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Floor Debate
April 29, 2009

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SENATOR FISCHER PRESIDING []

SENATOR FISCHER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventieth day of the One Hundred First Legislature, First Session. Our chaplain for today is Father Lloyd Gnirk from St. John's Church in Valley, Nebraska, Senator White's district. Please rise. []

PASTOR GNIRK: (Prayer offered.) []

SENATOR FISCHER: Thank you, Father Gnirk. I call to order the seventieth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR FISCHER: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Madam President. []

SENATOR FISCHER: Thank you. Are there any messages, reports, or announcements? []

CLERK: One item: Senator Dubas offers LB246A. (Read LB246A by title for the first time.) And that's all that I have, Madam President. (Legislative Journal page 1239.) [LB246A]

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

CLERK: Madam President, LB240, or excuse me, LB307, is a bill by Senator Council. I have a motion, Madam President. Senator Council, as primary introducer, would move to indefinitely postpone her bill. As primary introducer, she has the option to lay the bill over at this time. Senator Council, I understand that's your wish, to lay the bill over at this time. [LB307]

SENATOR COUNCIL: Yes, Mr. Chair. [LB307]

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SENATOR FISCHER: Thank you, Mr. Clerk. LB307 is laid over. Mr. Clerk, we'll proceed to the next bill on General File, please. [LB307]

CLERK: Madam President, LB342 was a bill introduced by Senator Gay. (Read title.) Senator Gay presented his bill yesterday, as he did committee amendments. Senator Campbell offered AM1225 as an amendment to the committee amendments. That is the amendment currently pending, Madam President. (Legislative Journal page 1204.) [LB342]

SENATOR FISCHER: Thank you, Mr. Clerk. Senator Gay, would you like to give us a short recap? [LB342]

SENATOR GAY: Thank you, Madam President. Yes, LB342 was a...seeking a waiver, and it's for pediatric feeding tubes. What this bill does again is it just requires the department to make an application for a waiver, and the reimbursement would be allowed for children who are already qualified for Medicaid and on a waiting list for noninvasive treatment. This noninvasive treatment is much more preferred than having to insert a G-tube or an N-tube. Senator Campbell's amendment, actually after a lot of discussion with the department and the director, Vivianne Chaumont, that she's worked on--and we thank her for not only working on that but sponsoring this bill--really goes back and just clarifies it. We thought we needed a little more. With Director Chaumont's input, we narrowed it down. So this amendment drafted with the committee amendment, we need to hopefully get both of those passed, would then go and clarify exactly what we're seeking for, for the waiver. This has been, as we discussed yesterday, many of us have seen this at the Munroe-Meyer Institute and seen the procedures being used. It's new and different and much more preferred, like I say, than the old methods of having to put children through some really tough situations and surgeries. And this would be a preferred method that we think not only would help the patients and the families but also a cost savings along the way. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Gay. Senator Carlson, you are recognized for a point of personal privilege. [LB342]

SENATOR CARLSON: Madam President and members of the Legislature, thank you for this opportunity. I simply rise to recognize Senator Langemeier and all the work that went into last night and a good night of fun, and I see some people walking rather slowly around the Chamber this morning and there will be some lobbyists that are doing the same. There was a lot of good performances last night, all the way from "Ice Man" Karpisek on those two free throws when the score was tied to "Dead Eye" Gloor and how he came through and many others. But, Senator Langemeier, you did a lot of work and we really appreciate it. Thank you very much. [LB342]

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SENATOR FISCHER: Thank you, Senator Carlson, and thank you, Senator Langemeier. Senator Campbell, you are recognized to do a short recap on AM1225 to the committee amendment, please. [LB342]

SENATOR CAMPBELL: Thank you, Madam President. And I will be very brief because Senator Gay has very aptly described it. We are, in this bill, going to try to amend the Medicaid plan rather than go for a waiver, which we hope will go a little faster. And the second point to remember is this bill does have a sunset. We're going to try to evaluate the services and if we have saved money. So that's all I would have. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Campbell. Senators wishing to speak on the amendment to the committee amendment: Senators Hadley, Coash, and Howard. Senator Hadley, you are recognized. [LB342]

SENATOR HADLEY: Madam President, members of the body, would Senator Campbell yield to a question? [LB342]

SENATOR FISCHER: Senator Campbell, would you yield? [LB342]

SENATOR CAMPBELL: Yes. [LB342]

SENATOR HADLEY: Senator Campbell, I just noticed that the Department of Health and Human Services spoke in opposition to the original bill. Does your amendment take care of their concerns about the bill? [LB342]

SENATOR CAMPBELL: Yes, after a great amount of work between Senator Gay's office and the department, I think we have reached a point at which Director Chaumont feels she can go forward with the Medicaid plan. [LB342]

SENATOR HADLEY: Thank you. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Hadley and Senator Campbell. Senator Coash, you are recognized. [LB342]

SENATOR COASH: Thank you, Madam President, members of the body. I rise today in support of the amendments and LB342. I rise as a former child with a feeding disorder myself. Although I did not have the type of feeding disorder that this bill attempts to address, I am here to say that treatment works. We have an obligation in this body, I feel, to save Medicaid dollars. And how do we save Medicaid dollars? We eliminate the need for people to use Medicaid. As it stands now the G-tube, as Senator Gay has put it, is covered; treatment is not. But when treatment is used, people no longer need Medicaid. I'd like to read just a small snippet of an e-mail I received regarding this bill: If

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my grandson would learn to eat and drink safely, he would not need Medicaid assistance. What this family is trying to tell us, colleagues, is that they desire, as we do, to keep their children off of Medicaid. And I think we have a responsibility to keep up with technology as well. If this bill would have come before this body when I was a child, it may not have had a chance because the treatments have significantly advanced over the past several years, and I think it's incumbent...and I think this bill is a great idea. We need to look at more things that treatment can cover as opposed to invasive surgery. And with that, I encourage the body to adopt LB342 and the underlying amendments. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Coash. Senator Howard, you are recognized. [LB342]

SENATOR HOWARD: Thank you, Madam President and athletic members of the body. I thank both Senator Gay and Senator Campbell for bringing us this issue. No one wants their infant to go through surgery and with this program they have a better, less-intrusive, option for their baby. Looking at the emotional toll this takes on parents, the physical impact on the infant, and the high cost of surgery, this is a wonderful option to be able to offer a family. When I visited the feeding clinic at Munroe-Meyer, I was impressed by the investment of the staff and the hope of the parents. We have a better option for these children and the opportunity to provide it. I urge you to support both the amendment and LB342. Thank you. [LB342]

SENATOR FISCHER: Thank you, Senator Howard. (Visitors introduced.) Mr. Clerk, announcements? [LB342]

CLERK: I do, Madam President, thank you. Banking, Commerce and Insurance Committee will meet at 9:15 in Room 2022; Banking Committee in 2022 immediately. [LB342]

SENATOR FISCHER: Thank you, Mr. Clerk. Senator Hansen, you are now recognized. [LB342]

SENATOR HANSEN: Thank you, coach and members of the Legislature. I rise today as a nonmember of the Health and Human Services Committee which I served on for two years, and bills like this are really tough to deal with where we see families in trouble, families reaching out as somewhat of a last resort to find an option that they can afford, the state can afford, and make that connection. I really appreciate the work that the Health and Human Services Committee has done and with the amendment and the bill. I just want to point out that there is a set of grandparents in the balcony today that have great concern about this. The grandmother has been here several different times and follows this. It's their son that Senator Dubas...their grandson that Senator Dubas was talking about yesterday. So I do appreciate the amendment that's on here to take care

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of the cost and the underlying bill, and I will be supporting both. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Hansen. Are there other senators wishing to speak to the amendment on the committee amendment? Senator Campbell, you are recognized to close on your amendment to the committee amendment. Senator Campbell waives closing. You have heard the arguments and positions on this question. The question shall be, is the amendment to the committee amendment on LB342 to be adopted? All those in favor vote yea; all those opposed, nay. Have all those voted who wish to? Record, Mr. Clerk. [LB342]

CLERK: 39 ayes, 0 nays, Madam President, on adoption of the amendment to the committee amendments. [LB342]

SENATOR FISCHER: The amendment is adopted. We will return to discussion on the committee amendment, AM741. Are there senators wishing to speak? Seeing none, Senator Gay, you are recognized to close on your amendment. [LB342]

SENATOR GAY: Thank you, Madam President. We need this amendment passed. Senator Campbell's amendment just further clarified the committee amendment. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Gay. You've heard the closing on the committee amendment. The question is, shall the committee amendment to LB342 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB342]

CLERK: 39 ayes, 0 nays, Madam President, on adoption of committee amendments. [LB342]

SENATOR FISCHER: The amendment is adopted. Is there further discussion on the advancement of LB342? Seeing none, Senator Gay, you're recognized to close on LB342. [LB342]

SENATOR GAY: Thank you, Madam President. I'd just like to thank my colleagues for their input on to this bill. I know many, Senator Howard and Pankonin and many of us have toured this. I think it's a very good bill. It's a win-win situation. Not only are we creating a less-invasive measure for these infants but also their families. We're helping them improve how they deal with a very difficult situation, but I appreciate all the input and ask for your support of the bill. Thank you, Madam President. [LB342]

SENATOR FISCHER: Thank you, Senator Gay. You have heard the closing on the advancement of LB342 to E&R Initial. All those in favor vote aye; all those opposed vote

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nay. Record, Mr. Clerk. [LB342]

CLERK: 33 ayes, 0 nays, Madam President, on the advancement of the bill. [LB342]

SENATOR FISCHER: The bill does advance. Mr. Clerk, next item on the agenda, please. [LB342]

CLERK: LB568 by Senator Dubas. (Read title.) Introduced on January 21, referred to the Natural Resources Committee, the bill was advanced to General File. There are committee amendments pending, Madam President. (AM732, Legislative Journal page 859. [LB568]

SENATOR FISCHER: Thank you, Mr. Clerk. Senator Dubas, you are recognized to open on LB568. [LB568]

SENATOR DUBAS: Thank you, Madam President. Members of the body, good morning. Thank you. Renewable energy definitely is the buzzword of the moment right now, and hopefully it's longer than a moment. And wind energy, especially, is on everybody's mind and it's getting a lot of attention and, in my estimation, rightfully so. Wind and renewable energy is opening a lot of economic development doors for our state, as well as helping us to become more energy independent. So it's very exciting for me to introduce LB568 this morning, and thank Senator Karpisek, who was willing to prioritize this bill. The history of this bill started last year. I introduced a bill dealing with wind easements and leases and that bill turned into a legislative resolution, and we had a hearing that took place in Albion and we had a great deal of good testimony. And in addition, a gentleman by the name of Mr. Steve Wegman came from South Dakota. He has worked under Governor Janklow and helped draft South Dakota's original wind easement statutes. So he provided us a great deal of insight and understanding on decommissioning and types of assurances for landowners that were very helpful as we began the draft of this legislation. Several pertinent issues were identified during the interim study. First, it was noted that legal transactions entered into regarding wind rights and easements were not publicly reported with the register of deeds. The committee amendment addresses this concern. They require that the memorandum of legal transaction be filed with the register of deeds to hopefully mitigate any barriers with real estate transactions that could be posed. Making this a legal public document is necessary in situations where real estate transaction or a variety of other legal transactions occur. This isn't anything uncommon and filing of documents such as this helps for public information. Second, it was noted that the amount of time a wind right might be entered into was problematic in some cases where development is not occurring but the land is tied up. We have many reputable businesses that are in the state and doing a good job, but unfortunately, as with many other things, there are those few who cast a long and dark shadow. And also, unfortunately, we have had landowners sign agreements that were not in their best interest. I've received many calls

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in my office from people who have been approached and, of course, my first response is, you need to talk to legal counsel so you're understanding what you're signing. But we're also discovering that we don't have a lot of legal understanding of these particular easements and leases. And I believe the university is working hard to put some workshops and conferences together to help our legal field understand these particular issues better so they can better serve their clients. Third, from the interim study, many contractual issues were discussed. And you know, we had to walk that fine line that we aren't putting contract language into statute but yet need some guidelines there for the legal system to work. The white copy, which becomes the bill, requires a description of the improvements that the developer intends to make on real property. It's included but not limited to roads, transmission lines, substation, wind turbines, and met. towers. And then finally, it was noted that there are some issues with decommissioning securities. That is whether the private developer has the money to take the site down when it's no longer profitable or operable. Again, we have the green copy and the white copy but it's the white copy, the amendment, which becomes the bill, and that defines decommissioning securities as a security instrument that is posted or given prior to construction by the wind developer to ensure sufficient funding is available for removal of a wind energy conversion system and reclamation at the end of the useful life of such a system and simply requires a description of any decommissioning security. Under the green copy of the legislation, we had five years. The committee amendment, which again becomes the bill, has that wind agreement expiring after ten years if the land is not being developed according to the contract. And then there is language in there that says at the end of that ten years, if you want to continue that agreement, you have the option to re-sign. I've discussed this time period with many developers and landowners and public power and just a wide variety of people, and there seems to be a range of years that other states are using. We have one landowners' association in particular that is in Senator Karpisek's district who...they're operating their agreements with ten years and, just because of the information that I had gathered additionally, we put ten years into the committee amendment. LB568 was heard before the Natural Resources Committee and then after the hearing I began to, you know, bring the interested parties together and see what we could hammer out to have a good, tight, working piece of legislation that will serve the citizens of Nebraska. And I know this bill and this amendment probably isn't everything that everybody wants but I've been told a good policy is when nobody is happy because then you aren't serving any one particular interest. You've tried to accommodate all of the particular interests and put together a piece of legislation that, as I said, in the end will serve the citizens of the state of Nebraska and be good, solid, enforceable and supportable legislation. I think this particular bill is important and very timely. As I said earlier in my opening, we have a lot of developers in the state right now. Nebraska is the sixth windiest state in the nation. We are ripe for development. We are also unique for development because of our public power stature. And so we never, ever want to put public power in jeopardy. It's served Nebraskans very well. We are the envy of the rest of the nation as far as our rates and the reliability of our service. So while it's served us well, you know, we're

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moving in a different arena now with renewable energy development so it's very important that whatever development we do, we're doing it, keeping public power in mind, and protecting that very important service that public power provides for the state of Nebraska. But there are a lot of developers who are in the state right now. And again, as I said earlier, many of them are reputable and aboveboard and working hard to be fair and honest in their dealings. But there are also some who resort to the high pressure type tactics. It's: sign this contract now or the offer is off the table; don't be talking to any of your neighbors, this is confidential; just putting a lot of uncertainties into the minds of the people that they're working with. And as I stated, in Senator Karpisek's district there's a landowners' association that's been put together and I know there are others that are looking at forming so that they can work collectively to get what will best serve the neighborhood collectively. So again to have statute, to have legislation in place that will help define and put some parameters around contracts that are issued and to give people a sense of security and understanding that there's some defining information out there for them to look to. These things are important for us to move wind energy and renewable energy forward. So with that, I will end my closing and Senator Langemeier will be introducing the committee amendment. [LB568]

SENATOR FISCHER: Thank you, Senator Dubas. As the Clerk stated, there is an amendment from the Natural Resources Committee. Senator Langemeier, as Chair of the committee, you are recognized to open on the amendment. [LB568]

SENATOR LANGEMEIER: Madam President, members of the body, Senator Dubas explained the bill, as well as the committee amendment, very well. First of all, the committee amendment does become the bill. So if you're reading the bill, just go right to AM732 offered by Natural Resources Committee. AM732 puts some new language in Sections 1 through 4 that does the following: It provides for a new definition for decommissioning security and a wind agreement. It also states that a wind agreement runs with the burden and the benefit of the land. The agreement terminates according to the terms of the agreement, but no initial agreement can exceed 50 years, to put a sunset on this. The agreement terminates if the developer has not started within ten years, but the parties can extend. And I want to stress that we've put some termination dates on these but they all can be renegotiated and extended by a landowner if they would like. The agreement is to comply with current statutes on solar and wind energy conservation system leases, and the rights to wind cannot be severed from the land. And with that, I think between the two of us, she's explained this very well. And with that, Madam President, thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Langemeier. We have a number of senators wishing to speak: Senators Karpisek, Price, Schilz, Loudon, Harms, and others. I would ask members to please keep their conversations at a minimum and take them under the balcony if possible. Senator Karpisek, you are recognized. [LB568]

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SENATOR KARPISEK: Thank you, Madam President, members of the body. First of all, I'd like to thank Senator Dubas for bringing this legislation. As she said, I do have a wind development in Saline County that has gotten together and they've done a great job. They are going through the process as a group. There's also going to be one in Thayer County that's going to be getting together, which is also in my district. So this really hits home for me and I think it hits home for Nebraska. All through the interim I had a lot of questions and I said I will defer to Senator Dubas because she knows more about wind than I will ever know. So I thank her for the bill and for working with the committee, and also Senator Langemeier and the Natural Resources Committee for working on it. The reason that I like this bill, why I think we need it, is that we've seen many people taken advantage of by some wind rights acquisition companies. They're not all wind companies. Some of them are just out to get the wind rights and then turn around and sell them for a profit. And they've been honest about that, the ones that I've talked to. The problem comes in where we may have an unscrupulous person come in and go to someone that doesn't understand the situation and sells their wind rights on their property for \$1,000 for 60 years. Once that contract is signed, that's the end of it. Those wind rights are gone for 60 years. I think that we have a strong future in wind energy. We're sitting in a great place and, if the federal government does some things that we've heard about, we can even do better. But my bottom line is I don't want the citizens of our state to be taken advantage of and sign something that isn't beneficial to them. Again, we've seen it happen, not in huge numbers but it has happened. Again, my group in Saline County has banded together, hired an attorney, they've got thousands of acres now in their cooperative, and they're doing a great job. They've spent a lot of time getting together. This doesn't happen everywhere and I think if you would think about some of the people you know still out on a farm that may be on a fixed income, someone comes around and says they'll give them \$1,000 for their wind rights, they'd be glad to do that. It's not in their best interest. The other parts of the bill are the fact that some of the companies are wanting to get people to sign for a 60-year term. The white copy says 50 years. Between now and Select, if we get that far, I will be talking to the committee. I would like to bring that down to 40 years. I think if we're going out 50 years we're not only tying ourselves into a contract but our kids and our grandkids. I think we've learned a little bit with mineral rights in the state that it hasn't always been a very wise move to go that far out. The other part, that a lot of these contracts will pay just a per diem, maybe a \$1,000 a year for the land. [LB568]

SENATOR FISCHER: One minute. [LB568]

SENATOR KARPISEK: Where the money comes in, is how much they generate, how many kW they generate off of their turbine. If these companies don't get something up and going, you don't get that revenue. So in my opinion, and in the bill in the white copy, we have a ten-year contract that if something isn't going on, on the wind farm, the contract is void. Again, I think ten years is too long and in between now and Select I will talk to people to try to bring that down. I would like to see five years. That may not be

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enough and I think we can talk about it. Again, I think that so much will be done in this area coming up soon that if you're locked into a contract for ten years and nothing is done on your property, you may really miss out on a good chance to sign a good contract. [LB568]

SENATOR FISCHER: Time. [LB568]

SENATOR KARPISEK: Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Karpisek. Senator Price, you are recognized. [LB568]

SENATOR PRICE: Thank you, Madam President and members of the body. It is with great effort I rise this morning. I was wondering if Senator Dubas would yield to a question. [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Certainly. [LB568]

SENATOR PRICE: Senator Dubas, in this bill we're talking about wind farms, correct? [LB568]

SENATOR DUBAS: Correct. [LB568]

SENATOR PRICE: Okay. Great. I would just like to make a matter of record, if I may, that when we start doing the larger conglomeration of wind farms, that whoever does so would take the time to contact the National Weather Service. I spoke with Senator Karr. Chief Master Sergeant retired, Ricky Keil, at the Air Force Weather Agency asked this. These large turbines can affect the signal for the WSR-88D Doppler radar systems and, as such, it would be good if in the planning stages some type of arrangement was made with the National Weather Service so we don't interfere. I'm not saying that would necessarily be an interference but, as an instrument and as ground clutter, it would affect the signal and there's also a possibility with the rotation of the blades would provide or create an anomaly that the National Weather Service severe storms lab and people such as that can take into account, so we don't misrepresent or not understand that dynamic. And if it's there, it's there, it's fine. But maybe a half mile here or a quarter mile there, something would be good. So could I ask that you would engender a communication with the National Weather Service before the putting up of these larger farms? [LB568]

SENATOR DUBAS: Certainly I will. And this is something that we discussed during the interim hearing about the siting of these turbines. You just don't go out and pick a hill

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and say, looks good to me and put it there. There are a lot of things that the developers must take into consideration. You've got to take into consideration the migratory bird patterns, and there are a lot of things that they know they have to look at. And I appreciate you bringing that up because I don't believe that's one that we had heard of, but it certainly makes sense so I certainly will pursue that. [LB568]

SENATOR PRICE: Great. And this also, perhaps: Local media stations also have some smaller radar domes and it would just be good if we consider those entities. [LB568]

SENATOR DUBAS: Certainly. Thank you. [LB568]

SENATOR PRICE: Thank you, Madam President. Thank you, Senator Dubas. [LB568]

SENATOR FISCHER: Thank you, Senator Price. Thank you, Senator Dubas. Senator Schilz, you are recognized. [LB568]

SENATOR SCHILZ: Thank you, Madam President and members of the body. I serve on the Agriculture Committee which this bill went through and Senator Dubas is exactly right, there are a lot of issues that folks that are thinking about entering into these sorts of contracts and these sorts of business arrangements need to keep in mind. My concern comes down to the fact that it's more of a philosophical concern: Should, you know, should the government tell someone what should be included in a contract and what shouldn't? I'm all for education. I'm all for showing someone what's important in these issues, but I often question whether or not the government should get into private business and private business people that are out there. I mean, that's what the market is for, is to take care of those folks that either don't make good decisions in their business worlds. I mean, it happens to all of us. But that being said, with the amendments and everything to loosen that up and to make sure that there's plenty of flexibility in there, this is probably not something that I'm going to vote against. But everybody should think about that a little bit and decide what they want to do on that. So thank you very much. [LB568]

SENATOR FISCHER: Thank you Senator Schilz. Senator Louden, you are recognized. [LB568]

SENATOR LOUDEN: Thank you, Madam President and members of the body. As I look over this LB568 and the amendment that goes with it, I have some questions about it. I guess I don't know how many people are...in the Chamber here have been involved with oil leases and mineral rights and some of that sort of thing, but I have been over the years and I have some questions. On Section 2 there, to me there should be some kind of a monetary agreement in there. When you agree to lease something like with minerals, after...you lease it for ten years or a certain period of time, but as soon as any lease ceases to be given or any monetary funding comes your way, the lease ceases.

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And then you have to go in and get that lease taken off of your real estate records. So I'm wondering in there if there should be some language in there that has something to do with the monetary value rather than to have it wide open in there. And another problem I can see with that is someone could own some land, sell their wind rights off of it, and then that wind rights is there for ten years whether there's any money paid or not. So I question what needs to be done there. I think there's some work that needs to be done on that to...otherwise you're setting yourself up for a wind corporation to come in and probably take advantage of some areas. They could lease that up, give some money down, and then go from there. The other question I have and I've always been concerned about decommissioning security. And I've always thought that you need to have that with these wind farms, is how you're going to get rid of the things. And I think that's, well, in the Section 1, that subparagraph (1). I think it should be clarified on who they are supposed to send this instrument or who they're supposed to, this decommissioning instrument, who they're supposed to be giving it to. You should be giving it to some state agency that has some authority, whether it's the DEQ or who. But to just say that they have to, what is...I think to have a security agreement instrument that is posted, that means you could write this agreement up and publish it in your local newspaper and that would be good enough. So I think that should be in there about who you're going to post it and where it was going to. Would Senator Dubas yield for a question, if she would, please? [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes, I will. [LB568]

SENATOR LOUDEN: To start with on the paragraph on Section 1, do you...would you want to work to see if there isn't some state agency or someone with authority that you would file that decommissioned security instrument with for decommissioning of these wind farms rather than putting it out there as just posted? [LB568]

SENATOR DUBAS: I certainly would be willing to look into that. As we worked on this bill, we walked that fine line between how much contractual language are we actually putting into statute or not. And it's, you know, it's not good policy to put contract language into statute. But I think you raise a valid question and I certainly would be willing to look into that. [LB568]

SENATOR LOUDEN: Well, yeah. Because, see, at the present time with oil wells, someone can drill an oil well and go off and leave it and actually the state Oil Commission is the one that has to go pick up the tab and do all that. And of course, that can be done a lot cheaper than taking down one of these towers. So I thought maybe something about our LUST funds and some of that. If you don't set up a fund, if they're just going to post a security instrument, then I think it needs to be posted with. I would like to work with you maybe... [LB568]

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SENATOR FISCHER: One minute. [LB568]

SENATOR LOUDEN: ...between now and Select File. The other one would be on Section 2. And I'm wondering if there should be some type of monetary notation in there that if money, like you say, if money doesn't change hands, it's just idle conversation. And that's what I'm afraid we have down here on Section 2, if there was something that could be done along that line. [LB568]

SENATOR DUBAS: Again, you know, believe me, I had this bill probably about as detailed as any bill could possibly be in its original form and the questions were raised was, you know, we are putting this into statute and how much do we dictate through statute and how much do we leave, as Senator Schilz brought up, to the individuals, landowners who are negotiating their particular leases. So as I said, I'm very willing to look at some of these things but we have to, like I said, walk that fine line. [LB568]

SENATOR LOUDEN: Okay. Thank you, Senator Dubas. Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Louden, and thank you, Senator Dubas. Those wishing to speak: Senator Harms, Haar, Council, Stuthman, and others. Senator Harms, you are recognized. [LB568]

SENATOR HARMS: Thank you, Madam President and colleagues. I rise in support of the amendment, AM732, and the underlying bill, LB568. I thank Senator Dubas for actually introducing this legislation. I know in western Nebraska there's a huge project being considered south of my district in Banner County that will be one of the largest ones maybe in Nebraska. And so I know that, as we look in western Nebraska, there will be more opportunities for wind farms and I think it's important to have the right kind of laws into place so that farmers and landowners and ranchers have the opportunity to make sure that they're protected and to keep the sharks away and to make sure that they have a full understanding about what they're signing and what they're doing. So I thank you very much for that. Senator Dubas, I wonder if you could just yield for a question or two. [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Happy to. [LB568]

SENATOR HARMS: Senator, I noticed on the committee statement that Nebraska Farm Bureau was an opponent. Could you explain to me, what is the issue for them and why were they...? [LB568]

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SENATOR DUBAS: Thank you very much Senator Harms for that question. I do need to address that. I did work with Farm Bureau to address their concern. Their concern was, well, if a landowner wants to be in an agreement or a lease for however long it is, if that's their choice, they, you know, who are we to tell them not to? And so the language that we put into the bill allows for that extension. If they want an extension, they can have it. If not, so be it. And that took their opposition away. [LB568]

SENATOR HARMS: Okay. So they were satisfied then with that? [LB568]

SENATOR DUBAS: Yes. [LB568]

SENATOR HARMS: Then I noticed also there was a fairly large number of people that were neutral and one that caught my eye was the Nebraska Public Power District. How neutral are they? [LB568]

SENATOR DUBAS: I've worked a great deal with them on this bill and I stated a little bit earlier about how complex and involved my original bill was. And it really was a little bit too far-reaching as far as the specifics of what we were looking for in the contracts. And so by working with them...you know, they just came in with some really good suggestions, things that they're already doing that are working for them and so, you know, they came in more as for information than support. [LB568]

SENATOR HARMS: I know that, as we put this into reality and it becomes a law, there's still another area out there that's looming and that's eminent domain, which really is a major issue once this is in place for us to address. And I'm assuming that we're going to be making progress towards that area and I think we do have a bill that we'll have a chance to hear. Because I think that's the other factor that really hurts us of actually getting these wind farms put together. Where I live in western Nebraska it's a little easier because they can get into that western grid and we can transmit from there and it's much closer. It would be less costly. But I think for other parts of Nebraska that is going to be an issue for us. And so I thank you, first of all, for your interest in energy and I know that you'll move from wind to others because I believe it's our future. I believe it's going to bring jobs. It's going to create some good cash flow for people that have struggled a little bit. So thank you for doing this and I support this. Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Harms and Senator Dubas. Senator Haar, you are recognized. [LB568]

SENATOR HAAR: Madam President and members of the body, I rise in support of LB568 and the amendment. For those of you who were at the game last night, we know that Senator Dubas is an extraordinary cheerleader, and we know that she's also been an extraordinary cheerleader for renewable energy. I think the main potential really for

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wind energy in this state is economic development, not simply for Nebraska but especially for rural Nebraska. And right now we have lots of traveling salesmen in the state. Most are reputable, some are not. And that's what this bill is aimed at. Now, Senator Schilz did address an issue, I guess what you'd call paternalism, which according to the dictionary is benevolent but sometimes intrusive. And so I think that's an issue to watch but I wouldn't call this bill paternalism. It's not paternalistic. This is an area that's even new to lawyers. We went to Wind Energy Conference in November and lawyers themselves are struggling to come up with contracts that will really protect the people who are leasing their land. And so I think this bill is very appropriate. I also want to thank Senator Price for bringing up the issue of Doppler radar, which I don't think anybody else has thought of yet. But anybody who has concerns or something you think we should think about, please talk to any member of the Natural Resources Committee because that's what this committee study this summer is going to be looking at, at the opportunities and the roadblocks to developing wind energy and we don't want to stumble. When I did planning for a living, the motto was always, no surprises, please. And that's really what this study is about this summer, to look at the roadblocks. When we really get into this we don't want surprises that we haven't thought about, so that's an open invitation to come to any of us on the committee at any time. So again, I want to thank Senator Dubas and I'm really excited about the development of wind energy. Thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Haar. (Doctor of the day introduced.) Continuing our discussion on the bill: Senator Council, Stuthman, Nelson, Loudon, and others. Senator Council, you are recognized. [LB568]

SENATOR COUNCIL: Yes, thank you, Madam President. I rise initially in support of LB568 and the amendment, But I do have some questions and I have had an opportunity to have some conversation with Senator Dubas with regard to this issue. But my concern is not so much with the entering into the leases, but the siting of these leases. And when I say my concern is about the siting of these leases, I received correspondence, and maybe some of you have, from individuals who are concerned about the effect of these wind turbines on the migratory patterns of the Sandhill cranes. And I was inquiring of Senator Dubas whether there was anything in LB568 that would alleviate some of those concerns or whether we had another avenue available to us to place some restrictions on where these leases can be entered into so as not to affect those migratory patterns. Senator Dubas, would you yield to a question on that subject? [LB568]

SENATOR FISCHER: Senator Dubas, would you yield? [LB568]

SENATOR DUBAS: Yes, I will. [LB568]

SENATOR COUNCIL: So is there... [LB568]

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SENATOR DUBAS: Yes. Yes. [LB568]

SENATOR COUNCIL: ...do we have a mechanism to control the siting of these leases? [LB568]

