journal page 837.) [LB549]

PRESIDENT SHEEHY: Senator Adams, would you like to give us a recap of the Education Committee amendment. [LB549]

SENATOR ADAMS: Yes, I would, Mr. President. I don't know that the body wants to hear it all but I will give you a recap. LB549 is, in summary, it is the technical bill from the Department of Education. And it is quite an accumulation of change, it's been several years since we've brought this bill forward. And AM822 is the amendment to that bill which adds even more technical changes in response to some of the things the Department of Ed would like us to correct. Thank you, Mr. President. [LB549]

PRESIDENT SHEEHY: Thank you, Senator Adams. Members requesting to speak on the Education Committee amendment, AM822, to LB549, Senator Rogert, you're recognized. [LB549]

SENATOR ROGERT: Thank you, Mr. President, members of the body. I wondered if Senator Adams would yield to a question, please. [LB549]

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PRESIDENT SHEEHY: Senator Adams, would you yield to questions? [LB549]

SENATOR ADAMS: Yes. [LB549]

SENATOR ROBERT: Senator Adams, I want to thank you for putting portions of LB530 into this bill. I think you mentioned that this idea has been brought before us a couple of years in a row. I brought it last year. I brought another bill that discussed it this year, it was LB479. Just a little question on the nonapplication of this authorization to those programs that receive state grants of funding through the Tax Equity and Educational Opportunities Support Act. And you alleviate a little bit more on why you chose those only and why...I mean, why that's necessary to go that direction rather than all schools. [LB549 LB530 LB479]

SENATOR ADAMS: We had, as I try to remember back, what we did, we took Senator Sullivan's bill and rolled it into here. And I'll try to...if I...if I... [LB549]

SENATOR ROBERT: It killed mine, thus, right? [LB549]

SENATOR ADAMS: Oh yeah. (Laugh) Although our intention, Senator Robert, was the same. [LB549]

SENATOR ROBERT: Yes. [LB549]

SENATOR ADAMS: And our policy in the state has been that what we have tried to do is encourage schools, if they're getting a state grant for early childhood or receiving TEEOSA for early childhood, we've tried to encourage them to also go after Head Start money. And once a school district makes application and receives Head Start money or/and Title I money, which is federal money, then those schools are obligated to follow the federal guidelines. [LB549]

SENATOR ROBERT: Right. [LB549]

SENATOR ADAMS: And there is a student-teacher ratio, there is a student per square foot ratio, and there's also the obligation that once a child is kindergarten eligible, under our mandatory age, they can't repeat. And we've tried to encourage school districts to supplement each by trying to get both programs. Hence, we've also adopted those federal guidelines. [LB549]

SENATOR ROBERT: And one of those guidelines is that the child cannot be of age 7 while still in kindergarten. Is that not correct? [LB549]

SENATOR ADAMS: I believe that's correct. [LB549]

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SENATOR ROBERT: So that's what forces kids to go to kindergarten maybe a year earlier if they're going to turn 7 in May rather than in June. [LB549]

SENATOR ADAMS: That's right. [LB549]

SENATOR ROBERT: And the opposite side of that, the reason that we have...that we're looking at this again is because some of these students, if they're of age 5 by the time they hit October 15, I think is correct, then they have to go into kindergarten rather than early childhood, right? [LB549]

SENATOR ADAMS: Right. [LB549]

SENATOR ROBERT: I think so. I'm just trying to do some dialogue. And the reason LB530 and LB479 have come forth is that I think Senator Sullivan and I and some others think that there's a gap left in there between about June 1 and October 15, where some of these kids can be stuck. And we understand that there's a thing called red shirting, and some folks...some parents will hold their kids back for the wrong reasons, so they'll be further advanced when it comes to some curricular activities, meaning sports for example, but it's also my concern that we're not giving parents the ability to choose whether their child is ready for kindergarten or preschool or not yet. And I appreciate you doing this again. And I just wondered what do you think the outcome will be if we look at this in some sort of study through the summer? [LB549 LB530 LB479]

SENATOR ADAMS: Thank you, Senator Robert. I don't know that I can predict the outcome. One of the reasons we chose to go this direction was it's a new session, new committee members, this whole issue they're unfamiliar with it, and they...we all want to take it very seriously and make sure that we do the right thing. Hence the idea was that, all right, we'll accept what you had asked us to do last year and extend this one more year. [LB549]

SENATOR ROBERT: Yeah. [LB549]

SENATOR ADAMS: But give us time so that we can really look at the issue, because all the things you brought up... [LB549]

PRESIDENT SHEEHY: One minute. [LB549]

SENATOR ADAMS: ...are legitimate. We hear about the red shirting concept. But we also hear from professional educators about the value of going ahead and getting kids started in kindergarten. [LB549]

SENATOR ROBERT: Yeah. [LB549]

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SENATOR ADAMS: And so there's a real educational conflict here. And I think the committee needs to be up to speed on it before we make a policy decision. [LB549]

SENATOR ROBERT: I appreciate your discussion, Senator Adams. And I hope we can come up to a good decision over the summer. Thank you, Mr. President. [LB549]

PRESIDENT SHEEHY: Thank you, Senator Robert. Senator Sullivan, you're recognized. [LB549]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. And I appreciate the discussion thus far on this amendment. And I was fine with my bill being melded into this bill, even though it wasn't quite what I wanted. And it still leaves parents concerned about the ability or not having the choice to hold their children another year in preschool. I wanted to clarify also and help me, Senator Adams, if I'm incorrect on this. The mandatory kindergarten age is six, and they...if they turn six by January 1 of the current year then they have to go to kindergarten. Is that correct? [LB549]

PRESIDENT SHEEHY: Senator Adams, would you yield? [LB549]

SENATOR ADAMS: That's correct. [LB549]

SENATOR SULLIVAN: And so what we're looking at are those children that the parents think that they're not quite ready to go kindergarten and they want that flexibility of being able to keep them in preschool that extra year. And even though they are eligible for kindergarten, the parents don't think that they are ready, and if they don't have that option of keeping them in preschool, sometimes they just don't put them in a preschool at all, they keep them home because they don't have the alternative of a preschool in some of the rural areas. And so that really delays some of the learning that has taken place for the children. In addition, sometimes, and I've talked to not only educators but parents as well, the concern is not so much at the front end but when you've got a younger child that's graduating from high school and is less mature and not quite ready to go into higher education or the workforce. So I appreciate the fact that Senator Adams is willing to study this over the summer, because I think it deserves some discussion. Thank you. [LB549]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Seeing no additional requests to speak, Senator Adams, you're recognized to close on your Education Committee amendment, AM822. [LB549]

SENATOR ADAMS: Thank you, Mr. President. One more time quickly in summary, what this amendment does is to roll LB257, which eliminates the seamless delivery project, it removes it from the statutes. It clarifies the transfer of student records, and it

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also clarifies what the qualifications for the commissioner of education will be as well as clarifying some of those duties. And that's what the amendment does. Thank you, Mr. President. [LB549 LB257]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the adoption of the Education Committee amendment, AM822, to LB549. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB549]

CLERK: 37 ayes, 0 nays on the committee amendments, Mr. President. [LB549]

PRESIDENT SHEEHY: AM822 is adopted. We will now return to floor discussion on LB549. Seeing no requests to speak, Senator Adams, you're recognized to close. [LB549]

SENATOR ADAMS: Thank you, Mr. President. I don't know that there's any razzle-dazzle that I can add to this conclusion to draw more interest, but rather keep it brief so that we can move onto other bills. I thank the body for their attention to this. It is the accumulation, as I've said more than once, of a lot of technical changes that the Department of Ed has asked us to make over several years. And we're finally to a point where we really need to get them made. So thank you, Mr. President. [LB549]

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the closing. The question before the body is on the advancement of LB549. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB549]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB549. [LB549]

PRESIDENT SHEEHY: LB549 advances. We will now proceed to the Nordquist division of General File, LB136. [LB549 LB136]

CLERK: LB136 by Senator Avery relates to medical assistants. (Read title.) Introduced on January 9, referred to Health and Human Services Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM867, Legislative Journal page 855.) [LB136]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB136. [LB136]

SENATOR AVERY: Thank you, Mr. President, colleagues. LB136 deals with a program known as SCHIP. In Nebraska, we call it Kids Connection. Let me start with a little bit of a history of this program. It began in 1997, when Congress passed a law that was sponsored by Senator Orrin Hatch and Senator Ted Kennedy in the U.S. Senate. The

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purpose of the law was to provide states with some financial assistance to help families ensure their children for health purposes. The problem they were trying to solve is one that we in this state are familiar with and that is that a number of families throughout the country, here in Nebraska as well, do not qualify for Medicaid and, therefore, do not have access to health services for their children because they make too much money. But many of these families don't make enough money to afford health insurance to cover their children. So the program that was begun in 1997 was designed to help these families. It's called the State Child Health Insurance Program, SCHIP. What Congress decided to do was to provide funds on a matching basis with the states to help them fund up to a certain percentage of the federal poverty level. Families that qualified started out at 185 percent of the federal poverty level and in the beginning Nebraska, which started its program in 1998, was considered one of the leading model states in the country. Over time, that changed. Nebraska did not enhance its program, despite the fact that many states were doing so. Many states around us, in fact all the states around us, were raising the level of eligibility from 185 percent to 200 percent and beyond. What this bill will do will align Nebraska with our neighbors. It would raise the eligibility standard from 185 percent to 200 percent of the federal poverty level. For a family of three, say a single mother and two children, with an annual income of about \$32,560, it would raise their eligibility to \$35,200. That's for a family of three, probably the typical family that would need this program. That's about \$220 a month increase, which is not a great deal. The state of Nebraska currently has one of the lowest eligibility levels in the country. Forty-three other states have higher levels, many very high, but most of them are at least at 200 percent of the federal poverty level. Missouri is at 300 percent and I read just the other day that Kansas has recently approved an increase in their 200 percent eligibility to 250 percent. This SCHIP Program, or Kids Connection, is a federal block grant program. A finite amount of money is available to each state. Congress recently passed an enhancement to the SCHIP Program. I believe Nebraska now is eligible for about \$42 million increase in available funds. In some past years, Congress was not fully funding their portion. We are now guaranteed that at least through the year 2013 that Congress will, in fact, meet its obligation and the match has changed so that the federal government will provide 72 percent of the funding and the states must provide 28 percent. The program, if you do not cover and enroll your uninsured children, then the allotment that you get from the federal government will be smaller in the future. It's a use it or lose it kind of arrangement. And the money that we do not use, because we are not funding it at a high enough level, those federal funds will go to other states and those states are the states that are doing a better job of insuring uninsured children. Why should we do this? There are a number of reasons. Senator Gay will be introducing the committee amendment in a few minutes and he will cover some of this. But there is a really important reason. We had a problem exposed in this state with the safe haven legislation that requires us to act, and in our special session many of you got on the mike and you made promises, I was one of them, promises that we would do something to help these families in crisis. This bill is an important step in that direction. We have not only a political obligation to do this, but we