SENATOR DUBAS: As I kind of alluded to when Senator Price asked his question about the Doppler radar, siting is a critical component to these wind farms and there are a lot of things that have to be taken into consideration: the birds, the radar, other things. And so as to whether we have it in this particular bill, no, we don't have it in this particular bill. But I do know with developers...I mean, there's things that can be done through local planning and zoning, local county regulations. I'm not exactly sure all the permitting that is needed for this. I should ask NPPD. They probably could give me a better indication of their permitting process, but I do know they have to take environmental concerns into consideration when they're doing that. [LB568]

SENATOR COUNCIL: Okay. And perhaps then before Select File we could get some information on what the permitting process is and how these environmental issues are considered because that is something that is of extreme concern, not the least of which is the effect on the migratory pattern of the birds. But if that pattern is altered to any significant degree, as we all know, that annual migration is a tourist attraction for the state of Nebraska and we'd hate to see that being adversely affected by our desire to take advantage of the wind energy. [LB568]

SENATOR DUBAS: Uh-huh. [LB568]

SENATOR COUNCIL: So if we can, between now and Select, get some information on the permitting process and how those environmental issues would be addressed. [LB568]

SENATOR DUBAS: I certainly will get that for you. [LB568]

SENATOR COUNCIL: Thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Council, and thank you, Senator Dubas. Senator Stuthman, you are recognized. [LB568]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I am...I'm very concerned about, you know, the wind energy. I do support wind energy. But the issue that I have is, you know, at what time and at what point are we going to have enough wind energy? Is it going to be overdone in the future? I also do agree with Senator Karpisek's concerns about the 50 years and the 10 years. And I'm also very appreciative of the fact that in the amendment, in Section 2, it states that a wind

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agreement shall run with the land benefited and burdened. And I want to talk a little bit about the burdened part of it, because I feel that, you know, that if these towers are placed there, you know, they're placed there and they're not going to be removed very easily. In some areas there will be no need to remove them because of the type of soil that it's on and the area that it's in. But I think there are other areas where there could be potential for other types of development and it could have an effect on the value of property in that area. Another thing that I want to bring to the surface is the fact that a lot of the...a lot of you senators that are here today were not here in the debate when we debated, you know, the ethanol, the ethanol portion. And it was stated when we debated the ethanol, they said that every bushel of corn raised in Nebraska should be used to make ethanol. And on the surface that sounds like a good idea but it's not reality. I think we're at a point right now where we're utilizing enough of the grain to make ethanol. And I think a lot of people invested money in these ethanol companies that, you know, have really lost a lot of money in their investment. This situation could also come about with this wind energy. On the surface it sounds like a real good idea. And I think it is a good idea but, like I stated, you know, at what point should we just stop building windmills? And I think there's going to be a time when there's a group of people that get together and get organized and invest their money into a wind energy farm that they will not be able to market their energy. So I do agree with, like I had stated, with Senator Karpisek, the fact that I think we should reduce the 50 years to 40 years or 25 years. Because if there's some wind tower placed on this ground or an agreement made, that goes with the property and, as you know, you know, the property does, every generation or so, it does change; a lot of it doesn't but there is the chance that it will change owners. And I think there is as much, much to consider that it could be a burden on the ground as a benefit. And I think it would be more of a burden on the ground than it will benefit the ground. And also I think the fact that the ten years, if they don't start building one for ten years, they make an agreement and they don't build one for ten years, you know, then the agreement is not an agreement, I think that should be also down to four or five years. And I think those are the situations that we've got to be thinking about. I am supportive of wind energy to a point. And I think we need to keep that in mind, and I wanted to get that on the record mainly because of the fact that I don't think...I don't think we have enough development in the... [LB568]

SENATOR FISCHER: One minute. [LB568]

SENATOR STUTHMAN: ...state of Nebraska to utilize all of the energy by all of these wind farms unless we can export it to other states, but I think that could be very costly. So with that, I think we should be very careful. But I do support the fact that Senator Karpisek says that we should get some of those years down a little bit more and I will support that part of it. Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Nelson, you are recognized. [LB568]

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SENATOR NELSON: Thank you, Madam President, members of the body. As you know, I am now referred to as "Mr. Excitement." (Laughter) Like Senator Haar, I am really excited about LB568 and the amendment. I'm so excited that I want to talk about the word "excited" because I'm very unhappy with the use and the abuse and the overuse of the word "excited." No longer are we pleased, are we glad, are we privileged, are we honored, are we happy to have something happen. No, we're excited and that excites me, and I just wanted you to know how excited I can get about things like that that I consider wrong and I intend to get excited in the future about things that I find wrong. Having said that, I have a question for Senator Dubas if she is present and would entertain a question. [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: With a great deal of excitement, yes. [LB568]

SENATOR NELSON: (Laugh) Senator Dubas, in the negotiations with the parties that you referred to were there any lawyers involved? [LB568]

SENATOR DUBAS: Not directly. [LB568]

SENATOR NELSON: No trial lawyers? [LB568]

SENATOR DUBAS: No, not to my knowledge. [LB568]

SENATOR NELSON: No contract lawyers? [LB568]

SENATOR DUBAS: There may have been some indirect contribution but not with me personally. [LB568]

SENATOR NELSON: All right. Well, something like this certainly needs input from contract lawyers. And on a cursory reading of this, it looks like a lot of things are covered but reference is made to the fact by someone here, one of my colleagues, that lawyers struggle with drawing contracts for that and I can see that this is probably going to be the case. Is Senator Langemeier...thank you, Senator. Is Senator Langemeier here? [LB568]

SENATOR FISCHER: Senator Langemeier. I do not see Senator Langemeier on the floor at this time, Senator Nelson. [LB568]

SENATOR NELSON: All right. Then I'll ask you another question, Senator Dubas, and I can probably talk off the mike with Senator Langemeier, but it deals with real estate matters, I think. So generally when we recite consideration in a lease of some sort, we

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don't always give the actual amount of the consideration or the value. We talk about one dollar and good and valuable consideration. Now do you think maybe that will be the case here that that will still be permitted? [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes, I would. And I was just informed that there were contract lawyers that I did meet with. [LB568]

SENATOR NELSON: Okay. [LB568]

SENATOR DUBAS: I didn't realize what his profession was. You know, I'm definitely open to that language. I am familiar with that language. I have seen it in some of my own contracts. [LB568]

SENATOR NELSON: Well, the reason I mention this, I mean, as you probably know, there are a lot of cash rents negotiated and things of that sort, and that's not necessarily public knowledge as far as a lot of people in agriculture are concerned. And I don't think we want to be in the position here where we require people to say, this is what I'm getting for my oil lease. I think maybe that goes a little bit far. And I think probably if we continue to use the \$1 or \$10, \$20 and valuable consideration, then this would pass muster as far as I'm concerned. But I do think this is a great start, probably needs a little bit of work, as others said, until we...if we move it on today. And I do thank you for bringing this, and I am really excited about the future on this. Thank you, Senator. Thank you, Mr. President, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senators Nelson and Dubas. Senator Wightman, you are recognized. [LB568]

SENATOR WIGHTMAN: Thank you, Madam President and members of the body. I don't know that I can rise quite to the excitement level of Senator Nelson, but I'll try. Maybe I can get right up there. I was a little bit concerned when Senator Karpisek addressed Senator Dubas as well and he said that Senator Dubas knew wind much better than he did, and I didn't know whether he was claiming that you were windier and I knew that wouldn't be the case. But at any rate, I do have a couple of questions if Senator Dubas would yield to a question or two. [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes, I will. [LB568]

SENATOR WIGHTMAN: One of the things, Senator Dubas, that we have in oil and gas leases, and I do review those from time to time, not real frequently, we have a thing

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called delay rentals. And you've got a provision in here that they must actually develop the land or start development within a ten-year period, I think. Do you anticipate anything in the way of a delay rental that they're paying or a delay for exercising the easement similar to what we have in oil and gas leases? Are you familiar with those? [LB568]

SENATOR DUBAS: I have not heard of that specific term. But when we were working on the amount of time to put into this, that was one of the issues that was brought up that, you know, sometimes there might not be visual construction going on but they are in the process of development and it could take longer than five years. And so that's why we went out to the ten. A landowners' association thought that was ample time and NPPD is currently using that ten years. And we did look at the mineral and gas statutes and took some of the language out of that for this particular bill, but that's an interesting point you make. [LB568]

SENATOR WIGHTMAN: Well, to tell you a little bit how those work, normally a oil, gas development company or oil development company will come out and take a lease on a particular tract of land and they'll make a down payment at the time they enter into the lease agreement. And then they have up to ten years to drill or sometimes less than that, three or four years to drill, but during that period of time they pay a delay rental, which again is sometimes 50 cents or a dollar an acre or greater in areas where there's a lot of oil and gas reserves. And I didn't know whether that would be a possibility that you might look at here that would...because the first time they miss a delay rental under the oil and gas leases, they give up the lease. The lease ends at the end of the year that they did not make a delay rental, so that might be a possibility that would speed them up. With regard to the 50 years, I assume that that is in part because they're going to have a big investment out here, so you're saying in LB568 that no matter how much development out there, it can't last for more than 50 years. [LB568]

SENATOR DUBAS: Correct. The language says, not to exceed 50 years. [LB568]

SENATOR WIGHTMAN: Now, they can renegotiate with the landowner and increase it, but there's no absolute option or right to renegotiate. Is that correct? [LB568]

SENATOR DUBAS: Would you restate that question, please? [LB568]

SENATOR WIGHTMAN: Well, they have the right at the end of 40 years to renegotiate for a longer term or maybe even at 10 years to renegotiate for another 50 years, which would extend it by 10 years. I assume they can do that at any time. There's nothing that keeps them from recontracting. [LB568]

SENATOR DUBAS: Correct. And I mean, that's why we were careful not to put very specific language into the bill. [LB568]

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SENATOR FISCHER: One minute. [LB568]

SENATOR DUBAS: These are things that go into the contracts and leases. [LB568]

SENATOR WIGHTMAN: I only had one more question and that was with regard to the fact that you cannot sever the wind interest. And again, this differs from an oil and gas lease and there may be a lot of reasons why that would be the situation. What thought was given to that, that there could not be a severance of the...? [LB568]

SENATOR DUBAS: We gave that a great deal of consideration and just felt that it was very important that that right stay with the land so that, you know, you don't have people going out and severing that right with the land and keeping the...we just saw that there was a lot of potential for it not to serve the landowners. [LB568]

SENATOR WIGHTMAN: Thank you, Senator Dubas. I do intend to support the bill but I just had a few questions, so thank you. Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Wightman and Senator Dubas. Senator Karpisek, you are recognized. [LB568]

SENATOR KARPISEK: Thank you, Madam President, members of the body. I do want to rise and agree with Senator Schilz that maybe there is a fine line when government steps in when they shouldn't. I think in this situation, is much like other situations where we have to have some protections for the citizens. There's not any price tags in this contract saying how much needs to be paid per acre, not how much per kW, none of those sort of things. So I do understand what he is saying and I think that Senator Dubas has been very careful not to overstep that. I think we have a lot of safeguards in place for people that may have been taken advantage of or just not getting a good deal: Better Business Bureau, although that's not a state organization; the Attorney General's Office has a lot of complaints that they deal with. So again, this isn't so much to say that we don't trust people, but our landowners I feel have a huge resource here and I don't want to see them miss the boat. I also agree with Senator Stuthman. We don't know where this is all going to go. And I think that's why this is so important to get some of this in now. This is the beginning part. There's a lot farther that we need to move on this. This is the start. Senator Stuthman hit it right on the head when he talked about transmission lines. That's going to be a huge part of how wind power is grown in Nebraska. Right now we don't have the transmission lines to do everything maybe that is even on the plate, but that may come. It may come from the federal government. It may come from within the state. I don't know. But I want to get some of these safeguards in just for the citizens. I am a wind power supporter, but I agree with Senator Stuthman, we need to be careful. We need to not look at this as just a great way to bring in a lot of money and not look at what we're doing. Again, I think we've learned a

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lot with ethanol. We've learned a lot with mineral rights. We've learned a lot with a lot of things and we just need to go slowly here but, number one, protect our citizens. There's a lot of other issues that come up with the wind, too, on how taxes are going to be paid. I know there's a lot of confusion. Senator Nelson was right. We need attorneys involved. But this is so new in the state that a lot of attorneys don't know. I know the Saline County group has hired an attorney out of Colorado. Taxes on these wind turbines could really help our counties, but we need to find out how we're going to tax them and make sure that it's not going to come out of the pockets of our landowners. If we let them make some good money on these but turn around and take it right back out in taxes, that's not what we want to do. Also in this contract is end of life of the towers. Senator Stuthman also talked about that. These things are huge. They're enormous. They may have 300 yards of concrete in the base. What's going to happen if we don't have some... [LB568]

SENATOR FISCHER: One minute. [LB568]

SENATOR KARPISEK: Thank you, Madam President. What's going to happen at the end of life on that if they're just able to walk away? I don't think that anyone could do anything with that much concrete, and what will happen with that? So again, there are a lot of questions. I thank Senator Dubas and the committee for bringing some of this forward. Again, is this the end-all, be-all, every answer in here? No, it's not. But I think that it's a great starting point and I think that we also could talk about some of the oil lines that are coming through the state, too, that may play into this bill on some of how we're going to work on some of those things. So again, I want to thank the body for bringing up some of these issues and working with us, and I think that we have a great start. Thank you, Madam President. [LB568]

SENATOR FISCHER: Thank you, Senator Karpisek. (Visitors introduced.) Senators wishing to speak: Senator Haar, Hansen, Wallman, and Dierks. Senator Haar, you are recognized. [LB568]

SENATOR HAAR: Madam Chair and members of the body, just for Senator Nelson's information, one of my favorite books is the thesaurus so I would like to tell him that I am also passionate, ardent, blazing, gung-ho, enamored, obsessed, and on fire with wind energy. (Laughter) Then I would just like to also talk for a minute, the question was raised about, you know, are we going to knock cranes out of the sky with these wind turbines. One of the things we're going to do with this task force that we are...study group, I guess it's to be called, when we get together is to include all the stakeholders so that we get all this kind of input. And I just would like to read you some of the stakeholders, at least I anticipate, we would have at the meeting to look at the siting of wind turbines. We're going to have the Power Review Board, of course; organized labor; the League of Nebraska Municipalities; the Nebraska Association of County Officials; the rural electric cooperatives; ag interests; public power districts; the wind

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manufacturers; wind resource generation people; municipal utilities; wildlife interests of Nebraska; environmental interests of Nebraska; the faculty of the UNL Engineering Department; Nebraska Wind Working Group; the Nebraska Energy Office; Game and Parks; some state senators; and so on and so forth. So at least one of my big interests in this whole process is that we get every possible stakeholder and listen to them and see what their concerns are, not only with siting turbines but also siting transmission lines. So again, I look forward to this process. I'm on fire with wind. Thank you very much. [LB568]

SENATOR FISCHER: Thank you, Senator Haar. Senator Hansen, you are recognized. [LB568]

SENATOR HANSEN: Thank you, Madam President/coach and members of the Legislature. I rise in...with some questions about wind energy. I agree with Senator Stuthman that we may not quite be there yet, with a lot of questions to ask yet. And that's what I'd like to do if Senator Dubas would yield, please. [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes. [LB568]

SENATOR HANSEN: In the...thank you, Senator Dubas. In the things that Senator Haar just listed, are the groups that should be interested, the stakeholders in wind energy, was there anything in there about landowners or landowner groups? [LB568]

SENATOR DUBAS: I don't know that he mentioned it,... [LB568]

SENATOR HANSEN: Okay. [LB568]

SENATOR DUBAS: ...but I'm certain that they would be a resource for us to go to. [LB568]

SENATOR HANSEN: Okay. And I can't see that the landowner groups are out there, and my point being, I've talked to people in Wyoming, I've talked to one person in particular that works with a lot of landowners out there on different projects and he says in eastern Wyoming that the people are really getting ripped off doing this one on one. And what he passed on to me was that we should have co-ops or that we should have associations of landowners. That would be a group of landowners decide that they want to go into wind energy production and then hire one contract lawyer to represent them, reduce the cost, and continue on there. Electric co-ops was one name that he brought up; easement associations, so that would be a group of people that would actually sell their easements but still would have to be a group of landowners. And I think that group of landowners really needs to be considered if they want to be part of the process and

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part of the stakeholders, as Senator Haar mentioned. And wind easement co-ops, I guess those are the three names that this gentleman came up with. But he really, really recommended to me that we, you know, if we don't have the easement thing done, to slow down on wind energy because the landowners are the ones that are really going to suffer from this. And then when they...and I know when they, in the body of the amendment there's somewhere about we're talking about the real property and the leaseholder of those easements are going to be responsible for what's put on there. Well, we're talking roads, and then the use of the land is not going to be changed. Well, if you get into cattle country, if you have a windmill out there and you have to have room to take one of those blades down, that's a pretty big fence around that generator. And if you're an electrical producer, you want cattle away from those blades. I think just some of these things we need to think about and get groups of landowners together and to form one of these co-ops or easements, have the legal stuff in hand. Because when you get a legal document that...for an individual or for an easement, will probably be about ten times the size of the amendment, so. Any comment to that, Senator Dubas, I'll yield you the rest of my time. [LB568]

SENATOR DUBAS: Thank you very much, Senator Hansen. You really did raise some great points. Again, I'm going to hold up the Saline County landowners' association. They really are how you do it right and I know there's a lot more interest with landowners across the state in doing these types of associations because they do recognize that there's strength in numbers. They do recognize the importance of pooling their resources and really making themselves informed consumers before they sign anything. And so I think we're going to see a lot more of these landowner associations or similar groups to what you just stated popping up around the state. I know there's one that's being formed specifically dealing with the Keystone Pipeline that's coming through. [LB568]

SENATOR FISCHER: One minute. [LB568]

SENATOR DUBAS: So I think it's great that citizens are arming themselves with information and getting the types of protections that they need to do this. It's just going to be very, very important. We did not, you know, put the whole long list of the types of improvements or the types of changes that would be made to the property. But those are definitely things that have to be taken into consideration if you're signing a contract. You have pasture land, you know, that's where your cows are at, you need to put those things into the contract. Again, we can't...it's not wise policy for us to be that specific in our statute but it's good...it's a good thing for landowner associations or individual landowners to take those things into consideration as they're working on their specific contracts so that they are at the end of the day protected and well served and everybody comes out a winner in the particular project. So again, thank you, Senator Hansen, for those very important points. [LB568]

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SENATOR FISCHER: Thank you, Senator Hansen and Senator Dubas. Senator Wallman, you are recognized. [LB568]

SENATOR WALLMAN: Question. [LB568]

SENATOR FISCHER: The question has been called. Do I see five hands? I do. Members, the question is on the committee amendment, AM732. All wishing to cease debate vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB568]

CLERK: 29 ayes, 0 nays to cease debate, Madam President. [LB568]

SENATOR FISCHER: Thank you, Mr. Clerk. Debate has ceased. Senator Langemeier, you are recognized to close on the committee amendment. [LB568]

SENATOR LANGEMEIER: Madam President, members of the body, I want to thank everybody that had shared their thoughts on this bill. We think it's in the right...a step in the right direction. Senator Loudon has brought up some points and he and I were just talking. We're going to work on some of those issues and come up with some...maybe some fine-tuning to some of his thoughts by Select File. And with that, I'd ask for your adoption of the committee amendments, AM732, and it does become the bill. Thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Langemeier. You have heard the closing on the committee amendment. The question is, shall the committee amendment to LB568 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB568]

CLERK: 38 ayes, 0 nays on adoption of committee amendments. [LB568]

SENATOR FISCHER: Thank you. The amendment is adopted. Discussion will continue on the advancement of LB568 to E&R Initial. Those wishing to speak: Senator Dierks and Senator Haar. Senator Dierks, you are recognized. [LB568]

SENATOR DIERKS: Thank you, Madam President. I'm always excited, Senator Nelson, about wind energy. I'm also urging patience and caution because I think that there's an opportunity here to do great things as far as economic development is concerned in our state, but I think we have to be careful who the recipient of that economic development is. I'm pleased, too, that the Natural Resources Committee will be holding hearings this summer to explore all the possibilities with wind energy or most of them. One of the things that Senator Stuthman suggested this morning, that he would like to see the time changed from 10 years to 5 years, it just happens that I have that amendment out there, Senator Stuthman, and I've asked that it be withheld from General File. We'll look at it on Select File. Another thing that you mentioned that comes as a little bit of a surprise to

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me was that you said that during the debate on ethanol buildings in this state, that we talked about using all the corn that was harvested here for ethanol. We've come a long way from that, baby. You know, we're beyond that quite a bit. We produce more corn today so that we can use as much as we want for ethanol and still have as much available for cattle feeding as we had before we had ethanol. We have that kind of technology. We are blessed abundantly in this state with our water supply, and thank you to the Department of Water Resources that we have governing going on there as well. I think that there's...you know, the statement has been made that we can provide all the energy we need from the fields and land in Nebraska. We don't need to go to the coal fields, any place else. We don't have to get oil from someplace else. It's possible that we can do this but, of course, it's going to take a lot more work. But by the same token, it's going to take patience and understanding and I urge that because we've seen a little bit of a lack of that I think sometimes during this development of the wind energy thing. And I sure think that we need to be very cautious about where the money goes, where the people that generate the energy with wind, where the money goes that's earned with that energy. I'd like to keep it as much in Nebraska as we possibly can, I think you would too. With that, I sure appreciate Senator Dubas' bill here and I would urge your support of LB568. Thank you, Madam President. [LB568]

SENATOR FISCHER: And thank you, Senator Dierks. Senator Haar, you are recognized. This is your...excuse me, go right ahead. [LB568]

SENATOR HAAR: Madam President, members of the body, Senator Hansen, you brought up some really good points and again I hope you will be talking to Senator Langemeier in particular about your concerns. One group I know that's done a lot of work in trying to get...to educate farm owners about the sorts of things that need to be considered is the Farmers Union, and I'm sure if anyone has any questions on that, that they're more than willing to talk with you. One of the models that senators in the past have developed is the C-BED model for Nebraska. And I know there are some groups right now that...some groups of landowners that are working together to try and come up with siting of wind farms. The neat thing is, Senator Dierks mentioned about the C-BED model, is that it will keep not only the land revenue coming...for the turbines but also ownership to Nebraska farmers and rural residents. And then I'd just like to close with talking about what I think would be a really neat icon for Nebraska. A couple of weeks ago somebody from the Ponca Tribe came in to talk to me about developing wind energy and he said what they'd like to see are wind turbines in the air and buffalo grazing on their pasture land. And I think that would be a perfect icon for Nebraska, wind turbines and buffalo. Thank you very much again, Senator Dubas, for this bill. [LB568]

SENATOR FISCHER: Thank you, Senator Haar. Senator Sullivan, you are recognized. [LB568]

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SENATOR SULLIVAN: Thank you, Madam President and members of the body. It occurs to me that as we venture into this whole area of wind energy it's a little like the new frontier for Nebraska and we're pioneers in it. And just as probably the Legislature served a role as when the pioneers were settling this state, I think it's only right that we weigh in with public policy with respect to this new frontier. So I stand in full support of LB568. But I also have heard from constituents that said, just as Senator Dierks said, go slow, be wise and cautious in some of the policy developments. Along with that, I do have one question, if Senator Dubas would yield. [LB568]

SENATOR FISHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes, I will. [LB568]

SENATOR SULLIVAN: Thank you. There are...there has been a lot of interest into energy on the part of landowners and some landowners have already entered into contracts. My question is, does this legislation have any impact on landowners who have already entered into contracts? [LB568]

SENATOR DUBAS: Unfortunately, if they already have a signed contract I wouldn't see that this legislation would be able to serve them. It's not retroactive. A contract is binding and so they would have to live with that contract. [LB568]

SENATOR SULLIVAN: Okay. Thank you very much. [LB568]

SENATOR FISCHER: Thank you, Senator Sullivan and Senator Dubas. Senator Wallman, you are recognized. [LB568]

SENATOR WALLMAN: Thank you, Madam President. Would Senator Dubas yield to a question? [LB568]

SENATOR FISCHER: Senator Dubas, will you yield? [LB568]

SENATOR DUBAS: Yes, I will. [LB568]

SENATOR WALLMAN: I have friends who actually, in Missouri, have wind turbines. Some signed good contracts; some didn't. In Iowa, one farmer put up, I think, five or six and they're paying for themselves. But so it can be a really win-win situation. But I'm also, like P.T. Barnum would say, there's a sucker born every minute. And in regards to this, if I put up a wind tower, would I pay the property tax on that or if I lease it to somebody, how does that work? [LB568]

SENATOR DUBAS: That would be something that I would say that you would need to make sure is very clear in the contract that you sign. [LB568]

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SENATOR WALLMAN: Because that's my only...you know, I can be a skeptic. But I think we have to walk before we run and if it works out, great, let's run. But if it doesn't, figure out something better. Thank you, Senator Dubas. I will support this bill. Thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Wallman and Senator Dubas. Seeing no other senators wishing to speak, Senator Dubas, you are recognized to close on your bill. [LB568]

SENATOR DUBAS: Thank you very much, Madam President and members of the body. Thank you very much for this great discussion this morning. This, as everybody knows, is a topic that's very near and dear to my heart. There have been a lot of people who have blazed the path ahead of me in helping us move towards renewable energy and wind energy development in particular. So it's very easy for me to kind of step in and pick up the ball and appreciate all of the groundwork that they have put in place. This is a bill that my staff and I have spent an extreme amount of time on, just because it's that important to me and I feel it's that important to the citizens of the state that we have statute in place that's strong, that's enforceable, clear, and does what we really want it to do. We had the interim hearing. I've worked with a variety of groups and perspectives of interest trying to...we've answered a lot of the questions that have been raised this morning, I feel, in this bill. I do also feel that there were some valid questions raised this morning and I think it's something that Senator Langemeier has already indicated the Natural Resources Committee is willing to look at to sharpen up this amendment additionally. I'd just like to take a moment to make a small public service announcement. If you are approached by anyone to sign a contract dealing with wind energy on your farm, please don't sign it until you fully understand what it is that you're getting into. Call your attorney. If that attorney doesn't have the expertise or knowledge, call the University of Nebraska. I know they're working on trying to get adequate information out to the legal counsel across the state. But please continue to pursue the information that you need until you feel comfortable signing your name. Anyone that is pressuring you to sign a contract, it's usually because it's in their best interest and not yours. So please take the time to make sure you're making an informed decision. Senator Haar pointed out Farmers Union has been holding meetings all across the state, and those meetings have attracted great crowds, and they've put out good information about wind energy, the potential of economic development and the potential for individual landowners to really reap some great benefits from this. So, you know, call Farmers Union if you have questions. The Wind Working Group is kind of a takeoff from these meetings and involves a lot of very knowledgeable people about wind energy across the state. You know, I'm very excited about the study or the work group that the Natural Resources Committee is putting together and will be doing this summer and fall. I usually don't set my expectations really high because the higher your expectations are the more likely you are to be disappointed, but I have very high expectations for this working group. I

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think it's exactly what I've been hoping we could make happen since I came down here. We need a comprehensive approach, look, and analysis of where we have been, where we are, and where we want to be and how do we get there. And we have a lot of moving parts and everybody is kind of out there doing their own thing right now. And for the Natural Resources Committee to bring all of these vested people together and answer the big and the little questions and get the information so that as we begin to enact policy and direction for the state of Nebraska we're doing it in a very organized and cohesive fashion that will really get us to where we want to go. So I do have high expectations for this working group and am looking forward to being a part of it and gathering the information that we need. We looked at the mineral and oil and gas statutes that are currently in place in the state that have served us for many, many, many years... [LB568]

SENATOR FISCHER: One minute. [LB568]

SENATOR DUBAS: ...and have put those considerations into the committee amendment. As I said, we've worked on it long and hard. We've been from point A to point B and back to point A again just trying to make sure that we are clear and concise with this legislation. I appreciate the support that's been expressed this morning and would ask for a green light on this bill. Thank you. [LB568]

SENATOR FISCHER: Thank you, Senator Dubas. You have heard the closing on the advancement of LB568 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB568]

CLERK: 37 ayes, 0 nays, Madam President, on the advancement of LB568. [LB568]

SENATOR FISCHER: Thank you. The bill does advance. Mr. Clerk, messages? [LB568]

CLERK: Madam President, motions: I have motions with respect to LB346, LB346A, LB136, LB136A, LB356, LB356A, LB601, LB601A; an amendment by Senator Adams to LB545; and a new resolution. Senator Giese offers LR102 calling for an interim study. That will be referred to the Executive Board. That's all that I have. (Legislative Journal pages 1240-1245.) [LB346 LB346A LB136 LB136A LB356 LB356A LB601 LB601A LB545 LR102]

SENATOR FISCHER: Thank you, Mr. Clerk. We will proceed to the next item on the agenda, Mr. Clerk. []

CLERK: Madam President, LB630 introduced by the Business and Labor Committee. (Read title.) The bill was discussed yesterday. Senator Lathrop, as Chair of the committee, offered the committee amendments to LB630. Senator Schilz has FA27

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pending as an amendment to the committee amendments. (Legislative Journal page 1020.) [LB630]

SENATOR FISCHER: Thank you, Mr. Clerk. Senator Lathrop, as Chair of the Business and Labor Committee, you are recognized for a short recap of the bill, please. [LB630]

SENATOR LATHROP: Thank you, Madam President. And to keep it short since we left it at 5:00 last night, the bill is a collection of bills that came through Business and Labor. The element of this bill which is creating the most controversy relates to a modest improvement in benefits for totally disabled individuals. There is also a piece regarding lump sum settlements, as well as the courts cleanup measures. Thank you. [LB630]

SENATOR STUTHMAN PRESIDING []

SENATOR STUTHMAN: Thank you, Senator Lathrop. Senator Schilz, will you give us an update on your amendment, please? [LB630]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. FA27 is the amendment to AM874 on LB630, which is a conglomeration of four other bills that went together. Basically FA27 would strike Section 3 of the bill that would provide a cost-of-living adjustment for totally disabled individuals going forward. And, you know, I think my reasons for this yesterday are I don't want to incur any more cost towards businesses than they have already. I think the economic times are not for that nor is there any reason pretty much anytime. But I would just urge everyone to support striking Section 3. Thank you. [LB630]

SENATOR STUTHMAN: Thank you, Senator Schilz. Those wishing to speak are Senator Hadley, Carlson, Campbell, Lathrop, and Nantkes. Senator Hadley, you are recognized. [LB630]

SENATOR HADLEY: Mr. President, members of the body, I did not speak yesterday on either the bill or the underlying amendments, but I did try to do some research since there seemed to be a question of how this impacted the state governments and very little on the private sector. So this is my research, so I take full responsibility for it. But as of the end of the third quarter of last year, the stats that I found on employment in Nebraska, we had about 770,000 in private industry and about 155,000 in governmental industries. If you use the fact that the number that has been thrown out is \$58,000 for the state government and you extract that out and use that as kind of a surrogate for the private industry, it's interesting. We have 23 employees in the private industry for every state employee. If you extract that out, that means this will have an impact on private businesses in Nebraska of \$1,357,666; that in essence, we are increasing the cost of doing business in Nebraska for those businesses by that amount. What I found as also interesting is that for local and state governments we have approximately 3.2