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have a moral obligation. When the country is in a recession, as we are, a deep recession, many families are hit hard. They have added financial burdens and the loss of jobs, and having their children insured is even more critical. The child poverty rate and the number of uninsured children and healthcare costs are increasing. More employers cannot afford coverage for their employees and that, of course, applies to these families I am talking about. And I want to emphasize here, these are working families. They're not welfare families. These are working poor and they are in trouble. If children are not covered by health insurance then we will be shifting the cost to other programs. One way or another, we will pay. It will be paid. We'll pay in the form of additional health costs down the road. We may pay by having to deal with bigger issues involving crime that these families may be involved in or children may fall into. Taking care of our children has to be a high priority. In fact, one could argue, as I would, it has to be our highest priority. Investing in children is good policy. It's an investment in the future and it is good for the people of the state because it will save us money down the road. Right now, there are about 45,000 uninsured children in our state. A little more than 5,400 of these 45,000 uninsured children will become newly eligible if this bill becomes law. Now that's not a huge number when you consider 45,000 is the need. We will, however, be making an important step. Sixty percent of our uninsured children, or that is 27,000, are in households earning 200 percent of the federal poverty level or less, so that is the number in need, the number who would technically qualify under this program. The problem is getting people enrolled. And we can talk about portions of the bill that, in the green copy, that will be...are taken out that would have addressed that. But we have made some significant adjustments to this bill to address the concerns of many about the fiscal note. Seventy-eight percent of uninsured Nebraska children live in households where there is one full-time worker. Six Nebraska counties are ranked among the top...I will call it the bottom 50 counties in the nation with the highest percentage of uninsured children:... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR AVERY: ...Banner County, Wheeler County, Loup, Blaine, and Arthur. Only one state, Texas, has more counties with higher numbers of uninsured children than Nebraska. In fact, I looked at some of the other states. Even Mississippi, even Mississippi does better than we do with their SCHIP Program. The costs of uninsured children show up in our school systems. It will show up in our welfare system. It will show up in our juvenile justice system if we don't do something about it. I want to address the fiscal note and I'm sure that Senator Gay will do that. The fiscal note that you have that accompanies the green copy is not any longer accurate because we have made and will be making adjustments to this in the amendment from the committee that will cut that \$24.4 million down to about \$2.5 million. And I would point out that this is part of that overall package of bills that we discussed a few weeks ago. [LB136]

PRESIDENT SHEEHY: Time, Senator. [LB136]

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SENATOR AVERY: Thank...(microphone malfunction). [LB136]

PRESIDENT SHEEHY: Thank you, Senator Avery. As was stated, we do have a committee amendment from the Health and Human Services Committee. Senator Gay, you're recognized to open on AM867. [LB136]

SENATOR GAY: Thank you, Mr. President, members of the Legislature. The committee amendment simply raises the eligibility level for children under the State Children's Health Insurance Program, or SCHIP, from 185 to 200 percent of the federal poverty level. The committee amendment does not raise any eligibility levels of other programs or make any other changes as contained in the bill as introduced, as Senator Avery just talked about on the fiscal note. And, Senator Avery, I will be yielding the balance of my time back to you to continue to go into that. The committee amendment made its decision based on fiscal considerations. When we looked at this, it's...the impact, this reduces the General Fund impact from \$8.5 million to \$2.5 million in fiscal year 2010, and from \$11.9 million to \$3.4 million in fiscal year '11. I would just say the committee recognizes, of course, the situation we're in, and you may wonder why would you do this now, but also the committee sees firsthand all the needs as well that we have and this is a reasonable, reasonable solution. It's...Senator Avery...I wouldn't say that he willingly conceded, but he's been very good to work with on this and he realizes the big picture and has been good to work with. So he will continue to explain the fiscal note and some of the things that have been taken out, I would assume. But I did want to say this is pretty straight. When we talk about the complete fiscal note now, we are talking \$2.5 million General Funds and \$3.4 million in 2011 on General Funds. And he will talk more about the leverage that receives on the federal level. But I support the amendment and the overall bill. I think it's a step in the right direction. As he had mentioned, it's in what is becoming a package that I think will benefit the state tremendously. So with that, Mr. President, I'd yield the balance of my time back to Senator Avery. [LB136]

PRESIDENT SHEEHY: Senator Avery, you're yielded 8 minutes. [LB136]

SENATOR AVERY: Thank you, Senator Gay. And thank you, Mr. President. Let me address the fiscal note, too, because, as Senator Gay mentioned, we made some fairly significant concessions. If you go to the pink copy, that is fiscal note revision number one, and you go down to the second paragraph--expansion of the program would add approximately 5,430 children--this is the only cost item that we're retaining; that is, the only cost item to the program. There is, in the revised fiscal note, some money for additional staff, but this is the only thing that's being retained in the original bill. That second...third paragraph there that would have expanded continuous eligibility from 6 months to 12 months, what we were trying to do there was to make it easier for families to remain in the program. Right now, you have to be recertified every 6 months, we wanted to change that to 12. That added costs, we agreed to let that go. The paragraph

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following that, that covered pregnant women, that was a cost item as well. We agreed to let that go. There was also an item on transitional healthcare that was a cost item. We let that go. There was another item on transitional childcare expansion. It was a cost item. We let that go. And then there was a final one there that costs more money which we agreed to let go. This is a bare-bones fiscal note now. It is the least we can do, and I really mean that. It's the least we can do. We had hoped to be able to do more, but this is the least we can do to get the programs started that we need to have in order to meet our obligations to those families that are in such crisis that we learned about in the safe haven issue. We have an obligation to do that. We realize that we're in a fiscal crisis in the state. The overall impact of this program will not be so great that we cannot do it. Can we do it without pain? No, probably not. I've had conversations with other senators about this, Senator Heidemann has been involved in those conversations, but I think we have to recognize that we do have an obligation here, that it's both political and moral and that we need to do this. We're calling for \$2.5 million in fiscal year '10, 2010. That's state money. That will leverage over \$6 million in federal money. Then in the...and that's a total of \$8.5...\$8.6 really, \$8.6 million for the first year. The second year state money would be \$3.3 million. That would leverage \$8.2 million in federal money and that will bring us to a total in 2011 to \$11.5 million in federal money. This, if we can do this in a recession, at a time when things are tough, I think we can take some pride in the ability of this Legislature to get things done and our willingness to keep our word. Thank you, Senator Gay, for yielding time and I urge you to support this amendment. Thank you. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Gay. Thank you, Senator Avery. (Visitors introduced.) You have heard the opening of the committee amendment from Health and Human Services. Members requesting to speak on AM867 are Senator Campbell, followed by Senator Wightman, Senator Stuthman, Senator Haar, Senator Avery, and others. Senator Campbell, you're recognized. [LB136]

SENATOR CAMPBELL: Thank you, Mr. President. A couple of weeks ago, this body said let's begin looking, rather than at each bill separately, let's look how we can bring a package of bills together to impact the effects of what we saw in safe haven. The two bills that we are now hearing or will hear, LB136 and its amendment and the next bill, are truly a part of that package. It is extremely important that all of us today realize that LB136 is what I call the linchpin of the package to respond to safe haven. The money that will come from the federal government to match this, it is important to know it is not stimulus money. It will be ongoing federal money. This is an entryway, as Senator Avery said, for potentially 5,400 children. It isn't enough to bring children and adolescents into the system but we need a way to pay for the services. It was very important, I think, that many of the children involved in safe haven situations lacked the private insurance to access mental health and treatment services their child needed. Making this change won't help all the families accessing safe haven, but it will help thousands of Nebraska's families access healthcare for these children. This is an economic issue for many

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families. A family without healthcare will face large debts when there is a medical, mental health, or substance abuse treatment issue. The SCHIP Program, or Kids Connection, has been, as Senator Avery said, in the state since 1997 and hopefully it will help you realize that this program is somewhat of a stacked program in the sense that the bottom stack is Medicaid funding and then comes the SCHIP funding to create a total package of Kids Connection. Medicaid has been one of the most important ways for us to access care for children. They are the largest number served under Medicaid. But if you begin to prorate the cost, they are our lowest cost. They are our best investment because once we start at this early age, or even as an adolescent who needs that mental health, we get them into a system and we help to pay for those services. This is critical. And so I would urge your support of LB136 and its underlying amendment. Thank you. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Wightman, you're recognized. [LB136]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. Right now I would plan to support this bill, but I do have several questions I would like to address to Senator Avery, if he's available. [LB136]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB136]

SENATOR AVERY: I will, but would you let me buck some off to Senator Gay if I get in trouble? (Laugh) [LB136]

SENATOR WIGHTMAN: (Laugh) You tell me when you're in trouble. Okay. Number one, how many children are presently covered under the current SCHIP Program at the 185 percent level, if you know that? [LB136]

SENATOR AVERY: I don't know that off the top of my head, but I can get it probably before you're off the mike. [LB136]

SENATOR WIGHTMAN: And I think you indicated that 45,000 children are presently uncovered, not covered, and that we would cover about 5,000 of it with this increase? [LB136]

SENATOR AVERY: 5,460. [LB136]

SENATOR WIGHTMAN: Okay. [LB136]

SENATOR AVERY: That's correct. [LB136]

SENATOR WIGHTMAN: And you mentioned the current national poverty level being,

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for a family of three, I think you said about \$30,560. Is that correct? [LB136]

SENATOR AVERY: No, it's \$35,000. [LB136]

SENATOR WIGHTMAN: \$35,560. [LB136]

SENATOR AVERY: Right. [LB136]

SENATOR WIGHTMAN: Thank you. So...but that is the national poverty level, not 200 percent of the national poverty level. Is that right? [LB136]

SENATOR AVERY: No, that would be 200 percent for a family of three. [LB136]

SENATOR WIGHTMAN: That's two... [LB136]

SENATOR AVERY: Just over \$35,000. That's 200 percent of the federal poverty level. That's what it would take to qualify. [LB136]

SENATOR WIGHTMAN: So you're saying that for a family of three... [LB136]

SENATOR AVERY: Right. [LB136]

SENATOR WIGHTMAN: ...the federal poverty level is only \$17,700? [LB136]

SENATOR AVERY: No, \$35,000. [LB136]

SENATOR WIGHTMAN: But that's...but we're talking about 200 percent of the poverty level. [LB136]

SENATOR AVERY: Yes. That would be a family of three making just over \$35,000 a year would qualify at the...that is the 200 percent of... [LB136]

SENATOR WIGHTMAN: Okay. [LB136]

SENATOR AVERY: ...the federal poverty level. They would qualify at that income. [LB136]

SENATOR WIGHTMAN: So the national poverty level is half that amount, 100 percent. [LB136]

SENATOR AVERY: Yeah. [LB136]

SENATOR WIGHTMAN: Okay. Now I think you said 43 states currently have 200

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percent or higher. Is that right? [LB136]

SENATOR AVERY: That is right. [LB136]

SENATOR WIGHTMAN: Now do these...national poverty levels don't take into account what the...they are national, they're not state and there is no state poverty level established. Is that correct? [LB136]

SENATOR AVERY: No. [LB136]

SENATOR WIGHTMAN: So there is a lot of difference, I assume, as far as average cost of living for a family of three in Nebraska as opposed to California or New York. Would that be a correct statement? [LB136]

SENATOR AVERY: That is correct but I do have information, and I'm prepared to circulate that, that would show you what it would cost a family of four in Douglas County and in Keith County. I just picked those counties--I've got information on virtually all of the counties in the state--what a family of four would need, what it would cost them for health insurance or how much...how much room in their family budget they have to pay for health insurance. You will see in that information that families that make 200 percent of the federal poverty level cannot afford health insurance, because the difference is huge, what it costs and what they have in their budget to pay for it. [LB136]

SENATOR WIGHTMAN: Are you suggesting there is a big difference between Keith County and Douglas County? [LB136]

SENATOR AVERY: Actually, there is. In Keith County, they...the typical family of four has about...available for health insurance about 8.3 percent of their budget, but it would...and that would be about \$300, \$304 per month. But it would cost them \$489 per month to buy that on the private market. [LB136]

SENATOR WIGHTMAN: But that does vary county to county. Is that correct? [LB136]

SENATOR AVERY: In most cases. Smaller counties like Keith probably spend more. [LB136]

SENATOR WIGHTMAN: Spend more for health insurance? [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR AVERY: Yeah. The cost of health insurance is higher in many of those counties. [LB136]

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SENATOR WIGHTMAN: Did you say 1 minute? [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR WIGHTMAN: So all I'm suggesting is that maybe our placement in the total of 50 states of 43rd isn't quite as bad as it might be when you consider what our cost of living might be in Nebraska compared to the cost of living in some of those other states. Is that... [LB136]

SENATOR AVERY: I'll concede that point, Senator, but I don't know what it is. [LB136]

SENATOR WIGHTMAN: Okay. Thank you, Senator Avery. Thank you, (microphone malfunction). [LB136]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Stuthman, you're recognized. [LB136]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I truly support this bill. I feel that this is a bill that I've had...a number of my constituents had a real concern about. It was the fact that these are working parents, working parent or working parents, that have children that need some medical assistance, and they were very much concerned about that. You know, their income as a working person was right on that borderline and they would not be able to receive that medical assistance for their family or their child that had some special needs. And the most important part about this is the fact that, you know, these people want to continue working and that's very important. They're setting examples, you know, for their children that they are...they are working. They're trying to make the best of what they have. And I think, you know, if we can assist these a little bit and which we're attempting to do with this bill, I think that's very important. Because I know I have several situations of constituents that have children that have a special need and need medical assistance and I think this is very important for those families. So with that, I do support the amendment and I support the bill. And I think this, yes, this bill has an A bill to it, but I think this is where we can leverage federal money and we're able to do that. And I think it's also very important the fact that we are, you know, allowing these people to be in the work force yet and stay there and then also give them assistance because of the difference between the poverty level. So with that, thank you, Mr. Lieutenant Governor. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Members requesting to speak on the Health and Human Services Committee amendment, AM867, to LB136, we have Senator Haar, followed by Senator Council, Senator Dubas, Senator Campbell, Senator Nordquist, and others. Senator Haar, you're recognized. [LB136]

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SENATOR HAAR: Mr. President, members of the body, I rise in support of LB136. For me, this is an issue that touches my heart. In Nebraska, we're very proud of our family values and certainly, when you think about family values, healthy children has to be a part of that. Looking at these numbers and just having been on a campaign not too long ago and talking to some of these families, you look at the poverty level today in the United States is \$21,200 for a family of four. And even at 200 percent of the level of poverty that Senator Avery's bill addresses, that's only \$42,400 for a family of four. A study was done last year in which somebody looked at the cost of running a family of four on 200 percent of the poverty level, and by the time you take out thing...and this is with both parents working, because these are working people. They're often marginally employed. But once you look at a family of four, you look at both parents working, childcare, you take out childcare, housing, taxes, food, transportation, there's very little money left over. In this particular study, it said the amount remaining might be about \$200 a month and there's no way to buy health insurance for two children for that. This would simply raise the eligibility level from 185 percent of poverty to 200, taking us out of that small group of only ten states below 200 percent. And it's something we can afford. For those of you who were at the luncheon yesterday and heard...I'm not sure how to pronounce the man's name but Dr. Shonkoff, I believe was his name, talking about how investment in a child's early life pays off later big time. And we hear that very often when people come to us with programs--pay now, save later. But investing in children's healthcare is undoubtedly one that makes sense. If we pay now, we will save a lot of money later and it's the right thing to do. We all know it makes sense that good health is a foundation for later life, not just for health as such but in terms of education and all those other kinds of things. And it leverages federal dollars. We'll be paying for only a small portion of this increase. Again, the numbers, if we look at them, at least 45,000 uninsured children in Nebraska, 45,000. Sixty percent of these uninsured children or 27,000 are in households earning 200 percent of the federal level of poverty or less. And when we look at the cost of uninsured children, it's not just in terms of healthcare later on but it's in terms of school systems, education, the child welfare system, the juvenile justice system, all of these kinds of things, and we know that and we have to do something about it. So I know it's an A bill that has money attached to it, but this is one of those kinds of things that we have got to find the money. We've got to find the money. It's the right thing to do. It's the common sense thing to do, and I think our hearts tell us it's the right thing to do. Thank you very much. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Council, you're recognized. [LB136]

SENATOR COUNCIL: Thank you, Mr. President. I first want to rise thanking Senator Avery for introducing LB136. It is indeed an example of this body being responsive to the critical needs of the citizens of this great state, particularly the children who live in poverty. Would Senator Avery please yield to a question? [LB136]

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PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB136]

SENATOR AVERY: I will. [LB136]

SENATOR COUNCIL: Yes, Senator Avery, I have some questions about AM867. And it's my understanding, from your explanation and my review of AM867, that one of the principal changes from the bill as originally presented was that the period of eligibility would be reduced from one year, which was under the original bill, to six months. Am I correct? [LB136]

SENATOR AVERY: You are correct. [LB136]

SENATOR COUNCIL: And then it would be month to month after that six-month period? [LB136]

SENATOR AVERY: Yes. [LB136]

SENATOR COUNCIL: Okay. Now in terms of the fiscal note, you indicated that the bill...the amendment was intended to reduce some of the costs associated with the eligibility period being one year. [LB136]

SENATOR AVERY: That's correct. [LB136]

SENATOR COUNCIL: And is all of that cost in terms of the benefits provided or... [LB136]

SENATOR AVERY: Yes. We actually save about \$3.2 million in the first year and \$9.5 million in the second year. [LB136]

SENATOR COUNCIL: Okay. Now do you know whether... [LB136]

SENATOR AVERY: Oh, I'm sorry. Let me revise that second. It's \$3.2 million in the first year and \$4.7 million in the second year. Sorry. [LB136]

SENATOR COUNCIL: Okay. And is it my...am I correct in my understanding that those savings are based upon the presumption that if the six-month review...at the time of the six-month review that most of the people who are eligible are no longer eligible? [LB136]

SENATOR AVERY: No. If you...if you expand...if you have continuous eligibility, this estimate I think takes into account people who would continue to receive the benefit but who may have, in that 12 years (sic), become ineligible. [LB136]

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SENATOR COUNCIL: Okay. (Inaudible). [LB136]

SENATOR AVERY: And that's the reason for the six. The reason the six months is in the bill, in the law now and monthly renewal is that a lot of these situations of these families is fluid and circumstances change, and if you have a shorter eligibility check or recertification then you can make those adjustments and save some money in the process. [LB136]

SENATOR COUNCIL: Okay. But I guess the answer then to my question is, as I believe that the assumption is, is that at the six-month review that some number of families who have been receiving the benefits are assumed to no longer be eligible to receive benefits. [LB136]

SENATOR AVERY: I think that's fair to say. [LB136]

SENATOR COUNCIL: Okay. So it is possible that, despite the fact that the eligibility has been reduced from a one-year continuous eligibility to a six-month continuous eligibility, the cost of providing those benefits may remain the same if those families' financial situation hasn't changed. [LB136]

SENATOR AVERY: That's possible, but I think the experience is that it's not likely. I would prefer to have continuous eligibility for 12 months,... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR AVERY: ...frankly, Senator, but I'm a realist. I recognize the fiscal constraints we're under. [LB136]

SENATOR COUNCIL: Okay. But the other part of that, Senator Avery, that I wanted to get to is that we may be being penny wise and pound foolish in terms of the number of individuals who are eligible and the administrative costs associated with checking that eligibility every month. Do we have a cost associated with the administrative and, you know, FTE costs associated with? Because you're going to expand the number of families. You're going to add, what, about 5,000? [LB136]

SENATOR AVERY: We're going to add over 5,000 and the cost...administrative cost of that is about \$314,000... [LB136]

SENATOR COUNCIL: Okay. [LB136]

SENATOR AVERY: ...in the first year. [LB136]

SENATOR COUNCIL: But that's in the first year, but in terms of checking every month

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after the six-month period of eligibility... [LB136]

SENATOR AVERY: We do that now. [LB136]

SENATOR COUNCIL: I guess...I guess what I'm trying to say, I appreciate... [LB136]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. [LB136]

SENATOR COUNCIL: Thank you. [LB136]

PRESIDENT SHEEHY: Senator Dubas, you're recognized. [LB136]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Yesterday I know there was quite a few senators that went over to the BlueCross building for a speaker and I found him...I was one of those senators that went to that lunch and found that speaker very, very enlightening. And although his focus was on early childhood education, and when he spoke about early childhood education he wasn't talking about four-year-olds, he was talking about from the moment these kids are born and what we invest in their education through supporting their families, helping their families educate them as infants, and how far-reaching those investment dollars go into their adulthood, into their physical health as well as their mental health. It was really quite fascinating how really important it is to spend those dollars up front helping those children and their families with education. But I thought, as I was listening to speak, I thought everything that he is saying also goes for the discussions that we've had in dealing with children's behavioral health issues, children's physical health issues, people's physical health issues in general. The more that we can reach people sooner, the more that we can save down the road, the less we are going to invest in those high-end, high-cost types of treatments or services that people end up getting. And for some reason, we don't seem to have that mind-set, I think as individuals or as a state. We seem to wait until the problem has escalated so much and is so severe, and then we start thinking, okay, now we have to do something. If we would change our mind-set and start thinking about what is it that we can do early on to intercept, prevent, or even stop some of these issues that we're dealing with at the extreme end of the spectrum, it just only goes to make sense that it's going to be less costly. SCHIP is an extremely important part of this bigger picture that we've been talking about through the safe haven discussion. Again, the dollars spent up front are just going to save us immeasurable amounts of money down the road. And the families that SCHIP will reach are those families who, time after time after time, fall through the cracks. These are people who are doing everything they're supposed to do. They're working. They're being responsible parents, trying to take care of their children's needs. But just...there's just not enough dollar at the end of the month for them to do all the things that they want to and need to do. So SCHIP would come in and really reach those families that fall through the cracks. During the safe haven special session and since then my involvement in the Children in Crisis Task

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Force and the numbers of families that I've been able to speak to and hear their very, very desperate stories about, you know, being at the end of their rope, being at the end of their resources and still recognizing that their child is in so much need of help and where do they go and what options do they have left for them has really committed me to taking serious steps to finding really long-range, workable solutions to the issues that our children and their families are facing. And, yes, those of us who were here during the special session, we made a promise. We said we were going to follow through on these things. But I do recognize that we have a large number of new senators who weren't there and for us to commit you to a promise that you weren't there to speak for yourself on probably isn't fair. But I can't help but believe,... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR DUBAS: ...by the amount of information that we've been able to provide so far through these discussions, that you can't see the...you won't see the very real need for us to begin to seriously address these problems and work with us. And, you know, this bill will be part of a package that I think is going to take a huge step towards opening the door and really making a serious commitment to helping these children and their families, and I don't think in the very, very near future we are going to see some real tangible, positive results from the steps that we've taken in this session. So I stand in support of Senator Avery's bill and the underlying amendment, and encourage my colleagues to do the same. Thank you. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Mr. Clerk, you have items for the record. [LB136]