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employees for every 6 employees in the private sector or 3.2 employees for every 1 in the state government. We're sending an unfunded mandate to city and county governments across the state, according to my figures, about \$188,330. So this is a mandate that's going out, because my understanding is the state and county governments are covered by workmen's compensation. If we pass this, we're going to be requiring them to cover these costs. I question whether this is the time now to be raising costs to private businesses and to state and local governments. It may be a very worthy cause, but given the economic conditions...if we were sitting here and we were debating whether we were going to have a tax increase for businesses of \$1,357,666, I would guess most of us would be standing up, standing on our seats saying no. If we were going to say that we're going to increase or decrease the amount we send to local and county governments \$188,000, they would be coming out of their chairs. But this is exactly what is happening here. I would yield the rest of my time to Senator Campbell. [LB630]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator Campbell, you have time yielded to you at 1 minute and 54 seconds. [LB630]

SENATOR CAMPBELL: Thank you, Mr. President. I just wanted to add onto Senator Hadley's comments. Last night I had an opportunity to visit a little bit with Larry Dix. Having been a county commissioner, I began to think about what that cost might be. And this morning I contacted Lancaster County, and alone in Lancaster there are 22 claimants that this would affect. When you begin to multiply that by the number of counties and cities across the state, we really do need to think about whether this is the time that we want to enter into this. Thank you, Mr. President. I'll save the rest of my remarks when I'm in the queue. [LB630]

SENATOR STUTHMAN: Thank you, Senator Campbell and Senator Hadley. Senator Carlson, you are recognized. [LB630]

SENATOR CARLSON: Mr. President and members of the Legislature, I spoke on this yesterday, and I'm going to speak on it one more time today because yesterday I really asked the question what does this cost. What does LB243 as a part of LB630 cost? What does it cost the state and what does it cost private industry? This is a serious matter for us as legislators, even if we confine it to this building. It affects our own staff members. And so if cost didn't matter I would be very, very supportive of LB630. Now, based on information that I received from Policy Research, from the Fiscal Office, and from DAS...you have the sheet that I had distributed with my initials and District 38 on it. Yesterday Senator Nantkes said that the initial first year cost would be \$58,000. As I listened to her say that, I thought that's quite a bit of money. And then I went and talked to her and she said this was based on 250-some people that are covered under the state plan now being permanently and totally disabled in 2008. So that's one year. I thought those are big figures. In fact, I told Senator Nantkes, I think you better check

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that. Those look inflated to me. And then in talking to the various groups here in the state office, they verified these figures are accurate. So out of about what I think was about 30,000 employees covered, these were the results in 2008. And so I'd ask you to refer to the handout. Then this puts a 3 percent cost-of-living increase on state employee permanent disability. And so using the \$58,000 figure in the first year, that's the annual increase, and I've multiplied this out for ten years because if the assumption is if 250-some people were disabled in 2008 totally and permanently, there will be that many in 2009 and there will be that many in 2010. Now, this is an estimate because there may be more or there may be less each year. There will be some that go on total and permanent disability and die, and so that's going to change. But just assuming the 250 number each year for ten years, in the middle column, the annual increase, \$58,000 becomes \$75,680 in the tenth year with a 3 percent increase every year. But then the final column is the fact that each year we assume 250 people become permanently and totally disabled, and that's the cumulative cost year by year. And over a ten-year period it looks like it amounts to about \$3.5 million. Now, that's with the state employees that are covered under this plan. So we've had mention what happens in the private sector. And with Senator Hadley's figures, I think he's just talking about one year and not talking about year after year. So our budget is for two years, but there is a long-term cost and what is that cost? This is a projection of state General Fund estimated expense. I have no intent of trying to exaggerate figures. I don't want to do that. I think this is a reasonable estimate. And so the Legislature probably today is going to make a decision, and we simply hope that it is the right decision. Thank you, Mr. President. [LB630 LB243]

SENATOR STUTHMAN: Thank you, Senator Carlson. Senator Campbell, you are recognized. [LB630]

SENATOR CAMPBELL: Thank you, Mr. President. I wanted to complete my comments and this time I'm going to wear a slightly different hat, and that is as a member of a family business, a small business in the state of Nebraska. This is a very difficult time for small businesses across the state. It's extremely stressful and I think, as I listened to Senator Lathrop's comments yesterday about the importance of paying attention to your employees, I think there are many, many small businesses across the state that are doing everything they can to stay in business and to help their employees with the times that they are facing. I know that we are trying to do that for our employees. I would have to say, however, that some of my friends in small business have lost their businesses, have closed them, have had to downsize them because of the economy and what we are facing. I understand the underlying principals of the original bill, but I stand in support of the floor amendment because I do think that the times that we live in call for not another burden to be placed on small business. Thank you, Mr. President. [LB630]

SENATOR STUTHMAN: Thank you, Senator Campbell. (Visitors introduced.) Senator Lathrop, you are recognized. [LB630]

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SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. We were left essentially to speculate about what effect this would have on work comp premiums. And we have looked...and I want to talk about some numbers. Last night and with the help of the very lobbyists that I talked about yesterday, we got the NCCI information today. And I appreciate her efforts, along with Glenn Morton's efforts, to secure that information so that we can do something besides speculate. I have passed that out and I'd like you to take a look at that. It is the document that says NCCI and this is the group that can predict what changes in the law will do to work comp premiums. And I got to make an explanation. This bill will affect temporary total disability benefits. The conclusion regarding what effect this bill will have you will find at the top of the third page where it says: The impact on temporary total disability benefits is expected to have a negligible impact on overall work comp system costs due to the following, and they put the reasons in there--negligible. If you go to the last page and you look where it says the overall consequences of this is .2 percent, .2 percent effect. I'm told by Glenn Morton, who is the administrator of the Workers' Compensation Court, that that number, as small as it is, is too high because the person that did the rating did not understand that it wouldn't affect the permanent partial disability benefits as assumed. So the consequences, now we're not speculating, these are the people who tell us what the rates are going to be in the event we make a change to our law. Their conclusion is its negligible. And that sounds a little bit different than what my friend Senator Carlson just talked about. And the problem with Senator Carlson's analysis, that I just figured listening to him, is the assumption that we're going to put this many new people on total disability benefits each year, and that's not right. We have a backlog of people who have been stuck at whatever the cap was when they were hurt. So we're not going to multiply this effect by adding this many people and turn it into a \$3.5 million problem. We had a fiscal note that came with this bill, and that was based upon an assumption which was the form the bill came in, in its original form, and that was everybody gets a cost-of-living increase. And so that fiscal note isn't helpful, but we contacted, my office contacted the Fiscal folks and they said that DAS originally estimated 242 employees receive permanent disability; 54 have an average weekly wage above the current max. The Fiscal Office does not anticipate an A bill as it has enough money in its fund already. So when we talk about what consequence this is going to have, understand that it is, by the experts' own opinion, the experts' own opinion, a negligible impact. Why is that? It's the point I tried to make when I introduced the bill in the first place. This is a modest increase. It is not giving them the sky and the stars and the moon. It is a modest, modest...it's almost embarrassing to come out here and ask for it because it is a modest increase. Why do we need to do it? I want to tell you about somebody who is a client of mine. This...it's a fellow, and I don't want to make any kind of disclosures and I won't, but it's a person that was... [LB630]

PRESIDENT SHEEHY PRESIDING []

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PRESIDENT SHEEHY: One minute. [LB630]

SENATOR LATHROP: ...employed as a nurse, made a good living, suffered a back injury and can never go back to that kind of work again, totally disabled. And last week while I was down here working on something else, my paralegal wrote me an e-mail and said our client wants to get off of work comp because they can make more money on welfare. Stop and think about this. Stop and think about this because when we talk about unintended consequences you need to understand that when we talk about benefits and we say we shouldn't have an employer pay for something, that ultimately that means there's a cost shift. That cost shift is going to the good old state of Nebraska. And when we ask Senator Gay to deal with, over at Health and Human Services, and Senator Heidemann to deal with in Appropriations the growing cost of Medicaid and welfare you need to understand that we're sending people there with some of our policy decisions as we attempt to insulate employers... [LB630]

PRESIDENT SHEEHY: Time, Senator. [LB630]

SENATOR LATHROP: Thank you. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Resuming floor discussion on FA27 to AM874. Members requesting to speak are Senator Nantkes, followed by Senator Schilz, Senator Fulton, Senator Janssen, Senator Council, and others. Senator Nantkes, you're recognized. [LB630]

SENATOR NANTKES: Thank you, Mr. President. Good morning, colleagues. I was hoping that Senator Schilz would yield to some questions, please. [LB630]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Nantkes? [LB630]

SENATOR SCHILZ: I will try, yes. [LB630]

SENATOR NANTKES: Good morning, Senator Schilz. Thank you for yielding. [LB630]

SENATOR SCHILZ: Good morning. [LB630]

SENATOR NANTKES: I just wanted to kind of...I think Senator Lathrop did a good job of talking about the real costs associated with this legislation and I wanted to get back to, I guess, some of the philosophical issues and issues about fundamental fairness that I believe exist and are contained within this legislation. So, Senator Schilz, if an employee is injured at work, can he, thus, avail himself to workers...he or she avail themselves to workers' compensation benefits? [LB630]

SENATOR SCHILZ: If a worker is hurt, yes,... [LB630]

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SENATOR NANTKES: Yes. [LB630]

SENATOR SCHILZ: ...as long as... [LB630]

SENATOR NANTKES: Okay. Thank you. [LB630]

SENATOR SCHILZ: ...as long as that employer has workers' comp. [LB630]

SENATOR NANTKES: Yes. Yes. And assuming that they're covered by workers' comp and assuming they're injured at work, they can indeed avail themselves to workers' compensation benefits. Is there any sort of finding or feeling about culpability involved in that injury on behalf of the employer or the employee? [LB630]

SENATOR SCHILZ: After the workers' comp deal is done or...? [LB630]

SENATOR NANTKES: Just is...there's really no culpability on behalf of the worker if they're injured and they avail themselves to workers' compensation benefits. Is that correct? [LB630]

SENATOR SCHILZ: That's true, even if the employee is negligent in their job. [LB630]

SENATOR NANTKES: Or the employer would be negligent. Is that correct? [LB630]

SENATOR SCHILZ: True, either way, yeah. [LB630]

SENATOR NANTKES: Right. Okay. All right. [LB630]

SENATOR SCHILZ: I mean, that remedy exists both ways... [LB630]

SENATOR NANTKES: Right. Right. [LB630]

SENATOR SCHILZ: ...and when it's done it's done. [LB630]

SENATOR NANTKES: Absolutely. And so if an employee, through maybe no negligence of their own and maybe no negligence of their employer, is temporarily or permanently disabled, we don't expect them to immediately or maybe ever return to work. Is that right? [LB630]

SENATOR SCHILZ: I mean, I guess if they are totally disabled I would say not in that line of work, no. [LB630]

SENATOR NANTKES: Okay. Thank you, Senator Schilz. And then just as a matter of

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common sense I think that we can all relate to these issues. Is it fair to say that each year the cost of food, housing, and transportation increases? [LB630]

SENATOR SCHILZ: Certain times. I would tell you this, you will have seen that sometimes, just like beef in the store, it goes up and down, it moves both ways, but... [LB630]

SENATOR NANTKES: But as a matter of general principle. [LB630]

SENATOR SCHILZ: As a trend everything cost more. And I think that... [LB630]

SENATOR NANTKES: Yes. And, Senator Schilz, I was wondering from a point of basic fairness, if we have an injured worker, injured at no fault of their own, without altering the system that they're forced into, i.e., the workers' comp system, how do we anticipate them to meet their needs, providing basic family needs like food, housing, and transportation, as these costs go up every year, if we don't allow some sort of reform as proposed in AM874 to be adopted? [LB630]

SENATOR SCHILZ: You know, that's a good point. And for employees that make, you know, less than what this would help in, that's a very big concern for that. You know, this bill doesn't even affect... [LB630]

SENATOR NANTKES: So I guess, Senator Schilz...go ahead. [LB630]

SENATOR SCHILZ: I guess I would say, you know what, that is a concern. It's a reality of the day, and it's one that every person has to deal with on their own. I mean, the laws are set up to take care...it's not supposed to replace the whole wage that that person gets. It was never set up that way. [LB630]

SENATOR NANTKES: Thank you, Senator Schilz. And I appreciate your time and I'll just go ahead and finish on my own time here. [LB630]

SENATOR SCHILZ: Thank you. [LB630]

SENATOR NANTKES: I know that you have some time coming up later as well and I'd like to hear more about your ideas concerning the basic fairness that your amendment seeks to remove from this system and from this public policy. I think it's common sense to each of us in this body and each of those listening from beyond that basic costs... [LB630]

PRESIDENT SHEEHY: One minute. [LB630]

SENATOR NANTKES: ...of basic family necessities increase every year. If an employee

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is injured on the job, not somebody who's gaming the system but a gainfully employed Nebraskan is working, they're injured at no fault of their own, maybe at fault of their employer, maybe not at fault of their employer, they're locked into this system. And if we don't utilize reforms to evolutionize this process, that family can't meet their basic needs. And it does, it does square with the overall intent and purpose of the workers' compensation system, which first is to guarantee the worker injured who will receive full medical, surgical, and hospital treatments at no cost to him or her and get recurring periodic payments to replace lost wages or permanent disability benefits if they cannot return to work; and second, to guarantee that employers that are covered will be barred from an additional litigation on behalf of the injured employee. So unless we're going to take steps to modernize our workers' compensation... [LB630]

PRESIDENT SHEEHY: Time, Senator. [LB630]

SENATOR NANTKES: ...system, the alternative is returning to full litigation, which I don't think would benefit any Nebraskan. [LB630]

PRESIDENT SHEEHY: Time, Senator. [LB630]

SENATOR NANTKES: Thank you, Mr. President. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. (Visitors introduced.) Continuing floor discussion on FA27. Members requesting to speak: Senator Schilz, followed by Senator Fulton, Senator Janssen, Senator Council, Senator Wallman, and others. Senator Schilz, you're recognized. [LB630]

SENATOR SCHILZ: Thank you, Mr. President. As I sit here and just want to bring up a couple of things, I think as we look at this statement that the NCCI put out I think it's important to note that I believe, and if I'm wrong I'll take that back, but this is only a private sector estimate. We don't have any state numbers or municipality numbers in this document here. And if I understand it correctly...and, Senator Lathrop, if you would yield to a question. [LB630]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Schilz? [LB630]

SENATOR LATHROP: I'd be happy to. [LB630]

SENATOR SCHILZ: Thank you, Senator Lathrop. Do I understand it that this calculation was done on the first year estimate only? [LB630]

SENATOR LATHROP: I think it speaks for itself. It appears that they went through and tried to determine what impact this would have and regard it as negligible. [LB630]

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SENATOR SCHILZ: Okay. Thank you very much. And with that, I thank the body.
[LB630]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Fulton, you're recognized.
[LB630]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Lathrop yield? [LB630]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Fulton? [LB630]

SENATOR LATHROP: Yes, I will. [LB630]

SENATOR FULTON: Thank you, Senator. On page 2 of this document...I thank you, first of all, for handing it out somewhat early. I had a chance to read through it. Page 2 of the document, the last paragraph, actually the last phrase here after the comma, "NCCI estimates that permanent total disability benefit costs could increase by up to 2.1 percent if LB630 is enacted with amendments." I'm not terribly familiar with workers' comp law. I know that you are. [LB630]

SENATOR LATHROP: I'm glad you asked that question because it gets to something I was going to talk about. Understand...remember when we went through that summary on what is covered with work comp, what work comp...the biggest component of work comp...this is just a little tiny sliver of it, the biggest component is it's medical insurance.
[LB630]

SENATOR FULTON: This meaning? [LB630]

SENATOR LATHROP: The part were talking about, total disability benefits. [LB630]

SENATOR FULTON: Okay. [LB630]

SENATOR LATHROP: The biggest piece of it is medical insurance for people that get hurt at work. The employer or the work comp carrier has to pay all of the bills, no deductibles, no copay. Employee gets hurt, that's an expensive part and I appreciate that it's making these premiums go up. But that's what making it go up, not the little bit of money that we give to somebody that has the misfortune of having their entire income interrupted. [LB630]

SENATOR FULTON: Well, actually that's not where my question is, Senator. My question has to do with if LB630 is enacted with amendments. I guess my question is the over...this document is a four-page document and the assumption is that LB630 moves forward with amendments. What would be the fiduciary ramification if that were

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to occur? And does that include FA27 or does that not include FA27? Because FA27 is an amendment. [LB630]

SENATOR LATHROP: Oh, no, no, no, no. Yeah. Understand something, that if FA27 gets on here, any expense is gone. Okay? It's all savings. There's savings from not having to do lump sum settlements and there's of course the ag industry is protected as LB630 continues to move through here. This work up assumes that FA27 does not pass. Does that make sense? Or it assumes that...it's calculating the cost of LB630 before Senator Schilz got involved in it. [LB630]

SENATOR FULTON: Okay. Well, I'll take your word on that I guess. I don't know this. I'm looking at this and if I'm NCCI and I've been asked to come up with a figure yesterday, and I say LB630 as enacted with amendments, I look up here and say, well, if we enact all these amendments that's what the cost is going to be. But I don't know for certain. Regardless, I thank you, Senator Lathrop. If indeed that's the case, then this is still informative. I'm going to share...I'm in favor of Senator Schilz's amendments. And I took a little time to think through this. My experience when I started up my company, workers' compensation was actually a thorn in my side because when I first started the company, I'm in a fairly new industry, and workers' compensation rates hadn't really been settled on. So what classification code do certain of my workers fit under, that's wasn't something I could glean when putting together a business plan. And at the very beginning in the first year, I got that workers' compensation premium and it about sunk me. And I mean that. I just about was not able to get the business started because of this enormous amount of money. It was something like \$12,000, which doesn't seem like a lot of money, but when you're a small business trying to get started on your own that is a lot of money. And so when I hear things like the costs are negligible, there won't be much cost associated with this, I can't accept that. [LB630]

PRESIDENT SHEEHY: One minute. [LB630]

SENATOR FULTON: There is no such thing. There is no such thing as something that doesn't cost anything. Now, it might be negligible in the whole grand scheme of things, but for a small business that's trying to start up every cost means something. We're talking about cost-of-living adjustments, and I can say that on the income side when a business gets started, the business does not have the opportunity for a cost-of-living adjustment. Any adjustments get passed on to the consumer and they affect the employees. So I hope that we bear this in mind. When we talk about business, perhaps this is negligible for some large business, but for a small business there's no such thing as negligible. There are other questions that I had. I'll listen to future debate. Thank you, Mr. President. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Janssen, you're recognized. [LB630]

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SENATOR JANSSEN: Thank you, Mr. President, members of the body. I rise in support of FA27. I think the underlying bill...and actually if FA27 were not enacted it will cost businesses money, it will cost public...I noted the city of Fremont yesterday self-insures. That will cost them. That will be a bottom-line cost, and that will in turn...it has to lead to more revenues gained by the city to pay for that, which means a tax increase. So there is more to this than just a private side. The public sector is also going to be impacted, and that's going to be through our taxes. That said, I originally rose to call the question. Obviously I cannot do that now, but I rose and I will yield the balance of my time to Senator Lathrop. [LB630]

PRESIDENT SHEEHY: Senator Lathrop, you're being yielded 4 minutes, 5 seconds. [LB630]

SENATOR LATHROP: Thank you, Senator Janssen. I appreciate that courtesy. I just wanted to maybe emphasize one more time because Senator Fulton brought up a good point. Understand that when we calculate the overall cost of a premium for an employer, whether you're running a landscape business or a nursing home, the overall cost of that is most of it is going to be healthcare expenses. This is going to be a small, modest increase in a small part of work comp. Now, I can see where this is going. I mean, I'm running a vote count and I can see we're not going to get there. And I appreciate that Senator Janssen allowed me a chance to talk before we called the question. Yesterday I made it very clear that people that work for a living are here and this is the only thing on the table for them. This is it. And today we have new information which is the experts, the National Council of Compensation Insurance. These are the people that calculate the insurance premiums and they tell us it'll be negligible. So we're sitting here today, at this amendment, at this time with an opportunity to do something for people that work for a living and the consequences are negligible. And if you are so philosophically opposed to that, vote with Senator Schilz. I can't say anything more about this bill, about this amendment. I can't explain it any better. All I can tell you is this is the only thing working people wanted this year, the only thing that I see coming up, and the consequences are negligible. And so now we're going to decide whether we will be with working people or if the call from outside the glass to be a 100 percent voter and not do anything that would improve a benefit for a working person is where you're at, then you can vote with Senator Schilz. I don't have anything else to say about it, I guess, and I'll join in the next person that moves to call the question. Thank you. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Continuing floor discussion on FA27, members requesting to speak: Senator Council, followed by Senator Wallman, Senator Dubas, Senator Carlson, Senator Lathrop, and others. Senator Council, you're recognized. [LB630]

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SENATOR COUNCIL: Yes, thank you, Mr. President. I would just like to follow up on a couple of questions that Senator Fulton raised with regard to the document that was circulated from NCCI. He had a question with regard to the costs and whether it applied to LB630 with FA27 or not. And the document begins by summarizing the proposal. And the proposal sets forth LB630 and AM874. There is nothing in the proposal as drafted and as introduced or as referenced in the document from NCCI that makes any reference to the changes introduced in FA27. So the answer to Senator Fulton's question is this document was prepared on the basis of the bill as it advanced from the committee which was with AM874. And in that connection he asked a question about whether this was one-year cost or others. Again, referring to page 2 of the document it clearly states, "Based upon the above approach for changes in Nebraska's total disability average weekly benefit projected for 2010 and subsequent years, NCCI estimates that permanent total disability benefit costs could increase by up to 2.1 percent if LB630 is enacted with amendments," the AM874. Focussing again on that disability benefit cost could increase by up to 2.1 percent, I want to follow up on a statement and a fact that Senator Lathrop related. According to NCCI permanent total disability benefit cost comprised 2.7 percent of all total workers' compensation benefit costs. And we need to focus on the terms that are used in this document. None of these percentages relate to premium costs. These percentages all relate to benefit costs. And what NCCI is telling this body is that of all of the costs associated with workers' comp, this bill would affect 2.7 percent of those costs, which means that 97.3 percent of those costs are beyond the control of this body, and as Senator Lathrop so correctly stated, all go to the medical costs and other costs associated with defending workers' comp cases. So the largest percentage that affects premium costs is not touched by LB630. And in striking that balance, I find it interesting that the document does not give us any indication of what a total...what they state is \$1 million on page 3, and according to their own statement that \$1 million is what's projected out over from 2010 and beyond. What figure is lacking here is what does that \$1 million relate to in terms of premium costs to employers. And please appreciate I am absolutely sympathetic to small employers. Someone made reference to a lawn and landscaping business. That's what my husband operates. And there was discussion about... [LB630]

PRESIDENT SHEEHY: One minute. [LB630]

SENATOR COUNCIL: ...the premiums. Well, I can tell you, my husband's premiums are based upon the type of business he does. And these worker compensation insurers rate the businesses on the level of risk associated. So unfortunately, Senator Fulton, whatever business you started, it was deemed as a high-risk of injury business by the insurance companies. It had no affect on what benefits are being paid to employees. In the grand scheme of things I think a 2.1 percent increase in the total cost of workers' compensation is negligible and should be something that this body is willing to provide to the employees of this state. And for that reason, I will oppose FA27. [LB630]

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PRESIDENT SHEEHY: Thank you, Senator Council. Senator Wallman, you're recognized. [LB630]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Carlson a question, if he would. [LB630]

PRESIDENT SHEEHY: Senator Carlson, would you yield? [LB630]

SENATOR CARLSON: Yes. [LB630]

SENATOR WALLMAN: Thank you, Senator. In regards to premiums and percentages, does the insurance agents increase their percentages of what they get for policies? [LB630]

SENATOR CARLSON: Would you ask that again, please? [LB630]

SENATOR WALLMAN: You know, as you sell policies you get a percentage of the policies sold. Has that increased over the years or has that stayed the same? [LB630]

SENATOR CARLSON: Are you talking about commission rates? [LB630]

SENATOR WALLMAN: Yes. [LB630]

SENATOR CARLSON: I'd say they've probably been reduced over the years in terms of percentage. [LB630]

SENATOR WALLMAN: Thank you. But I find it interesting we're talking about cost here, we're not even talking about benefits, nobody talks about benefits. I'm in the ag field. We do have to pay higher premiums, health insurance, whatever it is. We got to pay higher premiums because we're considered an at-risk occupation. Feed wagons, whatever, you can get tangled in there. Neighbor died in a feed wagon. This can happen. So whoever figures you can believe here, we don't know. But the workers are the ones that make the country go. Farmers are workers, landscaping people, home builders. Some of these are risky occupations. And whether they go on...and I've heard the welfare statement in Arkansas a person used, he got hurt when they were young. So unemployment you pay here, you pay there, but unemployment when they ask for a small stipend here it seems asinine that we would turn it down, but vote as you may. So I'm against this amendment, but I'm for the general bill. Thank you, Mr. President. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Dubas, you're recognized. Senator Dubas. Senator Carlson, you're recognized. [LB630]

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SENATOR CARLSON: Mr. President and members of the Legislature, this will be a brief comment. Senator Lathrop has been very respectful and responded to my sheet that I handed out indicating he didn't feel that these figures were probably actual figures. And so I've talked again to the DAS and they indicated that their estimates of what this would cost over this period of time were very, very close to those that I had come up with. And I would say something in response to Senator Council. The thing that causes premiums in insurance is benefits paid. So if benefits paid go up by 2.3 percent, premiums are going to change accordingly. And it doesn't matter how we define a change, but if it is an increase in benefits paid there's got to be an adjustment to take care of that. I think what's a little different here is it's a compounding thing year by year, where we start from zero. We haven't paid these cost-of-living increases, and then we have people becoming disabled every year and it compounds faster than we would like it to. Thank you, Mr. President. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Carlson. We have Senator Lathrop, followed by Senator Nantkes and Senator Janssen. Senator Lathrop, you're recognized. [LB630]

SENATOR LATHROP: Thank you. I kind of thought the question would get called before we got here, so maybe I can respond to what Senator Carlson just said, and that had to do with the fact that if this increases permanent temporary total disability benefits paid on a permanent basis by 2 percent you're going to have a corresponding increase. The reason that's not true is total disability benefits are just a small part of the overall premium. The thing that's driving work comp premiums, Senator Carlson, it's not like an auto policy or a life policy where you're just selling one thing, a work comp policy sells health insurance, it sells total disability benefits, and it sells permanent disability benefits, and it sells some job retraining. So when one piece of that goes up, that doesn't make the overall premium go up by that much. So, again, I think we have an opportunity with negligible effect on the premium to provide a modest increase to employees. And I would urge you, urge you to vote against FA27. Thank you. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Nantkes, you're recognized. [LB630]

SENATOR NANTKES: Thank you, Mr. President. I was hoping that Senator Janssen would yield to a question, please. [LB630]

PRESIDENT SHEEHY: Senator Janssen, would you yield for a question? Senator Janssen. [LB630]

SENATOR JANSSEN: Yes. [LB630]

SENATOR NANTKES: Thank you, Senator Janssen. You talked a little bit yesterday I

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think kind of trying to compare apples and oranges in regards to the voters' rejection of increased salaries for state senators as maybe something that we could read into the context of this debate. So I was just wondering, do you find yourself philosophically opposed to any sort of wage standard in any sort of economic development or other public policy that we pursue in Nebraska? [LB630]

SENATOR JANSSEN: When you say "any," I don't think anybody could actually say no to that. [LB630]

SENATOR NANTKES: Okay. Were you aware, for example, that the Nebraska Advantage Act actually does have wage standards encompassed within that public policy? [LB630]

SENATOR JANSSEN: Yes, I am. [LB630]

SENATOR NANTKES: Okay. And are you supportive of that? [LB630]

SENATOR JANSSEN: I'm supportive of Nebraska Advantage as a whole. There are parts that I'm not so supportive of. [LB630]

SENATOR NANTKES: Well, I join you, Senator Janssen. I, too, am supportive of the Nebraska Advantage Act and worked very hard before I joined this body to try and ensure its passage because it strikes appropriate balance. Thank you, Senator Janssen. The Nebraska Advantage Act, our keystone, our proudest, our strongest economic development tool that we have available as a state is something that we should really tout and promote and talk about. And I know that the folks at DED do a great job about doing that to retain and recruit quality businesses into our state. But, again, I bring that up because it provokes an appropriate balance in terms of dealing with public policies that address business development, that address the ongoing nature and correlation between workers and business and how that affects our overall society. And I think that the balance contained within the bill, as amended by the Business and Labor Committee and that has been presented to us here on the floor, is really very similar in terms of a philosophy. It's an appropriate balance dealing with ways to address issues in the agricultural industry, dealing with issues to address some sort of alleviation to crushing increasing medical costs, transportations costs, housing costs, food costs, etcetera, that injured workers, injured workers, injured at no fault of their own, mind you, are experiencing as they, too, try and navigate through difficult and uncertain economic conditions. And we've heard a lot about how the fact that that is particularly a scary time for small and large businesses in the private sector, and I don't disagree with that, colleagues. But I urge you to remember that a small and a large business has a variety of resources available to it to help right that ship and to alleviate that tension; an injured worker does not. An injured worker does not have those same sort of benefits available to help weather a difficult time or a difficult storm or uncertain

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economic conditions like we are in now. And this very, very modest proposal which, again, seeks the balance and mirrors other public policies that we have in this state, like Nebraska Advantage, in dealing with something for business, something for the employers, and something for the ag sector, I think that that's something that Nebraskans have already said we agree with, and that's a good thing. And the same public policy issues are contained within this bill as amended. I urge you, Senators, to ask yourself, if you're not willing to accept even a very, very modest proposal and you plan to vote for the floor amendment, would you ever come down... [LB630]

PRESIDENT SHEEHY: One minute. [LB630]

SENATOR NANTKES: ...on the side of workers? Would you ever come down on the side of injured workers? Would you ever be willing to support public policies that help employees in our state? Because I think you would, I hope you would because those are the voters, those are the constituents, and those are the folks back home that are looking for us to be their voice. They don't have fancy lobbyists, for the most part, out there talking about how difficult it is for them to meet their basic needs when they're injured and that's why it's our job to talk about every person's plight, every individual's plight in term of just trying to play fair, play by the rules, and hopefully not fall further behind. FA27 is a step backwards for injured workers in our state. Thank you, Mr. President. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Janssen, you're recognized. [LB630]

SENATOR JANSSEN: Question. [LB630]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB630]

CLERK: 26 ayes, 4 nays to cease debate, Mr. President. [LB630]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Schilz, you're recognized to close on your amendment to committee amendment, FA27. [LB630]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I just want to say thank you for the debate that we've had. I think it's been a good debate. I think we've learned everything that we need to know about what Section 3 does in this bill. I would just like to say a couple of things. You know, when we talk about workers' comp insurance and premiums and things like that, we also have to remember that there are businesses and industries and companies that are also self-insuring. And so these costs that would increase would go right to their bottom line. So with those folks, it's not

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about a premium; it's one of those things. And we've heard today, too, folks talk about LB447 which would index the equity amount of what a beginning farmer can to qualify. Well, this is completely different than that. That number there is an indicator. It's not cash coming to someone, so I'm not sure how you can equate that. But, like I said before, FA27 would take out this part of the bill that is onerous to business. It would show that the Legislature, that the state of Nebraska supports private industry and doesn't want to overburden them with costs. So with this, I would urge you to vote for FA27 to the amendment, AM874. And I would like a roll call vote and a call of the house, please. [LB630 LB447]

PRESIDENT SHEEHY: Thank you, Senator Schilz. There has been a request for the call of the house. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB630]

CLERK: 37 ayes, 0 nays, Mr. President, on the motion to place the house under call. [LB630]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Schilz, all members are present or accounted for. Members, you have heard the closing of...Senator Lathrop. Yes, we'll be doing a roll call. You've heard the closing of FA27 to AM874. Mr. Clerk, please call the roll. [LB630]

CLERK: (Roll call vote taken, Legislative Journal pages 1245-1246.) 29 ayes, 17 nays, Mr. President, on the amendment. [LB630]

PRESIDENT SHEEHY: FA27 is adopted. The call is raised. We'll now return to floor discussion on the Business and Labor Committee amendment, AM874, to LB630. Members requesting to speak, Senator Lathrop, you're recognized. [LB630]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I just stand because obviously I'm disappointed with the last vote, but I at one point entertained the thought of trying to strip out that piece that helps the ag industry, but that would be a little bit of scorched earth, or to strip out the piece that helps the business community, and that would probably be a little childish since I thought they both made sense when I put them in the bill. I would encourage you to support AM874, colleagues, and LB630 on to Select File. Thank you. [LB630]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Seeing no additional members requesting to speak, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the adoption of Business and Labor Committee amendment, AM874, to LB630. All those in favor vote yea; opposed, nay.