ASSISTANT CLERK: Mr. President, I do. First, an announcement: Transportation will be holding an Executive Session at 2:30 in Room 2102. New A bill. (Read LB136A by title for the first time.) Committee on Government reports LB279 to General File with committee amendments. New resolution, LR81 by Senator Dierks, that will be laid over. That's all I have, Mr. President. (Legislative Journal pages 890-892.) [LB136A LB279 LR81 LB136]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Resuming floor discussion on the Health and Human Services Committee amendment, AM867, to LB136, members requesting to speak: Senator Campbell, followed by Senator Nordquist, Senator White, Senator Fulton, Senator Avery, and Senator Wallman. Senator Campbell, you're recognized. [LB136]

SENATOR CAMPBELL: Thank you, Mr. President. While I had some other comments...and now I lost Senator Council. Oh, there she is, right in front of me. I apologize. I was looking over there. I want to address Senator Council's question because the Health and Human Services Committee had the same concern that she

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expressed, that we would, if we took this out of the bill, what would that mean. And we asked for a clarification and I'm going to read parts of it so that...it certainly put our mind at ease. At the end of the six months, if the family reports or has reported a change in income that affects eligibility, we receive information through one of the exchanges, and so either through the caseworker or the files or what they're watching. The worker reviews and verifies the information and takes action, includes the children. So some information has to trigger that. At 12 months, we do a redetermination of eligibility. So they have gone to a 12-month reverification which has really helped. We have a computer-generated form that the family reports any changes and mails in verification of income with or the family completes an application form. They do not have to have a face-to-face interview at the local office. We recently went to the 12-month redetermination to align this program with the other programs in preparation for ACCESSNebraska. So at this point, Senator Council, we felt much better taking that portion out knowing that the family would not be put through all of those hoops. I'd like to just make a couple of comments. Last week, Senator Gloor did just a great job of describing a medical home, and for most of us in this body, a medical home is our doctor, our family doctor. In the case where families don't have insurance and children become ill, most often they are taking them to the emergency ward, which is the most expensive level of care that we can have. So if we can increase the number of children who are brought into care, we are obviously going to help the cost of healthcare across the state. Uninsured children are four times more likely to end up in the emergency department with conditions that could have been avoided. I think it's important for all of us who are watching healthcare and its costs and being very prudent about the state's money; need to keep in mind that this program will help us on many fronts. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Nordquist, you're recognized. [LB136]

SENATOR NORDQUIST: Thank you, Mr. President. First like to thank Senator Gay and Senator Avery for their collaboration on this bill and for working out the details, coming to a sensible compromise that will allow us to move forward with this legislation. And this bill is a critical piece to the overall puzzle that we're going to put together to address the safe haven issue that arose in our state last fall, and Senator Gay and Senator Dubas and Senator Campbell have been leading the way on that legislation. This is a reasonable approach. Even after passing this legislation, we're looking at 43 other states that are either at or above where we're going to be in eligibility. And just looking at the numbers of these families, 185 percent of poverty equates to about \$40,792 for a family of four, 200 percent of poverty is \$44,100. Those are families making over \$40,000 a year that are doing things the right way. They're working hard. They're playing by the rules, doing what they can to get ahead. I think this is the approach we need to take. Unfortunately, these families are in the position of a lot of Nebraska families. We have seen as we've addressed Medicaid reform, I think one piece that

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hasn't been discussed enough when we passed Medicaid reform in '05 and through the last few years is the utilization of Medicaid by working families. And unfortunately, we've seen a dramatic increase and it's not on the families, folks. We need businesses to come to the plate and be good stewards, good corporate citizens in the state. My predecessor in '05, John Synowiecki, tried to bring this into the discussion on Medicaid reform and requested a report from HHS, and they provided a report with a list of all the businesses in the state that had 25 or more family units on Medicaid. Now a family unit can be the one employee, it could be one child of the employee, it could be the employee and all their children, but that's one family unit. In 2005, there were 186 employees (sic) in the state with 25 or more family units. The report I got a couple weeks ago that I requested, an update, there were 484 employers in the state. It went from 186 employers to 484 employers from '05 to '09, and it wasn't just a growth in employers. It was a growth of the number of family units per these employers. The largest one in the state, which will remain nameless as far as the number of family units they have on Medicaid, in '05 had 654 family units on Medicaid; they're over 1,200 family units on Medicaid now. This needs to be a discussion that we start having, how we can bring the business community to the table and have a thoughtful discussion about how we can get more people on private insurance and get businesses to step to the plate and less people off taxpayer rolls. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator White, you're recognized. [LB136]

SENATOR WHITE: Thank you, Mr. President. I don't think the largest employer ought to remain nameless. I think they ought not only be named, they ought to be publicly shamed. It's Wal-Mart, Wal-Mart and their increase, because they pay substandard wages, because they don't give insurance to their employees. And they say that's good economic development? Taxpayers want to know why we have to spend more money of their money to take care of children. It's because employers who are shameless will condemn them to poverty and illness and not provide even a modicum of insurance. They break the social contract that built this country, and it is Wal-Mart. They don't care about kids. They don't care about American jobs. They care about profits. Now recently a senator--and I was in a meeting and was not on the floor, and I regret that deeply but it involved a matter I had to work on--railed on the fact that Metropolitan Community College requires responsible bidding with employers who provide insurance to their employees. Oh, that's a waste of public money. Guess what? There's no free lunch. Today we are taking care of children because employers are shirking their responsibility, social responsibility to their employees and to their children. You are paying today because employers, in the name of the almighty buck, are cutting the throats of their employees and their employees' children. So money we are spending here today, tax money, is replacing what once was the honorable obligation of good employers, and it's Wal-Mart, folks, Wal-Mart. Thank you. [LB136]

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PRESIDENT SHEEHY: Thank you, Senator White. Senator Fulton, you're recognized. [LB136]

SENATOR FULTON: Thank you, Mr. President, members of the body. Wonder if Senator Avery might yield to a question. [LB136]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB136]

SENATOR AVERY: I will, sir. [LB136]

SENATOR FULTON: Okay. Senator, I've talked with you off the mike and I do have concerns with this bill but I recognize there's been a lot of work done into it...done toward the bill, toward its passage. So perhaps I could say my concerns won't be as sharp as what they had been previously, but I do have questions. I've never understood this. Perhaps you could explain it. We are talking about 185 percent of federal poverty. I've never understood why we are adjusting up from federal poverty. Why is it that we have never just adjusted the federal poverty guideline? Can you explain why that's the case? Why is it that we're talking about multiples of the federal poverty guideline? Why isn't it that the federal poverty guideline simply isn't changed? [LB136]

SENATOR AVERY: Well, I'm not sure I can answer that question directly, but I can tell you that this is a federal program and they define the eligibility and what...how they calculate the federal poverty level is, of course, a very complicated formula that I believe is in the Department of Labor. And I'm not sure how that is calculated and why they don't change it, but it does...it does escalate up from time to time, as incomes go up in the country. [LB136]

SENATOR FULTON: Okay. It's a concern that I have. Thank you, Senator. Maybe there will be other senators who can respond to this. It's been...it was explained to me some years ago, but the concern I have is that it lulls us to sleep. When we hear a certain percentage of federal poverty, who could be against helping someone who is in poverty? When you frame the question as a multiple of the federal poverty guideline, who again can be against someone who lives below the federal poverty guideline. So you're talking about 200 percent of federal poverty or 185 percent of federal poverty. It seems to me that it would be more accurate, maybe this is just my own personal disposition, seems to me it would be more accurate to call poverty what it is and stop with the multiples because that makes it very difficult. When people who aren't paying attention hear something of federal poverty, then it's poverty that you're talking about and not necessarily the amount of money that a family earns. Voices for Children, I thank them for their work. They handed out a healthcare and family budget. I don't know if anyone else got this. I think everyone received it. I have a family. I have a small business. We run off of a budget. And I'm looking through this budget and I have some questions, for instance, taxes of \$571 a month. A family that's living at 200 percent of

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federal poverty, how many families in that situation are paying \$571 in taxes every month? That's a little more than \$6,000 a year in taxes. I thought that those individuals would be exempt from income tax or perhaps...yeah, whatever income tax they have. Perhaps this is property taxes. I know property taxes are high in Nebraska but \$6,000 a year for property taxes? I question that. Maybe we're talking about sales taxes. That deserves some clarification. I guess the concern that I have here is, first of all, the intention of having more people insured is meritorious--good intention. It's not just a good intention. It's a good end. The more... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR FULTON: ...people who are insured, the better our healthcare policy is for all Nebraskans. What I question is, when we choose what that level of income is where a person qualifies for government-sponsored health insurance, are we paying attention to that threshold or are we really paying attention to federal poverty? I ask you all to think about that because I'm looking at this family budget and I'm thinking that a family of that size on \$44,000 ought to be able to afford their own health insurance. Maybe I'm wrong, but I have some experience here and I think that that's something that could be afforded. So I'm not against health insurance for children, but I am against putting government in place of what ought to be the responsibility of families who I think could afford this. It's a concern. I put it out there for the body. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Avery, you're recognized. [LB136]

SENATOR AVERY: Thank you, Mr. President. And thank you, Senator Fulton, for giving me a good segue into what I wanted to talk about. Actually, if you turn over that handout that I sent out, you will see an explanation for how taxes are calculated. It's taking all the taxes that a family is likely to pay and they calculate it on the basis of the most populated city in the county, and then you apply that to the entire county. That of course would vary by family, but this is of course aggregate data. Aggregate data will be flawed in some instances. It will be incorrect with respect to a specific family, but it might be correct with respect to the whole average over the county. But if you look at the Douglas County information there, you can see that at the 200 percent of the federal poverty level the family budget breakdown. It's very difficult for families that could only afford about 6 percent of their income, annual income...or it's very hard for them to afford health insurance that's going to cost them at least, say, \$418.99 a month, and that's no maternity coverage and a completely clean health history. So how many families would be able to qualify on that basis? Probably not a whole lot. I ask you to look very carefully at this information because it does give you a picture of how affordable health insurance is for families in the most populous county and how affordable it is in one of our more...one of our least populated counties, Keith County. One other question came up.

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Senator Wightman asked me a question about how many children currently are qualifying for SCHIP. That number is 25,000. We are only going to add about...a little over 5,000 more to that number and that does not come very close to meeting the need, which is 45,000. So I think that this is a modest improvement. It is an improvement. It is an important improvement. Senator Fulton admitted that it's pretty hard to argue against the program. I'm sure that there are some here who might be philosophically opposed to this, but I would ask you to take a look at it from the standpoint of the safety net that we have in this country. We have, as Senator White mentioned, this social contract. It's very important that we keep that in mind. That's what holds this country together, when we have a common consensus that government does have some responsibilities, not just for security but government has some responsibilities for helping the poorest among us avoid the harshest consequences of illness, old age, and poverty. And really, that is a valid and a function of government that we have agreed upon in this country for about a century now. So I would urge you to think of it in those terms. We're not...we're not breaking the bank here. We are...and we're not even trying to insure all of the people who are uninsured. We're just going to help a portion of them. The original bill would have helped more. I recognize that we couldn't afford that, and we have agreed to trim it back. But what we are trying to do is still important. If you look at the data that you have in your handout, you look at what... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR AVERY: ...is available for families in Keith County, I think that's the more typical of most of the counties in this state. It's very hard for families who are in this category we're targeting. It's very hard for them to afford insurance for their children. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Avery. Members wishing to speak on the Health and Human Services Committee amendment, AM867, to LB136, we have Senator Wallman, followed by Senator Wightman, and Senator White. Senator Wallman, you're recognized. [LB136]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Got a Pete Ricketts cartoon here. I used to have an office pretty close to that man, and sales tax was his answer. And you can read the rest of the story here. And there's a famous group of individuals from Liverpool, sang, teach your children well. Folks, it's about the kids here. It's about money. Sure, it's about money. What are we going to do about it? I'd like to know how you can get insurance for \$400-and-some a month for health insurance without a, you know, tremendous, horrendous, what do you call it? But anyway, you know, you got to have a lot of money to get...oh, I can't think of it. But anyway, that's the way it is. So this percent of poverty and all this stuff, we can set any kind of number we want to. It's probably not going to be enough. Healthcare and our national government, people talk about socialist government, folks, our senators and

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congressmen have been socialists, under the socialist program for years. They have Medicare, Medicaid or whatever you want to call it. They got health insurance. And I do too because I'm on Medicare. So this kind of bothers me that we struggle with these issues about money and this and that. If we don't take care of our kids, I think Senator Campbell brought up about this program with early childhood development. If we want children to take care of us, what are we supposed to do? As a government body, we should take care of them. And deductible is what I meant on the insurance plan. Sometimes my brain has a lapse. But please vote for this bill and the amendment. Thank you. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Wightman, you're recognized. [LB136]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I did want to address a few issues that are on here and I think Senator Fulton raised some of these issues with regard to how accurate perhaps this family budget of someone that was on 200 percent of the poverty level, and I think these show a family of four, both Douglas and Keith. There are some questionable figures, I think, on here. One of them is taxes. You know, it is true that if we're going to include Social Security taxes that are withheld from the payroll check, that's going to constitute a fairly big share of that. My guess, as a family of four at \$44,000, would probably pay no income taxes, it would be very unusual if they had two children at home because they will qualify for a child credit, may qualify for earned income credit, no doubt would. And some of you may not even realize what earned income credit does but in many instances it pays all of your Social Security. All of that is a refundable credit. I'd have to look at a table to see what, for a family of four at \$44,000, but I'm sure they get some earned income credit. By the time they got the child credit, I'd be very surprised if they paid any income tax and I also would suspect that they would get back part of the Social Security that was withheld. Now it does appear to me that on \$44,000 there would be about \$3,080 a year or slightly over, \$250 a month for Social Security, but again, most or all of that could be refunded in the form of an earned income credit. So you don't have to inflate these figures very much, maybe \$100 on each of two or three items, and pretty quick you're down to where there's quite a bit of money left for healthcare insurance. Again, I may support this but I don't think the situation is near as critical as is being suggested. I think that in many instances these people could pay for their own health insurance. And I think that once we start paying it through taxpayer dollars, you're going to have more people who are now paying their own that will see fit to do whatever they have to do to qualify for SCHIP for their children. So I am somewhat skeptical of these figures that are shown to us for both Douglas and Keith County. The housing, it may very well be \$671 in...I think that's in Douglas County. In Keith County, I think most families of four would be probably living for less than \$622.47, but that may have included utilities, so may not be that far off. Now I don't quite understand why in Keith County food is \$685 a month for a family of four and in Omaha \$495. That doesn't make a lot of sense to me but it

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does show that on the figures that have been presented to us by Senator Avery. Transportation, \$554 a month in Keith County seems certainly on the high end. So I think if you go through these figures, there's at least some element of doubt with regard to the various figures that we're looking at as being the average monthly cost for a family of four. I think these would be high-end figures. And it doesn't take much, as I say. If you pare \$50 off of two or three of those items, then you have a lot more for health insurance. So I would suggest that you take a close look at these and certainly before you get carried away in looking at any higher figure than the 200 percent poverty level. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Following members requesting to speak: Senator White, followed by Senator Carlson, and Senator Friend. Senator White, you're recognized. [LB136]

SENATOR WHITE: Thank you, Mr. President. I want to address not only members of the body here but the taxpayers who ask themselves how come I'm paying high taxes for health insurance, that's a backbreaker for my family, for other families and children? I think it's a very fair question for any taxpayer to ask, not at all unreasonable. And you know what? I'm going to give you some information right now that will make you even more unhappy. In 2005, Wal-Mart associates, one of the most prosperous corporations, the largest retailer in the world and one of the most prosperous corporations in the country, had 654 family units. As Senator Nordquist said, that could be an individual. It could be a whole family. Six hundred and fifty-four Wal-Mart employees got their medical care paid for courtesy of you and me and every other taxpayer in the state of Nebraska. These are Wal-Mart employees. Now in March of '09, Wal-Mart had 1,285 employees, families or family units whose healthcare was paid for by you and me. They went from 654 to 1,285. No wonder they're profitable. They are dumping the cost of their employees on the people of the state of Nebraska. And what are they giving us back? They're selling stuff largely made out of the country and taking our money out of the state. Are they alone? I have to tell you, this is one of the most staggering reports I've ever read. It's Senator Nordquist's, so I will not name names beyond these, but I will tell you there are two very prominent Omaha companies on this report and they were incredible companies with great names, founded by people from Nebraska that became enormously profitable, and in this interim were sold. In 2005 the first one went from 77 employees or family members who were getting their insurance paid by the state, to 258 employees. What happened? Did they lose money? Oh no, they're quite profitable. They were sold to people who no longer had ties to the state, no longer were family people. They're big international corporations. Guess what they're doing. Folks, they don't care about their employees and they surely do not care about the taxpayers of this state, and they are more than happy to dump that cost. To my friends who are often budget hawks, to my friends in the chamber of commerce, to my friends who are small business owners who are deeply and legitimately concerned about the tax load that we place on them, if you want to be a budget hawk you cannot ignore the fact that some of

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your business competitors, some of the people you would count on as your political allies are robbing your blind. And they're robbing you blind because the good people of the state of Nebraska cannot abide the idea of a child, who could be saved, dying a painful death because they don't have the economic resources to get medical treatment. They are using your morality to pick your own pocket. Now are they alone? Unfortunately not. This company in Omaha that was sold in the interim is joined by another company, a wonderful family company, very successful. It went from having 137 people who were getting their insurance paid by the state in April of '05... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR WHITE: ...to 462 in March '09. What happened? They were sold. They were sold from an old Nebraska family to out-of-state people who don't give a rip. You cannot be a responsible fiscal conservative and turn a blind eye to a fundamental fact--your business allies are raping the public treasury and they're doing it by paying substandard wages. They're leaving children, dire sickness, and they're telling the taxpayers of Nebraska pick it up or watch them die. And that, to my fellow citizens, is one of the reasons you have such an unfair tax burden. But I cannot leave a child ill without medical care. [LB136]

PRESIDENT SHEEHY: Time, Senator. [LB136]

SENATOR WHITE: I also will not forgive the corporations who have put them in that position. [LB136]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator White. Senator Carlson, you're recognized. [LB136]

SENATOR CARLSON: Mr. President, members of the Legislature, hopefully to add a little balance to this discussion, Senator White identified an employer but he didn't generalize to everybody. I appreciate that. Members, if you haven't owned a business with several employees, if you haven't managed a business with several employees, if you haven't been responsible for the livelihood of several families in addition to your own be careful about generalizing to all employers. Don't tell them to be less selfish. Don't tell them they owe society more. Don't treat them like a bunch of selfish scrooges. Remember, somebody has got to make a profit to pay the bills and to pay taxes so we can help those in need, so we can have good schools, so we can have good infrastructures, so we can have the things that make up the good life. Remember, all people in the private sector who provide jobs aren't selfish people. Many employers make up the economic engine so critical to us in Nebraska. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors introduced.) Resuming

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floor discussion on the Health and Human Services Committee amendment, AM867, to LB136, we have Senator Friend, followed by Senator White, and Senator Pankonin. Senator Friend, you're recognized. [LB136]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I was...I missed a little bit of the discussion early on. I don't know...I don't know where a lot of this...I don't know where a lot of this is going to take us. I think we're all going to go into the same...I think we're all going to go to the same place here when all is said and done. Was laughing about it with Senator Avery earlier after lunch. He said, are you going to give me trouble this afternoon? I said, well, all right--I don't know if I said this but I'm thinking it--why would I give you trouble, Bill? I don't give people trouble. I give myself trouble. I try not to give it to other people. I give myself trouble. I try not to give it to other people. SCHIP, I think SCHIP spells trouble. This isn't...by the way, this isn't a bomb tossed down the middle of the aisle. Like I say, keep in mind I think that this---and Senator Avery mentioned this, I think--this is inevitable. This is going to happen. The problem I have with it and I was talking to some folks over lunch, I don't have a lot of data at my fingertips and I would bet that you can't go on-line or go to a whole lot of places, including the Congressional Budget Office, find a whole lot of data that indicates that SCHIP has really been pretty successful. My guess would be you can't find that data because it doesn't exist. It hasn't been that successful. You know, arguments...and we're not even arguing out here yet. Go to the federal level. Go to the federal level. Go back and do some research about SCHIP and look what your congressmen and senators have been fighting about and arguing about. And once again, I think we're moving in cycles here. Who would dare vote against SCHIP? We don't want to hurt the children, do we? I don't. I've got four children. What if I lost...what if I lost all of my jobs tomorrow? I'm sure you'd like it if I lost one job. What if I lost all of them and I didn't have any health insurance? I have four young children. Do I turn to SCHIP? Can I? Does that mean they won't get sick when I do? No, it doesn't. Matter of fact, there's studies in the New England Journal of Medicine that indicate that even though SCHIP is in place, it doesn't mean people are utilizing it. So, in other words, you can hand them...you can hand them the things that they need, but they still have to use it. They still have to want to employ that for themselves and their family. You say, well, okay, Mike, where are you going? Tell you where I'm going. The conversations here eventually boil down, especially when you get close to budget time, the conversations here boil down to where is your money going to be spent? Not only that, but why... [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR FRIEND: ...are you going to spend the money there? And I got to tell you, I can talk about this three or four more times; I wouldn't be able to answer that second question--why. Why are we going to spend the money on SCHIP? I'm not trying to throw a wet blanket. Like I said, there's some things I can't stop. I'm not even going to try. This is a train rolling downhill. It will happen. It's a given. I'm just telling you, do we always

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have to go into everything blind? Do we have to do it because everybody says, well, goodness knows you're not going to stand in the way of this; this is helping children? I don't accept that. I think we can have a discussion for an hour or another hour until we adjourn about the value of SCHIP. Somebody show me some data out here about how successful SCHIP has been over the...here's what I know. In 2006, SCHIP spent approximately \$8 billion to cover 7.4 million individuals. We have any benchmarks, we have any indicators that tell us how successful... [LB136]

PRESIDENT SHEEHY: Time, Senator. [LB136]

SENATOR FRIEND: ...that has been? [LB136]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Friend. Senator White, this is your third time. [LB136]