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Please record, Mr. Clerk. [LB630]

CLERK: 42 ayes, 2 nays, Mr. President, on the adoption of committee amendments. [LB630]

PRESIDENT SHEEHY: AM874 is adopted. We will now return to floor discussion on LB630. Seeing no requests to speak, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the advancement of LB630. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB630]

CLERK: 42 ayes, 3 nays, Mr. President, on the advancement of LB630. [LB630]

PRESIDENT SHEEHY: LB630 advances. We will now move to General File, 2009 committee priority bill, LB224. [LB630 LB224]

CLERK: LB224 is a bill by Senator Carlson. (Read title.) The bill was introduced on January 13, referred to the Agriculture Committee, advanced to General File. There are Agriculture Committee amendments, Mr. President. (AM949, Legislative Journal page 1171.) [LB224]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB224. [LB224]

SENATOR CARLSON: Mr. President and members of the Legislature, the process of the possibility of the State Fair moving from State Fair Park to Grand Island has taken place over the past year. It started with the legislative Ag Committee last year, with Senator Erdman as Chair, and LB1116, and this year it continues with LB224. There are several groups involved in this transition. That includes the State Fair Board, the city of Lincoln, UNL and its Innovation Campus plans, the city of Grand Island, the state of Nebraska through the Legislature, and the Department of Administrative Services that are concerned about things being done in proper fashion on this transition. LB224 clarifies the contingencies for movement of the State Fair to Grand Island, the taking over of State Fair Park in Lincoln by UNL for the Nebraska Innovation Campus. It clarifies the date of transfer of the State Fair as January 1, 2010. The date of transfer is very important because, under Article III of Section 24, the State Fair Board is eligible to receive distribution of 10 percent of lottery proceeds, provided the most populous city in the county in which the fair is located provides matching funds equivalent to 10 percent of the funds available for the transfer. LB1116 didn't identify the exact date of transfer. The State Fair Board will remain in Lincoln and maintain its Lincoln work force through the end of the 2009 calendar year. In the Opinion of the Attorney General, it is that the date may be established by the Legislature. LB224 establishes this as January 1, 2010. The pari-mutuel tax-exemption will transfer from State Fair Park to Fonner Park in accordance with the transfer date. The committee amendment will more specifically

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address these items. With that, I would conclude the opening on LB224 and will talk more on the committee amendment. Thank you, Mr. President. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You have heard the opening to LB224. (Visitors introduced.) As was stated, there is a Agriculture Committee amendment, AM949. Senator Carlson, you're recognized to open. [LB224]

SENATOR CARLSON: AM949...thank you, Mr. President and members of the Legislature, AM949 provides that 2 percent of the 2.5 percent of pari-mutuel tax collected, between \$10 million and \$73 million of revenue, be utilized for maintenance and upkeep of improvements at the Grand Island location. It provides that .5 percent of revenues, between \$10 million and \$73 million of revenue, from pari-mutuel racing at Lincoln State Fair Park in 2010, 2011, and 2012 be paid to the state General Fund. It provides clarity that the fair relocate to Grand Island and the State Fair Board cooperate with Fonner Park and the city of Grand Island to participate in improvements to the site necessary to host the State Fair. It clarifies that improvements aren't necessarily confined entirely to land owned by Fonner Park, but may occur on adjacent properties as available and necessary. It clarifies that the plan of improvements includes necessary relocation of existing improvements and facilities at the site. It clarifies that one of the contingencies includes that the University of Nebraska-Lincoln submit a master plan and business plan for Innovation Campus no later than December 1, 2009. It also clarifies that performance of UNL on Innovation Campus has no bearing on the actual move of the State Fair to Grand Island. I'm going to conclude my remarks concerning AM949 at this point. I'll be happy to respond to questions. I have a bit of additional information that I will be providing in a short period of time. Thank you, Mr. President. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Carlson. You have heard the opening of the Agriculture Committee amendment, AM949, to LB224. Members requesting to speak are Senator Karpisek, followed by Senator Gloor. Senator Karpisek, you're recognized. [LB224]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I rise to vote against AM949. I was not in favor of the move of the fair in the first place, so maybe some of my remarks will just go as sour grapes. I'm trying not to do that since there was only three of us that voted against moving the fair, but I think we're really going over the line. I've handed out a picture of how they plan to do Fonner Park. This was from last year. If you look at it, the recreation fields obviously are taking up a whole lot. I don't recall what we came to as a decision last year, but I seem to remember that we decided that the fields would have to move. I could be wrong and I cannot find anything that verifies that. However, by looking at it I would think anyone would decide that those fields are not going to be able to stay there to have enough room for a fair. You look at the horse track area and it says Available Areas. For what? Are they going to move the

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horse track? I doubt it. The bottom line is, folks, Grand Island is asking for \$1.5 million to be credited to their part of the \$8.5 million that they were going to give for the fair. I don't think that's right. I think that there was a deal made. I think that was the compromise that was made, and I think they should stick with it. I don't know if the reason for the whole idea now is supposedly now over the interim is when we decided...the State Fair Park decided, sorry, State Fair Board decided to reconfigure the whole fair and they need those fields moved. I don't buy into that. So they want to move those fields at an estimated expense of \$1.5 million. I don't think that that should be taken off of the \$8.5 million that they said they would raise and give. Part of it is that bids are coming in low for the expected \$42 million. I haven't seen any of those bids, and if there are any of those bids I don't think they're all-inclusive. I think we need to know where we're at before we start doing this sort of stuff. Grand Island is also going to have to do other things to get the fair. They're widening Stolley Park Road. I would assume that they'll have to do some infrastructure outside of the park, such as water, wastewater. I don't know that, but I would assume when you put this many more people in you're going to have to do something. Are we going to credit them for that too? They said they'd come up with \$8.5 million and I say then come up with \$8.5 million. If there is a savings, then I feel that either the state should get it back because the Legislature decided to spend \$5 million of our money, taxpayer money, to help with the move of the fair. I did not agree with that and I still don't. Now, if that isn't acceptable, then I think we should take the savings and spread it across the people... [LB224]

PRESIDENT SHEEHY: One minute. [LB224]

SENATOR KARPISEK: Thank you, Mr. President...spread it across the people who did put in--the university, Grand Island, and the state. Again, I don't think that the fair move is a good idea. I do not have any ill will toward Grand Island. They've done a great job presenting and they are excited, and I know that they'll do a good job. I didn't like the way it was handled. I don't like even more the way this is being handled. I think that this is an end run. If you say you're going to spend \$8.5 million, they wanted the fair very bad, stick to your word, help the whole situation out. I will be back to give more of my thoughts. Thank you, Mr. President. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Gloor, you're recognized. [LB224]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I'm clearly the candidate that represents Grand Island, where the State Fair will be locating, and proud that we will have an opportunity to show that the State Fair can grow and thrive in an ag state. There is a handout in front of you. I hope you take the time to review because, in fact, it speaks to the same sort of thing that I experienced even before I was elected to this office, that being that the original plans, the original discussion with Fonner Park and with the city of Grand Island, all of which was predicated on the \$8.5 million amount

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that Grand Island agreed to for the relocation, had these ball fields and soccer fields intact for the most part. And that's the second page marked April '08. That's what I and any other member of the community who had an interest in this were aware of. It's also what the committee representatives who made the commitment to \$8.5 million were in agreement with. As the discussions and dialogue went on...remember when we were talking about this issue, and although I wasn't here, I know this was a complicated issue involving city representatives, Fonner Park representatives, Lincoln representatives, university representatives, this august body, the term "herding cats" is used quite frequently. I would say in this case this was like trying to get eagles to fly in formation. But the discussion between the State Fair Board and Fonner Park was still underway with the hope that they could comingle properties and, as a result, hold down some of the expenses of moving the State Fair out there. That ultimately was determined not to be possible and that's the reason that the cover map that's in front of you...note especially area 17 which is the parking area which was the ball fields in question. And those have to be moved. And there is a real expense involved in moving those ball fields. And Grand Island would have been hard-pressed to agree to \$8.5 million if in fact there was going to be an additional \$1.5 million on top of it. You're asking Grand Island to now, after this had been agreed upon, to agree not to \$8.5 million but to \$10 million, because that is the upshot of this \$1.5 million relocation not being taking into consideration. I understand Senator Karpisek's questions. I'm glad he has raise them so that we can address them. But clearly, the final plans that are needed for the relocation of the State Fair involve a relocation of ball fields that wasn't part of the original agreement. A way has been devised to be able to accommodate that. The parties involved are comfortable with it. Your options are such that I don't know where you want to go with this discussion other than we have a State Fair to run in this state in August of '10. We need to move forward, making difficult decisions so that relocation can happen, so that construction can start. Things like streets and whatnot will be handled by the city of Grand Island, by the highway department. They would be additional changes made even if the State Fair weren't moving. Grand Island is a growing community and widening streets is something that will happen regardless of State Fair moving or not. We're excited about the State Fair moving. I'd be glad to answer any additional questions that you may have about Grand Island's readiness, but let's move forward with the State Fair. A decision was made last year. We need to move forward with getting that relocation done. Thank you, Mr. President. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on the Agriculture Committee amendment, AM949, to LB224: Senator Dubas, followed by Senator Hansen, Senator Carlson, Senator Wallman, and others. Senator Dubas, you're recognized. [LB224]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Senator Gloor kind of laid everything out already. As a member of the Ag Committee for the past two years, you know, I was very much involved with the move of the State Fair. Went back

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and looked through some of my notes from some of our original meetings, some of our maps and our drawings, and you do have that in front of you. When we originally discussed this move of the State Fair, we did not discuss the ball fields. We recognized that they were...could even be an asset to the State Fair's relocation. And so that was not something that was taken into consideration. But as we all know, plans change, plans evolve, things come in a little bit differently, and so it's come to pass that there is the need to move these ball fields. And so agreements have been reached. There's land that's available that's state land that I believe, if I'm remembering the history that's been given to me correctly, that the land where these ball fields will move to is out by the Veterans' Home, and that's land that the citizens of Grand Island raised dollars for many, many years ago in order to attract the old Soldiers and Sailors Home. And after that home was constructed, they deeded that land to the state of Nebraska. So, you know, I think the citizens of Grand Island have put some money up front many, many years ago. This has been a long and involved process, a process that has taken many different perspectives into consideration. The amount of money, everybody did understand the amount of money that they were required to come up with. But as stated earlier, some of these plans have changed and so that's changed the money structure and the requirements that the Hall County/Grand Island area is going to need to come up with. I think this is a fair negotiation, a fair agreement that's gone on between the fair board and Grand Island. It seems to be workable. Their, you know, bids are coming in lower than expected. And while we haven't seen those bids in concrete fashion, we have it on pretty good authority that that's the way it's going to be. So I think that gives us some more flexibility to make some changes, to make improved changes to the new State Fair and the layout, and give Grand Island and the Hall County area some additional flexibility in coming up with their requirement They've really put themselves out. They're working hard to make this a successful move and a State Fair that's going to really serve us and give something to be proud of and really help maybe our urban counterparts recognize that we do have capabilities and desire and a work ethic to put these kinds of things together, make it a worthwhile trip for them to come out and visit us in central and western Nebraska. So I appreciate the work that Senator Carlson has done with the State Fair Board and the relocation committee. I think things, while we have a tight time frame in order to get all of these things to fall into place, it's a doable one. This bill just kind of cleans some things up. And I know there are a lot of people who are ready to go to work once we can get all of the pieces to fall into place. Thank you. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Hansen, you're recognized. [LB224]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Just a note to Senator Gloor, it really wasn't all that complicated. The university wanted State Fair Park and then the communities bid for it, and Grand Island by far was the best bid available. And they did a great job and I want to stand and congratulate Grand Island for

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their bid and their completion of a State Fair Park move. I was on the task force that watched what was going on during the course of the summer, made a report, and everything seemed to be doing fine. Everybody was making the payments that they were supposed to. And then this request came in. And I've been to the soccer fields there, watched my granddaughters play soccer, and every time we make that right-hand turn I tell my wife, I say, this is going to be the parking lot for the new State Fair. And she says, well, that's too bad. And I say, well, they've got to park cars somewhere. Even though they have a huge parking lot on the north side of the road, on the south side of the road where the ball diamonds are was always, always expected to be parking lot. I don't understand why we need to give partial credit of the \$8.5 million that Grand Island said that they would come up with to make the State Fair move, and yet want \$1.5 million to rebuild the soccer fields. They knew that those soccer fields were going to be a parking lot. I would say to Grand Island, either build the soccer fields with city funds, city recreation funds, or try to find parking over there on the other land, have a huge blacktop, and I know there's going to be some other buildings built there. And I'm very glad that Senator Dubas said that the construction prices are down. That's great. That's a break. Things are working good. Things are looking better. But those soccer fields were always intended to be the parking lot. I don't think that's a surprise at all. There are two buildings at State Fair Park now that are nonpublic entities that no one will take consideration for or take responsibility for moving those two buildings to State Fair Park. They're not movable, for number one. The two parties involved have been told to show us a contract and we'll pay you. Well, until 2007, we really didn't think that a State Fair would ever be moved, but it has and it will and I think that Grand Island is a great place for it. But we still have state...on the State Fair Park, we have two nonpublic entities that have been told, no, no, no, we're not going to pay you anything for them. State Fair, the moving committee, the State Fair moving committee said no. The University said no. Department of Administrative Services said no. No, no, no. Nobody is going to take responsibility unless they find a contract. I don't think anybody would have ever had a contract with the state of Nebraska to have buildings, have a small business during the fair and have a contract with the state. I think we had a contract with Grand Island to move the State Fair there and they were supposed to put the \$8.5 million in. I thought it was a huge amount, I really did. But all the time we knew the soccer fields were going to be part of the parking lot. Maybe they ought to find a different parking lot for the initial State Fair for the first couple of years, see how that goes and then, with the profits that they derive from State Fair, build that parking lot. Thank you, Mr. President. [LB224]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Mr. Clerk, do you have items for the record? [LB224]

CLERK: I do, Mr. President: an amendment to be printed by Senator Campbell to LB542. Revenue Committee will have an Executive Session today at 12:45 in Room 1524. [LB542]

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And Senator Flood would move to recess the body until 1:30 p.m. []

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We're at recess. []

RECESS []

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: (Recorder malfunction)...George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR CARLSON: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, do you have any items for the record? []

CLERK: I do, Mr. President: an amendment to LB679 by Senator Council. And I have two study resolutions from the Agriculture Committee, LR103 and LR104. Both will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1247-1250.) [LB679 LR103 LR104]

SENATOR CARLSON: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. []

CLERK: Mr. President, LB237. Senator Nordquist, I have Enrollment and Review amendments first of all. (ER8091, Legislative Journal page 1158.) [LB237]

SENATOR CARLSON: Senator Nordquist for a motion. [LB237]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB237. [LB237]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, the same. Motion carries. [LB237]

CLERK: I have nothing further on the bill, Senator. [LB237]

SENATOR CARLSON: Senator Nordquist. [LB237]

SENATOR NORDQUIST: Mr. President, I move LB237 to E&R for engrossing. [LB237]

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SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. The motion is carried. Mr. Clerk, next item. [LB237]

CLERK: Mr. President, LB237A, no Enrollment and Review. Senator Lathrop would move to amend with AM1246. (Legislative Journal page 1250.) [LB237A]

SENATOR CARLSON: Senator Lathrop, you are acknowledged to open on the amendment. [LB237A]

SENATOR LATHROP: Thank you, Mr. President and colleagues. AM1246 to LB237A simply changes the amount appropriated to the Department of Health and Human Services to cover the costs associated with the committee amendment that was passed on General File. The committee amendment added language to adopt the revised Interstate Compact for the Placement of Children. This is an amendment that was sought after by Health and Human Services and was without dissent. It requires that we pay a fee to join, and the appropriation is for that purpose. Thank you. [LB237A]

SENATOR CARLSON: Thank you, Senator Lathrop. You've heard the opening on AM1246. Are there senators wishing to speak? I see no lights. Senator Nelson, you're recognized. [LB237A]

SENATOR NELSON: Thank you, Mr. President, members of the body. Sorry, I just got this amendment, but would Senator Lathrop please respond to a question? [LB237A]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB237A]

SENATOR LATHROP: I'll do my best. [LB237A]

SENATOR NELSON: This looks like just a small amount but, what is this, just about doubling what you had before, Senator? [LB237A]

SENATOR LATHROP: It is. What we did in the original bill, we joined one compact, and with the amendment we joined a second compact. The second compact that we joined now requires that we pay a membership fee. These are compacts to allow for the movement of children from state to state. They are uniform laws, and this particular amendment came at the suggestion of Todd Landry with Health and Human Services. [LB237A]

SENATOR NELSON: Thank you very much, Mr. President, and thank you, Senator. I support the AM1246, Mr. President. Thank you. [LB237A]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Lathrop. (Visitors introduced.) Senator Pirsch, you are recognized. [LB237A]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Lathrop might yield to a quick question or two. [LB237A]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB237A]

SENATOR LATHROP: Yes. [LB237A]

SENATOR PIRSCH: So this AM1246 then would...well, let me ask it this way. Before, what was the appropriation to the underlying bill before this amendment? [LB237A]

SENATOR LATHROP: There was none. This...we had an appropriation on General File with the original bill which put us into a compact regarding the movement of minors between states. [LB237A]

SENATOR PIRSCH: Yeah, how much... [LB237A]

SENATOR LATHROP: This has to do with the...this has to do with the Interstate Compact for the Placement of Children. [LB237A]

SENATOR PIRSCH: Okay. The original bill, what was the appropriation that was...do you...? [LB237A]

SENATOR LATHROP: \$15,700? Yes, \$15,700. [LB237A]

SENATOR PIRSCH: Okay. [LB237A]

SENATOR LATHROP: That was to join one compact. Now we're joining a second. [LB237A]

SENATOR PIRSCH: Okay. And then how much to join, under this amendment, right, this is the appropriation to pay for this second compact we're joining then. Correct? [LB237A]

SENATOR LATHROP: That's exactly right. And I don't want to say it's all a membership fee, Senator Pirsch. As the amendment itself indicates, there are different purposes and we get a little bit of a federal match so we get some more bang for our buck. In order to have a system in place to move children from state to state, this compact facilitates that. [LB237A]

SENATOR PIRSCH: Okay. And so that's \$13,000 from the General Fund in '09-10 and then in '10-11 there's another \$13,000. Is that right? [LB237A]

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SENATOR LATHROP: I'm looking. [LB237A]

SENATOR PIRSCH: I think that's... [LB237A]

SENATOR LATHROP: Okay. [LB237A]

SENATOR PIRSCH: I think that's pretty clear from the amendment so I won't ask. [LB237A]

SENATOR LATHROP: It is to me, too, except I got...somebody handed me two different copies of the same thing and I'm trying to sort out... [LB237A]

SENATOR PIRSCH: Okay. [LB237A]

SENATOR LATHROP: ...which one is the one I'm really working off of. [LB237A]

SENATOR PIRSCH: Well, that's fine. So the original appropriation is \$15,000 so it would be approximately \$28,000 per year going forward? Fifteen plus thirteen would be... [LB237A]

SENATOR LATHROP: It went from \$15,000 to \$22,000 in the first year in General Funds. [LB237A]

SENATOR PIRSCH: I thought that it was \$7,000 from the feds and \$15,000...and rather \$13,000 from the state. So it would be \$15,000 plus \$13,000. [LB237A]

SENATOR LATHROP: It is, fiscal year '09-10 it's \$22,000 in General Funds, \$7,000 in federal funds, for a total appropriation of \$29,000. In the second year, it's \$20,500 in General Funds, \$7,000 from the feds, for a total appropriation of \$27,500. [LB237A]

SENATOR PIRSCH: Okay, very good. Thank you. And the two compacts...what are the two compacts then? I guess one is...is one Interstate Commission on the Placement of Children, ICPC as it's called? [LB237A]

SENATOR LATHROP: Yes. [LB237A]

SENATOR PIRSCH: And the second one that you're adding is Interstate Compact for Juveniles? [LB237A]

SENATOR LATHROP: Yes. That was the original one. [LB237A]

SENATOR PIRSCH: That was the original one. [LB237A]

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SENATOR LATHROP: Yes, sir. [LB237A]

SENATOR PIRSCH: Could you... [LB237A]

SENATOR LATHROP: And that...what that does, if that's your next question, what that does is it facilitates if a family is moving from Minnesota to Nebraska and the kid is on probation, they have to have some way to provide for the movement of that child and still have somebody have control over him when he gets to Nebraska so that the Minnesota court isn't trying to take care of the Minnesota child all the way found in Nebraska. [LB237A]

SENATOR PIRSCH: Oh, sure, and I'm familiar with ICPC as it pertains to the juvenile courts and whatnot. [LB237A]

SENATOR CARLSON: One minute. [LB237A]

SENATOR PIRSCH: But is the reason...what difference in jurisdictions are there between the two compacts, if you know, such that we needed to add this second one, we'd be incomplete with the first? [LB237A]

SENATOR LATHROP: The second one is an entirely different compact. The first one, as you acknowledged, deals with the placement of kids that are somehow working through the court. [LB237A]

SENATOR PIRSCH: Um-hum. [LB237A]

SENATOR LATHROP: And the second one deals with the kids that I think are being placed in a community outside of the home state. That doesn't necessarily mean that they are in trouble or that they're even involved with the court system, but that they're being placed in a jurisdiction other than their home jurisdiction. [LB237A]

SENATOR PIRSCH: And is that second one the ICPC or...? [LB237A]

SENATOR LATHROP: That would be the Interstate Compact for the Placement of Children. [LB237A]

SENATOR PIRSCH: For juveniles. [LB237A]

SENATOR CARLSON: Time. [LB237A]

SENATOR PIRSCH: Thank you. [LB237A]

SENATOR CARLSON: And, Senator Pirsch, your light is on again. You're recognized

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for your second time. [LB237A]

SENATOR PIRSCH: Well, I'll waive that second time for now. [LB237A]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Lathrop. There are no other lights. Senator Lathrop, you are recognized to close on your amendment. [LB237A]

SENATOR LATHROP: I'll waive. [LB237A]

SENATOR CARLSON: Senator Lathrop waives closing. The question is, shall the committee amendment to LB237A be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB237A]

CLERK: 30 ayes, 0 nays on adoption of Senator Lathrop's amendment. [LB237A]

SENATOR CARLSON: The amendment does pass. [LB237A]

CLERK: I have nothing further on the bill, Mr. President. [LB237A]

SENATOR CARLSON: Is there any further discussion on LB237A? Senator Howard, you are recognized. [LB237A]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Lathrop would be good enough to yield to a question. [LB237A]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB237A]

SENATOR LATHROP: Yes. [LB237A]

SENATOR HOWARD: Thank you. All the years that I worked at Health, well, not all of them but a number of the years I worked at Health and Human Services I did interstate compacts and placed children in other states, often with relatives who were interested in providing long-term care and adoption, that sort of thing. I'm not familiar with the Interstate Compact for Juveniles. The compact that we operated under Health and Human Services was the ICPC, which (inaudible) Interstate Commission for the Placement of Children. I noticed on here it says the state previously participated in the Juvenile Interstate Compact, but this no longer exists. So does that mean that the Interstate Compact for Juveniles used to be in effect, was a prior to kind of thing? [LB237A]

SENATOR LATHROP: Right. I'll tell you how I understand it. There was, and it might have been CSG that put together this compact. And the compact went into effect, I

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believe...and now I'm remembering this stuff. I had it all out here on General File and got no questions and so I'm going to try to do this on recollection. As soon as 35 or 38 states passed the compact, it then replaced what we formerly operated under. And if we do not pass it ourselves, then we don't participate in this process. If we don't participate in the process or have this compact, then we will need to negotiate an agreement with each state that we accept or send children to. By joining the compact, we then have in place a system or a process where we can move juveniles from jurisdiction to jurisdiction without having to enter into a separate agreement. The compact that we used to have is now no longer in effect because a certain number of states passed the new one. So I think the reason this has been embraced so widely is because everyone recognizes that the old compact is gone. We need a new compact. It's available. It is a new and improved compact put together by CSG. [LB237A]

SENATOR HOWARD: Okay. I think I'm following you here. I think it was just a little confusion with the two different names. The interstate compact, absolutely we need to continue that relationship. What that does is provides for supervision of a child who would be, should you say, a state ward of Nebraska in another state. And then that state agrees to take that case and provide court reports and information, which we vitally need. We can't place children without having that available to us. So with the understanding that this is the Interstate Compact for the Placement of Children that's being referred to, I absolutely endorse that and say we can't...we're not in a position to let that drop. So thank you. [LB237A]

SENATOR CARLSON: Thank you, Senator Howard and Senator Lathrop. Senator Pirsch, you're recognized. Senator Pirsch. There are no other senators wishing to speak. Senator Nordquist for a motion. [LB237A]

SENATOR NORDQUIST: Mr. President, I move LB237A to E&R for engrossing. [LB237A]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, the same. The bill advances. (Visitors introduced.) Next item, Mr. Clerk. [LB237A]

CLERK: Mr. President, LB92. Senator Nordquist, E&R amendments first of all. (ER8092, Legislative Journal page 1159.) [LB92]

SENATOR CARLSON: Senator Nordquist. [LB92]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB92. [LB92]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carried. [LB92]

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CLERK: I have nothing further on the bill, Senator. [LB92]

SENATOR CARLSON: Senator Nordquist. [LB92]

SENATOR NORDQUIST: Mr. President, I move LB92 to E&R for engrossing. [LB92]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. Next item, Mr. Clerk. [LB92]

CLERK: Mr. President, LB97. Senator, I have E&R amendments first of all. (ER8094, Legislative Journal page 1207.) [LB97]

SENATOR CARLSON: Senator Nordquist. [LB97]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB97. [LB97]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, nay. Motion carried. [LB97]

CLERK: Senator Stuthman would move to amend with AM1234. (Legislative Journal page 1220.) [LB97]

SENATOR CARLSON: Senator Stuthman, you are recognized to open on your amendment. [LB97]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. AM1234 is actually AM293 to LB290, which requires criminal history background checks on individuals who transport vulnerable adults and children under contracts for the Department of Health and Human Services. LB290 was heard before the Health and Human Services Committee on January 28 with no opposition and was advanced unanimously to General File with amendments on February 18. AM1234 states that no individual shall provide transportation services under contract with the Department of Health and Human Services, whether as an employee or as a volunteer, for vulnerable adults as defined in Section 28-371 or for persons under 19 years of age if that individual has not...has been convicted of a felony or any criminal... [LB97 LB290]

SENATOR CARLSON: (Gavel) [LB97]

SENATOR STUTHMAN: ...any crime involving moral turpitude or who has been charged with or indicted for a felony of crime involving such and there has been no final resolution of the prosecution of this crime. Individuals who will be providing transportation services for vulnerable adults or persons under 19 years of age shall be subject to a national criminal history record information check by the HHS through the

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State Patrol and also shall submit to such test every two years during the period of such employment. Individuals shall submit two full sets of fingerprints to the State Patrol to be submitted to the FBI for the national criminal history record check. The individual shall pay the actual costs of fingerprinting and for the criminal history check. Individuals shall authorize release of the results and contents of a national criminal history record information check to the employer and to the HHS. The State Patrol shall not release the contents of the criminal history check to the employer or individual but shall only indicate in writing to the employer and the individual whether the individual has a criminal record. The State Patrol shall release the results of these contents to the criminal history check in writing to the department in accordance with the applicable federal law. HHS may develop and implement policies that provide for administering exceptions to the prohibition of such...of situations in which relatives of the vulnerable adults or person under the age of 19 to provide transportation for such persons in which the circumstances of the crime or the elapsed time since the commission of the crime do not warrant the prohibition. Any decision made by HHS regarding an administrative exception under this section is discretionary and is not applicable...not appealable, excuse me. Any individuals who do not comply with this section is guilty of a Class V misdemeanor. I would also like to state that the fiscal note, there is a fiscal note on this one to LB290, did indicate expenditures and revenue in the amount of \$38,000 and \$76,000. This amendment will not lead to any new spending, for individuals wanting to contract with HHS will have to pay for the checks themselves. The cost of the criminal history check is \$38, of which \$15 is retained by the State Patrol for their costs, and the balance of \$23 is paid to the FBI. So there is no A bill to this one. The fact is that there will be enough revenue taken in because there will be no expenses and revenue. It's a revenue-neutral bill because of the fact that the individuals that are seeking the employment will have to pay for these checks. With that, I would ask that you support this amendment. Thank you, Mr. President. [LB97 LB290]

SENATOR CARLSON: Thank you, Senator Stuthman. Are there senators wishing to speak on this amendment? Seeing none, Senator Stuthman waives closing. The question is, shall the amendment to LB97 be adopted? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB97]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB97]

SENATOR CARLSON: The amendment is adopted. [LB97]

CLERK: Senator Flood would move to amend with AM1259. (Legislative Journal page 1251.) [LB97]

SENATOR CARLSON: Senator Flood, you're recognized to open with your amendment. [LB97]