SENATOR WHITE: Thank you, Mr. President. I want to rise and I want to thank Senator Carlson because he's absolutely right. The vast majority of employers are responsible. I'm an employer. We help pay our employees' insurance and my firm is hardly alone. But Wal-Mart, in particular, is a very sore point. Across this state, Wal-Mart drove small business out of small business. They drove them out of business. You can go across almost any small town in this state, go down main street and it will be virtually emptied of stores. And why? More than any other reason it was Wal-Mart. Well, that's the American way. That's competition. Except how did they compete, in part at least? The way they competed was the small business owners I knew and grew up with, their children went to school with the children of their employees. They often went to school together and were friends. Wal-Mart can factor in and does factor into its business plan that they're not going to take care of those people. They're going to do something even worse than not take care of them. They're going to dump the cost of their medical care on the very people they're driving out of business. Folks, I urge you to get Senator Nordquist's report. I urge you to read it, sit there, calculate the millions of dollars of state taxpayer money that are going to subsidize major international businesses that are very profitable. What I object to is the callous way costs are shifted from good, honest, responsible, conscientious employers who are trying to be loyal to their employees so their employees will be loyal to them, who try to provide an honorable, decent living to their employees but find themselves in competition to the death with international corporations that don't give a damn. And the worst part of it is here today we are signing a check to pick up the human wreckage and misery caused by that. Now is that most employers? Senator Carlson is dead bang right, and he was right to raise it and he did it gently and honestly. The vast majority of employers are responsible that when they can they provide these services because they believe in their employees. Unfortunately, they often have to face competition from huge corporations who have no such scruples. I will support Senator Avery's bill. I will not watch children not get healthcare in this state. But I also will not look the other way at corporate misbehavior that forces the

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good people of Nebraska to do what should be done otherwise. Now I had a viewer e-mail and said, well, corporations ought not to be in the business of providing healthcare. Why excoriate Wal-Mart? One is because they've driven many good companies out of business by making a profit in this way, but also because in the United States the workplace has been the organizing focal point for group care, which is about the only affordable care. If you don't have insurance through your workplace, the vast majority of Americans aren't going to have insurance unless it's from the government. We have always organized that way and part of the mantra was we don't want a national healthcare system. Well, here's the ironic thing. The big free-market guys are the ones that are driving the national healthcare. They're driving the ability to buy health insurance through the normal business process away from the average consumer. One of the things that I've worked on this year, we've worked on is trying to expand the base of those who are insured, whether it's young people between the ages of 23 and 30, whether it is young children through SCHIP. We have to get more people insured. Well, guess what, folks. The faster we bail to reach down to get these children in desperate need, the faster some corporations will let in more needy people, because they don't care. And unless we look at both sides of the equation, not just the children that need, and not just saying we as a people, we as a state have an obligation to them, which I agree we do, but also looking at the people who are profiting by creating that human misery, we will never be able to honestly look at our bosses, the taxpayers, the citizens, the voters in the eye and explain why, why are we having to spend this much money on these kind of problems? Well, there's a real answer. [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR WHITE: The answer is just that--corporations find it profitable in many cases though certainly not in most, as Senator Carlson was right. But in many cases they act like pirates, not like citizens. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator White. (Visitors introduced.) Resuming floor discussion on the Health and Human Services Committee amendment, AM867, to LB136: Senator Pankonin, followed by Senator Friend, and Senator Wallman. Senator Pankonin, you're recognized. [LB136]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. Our discussion this afternoon has been very interesting and also shows again how complicated our problems are and our society is in many ways, and we're not going to solve all that this afternoon. But I want to speak a little more specifically about the committee amendment, having served on the HHS Committee the last three years. We have looked at this concept, the LB136, increasing the eligibility level as Senator Avery has proposed and, more importantly, as we got into the safe haven issues. As you all know, we have a series of bills, about five of them, that have some impact on mental health services this session. I think they're all important. I don't know if one in particular

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is going to tip the balance and make for a better situation but I think all of them have possibilities to make our system better and services for our vulnerable citizens in these situations to be a higher quality. I think this is one of the pieces of the puzzle. And with the committee amendment, and I think this is happening on all of these bills, is there's been some good compromises and there's been a balanced approach. We just haven't opened up the spigots and poured money into these, but I think we think a combination approach, with this one being one of the pieces of the puzzle that can help cover folks and cover more kids that need these services. So I just want to endorse the amendment, the underlying bill. I think the next bill, that while I'm standing I'm going to mention, Senator Nordquist's bill, is an excellent proposal that's...I'll let him explain it but is a very valid piece of legislation that he's worked hard on and worked with Senator Gay and the other folks. Senator Dubas' bill, she's worked with Senator Campbell. I think we've had people trying hard to make the system better and being responsible to the taxpayers with the dollars spent. But I also agree that Senator White has brought up some very valid points that some of the largest corporations in the United States have taken advantage of the states and the governments and small employers who are trying to do the right thing. It just goes back to my first statement--life is complicated. It's complicated in here, but I think these...this amendment and this bill is a first step in this area that helps in the total package. Thank you. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Friend, you're recognized. [LB136]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. The interesting part about this is that I understand now, one of the interesting parts, I understand now Senator Avery has worked very, very hard on this. I appreciate that and I admire it. But the interesting part is we all work hard on these items. I mean people sit on Appropriations and they're not working hard? They've got to go. They've got hearings pretty soon today. I think Judiciary busts their hump. I know Senator Avery worked hard on all this. I know that he made sacrifices on the bottom line, the numbers. I see it in black and white here and it's good. And again I reiterate, I know this is on a fast track right downhill. Governor will probably even sign it. That's the second day I brought the Governor up. I don't know what the guy is thinking. I don't know why I did. The bottom line is I think that this is moving in a direction where we as a society, in our state, want it to go. That mean I have to like it? No. Let me tell you why, one of the reasons why. You know, from a federal standpoint how SCHIP is funded? Tobacco taxes, cigarette taxes. The cost of expansion of SCHIP from a federal standpoint, in excess of \$30 billion a year, \$30 billion. Raising the federal cigarette excise tax, right, from 39 cents to \$1 a pack? Oh, yeah, raising levies on cigars, rolling papers and tobacco-related products also. You know, in our society some people think that those type of decisions and those type of actions don't have any consequences. Some people think that those changes, changes when taxes are increased even a little bit, or our tax money is spent don't...there are no ramifications. That's a mind-set. That's a zero elasticity mind-set.

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Doesn't work. If you...and it's happened before. If you tax yachts, excruciatingly tax yachts, many will say that's all right, they can afford it, they will still buy that yacht and they will still do what they have to do because they have a certain lifestyle they have to maintain. Contaire, oh contraire, that's not what happens and we know it because we have stats and facts to show us that that's not the case. People buy less yachts. You say again, where are you going, what's the point here? The point is, better than SCHIP would be the idea...do you know how heavily regulated, do you know how heavily regulated our healthcare industry is? Deregulate it now. From a federal standpoint, go in and pull the regulations off of them. From an interstate commerce standpoint, you know how heavy that these folks are, look, I'm not...this isn't the world's smallest violin (makes violin sound). I'm saying there...that it is a heavily regulated industry that operates in a free market. Ha! No, it doesn't. And frankly, expanding SCHIP makes it more heavily regulated. [LB136]

PRESIDENT SHEEHY: One minute. [LB136]

SENATOR FRIEND: Nationwide, comments like this are on an island. But you know what? I said this over lunch to some folks. I was young but I lived through LBJ, Nixon, Ford, Carter, Reagan, all the rest of them. Everything goes in cycles. And right now nationwide we're saying this is the way to help big government. You know what Clinton said when he got elected? You know what President Clinton said? The era of big government is over. Well, it's back. Let's start with SCHIP. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Friend. Senator Wallman, followed by Senator Fulton. Senator Wallman, you're recognized. [LB136]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Friend. You brought up an interesting topic about deregulation. Does the government encourage you to buy your medicine in Mexico, Canada? You can save big bucks. Why is that? Same pharmaceuticals--Walgreens, wherever you want to go. So deregulation, will that work? Healthcare cost, how do we keep this down? I don't know. We talk about...Senator Avery and I talk about free trade, free trade. We're dealing with countries that have nationalized healthcare so how can our companies compete. You know, our car companies, some of these, they're dealing with foreign entities that have nationalized health. And I have cousins that live in England. They decided to stay there. You know, they have a house in Florida but their primary residence is Great Britain. And they talk about bad healthcare, nationalized healthcare is bad. He's the same age I am. He's still alive. He's had a heart transplant...I mean a stent put in. So it's the federal government's problem but they drop it on us, so it's our problem. And we should take care of our kids. I know we disagree on the poverty percentages. And where are you going to put that figure? It costs more to live in Omaha than it does in Scottsbluff. I'm sure I don't know. But some of us take more money to live. We like to drive a little newer

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car or, you know, high-priced vehicles; some of us don't. We buy used. So where do you put that line? I don't know, but I don't think it makes any difference. We got to take care of our kids and if we can do that we should. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Gay, seeing no additional requests to speak, you're recognized to close. [LB136]

SENATOR GAY: Thank you, Mr. President. We had a great discussion on the...very quickly again, thank Senator Avery for his willingness to cooperate and the rest of our committee. We did, as Senator Pankonin alluded to and Senator Campbell and others who have talked on this issue, took great pains to decide what to put in, what to take out I guess as well. But I still think this is a very good bill, will help a lot of the situation. And it won't help every part of our safe haven situation, I'm not saying that, but it's a good bill. Fifty-four hundred more kids is the estimate to get into the program and it is a good program. Based on depending on what you want to base your measurements off, there's a lot of kids getting a lot of good services in this Kids Connection Program. So I'd encourage your support. I would say also along the way this has been revised many, many times on the fiscal note and the draft, and our staff and Senator Avery's staff, Liz Hruska, Jeff Santema, those people who have been again and again revising bills, appreciate their help not only on this bill but I'll say that for possibly the next bill. So thank you for your input and your discussion. It deserves that, that's for sure. It's a policy change that's very important and I encourage you to vote for the amendment. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment, AM867, to LB136. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB136]

CLERK: 36 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB136]

PRESIDENT SHEEHY: AM867 is adopted. We'll now return to floor discussion on LB136. Members requesting to speak: Senator Wightman, you're recognized. [LB136]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I did want to readdress some issues that I had addressed before and probably left some misinformation with regard to what I thought the tax consequence would be of a family with \$44,000, family of four. I have since checked that out and it appears that there would, indeed, be a good deal of tax at \$44,000 with two children and two parents. There would be actually a little less tax if there were three parents (sic) and one adult in the household. But federal tax alone would be \$2,091, just assuming that was all salary, no itemized deductions; \$1,277 of state tax; it would be about \$33.68 of income taxes;

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and they would pay Social Security withholding tax of about \$3,300. So I do from that conclude that the figures we were given by Senator Avery are probably very nearly correct and I apologize for whatever manner I may have misled anybody in this body as far as those figures being much too high, because I think they are relatively correct. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Seeing no additional lights on, Senator Avery, you're recognized to close on LB136. [LB136]

SENATOR AVERY: Thank you, Mr. President. And I want to thank Senator Wightman for his comments. You are an honorable man. I always knew that. Just to recap a little bit, we made concessions along the way to make this work. We are working with Senator Gay and the Health and Human Services Committee, and we will continue doing that. We are working with Senator Heidemann and the Appropriations Committee, and we will continue doing that. This bill, I believe, is the linchpin that will make the larger package of safe haven bills work. Without this bill, it's going to be problematic whether we can do what we had promised. I had a conversation with Senator McCoy off the mike and he made a very...a very good point. He said that the voters expect us to do what we said we would do. This is a start in that direction. A question was raised about the effectiveness of SCHIP. I think Senator Friend raised that point and I think it's a fair question. The evidence that we have at this point is that the number of adults who are uninsured is going up at a rather fast rate, but we're not seeing the same acceleration in the rate of uninsured children. The reason for that is very likely SCHIP nationwide. Senator Friend mentioned that there are 7.4 million people in this program. I would say that's a success. Every new child that is covered by health insurance is a success. We pass this bill and we will have 5,460 successes that we can be proud of. I urge you to advance this bill. Thank you, Mr. President. [LB136]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question before the body is on the advancement of LB136. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB136]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB136. [LB136]

PRESIDENT SHEEHY: LB136 advances. Mr. Clerk, we'll now proceed to LB601. [LB136 LB601]

CLERK: LB601 by Senator Nordquist. (Read title.) Bill was introduced on January 21, referred to the Health and Human Services Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM855, Legislative Journal page 857.) [LB601]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Nordquist, you're recognized to

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open on LB601. [LB601]

SENATOR NORDQUIST: Thank you, Mr. President and colleagues. LB601 with the committee amendment will require that the Department of Health and Human Services submit a waiver or an amendment to its existing Medicaid plan to cover two community-based behavioral health, mental health services. That includes subacute and secure residential services. These existing services are currently funded completely by state General Fund dollars. The Legislative Fiscal Office projects a General Fund savings over \$2.3 million in the coming biennium if we were to seek these federal matching funds. And I handed out a summary of the committee amendment and those savings on there. Fundamentally, I believe Nebraska should be seeking federal funds to help finance our existing community-based mental health services. Many other states take advantage of these funds which benefit both our state's financial bottom line and our citizens that are served. In fact, Nebraska has one of the lowest utilizations of Medicaid funding for behavior health services in the country. We need to do a better job of accessing funds that are currently available and that is exactly what LB601 seeks to do. In addition to seeking out the federal funds, LB601 would require the continuation of Medicaid support of voluntary...support of voluntary subacute services. DHHS currently plans to eliminate voluntary subacute services from its Medicaid plan. In other words, unless the Legislature takes action, individuals requiring subacute behavioral health services would have to be committed, meaning they would have to give up their rights to get the help they need, and that's something no Nebraskan should have to do. This really is kind of the adult equivalent of a child, you know, becoming a state ward to get the services they need. During the hearing, we heard testimony about the importance of having these subacute services available to individuals that need it. Before these services were in place, there was an increased reliance on regional centers. Patients stayed at hospitals in acute services for a longer period of time as they waited to get admitted to the regional center. It's clear that if we restrict services only for those committed by the mental health board, there will be more commitments. Simply put, these issues require action because DHHS has not acted on it. Again, the subacute and secure residential services already exist and were developed in direct response to the legislative mandate of LB1083, the Behavioral Health Services Act. Unfortunately, we're not doing a good enough job of leveraging federal funds that are available to us to pay for these, and we're paying for them completely out of state General Fund dollars. We have historically and continue to leave federal funds on the table. Legislative mandates of this kind are not unprecedented. Over the last 25 years, every community-based rehabilitation service or substance abuse service added to our Medicaid plan has been added only after legislative action. We were the last of 50 states to include a rehabilitation option in our Medicaid plan, and I introduced LB601 that Nebraska...so that Nebraska would not fall further behind in offering behavioral health best practices and treatments to those individuals that need them. Friends and colleagues, Nebraska taxpayers pay their fair share, if not more, to the federal government to support programs like Medicaid and there's no reason our state should not be seeking out the

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maximum federal funds to which we're entitled to support programs, especially programs that are already in place. In fact, we have an obligation to Nebraska's taxpayers to do just that. LB601 was advanced from the Health Committee with no votes in opposition. I want to thank Senator Gay and the rest of the committee for their collaboration on this legislation. Thank you. [LB601]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You've heard the opening to LB601. As was stated, we have a Health and Human Services Committee amendment, AM855. Senator Gay, you're recognized to open. [LB601]

SENATOR GAY: Thank you, Mr. President. The committee amendment replaces the bill as introduced. The amendment requires the department, not later than July 1, 2009, to submit a state plan amendment or waiver to the federal Centers for Medicaid and...Medicare and Medicaid Services to provide Medicaid coverage for community-based secure residential and subacute behavioral health services for all eligible recipients regardless of whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services. And I'd ask for your support of the amendment. I also would say again, thank Senator Nordquist for pitching in. He, in order to receive savings here, he gave up some other opportunities that he was seeking and...but for the bigger picture he's done a great job. And this is the one bill actually that's bringing savings. We're leveraging federal money that's there, not that we don't...it is there and we just haven't been utilizing it, so by leveraging that federal money. But along the way he had made some very good...and I don't want to call them concessions, but that's what they were, to get to this point. So I do want to commend him for all his hard work and this is improving a situation and getting savings at the same time, so it's a win-win situation. And I'd encourage your support of the amendment. Thank you, Mr. President. [LB601]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the Health and Human Services Committee amendment, AM855, to LB601. Members requesting to speak: Senator Wightman, followed by Senator Nordquist, and Senator Dubas. Senator Wightman, you're recognized. [LB601]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I just would like to engage in a little conversation with Senator Nordquist with regard to the fiscal note. [LB601]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to questions? [LB601]

SENATOR NORDQUIST: Certainly. [LB601]

SENATOR WIGHTMAN: Senator Nordquist, I understand that we're leveraging a lot more federal funds than we've been obtaining in the past for these services. Is that

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correct? [LB601]

SENATOR NORDQUIST: Yes. Yes. [LB601]

SENATOR WIGHTMAN: And the fiscal note I'm looking at, and maybe that's an old one, is February 8, is that still the correct one, is 2009? [LB601]

SENATOR NORDQUIST: Once the committee amendment is adopted, it will go...it will be in line with the handout that the pages distributed. It says "Committee Amendments to LB601." The pink fiscal note will be replaced once the committee amendment is adopted. [LB601]

SENATOR WIGHTMAN: Okay. And can you tell me in fiscal year 2009-2010 what we will be spending from General Funds? [LB601]

SENATOR NORDQUIST: Certainly. We will be reducing our state expenditures by \$800,000 in General Funds, and we will be bringing in about \$1.3 million in federal funds. [LB601]

SENATOR WIGHTMAN: Okay. And then 2010-2011, what will we be doing? [LB601]

SENATOR NORDQUIST: For a full year of 2010-2011 and ongoing into the future, you know, there will be gradual increases but it will level out probably in the neighborhood of saving about \$1.5 million a year in General Funds and bringing in about \$2.4 million in federal funds. [LB601]

SENATOR WIGHTMAN: Thank you, Senator Nordquist, and thank you for your work in bringing this bill before us. With that, I would yield the rest of my time to Senator Nordquist, if he wishes to use it. [LB601]

PRESIDENT SHEEHY: Senator Nordquist,... [LB601]

SENATOR NORDQUIST: Great. [LB601]

PRESIDENT SHEEHY: ...just over 3 minutes. [LB601]

SENATOR NORDQUIST: Thank you. Yeah, and I just want to...I support the committee amendments. I brought...initially, the bill was introduced and you can see the initial fiscal note was pretty significant. I brought an amendment to the committee on the day of the hearing to limit it to subacute and secure residential, which are services that we provide now, and also one that...a service that would have kind of offset our savings and made it more cost neutral called peer support, and it's something I feel strongly that we need to look at in the future. You know, with the situation we're in financially, Senator Gay

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and I talked about it and he agreed to do an interim study and look at in-depth at peer support and what kind of utilization, but peer support services are a proven and efficient component of many community-based mental health programs. It's referred in the mental health community, provider community as an emerging best practice. Peer support services are not only effective, they also reduce the burden on more intensive and more costly services and it's my belief that peer support services will sooner or later be added to our state's behavioral health system as more and more states have done. During the committee hearing on LB601, we heard from patients who testified on the effectiveness of peer support services and their lives. We heard how peer support helps these patients make critical steps forward, becoming more capable and confident in themselves and helping them get through the process. We heard how these services reduce the need for more intensive services and how the strengthening power of these peer relationships are so important. And whether it's a, you know, in our lives, whether it's a coach, a parent, a teacher, older sibling, we've all had experiences when we benefited from advice and support from someone that has previously traveled the road that we face, and that's what peer support does. And without a doubt, recovering from behavioral health crisis is a difficult challenge and I hope that down the road, you know, after we look at it, we can consider including some peer support services in our Medicaid system and behavioral health system in the state. I appreciate that. Mr. President, thank you. [LB601]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator, you are next in the queue. [LB601]

SENATOR NORDQUIST: Okay. I think Senator Dubas has her light on. She wanted to ask me some questions so go ahead and I'll yield my time to Senator Dubas right now. [LB601]

PRESIDENT SHEEHY: Senator Dubas, 5 minutes. [LB601]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Thank you, Senator Nordquist, for bringing this bill forward. The bills that we have been talking about previously specifically targeted towards children and children's behavioral health issues, and we've decided to try to put those bills together in a package--it's the hot line, the direct services, Senator Avery's SCHIP bill--why did you want to be a part of this package? What does your bill bring to that mix? [LB601]

SENATOR NORDQUIST: Well, certainly, you know, we got to look at the General Fund savings and putting that into the package will allow us to have a few more resources to invest in these critical services for children, but also looking at the entire behavioral health system as a whole, at the providers, the regions. This bill, in addition to the savings, even...we're going to be saving \$1.5 million a year but we're bringing in \$2.5 million in federal funds. It's going to be, you know, roughly, roughly \$1 million more into

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our behavioral health system. And I realize these are for adults, but it's certainly going to help the entire system meet the needs that are out there from the youth all the way through adult services. [LB601]

SENATOR DUBAS: Thank you, Senator Nordquist. I think that's a very important distinction to make. We have had services provided for adults. LB1083 did, you know, a relatively good job in helping us get a system into place to deal with adults and adults' behavioral health issues, but there's been little to no understanding or recognition of the need for children services. And, you know, that's where the safe haven issue came from, that's where the following bills came from. And so, you know, while Senator Nordquist's bill is more targeted towards adult services, again, we have to be looking at the big picture. And if there are ways we can save dollars in one particular area and spread those savings out into other places that are...have been neglected in the past I think is very important. So while Senator Nordquist's bill is targeted towards adults, it does have the ability to impact the services we're able to provide for our children. And so with that, I would yield back the remaining time to Senator Nordquist, if he should desire it. [LB601]

PRESIDENT SHEEHY: Senator Nordquist, you're still 2 minutes, 30 seconds. [LB601]

SENATOR NORDQUIST: Great. One last point that I want to make on this is, you know, we heard testimony from Rhonda Hawks was there who...with the Behavioral Health Support Foundation, her and her husband, and some other philanthropists in Omaha have set up to fund and to support Lasting Hope Recovery Center which is a subacute service. You know, they've spent a lot of time and their own resources getting these services up and going in our community, and I think it's important that, you know, we owe it to folks like that, that are out there, you know, spending their own time and resources to do everything we can as a state to leverage funds to support these services. And she did mention, Rhonda Hawks did, that they have donors that ask, you know, what is the state doing, why aren't they doing...why aren't they supporting some of these services. And I think this is a step in the right direction so I'd appreciate your support of the committee amendments and LB601. Thank you. [LB601]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Thank you, Senator Dubas. Seeing no additional requests to speak, Senator Gay, you're recognized to close on AM855. [LB601]

SENATOR GAY: Senator Nordquist did a fine job explaining the situation and I hope you support the amendment. Thank you, Mr. President. [LB601]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment, AM855, to LB601. All those in favor vote yea; opposed, nay.