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SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. This amendment makes a couple changes to the E&R amendments to LB97, specifically two technical and one lightly substantive amendment. The two technical amendments provide for a repealer clause for Section 28-321. The repealer was in the green copy and reference to Section 28-321 are struck throughout the current version, but the regular clause...the repealer clause was inadvertently left out when we voted on the bill on General File. In three different spots where it says "Section 28-321," where that was struck Section 28-323 was unintentionally inserted. The reference should be to 28-322.04. Finally, the more substantive part of this amendment would strike the same phrase on pages 5, 6, and 7 regarding the carrying out of the in camera hearing. This change was brought to us by the County Attorneys Association. The Nebraska Criminal Defense Attorney Association was consulted. They're fine, as is Media of Nebraska. This is noncontroversial, it cleans up the amendment that I offered and was adopted on LB97, General File. With that, thank you for your consideration. And I would ask for your support in adopting this amendment. Thank you, Mr. President. [LB97]

SENATOR CARLSON: Thank you, Senator Flood. You've heard the opening. Are there senators wishing to speak? Seeing none, Senator Flood, you're recognized to close. Senator Flood waives closing. The question is, shall the amendment to LB97 be adopted? All those in favor vote aye; all opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB97]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB97]

SENATOR CARLSON: AM1259 is adopted. [LB97]

CLERK: Senator Lautenbaugh would move to amend, AM1255. (Legislative Journal pages 1251-1252.) [LB97]

SENATOR CARLSON: Senator Lautenbaugh, you are recognized to open on your amendment. [LB97]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I brought this amendment after some of the discussions we had on General File, specifically with Senators Dubas and Haar. On the one hand, this addresses the concerns that Senator Dubas raised regarding the URLs. And on the other hand, it addresses some of the concerns regarding, I think raised by Senator Haar, regarding the consent of a convicted offender to consenting to having computers owned or used by the offender subject to search, if you will. We took out the "or used" to address the concern that the computer might be owned by a third party whose privacy might be at stake. So we're just dealing with computers owned as the purpose of the amendment. I

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won't belabor the point. I will just ask for your support. Thank you. [LB97]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening on AM1255. Are there senators wishing to speak? Seeing none, Senator Lautenbaugh, you're recognized to close. He waives closing. Question is, shall the amendment to LB97 be adopted? All those in favor vote aye; all opposed vote nay. Are there other senators wishing to vote? Record, Mr. Clerk. [LB97]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB97]

SENATOR CARLSON: AM1255 is adopted. [LB97]

CLERK: I have nothing further on the bill, Mr. President. [LB97]

SENATOR CARLSON: Senator Nordquist for a motion. [LB97]

SENATOR NORDQUIST: Mr. President, I move LB97 to E&R for engrossing. [LB97]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. LB97 advances. Mr. Clerk, items for the record. [LB97]

CLERK: Thank you, Mr. President. Your Committee on Appropriations, chaired by Senator Heidemann, reports the following bills to General File: LB311, LB312, LB313, LB314, LB315, LB316, LB318, and LB456, some of those having committee amendments attached. That's all that I had, Mr. President. (Legislative Journal pages 1252-1253.) [LB311 LB312 LB313 LB314 LB315 LB316 LB318 LB456]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item. []

CLERK: Mr. President, LB402. It's a bill by...I'm sorry. Senator Nordquist, I have no amendments to the bill. [LB402]

SENATOR NORDQUIST: Mr. President, I move LB402 to E&R for engrossing. [LB402]

SENATOR CARLSON: You've heard the motion. All in favor vote aye. Opposed, the same. Motion is carried, bill advances. Next item, Mr. Clerk. [LB402]

CLERK: LB286. Senator, first of all I have Enrollment and Review amendments pending. (ER8059, Legislative Journal page 1007.) [LB286]

SENATOR CARLSON: Senator Nordquist. [LB286]

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SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB286. [LB286]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. Motion carried. [LB286]

CLERK: Senator Karpisek would move to amend with AM1029. (Legislative Journal page 1012.) [LB286]

SENATOR CARLSON: Senator Karpisek, you are recognized to open on your amendment. [LB286]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. AM1029 would have been a committee amendment, but I did not get it on soon enough so I am just doing it myself as Chair of the committee. AM1029 was LB287 with its committee amendment. LB287 was heard by the General Affairs Committee and was advanced unanimously out of committee. AM1029 amends LB286 by increasing the allowable expenses percentage for community organizations that sell pickle cards from 8 percent to 12 percent and the sales agent's commission from 4 percent to 6 percent. It has been 14 years since the last time the allowable expenses percentage was increased and the sales agent's commission has not been increased in 20 years. Therefore, it was felt that increasing the allowable expenses from 8 to 12 percent would help with the increasing costs these community organizations are incurring and provide the necessary flexibility to help them better manage and plan their operations. Also, while the cost of living has continued to go up during the last 20 years, the percentage for the sales agent's commission has been capped at 4 percent. Therefore, the committee felt it was appropriate to increase that commission to 6 percent. Keep in mind that the sales agent's commission comes out of the allowable expenses piece of that pie. Therefore, while this amendment increases the allowable expenses from 8 percent to 12 percent and the sales agent's commission is increased from 4 percent to 6 percent, the organizations are actually only getting to see a 2 percent increase. That is in their allowable expenses since half of the increase would go to the increase in the sales agent's commission, which was the goal of the original LB287. So in a nutshell, AM1029 is increasing the people's commission 2 percent that deliver pickle cards to the organizations, and it is also increasing by 2 percent the organizations that do these fund-raisers. Again, all other costs have increased and they're right up against the cap and they're not doing near as many as they'd like to do. And I feel that this would help get more out and increase their intake. Thank you, Mr. President. [LB286 LB287]

SENATOR CARLSON: Thank you, Senator Karpisek. You've heard the opening on AM1029. Senator Pirsch, you are recognized. [LB286]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And let me

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just...if Senator Karpisek would yield to a question or two. [LB286]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Senator Karpisek, will you yield to a question? [LB286]

SENATOR KARPISEK: Yes, I will. [LB286]

SENATOR PIRSCH: So it's increasing the...a greater share of the take goes to those individuals who help promote or sell these cards. Is that right? [LB286]

SENATOR KARPISEK: Right. Let's just use Sertoma Club, for example. They have the pickle cards out in bars possibly. Right now they only get...they can take 8 percent of that to run getting them out there; 4 percent of that goes to the sales agent, the person that actually takes the cards to the bar. This bill, this amendment would move the whole share for Sertoma up to 12 percent with 6 percent of it going to the actual sales agent. [LB286]

SENATOR PIRSCH: What does that do...what's the overall effect then in terms of the amount that would be left for the state? [LB286]

SENATOR KARPISEK: Well, obviously that will go down some, but the hope is by doing this that they can get more people to do the pickle cards. Right now I don't know that pickle cards are a very great way to raise money for the organization. This will just help in the costs that they have associated with running the pickle cards. [LB286]

SENATOR PIRSCH: And that's the belief then of the General Affairs Committee, is that part of the...that in terms of increasing pickle sales that it is a lack of economic incentive for those sales agents and clubs then because of the percentage? [LB286]

SENATOR KARPISEK: Yes, that is exactly correct. [LB286]

SENATOR PIRSCH: I see. [LB286]

SENATOR KARPISEK: And this was brought to us by the Sowers Club of Lincoln. Actually it was brought to Senator Avery I think last year. [LB286]

SENATOR PIRSCH: I see. And the underlying...and I'm talking about LB286 as it stood as passed through General File without this amendment as far as the one-liner, what would that function to do? [LB286]

SENATOR KARPISEK: LB286? [LB286]

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SENATOR PIRSCH: Yes. [LB286]

SENATOR KARPISEK: Sorry. LB286 was the hold harmless provision with the lottery, the state lottery funds. So that was where we're just taking a sunset out of that bill. Hopefully Senator Pahls didn't hear that, that we're taking that sunset out of that bill and we're continuing business as usual on that bill, but we're taking the sunset out. [LB286]

SENATOR PIRSCH: Okay. And making no other substantive changes with the underlying bill, LB286? [LB286]

SENATOR KARPISEK: No, none at all, Senator. [LB286]

SENATOR PIRSCH: Okay. So that just basically continues the existing program as it ran. This would, with the amendment, make a substantive shift insofar as how the revenues are divided then. Correct? [LB286]

SENATOR KARPISEK: Yes, on pickle cards. The amendment is pickle cards. The underlying bill is state lottery. [LB286]

SENATOR PIRSCH: Sure, okay. So the amendment just deals with the pickle cards. [LB286]

SENATOR KARPISEK: Right. It was LB287. [LB286 LB287]

SENATOR PIRSCH: Right. And is there...you said that you had considered this to be...originally to include in LB286 but then there was a decision not to include it. [LB286]

SENATOR KARPISEK: No, Senator. We put LB286 out as a committee priority bill. [LB286]

SENATOR ROBERT: One minute. [LB286]

SENATOR PIRSCH: I see. [LB286]

SENATOR KARPISEK: And then I was...we were...my intent was to make it a committee amendment into LB286 but realized that we had already turned it in as a committee priority bill. So rather than have it as a committee amendment now I'm just doing it on my own since we had already turned LB286 in. [LB286]

SENATOR PIRSCH: And the underlying premise is that you'll make up on volume that which you give up on a percentage cut. Correct? [LB286]

SENATOR KARPISEK: That is the hope. That is the intent. Correct. [LB286]

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SENATOR PIRSCH: If it doesn't prove true, doesn't reach fruition, how much if you just assume the cut? Can you quantify that in dollar terms? [LB286]

SENATOR KARPISEK: I cannot, Senator. We can try to find that, but I cannot give you that right offhand. [LB286]

SENATOR PIRSCH: Okay. I would yield...how much time is left, Mr. President? [LB286]

SENATOR ROBERT: Ten seconds. [LB286]

SENATOR PIRSCH: Thank you very much. [LB286]

SENATOR ROBERT: Thank you, Senator Pirsch and Senator Karpisek. Senator Wallman, you are next and recognized. [LB286]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, would like to have a little dialogue with Senator Karpisek. [LB286]

SENATOR ROBERT: Senator Karpisek, will you yield to a question? [LB286]

SENATOR KARPISEK: Yes, I will. [LB286]

SENATOR WALLMAN: Thank you, Senator. In regards to these pickle cards, would that help finance slot machines? [LB286]

SENATOR KARPISEK: No, it would not, Senator, unfortunately. [LB286]

SENATOR WALLMAN: Well, I think, too, the service, you know, service organizations, like VFWs, Legion Clubs, they sell pickle cards, and some of the small bars let the service clubs earn money this way. And so being as we don't have any...we sell, you know, lottery tickets, all this stuff, this state is in the gambling business, who's kidding who? So I think this is a small thing we can do for those organizations that use these pickle cards to make money. So I'd yield the rest of my time to Senator Karpisek. [LB286]

SENATOR ROBERT: Senator Karpisek, 2:15...4 minutes, excuse me. [LB286]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Wallman. It is just a small change and Senator Pirsch is right, it will take some money out of the big pot. However, I just don't think that we're seeing near the pickle cards that we did years ago. Of course, there's two different reasons or more than two different reasons: Casinos are one, lottery is another. But another one is that these organizations just

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aren't maybe doing them as much, and they can't find people to run them around, especially when gas was at \$4 a gallon to run these around. And that is when the bill actually came to Senator Avery. And now gas is back down, of course. However, it still gives them a little more room to run their organization, do it the right way, and try to get more out there and sold. Thank you, Mr. President. [LB286]

SENATOR ROBERT: Thank you, Senator Karpisek and Senator Wallman. Senator Lautenbaugh, you are next and recognized. [LB286]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Karpisek would yield to a question or two. [LB286]

SENATOR ROBERT: Senator Karpisek, will you yield to a question? [LB286]

SENATOR KARPISEK: Yes, I will. [LB286]

SENATOR LAUTENBAUGH: Senator, does this have anything to do with keno? [LB286]

SENATOR KARPISEK: No, it does not have anything to do with keno. [LB286]

SENATOR LAUTENBAUGH: You probably don't even think people should play keno, do you? [LB286]

SENATOR KARPISEK: Yeah, I think they should play keno. I think that's a good revenue stream for the cities. [LB286]

SENATOR LAUTENBAUGH: Isn't it kind of a losing bet though? [LB286]

SENATOR KARPISEK: It depends which side you're on. [LB286]

SENATOR LAUTENBAUGH: (Laugh) Thank you. [LB286]

SENATOR KARPISEK: Thank you. [LB286]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Seeing no other lights on, Senator Karpisek, you're recognized to close on AM1029. Senator Karpisek is waiving his opportunity to speak. The question before the body is, shall AM1029 be adopted to LB286? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Please record, Mr. Clerk. [LB286]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Karpisek's amendment. [LB286]

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SENATOR ROBERT: AM1029 is adopted. [LB286]

CLERK: I have nothing further on the bill, Mr. President. [LB286]

SENATOR ROBERT: Senator Nordquist for a motion. [LB286]

SENATOR NORDQUIST: Mr. President, I move LB286 to E&R for engrossing. [LB286]

SENATOR ROBERT: Members, you have heard the motion to advance LB286 to E&R for engrossing. All those in favor signify by saying aye. Opposed, nay. LB286 does advance. Next item, Mr. Clerk. [LB286]

CLERK: LB188. Senator, I have Enrollment and Review amendments first of all. (ER8063, Legislative Journal page 1022.) [LB188]

SENATOR ROBERT: Senator Nordquist. [LB188]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB188. [LB188]

SENATOR ROBERT: Members, the question is, shall the E&R amendments to LR188 be adopted? All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB188]

CLERK: Senator Pankonin would move to amend with AM1063. (Legislative Journal page 1026.) [LB188]

SENATOR ROBERT: Senator Pankonin, you are recognized to open on AM1063. [LB188]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. AM1063 includes merely technical changes to the bill. LB188, as originally introduced, struck what was thought to be obsolete sections of the bill in Sections 2 and 10. Upon further discussion and review with the Revisor's Office, it was determined that these sections should be reinstated. Thank you. [LB188]

SENATOR ROBERT: Thank you, Senator Pankonin. Members, you have heard the opening to AM1063 to LB188. Are there members wishing to speak? Seeing none, Senator Pankonin, you're recognized to close. Senator Pankonin waives closing. The question before the body is, shall AM1063 be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB188]

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CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Pankonin's amendment. [LB188]

SENATOR ROBERT: AM1063 is adopted. [LB188]

CLERK: Senator Pankonin would move to amend with AM1153. (Legislative Journal page 1225.) [LB188]

SENATOR ROBERT: Senator Pankonin, you are recognized to open on AM1153. [LB188]

SENATOR PANKONIN: Mr. President, members of the body, on General File we adopted committee amendment AM611 which included increases to the State Patrol contribution rate to 15 percent beginning July 1, 2009. The current rate is 13 percent. After further discussions with the State Patrol, they have agreed to an additional increase in their contribution rate to 16 percent beginning July 1, 2010. The employer contribution rate would also increase next year to 16 percent from the current rate of 15 percent. Each 1 percent increase in contribution rate generates approximately \$280,000. These additional increases will help fund the shortfall the actuarial analysis has predicted in the State Patrol Defined Benefit Plan. Just a reminder, the State Patrol contribution rate and the employer rates are much higher than other plans because the State Patrol members do not pay into Social Security. There is one additional issue I want to make you aware of that was part of the negotiations with the State Patrol members. The state is going to contribute two lump sum payments of \$1,150,000 to the State Patrol Retirement Plan in fiscal year 2010-11 and fiscal year 2011-12. This amount is proportionally equivalent to the lump sum payments that were negotiated with the school plans. These funding increases were worked out with the Appropriations Committee and are included in their budget recommendation. I also want to sincerely thank on a personal note our committee Vice Chairman, Senator Nordquist, who took the lead in the State Patrol plan and negotiations. Thank you, Senator Nordquist. [LB188]

SENATOR ROBERT: Thank you, Senator Pankonin. Members, you've heard the opening to AM1153, the amendment to the committee amendments. Senator Nordquist, you are recognized. [LB188]

SENATOR NORDQUIST: Thank you, Mr. President. I just want to thank Senator Pankonin and other members of the committee and the State Patrol. This is the first of what we'll see with the judges and the school plan as well of worked out agreements to shore up their pension plans to make sure they're sustainable for the long run. This is the first step. Hopefully, if we see an economic rebound in the next couple of years, this will be a good step in that way. But I thank the leadership of Senator Pankonin. Thank you. [LB188]

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SENATOR ROBERT: Thank you, Senator Nordquist. Are there other members wishing to speak? Senator Gay, you're recognized. [LB188]

SENATOR GAY: Thank you, Mr. President. I just wanted to rise and commend my seatmate here, Senator Nordquist, and the Chair, Senator Pankonin. This has to be difficult negotiations and I think we should all recognize that as all of us have seen investments go down. But to do these negotiations, I know specifically I've worked with Senator Pankonin so much, they've put a lot of time and effort in this and just wanted to acknowledge that on the mike. Thank you, Mr. President. [LB188]

SENATOR ROBERT: Thank you, Senator Gay. Are there other members wishing to speak? Seeing none, Senator Pankonin, you're recognized to close on AM1153. Senator Pankonin waives closing. The question before the body is, shall AM1153 be adopted to LB188? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB188]

CLERK: 37 ayes, 0 nays on adoption of Senator Pankonin's amendment. [LB188]

SENATOR ROBERT: AM1153 is adopted. [LB188]

CLERK: I have nothing further on the bill, Mr. President. [LB188]

SENATOR ROBERT: Is there any member wishing to speak on LB188? Seeing no lights, Senator Pankonin, you're recognized to close on LB188. [LB188]

SENATOR PANKONIN: Mr. President, I will waive closing. [LB188]

SENATOR ROBERT: Senator Nordquist for a motion. [LB188]

SENATOR NORDQUIST: Thank you, Mr. President. Mr. President, I move LB188 to E&R for engrossing. [LB188]

SENATOR ROBERT: Members, the question before the body is, shall LB188 advance to E&R for engrossing? All those in favor signify by saying aye. Opposed, nay. LB188 does advance. Next item, Mr. Clerk. [LB188]

CLERK: Mr. President, LB495. Senator, I have Enrollment and Review amendments first of all. (ER8066, Legislative Journal page 1048.) [LB495]

SENATOR ROBERT: Senator Nordquist. [LB495]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB495.

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[LB495]

SENATOR ROBERT: Members, the question before the body is, shall the E&R amendments be adopted to LB495? All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB495]

CLERK: Senator Friend, I have your AM1025, but I have a note you want to withdraw AM1025, Senator. [LB495]

SENATOR FRIEND: That's correct. [LB495]

CLERK: Mr. President, Senator Friend would move to amend with AM1211. (Legislative Journal page 1200.) [LB495]

SENATOR ROBERT: Senator Friend, you're recognized to open on AM1211. [LB495]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. AM1211 differs from AM1025, which we just withdrew, in only one respect and it does not...the respect is that it does not contain the provisions of LB562, Senator Lathrop's bill, which advanced on its own to Select File as a consent calendar bill. AM1211, it is, as I had mentioned on General File, ultimately a Christmas tree bill, but it is a small Christmas tree, more like a weed, kind of a Charlie Brown looking Christmas tree if that rings any bells. That's funnier when you hear one of the provisions of AM1211. I'll get to that in a second. It consists of three bills, the amendment, and all three bills on their own merit advanced to General File from the Urban Affairs Committee as all the bills were advanced without a dissenting vote by the committee. In every instance there was opposition to the bill, to each particular bill, but the concerns of those opponents was addressed, directly addressed in the committee amendments. All three bills deal with annexation and regulation matters within the extraterritorial zoning jurisdiction of a city. If AM1211 is adopted and the bill is advanced, it will not require an A bill. The three bills included in AM1211 are LB647, which is Senator Christensen's bill. This provides requirements for notice to property owners of a city and village annexation proceedings. That is Section 1 of AM1211. LB338, which is actually my bill, and this changes weed height requirements for cities, noxious weeds or weed height requirements for cities and villages and their extraterritorial zoning jurisdiction. Those provisions are in Sections 2, 5, and 8 of AM1211. This also includes LB104, which is Senator Cornett's bill. This entails the changing of annexation requirements for cities of the first and second class and certain counties. That is in...those provisions are in Sections 3, 4, 6, and 7 of AM1211. Section 9 of the amendment consists of the provisions of LB495 which was advanced from General File. LB647, Senator Christensen's bill, for the first...the bill would for the first time require first- and second-class cities and villages to provide notice, to provide notice to property owners when their property was the subject of a proposed annexation. Notice of a proposed annexation would be sent to owners of

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property in an area proposed for annexation by regular United States mail, and this is determined from official sources, at least twice, ten working days prior to the planning commission public hearing on the proposed annexation and ten working days before the public hearing before the municipality's governing body on that proposed annexation. In addition, the same notice must be sent by certified mail, return receipt requested, to the clerk of any sanitary improvement district which is part of the proposed annexation. Ownership of property is determined as ownership is indicated in the records of the office of the register of deeds. The notice shall describe the area proposed for annexation and include the date, time, and location of the hearings and how the recipient of that notice can obtain further information about the annexation proposal, which would be like telephone numbers, e-mail addresses, Web sites, etcetera. It provides that no additional notice is required if the planning commission or governing body public hearing is adjourned, continued, or postponed until a later date, and that in the absence of a willful or deliberate failure to cause notice to be given that no municipal annexation decision will be void or invalidated by any irregularity or defect in the notice given as required by this section if a reasonable attempt to comply was made. It further provides that, and it's in absence of a willful or deliberate failure to cause notice to be given, that the municipality or its employees are not liable for any damages resulting from the failure to provide notice as required by this section if a reasonable attempt to provide that notice was made. On to LB338, LB338 proposes to amend the law governing first- and second-class cities and villages to reduce the height at which grasses and weeds may be permitted to grow before they can legally...before they can be legally considered to be a nuisance. Current statutes provide that these municipalities may, by ordinance, these are current statutes now, require a property owner to keep the property free of any weeds, grasses, or worthless vegetation that are 12 inches high or more in height. When vegetation is permitted to reach at such a height to be considered a legal nuisance, the city or the village sends notice to the owner and begins the process of nuisance abatement. If the owner fails to mow the vegetation, the city or village may have the work done, the cost to be paid by the owner. If unpaid for more than two months, the city or village may either assess and levy the costs and expenses upon the property in the same manner as other special assessments or recover the costs in a civil action. With regard to first-class cities, the law is changed to provide that in the extraterritorial zoning jurisdiction, the term "weeds"...the term "weeds, grasses, and worthless vegetation" does not include vegetation applied or grown on a lot or piece of ground expressly for the purpose of weed or erosion control. This recognizes that larger pieces of vacant ground or ground under development will exist in this area and that vegetation there might grow to nuisance heights, but that that recognition must also be given to the fact that such vegetation might have the commendable purpose of avoiding erosion or discouraging weeds until development is completed, the property is inhabited, and grass is planted. Such a circumstance does not constitute a nuisance in this language. With regard to first- and second-class cities and villages for land within city limits, the new language generally retains the current 12-inch height limit for first offenses of the height restriction during a single growing

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season. But it authorizes that limit to be reduced to 8 inches if within the same calendar year the city has acted to have weeds or grasses on that same property removed and had to seek legal action to recover the costs and expenses of the work from the owner. So in other words, if the owner...it's a second bite at the apple--the 12 inches remains, if the city has to keep coming back to this guy or this property owner, then we've got an issue. If the city has the work done once during a growing season and must recover the cost from the owner, subsequent action by the city in the same year can be undertaken when the growth exceeds 8 inches in height. The reduced limit would not apply unless a city is forced to do the mowing and must seek recovery of the cost from the owner. Application of this authority is optional for the city and must be exercised by ordinance. The city has to ask for it. AM1211 also includes a proposed amendment to Section 15-268 relating to primary-class cities--Lincoln--which was added to the committee amendment to LB338. This change would permit primary-class cities to provide notice to the owner of a property of the requirement to remove the weeds or vegetation by conspicuously posting notice of that fact on the lots or lands applied or, excuse me, on the lots or lands upon which the nuisance exists. This method is optional and it is a method which is already available to first- and second-class cities. Primary-class cities are now asking for it. This bill would actually provide. LB104, which was Senator Cornett's bill, the original legislation related to annexation by cities of the first class proposing to eliminate certain process hearing and publication requirements and thereby equalize the process requirements for all classes of cities and villages. [LB495 LB562 LB647 LB338 LB104]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: One minute. [LB495]

SENATOR FRIEND: Arising out of concerns about possible annexation battles between cities of different classes in Sarpy County, it sought to establish the same procedural time lines and requirements for all classes of cities and villages. The committee amendment, which is now part of AM1211, struck all the provisions of the original bill. It limits the changes proposed to only cities and villages and a county with population in excess of 100,000 inhabitants but less than 200,000 inhabitants, which would be Sarpy County. It does not affect annexation law for any other cities and villages anywhere else in the state. I think I may run out of time here. I can finish up. I do have my light pushed. I wanted to make sure that I was at least clear enough because we didn't get a chance to deal with these on General File. I'd be happy to answer any questions in the meantime. Thank you, Mr. President. [LB495]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the opening on AM1211, the amendment offered to LB495. The floor is now open for discussion. Those wishing to speak, we have Senators Price, Loudon, Wallman, Stuthman, Rogert, and Friend. Senator Price, you are recognized. [LB495]

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SENATOR PRICE: Thank you, Mr. President, members of the body. I stand here in some alarm. I wonder would Senator Friend yield to some questions? [LB495]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB495]

SENATOR FRIEND: Yes, I will. [LB495]

SENATOR PRICE: Senator Friend, in this amendment, I'd like to direct your attention to page 14, line 20, Section 7. Without the advantage of been here in previous years, this looks like, maybe quacks like strip annexation, particularly when I look at the area where they said they want to allow these cities to annex on the following page, page 15, line 4, along streets or highways, but they didn't want to take on the agriculture. So I envision that, you know, they could annex down...someone could annex down Highway 50 or anywhere and just go ahead and annex in a city like Springfield. Is that really what could happen here? [LB495]

SENATOR FRIEND: I don't see how. [LB495]

SENATOR PRICE: Could you take a moment to explain why we're going to let them annex along the streets and highways? [LB495]

SENATOR FRIEND: Senator Price, can you repeat again where you see language that would indicate to you that there would be a fear of strip annexation if I'm defining... [LB495]

SENATOR PRICE: Well, again, and as I was talking again, I believe it's on page...starting in Section 7 on page 14 and rolling down into page 15 on line 4, I believe it is, I don't have my computer right in front of me, but it talks about lots and things like that and then a few commas and then you have streets or highways. [LB495]

SENATOR FRIEND: Senator Price, it's my understanding...you can't strip annex right now and this is a repeat. And the reason it's underlined is this is a repeat of current law, law that's already in existence. [LB495]

SENATOR PRICE: So we underline current law? I thought we left current law not underlined and we only underline the new language. [LB495]

SENATOR FRIEND: No, not if you need to highlight...what you're specifically referring to if you look at line 4...it's my understanding if something was changed in 13-1111 to 13-1118...I don't know. I mean I guess the thought is if it...it's my understanding that it's current law. And if it's underlined, it's underlined because something in that...in Section 13-1111 and 13-1118 has changed, either that or there's a drafting error on our part. I'm

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not...I don't exactly know how to answer that except to tell you that that language right there, it's been described to me as current law. [LB495]

SENATOR PRICE: Well, Senator Friend, I don't have the advantage of having Section 13-1111 and Section 13-1118. [LB495]

SENATOR FRIEND: Nor do I. [LB495]

SENATOR PRICE: I can only look at what we have here. And what I see here when we talk about contiguous and adjacent, I pretty much can follow that--"lands, lots, tracts, streets, or highways as are urban or suburban." And then we follow on and we go "in character and in such direction as may be deemed proper." "May be deemed proper," I don't know, is that actually defined within statute here? Do we have a definition of "deemed proper"? [LB495]

SENATOR FRIEND: I don't have the answer. I don't know. [LB495]

SENATOR PRICE: Well, okay, Senator Friend. I appreciate that. Again, ladies and gentlemen, it may not quack quite yet like a duck... [LB495]

SENATOR LANGEMEIER: One minute. [LB495]

SENATOR PRICE: ...thank you, Mr. President, but I would call your attention to it that, you know, this may push out your school districts I would assume if they start annexing. There may be a highway they want to annex along and go grab another city. And as we know from before, they're not allowed to do that, but we may be putting that in the statute then making that okay. So I would urge the members to use all your vast resources and knowledge to look at it and verify, make sure that this is as innocuous as it is portrayed. Thank you, Mr. President. [LB495]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator Louden, you are recognized. [LB495]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Friend yield for questions, please? [LB495]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB495]

SENATOR FRIEND: Yes. [LB495]

SENATOR LOUDEN: As I look through your amendment here, I noticed, oh you, let's see, I was looking to see what page it is where you put on worthless, worthless...weeds, grasses and worthless vegetation is some of the new language. And the old language in

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there describes all kinds of weeds and stuff that are...most of them are noxious anyway that have to be killed. I'm wondering just for point of conversation, how do you describe what's worthless vegetation and grasses and that sort of thing? Where I come from, it's if a cow will eat it, why, it's grass; if she won't eat it, it's a weed. And I'm wondering how you do it here in this thing? It's on page 12 in... [LB495]

SENATOR FRIEND: Thank you, Senator Louden. [LB495]

SENATOR LOUDEN: Anyway, to continue with it, I'm kind of wondering, that's put in as new language and in the old statutes, which is still there, it more or less describes the type of weeds which like are mostly noxious weeds that have to be sprayed in the state of Nebraska anyway. And I'm wondering how...by putting that in there what you intend to do with it and how do you intend to describe it? [LB495]

SENATOR FRIEND: Well, if I understand your question correctly, you're asking on subsection (c) on page 12 you're asking whether that should be defined in the... [LB495]

SENATOR LOUDEN: Yeah, paragraph (c) there, line 4. [LB495]

SENATOR FRIEND: Right, "Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on a lot or piece of ground outside the corporate limits of the city but inside the city's extraterritorial zoning jurisdiction expressly for the purpose of weed or erosion control." [LB495]

SENATOR LOUDEN: In other words, wheat grass in town could be worthless grass, but outside of town it could be hay? [LB495]

SENATOR FRIEND: Possibly. [LB495]

SENATOR LOUDEN: (Laugh) Okay. [LB495]

SENATOR FRIEND: I don't think that that definition would expressly...I mean I don't think that that was the intent. [LB495]

SENATOR LOUDEN: Okay. I just question that, why that was in there, whether we need that part in statute or not. And then to get to the serious side of it, on page 20 and on page 21 and in the old language, I see where you scratched out "a survey made by some competent surveyor." And then when you describe how to plat out land on page 21, oh, lines 5 through 10 there, you talk about platting land. But nowhere in the new language that you have that there is a place where you're supposed to have a surveyor survey that land off. And I thought that's mostly in legislation or that's common sense or common law that if you're doing something with land and real estate you better have it surveyed off so you know where it is in the world. And I'm wondering if that needs to be

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put back in there someplace where a surveyor has to have a competent survey when you're platting ground. [LB495]

SENATOR FRIEND: Well, we are saying in here...we are referring to the...on page 21 in line 7 we are referring to ordinance authority, but it's also my understanding that it's in a different place in statute, the definition. [LB495]

SENATOR LOUDEN: That you have to have a surveyor? [LB495]

SENATOR FRIEND: Right. So in other words... [LB495]

SENATOR LOUDEN: Well, it... [LB495]

SENATOR FRIEND: So in other words... [LB495]

SENATOR LOUDEN: Okay. [LB495]

SENATOR FRIEND: ...the blocked out information or the eliminated information on page 20, beginning on page 19 is not necessary. [LB495]

SENATOR LOUDEN: Okay. But... [LB495]

SENATOR FRIEND: But, unfortunately, at this very second I can't give you the... [LB495]

SENATOR LANGEMEIER: One minute. [LB495]

SENATOR LOUDEN: Yeah. [LB495]

SENATOR FRIEND: ...I think it's in Section 16-902, but I could be mistaken about that. [LB495]

SENATOR LOUDEN: Because I'm wondering how...is it still in that Section 19-916 then that... [LB495]

SENATOR FRIEND: I've just been told, yes. [LB495]

SENATOR LOUDEN: Okay. I'd appreciate if you could find out for sure because many times, no matter whether it's ranchland, town land, city blocks or what, you have to have it surveyed off because if you build your house a foot over on the other person's property, why, in big trouble. So that was some of the questions I have with this, Senator Friend. I'd appreciate it if you can address them. And then one other thing I guess on page 12 that was part of the old language, but they also have hemp in there, a

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hemp plant, and I'm wondering if that's commercial hemp so it don't look like we're going to be able to raise our own paper anymore. So thank you, Senator Friend. [LB495]

SENATOR FRIEND: You're welcome. [LB495]

SENATOR LOUDEN: Thank you, Mr. President. [LB495]

SENATOR LANGEMEIER: Thank you, Senator Louden. Those still wishing to speak: We have Senator Wallman, Stuthman, Rogert, and Friend, and others. Senator Wallman, you're recognized. [LB495]

SENATOR WALLMAN: Thank you, Mr. President. I, too, appreciate Senator Louden's concern with weeds and lot lines and all this stuff in regards to surveyors. And I would like to ask Senator Friend a question. [LB495]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB495]

SENATOR FRIEND: Yes, I will. [LB495]

SENATOR WALLMAN: Was this brought to you by the municipalities or was it just your own idea or...? [LB495]

SENATOR FRIEND: No, I have few of my own ideas. It was brought to me by the municipalities. (Laughter) I didn't mean to be trite. It was brought to me by the League of Municipalities, this particular section that you're talking about, LB495? Yes. [LB495]

SENATOR WALLMAN: Thank you. I didn't want to put you on the spot. I appreciate that also, but I was wondering what the penalties are if you do something on here because in these small, dying towns, you can't always find the property owners. Would you answer to that, please? [LB495]

SENATOR FRIEND: Well, yeah, actually I...Senator Louden brought up a good point. On page 22, at the bottom of page 22 if you'll notice, it does say. So in the same Section 19, which was how I responded to him, that you "shall contain a dedication of the streets, alleys, and public grounds therein to the use and benefit of the public, and shall have appended a survey made by some competent surveyor with a certificate attached," etcetera, etcetera. So between pages 22 and 23 is where that information was and we felt it was redundant in that other...in the previous pages. [LB495]

SENATOR WALLMAN: This is quite comprehensive legislation. I'm sure it will help somebody and hurt somebody. But I'm just anxious to hear the rest of the story. Thank you, Mr. President. [LB495]

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SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Stuthman, you're recognized. [LB495]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Friend, if he'd be willing. [LB495]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LB495]

SENATOR FRIEND: Yes, I will. [LB495]

SENATOR STUTHMAN: Senator Friend, you discussed then, it kind of caught my attention on the fact of the annexation and the places that they had to post for the annexation and the method to do that. Is that any different than what is in the procedure right now for annexation when villages or cities want to annex some property? They have to go through the legal route, right, anyway, but what is different in this bill than what is the normal practice? [LB495]

SENATOR FRIEND: Well, I think certified letter, but I'll double-check on that. The mail notice, the mail notice and the certified letter is different. I mean you're supposed to post this currently, but the mail notice is the key difference. [LB495]

SENATOR STUTHMAN: That is the key difference. Is it certified letter or is it just... [LB495]

SENATOR FRIEND: There's a mail notice. There's U.S. mail notice and a certified letter that needs to be...that needs to be handled by that property owner. [LB495]

SENATOR STUTHMAN: Okay. Okay. You know, I remember dealing with issues like that of notification and stuff because of the fact of the certified letter. It seemed like there was a lot of work to that and the fact that if it was just delivered in the mail, you know, I think that would be possibly be good enough for notification. But those are some of the concerns that I had, and I would like to yield the balance of my time to Senator Friend. [LB495]

SENATOR LANGEMEIER: Senator Friend, 3:20. [LB495]

SENATOR FRIEND: Yeah, thank you, Senator Stuthman. And those were all good questions and I'm sorry I didn't have all of the answers at the tip of my brain or tongue but wanted to address a couple of things real quick. Let's start with Senator Stuthman's. I don't...the committee thought and I didn't think that it was asking a tremendous amount when somebody is going to get annexed that they need to know, I mean to the best of our ability, to the best of the city's ability. Yeah, it is a lot of work, but annexation is a

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troubling aspect to a lot of folks and a lot of our communities. Sometimes it's a welcome aspect; sometimes it's troubling. The other thing is, and this is more of a high level, Senator Wallman asked the question. My two aspects of this were actually League of Municipality thought processes. The weeds were major consternation in our committee. When I say major, I'm talking about, well, maybe we shouldn't do this. But it's also my understanding in a lot of our communities that this is a problem. By the time you give somebody notice that they've got...I wouldn't call them dangerous but I might call them noxious weed problems, the city can't...the city posts that complaint, if you will, with the property owner. And you're talking about a month's time or a month and a half's time before right now at 12 inches the person has to make a call or take action on that particular lawn or that vacant lot or whatever the case might be. By the time we're done, you're talking about quite a jungle. And in our urban...in some of our urban communities around the state, that is an issue with some abandoned property situations and everything else. So we thought as a committee that it was appropriate not to reduce the 12-inch requirement. But on a second notice, if a property owner receives a second notice, there should be some action taken. And the city is spending money under those circumstances as well, so I recognize it as a bona fide problem in our communities. The third aspect of this, and Senator Price brought it up earlier, the thing that we were talking about at the very beginning. I can get information. I can try to figure out... [LB495]

SENATOR LANGEMEIER: One minute. [LB495]

SENATOR FRIEND: ...sometimes when you underline a bunch of information in a current--I mean this is my explanation, if you will--sometimes if you underline current language in a particular area, you have pulled that from a different section of law that's existing. So my thought process is we didn't...the last thing that we would want to do is try to produce or provide with this particular item and then hide it. The idea of strip annexation, I've been around enough to know that that is an extremely excruciatingly controversial idea. The intent in that language that Senator Price pointed out is not to hide any strip annexation language. That language is probably underlined because we pulled it out of a different section that currently exists because we needed it in there for definition purposes or whatever the case might be. That information can be flushed out. I will hand that to Senator Price and his staff... [LB495]

SENATOR LANGEMEIER: Time. [LB495]

SENATOR FRIEND: ...so that there's an understanding. The intent again... [LB495]

SENATOR LANGEMEIER: Time. [LB495]

SENATOR FRIEND: Thank you, Mr. President. [LB495]

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SENATOR LANGEMEIER: Thank you, Senator Friend and Senator Stuthman. Senator Friend, you're recognized. [LB495]

SENATOR FRIEND: Thank you, Mr. President. Just to finish up, the intent, so I'm clear, is not to provide a tool for strip annexation in any county in our state, period. And you have my word on that. And if this language is problematic or troublesome, first of all, there are...there's obviously...there are resources in my office that would have indicated that that is an issue. But further, if it is and it's deemed a problem, I will solve it. We will pull it off of Final Reading. I'll do whatever I have to do or we'll just strip the whole thing out of there. The body has my word on that. I don't think that that's a problem. I don't think that's an issue, but if it were, we'll deal with it. Mr. President, are there...never mind. Members of the Legislature, I can sum it up this way. I'd be happy to answer any other questions till whenever because this is an all-encompassing bill. We just put the...and with everything up front and to be as clear as I possibly can, you legislative members did not get a chance to see this on General File. So fair enough. Let's go through this thing and let's pick it apart. That's fine with me. I'll answer the questions to the best of my ability right here. If I can't, we'll get those answers off to the side or I will get those answers to you later. All that being said, if there are any questions at the moment, like I said, I'd be happy to answer them. If not, I guess I would ask for the adoption of AM1211 and the advancement of LB495. Thank you. [LB495]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Price, you're recognized. [LB495]

SENATOR PRICE: Thank you, Mr. President, members of the body. It is a wonderful thing here, the collegiality we enjoy here and share here. And we have gone back to the books and to the laws and we see what...we actually saw there that was underlined had to be there, there's a reordering and a restatement of current law in a new section and that's why we did that and that's why it was underlined. And I am in agreement and everything seems pretty good for me, so lucky enough it didn't quack. So with that, Senator Friend, I'd yield you any time you want. If not, I'm done. Thank you very much, Mr. President. [LB495]

SENATOR LANGEMEIER: Senator Friend, 4:20. [LB495]

SENATOR FRIEND: No, thank you very much, Senator Price, and I don't need much time. I can use this as closing, too, if that's...it's not possible. I should have known that. Let me just say this then. Senator Price is right. This language that he was talking about on page 15, I believe, was actually in the same statute, but it was further up. We had to move it. And when you move it, the drafters and the staff are going to underline and indicate that that's a change in revised statute so that is the explanation for that. With that, Mr. President, I would ask for the adoption of the amendment and the advancement of the bill. Thank you. [LB495]

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SENATOR LANGEMEIER: Thank you, Senator Friend. They must have liked your closing. You are recognized to close on AM1211. Senator Friend waives his closing. The question before the body is, shall AM1211 be adopted to LB495? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB495]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment. [LB495]

SENATOR LANGEMEIER: AM1211 is adopted. Mr. Clerk. [LB495]

CLERK: I have nothing further on the bill, Mr. President. [LB495]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB495]

SENATOR NORDQUIST: Mr. President, I move LB495 to E&R for engrossing. [LB495]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB495. All those in favor say aye. All those opposed say aye (sic). The ayes have it. It does advance. Mr. Clerk. [LB495]

CLERK: LB653. Senator, I have Enrollment and Review amendments. (ER8095, Legislative Journal page 1208.) [LB653]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB653]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB653. [LB653]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. [LB653]

CLERK: I have nothing further on that bill, Senator. [LB653]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB653]

SENATOR NORDQUIST: Mr. President, I move LB653 to E&R for engrossing. [LB653]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB653. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk. [LB653]

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CLERK: LB497. Senator, I have Enrollment and Review amendments first of all. (ER8064, Legislative Journal page 1022.) [LB497]

SENATOR LANGEMEIER: Senator Nordquist for a motion. [LB497]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB497. [LB497]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. Mr. Clerk. [LB497]

CLERK: Mr. President, the first amendment to the bill, Senator Fischer, I have AM1155, but I have a note, Senator, you want to withdraw AM1155 and offer, as a substitute, AM1182. (Legislative Journal page 1215.) [LB497]

SENATOR FISCHER: Yes, Mr. Clerk. [LB497]

SENATOR LANGEMEIER: Seeing no objection, so moved. Senator Fischer, you are recognized to open on AM1182. [LB497]

SENATOR FISCHER: Thank you, Mr. President and members. AM1182 makes several changes to the amended version of the bill. The first change requires a 45-day waiting period for a high-risk first offense that receives probation before a person is eligible for an ignition interlock. After the bill passed on General File, we received word back from the National Highway Traffic Safety Administration that the feds also require a waiting period for high-risk, first offense DUIs. This change puts the waiting period in line with all subsequent offenses that receive probation. The second change strikes all referencing language to a mandatory alcohol assessment in Section 7 of the bill. The language is redundant as there is already a statutory requirement for all persons convicted of driving under the influence to submit to and participate in an alcohol assessment found in Section 60-6,197.08. Finally, the amendment reinserts the referencing language on page 21, line 13 that the feds wanted back in this bill. This language references the immobilization or interlock requirement statute. Reinserting the language will have no effect on how the court or the DMV administers the ignition interlock program and will keep the DUI statutes in compliance with federal law. Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fischer. You have heard the opening on AM1182 offered to LB497. The floor is now open for discussion. Senator Friend, you are recognized. [LB497]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I know I made a big deal out of this particular legislation on General File and I don't know that it

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was totally appropriate. I do a lot of things that are inappropriate. However, what I would say is one of the things that concerned me, and it might not be a legitimate concern but I guess I wanted to throw it out there, one of the things that actually...two things that actually concern me, I should say. One is that I know a piece of legislation like this and I'm not even going to ask the question because I know that there are federal requirements that we, at least this is my guess, educated guess, that we didn't adhere to last year when a similar bill of this nature was passed and signed by the Governor. The real...so I understand that. I mean, if we're actually trying to mirror federal law, I understand the changes that were made here. We could go through and pick apart the changes and ask why, but I think that's irrelevant, at least at this point. What I would ask though, and I don't remember what page it's on because I was trying to filter through this amendment and the bill I was working on before obviously preoccupied a little bit of my time and I couldn't find the stuff that I had printed out. Now these things in front of me might help, right? But, you know, I hate to try to filter through that. I can have Senator Hadley do it, if he'd like, but I think he'd, you know, probably tell me no. Here's what I'm wondering. In this piece of legislation, there are specific requirements for somebody with an interlock device on where they can drive. Correct me if I'm wrong, because I'm working off of memory here: to and from school I think, to and from the place of work, I think that there was one other...I think that there was one other place, church. [LB497]

SENATOR LANGEMEIER: Senator Fischer, would you yield? [LB497]

SENATOR FISCHER: Yes, I will. Where it's required or I guess where it's allowed where people can drive is to and from work, to and from school, to and from an alcohol treatment facility, to and from the interlock ignition device facility. Those are the places where it would be allowed to drive. [LB497]

SENATOR FRIEND: Okay. When I went through...thank you, Senator Fischer. And when I went through the amendment, members, this thought occurred to me a little bit and I'll just throw it out there. I don't want to...I don't want to hurt this bill and there are a lot of reasons I don't want to hurt it. I did vote against it in the first round. I don't know that I will do that in the future. What happens if you have just a bad actor who's been, you know, constantly inebriated, is issued an interlocking device? Let me just give you a weird analogy. His wife happens to be pregnant. His wife is in the back seat of the car and she's saying, honey, let's go, my water just broke, I got to go. Now, sure, he can call 911. Is that appropriate under these circumstances? He has an interlocking device. He can't drive that car unless he blows into it. And I've seen this thing operate. And maybe that's a bad analogy. Here's another analogy. What happens if this guy has three young kids and he's, you know, maybe he's got somebody to sit there and baby-sit but he doesn't have the...and again, another bad actor who's been in trouble because he's got an interlocking device ordered for his vehicle. He's got somebody who might be old enough to baby-sit but she sure...she or he certainly can't drive the car.

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[LB497]

SENATOR LANGEMEIER: One minute. [LB497]

SENATOR FRIEND: They need food. They need something. Can he go to the grocery store? Look, I could be way off base here. That is just one of the first things that occurred to me. If the person has got an interlocking device, they probably can't drive the vehicle drunk. The odds are...the odds are way, way against that. So the bottom line is I'm wondering if we're being a little restrictive. All that said, I'd be happy for people to, you know, communicate to that, but I don't know that I had any specific questions associated with that. Senator Fischer, I don't think there's much time left but you're welcome to it, if you want. [LB497]

SENATOR LANGEMEIER: Sixteen seconds. [LB497]

SENATOR FISCHER: Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Thank you, Senator Friend. Senator Fulton, you're recognized. [LB497]

SENATOR FULTON: Thank you, Mr. President, members of the body. It's appropriate, this is my bill and I rise in support of Senator Fischer's AM1182. We've worked long and hard on this bill, I have for a couple of years, now Senator Fischer and the Transportation Committee, and I'm thankful for that. To respond to Senator Friend's queries, and I'll yield some time to Senator Fischer also, there have to be some stipulations that we put in place. And when we do this, we operate under the philosophy that driving is not a right, okay? Driving is a privilege which is afforded by the state. And while there may be cases that one can construe in his mind, we cannot use individual cases, which I think might represent extreme cases, in order to put forward law, law that is formative and appropriate and represents an element of justice with the understanding that driving is not a right, it's a privilege. So we've done that, we feel, appropriately in the bill. So I'd yield the rest of my time to Senator Fischer, if she should like that. [LB497]

SENATOR LANGEMEIER: Senator Fischer, 3 minutes, 50 seconds. [LB497]

SENATOR FISCHER: Thank you, Mr. President and members. Senator Friend and I were just having a conversation off the mike and I said to him one of the concerns that I've heard from a number of people who are concerned with drunk driving has been that many of these folks drive on suspended licenses and that causes a great problem when they not only are violating the law in that respect but...and then if something happens there's a definite problem. So an ignition interlock system does help. If there is an emergency and someone who has one of these devices on their car decides they need

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to get in their car and drive and pick up sick kids at school or there's been an accident they need to respond to or whatever, yes, they would be breaking the law and there is punishment for that and it's listed in the bill. But you also need to realize that the judge would have discretion on that and I'm sure a judge would take into consideration what the situation was at the time. But truly, the purpose of this is for education, to allow some people to be able...Senator Fulton is making faces over there and I don't know if they're at me or if he's (laugh) he's just making faces. But, yes, this is a needed piece of legislation. The amendments that we're offering in many cases are dealing with requirements that we have to meet that are stipulated by the feds in dealing with this. I do apologize for coming with another amendment but we had feedback from the feds on this that we needed to make a couple more changes. With that, I would ask you to support the amendment. Thank you very much. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Fulton. Seeing no lights on, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is, shall AM1182 be adopted to LB497? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB497]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Fischer's amendment. [LB497]

SENATOR LANGEMEIER: AM1182 is adopted. Mr. Clerk. [LB497]

CLERK: Mr. President, the next amendment, Senator Janssen, I have AM1174 but, likewise, a note that you'd like to withdraw and substitute AM1240. (Legislative Journal pages 1254-1257.) [LB497]

SENATOR LANGEMEIER: Seeing no objections, so ordered. Senator Janssen, you are recognized to open on AM1240. [LB497]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I rise to introduce AM1240. This amendment would strike the language prohibiting those who refuse to submit to chemical tests from being eligible for a work permit or ignition interlock permit. The current prohibition can be found on page 4 of AM1015, lines 18 through 22. A judge...it's important to note a judge would still be able to decide whether the person could receive these permits or not. Again, it's up to the judge to make this decision. The additional language in AM1240 is needed to make sure that once the prohibition is removed, persons are able to receive these permits in the language preceding the prohibition. I want to be clear that we are still punishing those who refuse more harshly than those that submitted to the test. A first offense refusal will have a one-year administrative license revocation, commonly referred to as an ALR. First offense who submit to a chemical test have a 90-day ALR. That is a huge difference for

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somebody that may or may not comply, so I don't think there's really much weight to the argument that people would not comply for this because they gain nothing. They actually give up the chance to have a lesser penalty under this amendment. This option to get interlock or work permits is only for their first offense on a refusal. This is a one-time option for those who refuse and, again, that option is up to the judgment of a judge. I bring this amendment because I think it is important that we recognize the importance of the work for persons who may have had a momentary lack of judgment. This bill, the thing I like about it, in committee we made it a priority bill, is that it really focuses on rehabilitation, and that's what this does. And I had an at-length conversation with MADD on this issue and they had sent me an e-mail after the discussion and they agreed this actually keeps drunk drivers off the road, those people that would most likely drive under suspension without the interlock. So now this puts them on the interlock and these people would be out there for a year longer than the 90-day person. And Sim Reynolds from MADD sent me an e-mail letting me know that MADD advocates for mandatory ignition interlocks for all convicted drunk drivers. Reading parts of it: MADD wants to be assured that convictions will be upheld, that offenders are held accountable and they don't continue to drive while impaired or under suspension. MADD strongly supports equitable treatment for all offenders and that includes people that refuse the first time. People...prohibiting persons who refuse the chemical test from eligibility for a work permit or ignition interlock permit certainly jeopardizes that person's ability to work and provide for their family. We have checked with the staff at the Department of Motor Vehicles and this amendment will not jeopardize our compliance with federal law. With that, I strongly urge you to support AM1240. It keeps drunk drivers off the roads of Nebraska. And I encourage you to support LB497. Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the opening on AM1240 offered to LB497. The floor is now open for discussion. Seeing no lights on, Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question before the body is, shall AM1240 be adopted to LB497? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB497]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Janssen's amendment. [LB497]

SENATOR LANGEMEIER: AM1240 is adopted. Mr. Clerk. [LB497]

CLERK: Mr. President, Senator Fulton would move to amend, AM1062. (Legislative Journal page 1190.) [LB497]

SENATOR LANGEMEIER: Senator Fulton, you are recognized to open on AM1062. [LB497]

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SENATOR FULTON: Thank you, Mr. President, members of the body. I thank you for passing those two amendments forward. This is an amendment that I'm going to bring forward and I'm going to communicate in advance what this amendment does and what it represents in our process. Senator Fischer's committee, the Transportation Committee, has moved this bill forward and when they moved it forward they actually took this provision out. So I'm bringing this provision as I had originally intended, fully cognizant of the fact that it was brought out by the committee, so I recognize that there could be some debate on this and I'm going to be sensitive to the amount of time we put in this debate. But I think this is an important provision and so I bring this to the body for your consideration. This amendment would make two changes to LB497 as amended. First, it restates the new language on page 36 of AM1015 in a manner that the Bill Drafter suggests is clearer, and I don't disagree and I don't think that's the controversial part of the bill or of the amendment. Second, it removes references to impoundment found in Section 60-6,197.03. Presently, upon a first conviction for DUI, the court may either revoke the defendant's license for a period of six months or impound the license for the same period, and there are several differences between impoundment and revocation, and those really are the two operative words here. Number one, when a license is revoked, the defendant is eligible for an ignition interlock after not driving for 30 days. That's if the license is revoked. If the license is impounded, what we're talking about is essentially that the license is put in a drawer for six months and the defendant is not eligible for an interlock. Impoundment basically is taking that license, putting it in a drawer, and the license isn't at the behest of the offender. When the license is revoked, the defendant must submit an SR-22 application. This is a proof of financial responsibility. It's submitted to the Department of Motor Vehicles after his revocation period ends in order to obtain a driver's license. This filing gives notice to the defendant's insurance carrier of the DUI conviction and results in a premium hike for the defendant. If the license is impounded, however, no such filing is required. This disparity in sentencing will, according to several defense attorneys with whom we have worked and the Omaha City Prosecutor's Office, will result in a shift away from the use of ignition interlocks as more defendants will opt for license impoundment, because when their license is impounded they won't suffer increased insurance costs. Such a shift is contrary to the policy which we have enacted over the years and which we are enacting with this bill to increase the use of ignition interlock. Although this amendment affects the court's ability to impose an impoundment sentence, the courts have requested a more predictable and simplified mechanism for sentencing those convicted of a DUI. So this amendment provides additional uniformity and predictability that ensures that those convicted of the same crime receive the same punishment. In a nutshell, I am, with this amendment, moving that we strike the ability for impoundment because that ability presents the possibility that we have two disparate punishments for the same crime or two disparate results for the same crime. And further, if we have impoundment, think about this. If you get busted for drunk driving and you don't want to get hit with higher insurance costs, you could advocate through your defense attorney to the judge to

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impound the license for six months and that, indeed, what may be the case. That's something different than license revocation. Impoundment does not make one eligible for ignition interlock; license revocation does. And so we could have individuals who, after having been convicted of drunk driving, get their license impounded who don't qualify for ignition interlock afterward. Now the argument against this, and it's a fair argument and I'm just putting this to your judgment, is that shouldn't we allow judges the ability to judge? Let the volition be exercised on the part of the judge. And that's a good argument. But I remind you that we have actually worked with people within the judicial branch of government who have suggested that a clearer policy, a more uniform and consistent policy serves, serves the intention of getting people to use ignition interlock devices. And so, therefore, I bring AM1062 for your consideration. I ask that we move it forward and attach it to LB497 on Select. Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the opening on AM1062 offered to LB497. The floor is now open for discussion. Those wishing to speak, we have Senator Fischer, Price...Fischer, Pirsch, and Price. Senator Fischer, you're recognized. [LB497]

SENATOR FISCHER: Thank you, Mr. President and members. I'd like to thank Senator Fulton for bringing this bill in the first place, but I do have to disagree with him on this amendment so I am opposed to his amendment. In the committee, we had a long discussion on impoundment and revocation, and it was the decision of the committee that we needed to leave impoundment of licenses as part of the law, the reason for that being that a judge...we felt that a judge should be able to have that option on someone who is facing a first offense for a DUI. As Senator Fulton explained very fully on the definitions of impoundment and on revocation, you can see that there are some distinct differences with those. And revocation is very serious. It's also very expensive for those that are involved in that process. But here again, it was the desire of the committee to leave that option up to the judge on the first offense whether they would impound a license or revoke the license. So I would have to oppose Senator Fulton's amendment. Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Pirsch, you're recognized. [LB497]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Fischer may yield to a quick question. [LB497]

SENATOR LANGEMEIER: Senator Fischer, would you yield? [LB497]

SENATOR PIRSCH: And I apologize. You indicated that you... [LB497]

SENATOR FISCHER: Yes, I will. [LB497]

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SENATOR PIRSCH: Thank you. You indicated you oppose the amendment. Is that correct? [LB497]

SENATOR FISCHER: Yes, I would oppose Senator Fulton's amendment. [LB497]

SENATOR PIRSCH: And I apologize. What was the, just briefly, the reason that you oppose it then? [LB497]

SENATOR FISCHER: The reason was because in our committee discussions, before we passed the bill out of committee, it was the decision by the committee that we needed to leave impoundment in there as an option for the judge on a first offense. [LB497]

SENATOR PIRSCH: For a first offense. And what was the underlying rationale for leaving impoundment as an option on first offense? Just more discretion for the judge? [LB497]

SENATOR FISCHER: It was discretion for the judge. [LB497]

SENATOR PIRSCH: Okay. [LB497]

SENATOR FISCHER: Sometimes there's different...a person should never drink and drive,... [LB497]

SENATOR PIRSCH: Uh-huh. [LB497]

SENATOR FISCHER: ...but we all know in this body and especially in your profession, Senator Pirsch, we hear that judges should be able to have some options and should be able to use their discretion in different instances, and so the committee supported that idea. [LB497]

SENATOR PIRSCH: The extra bit of discretion then that would be left in if it wasn't adopted would be, in a first offense then, a judge would have the ability to merely impound, which would allow for the interlock not to be ordered. Is that correct then? [LB497]

SENATOR FISCHER: Correct. The person would not be able to receive an interlock permit on an impoundment of their license. [LB497]

SENATOR PIRSCH: Okay. Thank you very much and I appreciate that. I might ask Senator Fulton if he'd yield to a question or two. [LB497]

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SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB497]

SENATOR FULTON: Yes. [LB497]

SENATOR PIRSCH: Senator Fulton, with respect to what Senator Fischer has commented about, that in the case, if this amendment were not adopted and the judge in a first offense, is it true to say then a judge in a first offense only would have that option to impound and not revoke? Is that how the bill would leave it then, be left at the...? [LB497]

SENATOR FULTON: My amendment would not provide for impoundment. [LB497]

SENATOR PIRSCH: Okay. [LB497]

SENATOR FULTON: Okay. [LB497]

SENATOR PIRSCH: This amendment here... [LB497]

SENATOR FULTON: Right. [LB497]

SENATOR PIRSCH: ...would not provide for impoundment. [LB497]

SENATOR FULTON: Correct. [LB497]

SENATOR PIRSCH: But assuming this amendment were to fail or not have been introduced, would the underlying bill then allow for only first offense DUI convictions to have an impoundment option? [LB497]

SENATOR FULTON: That's correct. [LB497]

SENATOR PIRSCH: Okay. And Senator Fischer commented that the difference then would be...or I think you did that you would...well, comment on the difference then, just briefly, between someone who had their license, on first offense, impounded or revoked, substantively the difference. [LB497]

SENATOR FULTON: Well, the idea behind ignition interlock, the policy or the philosophy, the idea is to get folks who are offending drunk drivers to utilize ignition interlock. [LB497]

SENATOR PIRSCH: Sure. And I understand the component of you wouldn't be eligible necessarily for...I mean you would not need to be ordered necessarily in all cases by the judge to have the interlock if you are merely impounded as opposed to revoked. Are there any other substantive differences as far as you mentioned insurance or SR-22? Is

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that right? [LB497]

SENATOR FULTON: Well, things that would enter into the decision here, yeah, insurance is one. One whose license has been impounded, that's not going to show up on their insurance. One whose license has been revoked, that will show up. And so there seems to be within our policy an incentive for one to advocate for impoundment and if that's the case... [LB497]

SENATOR PIRSCH: And when you... [LB497]

SENATOR FULTON: Okay. [LB497]

SENATOR PIRSCH: Oh, go ahead. I'm sorry. [LB497]

SENATOR FULTON: If that's the case, if one is...remember that impoundment means that ignition interlock can't be used. If we have within our policy an incentive to advocate for impoundment, we therefore have an incentive in our policy such that ignition interlock wouldn't be used. That's what I'm trying to avoid. [LB497]

SENATOR PIRSCH: Sure. And I think the... [LB497]

SENATOR LANGEMEIER: One minute. [LB497]

SENATOR PIRSCH: ...the opposite argument is you're arguing for, I think, Senator Fischer, a limited exception. And so I'm trying to figure out the substantive differences then. Other than the SR-22, is there anything? And that's what you're referring to when you're saying insurance. You're talking about the SR-22. And for those of you who... [LB497]

SENATOR FULTON: Yes. [LB497]

SENATOR PIRSCH: ...don't know and, you know, I was...have the background as a prosecutor, probably prosecuted 4,000 DUI cases over the course of my career. SR-22 insurance isn't like normal insurance. It's an insurance that kind of baby-sits you, if you will. You have to...it's typically more...or in many cases more expensive, sometimes much more expensive, in which at the end of the month the insurance company has to...reports that you have kept up your insurance and have not cancelled it at the end of the month. Other than that, are there any other substantive differences that you note with impoundment? [LB497]

SENATOR FULTON: If there are, they don't rise to the level of substance such that they should enter the debate. [LB497]

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SENATOR LANGEMEIER: Time. [LB497]

SENATOR PIRSCH: Thank you. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Price, you're recognized. [LB497]

SENATOR PRICE: Thank you, Mr. President, members of the body. March 17, 2004, 8:00, 8:05, I got the worse phone call of my life. I had a strange person at the other end of a phone line say, Mr. Price, your wife has been in an accident. Corner of...southbound Highway 75 and Cornhusker, gentleman pulled out and hit my wife. I couldn't do anything. I was at a shop. I just threw the keys to friends and had the presence of mind to not try to rush to the accident scene, met her at the hospital. This guy, this gentleman, had four previous DWIs. You know, out of all of it, though, the Lord is great. My wife was okay. There was some surgery, there was some rehab, but she was okay. I was also really lucky he had insurance and I wondered how did he have insurance. I'm glad, I'm grateful. Why was he driving? And this was obviously a repeat offender. So when it got to court, he was sentenced to ten days in jail. He did three of them, getting sober that first night; he did the next seven. I think he got it pled down to two DWIs, two. He had pled the other four down to one, because our sentencing guidelines, as it was described to me, and obviously because I was so close to that issue my emotions probably cloud a lot of what I heard, but the sentencing guidelines are so convoluted for our judges that they find it a labyrinth of detail and it's almost like a Gordian's knot to get through. But like I say, four DWIs before this and he's only got one on the record. I don't know that we're fixing anything. I pray that none of you will get that phone call. I pray that none of the people that these words reach ever get that phone call. I met that gentleman at the court and he apologized. I'm a human guy and I trust in the good word that says we should forgive, you know, hate the sin, love sinner, and I'm doing my...I've always done my best with that. So I don't want to reach out and punish anybody. Mistakes are made. But let's make sure we're making this better. Let's make sure that we're empowering our judges and not making it more confusing. And let's make sure that in all of this...my goal and when next year rolls around if possible I want to bring about legislation that says when people refuse a sobriety test that that can be brought up in sentencing of a subsequent DWI. Because when you do it once, it's an accident. Twice, gosh, we're (inaudible). But you do it more than twice, that's a habit. So anyway, ladies and gentlemen, I just rise to say that we think about this so we don't make this any more convoluted for our judges. And with that, I rest, Mr. President. Thank you. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator Fulton, you're recognized. [LB497]

SENATOR FULTON: Thank you, Mr. President, members of the body. Thank you,

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Senator Price. That is...what you described is what caused me to get involved in this policy in the first place. Thank God, I haven't experienced this personally, but what I did experience, I was reading a newspaper article about a young father, he's about my situation, I think he was 30-some years old and he had kids and he was killed at an intersection here in Lincoln by a drunk driver who had been busted for drunk driving numerous times previous. This drunk driver did not have a license. He was not supposed to be driving. And when I read it, I just...I remember, this was during the summer after my first year of being here and my reaction first was emotive. I felt for this family who'd lost their daddy at the hands of an irresponsible man, and my initial reaction was I would love to get my hands on this guy. Well, I decided I wanted to do something about this. I was a brand new senator, baby senator, freshman senator, and my reaction was, well, we're going to confiscate those guys's cars, we're going to sell them, and these guys, we're going to put them in jail and get tough on them. That was my reaction. But if you reflect on this, we have done this. Okay, we take licenses away when people are driving drunk. That did not stop this guy. He didn't have a license and he'd been busted several times previous and, yet, he still was drunk behind the wheel of a car. Ignition interlock disallows that. It's a technology. So if someone is drunk, he can't even start his car. That was the policy that we enacted. Utilizing ignition interlock will...won't stop but it will reduce, it will mitigate these types of horrific events from occurring. I say it's not such that we're getting tough on drunk drivers. We are getting tough on drunk drivers. We're also getting smart on them and that's where this technology comes into play. Now Senator Price also made reference to the fact that there is a labyrinth of statute through which the judicial branch has to navigate in order to employ ignition interlock, and my experience is that that is true. I've been at this for a couple of years now and that is true and that, incidentally, is why LB497 is out here, to add greater clarity. And to that end, that's why I'm so thankful the Transportation Committee made this a priority bill, okay, because this is something that needed to happen for the provision of clarity with regard to our policy. So to Senator Price and to others who are listening who have concern about this labyrinth, LB497 is a step toward clarity. Now I ask you also to consider, in defense or in putting forward AM1062, an argument in favor. If the judge decides to impound a license for six months, then there is an individual who for six months doesn't have a license, but I will guarantee will be tempted or has a need to drive. I submit to you that if revoking a license for a repeat offending drunk driver who doesn't have ignition interlock, if that doesn't stop a guy from getting behind a car...behind the wheel of a car, drunk, and killing someone at an intersection, I dare say that impounding a license will yield the same effect. Because that driver, through his impoundment, will not be able to utilize... [LB497]

SENATOR LANGEMEIER: One minute. [LB497]

SENATOR FULTON: ...ignition interlock. Our policy is to utilize ignition interlock. So that's why I move AM1062 forward. I recognize that we take an element of volition away from the judicial branch by saying that you don't get to impound, now you have to

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revoke. But in so doing, we communicate that our policy as a state is to employ ignition interlock in any...with...in any case that is possible, and we communicate that clearly, in my opinion, by moving AM1062 forward. We take LB497, which in my opinion is a good bill and a clarifying bill, and we make it better and more clear by way of our policy, and that's why I bring AM1062 forward. Respectfully, I ask your favorable consideration of the same. Thank you, Mr. President. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Those wishing to speak, we have Senator Hadley, Nelson, Pirsch, and others. Senator Hadley, you're recognized. [LB497]

SENATOR HADLEY: Mr. President, members of the body, I would speak as a member of the Transportation, Telecommunications Committee just to again kind of talk about why we made this change. We did want to give discretion to the judge because we felt that that was important, because there is a difference between revocation and impoundment. Senator Fulton, could I ask, would you yield to a question? [LB497]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB497]

SENATOR FULTON: Yes. [LB497]

SENATOR HADLEY: Do you...don't you think that the six months without a license, when you compare that to being able to drive with an interlock system, isn't that really about the same kind of penalty? [LB497]

SENATOR FULTON: Isn't it...can you say it again? I didn't... [LB497]

SENATOR HADLEY: The same kind of penalty. In essence, you have a system that says you can drive with an interlock system or you can't drive for six months. So the person who is willing to have their license impounded gives up the ability to drive for six months. Isn't that a relatively significant penalty to a person? [LB497]

SENATOR FULTON: I would agree it's a significant penalty, but I...my argument is that that militates against our policy. If you take someone's license and you don't allow them to use their license for six months, our policy is to employ ignition interlock. And the reason why is because, over the years, we have seen people who, even though they don't have a license, still get drunk behind the wheel of a car and still hurt people. And so by having an ignition interlock device, that person is not able to start his car when he is drunk, with or without a license. [LB497]

SENATOR HADLEY: But that person would be able to drive somebody else's car that does not have an interlock device on it. Is that correct? [LB497]

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SENATOR FULTON: He would, but he would be just as much breaking the law as he would be if he were driving his own car if, indeed, his license were impounded. [LB497]

SENATOR HADLEY: Okay. One last point: I remember when we had this on General File, we spent a great deal of time talking about the indigent person and whether or not the money...where the money would come from for the interlock device and such as that, and now we're going to be putting on an amendment that causes revocation, which is much more expensive to the drunk driver. And so it seems to me there might be a little inconsistency there. We worried about the indigent driver, that we're going to pay for that person to get the interlock device, and then we're going to turn around and put a system that basically may make it impossible for them to get their license back because of the cost of insurance and such as that. Would you agree with that, Mr. Fulton? [LB497]

SENATOR FULTON: I don't. I do understand what you're saying about the cost of insurance and I'm sensitive to that, but our responsibility here is public safety. It's not whether or not one is going to pay higher insurance rates or not. And I believe ignition interlock enhances the public safety. [LB497]

SENATOR HADLEY: But we did defeat a bill that would have required them to pay for it, and now, if they're indigent, we will use a fund to pay for that interlock device if they don't have enough money, yet we're setting them up so that they may not have the funds to, because of the higher cost of insurance, to be able to drive again. So we might be forcing them into driving without insurance. [LB497]

SENATOR FULTON: Yeah, that's a good point, Senator Hadley, but again, if that is the case, then the person would...that person would not be using an ignition interlock. And again, our primary responsibility, I believe, is the public safety and so perhaps it could be argued that our policy is such that we're going to cause someone to become indigent because he can't afford his insurance, but I submit to you that that's not our consideration here. Our consideration is whether or not we're going to utilize ignition interlock. [LB497]

SENATOR LANGEMEIER: One minute. [LB497]

SENATOR HADLEY: Thank you. I...that's all I have. Thank you. [LB497]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Nelson, you're recognized. [LB497]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address a question to Senator Fulton, if I may. [LB497]

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SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB497]

SENATOR FULTON: Yes. [LB497]

SENATOR NELSON: Senator Fulton, I'm not a member of the Transportation Committee and I must confess, as much as it hurts me, I stand in opposition to your amendment here. And what in your mind...can you tell us what impoundment consists of? When a license is impounded, what happens to that license? [LB497]

SENATOR FULTON: I'll give you the layman's understanding. The license is basically put in a drawer, is how it's been explained to me. It's not administratively revoked. It's simply put in a drawer such that it's not available to the offender. [LB497]

SENATOR NELSON: But it's held by someone else, is it not? It has to be turned in, the court or somebody. It's not left with the defendant. [LB497]

SENATOR FULTON: That's my understanding, yes. [LB497]

SENATOR NELSON: All right. Okay. You know, Senator Price talked about convoluted law as far as DUI and this, and I don't think here that we're working with a convoluted law. Some years ago I had more experience with these issues and let me tell you, when you have to turn in your license for six months, you lose your license under a revocation order and it's just a huge amount of red tape and expense to get it back. And not only does it affect the insurance rates, because they are notified, but you have to go through a lot of hoops to get it back and it's expensive and it's a real hassle. Here we have a provision in the law that's going to allow the judge to use some discretion, and we're talking about a first offense with no prior convictions. I think this is one place where we ought to leave this up to the discretion of a judge and give them ability to impound the license for the six months and let it go at that. It doesn't affect the insurance rates. Maybe the insurance people may find out about it anyway and I guess if that's the way it is so be it. But while I, you know, I heartily support the use of the ignition interlocks and the use of that, I think that it's not going to make that much difference and I think it will make a big difference here if someone with no prior conviction, who has an opportunity to lose the license for six months and elects not to drive, to cease drinking to the extent that this is going to happen again. Now I grant you there will be probably a few that abuse this and...but it's not like a third or a fourth or a fifth indiscretion here or drunk driving charge where they really need to be hit hard and they have come to expect that. So I stand in favor of what the Transportation Committee has done, leaving the impoundment in here, and I must stand in opposition to this amendment which would take out any reference to impoundment of the license and do away with the discretion of the judge. Thank you, Senator Fulton. Thank you, Mr. President. [LB497]

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SENATOR ROBERT: Thank you, Senator Nelson and Senator Fulton. Senator Pirsch, you are next and recognized. [LB497]

SENATOR PIRSCH: Thanks, Mr. President, members of the body. Just in terms of a little background as we use the term "interlock device" and its...last year, perhaps a little bit of historical perspective would be helpful. You know, drunk driving really wasn't much, you know, thought of in, you know, sixties and seventies as a serious crime and obviously I think that's because the people who set out drinking and driving don't intend to end up in a horrible accident and cause injury to themselves or other. But it was recognized more in the eighties and nineties that, despite the fact that no one sets out to cause these accidents, that in fact engaging in this type of behavior results in tens of thousands of people becoming horribly, you know, injured and killed every year in America. And so despite the fact that they don't intend to set out to cause that damage, that tougher laws were needed to make sure that that...you know, that the end result was stopped, that people weren't injured and killed. And so over the course of time in the eighties, nineties, the penalties became progressively tougher throughout the states. Congress joined on board and used highway funds to compel states to lower the limit of the acceptable threshold of alcohol in your system and there was kind of a zero tolerance. It used to be that, you know, you were pulled over and they maybe, you know, told you to leave your car there and then just had a friend pick you up. And so a zero tolerance type of attitude developed where you would be cited and prosecuted, as a little bit of historical perspective. They used the law, including possible jail time, as a tool to dissuade people from doing that, and as part of that the license revocation, just as possibility of jail, it was thought that the possibility of losing your license, which many people, driving is a very important part of their life, that that would help dissuade them as well from committing those types of acts. Well, this is indeed a policy shift that went into place last year with Senator Fulton introducing successfully his bill whereby when you look at what had previously been looked at as a punishment that...in terms of the revocation part, not the jail part but the revocation of your license, would now be looked at as a tool to use to rehabilitate a person and, in that sense, it is a policy or paradigm shift. And the underlying premise is that if you have an individual ingrained in the practice of being sober when they get behind the wheel, that that is helping to teach or educate that person to, whenever driving, to stay sober. And, you know, it was, you know, Mothers Against Drunk Driving, I believe, on the national level is behind...endorses this, and tell me if I'm wrong if anybody knows, but I believe that they were behind this shift or stood behind this shift as opposed to using it merely as a punishment but as a way to ingrain a healthy...a more healthy practice in people. And so what is at...with respect to the ignition...so the paradigm shift was that,... [LB497]

SENATOR ROBERT: One minute. [LB497]

SENATOR PIRSCH: ...instead of being revoked, you would have an ignition interlock

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device. What means is it's an actual device installed in your car. You know, it probably costs \$70 bucks to install and then each ongoing month you're on probation, another \$60-\$70 bucks, ballpark. And you can drive but you can only start the car if you register under, you know, no alcohol in your system, and it does record that, makes a...records your breath for historical purposes so you can document that. So the issue here is, in all cases, is this a good idea to have even with the first offense to...or should a limited exception be allowed for first offense? My thought is they say that for every time you're caught drunk driving you've probably, on average, driven many, many, many times before. And I can tell you that's true. You know, we don't catch these profound, you know, drunk drivers, you know, (inaudible). [LB497]

SENATOR ROBERT: Time. [LB497]

SENATOR PIRSCH: Thank you. [LB497]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Dierks, you are next and recognized. [LB497]

SENATOR DIERKS: Well, thank you, Mr. President. I wonder if I could have a word with Senator Fischer, please. [LB497]

SENATOR ROBERT: Senator Fischer, will you yield to a question? [LB497]

SENATOR FISCHER: Yes, I will. [LB497]

SENATOR DIERKS: Senator Fischer, an incident happened a number of years ago in my district when a family was struck head-on in a collision and the driver that struck the family had been convicted of drunk driving, I think six times, in another state. Do we have anything, I want to call it reciprocity, I'm not sure that's the correct legal term, but do we have anything in Nebraska that recognizes those sort of aggravated circumstances in other states? [LB497]

SENATOR FISCHER: Senator Dierks, I'm getting conflicted advice back here. One attorney is telling me no; another attorney is telling me yes. [LB497]

SENATOR DIERKS: That sounds typical. (Laughter) [LB497]

SENATOR FISCHER: So...and, Senator Dierks, I don't know. [LB497]

SENATOR DIERKS: Thank you. It's something I think it bothered me at the time and this guy that got hit was...the guy that did the hitting lost his license, but the fellow, the family who he hit, the gentleman was in his office one day and he saw this guy drive by, so he called me. He said, what should I do? I said, well, call the sheriff. So they called

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the sheriff. They took the guy up to the courthouse. The next thing I knew he called and said, well, he's out because he just drove by again. And it just seemed like we had a comedy of errors up there and I wonder if there's some way we could correct that. I'm not sure that...it must be more of a problem than what I know about, but I think it is a problem. Thank you, Mr. President. [LB497]

SENATOR ROBERT: Thank you, Senator Dierks and Senator Fischer. Senator Pirsch, you are recognized, and this is your third opportunity. [LB497]

SENATOR PIRSCH: Oh, thank you, Mr. President and members of the body. I'd just briefly address Senator Cap's question with regards to whether or not prior DUI convictions from other states can be utilized to enhance a penalty in the state of Nebraska. Is that your question, Senator Dierks? Okay. With respect to that, yeah, after you are...there's the trial or there's a plea which just deals with, in this particular instance, were you drinking and driving such that you violated the law in Nebraska. Upon being convicted at that point in time, then there is a postconviction hearing that is called an enhancement hearing used to determine whether or not you've had any prior conviction such that you would be subject to further penalties, enhanced penalties, so to speak. Can you use priors from out of state? You can. The state which you are trying to borrow the priors from, so to speak, must have had a similar type of DUI statute to the state of Nebraska. For instance, when the state of Nebraska's level of drunk driving was .08, if you borrowed a drunk driving conviction from a state that had, at the time...I'm sorry, a .08 in Nebraska. If the state you were borrowing from had a .10, that means technically in that state you would have...and let me explain this correctly. If there was a difference in the law of the state such that activity in the state of...in this other state would have been illegal but legal in the state of Nebraska, then they don't correspond and you couldn't utilize...the elements of the crime don't correspond from one state to the next. You couldn't necessarily assume that it was illegal and, therefore, you couldn't use a prior from that state. If we were on the...using the same scale as the other state, you could attempt to use that prior. It had to have certain guarantees of...guarantees that it was accurate. It had to be certified by the clerk of the court. It had to show that on the date, you know, some constitutional type of guarantees that the defendant, at the time that he entered his plea, was...had an attorney present and pled knowingly, intelligently, voluntarily, and some other type of assurances that his constitutional rights, basic rights, were protected by the state. So what I found as a prosecutor, in many instances, that is very difficult to get a prior. A lot of times we'd send out requests from other states and they just wouldn't answer. They'd be backlogged and they...I don't know if they deprioritized it because it pertained to a state different than theirs. If it...you know, they might have been overburdened. Other times, it lacked a certification, the seal that would be necessary for the judge to find it good, or was missing some other type of important constitutional safeguard information on it. So I guess the answer to your question is sometimes it was okay and sometimes it was impossible to get it. So thank you. [LB497]

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SENATOR ROBERT: Thank you, Senator Pirsch. (Visitors introduced.) Returning to discussion on AM1062, there are no other lights on. Senator Fulton, you're recognized to close on AM1062. [LB497]

SENATOR FULTON: Thank you, Mr. President. And thank you for this discussion, this debate. This is where I feel debate is appropriate. We have an honest disagreement on what the best policy is, and we have the debate and we take a vote and I'm willing to move forward. I'll say that LB497 in its form right now is a good bill, it's a necessary bill. I have brought forward AM1062. In my opinion, it is...it makes a good bill better and it makes a clarifying bill more clear. I talked about a situation in which an individual who had been busted for drunk driving several times and who didn't have his license got behind the wheel of a car drunk and killed another man here in Lincoln. How do we stop that from happening? How do we discontinue that practice? How do we disallow that from happening? Ignition interlock. It's not full-proof. I'm not saying that it's full-proof, but it works. It's worked in other states. It's going to work in Nebraska and we agreed to that last year. So the problem was not that we weren't getting tough enough on drunk drivers. It's that when we took away a drunk driver's license, they still got behind the wheel of a car. AM1062 addresses two possibilities--revoking a license, and impounding a license. If a judge were to impound a license, then that individual, the offender, would not be eligible for ignition interlock and that works against what we're trying to accomplish. A guy who doesn't have his license still has the ability to drive drunk, and we've seen it happen. Senator Price talked about a repeat offending drunk driver who didn't have his license who injured his wife. The problem is not the license. It's the fact that there isn't ignition interlock. There is, let's see, are we taking away all discretion from judges by moving AM1062 forward? No. Judges still have the ability to make a judgment. If the judge does not believe that the person should be driving, he can revoke the license rather than taking a maneuver that simply sets it to the side, which is what impounding is. He has the ability to revoke the license. He has the judgment ability to decide whether probation is appropriate, whether indeed ignition interlock is appropriate. The judge still has the ability to judge. We legislators have the responsibility to put forward a consistent policy and I submit to you that that is what AM1062 does. It says that ignition interlock is the way that we can combat drunk driving. I respectfully ask that you move AM1062 forward so that we can have a clear and consistent policy with regard to drunk driving and our use of ignition interlock in LB497. Thank you, Mr. President. [LB497]

SENATOR ROBERT: Thank you, Senator Fulton. Members, you have heard the closing to AM1062, the amendment to AM1015 on LB497. The question is, shall AM1062 be adopted? All those in favor vote yea; opposed vote nay. [LB497]

SENATOR FULTON: Mr. President, I ask for a call of the house and a roll call vote in reverse order. [LB497]

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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. [LB497]

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call. [LB497]

SENATOR ROBERT: Members, the house is under call. All members please return to the Chamber and record your presence. All unauthorized personnel please step from the floor. Senator Heidemann, Senator Campbell, please check in. Senator Sullivan, Senator Haar, please check in. Senator Pahls, Senator Adams, Senator Lathrop, the house is under call, please return to the Chamber. Senator Lathrop, Senator Adams, the house is under call. Please return to the Chamber. Senator Fulton, Senator Lathrop is on his way. Would you like to proceed? Mr. Clerk, please call the roll. [LB497]

CLERK: (Roll call vote taken, Legislative Journal page 1258.) 14 ayes, 15 nays, Mr. President, on the amendment. [LB497]

SENATOR ROBERT: AM1062 is not adopted. [LB497]

CLERK: I have nothing further on the bill, Mr. President. [LB497]

SENATOR ROBERT: Senator Nordquist for a motion. [LB497]

SENATOR NORDQUIST: Mr. President, I move LB497 to E&R for engrossing. [LB497]

SENATOR ROBERT: I do raise the call. Members, the question is to move LB497 to E&R for engrossing. All those in favor signify by saying aye. Opposed, nay. LB497 does advance. Mr. Speaker, you're recognized for a floor announcement. [LB497]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. We're working in my office to craft the agenda for tomorrow. As you know, we are going to take up LB603, which is the lead vehicle on the safe haven bills that have been advanced and discussed as part of the package. We will also be taking up IPP motions on the other bills, assuming that package moves, to put everything in position as we prepare for the budget on Tuesday. I'm also very pleased to say that tomorrow we will be taking up LB545. That is the state aid to schools bill. It will be on tomorrow's agenda. We will be working through lunch. We could go as late as 3:00 tomorrow afternoon or potentially later. I would just ask for everybody's patience. Certainly visit with folks that have been active in the discussion on LB545. We will have more information for you tomorrow as the bill comes up. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Speaker Flood. Next item on the agenda, Mr. Clerk. []

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CLERK: LB497A. Senator Nordquist, I have no amendments to the bill. [LB497A]

SENATOR ROBERT: Senator Nordquist. [LB497A]

SENATOR NORDQUIST: Mr. President, I move LB497A to E&R for engrossing. [LB497A]

SENATOR ROBERT: Members, the question before the body is, shall LB497A move to E&R for engrossing? All those in favor signify by saying aye. Opposed, nay. LB497A does advance. Items for the record, Mr. Clerk. [LB497A]

CLERK: Mr. President, Senator Ashford offers LR105; it will be laid over. And a new A bill. (Read LB342A by title for the first time.) That's all that I have, Mr. President. (Legislative Journal page 1258-1259.) [LR105 LB342A]

SENATOR ROBERT: Thank you, Mr. Clerk. Members, we will now go back to General File, pursuant to the agenda, 2009 committee priority bill, LB224. Mr. Clerk. [LB224]

CLERK: Mr. President, LB224, originally introduced by Senator Carlson, relates to the Nebraska State Fair. The bill was offered this morning. Senator Carlson presented the Agriculture Committee amendments. Those amendments are pending. (AM949, Legislative Journal page 1171.) [LB224]

SENATOR ROBERT: Senator Carlson, you're recognized to reopen on LB224 and the committee amendments, AM949, from the Agriculture Committee. [LB224]

SENATOR CARLSON: Thank you, Mr. President. How much time do I have? [LB224]

SENATOR ROBERT: Being as there are two, I will give you 8 minutes. [LB224]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. To review LB224 and AM949, this bill clarifies that the date of the transfer of the State Fair be January 1, 2010. The State Fair Board will remain in Lincoln and maintain its Lincoln work force through the end of the 2009 calendar year. With that, the city of Lincoln has agreed to make the last quarterly payment for 2009 to free up the lottery funds for the State Fair Board. The pari-mutuel tax-exemption will transfer from State Fair Park to Fonner Park in accordance with the transfer date. This bill provides that, with the transfer of the pari-mutuel tax to Fonner Park in Grand Island, the 2.5 percent collected, between \$10 million and \$73 million of revenue, will be utilized for maintenance and upkeep of improvements at the Grand Island location. With that said, the horse racing at State Fair Park is scheduled to continue in years 2010, 2011, and 2012. They will be paying .5 percent of the revenues, between \$10 million and \$73 million, to the General Fund. This should result in a positive cash flow back to the General Fund in the area of

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\$30,000 a year. The bill provides clarity that the fair relocate to Grand Island and the State Fair Board cooperate with Fonner Park and the city of Grand Island to participate in improvements to the site necessary to host the State Fair. It clarifies that improvements aren't necessarily confined entirely to land owned by Fonner Park but may occur on adjacent properties as available and necessary. That is part of the plan. It clarifies that the plan of improvements includes necessary relocation of existing improvements and facilities at the site, clarifies that one of the contingencies include that the University of Nebraska at Lincoln submit a master plan and business plan for Innovation Campus no later than December 1, but it also clarifies that the performance of UNL on Innovation Campus has no bearing on the actual move of the State Fair to Grand Island. With that said, I'd like to try and make a couple of other things very clear, if I could. This bill and the amendment will carry no request from the General Fund in 2009 and 2010. There's been talk about the fact that there is a request by Grand Island to be able to expend part of their \$8.5 million, which is their obligation in this move, for the relocation of ball fields. And this relocation is necessary because plans have now changed with Fonner Park and the State Fair Board and in establishing State Fair in Grand Island. Those plans have requested land that's further west on the property, and it necessitates the moving of these facilities. I would say that most of you can understand that with the obligations that the university has, the obligations that the state has, and the obligations that Grand Island has, and this has been a difficult time in coming up with this amount money. But all entities are proceeding toward the deadline of July 1, and I'm confident those goals will be reached. A blessing in all this, because of economic circumstances, is that the proposals received by the State Fair Board to this date on building those structures at the Fonner Park in Grand Island have come in lower than anticipated. They're going to be able to build what they wanted to build. They're going to be able to build more than the original plans called for, for less money. Because that's the case and the State Fair Board wanted those facilities relocated, the State Fair Board and Grand Island agreed that the cost of moving those ball fields would be a part of Grand Island's \$8.5 million obligation. Grand Island will pay \$8.5 million. If, in relocating those ball fields, the cost is actually \$1 million, and it's anticipated it'd be \$1.5 million, Grand Island will still pay the extra \$500,000. Grand Island will pay \$8.5 million. It will not require additional state funds. And I have been a part now of meetings with various entities that are involved in this move. I'm pleased with the effort that's being put forth to make it a successful move. I believe that will be the case. And with that, I would ask for your support of AM949 and the underlying bill, LB224, and will be happy to answer questions that you may have. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Carlson. Returning to discussion on AM949, the committee amendment to LB224, those wishing to speak: Senators Carlson, White, Karpisek, and Gloor. Senator Carlson, you are first in the queue. You're recognized. [LB224]

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SENATOR CARLSON: Mr. President, thank you and I will waive the balance of my time. [LB224]

SENATOR ROBERT: Thank you, Senator Carlson. Senator White, you're next and recognized. [LB224]

SENATOR WHITE: Thank you, Mr. President. I appreciate the courtesy and sorry for the delay. I have a number of questions I'd like if Senator Carlson would be kind enough to yield. [LB224]

SENATOR ROBERT: Senator Carlson, will you yield to a question? [LB224]

SENATOR CARLSON: Yes. [LB224]

SENATOR WHITE: Senator Carlson, as you might remember, I was real concerned by the original bill that brought us here, moving the State Fair from Lincoln to Grand Island. I thought that the process wasn't as open as it should have been and a lot of questions occurred. And so with that, I'd like to fairly try to understand what occurred back then and where we're at today. So if you'd be kind enough to yield to a couple of questions, I'd sure appreciate that. [LB224]

SENATOR CARLSON: I will. [LB224]

SENATOR WHITE: The first one is: As I recall it, Grand Island committed that it would raise approximately \$8.5 million and deliver an open site. I think Senator Hansen had discussed that. Was that in fact Grand Island's commitment? [LB224]

SENATOR CARLSON: Let me try and understand. You said \$8.5 million and deliver an open site. [LB224]

SENATOR WHITE: Yeah. In other words, they would bring to the transaction a site plus \$8.5 million to move the fair. That \$8.5 million is approximate, but that's my recollection. Is that in fact what they committed to do when we voted through this? [LB224]

SENATOR CARLSON: Senator White, not having been on the Ag Committee last year and in on...I was only in on one hearing, I don't really know the exact answer to that question. It's my understanding that the site delivered was Fonner Park property. [LB224]

SENATOR WHITE: Right. In other words, Grand Island would contribute, they'd find a site and they'd put in \$8.5 million into the pot, a suitable site and \$8.5 million. Let me ask you another question. We'll leave that open for a moment. Did Grand Island fall short of raising the \$8.5 million and is this an effort to make up for that shortfall, what

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we're doing here? [LB224]

SENATOR CARLSON: My answer to that is, no, they haven't fallen short on their \$8.5 million. We're meeting here in April. The deadline for presenting those dollars is July 1 and I'm comfortable they will be there by July 1. They're not there as we speak. [LB224]

SENATOR WHITE: But they also now want to be allowed to use those dollars to prepare a site. And I will tell you it's my memory, and this is a memory, it was my memory that Grand Island...Senator Aguilar did a great job, said we will have a site available and we will throw \$8.5 million into the pot to make this move happen. I am advised that Grand Island has fallen short thus far in raising that money and this is how they'd like to bridge that. If that's inaccurate, I'd like to be disabused of the notion. If it is in fact accurate, I'd like people to stand up and say, yeah, we're short of money and this is what we're trying to do, because it concerns me. I mean, this was a plan conceived in secret and executed in haste, and I think the child thus conceived is showing the problems with the way it was brought into the world. So those are my concerns. I yield the rest of my time to Senator Carlson. I'd like to have a frank discussion on whether or not there's been a shortfall of money and whether or not this is an effort to make up for that. Thank you. [LB224]

SENATOR CARLSON: Okay. Thank you, Senator White. I'm going to ask for about 30 seconds to check on something so I can directly answer that question. The agreement for Grand Island's \$8.5 million by July 1, 2009, was that amount in cash or legally binding agreements. [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR CARLSON: Now, if the question is do they have \$8.5 million in cash right now, they don't. If by July 1 will they have \$8.5 million in cash and legally binding agreements, I would say yes. The question is, did they promise to make a clear and open site? Are you asking that for the relocation of those fields or are you asking that for the site at where the State Fair will take place? [LB224]

SENATOR WHITE: What I understood was that Grand Island came and they had two aspects. They were going to have \$8.5 million in cash or legal binding agreements, which is fine, and that was to be independent of their obligation to have a site free and clear of obstacles. Now what I understand they want to do is take the \$8.5 million... [LB224]

SENATOR ROBERT: Time. Thank you, Senator White and Senator Carlson. Senator Karpisek, you're next and recognized. [LB224]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I don't plan to

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belabor this point, but I will get my three times to talk in, I'll tell you that. My other problem on this is if for some reason Grand Island did not know that those ball fields needed to move...which I don't think is true. Senator Hansen has told us that that was always in play. That is my recollection also. It bothers me, it worries me that nobody has any of this to look at or to prove me right or wrong or indifferent. Some of this should be somewhere written down. Either somebody has it and doesn't want to bring it forward or it isn't around. The fact of the matter is that the state is now planning on leasing 80 acres to the city of Grand Island for \$1 a year at the veterans' home to make up space for these ball fields. Now, if we didn't know that those fields had to be moved, then I think that's compensation enough. I don't know that the veterans' home is real excited to give up that land. However, they have a lot of land there. It's a little bit complicated. Senator Carlson had talked about it in committee and he did a fine job on that. I don't have a big problem with leasing that land out to the city. I do have maybe a little problem with the \$1 a year and I have a little problem that right now that's irrigated corn that goes into the General Fund. So to make it sound like Grand Island is really bucking up on this, we're giving them the land for \$1 a year and we're going to let them change...well, use this as a credit up to \$1.5 million. I don't even want to get into arguing about maybe that \$1.5 million is too much because, as Senator Carlson said, if it's not that much to move these fields then they will pay the rest. But I disagree with Senator Carlson to say that they are still going to spend \$8.5 million. They are, but it's not going to go to the fair site. I also don't know that these plans, be it bids, are coming in lower. I haven't seen these bids. I'd love to see them and make sure that they're all-inclusive. Are we talking about everything or are we just talking about part of it? I'd like to know that. And then if there is a savings, why then would we say that Grand Island is off the hook for it? They're not the only ones that put money into this. The university put in a lot of money, and the state put in \$5 million. So why would we just say, oh, well, okay, we'll let you take off \$1.5 million? And I will agree with Senator White that if this wasn't the case that they're having trouble raising that money we wouldn't be in this predicament. They're having trouble raising the money. The economy isn't good. I understand that. But my bottom line is a deal is a deal, stick with it. Again, I wasn't in favor of this whole thing from the beginning. I didn't like how it was set up. I didn't like how it was run. I didn't like how the whole thing went down. And I'm a little bit surprised that no one else in here has that much of a problem with it; say, well, that's just how it goes. Okay, fine. The next time something comes up and you don't think it's right... [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR KARPISSEK: Thank you, Mr. President. I don't know what I'll do. I suppose I'll stand up and be with you anyway. There's just too many variables here. I think we rushed into this. Grand Island now is on a short time schedule. I understand that. They want to start building. I understand that. What was the huge rush into this? I don't know. I've been told Grand Island couldn't have foreseen the economic downturn. Of course not, but it's a business. You promised to pay \$8.5 million, pay \$8.5 million. I'll go away,

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I'll quiet down, everyone else will too. Let's follow through with the plan. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Karpisek. Those wishing to speak: Senators Gloor, Wallman, White, Schilz, Carlson, and Gay. Senator Gloor, you're recognized. [LB224]

SENATOR GLOOR: Thank you, Mr. President. Members of the body, I'd ask you to listen to this for just a second, then you can tune me out. Grand Island is raising the money. I will go into more detail in that in a minute. A deal is a deal. Last year when this body discussed the move of the State Fair, the additional use of those ball fields was not part of agreement that Grand Island entered into, and now they're supposed to be. Well, the \$8.5 million commitment was predicated on not moving those ball fields. Finally, as relates to whether this is fact or fiction about the...or, rather, let me say when it comes to the property in question that is going to be the relocation of the ball fields, interestingly enough that property was purchased by the citizens of Grand Island many years ago and given to the state to build the veterans' home on, called the old Soldiers and Sailors Home in those days. And now there's an opportunity to give back to the community a small, small portion of the land that the community bought to give to the state for relocation of the State Fair. What a nice partnership that is, but it was land purchased by the citizens of the community to give to the state. Let me explain to you how the money is coming in. The community passed an occupation tax. That will raise money to help pay for the \$8.5 million. We think approximately \$5 million will go to that. Keno funds are being allocated. The county ag society that's responsible for the local fair are allocating some of their monies towards that. Private fund-raising has so far raised \$950,000. Nobody is whining about a bad economy. We've raised in a bad economy \$950,000. I'm sure we'll get to \$1 million-plus before this is over and done with. We are now talking about a surprise by way of the original \$8.5 million of we've got to relocate these fields and there's going to be an added expense that was not figured into the \$8.5 million commitment. This was not figured into the \$8.5 million commitment. You've got maps in front of you that show what was being discussed in April of last year when we were passing legislation, and you've got more recent diagram that shows what now is being talked about as a layout from the State Fair that gobbles up that parking. I did have a chance to talk to Senator Hansen. Maybe he'll wish to punch his button and talk about this, but he may be correct in hearing some discussions about parking. The parking would have been from the State Fair Board a plan to perhaps park trailers on the soccer fields or the ball fields as added or ancillary parking, not as regular parking for the State Fair because Fonner Park has asphalted parking. But the agreement would be that the State Fair would then pay to smooth, clear out the ruts, resod, however was necessary every year after the State Fair for any damage done to those ball fields if they decided they needed that area. That would come at an annual operating expense. So that was part and parcel what was talked about, but it was not permanent parking for fair attendees at that particular location. And I also pointed out to

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Senator Hansen that the area that was parking to the north that he thought existed does not exist. It's residential area. Grand Island is having great success in coming up with the \$8.5 million. Nobody from Grand Island has ever whined about that money. All they've done is sit down, get to work, raise the money, make private donations, and do the things that will bring this all to play. We'll raise the money. [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR GLOOR: We are here...thank you, Mr. President, we are here talking about the additional \$1.5 million because it's a surprise. And I would say a deal is a deal. If we agreed to \$8.5 million and it didn't include the ball fields, a deal is a deal. Then you either come up with additional money as a legislative body to help us make this happen or we recognize there's another way to make it happen and not have it come out of the General Fund. It's as simple as that. A deal is a deal. We agreed to \$8.5 million. It didn't include the ball fields. If we're going to have to include the ball fields now, then we've got to figure out where that money is going to come from. I think the Ag Committee has done a great job of trying to figure out a method to make that happen without an impact on the General Fund. Let's move forward with this. State Fair is moving and we're going to make sure it happens, upholding our end of the bargain in Grand Island. Thank you. [LB224]

SENATOR ROBERT: Thank you, Senator Gloor. Senator Wallman, you are next and recognized. [LB224]

SENATOR WALLMAN: Thank you, Mr. President. I was a member of that Ag Committee. Before we voted on this body it was in the paper, State Fair is going to move. I remember that distinctly. Do you think this was pressure on this body? Senator Karpisek, to his credit, voted no. The rest of us felt it was going to move. We worked hard to keep it in Lincoln. Something happened behind the scenes. All of a sudden it was in the paper, the State Fair is going to move, before this body voted. So what happened? Grand Island gave us a good deal, which is good. I have no problem against Grand Island giving us a good deal. Senator Karpisek, a deal is a deal. They can still take these monies in if they want to move the ball fields. The original plan was out there what they were going to do, what they submitted. I voted to put this out of committee. I did think it was worth discussing. And a deal is a deal. Are they going to come back next year? This here is no excess monies, but we did take money out of General Funds to move the fair. Was that smart? I don't know. Did Lincoln come up to the plate early enough? No. I think they thought it was going to stay here. And Innovation Park, I was for Innovation Park. I think it is going to be a good deal for the university and we hope so, but we don't know. But there is a lot of things that went on day after day on this. Senator Erdman spent a lot of time on this. The chamber of commerce with Grand Island was very good on this. The city council was very good. They came up to the plate and did a lot of work, and we were convinced a deal is a deal. It was all done. We didn't

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hear nothing about moving the fields, as I recall. And I'd yield to the rest of my time to Senator Karpisek. [LB224]

SENATOR ROBERT: Senator Karpisek, 3 minutes. [LB224]

SENATOR KARPISEK: Thank you, Mr. President, and thank you, Senator Wallman. I have asked Senator Gloor to find me the documentation that says that those fields were not in play. And if we can come up with it, I will sit down and apologize. I'm sorry. I was here. I was on that Ag Committee, and either I wasn't informed or I have a very poor memory. And I will admit that I have a very poor memory. Just because Senator Gloor heard these things does not mean that's how it went down. Now, was I always in all these meetings? No. Was I in them this year? No. Again, a lot of closed-door meetings going on. If I see this documentation that says that's how it happened, again, I will apologize and I will sit down. I said I have my light punched one more time and I will make my last pitch and I will be quiet on the issue. I don't think that this is the right way to go. Senator Gloor is correct that Grand Island did give the land to the state at the vets' home. That's wonderful, but does that mean it has no value now? We gave it to you once, now we want it back, no value, no harm done. I would say that they did that so that they could have a vets' home built, the jobs, the economic development that went along with it, and I appreciate that. I think the vets' home is great and I hope we can expand it. We need more of that for the vets. But I think there is quite a bit of value that goes with that land. It's not just sitting empty right now. There is some value. [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR KARPISEK: Thank you, Mr. President. Again, I apologize. I'm worked up on this because maybe, number one, I wasn't included in a lot of these discussions, but what I was included in I know how it went. I wasn't happy about how it happened then. I'm getting more unhappy about it today because I see the same stuff going on. I don't care if the fair goes to Grand Island and I know they'll do a good job. They have worked very hard for it. They had great people down here to get the fair. They're going to do a good job. So let's keep this aboveboard and let's keep this going. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Karpisek. Senator White, you're next and recognized. [LB224]

SENATOR WHITE: Thank you, Mr. President. I have a number of concerns, and they're growing, not decreasing, and let me explain why. I thought when we came into this we were talking about using funds that had been previously committed to effect the move to buy a lot so there's a place to move when Grand Island had a deal that it would present an open site that was suitable. Now I want to start out with something. Whether or not

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those ball fields were in the deal as part of the site to me is irrelevant. If they weren't then tell the Fair Board to live with it, and Grand Island, make the fair work without those ball sites. If they were not part of the original deal we have no obligation to make them part of them now. They can just live without them. If they were part of the original deal then Grand Island needs to live up to that original part of the deal. Okay? So I don't see where it's our problem if the ball fields weren't part of the original deal, which Russ says they were and which Tom seems to think they are, and I thought they were because I remember, with some senators, we flew over that area to look at it. But if they weren't, that's fine. Grand Island, make it work without them. Or if you want them, fine, let's talk about that. But what does bother me is I just asked Senator Rogert, who is an expert in the ag area, and he indicates top land corn land, and I don't know how good this land is, in that area you can get between \$200 and \$250 an acre rent per year. I understand from Senator Carlson that we've gotten \$156 a year under the old lease of those 80 acres. Now I've got...I don't know whether we're just bad at bargaining or the lease has not...the land is not that good. But let's split the difference and say it's \$200 an acre. Over the 99-year lease, that's over \$1.6 million. That's real money, folks. That's a lot more money than we spent days arguing about and we were just going to wink at it. Well, that's serious money now. Now, if understand what's going on is, we're supposed to waive the obligation that they had an appropriate site wide open and raise \$8.5 million that would be available for movement, not for obtaining the site, and we're supposed to give up the cost of getting an alternate ball field in the neighborhood of \$1.6 million to \$2 million over the life of the lease. Okay, folks, this is no longer a little deal. This is serious money. This is a serious question about what was agreed to before and it is a real lesson to all of us because the way the fair was moved stunk. It was a bad process. We had secret hearings for maybe the first time in the history of the Legislature--in years, anyway. We did not have...I mean, the money...and the land that was being transferred to the university, they didn't have a cost estimate of making it available for use. They did not have a site plan. They did not have a business plan. And I thought that was on the university, but now I'm beginning to wonder if it wasn't on us. So not only did we take the fair away from a place where we understood what it could be used for and what it would cost, we put it to a place that didn't have appropriate land. We don't have an appropriate plan yet for the land that we vacated. And now we find out that the actual additional cost of moving the fair, to the state, may be another \$3.5 million--and I get that from the \$1.6 million to \$2 million over the next 99 years, plus the money that has to be diverted. Okay, this is not good business. This is not handling the people's business in a responsible, sober manner. And I don't understand what's what, and the fair is going to move. But to say somehow it's our problem that now the State Fair Board wants the ball field and we've got to pony up \$3 million to get it, is just not accurate. [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR WHITE: Nobody I know that was in this body signed on for anything like that.

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Now let's...we find ourselves here. I want to hear Senator Carlson. I want to hear about the situation in Grand Island and I want to know why we're in this situation. But I'm telling you, if we're in the budget crunch we're at, who's got an extra \$3 million to throw around? Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator White. Senator Gay, you're next and recognized. [LB224]

SENATOR GAY: Thank you, Mr. President. I'd like to ask Senator Gloor a question or two. [LB224]

SENATOR ROBERT: Senator Gloor, will you yield to a question? [LB224]

SENATOR GLOOR: Yes. [LB224]

SENATOR GAY: Thank you, Senator Gloor. And, Senator Gloor, I guess for the rest of the body, I did vote to move the fair and I think it will work in Grand Island but I do have concerns on this. Senator Gloor, when we were out in Grand Island on the site, touring this, and you had talked about the ball fields and then you just had mentioned kind of the time frame of what was happening, under the plans here, and I have a handout showing the plan we looked at last year and now the plan this year, now we're talking about paving over those ball fields. Earlier it was supposed to be parking on there during the fair and then come back and they...would the city not be able to utilize those during that fair time? Was that part of the original deal? And then they were going to park on it which would ruin your fields, your soccer fields, and then they would come back and repair it. You said that was part of the lease or part of the expenses in the contract? [LB224]

SENATOR GLOOR: It's my understanding that the only discussion that related to...that I was told that related to the use of the soccer or the ball fields during the State Fair might be some form of alternate parking for trailers, U-Hauls, the sort of thing that might go along...not the main parking for the fair. And if that area was damaged, the agreement that was going to be reached is that the State Fair Board would make sure that that area was then cleaned up and made usable again for soccer fields and ball fields after the State Fair moved on and was done with, so they could be used. That expense obviously would be not a small expense if it were used quite a bit for some of that ancillary parking. [LB224]

SENATOR GAY: Yeah, time and time again, each year when they had the fair you'd have to come back... [LB224]

SENATOR GLOOR: Year after year after year, 99 years that would, if I put a price tag to it, probably be well over \$1 million, \$2 million, maybe even \$3 million in added expense.

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[LB224]

SENATOR GAY: If you had to do that year after year, you're estimating on that. [LB224]

SENATOR GLOOR: I'm estimating. [LB224]

SENATOR GAY: Well, I'm just looking at the two proposals and I know, Senator Gloor, this is your first year. You weren't involved in this but last year we had that discussion. I'll ask Senator Carlson if he would yield to a question. [LB224]

SENATOR ROBERT: Senator Carlson, will you yield to a question from Senator Gay? [LB224]

SENATOR CARLSON: Yes, I will. [LB224]

SENATOR GAY: Senator Carlson, on your handout, I think this is your handout, that you gave the fair layout in April 2008, then they have the current fair layout in 2007, then we have a State Fair layout just in the fall of 2008. So is this the most current layout here, that's not in color? It's black and... [LB224]

SENATOR CARLSON: It's my understanding this is the most current. [LB224]

SENATOR GAY: Okay. Between that one when we were voting on it and now, it looks to me like a whole different program as far as buildings, parking, and some of those things. Who makes those decisions, though, that now instead of parking on the fields and then refixing them up, that now we're going to pave those? Who's making those decisions, I guess? [LB224]

SENATOR CARLSON: Well, I think, first of all, Senator Gay, that entire property is Fonner Park property. The property that includes the current fields, that's Fonner Park property. Fonner Park and the city of Grand Island, along with the State Fair Board, have made the plans as to how to arrange buildings and so forth to make the best fair on that property. And as it's turned out, because I believe and what they're able to get with the dollars that they have available, there have been additional buildings that are possible. It's going to make the fair a better place. It's also going to require that that be moved further west and it's going to require, definitely, that where those fields are located now that become parking; necessitated the need for the move of those fields. [LB224]

SENATOR GAY: So is Fonner Park involved in putting the proposal together earlier than? Was Fonner Park, the city of Grand Island put together a joint proposal when we were discussing this move? [LB224]

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SENATOR CARLSON: I don't really know, Senator Gay, because I wasn't involved in it. I assume that because Fonner Park owns the property, certainly they... [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR CARLSON: ...would have been involved in the early discussions. [LB224]

SENATOR GAY: Yeah. And like I say, I don't know where...quite frankly, I don't know where I'm at on the whole thing. I'm just looking at this and it has been a major change, and I do want the fair to work so I'm just kind of listening in to what's going on. I don't have my mind made up yet. But it looks to me like a complete different layout and someone is making the decisions and here we are deciding where we fit in. And I appreciate Senator Carlson bringing this to the Legislature so we could discuss it. I think it's good to discuss and continue to move on and make sure the fair works. So I actually welcome the discussion and make sure we do the right thing, long term, because to me it does make sense to have some permanent parking and you don't want to be going back and forth, back and forth, every year, putting money again into refurbishing these fields. I saw the complex. It is a very nice complex. Those aren't cheap. [LB224]

SENATOR ROBERT: Time. [LB224]

SENATOR GAY: Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Gay, Senator Carlson. Senator Karpisek, you are next and recognized. [LB224]

SENATOR KARPISEK: Thank you, Senator Robert. Is this my final time to speak? [LB224]

SENATOR ROBERT: This is your second time. [LB224]

SENATOR KARPISEK: Thank you, Mr. President. I will make this my final time before the Speaker comes and chastises me more. (Laugh) I just again want to say I don't think this is the way that we intended it. I am concerned that we don't have anything written out that we know that we can go back on. This is a big deal. I don't know that...I guess we'll have to...we had Senator Erdman refereeing last night. I should have sat him down. Maybe we should have him here now. I'm sure he remembers everything. It does concern me that we don't have all of this written out. Senator Gay asked who's changing these things. The State Fair Board is doing some of it. And I think that they should have the ability to work on that. They're the ones that are going to run the fair. However, I feel that this body is the final say in this. I think that...I know that this body is the body that moved this whole project that I didn't like. I just think that we're going in the wrong direction here. We're not looking at the cost. We're saying, look, the fair is

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gone; whatever; just let it go; forget about it; why can't you forget about this? Again, I think this is a whole new issue. I do think that those fields have been in play the whole time and I want them...I'm not trying to make a pun there. I want them to have those fields. Senator Carlson and I talked about coaching. He's a lot better coach than I am but I do coach peewee football and baseball. We want...I want them to have fields. I want them to have good fields. That's not the point. I want them to have that stuff. But sometimes you have to give, to get. Senator Gloor says a deal is a deal and they were included. I disagree. I guess we just come down to agreeing to disagree. I don't know. We'll talk later about what he was involved in, but I was here in the committee. So sometimes secondhand knowledge is not the same as firsthand knowledge. I will be voting against the amendment. I voted against it in committee. I don't think it's the right thing to do. Senator Hansen had brought up the sheriffs and the Cattlemen's buildings at the current State Fair site. They're not getting anything for those buildings. They were their buildings. They're not getting anything. That's one thing that gets me fired up about this. We won't give them anything but I think that the Fair Board said, well, we give you a spot in Grand Island. Well, that seems workable to me. But they have money in those buildings out there. Another issue that I haven't touched on and I really wasn't going to, is that there's a school at this fairgrounds--an old-time school. So Lincoln would like that school moved maybe to Pioneers Park. Well, the Fair Board said they would move that, too, at a cost around \$70,000. I didn't mind that at first, but Senator Carlson drew the line here that said, well, what's the difference between the two? Fine. No difference. I don't think we should or the Fair Board or whoever should have to pay to move that school either. We don't...we won't own that ground, so walk away from it. If the city wants to move it, the school, LPS wants to move it, move it. [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR KARPISEK: Thank you, Mr. President. If the university wants to move it, since it's going to be their ground, then they can move it. I don't know. I feel that this has been a pushed, hurried up, made-up thing as we go, and now everybody is trying to fill in cracks and try to get along, and I admire that. Everyone is working very hard. My bottom line is, the state put in \$5 million to move the fair. I didn't agree with that. If there is a savings, which I haven't seen yet, I think that the state should get some of that savings. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator Karpisek. (Visitors introduced.) Returning to discussion, Senator White, you are recognized. Senator White, you're next and recognized. [LB224]

SENATOR WHITE: Now I am very concerned about this and I would ask Senator Carlson to please explain to me and the members of the body, number one, and then I will let this go if he can give--for at least this round--can give me a rational explanation of, number one, how come Grand Island is not being held to the promise of a suitable

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site, whether it included the ball fields or not? I mean, it's not our obligation to say, oh well, the ball fields would be nice. A lot of things are nice. We don't have to pay for it. That's one. Two, I was told they would \$8.5 million to move the fair, not including the site. And three, how about the \$2 million or darn near \$2 million at current market rates of the land that we now have to give back to them for ball fields? Now explain to me why that's fair to the people of the state of Nebraska, and if you say...you know, and I can tell you a simple answer is, don't move the ball fields. Make the fair work without that land. And then guess what? Everybody goes home happy. I yield the rest of my time to Senator Carlson so he can explain to me why it's not a better proposition all around just to tell Grand Island, make it work without those ball fields. [LB224]

SENATOR ROBERT: Senator Carlson, 3 minutes and 40 seconds. [LB224]

SENATOR CARLSON: Thank you, Mr. President and Senator White. The finding of a suitable site I think has been done and that's out on the property that they've located. Originally that property was the property of Grand Island where the Veterans' Home is. And then that property was given to the state of Nebraska and the state of Nebraska now has decided to lease that land back to the city of Grand Island as a site for relocation of these fields. And I don't see that there's anything wrong with that. That lease was designed by our Department of Administrative Services. The other question--and I did get interrupted a little bit--but I think you're saying, why can't we just leave the fields where they are at Fonner Park and make it work. We're in a situation, I'd call this transparency. I'm listening to these concerns and everybody has a right to show whatever concerns they may have and voice those concerns. I think it's a little unfair to the city of Grand Island for all the effort that they've put forth. It sounds like this was an undercover, by night deal. I don't think it was. The city of Lincoln had an opportunity to make their pitch for keeping the State Fair in Lincoln. A decision was made to move it to Grand Island. They had a lot of work to do and they've done that. Now getting back to the idea of let's just leave those ball fields where they are and be happy with it, once dollars are designated by the state of Nebraska and by the city of Grand Island, by the University of Nebraska to develop a State Fairgrounds in Grand Island, Fonner Park, the city of Grand Island, State Fair Board decided that in their plans it would be better, rather than using those fields as a parking lot and having to repair those every year, because all we'd have to have is one day of rainy weather out there and that would be a difficulty, it would be better if they were moved. A blessing in the economic times is that the proposals that have come in are costing less money than anticipated, so the buildings that are desired to be built can be built, and within the dollars that are available... [LB224]

SENATOR ROBERT: One minute. [LB224]

SENATOR CARLSON: ...and the relocation of those fields can be done without requesting any more money from anyone. I don't see anything wrong with that. My

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experience in, I'm going to call Grand Island small-town Nebraska--they're really not because I come from small-town Nebraska in Holdrege, but I know enough in my experience with that, when you start messing with ball fields and parents' desire to help their kids, you're dealing with a fairly serious matter. And I don't see anything wrong with relocating and doing it right so that the community of Grand Island can get behind the State Fair and be glad it's there and still have good facilities for their kids. Now, Senator White, I may not have answered your question in as depth or... [LB224]

SENATOR ROBERT: Time. [LB224]

SENATOR CARLSON: Thank you. [LB224]

SENATOR ROBERT: Thank you, Senator Carlson and Senator White. Senator Janssen, you're next and recognized. [LB224]

SENATOR JANSSEN: Thank you, Mr. President and members of the body. I wanted to stand up. I had a constituent of mine just come in and he had a question. He said, didn't we do this last year already? And so I just wanted to make sure that was on the mike and that we knew that. Thank you. [LB224]

SENATOR ROBERT: Thank you, Senator Janssen. Senator McGill, you're next and recognized. [LB224]

SENATOR MCGILL: I yield my time to Senator White. [LB224]

SENATOR ROBERT: Senator White, 5 minutes. [LB224]

SENATOR WHITE: Thank you, Senator McGill. Let's talk about what Senator Janssen's constituents just came up: Didn't we do this last year? And the answer is, yeah, but nobody said we had to give up 80 acres of farmland and \$2 million over the next 99 years, last year. That's whole new spending, folks. That is whole new money. That was not dealt with last year and that is not fair to say, oh, well, we've got to shove this through at the end of the day. It's \$2 million is a budget crisis over the next 99 years. Now, Senator Carlson, I would tell you right now the deal, at minimum, was Grand Island gives us a suitable site. We are in no way obligated to back...the State Fair Board might say, you know, it would be really nice if we had the western half of Hall County. We don't have to go out and buy them for them. Now if Grand Island cannot deliver this--and I respect that--then live with what you've got. And if you can't live with what you've got, raise more money to handle it. And if you can't do that--and I don't want to take kids' ball fields away. I think they ought to stay right there. I think they ought to stay right there. I mean, make it happen on the available land. What we're really doing here and nobody wants to admit it, is we had a half-baked plan that got rammed through and now we're supposed to stand up and pretend that didn't happen and we're supposed to

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spend a bunch of the public's money and pretend that didn't happen. Now this is tough times. I'm not saying you can't justify it but at least give me a better reason than the State Fair board thinks they'd like to "have them ball parks." That is no reason at all for \$2 million to flow, no reason at all. I mean, I'd like to have the filet mignon, okay, but I eat the hamburger. And we're supposed to be showing everybody's budget restraint in tough times and we're asking everybody to buckle down; well, everybody except favorite projects. And the scary part is, there's not even an A bill on here. And it is spending money just as surely as anything else. Now I'm not going to speak again. I cannot advance this but I am going to have problems when we go to the next level. And I think some people ought to do some serious thinking about whether or not this is justified. Now I'm not saying I couldn't advance and I couldn't vote for this, but I want some explanation before that kind of state money is spent. And that is, at minimum, responsible. What is not acceptable is, well, this is in Grand Island so it's okay. If this was in Omaha, you guys would be up in arms, you would be coming unglued that it's another urban giveaway, or it if was in Lincoln. And I'm tired of that double standard. I'm not going to pretend that double standard should be acceptable. It is not acceptable. If this was in an urban area, you would properly be coming after us about why we did poor planning, why there wasn't an A bill, why we didn't talk about it, a big giveaway to the cities. It doesn't make it okay that it's in Grand Island any more than it does in Omaha or Scottsbluff. Thank you, Mr. President. [LB224]

SENATOR ROBERT: Thank you, Senator White. Seeing no other lights on, Senator Carlson, you're recognized to close on AM949. [LB224]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to say that this discussion and debate has been good. I guess it's been good. It's been a little bit uncomfortable. We are a transparent body and I think the reason that we have this in front of the Legislature is in being transparent. The State Fair Board, the city of Grand Island agreed to give an amount of money, the university agreed to give it, develop the State Fair and make it work, and that's what they're doing. And we're simply trying to be open in how that's being done and the fact that it's going to be done in a better fashion than we originally thought because of the way prices are at the current time. I think that AM949 is a good bill and the underlying LB224 is a good bill. I would ask for your support AM949. And, Mr. President, I'd ask for a call of the house. [LB224]

SENATOR ROBERT: Members, there has been a request for a call of the house. All those in favor vote yea; opposed vote nay. Please record, Mr. Clerk. [LB224]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB224]

SENATOR ROBERT: Members, the house is under call. All those out of the Chamber please return to the Chamber and record your presence. All unauthorized personnel please step from the floor. The house is under call. Senator Pahls and Senator Cornett,

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the house is under call. Please return to the Chamber. All members are present and accounted for. The question being, shall AM949 be adopted on LB224? All those in favor vote yea; opposed vote nay. There's been a request for a record vote. We will proceed with the vote. All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please call the roll...or please record the vote. [LB224]

CLERK: (Record vote read, Legislative Journal pages 1259-1260.) 28 ayes, 4 nays on adoption of committee amendments. [LB224]

SENATOR ROBERT: AM949 is adopted. Senator Nordquist for a motion. Oh, I'm sorry. Excuse me. The question before the body...returning to discussion, I see no other lights on. Senator Carlson, you are recognized to close on LB224. [LB224]

SENATOR CARLSON: Mr. President and members of the Legislature, I appreciate the vote on the amendment. I would ask for your support on LB224. Thank you. [LB224]

SENATOR ROBERT: Members, you have heard the closing to LB224. The question before the body is, shall LB224 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Mr. Clerk, please record. [LB224]

CLERK: 32 ayes, 4 nays, Mr. President, on the advancement of LB224. [LB224]

SENATOR ROBERT: LB224 does advance and I raise the call. Next item, Mr. Clerk. [LB224]

CLERK: Mr. President, LB232 is a bill by Senator Nordquist relating to the Liquor Control Act. (Read title.) Introduced on January 13, referred to the General Affairs Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB232]

SENATOR ROBERT: Senator Nordquist, you are recognized to open on LB232. [LB232]

SENATOR NORDQUIST: Thank you, Mr. President. LB232 would alter the Nebraska Liquor Control Act to allow our state's community colleges with culinary education programs to apply for and receive a Class I liquor license as well as a catering license. Under the bill, a community college would only be able to sell alcohol on campus if the event was held by the culinary education program and was part of the curriculum, and off campus if the event was catered by the program and was part of the program's required curriculum. Contemporary culinary arts education demands a comprehensive real-world experience in the industry. By making strictly controlled alcohol licenses available to our community colleges, this bill would allow culinary schools to offer a better, more realistic education to prepare their students for a culinary career. We have

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culinary arts programs at Metro Community College, Southeast, and Central. I will quickly recap, General Affairs Committee hearing, for those who were not in attendance, we had representatives from the community college program and Metro Community College. Largely, they stated that many of their competitors, which are largely private schools, out of state, are not subject to the same restrictions and it puts some limitations on the culinary arts programs at our community colleges. They request this provision to be added to the Liquor Control Act to allow them to keep pace with their competitors. Also the Nebraska Restaurant Association testified in support of the bill. As is common in higher education, students educated in culinary arts will stay in Nebraska, and Nebraska's restaurants need well-trained culinary workers and the Restaurant Association believes we need a more comprehensive program in culinary arts, and that would be accomplished by this bill. I know specifically Metro Community College, their instructors are all industry professionals. They're well-trained, well-versed in liquor law, and the program would be strictly monitored. All students would be monitored when using it. All alcohol would be stored under lock and key. And it would just make the legality aspect of serving alcohol a key part of the curriculum. So it's going to make sure we have well-trained people in the culinary arts out in the field. I would appreciate your advancement of LB232. Thank you, Mr. President. [LB232]

SENATOR ROBERT: Thank you, Senator Nordquist. Members, you've heard the opening to LB232. Are there members wishing to speak? Seeing none, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is, shall LB232 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB232]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB232. [LB232]

SENATOR ROBERT: LB232 does advance. Items for the record, Mr. Clerk? [LB232]

CLERK: Mr. President, Enrollment and Review reports LB285, LB9, LB494, LB633, and LB160 to Select File, some of which have Enrollment and Review amendments. Senator Karpisek, an amendment to LB626. (Legislative Journal pages 1260-1266.) [LB285 LB9 LB494 LB633 LB160 LB626]

And I have a priority motion. Senator Flood would move to adjourn the body until tomorrow morning, April 30, at 9:00 a.m. []

SENATOR ROBERT: Members, the question is, shall we adjourn until tomorrow, Thursday, April 30, at 9:00 a.m.? All those in favor signify by saying aye. Opposed, nay. Ayes have it. We are adjourned. []