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Please record, Mr. Clerk. [LB601]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB601]

PRESIDENT SHEEHY: AM855 is adopted. We'll now return to floor discussion on LB601. Seeing no requests to speak, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is on the advancement of LB601. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB601]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB601. [LB601]

PRESIDENT SHEEHY: LB601 advances. We will now proceed to General File under Sullivan division, LB98. Mr. Clerk. [LB601 LB98]

CLERK: LB98 by Senator Carlson. (Read title.) Bill was introduced on January 10, referred to the Agriculture Committee. The bill was advanced to General File. There are committee amendments. (AM641, Legislative Journal page 721.) [LB98]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB98. [LB98]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. It's my pleasure to introduce LB98, my priority legislation for this session. As a bit of background for those of you that are new senators this session, LB98 is a continuation of LB701. I ran my campaign for the Legislature with a promise to try to clear the rivers, the streambeds of the rivers of our state of invasive vegetation. My original bill, LB458, was amended into LB701 and passed in that form. From LB701 came the Riparian Vegetation Management Task Force, and riparian is defined as relating the bank of a river or stream. And this vegetation, primarily salt cedar, phragmites, and Russian olive, has clogged our streambeds to the point that the water has ceased to flow in many areas. LB701 appropriated \$2 million each year, 2007 and 2008. The work began in the fall of 2007 and continues today. However, we have to continue funding in order for the work to continue. There's a handout that is going around right now and as you receive that handout I'd ask you to look at it and go to page 2. Page 2 lists the Riparian Vegetation Management Task Force members and, looking down that list, I'll simply indicate that we have county weed association members, we have the Department of Ag, we have UNL, we have Central Nebraska Public Power and Irrigation, we have representatives of NRDs, we have landowners, we have DEQ represented, we have the Department of Natural Resources represented, the Department of Energy, the state forester, Game and Parks, and Environmental Trust--a good cross-section of people that have an interest through their groups in what happens on our rivers. Please go to the next page which lists the positive results of river streambed vegetation control.

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When I presented the bill for LB701, I said that the clearing of this vegetation was necessary for flood control, not if it floods but when it floods. It was important that we increase the carrying capacity of our streambeds to carry water. I said it would be a good thing for endangered species. It would be positive for fishing, for hunting, for wildlife viewing, for hiking, for camping, for rafting, for overall recreation, for forest management. If all these things were accomplished it would be a good effort. The bill would have been successful. If it saved water, that would be a bonus. Please go to the next page. Most of you are aware that we have a compact, Colorado, Nebraska, and Kansas, on the Republican River that we have to consider and we have to deal with. In that compact, Nebraska was in a deficit for the years 2005 and 2006. Kansas tried to sue Nebraska for \$72 million as a result of that deficit. At this point, that request from Kansas has been lowered to \$9 million. Nebraska doesn't think that we owe that much. It's in arbitration right now and these things are being considered. But I'd like you to look at what happened in 2007, because the lawsuit with Kansas involved 2005 and 2006. In 2007, we bought 32,000 acre-feet of surface water at a cost of about \$10 million, and when you buy surface water you pay farmers not to pull the water out of the river to irrigate. Conceptually, the water stays in the river and can flow to Kansas. But that averaged about \$312 an acre-foot for the 32,000 acre-feet that we purchased. Rainfall in 2007 was at the 87th percentile of a 50-year average. It was a pretty wet year. We made up 30,000 acre-feet in our compact with Kansas. We'd been in a deficit in 2005 and 2006. And because of when LB701 went into effect in 2007 and the first work was done in September of 2007, I don't think we had an significant water savings as a result of our work in 2007. That had to happen in 2008. So 2008, in 2008 we only bought 1,000 acre-feet of surface water compared to 32,000 the year before. The rainfall in 2008 was at the 95th percentile in a 50-year average, so we had a little wetter year in 2008 than we did in 2007. But we made up 80,000 acre-feet in our compact with Kansas as compared to 30,000 acre-feet in 2007. Now basing an estimate of water savings on plant counts and current studies that have been conducted and putting the two together, I estimated that as a result of our vegetation removal in 2008 we may have saved 46,000 acre-feet of water in the Republican Basin at a cost of about \$50 an acre-foot. And if you look at the year previous, in buying surface water it cost us \$312 an acre-foot. We increase the carrying capacity in the Republican River from the Harlan County Dam down to the Kansas line. We increase that carrying capacity from about 300 feet per second, 300 cubic feet per second to 1,000 cubic feet per second. And the savings in 2008 brought us into a five-year compliance with Kansas, which is very, very important. Please take the next page. Now what factors are important in making up 80,000 acre-feet of water in 2008? Number one, we had slightly more rainfall in 2008 than 2007, therefore, farmers used less water for irrigation. We bought 1,000 acre-feet of surface water but the vegetation removal, I believe, was very, very important in 2008. And why must we continue the vegetation removal project? We need to finish the work on the Republican. We're about half done. In another two years, we'll be completely done on the Republican River. It's important for our continued compliance in our compact with Kansas. It's important for possible trial with the state of Kansas. It's

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important for possible hearing in the U.S. Supreme Court. It's important for reaching sustainability in the Republican Basin. Sustainability and compliance aren't necessarily the same thing. If we reach sustainability over time, we're only using as much water as we have coming into the Republican Basin, we will be in compliance. And some important tools in the compliance options: We have basinwide allocations of water, how much water farmers can pump; we have the purchase of surface water; we have plans for augmentation to the flow at certain times in the year in order to get us in a good position; we have individual management plans for the NRDs; we can retire irrigated acres. But vegetation removal continues to be a very, very important tool. [LB98]

PRESIDENT SHEEHY: One minute. [LB98]

SENATOR CARLSON: This leaves more water available for irrigators for maximum production. I'm going to leave the last page and come back to that, that you're looking at, those pictures. LB98 had a hearing before the Ag Committee. There were 20 proponents and no opponents to the bill. The green copy is not what the bill really became, the amendment is, and I will address that in the next minute as I have time. I ask for your continued attention and then I ask for your support for LB98. Thank you, Mr. President. [LB98]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening to LB98. (Visitors introduced.) As stated, there is an Agricultural Committee amendment, AM641, to LB98. Senator Carlson, you're recognized to open on AM641. [LB98]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Now before I specifically get into the amendment, I'd like you to go to that last page which has the pictures. Pictures are worth 1,000 words. These four pictures are all taken at the exact same spot. The first picture shows really Russian olive absolutely clogging the streambed at a position on the Republican River which is six miles west of Benkelmen, Dundy County. Dundy County in 2007 received 12 inches of rain. Dundy County received about 12 inches of rain again in 2008. If you look at picture number one, that was taken early...well, it was about in April in 2008, before any work had been done. Picture number two shows that same exact position after clearing of trees had taken place 100 feet from the center of the narrow streambed, and if you look in the back, in the center of that picture, you can see the trees that are piled up back there on picture two. Now that's the same picture as number one. The trees have been removed. Picture number three is the same exact spot in October of 2008. You can see the trees piled up in the center of the picture there as well. Picture number four is the same spot, February of 2009. So we go from picture one to picture four, they're all in the same spot, there's a world of difference. Now in order to get us to picture four, this is at the east end of eight miles of cleared trees on the Republican River. From picture four, it's 30 miles on east to Swanson Reservoir. Of that 30 miles, 15 miles have been cleared. We're about half done with the project. Now I found out, if you look at picture one and imagine water

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flowing through that mess, in 2007 it took until December for anything to flow through all that to get to Swanson Reservoir, before any water came into Swanson Reservoir. In 2008, water last year, after pictures two, three, and four, water got to Swanson Reservoir in September, three months earlier. There's water coming into Swanson Reservoir now. This is going to be the first year they get to release water from Swanson Reservoir for irrigation. And the measurement of the flow that comes into the Republican from the state of Colorado was the same in 2008 as it was in 2007, but there's a lot more water going into Swanson Reservoir. I believe it's the result of what we've done with clearing vegetation and, in doing so, we've helped all these other groups that I've alluded to and certainly we've saved water for agriculture, which is one of the things that we want to do. So in going to AM641, it strikes the original provisions and becomes the bill. Now LB98, as introduced, would have extended the authority for continuing the work of the Riparian Management Task Force for two additional years and extending authority for an associated grant program for two additional years, to sunset on June 30, 2011. AM641 extends this sunset date to 2013, so it extends it four more years. Reason for that is that some of the guarantees that we have on the chemical that's been used in part of the treatment had a five-year guarantee. If we extend this to 2013, we'll have six years to observe the effects of what we're doing and we've got six years to determine what a maintenance program would be in order to keep the streambed clear in the future. Secondly, the amendment identifies three non-General sources of funding for continuation of the grant initiative. AM641 provides a one-time transfer of \$500,000 from the Buffer Strip Incentive cash (sic) Fund to the Noxious Weed and Invasive Species Assistance Fund. The Buffer Strip Fund will continue to be funded the way it's funded now. There's an excess amount of cash in that fund. Secondly, it directs the Department of Agriculture to apply for grant funds available from Natural Resources Conservation Service, NRCS, of the U.S. Department of Agriculture. And third, it directs the director of Agriculture to apply for grants from the Environmental Trust in the coming grant cycle that begins in September of this year. You'll note that LB98, as amended, would continue intent language in current statute to appropriate \$2 million annually to the riparian program. As most of you are aware, last session LB701A appropriated \$2 million General Funds each year of the biennium. I'll not be asking for General Funds at this time. The combination of funding sources identified will allow us to completely cash fund the \$2 million target for the upcoming fiscal year and I believe possibly funding three years beyond that. The committee amendment also makes a series of minor clarifications and cleanups in the underlying authorizing statutes. The amendment would rewrite for clarity and existing directive that priority for vegetation management grants be given to projects that are consistent with any vegetation management recommendation developed by the Riparian Management Task Force, and authorization for the Noxious Weed and Invasive Species Assistance Cash Fund is revised to accommodate the acceptance of funds transferred, authorized by the amendment, and delete an obsolete reference to a completed transfer in the fund that was made last year. The public hearing was held on February 17. The committee advanced the bill by unanimous vote. That concludes my introduction of the bill and the

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amendment. I would ask for your support. I'll be happy to answer any questions that you may have. Thank you. [LB98]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You've heard the opening of the Agriculture Committee amendment, AM641, to LB98. Mr. Clerk, do you have items for the record? [LB98]

CLERK: Mr. President, LB495, Urban Affairs Committee reports LB495 to General File; LB524, LB562 to General File; LB104, LB360, LB441, LB633, LB647 to General File with committee amendments attached; (also LB467 is reported as indefinitely postponed); those signed by Senator Friend. Business and Labor reports LB537, LB622, LB630, LB631 to General File, and LB514 indefinitely postponed; those signed by Senator Lathrop. An amendment by Senator Flood to LB158 to be printed. Senator Campbell would like to add her name to LB342 as cointroducer. (Legislative Journal pages 893-911.) [LB495 LB524 LB562 LB104 LB360 LB441 LB633 LB647 LB467 LB537 LB622 LB630 LB631 LB514 LB158 LB342]

And I do have a priority motion. Senator Giese would move to adjourn the body until Friday morning, April 3, at 9:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion. You've heard the motion to adjourn until...you've heard the motion...there it goes. You've heard the motion to adjourn until Friday, April 3, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []