

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
May 07, 2009

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Good morning. Welcome to the George W. Norris Legislative Chamber for the seventy-fourth day of the One Hundred First Legislature, First Session. Our pastor for today is Pastor Steve Holdaway of the Life Spring Church in Bellevue, Nebraska, Senator Price's district. Please rise. []

PASTOR HOLDAWAY: (Prayer offered.) []

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

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Mr. Clerk, please record. []

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there announcements? []

CLERK: Mr. President, messages include Enrollment and Review reporting LB137, LB152, LB299, LB302, LB343, and LB432, all reported correctly engrossed. (Legislative Journal page 1349.) [LB137 LB152 LB299 LB302 LB343 LB432]

SPEAKER FLOOD: Are there any corrections for the Journal? []

CLERK: I have none, Mr. President. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we will now proceed to the first item on the agenda, General File appropriation bill LB545A. [LB545A]

CLERK: Mr. President, LB545A is a bill by Senator Adams. (Read title.) [LB545A]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Adams, you're recognized to open

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on LB545A. [LB545A]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I think that very simply, as a matter of procedure, I stand here to introduce this. The Speaker explained that this is a shell bill that makes it available as we work through LB545 next week, on Monday, to see where we need to go with the budget. So with that, I'll close my introduction. [LB545A LB545]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening to LB545A. There are no members wishing to speak. Senator Adams, you're recognized to close. Senator Adams waives his opportunity. The question before the body is, shall LB545A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB545A]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB545A. [LB545A]

SPEAKER FLOOD: LB545A advances to E&R Initial. (Visitors introduced.) Members, please find your seats in preparation for Final Reading. Members, please find your seats. Mr. Clerk, the first bill on Final Reading is LB158. [LB545A LB158]

CLERK: (Read LB158 on Final Reading.) [LB158]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB158 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB158]

CLERK: (Record vote read, Legislative Journal page 1350.) 46 ayes, 1 nay, 2 excused and not voting, Mr. President. [LB158]

SPEAKER FLOOD: LB158 passes. Mr. Clerk, we now proceed to LB54 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB158 LB54]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB54]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB54]

CLERK: (Read title of LB54.) [LB54]

SPEAKER FLOOD: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB54 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB54]

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CLERK: (Record vote read, Legislative Journal page 1351.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB54]

SPEAKER FLOOD: LB54 passes. Mr. Clerk, we now proceed to LB98E. [LB54 LB98]

CLERK: (Read LB98 on Final Reading.) [LB98]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB98E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB98]

CLERK: (Record vote read, Legislative Journal page 1352.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB98]

SPEAKER FLOOD: LB98E passes with the emergency clause attached. Mr. Clerk, LB98AE. [LB98 LB98A]

CLERK: (Read LB98A on Final Reading.) [LB98A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB98AE pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB98A]

CLERK: (Record vote read, Legislative Journal pages 1352-1353.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB98A]

SPEAKER FLOOD: LB98AE passes with the emergency clause attached. Mr. Clerk, we now proceed to LB322. [LB98A LB322]

CLERK: (Read LB322 on Final Reading.) [LB322]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB322 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB322]

CLERK: (Record vote read, Legislative Journal pages 1353-1354.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB322]

SPEAKER FLOOD: LB322 passes. Mr. Clerk, we now proceed to LB56. [LB322 LB56]

CLERK: (Read LB56 on Final Reading.) [LB56]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB56 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB56]

CLERK: (Record vote read, Legislative Journal page 1354.) 43 ayes, 3 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB56]

SPEAKER FLOOD: LB56 passes. Mr. Clerk, we now proceed to LB162. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB56 LB162]

CLERK: 39 ayes, 0 nays, Mr. President, on the dispensing with the at-large reading. [LB162]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title, Mr. Clerk. [LB162]

CLERK: (Read title of LB162.) [LB162]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB162 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB162]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1355.) Vote is 45 ayes, 2 nays, 2 excused and not voting, Mr. President. [LB162]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB162 passes. Mr. Clerk, we now proceed to LB436. [LB162 LB436]

ASSISTANT CLERK: (Read LB436 on Final Reading.) [LB436]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB436 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted to care to? Mr. Clerk, please record. [LB436]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1356.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB436]

SPEAKER FLOOD: LB436 passes. Mr. Clerk, we now proceed to LB440. [LB436]

CLERK: Mr. President, I have a motion with respect to LB440 to return the bill. []

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SPEAKER FLOOD: Pursuant to the agenda, any bill with a motion to return to Select File will be passed over. For that reason LB440 is passed over today. We now proceed to LB549 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB549]

ASSISTANT CLERK: 43 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB549]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB549]

ASSISTANT CLERK: (Read title of LB549.) [LB549]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB549 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB549]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1357-1358.) Vote is 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB549]

SPEAKER FLOOD: LB549 passes. Mr. Clerk, we now proceed to LB551. [LB549 LB551]

ASSISTANT CLERK: (Read LB551 on Final Reading.) [LB551]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB551 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB551]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1358.) Vote is 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB551]

SPEAKER FLOOD: LB551 passes. (Visitors introduced.) Continuing with Final Reading, Mr. Clerk, we now proceed to LB92. [LB551 LB92]

ASSISTANT CLERK: (Read LB92 on Final Reading.) [LB92]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB92 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB92]

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ASSISTANT CLERK: (Record vote read, Legislative Journal page 1359.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB92]

SPEAKER FLOOD: LB92 passes. Mr. Clerk, we now proceed to LB286E. [LB92 LB286]

ASSISTANT CLERK: (Read LB286 on Final Reading.) [LB286]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB286E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB286]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1359-1360.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB286]

SPEAKER FLOOD: LB286E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB495. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB286 LB495]

ASSISTANT CLERK: 42 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB495]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB495]

ASSISTANT CLERK: (Read title of LB495.) [LB495]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB495 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB495]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1360-1361.) Vote is 46 ayes, 1 nay, 2 excused and not voting. [LB495]

SPEAKER FLOOD: LB495 passes. Mr. Clerk, we now proceed to LB497E where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB495 LB497]

ASSISTANT CLERK: 42 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB497]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title, Mr. Clerk. [LB497]

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ASSISTANT CLERK: (Read title of LB497.) [LB497]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB497E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB497]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1362.) Vote is 47 ayes, 0 nays, 2 excused and not voting. [LB497]

SPEAKER FLOOD: LB497E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB497AE. [LB497 LB497A]

ASSISTANT CLERK: (Read LB497A on Final Reading.) [LB497A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB497AE pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB497A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1362-1363.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB497A]

SPEAKER FLOOD: LB497AE passes with the emergency clause attached. Mr. Clerk, we now proceed to LB653E. [LB497A LB653]

ASSISTANT CLERK: (Read LB653 on Final Reading.) [LB653]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB653E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB653]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1363.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB653]

SPEAKER FLOOD: LB653E passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign: LB158, LB54, LB98, LB98A, LB322, LB56, LB162, LB436, LB549, LB551, LB92, LB286, LB495, LB497, LB497A, and LB653. Mr. Clerk, moving to the next item on the...Final Reading motions to return to Select File for a specific amendment. We

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begin with LB463. [LB653 LB158 LB54 LB98 LB98A LB322 LB56 LB162 LB436 LB549 LB551 LB92 LB286 LB495 LB497 LB497A LB463]

CLERK: Mr. President, Senator Dierks would move to return the bill for a specific amendment, AM1100. (Legislative Journal page 1139.) [LB463]

SPEAKER FLOOD: Senator Dierks, you're recognized to open on your motion. [LB463]

SENATOR DIERKS: Thank you, Mr. Speaker. Members of the body, AM1100 is a clarifying amendment to LB463. When the Board of Veterinarian Medicine and Surgery met for their quarterly meeting on April 8, 2009, this amendment was presented by one of the board members for a vote by the entire five-member board at that time. The amendment was also presented by that board member during the Health Committee hearing on February 20, so this is not new information to add to the bill. The Health Committee on my direction did not adopt this amendment at the time they were preparing the committee amendment because the entire Board of Veterinarian Medicine and Surgery had not voted on this proposal. The package of four bills combined in LB463 all have the support of the board. On April 8, the board unanimously supported the language found in AM1100. This amendment has two parts: (1) make sure that the veterinary drug order for the veterinary legend drug is in compliance with all federal laws and regulations. There was concern that requirements listed in Nebraska's current laws did not include the entire list of requirements found in federal law which must be followed by veterinary drug distributors. And (2), the board also wanted to make sure that a layperson received a copy of the veterinary drug order. I've talked with other interested parties regarding this amendment, especially the Nebraska Cattlemen, since they were involved with the introduction of the original bill that established veterinary drug distributors. I'm not aware of any opposition to this amendment. That concludes my introduction. I will try to answer any questions you might have. Thank you, Mr. President. [LB463]

SPEAKER FLOOD: Thank you, Senator Dierks. Members, you've heard the opening on Senator Dierks's motion to return LB463 to Select File for a specific amendment. There are no members wishing to speak. Senator Dierks, you're recognized to close on your motion. Senator Dierks waives his opportunity. The question before the body is, shall LB463 return to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB463]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB463]

SPEAKER FLOOD: LB463 is returned to Select File for a specific amendment. Senator Dierks, you're recognized to open on AM1100. [LB463]

SENATOR DIERKS: Thank you, Mr. Speaker. Well, you've heard the purpose of the

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amendment and I'd just ask your support to attach it to LB463. Thank you. [LB463]

SPEAKER FLOOD: Thank you, Senator Dierks. There are no members wishing to speak. Senator Dierks, you're recognized to close. Senator Dierks waives his opportunity. The question before the body is, shall AM1100 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB463]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB463]

SPEAKER FLOOD: AM1100 is adopted. Mr. Clerk, is there anything further on this bill? [LB463]

CLERK: Nothing further. [LB463]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB463]

SENATOR NORDQUIST: Mr. President, I move LB463 to E&R for engrossing. [LB463]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB463 is advanced to E&R for engrossing. Mr. Clerk, we now move to LB402. [LB463 LB402]

CLERK: Mr. President, LB402. Senator Avery would move to return the bill for a specific amendment, AM1314. Pursuant to that offer, Mr. President, I have a motion from Senator Avery. Senator Avery would move to suspend Rule 7, Section 3(d), the germaness rule, to permit consideration of the amendment AM1314 to the bill. [LB402]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Avery, you are recognized. [LB402]

SENATOR AVERY: Thank you, Mr. President. I am requesting suspension of Rule 7, Section 3(d) to allow AM1314 to be admitted into LB402. This amendment that I seek to have amended in was passed in 2007, an LR6 that put on the ballot a constitutional amendment that would allow diversification of investments of public endowment funds. That was approved by the voters in May of 2008 by a vote of 58 to 42 percent. AM1, it was called, is not a self-executing. It does require enabling legislation, and that is what AM1314 is: the enabling legislation. The amendment to the constitution changed the constitution written in 1875 which limited public investments in a very restrictive manner. The constitutional amendment that was approved by the voters opens that up so that you can have a diversified portfolio of investments of public endowment money. I would urge that you support suspension of the rules so that we can attach this amendment. Thank you. [LB402]

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SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on Senator Avery's motion. Senator Friend, you're recognized. [LB402]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I do rise in support for Senator Avery's motion. Just wanted to point out, I'll explain on Select File a little bit further, if needed, LB128 which was the original bill that came out of the Urban Affairs Committee. The reason I'm supporting...and I don't ever do it lightly, support a suspension of the rules for any reason, but I feel culpable because I think his bill should have been on consent calendar and it's my fault that it's not. So there you go. I would just ask for support of Senator Avery's motion. Thank you, Mr. President. [LB402 LB128]

SPEAKER FLOOD: Thank you, Senator Friend. There are no other lights on. Senator Avery, you're recognized to close on your motion. Senator Avery waives his opportunity. The question before the body is, shall Senator Avery's motion to suspend the germaness rule be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB402]

CLERK: 43 ayes, 0 nays, Mr. President, to suspend the rule. [LB402]

SPEAKER FLOOD: The rule suspension is adopted. Mr. Clerk. [LB402]

CLERK: Mr. President, Senator Avery would move to return LB402 to Select File for purposes of considering AM1314. [LB402]

SPEAKER FLOOD: Senator Avery, you're recognized to open on your motion. [LB402]

SENATOR AVERY: Thank you, Mr. President. This bill would have been on consent calendar, as Senator Friend indicated. It was inadvertently left off the request from the Urban Affairs Committee. And we looked around for a number of different ways to get this before the body. It is important that this enabling legislation be passed because, without it, public endowments across the state will not be able to use the change in the constitution. The change was a good one. The campaign was a very hard-fought campaign. You may recall that similar legislation was passed in '06 and an amendment was put on the ballot, and it failed. And we came back in 2008 with the support of the Attorney General and Senator Nelson, and we managed to get it passed. What this will allow us to do is to use a more modern diversified investment strategy. In fact, if you know much about investment you know that if you put essentially all of your investments into one category of investments, it's probably malpractice if you are a financial advisor. This will allow us to more rationally and better invest our money. And that money can go...in the case of Lincoln, it goes to public health projects. I think they have already spent some \$11 million in investing in public health projects in this city because of money that was generated by the sale of Lincoln General Hospital which was a

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city-owned hospital for many years. And that endowment money has not been growing at the rate that it can and should. Even in a bad market this would be a good time to be buying assets. So I would urge you to approve AM1314. And thank you very much for allowing the suspension of the germaness rule. Thank you. [LB402]

SPEAKER FLOOD: Thank you, Senator Avery. Members, you've heard the opening on Senator Avery's motion. There are no senators wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives his opportunity. The question before the body is, shall LB402 return to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB402]

CLERK: 45 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB402]

SPEAKER FLOOD: LB402 is returned to Select File for a specific amendment. Mr. Clerk. [LB402]

CLERK: Senator Avery would offer AM1314. (Legislative Journal page 1315.) [LB402]

SPEAKER FLOOD: Senator Avery, you're recognized to open on AM1314. [LB402]

SENATOR AVERY: I'll waive that. [LB402]

SPEAKER FLOOD: Senator Avery waives his opportunity to open. There are no members wishing to speak. Senator Avery is recognized to close. Senator Avery waives his opportunity to close. The question before the body is, shall AM1314 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB402]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB402]

SPEAKER FLOOD: AM1314 is adopted. Mr. Clerk, is there anything else on this bill? [LB402]

CLERK: Nothing further, Mr. President. [LB402]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB402]

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

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB402 is advanced to E&R for engrossing. Mr. Clerk, items for the record. [LB402]

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CLERK: Just one item, Mr. President. Senator Howard offers LR110. That will be laid over. That's all that I have. (Legislative Journal page 1365.) [LR110]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to Select File 2009 senator priority bills. Mr. Clerk, the first bill on the agenda in this area is LB532. [LB532]

CLERK: Mr. President, LB532 on Select File. I have no Enrollment and Review amendments. The first motion I have on the bill is by Senator Friend. Senator Friend would move to indefinitely postpone. Senator Price, as the primary introducer, you'd have the option to lay the bill over at this time or take it up, Senator. [LB532]

SPEAKER FLOOD: Senator Price has indicated he wants to take it up. Senator Friend, you're recognized to open on your motion to indefinitely postpone LB532. [LB532]

SENATOR FRIEND: Thank you, Mr. President. I am going to speak to this issue, but at this moment I would like to withdraw that motion to indefinitely postpone. [LB532]

SPEAKER FLOOD: Without objection, so ordered. Senator Friend's IPP motion is withdrawn. Mr. Clerk. [LB532]

CLERK: Mr. President, Senator Friend, I now have from you, Senator, AM899. [LB532]

SPEAKER FLOOD: Senator Friend, you're recognized to open on AM899. [LB532]

SENATOR FRIEND: Yes. Thank you, Mr. President. I'd like to withdraw that amendment as well. [LB532]

SPEAKER FLOOD: Without objection, so ordered. AM899 is withdrawn. [LB532]

CLERK: Mr. President, Senator Price would move to amend the bill with AM1321. (Legislative Journal page 1338.) [LB532]

SPEAKER FLOOD: Senator Price, you're recognized to open on AM1321. [LB532]

SENATOR PRICE: Thank you, Mr. President, members of the body. First and foremost, I'd like to extend my deep appreciation to the efforts that went on in between General and Select. Senator Friend's office and my office and the staff, we worked long and hard to come to the agreement that we said we would come to. We said we wouldn't bring this back...Senator Avery, Senator Friend and myself had agreed that we wouldn't bring it back until it was worked on. And we are back, therefore you can rest assured it was worked on. And I would also like to say thank you to, again to Bill Stadtwald also for all his efforts there to make this happen. What we're done here is we've clarified the language dealing with the various aspects. We have not added or expanded anything.

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We've added no new efforts. We've just spent the time, as Senator Friend would say, clarifying and defining better. What we've done, we've defined the language dealing with false alarms and concerns that were raised by Senator Wightman, and we've addressed those. We've also eliminated a reference to public indecency because out of the concern that it already existed in the Criminal Code. Now what we've also done is to further a resolution and polishing, and the amendments are modeled after a statute giving ordinance authority to those cities of the first class to address disturbing the peace. And that is Section 16-228 of the statute. Sections 2 through 5 are very similar to the language that was in the committee amendment offered on General File. And the language in AM1321 eliminates any unnecessary and/or obsolete language. Now, in Section 6, we see the most significant changes that were made from the bill debated on General File. The language in the amendment establishes a clear process for determining where counties will have ordinance authority and where a city will have authority. Section 6(1) requires the county to define in the text of the ordinance where it will be enforcing the ordinance. Section 6(2) establishes the process of communication between the counties and cities, a very important aspect there, to determine where the city is exercising jurisdiction and where the county will enforce its ordinance. Now (3), we establish the process for notifying the county in situations where the city extends its jurisdiction through annexation adoption of similar ordinance to the county or when the city begins enforcing its ordinance in the ETJ. Most importantly, this amendment ensures that city authority will always take precedence over the county authority in these situations. And if the city decides to extend and enforce its jurisdiction, the county will, in all cases, secede authority to the city. Now Section 7 authorizes the county attorney to prosecute violations of an ordinance. These are the most significant changes proposed by the amendment before the body. Finally, this amendment maintains the spirit of cooperation that has enabled us to bring this amendment today. Again, you may recall there was agreement on the bill debated on General File among a number of stakeholders. This language does not stray away from those principles. After debate on General File, Chairman Avery and I assured the Speaker we would not bring this bill back to the floor unless we could address the concerns raised by the first round of debate. Again, I would like to thank Senator Friend and his staff for working with me to improve this bill. And I urge my colleagues to support AM1321 and the underlying bill. Thank you, Mr. President. [LB532]

SPEAKER FLOOD: Thank you, Senator Price. Members, you've heard the opening on AM1321. Senator Friend, you are recognized. [LB532]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. When blowhards like myself or somebody like myself with a huge ego or politicians that like to hear themselves talk, get involved and try to solve problems, it usually causes problems for staff members. It didn't really cause any problems for me. Frankly, I don't think it caused a whole lot of problems for Senator Price and Senator Avery. But I know that Christy and Bill and Jeremiah ended up with the headache. Okay? I'm telling it like it is. I

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didn't have to do that much. All I had to do was say, I have questions, I have problems, and then they have to work at it. Now I'm sorry about that, but they really did do some good work on this. Now, all of that understood, AM1321 needs to be adopted, in my view. We need to adopt this amendment, because some of the things that I raised on General File, a major portion of the questions, the major questions that I had raised on General File have been dealt with. I can give you a quick example, and I'm not going to blowviate. I want to give you a quick example of what I'm talking about. In the previous Section 7 of the bill, I made a big deal out of it on General File about how we're using language and it negates the rest of the bill. Well, that's been taken care of. There's been time by the staff put into this that deals with functional problems that I felt the bill had. I don't think there's any staff, even though there are great staff members here, I don't think there's any staff that could deal with the philosophical problems that I have with this bill, and I think Senator Price knows that. So let me sum up. AM1321 needs to be adopted. I will vote to adopt that and then I will run away from this bill so fast that you won't see me anymore, because I will not vote for LB532. I think philosophically I have a problem with counties having ordinance power. That being said, I think it's workable. I think it's functional. Time will tell, but that's what I think. So take that with, you know, for what...as far as you want to take it. I wanted to thank Senator Price and Senator Avery, too, and obviously, of course, their staffs for dealing with me and that loud mouth and huge ego and everything else. So I would ask for the adoption of AM1321, and then you guys do whatever you want to do with it because I'm not voting for the bill. Thank you, Mr. President. [LB532]

SPEAKER FLOOD: Thank you, Senator Friend. There are no other lights on. Senator Price, you are recognized to close on your amendment. [LB532]

SENATOR PRICE: Again, thank you very much, Mr. President, members of the body. Again, thank you to Senator Friend, and again, as he said, to the staff for their effort. And I do urge members to vote green on this amendment. Thank you. [LB532]

SPEAKER FLOOD: Thank you, Senator Price. Members, you've heard the closing to AM1321. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB532]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Price's amendment. [LB532]

SPEAKER FLOOD: AM1321 is adopted. Mr. Clerk. [LB532]

CLERK: I have nothing further on the bill, Mr. President. [LB532]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB532]

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SENATOR NORDQUIST: Mr. President, I move LB532 to E&R for engrossing. [LB532]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB532 is advanced to E&R for engrossing. Mr. Clerk, we now proceed to LB195. [LB532 LB195]

CLERK: Mr. President, LB195. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8096, Legislative Journal page 1207.) [LB195]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB195]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB195. [LB195]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB195]

CLERK: Mr. President, the first amendment I have to the bill was Senator Gloor, AM1221. (Legislative Journal page 1215.) [LB195]

SPEAKER FLOOD: Senator Gloor, you're recognized to open on AM1221. [LB195]

SENATOR GLOOR: Thank you, Mr. President. This is just a cleanup on a word. My thanks to Senator John Nelson for pointing out the fact that language about signing forms used the term "authenticate." And in the discussion that we had trying to come up with a better definition of "authenticate," we have made an amendment. Instead of "authenticate," we are using and substituting the words "complete and sign" which is the formal method of authenticating a host of medical forms. Therefore it is a simple word change from "authenticate" to "complete and sign." I'd be glad to answer any questions. Thank you. [LB195]

SENATOR LATHROP PRESIDING []

SENATOR LATHROP: Thank you, Senator Gloor. There are no members wishing to speak. Senator Gloor, would you like to close? Senator Gloor waives closing. The question before the body is the adoption of AM1221 to LB195. All those in favor vote aye; all those opposed vote nay. Have all those voted that care to? Mr. Clerk, please record. [LB195]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Gloor's amendment. [LB195]

SENATOR LATHROP: The amendment is adopted. [LB195]

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CLERK: Mr. President, the next amendment I have, Senator Cook had AM930 but I have a note that she'd like to withdraw AM930 and offer as a substitute AM1333. [LB195]

SENATOR LATHROP: Is there any objection? So ordered. [LB195]

CLERK: Senator Cook, AM1333. (Legislative Journal pages 1366-1368.) [LB195]

SENATOR COOK: Thank you, Mr. Clerk. Thank you, Mr. President. I would like to stand before the body as the introducer of AM1333 and move it to be part of LB195. I originally introduced part of this policy in LB341, and I was asked to do so on behalf of the Department of Health and Human Services. That bill proposal was unanimously advanced to General File by the committee, and Senator Gay was gracious enough to allow me to offer this, part of this, as an amendment which is much of the substance of the original bill, here at Select. There are some additional components to LB341 that have come into some conversation over the last few months. My hope is that and my plan is that, along with other members of the committee and members representing pharmacists, nurse practitioners, and other healthcare practitioners, we will be able to work on that part of the proposal over the interim. But I've limited this amendment to the noncontentious substance of the original bill. That being said, I look forward to continuing to work toward public health causes in the future. Importantly, now as AM1333, this policy proposal will enhance tuberculosis detection and prevention in our state, while having no fiscal impact. The reemergence of TB in traditional and new multidrug-resistant forms requires public health agencies at all levels to develop and apply new tools to address the threat. This amendment directly addresses that threat. You may have recently read about a University of Kearney student who has been diagnosed with TB. This bill addresses a real, not perceived, public health concern. Specifically directed health measures are what this amendment talk about. AM1333 provides a change to the Tuberculosis Detection and Prevention Act. The amendment would allow a local health officer to order directed health measures, which involves a local health officer taking the time and effort to observe dangerously noncompliant patients take their TB meds. These directed health measures add a more humane and cost-effective means to ensure compliance with critical TB treatment. Ensuring that a patient is taking their medications is crucial to prevent the spread of TB and also the mutation of existing strains because of the failure to take the entire 6- to 9-month regimen. Colleagues, I appreciate your thoughtful consideration of this amendment and respectfully request that you attach it and advance it with a green light to LB195. Thank you very much. [LB195 LB341]

SENATOR LATHROP: Thank you, Senator Cook. Those wishing to speak, Senator Rogert, and you are recognized. [LB195]

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SENATOR ROBERT: Thank you, Mr. President. Members of the body, I just wanted to stand in support of AM1333 from Senator Cook. There have been some discussions on this bill regarding the dispensing of TB drugs, within the department, for nurse practitioners. And there were some concerns by members of the medical profession that the rules need to apply similarly for this practice for different scopes of the medical profession. And I appreciate Senator Cook's willingness to work with us, through the department, through the Board of Pharmacy, and through the nurse practitioners over the summer, to make sure that we're doing it in a manner that makes everybody happy so that we can move forward in a smooth and professional manner on scope of practice issues within the body. So with that, I support this amendment. Thank you. [LB195]

SENATOR LATHROP: Thank you, Senator Rogert. Senator Sullivan, you are recognized. [LB195]

SENATOR SULLIVAN: Thank you, Mr. President. Would Senator Cook yield for a question? [LB195]

SENATOR LATHROP: Senator Cook, will you yield to a question from Senator Sullivan? [LB195]

SENATOR COOK: Yes, Mr. President. [LB195]

SENATOR SULLIVAN: Thank you, Senator. Just wanted to make sure that I'm on the right page with you because I've had pharmacists from my district weigh in and they're concerned about this. Now so I just want to make sure, if they are comfortable with this amendment and that you'll be, in fact, working with the Board of Pharmacy over the summer. Is that correct? [LB195]

SENATOR COOK: My plan is to work with all interested parties. Absolutely, the pharmacists weighed in at the hearing. I would like to clarify that the part that they objected to has been removed from this amendment. That issue, scope of practice, we're going to take some time, as Senator Rogert said, to work on that over the summer and talk about who is able to dispense the tuberculosis prevention and treatment drugs. And so that should address what the pharmacists, as I recall, brought up at the hearing and have brought up to us between now...between the introduction of the bill and now. [LB195]

SENATOR SULLIVAN: Thank you. I appreciate that. [LB195]

SENATOR LATHROP: Thank you, Senator Sullivan. There's no one in the queue. Would you like to close? Senator Cook waives close. The question for the body is the adoption of AM1333 to LB195. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB195]

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CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Cook's amendment. [LB195]

SENATOR LATHROP: AM1333 is adopted. [LB195]

CLERK: Mr. President, other amendments. I do have an announcement, if I may. Transportation Committee has an Executive Session at 10:50 in Room 2022; Transportation at 10:50 in Room 2022. []

Mr. President, Senator Rogert would move to amend LB195 with AM1263. [LB195]

SENATOR LATHROP: Senator Rogert, you are recognized to open on AM1263. [LB195]

SENATOR ROBERT: Thank you, Mr. President, members. For further clarity, I filed this amendment in basic reaction to the first one that Senator Cook had that she pulled and replaced with the last one we just addressed. And just for clarity, what we're going to do is over the summer we're going to work out the issues that they had between the professions. And we'll get it taken care of and come back next year and address the TB portion of this original bill. So with that, I withdraw this amendment, please. [LB195]

SENATOR LATHROP: Any objections? Seeing none, it's so ordered. [LB195]

CLERK: Mr. President, Senator Dubas would move to amend, AM1346. (Legislative Journal page 1369.) [LB195]

SENATOR LATHROP: Senator Dubas, you are recognized to open on AM1346. [LB195]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Over the course of the last several days when we discussed the behavioral health...children's behavioral health package and when we discussed the Beatrice issue, I raised the issue about provisionally licensed mental health providers and the fact that Magellan has enacted some rules or regs that will no longer allow provisionally licensed mental health providers reimbursement, Medicaid reimbursement for services, and the extreme hardship that that is placing on especially rural providers and an access issue. I'd like to go on to explain what a provisionally licensed mental health provider is. The Department of Health and Human Services made a decision that refers to lack of training and the provider's status as a student. But to become a provisionally licensed, either as a psychologist or a mental health practitioner, all degrees must have been conferred by an accredited institution, and in some disciplines appropriate board examinations must have been passed. The provisional years for a Ph.D. level psychologist is equivalent to

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the residency for a physician who is also not licensed to practice independently. To reimburse for the services of a new physician but not for the services of a new behavioral health professional infringes on the intent of parity legislation. The provisional designation exists solely because these professionals have chosen to oversee new professionals for a transition period of a year or two postgraduation. So what this basically says is someone goes through training, goes through school, gets their degree, and then is going to go to work and be supervised for a period of two years to further ensure quality. So these aren't novice people. These aren't people who have not been adequately trained. They've gone to school. They've received all of their education and now they're just going into the work force and they are going to work under some supervision of another licensed practitioner. I have some concerns about Magellan's actions to limit provisional licensure for psychiatrists, PLMHPs, and psychologists as a possible violation of Section 38-167 and the duties that we charge boards and advisory committees authorized as prescribed under the Uniform Credentialing Act. I'm concerned about their authority to take this action. These boards are delegated to set up the rules and the regulations and the standards of practices for these various licensures. And now we have Magellan coming in and saying, well, you know, we're not going to recognize these particular licenses and reimburse them for services that they provide. This limitation set forth by Magellan is, in my mind, overriding the scope of practice authority set out statutorily. Again, I raise these concerns. We've talked many, many times about access to services, especially in rural areas. And, you know, traditionally you have a licensed provider. They have a large clientele base. And, you know, to be quite honest the Medicaid reimbursement rates are not up to what they could get by charging their regular rates and what they get back from insurances. So they're going to have these provisionally licensed mental health providers in their offices who will provide quality care, but this particular practice will then send Medicaid clients to these provisionally licensed mental health providers because, for their practice, they just aren't going to get reimbursed as much through Medicaid. So it's not that we're delivering less care or less quality care, it's just the importance of access and the importance of having these providers in rural areas of the state. I received multiple e-mails. I quoted a letter that the Nebraska Psychological Association sent to the Governor expressing their concerns regarding the department and Magellan's decision to deny payment for assessment and treatment of individuals. Access is limited in Nebraska, especially in rural areas. Reimbursement rates for Medicaid patients are quite low. So we have providers who have just basically made the decision, okay, I'm not going to see Medicaid patients. Professionals with more years of education and experience understandably will limit the number of Medicaid patients they're willing to serve. Medicaid reimbursement rates simply will not cover the cost of hiring a fully licensed professional to provide services, and I emphasize fully licensed. Medicaid recipients have for years been able to benefit from the services of well-trained and well-supervised healthcare professionals with fewer years of education. An effective system for credentialing an oversight of this group is something that Nebraska has. So again, we aren't putting out people who lack understanding of the area that they're

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working in. They have been well-prepared and are being supervised by people with experience. The Magellan policy effectively makes this group of professionals unavailable to Medicaid patients. I continue to receive e-mails from providers all across the state. One e-mail, in particular, that I received raised a question, okay, we placed into law requirements to become a licensed mental health practitioner in the state of Nebraska. This includes an additional year or two years of supervision after a provisional license is granted to the providers that have met all the training and supervision requirements of an accredited graduate degree program. These PLMHPs can now practice in the state of Nebraska with ongoing supervision. Anybody needing mental health services can pay privately for services from a PLMHP. The state has set up the requirements for the safety of the citizens and the provision of professional care. So these are qualified professionals. Now Magellan and HHS are saying that these PLMHPs cannot serve Medicaid clients because they lack adequate training and supervision. This particular provider is questioning whether Magellan and the department can circumvent the law that says which licensed mental health professionals are qualified to fully practice in the state of Nebraska. I think this is a serious question that needs answered. Other e-mails that I've received and contacts as I've talked to providers, as we struggle to keep these trained professionals in our state, they're not going to hang around rural Nebraska if they know that there's no job available for them. They're going to go to the urban areas where they can be hired by an agency who can afford, you know, the lower reimbursement rates. Or they're going to go out of state. You know, part of LB603 is a program to incent psychiatrists out into the rural areas of Nebraska. If we don't provide these opportunities for these professionals to stay in Nebraska, especially rural Nebraska, they're going to go elsewhere. They want a job. They want to know that when they're ready to go out on their own that they're going to be able to make a living and pay back probably many school loans. These people are going to go to other states. These types of rules and regulations are essentially sending our best and our brightest out of the state of Nebraska. It's very contrary to everything that we've been talking about in this session so far this year. Many of these professionals want to return to their hometown, want to be in rural areas... [LB195 LB603]

SENATOR LATHROP: One minute. [LB195]

SENATOR DUBAS: ...where they're familiar. I just think it flies in the face of everything that we've been talking about over the course of this session about recruitment and retainment and building our rural communities and providing services and having access. It's just contrary to everything that we're trying to do. I think we need to have this discussion today. I think we need to raise this issue. My amendment basically says that a mental health practitioner holding a provisional license issued according to Section 38-2123, to be able to be reimbursed for seeing Medicaid patients. I think this is critical and we need to move forward with getting these professionals able to see patients. Thank you. [LB195]

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SENATOR LATHROP: Thank you, Senator Dubas. Those wishing to speak: Senators Gay and Gloor. Senator Gay, you are recognized. [LB195]

SENATOR GAY: Thank you, Mr. President. I strongly oppose this amendment for two reasons...well, more than two. But this was never discussed. Our bill...this is a committee bill. It has several other issues in it and not dealing with any funding. This deals with funding, we don't know how much. I just called the Fiscal Office to get them up here to ask how much. I didn't know about the amendment until just about a minute or two ago. Senator Dubas and I have discussed this, and I think she has a very legitimate concern, no question, and we discussed it. And I think this is something that needs to be looked into more quickly, though, I'm not saying...but the way...I don't think we need to do this with this amendment. I think this is something where in the summer, in the interim you look and say, does this make sense. And I do...what she said, I do agree with some of that, no question. But I think we owe it to all of you to make sure that we look into this issue. This could be a great issue for the safe haven group to look at or the review committee to look at. Right now what we're doing is adding this amendment onto a committee bill with six or seven different bills on here. This would be about equivalent to, if this gets put on here, that I would kill my own bill. So there's a certain point here I don't think we need to be starting this kind of thing. And no offense, she's very passionate on this issue. But this is Select File. We had discussed numerous times with Senator Rogert and Senator Cook on the other amendments you had, that's why there wasn't any much discussion on that. This one there will be a lot of discussion, best we can, because we didn't hear this in our committee. We didn't hear it at all until just now. But I think there's serious fiscal ramifications on the budget on this issue. I don't know that yet because I don't have that information in front of me. So I would hope that this amendment would not be passed, that we vote this down and continue on with LB195 as it is. I think it's a very good bill for all of you. It's what we'd call a cleanup bill with no funding attached to it. I think this would have a fiscal note. But just a little more time. So I do commend Senator Dubas. Her passion is to be commended. I just don't think this is the vehicle to be doing this. So I would encourage you to vote against this amendment and in support of LB195. Thank you, Mr. President. [LB195]

SENATOR LATHROP: Thank you, Senator Gay. Senator Gloor, you are recognized. [LB195]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Dubas would yield for a question...to a question. [LB195]

SENATOR LATHROP: Senator Dubas, will you yield to a question? [LB195]

SENATOR DUBAS: Yes, I will. [LB195]

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SENATOR GLOOR: Senator Dubas, as you've begun to look into this, do you have any sense at all why the department or why Magellan might have made this decision, sort of spontaneously, it appears? [LB195]

SENATOR DUBAS: It probably wasn't a real spontaneous decision. They did conduct a managed care accessibility analysis, and that report was put out in July of 2008. And I haven't had a chance to really look through this report in depth. But basically they've broken it into like psychiatrists and nonpsychiatrists serving urban, suburban, and rural areas, and broke it out by zip codes, and then took the total number of employees and then the average distance to a choice of one provider. So based...I think, based on what this report shows, they're saying that there is an adequate number of providers all across the state of Nebraska to deal with Medicaid patients. I don't know that they looked at...they took the PLMHPs into consideration. As I said, I haven't read through this report in depth. But... [LB195]

SENATOR GLOOR: Were there any quality concerns that were expressed in what you've had a chance to read through yet? [LB195]

SENATOR DUBAS: So far, what I see is a list of communities, zip codes, number of employees, and then the average distance to a provider. So it doesn't really go into the quality, the type of provider, the services that they provide. It's just is there someone there and how far do you have to go. I mean, some of these distances are, you know, not bad, but some of them are 25, 50, 75, even higher in the amount of miles that people have to go. But they're deeming that as...as... [LB195]

SENATOR GLOOR: Have they looked at this based upon a geographical category, like are they looking at it on a regional basis or are they looking at...how did they, when they prepared the numbers, was it...did it give us something to hang our hat on in terms of the numbers that you gave with accessibility issues or availability issues, within regions, so that we have something to look at, or was it just an overall statewide number? [LB195]

SENATOR DUBAS: I think it was just an overall statewide. Like I said, it's broke out by communities and zip codes. And there's not a lot of reading in this as far as explaining what it is. It's just basically here's the zip codes, here's the numbers, and here's the miles. So I don't...from what I can see so far, there's not a lot of in-depth look at exactly what those services are or who's providing them. [LB195]

SENATOR GLOOR: Okay. And we don't, as far as you know, have any kind of guesstimates or estimates from Magellan or the department about the kind of dollars that they may be talking about here to include provisionally licensed, or savings that they may be realizing by excluding provisionally licensed? [LB195]

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SENATOR DUBAS: Well, I don't have the specifics. But I mean, we're already providing Medicaid payments for these patients. What this decision is saying is we're just not going to pay PLMHPs to serve these people. So there still...if they can get access to someone other than a PLMHP, they're still going to be served, it's just not by the provisionally licensed mental health provider. So I don't see how it would cost more money or less money. It's just that they would have this other avenue of access to care. [LB195]

SENATOR GLOOR: Thank you, Senator Dubas. I am kind of conflicted as it relates to this, and I commend Senator Dubas for taking the bull by the horns and seeing if we can't find a way to address it. On the other hand, I do have a lot of questions about... [LB195]

SENATOR LATHROP: One minute. [LB195]

SENATOR GLOOR: ...thank you, Mr. President, about how best to address this and whether the best way to address it is to attach it to a committee bill that, as Senator Gay has pointed out, is relatively neat and clean and doesn't have budgetary ramifications. And so I am conflicted, and until I can get comfortable with this I am probably not in support of AM1346. Thank you, Mr. President. [LB195]

SENATOR LATHROP: Thank you, Senator Gloor. (Visitors introduced.) Next in the queue is Senator Flood, and you are recognized. [LB195]

SPEAKER FLOOD: Thank you, Mr. President. I just want to say, Senator Dubas in my opinion is spot-on. Representing a rural district myself, there are the...you know, I go through the checkout at Walgreens in Norfolk and there's a gal working behind the desk. And every time I'm there to get NyQuil or whatever it is for the cold of the week, she's gone to school, she's done her...she's done all the education. She's prepared to do her work as a licensed mental health professional, to get in there and see clients. And because of the barriers placed in front of her with nonreimbursing a provisional LMHP, she can't get a job because these are still businesses. And I'm worried about her and I'm worried about others like her. And Senator Dubas and I have been talking about this, going back to last summer, and so I respect her for bringing this concept in front of the Legislature. I think, in my opinion, that Senator Dubas needs to make decisions as to how this works. This does need a hearing. This needs to have a bill introduced. But this is something we have to finish in this Legislature. When I say that, I mean the One Hundred First. And I think next year, if this comes back, I would support this wholeheartedly, because when you're in a Norfolk or a Kearney or an Albion, it doesn't matter where you're at, those are valuable resources for a community and the need is there. And they've done their job, they've gotten the education. They need a leg up. They need somebody to take them under their wing, teach them how to work inside that professional environment after they've received their education. So I commend Senator

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Dubas for bringing this. I do think this is a more appropriate bill next year. But I am committed to getting this done and working with her next year, because I really feel strongly she's spot-on when it comes to addressing an issue that is very important to rural Nebraska. And, quite frankly, it's important to Omaha and Lincoln, as well, because those provisional licensees need to start somewhere. And I just hope we can get it figured out and I just want to thank her for bringing this to everybody's attention. I'm not going to vote for it today but I do hope that this bill can come back next year and it can get passed. Thank you, Mr. President. [LB195]

SENATOR LATHROP: Thank you, Senator Flood. Next is Senator Gay and you are recognized. [LB195]

SENATOR GAY: Thank you, Mr. President. Hearing the Speaker's words, I totally agree. This is something we've discussed, something that needs to be looked into, no question. I'm very familiar with what's happening here. This is not a big secret. Our own committee clerk is actually working on getting to be a licensed mental health...so I understand what's happening. It's just this needs something, we need to have a discussion on it. I don't know if we're going to take this to a vote or not. If we do...you know, I can't tell you the cost of this. I think it's expensive. The discussion had been and it still is and I will say right here on record this summer it's definitely something you look into and say how do they interact in the whole system? They're a very valuable component of the system, no argument there. How this gets done though is important to the body. I don't think this is the proper way to do that and we'll be at that question. If this is for discussion purposes, that's fine. If it's for a vote, that's fine too, and I'll be adding amendments on here as well to change this. That's not the way, I don't believe, that we get good legislation. This is technical on how you make payments to people and other issues. So again, I would encourage you not to do this. I'd like to ask Senator Stuthman a question, if I could. [LB195]

SENATOR LATHROP: Senator Stuthman, will you yield to a question? [LB195]

SENATOR STUTHMAN: Yes. [LB195]

SENATOR GAY: Thank you, Senator Stuthman. Senator Stuthman, you're a colleague of mine on Health and Human Services and been on the committee for how many...how many years have you been on? [LB195]

SENATOR STUTHMAN: This is my seventh year. [LB195]

SENATOR GAY: Your seventh year. Do you feel that this would be the right thing to do? And you know about PLMHPs and licensed...have you heard anything before right now on this bill, this amendment? [LB195]

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SENATOR STUTHMAN: When this was debated here, I really hadn't heard anything at the present time. But I did visit with some individuals in my local community on the concern of this issue. But I feel that this is an issue that we need to address. But, you know, we need to get it done like Speaker Flood said, within another year. But it is an issue we need to address. [LB195]

SENATOR GAY: Thank you, Senator Stuthman. And I know...and I will ask Senator Howard a question, if she'd yield. [LB195]

SENATOR LATHROP: Senator Howard, will you yield to a question? [LB195]

SENATOR HOWARD: Yes. [LB195]

SENATOR GAY: Senator Howard, you've also been on Health and Human Services for how many years? [LB195]

SENATOR HOWARD: This is my fifth year. [LB195]

SENATOR GAY: Fifth year. You're familiar with this situation. And on this amendment do you think this is the proper way to go about this? [LB195]

SENATOR HOWARD: I would follow Speaker Flood's recommendation that next year this come in as a bill and has the opportunity to have a hearing so that everyone could come and provide us information on this. It sounds like certainly a legitimate matter but something that deserves full consideration. [LB195]

SENATOR GAY: Thank you, Senator Howard. And I know Senator Pankonin and Wallman and everyone else on the committee, we appreciate this topic and it's something we're all committed to. Again, I commend Senator Dubas for her interest and passion in this. I disagree with her on how we're going about this. So please vote this amendment down and let's support LB195. Thank you, Mr. President. [LB195]

SENATOR LATHROP: Thank you, Senator Gay. Senator Campbell, you are recognized. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President. I just wanted to add my voice to the other members of the Health and Human Services Committee. Senator Dubas brought this issue, spoke on the floor of the Legislature about it several days ago, and I know that I began discussions with several of the staff who work with the Health and Human Services Committee on this issue. I concur with my other colleagues. I commend Senator Dubas for her commitment but I would really like to see the Health and Human Services Committee have an opportunity to see a bill and to work with her in finding solutions. Thank you, Mr. President. [LB195]

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SENATOR LATHROP: Thank you, Senator Campbell. Senator Gloor, you are recognized. [LB195]

SENATOR GLOOR: Thank you, Mr. President. I've already thanked Senator Dubas. I will do so again. But I also do want to thank the Speaker for his usual concise and clear way of pointing out issues to us and giving us a way to continue to pursue this. Also I would like to make clear that I have a number of friends who are in behavioral health or at least I used to have a number of friends in behavioral health. They need to understand some of our concerns and process down here, how we like to work through these things to make sure that we have nice, tight, defensible and fundable laws and statutes that we pass, and that's part of our misgiving. But I would also like to point out that this doesn't have to be done statutorily. This, as best I know, is something that could be done administratively by the department because there is a contract with Magellan. And I would hope within the department there is some time spent discussing this issue because it is obvious that one way or another the Legislature is going to be taking some sort of action on this, if not this session, the next time, because we don't see it as very understandable, if defensible. And so this doesn't have to require us to take action if the department would sit down and take a look at it and take the appropriate action as they see fit. Thank you, Mr. President. And I would yield the rest of my time to Senator Dubas. [LB195]

SENATOR LATHROP: Senator Dubas, you are yielded 3 minutes 24 seconds. [LB195]

SENATOR DUBAS: Thank you, members of the body. I didn't bring this forward to be difficult. I brought this forward because as the session went on I became more and more aware of what was going on in my district and across the state. And I began talking to my providers and they began just sending me all kinds of information and the difficulties that they're having. And I just feel so strongly that we have made it very, very clear on the floor of this Legislature how important it is for us to have access to care. The challenges that we are dealing with at Beatrice are not because we don't have employees who care about their patients. It's because we don't have...we can't pay enough and we don't have enough people who are willing to take on those kinds of jobs. We have licensed mental health providers, provisionally licensed, who want to operate in rural Nebraska, who want to return to their home community, who want to be able to serve these clients and now are being told that they can't. This doesn't...this isn't adding dollars. These are Medicaid-eligible patients already. This is just saying, okay, you can't see a provisionally licensed mental health provider for your services; you have to see someone who's licensed. So we are reducing access for this. And it just flies in the face of everything that we've said on the floor this session, and that's why I brought this amendment forward. It's just...it just, again, goes contrary to what we're trying to do. And the more we reduce access, we create bigger and bigger problems on down the road. The more we can get people to help up front and soon, early on, do early-on

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prevention, early-on intervention, we're going to save ourselves dollars. I mean we talked about that in the safe haven debate. We've talked about it in so many other ways. And, you know, we have boards that are set up to place these rules and regs in place so that we have accountability and we have professionals out there who are doing the kind of work that they need to do. And then we have managed care that comes in and... [LB195]

SENATOR LATHROP: One minute. [LB195]

SENATOR DUBAS: ...makes decisions, looking solely at zip codes and towns and not really fully understanding the impact that their decisions are going to have on people. That's why I bring this amendment forward, and that's why I think it's important. I've been told, you know, that we can have a meeting with the department and talk about this and possibly get them to make changes administratively. If they're willing to do that, that's great. But we have to keep the pressure on. We have to keep their feet to the fire, because if they don't...we've already seen it in so many other ways, they don't. They don't feel like they have to answer to us. They feel like whatever it is that they want to do they can go out and do it. And this is just having such a severe impact. We have people who are working in this very building who are working on a degree... [LB195]

SENATOR LATHROP: Time. [LB195]

SENATOR DUBAS: Thank you very much. [LB195]

SENATOR LATHROP: Senator Nantkes, you are recognized. [LB195]

SENATOR NANTKES: Thank you, Mr. President. And, Senator Dubas, I just have some brief comments to add in support of your amendment this morning, and I'd be happy to give you some additional time so that you can continue your dialogue. But colleagues, I too rise in echo of the chorus that's praised Senator Dubas for bringing this issue to broader attention this morning. And I think, unfortunately, in regards to the specific issue that she addresses through this amendment, it's indicative of much larger issues that do, in fact, need to be addressed sooner rather than later. I hear frequently from providers all across the spectrum, but particularly in the mental health and behavioral health field and particularly those people here in our community who are working with troubled teens and young people, those very issues that strike at the heart of the safe haven dynamics that we have addressed over the past year or so. And the frustration level that they experience in terms of trying to do their job and trying to provide quality services to these troubled young people in Nebraska is just further exacerbated by the morass of additional rules and regs and hoops and bureaucratic issues that they have to jump through in dealing with Magellan. And it's really become such an arbitrary and difficult process for so many quality healthcare providers that I think it's something that also needs to be talked about in a broader context because what I am concerned about

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is that at a certain point in time these providers are going to throw their hands up and say, it is not worth it to us from a business sense to be able to provide these services to folks in need. And they're going to walk away from the table. And what we already know is that we have a shortage in many regards and in having healthcare professionals all across this great state, but when we continue to try and nickel and dime and plush these providers who are trying to really provide these critical services to folks, that just makes me very nervous that we're going to just further worsen that shortage because we're making it almost impossible from a business sense for these providers to deal with their clients and to make a living and keep their doors open. And so I want to talk in support of Senator Dubas' amendment but also hope that the group who's pledged to look at this, if in fact this amendment does not move forward, looks more broadly at how Magellan conducts business and how it treats our healthcare providers in the state. And with that, I'll yield the remainder of my time to Senator Dubas. Thank you. [LB195]

SENATOR LATHROP: Thank you. Senator Dubas, you're yielded 1 minute 54 seconds. [LB195]

SENATOR DUBAS: Thank you very much, Mr. President and Senator Nantkes. I'm sorry I was involved in some other conversation so I didn't hear anything you said, but we have had some discussion about this off mike. And again, I just can't emphasize enough just how critical and how important this is and what it is doing to mental healthcare in the rural areas of the state. I mean, when I looked through this report, you know, and I'm seeing that some people...the amount of windshield time that our residents have to spend to get to where they need to go for help--50 miles, 40 miles, 60 miles. I mean, that's an additional cost, time away from a job where they need the money. You know, they're making decisions about whether they can afford gas for... [LB195]

SENATOR LATHROP: One minute. [LB195]

SENATOR DUBAS: ...for...gas or groceries. And then we're telling them, well, you have adequate access to healthcare because you can drive 50 miles and get that care. It's just...you know, I just...I have difficulty understanding how these rules seem to come into play by this kind of survey analysis. You know, the e-mails that I get from these providers, the frustration level is higher than...I know what my frustration level is and I'm not working in this field. And so here they're trying to provide quality care to these people, and then rules and regs come down that fly in the face of what their board has established for them to operate. We have state laws that say one thing, and then we have managed care that comes in and tells them something completely different. I've had providers tell me, you know, they're constantly calling the department... [LB195]

SENATOR LATHROP: Time. [LB195]

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SENATOR DUBAS: ...for clarification of rules and regs because they change at such a fast pace that they can't keep up. And one minute they're in compliance and then they can see another... [LB195]

SENATOR LATHROP: Time. [LB195]

SENATOR DUBAS: ...another patient and they're out of compliance. Thank you. [LB195]

SENATOR LATHROP: Thank you, Senator Dubas. Senator Mello, you are recognized. [LB195]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'd like to yield my time to Senator Dubas. [LB195]

SENATOR LATHROP: Senator Dubas, you are yielded 4 minutes 45 seconds. [LB195]

SENATOR DUBAS: Thank you very much, Mr. President. Thank you, Senator Mello. I'd just like to share with you some of the e-mails that I have received from providers. This particular one says, I can't speak for large communities but I can speak for rural Nebraska. It's difficult for Medicaid customers to access services in close proximity to where they live as it is now. Limiting PLMHPs only worsens this problem for Nebraska's Medicaid customers. We must remember there is no public transportation available and many Nebraska Medicaid customers lack adequate vehicles and money for gasoline in their cars. I literally know of several families that have had to choose between gas to get to work and gas to get their children to school. If they now have limited access to mental health services, too, this will only further marginalize and defeat our Nebraska Medicaid customers. They are being asked to choose now between getting mental healthcare or not because they have to travel too far to access it. Nebraska Medicaid must understand that more seasoned therapists don't have to and won't provide services to large numbers of Medicaid clients. The simple reality is that Nebraska Medicaid, it's very difficult to jump through all their hoops to provide services and actually get paid for it. And more seasoned providers are able to work with a large variety of insurance companies that are much more simplified, and payment for services is consistent, quick, and reliable. Additionally, if Nebraska intentionally pushes new mental health providers to the agencies, then Nebraska is making a conscious choice to push young professionals towards the cities and large communities to start their careers because that's where the agencies are located. The likelihood of them returning to rural areas once they have established careers in the city is very small. Again, Nebraska is making a conscious choice to marginalize and defeat rural Nebraska. Another e-mail that I received deals with a very similar situation. This one dealt with the state Legislature placing into law requirements to become licensed as a mental health practitioner in the state of Nebraska. This includes an additional year or two years of supervision after a

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provisional license is granted to providers that meet all the training and supervision requirements of an accredited graduate degree program. These PLMHPs can now practice in the state of Nebraska with ongoing supervision. Anybody needing mental health services can pay privately for services from a PLMHP. The state has set up the requirements for safety of the citizens and the provisions of professional care, and deem these professionals qualified. Now Magellan and HHS are saying that these PLMHPs cannot serve Medicaid clients because they lack adequate training and supervision. It seems to me that Magellan and HHS are circumventing the laws that say which licensed mental health professionals are qualified to fully practice in the state of Nebraska. On the one hand, when PLMHPs practice their profession, the state says there is no danger to the citizenry. On the other hand, Magellan and HHS ignore the system put into place to protect these citizens, and decide to formulate their own rules. Is it the appropriate role of Magellan and HHS to make this kind of decision? Doesn't this kind of policy ignore the legislative intent of the mental health licensure laws... [LB195]

SENATOR LATHROP: One minute. [LB195]

SENATOR DUBAS: ...which laid out very clearly who, with the safety of the citizens in mind, was qualified to practice. Why is it okay for PLMHPs in private or group practice to see private pay clients but not low-income Medicaid clients? It doesn't make sense to me. I would appreciate a response to these concerns. We have a local view editorial that was in the Lincoln Journal-Star just a couple weeks ago from a graduate who was trained at the psych rehab program at the Lincoln Regional Center and his concern about that program being dismantled and why that decision was made to dismantle that program. It just seems like we're continuing to erode access to care and services for this... [LB195]

SENATOR LATHROP: Time. [LB195]

SENATOR DUBAS: ...for the citizens of the state of Nebraska. Thank you. [LB195]

SENATOR LATHROP: Senator Dubas, you're next and you are recognized. [LB195]

SENATOR DUBAS: Thank you, Senator Lathrop, and thank you, members of the body. I really do appreciate your attention to this matter this morning. Appreciate the Speaker's comments. Senator Gay, I know you made some comments on the mike, and unfortunately I was involved in some other conversation so I would like to carry on some conversation with you in just a moment. But I just want to reemphasize some points that the psychologists' letter made to the Governor and the concerns that they raised about the attention that Nebraska received during the safe haven crisis of '08 and '09 highlighted the lack of quality behavioral healthcare services for families in need. Senator Gay, you and I, as well as the committee that worked on the package, talked

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about many of these issues and the concerns that we have. The statute that I pulled this morning dealing with the boards and their purposes and how they are supervised I think is something that we haven't really touched base on. But, Senator Gay, if you would yield to some questions please. [LB195]

SENATOR LATHROP: Senator Gay, would you yield to some questions from Senator Dubas? [LB195]

SENATOR GAY: Yes, I would. [LB195]

SENATOR DUBAS: Thank you, Senator Gay. And as I said, I was engaged in some conversations. And I know you made some comments previously. And if you would please indulge me and reiterate the comments that you made. [LB195]

SENATOR GAY: Well, Senator Dubas, what I was saying is I think everyone recognizes this problem, and you and I have had discussions on it. And I think this would be a great opportunity, this issue absolutely, to be one of those issues that the Review and Implementation Committee looks at because there is a need. And what I had said, my own clerk is in this process of trying to become licensed and doing a great job in it. So we recognize that issue. I think this is something that we look into and we say, how do the pieces all fit together in behavioral health. They are a crucial piece. How we do that is...needs to be done this summer, not here, and I discussed that with you. But I do believe, you know, if we continue to sit down and have discussions of how we implement and the practical...how we implement them in the process would be a great thing and do that this summer. We then draft a bill or whatever we need to do and bring it back in January and work on it that way. And I know your concern is to do it immediately, but this is not the vehicle to do it, that was what my comments were. [LB195]

SENATOR DUBAS: Thank you, Senator Gay. We would have the ability to call a meeting even before this session was over with, to at least discuss with the department their ability to maybe make these changes administratively. And that could be done in a rather quick order rather than us having to introduce legislation. Is that something that you would be willing to do? [LB195]

SENATOR GAY: Senator Dubas, I think what would be best is, you know, I have a lot of meetings with the department and with anybody at any time, let me just put it that way. I don't know what day we're on today, 74. But, you know, best I can, absolutely. Let's sit down, discuss it. I'd like to involve actually more people than just you and I. I think this is a bigger issue where other members of the Health Committee even need to become involved. Senator Gloor discussed his interest, and I know Senator Stuthman and others. So what I'd rather do is have a bigger meeting on it when we can get that done, I would hope. But, yeah, I mean I'm always willing to have a meeting. I've got a lot of bills

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going. There's a lot of things happening but...so we're all busy. But I think it deserves more than one meeting, quite honestly. [LB195]

SENATOR DUBAS: But if you...if we were able to meet with the department. This is something that they could change administratively. They did it...they made the change administratively without going through the Legislature. So this is something that they... [LB195]

SENATOR LATHROP: One minute. [LB195]

SENATOR DUBAS: ...if they wanted to, they could revert back to the way it really was. I have a commitment to people who have really come to me with this issue, and I promised them that I would see it through and so I have some credibility on the line here. And I would like to have...I want a meeting, before this session is over with, just to get the department's feedback on, you know, would they be able to put this rule back...rescind this rule. And I think they have the ability to do it. I think we've raised enough credible evidence to have them reconsider it. And that's what I would like to have you do with me, Senator Gay. [LB195]

SENATOR GAY: Oh, I'd be more than happy to try to arrange any meeting like that any time. That's on any issue, by the way. But on this, absolutely we could have a meeting and discuss it and see what the policy issue was, how we got to it, where do we go from there, the fiscal ramifications, the implementation of it, all those issues... [LB195]

SENATOR LATHROP: Time. [LB195]

SENATOR GAY: ...because...thank you, Mr. President. [LB195]

SENATOR LATHROP: Thank you, Senators Gay and Dubas. Senator McGill, you are recognized. [LB195]

SENATOR MCGILL: I will yield my time to Senator Dubas, if she would like it. [LB195]

SENATOR LATHROP: Senator Dubas, you have been yielded 4 minutes 54 seconds. [LB195]

SENATOR DUBAS: Thank you, Mr. Speaker. Thank you, Senator McGill, for the time. I appreciate Senator Gay's comments. I enjoy working with Senator Gay. I know he has a strong commitment and a desire to make the types of changes that we need so desperately to serve families across the state of Nebraska. It's very frustrating. I think I've made this comment before about it seems like we are in a constant adversarial relationship with various departments and agencies throughout the state. And that's not how it should be. You know, we all have our turf and our issues to protect and to serve.

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And at the end of day, hopefully, we all want the same things. And, you know, I do have a commitment to these people that have come to me with this very real concern, and I've promised them and I've made that promise on the record that I would see this through and try to get any changes that we can get made and get those changes made soon. I often tell people, you know, if you can solve this problem without legislation, you're far better off. You know, you don't want the Legislature to get involved. See what you can get worked out and come to an agreement without legislation. The department has the ability to make this decision without us having to pursue legislation. I think it's important that we keep the pressure on, whether it's Beatrice, whether it's safe haven issues, whether it's this PLMHP issue. They have the ability to deal with these things. I appreciate Senator Gay's willingness to set up a meeting. And I want this meeting before we end the session. I want us to make very, very clear to the department just how serious the ramifications of this decision is and their ability to rescind. What I've been able to gather so far as far as the financial impact, should be minimal at best. I have been talking with Fiscal. These are people who are already Medicaid eligible. The financial resources are there. It's just basically saying we are no longer going to allow this particular type of provider the ability to serve you. We're not going to reimburse them. So essentially it's eliminating access. It's forcing providers to serve clients that they don't have the time or ability to serve. It is going to decrease access incredibly. So it is very, very important to me that we have this meeting and we have it as soon as possible. And I appreciate, Senator Gay, your willingness to do this. I will pursue this with you and work to set up this meeting with you and the Speaker and myself before this session is over with. So with that, I would like to withdraw this amendment, Mr. President. [LB195]

SENATOR LATHROP: Are there any objections? Seeing none, it's so ordered. [LB195]

CLERK: I have nothing further on the bill, Mr. President. [LB195]

SENATOR LATHROP: Senator Nordquist for a motion, please. [LB195]

SENATOR NORDQUIST: Mr. President, I move LB195 to E&R for engrossing. [LB195]

SENATOR LATHROP: Members, you've heard the question. All those in favor signify by saying aye. Any opposed? Seeing none, the bill advances. [LB195]

CLERK: Mr. President, LB671, the next bill. Senator Nordquist, I have E&R amendments, first of all. (ER8097, Legislative Journal page 1213.) [LB671]

SENATOR LATHROP: Senator Nordquist for a motion. [LB671]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB671. [LB671]

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SENATOR LATHROP: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill advances...the E&R amendments are adopted. [LB671]

CLERK: Mr. President, Senator Pirsch would move to amend with AM1336. (Legislative Journal page 1346.) [LB671]

SENATOR LATHROP: Senator Pirsch, you are recognized to open on AM1336. [LB671]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. This amendment is small in scope, not much of a substantive change. It just cleans up and makes more precise the language and intent that has been related on the floor previous. Essentially, it just combines Section 3(1) and Section 3(2) together to make it an easier read, smoother, so to speak; clarifies, uses the term "guidelines" in this version, in the amendment, in terms of what this council will recommend to be clear, to be more consistent as well, with language in subsection (2) where the bill says persons investigating infant deaths may also refer to recommendations of the Attorney General. And so the term...use of the term "guidelines" more closely parallels the recommendations in that existing language. And so that is the sum and substance of the amendment. I'd urge you to support it. Thank you. [LB671]

SENATOR LATHROP: Thank you, Senator Pirsch. Are there any senators wishing to speak on AM1336? Senator Pirsch, no one is in the queue. Would you like to close? [LB671]

SENATOR PIRSCH: I'll waive closing. [LB671]

SENATOR LATHROP: Senator Pirsch waives close. Members, the question before the body is the adoption of AM1336 to LB671. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Mr. Clerk, please record. [LB671]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment. [LB671]

SENATOR LATHROP: AM1336 is adopted. [LB671]

CLERK: I have nothing further on the bill, Mr. President. [LB671]

SENATOR LATHROP: Senator Nordquist for a motion. [LB671]

SENATOR NORDQUIST: Mr. President, I move LB671 to E&R for engrossing. [LB671]

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SENATOR LATHROP: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. [LB671]

CLERK: Mr. President, LB476. Senator Nordquist, I have E&R amendments. (ER8098, Legislative Journal page 1213.) [LB476]

SENATOR LATHROP: Senator Nordquist for a motion. [LB476]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB476. [LB476]

SENATOR LATHROP: Members, you've heard the motion. All those in favor say aye. All those opposed, nay. The amendments are adopted. [LB476]

CLERK: I have nothing further on the bill, Mr. President. [LB476]

SENATOR LATHROP: Senator Nordquist for a motion. [LB476]

SENATOR NORDQUIST: Mr. President, I move LB476 to E&R for engrossing. [LB476]

SENATOR LATHROP: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. [LB476]

CLERK: Mr. President, LB476A. Senator Nordquist, I have no amendments to the bill. [LB476A]

SENATOR LATHROP: Senator Nordquist for a motion. [LB476A]

SENATOR NORDQUIST: Mr. President, I move LB476A to E&R for engrossing. [LB476A]

SENATOR LATHROP: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. [LB476A]

CLERK: Mr. President, LB342. Senator Nordquist, I have Enrollment and Review amendments. (ER8104, Legislative Journal page 1274.) [LB342]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB342. [LB342]

SENATOR LATHROP: Try that motion again, Senator Nordquist. [LB342]

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SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB342. [LB342]

SENATOR LATHROP: Members, you've heard the motion. All those in favor signify by saying aye. All those opposed, nay. The amendments are adopted. We have senators in the queue. On the advancement of the bill, Senator Stuthman, you are recognized. [LB342]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I think there's been just a little bit of confusion here and I had punched my light when LB476A was brought to us at that time. Maybe it's not appropriate to mention anything now but we wanted to get something on the record at that time. So I would like to ask for permission, or what is the appropriate thing to do? Okay. Okay. I'll wait till Final Reading. That would be fine. Thank you. [LB342 LB476A]

SENATOR LATHROP: There are no further senators wishing to speak. Senator Nordquist for a motion. [LB342]

SENATOR NORDQUIST: Mr. President, I move LB342 to E&R for engrossing. [LB342]

SENATOR LATHROP: Members, you've heard the motion. All those in favor signify by saying aye. And those opposed by nay. The bill advances. [LB342]

CLERK: Mr. President, the next bill I have is LB232. At this time, Senator Nordquist, I have no amendments to the bill. [LB232]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: A note to members, under the agenda we are moving to bills that do not have amendments on Select File prior to our recess at noon today. For that reason, the Clerk has identified LB232. Senator Nordquist, you are recognized for a motion. [LB232]

SENATOR NORDQUIST: Mr. President, I move LB232 to E&R for engrossing. [LB232]

SPEAKER FLOOD: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB232 advances to E&R for engrossing. Mr. Clerk. [LB232]

CLERK: Mr. President, LB112. Senator Nordquist, E&R amendments. (ER8117, Legislative Journal page 1325.) [LB112]

SPEAKER FLOOD: Senator Nordquist, you are recognized for a motion. [LB112]

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SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB112. [LB112]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB112]

CLERK: I have nothing further on the bill, Senator. [LB112]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB112]

SENATOR NORDQUIST: Mr. President, I move LB112 to E&R for engrossing. [LB112]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB112 advances to E&R for engrossing. Mr. Clerk, items for the record. [LB112]

CLERK: Mr. President, bills read on Final Reading this morning were presented to the Governor at 10:30 a.m. (re LB158, LB54, LB98, LB98A, LB322, LB56, LB162, LB436, LB549, LB551, LB92, LB286, LB495, LB497, LB497A, and LB653). I have amendments to be printed: Senator Ashford to LB63; Senator Ashford to LB35 and LB35A; Senator Council to LB440. (Legislative Journal pages 1370-1375.) [LB158 LB54 LB98 LB98A LB322 LB56 LB162 LB436 LB549 LB551 LB92 LB286 LB495 LB497 LB497A LB653 LB63 LB35 LB35A LB440]

I have a priority motion. Senator Mello would move to recess the body until 1:30 p.m. []

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are in recess until 1:30 p.m. this afternoon. (Gavel) []

RECESS []

PRESIDENT SHEEHY PRESIDING []

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

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

PRESIDENT SHEEHY: Any messages, reports, or announcements? []

CLERK: Mr. President, I have a series of appointments from the Governor, one to the Emergency...excuse me, the Climate Assessment Response Committee, the Motor

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Vehicle Licensing Board, and the Ethanol Board. That's all that I have at this time, Mr. President. (Legislative Journal pages 1376-1378.) []

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the items under 1:30 p.m. Select File budget bills. First bill, LB311. [LB311]

CLERK: Mr. President, LB311. Senator Nordquist, I have Enrollment and Review amendments. (ER8113, Legislative Journal page 1329.) [LB311]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB311]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB311. [LB311]

PRESIDENT SHEEHY: You have heard the motion for the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB311]

CLERK: Senator Heidemann would move to amend, AM1294. (Legislative Journal page 1341.) [LB311]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM1294 to LB311. [LB311]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. AM1294 is some corrective language that we are going to put in LB311. There are three things that we are going to address, and if you look on your desk you will notice that the page has handed out a list of things that we are going to address in some amendments, in three amendments that we are going to propose to the budget bills today. We are talking about LB311 today. If you look at your list, there are three things on there. Just briefly, the first one strikes "Cash" and inserts "General," but, no, it has no General Fund impact. The amount was already accounted for in the status. In the second one, the adjustment is made to the Federal Medicaid Assistance Program, or FMAP, from the American Recovery and Reinvestment Act, or ARRA. It was inadvertently left out of the deficit bill. The third one is part of the adjustment that was not included in the General Funds, that part of the ARRA funding that affects FFP, which results in the reduction of the General Fund appropriation by \$1,180,453. Just some corrective things that we want to and need to do to LB311. I urge your support on AM1294 to LB311. [LB311]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the opening of the amendment to committee amendment, AM1294. Are there members requesting to speak? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM1294 to LB311. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB311]

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CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB311]

PRESIDENT SHEEHY: AM1294 is adopted. [LB311]

CLERK: I have nothing further on the bill. [LB311]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB311]

SENATOR NORDQUIST: Mr. President, I move LB311 to E&R for engrossing. [LB311]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB311 advances. We will now proceed to LB312. [LB311 LB312]

CLERK: LB312, Senator, I have no amendments to the bill. [LB312]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB312]

SENATOR NORDQUIST: Mr. President, I move LB312 to E&R for engrossing. [LB312]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB312 advances. We will now proceed to LB313. [LB312 LB313]

CLERK: LB313, Senator, I have no amendments to the bill. [LB313]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB313]

SENATOR NORDQUIST: Mr. President, I move LB313 to E&R for engrossing. [LB313]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB313 advances. We will now proceed to LB314. [LB313 LB314]

CLERK: LB314, Senator, there are Enrollment and Review amendments. (ER8112, Legislative Journal page 1330.) [LB314]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB314]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB314. [LB314]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB314]

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CLERK: I have nothing further on that bill, Senator. [LB314]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized. [LB314]

SENATOR NORDQUIST: Mr. President, I move LB314 to E&R for engrossing. [LB314]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB314 advances. We'll now proceed to LB316. [LB314 LB316]

CLERK: LB316, Senator. Enrollment and Review amendments, first of all. (ER8115, Legislative Journal page 1331.) [LB316]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB316]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB316. [LB316]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB316]

CLERK: Senator Heidemann would move to amend, AM1289. (Legislative Journal page 1343.) [LB316]

PRESIDENT SHEEHY: Senator Heidemann, you're recognized to open on AM1289 to LB316. [LB316]

SENATOR HEIDEMANN: Thank you, Mr. President. Fellow members of the body, AM1289 is, once again, some corrective measures that we had to take between General and Select File, things that we'd picked up maybe too late to address on General File and things that happened between General and Select that we had to address. I will say that this was a very tight time frame, that we put this budget together way at last. There were some things that came up late and some things that we couldn't address at the time, and that's why you are going to see the three amendments that we are going to put to the budget bill. There were some that was picked up by some corrective actions picked up by the Governor's Office budget and also by the Fiscal staff. I appreciate the work on both sides there. And there are four things on the transfer bill, which is what LB316 deals with. The first issue, it adds language to LB193, which removes the restriction on the use of cigarette tax money. It was something that was omitted from the LB316 to begin with that we put in. The other issue is with the Medical Center, has been notified by the National Institute of Health that they have been awarded \$8 million of ARRA funding for the Eppley Institute of Research in Cancer facility. This amendment would allow UNMC to use LB605 funds, together with the

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National Institute of Health funds and private funds to...gives them the option to replace the facility. Under the current LB605 money, you can only use these funds for renovation. I do want to point out that this is just a one-time change in LB605 that it could only be used for this project. The other issue, as introduced by the Governor, was the recommendation of \$8.5 million from the General Fund to the Ethanol Production Incentive Cash Fund in both fiscal year '09-10 and '10-11. The Appropriations Committee approved the transfers and then included them in the committee amendment to LB316. Based upon the recent closing of an ethanol plant eligible to receive the credits and the fact that one of the plants scheduled to receive the credits has not yet been constructed, the Appropriations Committee recommends lowering the fiscal year '10-11 General Fund transfer to \$3 million. Assuming that the closed plant and the unbuilt plant do not become operational again prior to the ending date of the Ethanol Production Credit Program, the lower second year transfer should be adequate to cash flow the EPIC Fund. Something important to note, with the lower transfer, the General Fund status bottom line improves by \$5.2 million. I urge your adoption of AM1289 to LB316. [LB316 LB193 LB605]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. You have heard the opening of the amendment to committee amendment, AM1289. Are there members requesting to speak? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM1289 to LB316. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB316]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB316]

PRESIDENT SHEEHY: AM1289 is adopted. [LB316]

CLERK: I have nothing further on the bill, Mr. President. [LB316]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB316]

SENATOR NORDQUIST: Mr. President, I move LB316 to E&R for engrossing. [LB316]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB316 advances. We will now proceed to LB315. [LB316 LB315]

CLERK: LB315. E&R amendments, first of all, Senator. (ER8122, Legislative Journal page 1330.) [LB315]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB315]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB315.

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[LB315]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB315]

CLERK: Mr. President, Senator Giese would move to amend, AM1267. (Legislative Journal page 1294.) [LB315]

PRESIDENT SHEEHY: Senator Giese, you're recognized to open on AM1267 to LB315. [LB315]

SENATOR GIESE: Thank you, Mr. President and members of the body. Earlier this year, the Siouxland region was ranked as the number one metropolitan area for economic development in its population category for a second consecutive year. One of the myriad of reasons that South Sioux City and surrounding communities have continued to attract quality businesses is access to a wide variety of graduate degree opportunities through an organization known as the Tri-State Graduate Center. The center, which has been in operation since 1994, is a unique program that works with colleges and universities in Nebraska, Iowa, and South Dakota to provide access to more than 120 different graduate programs to the Siouxland residents. The center has been a strong selling point for South Sioux City when recruiting new businesses, and a great recruiting tool for existing local businesses looking to attract top talent. AM1267 would reinstate a previously existing earmark of \$44,970 for the Tri-State Graduate Center in the budget for the State College System. After extensive conversations with Chancellor Carpenter and other State College System officials, I have received assurances that, while the center will be expected to share in the pain as all educational institutions have this biennium, its budget will not be eliminated entirely. As I'm sure many members are aware, this year's budget includes funds for the South Sioux City College Center, a joint educational effort of Wayne State College and Northeast Community College, and I applaud the State College System and the Appropriations Committee for making this project a priority. But while this effort is well underway, the Tri-State Graduate Center remains a vital educational resource to the South Sioux City businesses. For more than 15 years, the center has helped the Siouxland region to thrive by providing convenient access to a wide variety of degree programs while simultaneously serving as the eyes and ears of Nebraska state colleges and universities in the Sioux City metropolitan area. Again, I appreciate Chancellor Carpenter's commitment to providing access to quality graduate education in the South Sioux City area, and I look forward to its opening next year. With that, Mr. President, I will withdraw my amendment at this time. [LB315]

PRESIDENT SHEEHY: AM1290 is withdrawn. [LB315]

CLERK: Mr. President, Senator Heidemann would move to amend, AM1290.

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(Legislative Journal page 1341.) [LB315]

PRESIDENT SHEEHY: Correction, AM1267 is withdrawn. Senator Heidemann, you're recognized to open on AM1290. [LB315]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. This one is a little bit longer. There were ten different items that we are going to amend in LB315 at this time. I do want to make note of I appreciate the work that Senator Giese did and his willingness to work with us and with the...I also want to thank the college system that they was willing to work with Senator Giese. There's been others that have approached me on various different issues on the mainline budget bill and other parts of the budget, whether it be transfers or others, Senator Council being one of them, and the willingness to work and maybe look at it through the summer or just the willingness to work outside of the budget process, and I appreciate that effort and that willingness. AM1290, the first section separates the appropriation of the Legislative Research and Legislative Audit, per LB620, was included. There is no fiscal impact. Item number two is appropriates additional Help America Vote funds received in the federal mainline budget and the required match. It's on lines 3-7, on page 2 of AM1290. It's a cash fund. Number three is to reduce revolving fund appropriation and increase cash fund appropriation. That's on line 11-13, on page 2, AM1290. Section 4, it adjusts the TEEOSA General Fund amount for the actual insurance premium tax. Final amounts for the insurance premium are typically available late in April or early May. The higher actual insurance premium allows for a dollar-to-dollar reduction in the General Fund appropriations for TEEOSA. Number five corrects a federal fund number and program total. Number six corrects for an omission, the Medicaid Program budget containing funding for the private ICF/MRs. When the committee voted to increase DD provider rates to 2.5 percent, only those in Program 424 were adjusted. The ICF/MR rates in Medicaid were funded at the same rate as other providers, which were 1.5 percent per year. To treat all developmental disability providers the same, the ICF/MR rates need to be increased to 2.5 percent each year. To adjust the ICF/MR rates to 2.5 each year, an additional \$264,286, of which \$88,509 is General Funds, and in fiscal year '10, a total of \$197,884 General Funds additional will be needed. Number seven corrects an earmark for the Health Care Cash Fund. Number eight corrects an aid earmark amount. In Section 9, an agent request for a PSL increase on the Commission of Industrial Relations; it has no appropriation impact. And the last is Section 10, corrects a cash flow for retirement, schools, 1 percent of pay, for LB187, additional General Fund costs of \$5,219,000. This was something that came to us relatively late. We was under the assumption that these payments were going to be in the next fiscal year. It appears that we have to pay this earlier. There will be no additional amount of money spent over the five years but it just...the first payment is a year earlier than anticipated, thus the extra \$5.2 million needed in the earlier year. With that, I urge your adoption on AM1290 to LB315. [LB315 LB620 LB187]

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PRESIDENT SHEEHY: Thank you, Senator Heidemann. You've heard the opening of AM1290 to LB315. Are there members requesting to speak? Seeing none, Senator Heidemann, you're recognized to close. Senator Heidemann waives closing. The question before the body is on the adoption of AM1290 to LB315. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB315]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB315]

PRESIDENT SHEEHY: AM1290 is adopted. [LB315]

CLERK: I have nothing further on this bill, Mr. President. [LB315]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB315]

SENATOR NORDQUIST: Mr. President, I move LB315 to E&R for engrossing. [LB315]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB315 advances. (Visitors introduced.) Continuing with the Select items, we'll now proceed to LB318. [LB315 LB318]

CLERK: LB318, Senator, I have Enrollment and Review amendments. (ER8116, Legislative Journal page 1331.) [LB318]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB318]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB318. [LB318]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB318]

CLERK: I have nothing further on LB318, Senator. [LB318]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB318]

SENATOR NORDQUIST: Mr. President, I move LB318 to E&R for engrossing. [LB318]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB318 advances. We will now proceed to LB456. [LB318 LB456]

CLERK: LB456, Senator, I have Enrollment and Review amendments. (ER8121, Legislative Journal page 1331.) [LB456]

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PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB456]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB456. [LB456]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB456]

CLERK: I have nothing further on LB456, Senator. [LB456]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB456]

SENATOR NORDQUIST: Mr. President, I move LB456 to E&R for engrossing. [LB456]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB456 advances. We'll now proceed to LB414. [LB456 LB414]

CLERK: LB414, Senator, I have Enrollment and Review amendments. (ER8114, Legislative Journal page 1331.) [LB414]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB414]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB414. [LB414]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB414]

CLERK: I have nothing further on LB414. [LB414]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB414]

SENATOR NORDQUIST: Mr. President, I move LB414 to E&R for engrossing. [LB414]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB414 advances. We will now proceed to LB414A. [LB414 LB414A]

CLERK: LB414A, Senator, at this time I have no amendments to the bill. [LB414A]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB414A]

SENATOR NORDQUIST: Mr. President, I move LB414A to E&R for engrossing.

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[LB414A]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB414A advances. We will now proceed to LB629. [LB414A LB629]

CLERK: LB629, Senator, I have no amendments to the bill. [LB629]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB629]

SENATOR NORDQUIST: Mr. President, I move LB629 to E&R for engrossing. [LB629]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB629 advances. We will now proceed to LB628. [LB629 LB628]

CLERK: LB628, Senator, Enrollment and Review amendments. (ER8120, Legislative Journal page 1336.) [LB628]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB628]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB628. [LB628]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB628]

CLERK: I have nothing further on LB628. [LB628]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB628]

SENATOR NORDQUIST: Mr. President, I move LB628 to E&R for engrossing. [LB628]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB628 advances. We will now proceed to General File, 2009 Speaker priority bills. First bill is LB503. [LB628 LB503]

CLERK: LB503, Mr. President, a bill by Senator Langemeier. (Read title.) Introduced on January 21, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. There are committee amendments. (AM1080, Legislative Journal page 1279.) [LB503]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB503. [LB503]

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SENATOR LANGEMEIER: Mr. President, members of the body, LB503 or the committee amendment to follow, which is AM1080, is now the bill. LB503, after the adoption of the committee amendments, will become the Nebraska Shooting Range Protection Act. And I'm going to be brief because I'm going to let the opening on the committee amendment. We've had a long process, dealing with all parties involved here, coming up with an amendment that has been suitable for all. The idea behind this was, is to protect qualified, certifiable gun ranges. This isn't Joe Schmo that shoots in a mound of dirt behind his house. These are facilities that were done and built by law enforcement. They were done by Izaak Walton League and reputable organizations. It addresses a shooting range source book, which I have if anybody really wants to read it, put on by the National Rifle Association that sets out criteria for safe and protected operation of gun ranges. It puts in here right now we don't have an ordinance in place on times when a shooting range can be operated. If there's not a complaint to a city, they can run them whenever they want. In the past, some have...there has been some complaints for noise violations, so some communities have set in some operating regulations. So what we're trying to do is trying to take these certifiable ranges and protect them from urban sprawl around them, and so once the neighborhood builds around a range that started 7, 8, 9, 10 miles out of town and, for example, the Izaak Walton League, which is both on the southeast and southwest corners of Lincoln, as the community has grown around those very well-maintained and well-kept-up facilities, that they would have the right to remain and occupy the ground in which they have for, in some cases, 40 to 50 years. And so that's the intent behind this. I'm going to stop now. We'll go to the committee amendment. Senator Avery will give an introduction to the committee amendment, and we'll come back and give some more, as well as answer questions if there are any. With that, thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the opening to LB503. As was stated, there is a Government, Military, and Veteran Affairs amendment. Senator Avery, you're recognized to open on AM1080. [LB503]

SENATOR AVERY: Thank you, Mr. President and colleagues. The committee amendment strikes the original sections of the bill and replaces them with the following provisions. As Senator Langemeier just indicated, these provisions are designed to provide protection for existing shooting ranges. It is commonly known as grandfathering the shooting ranges into existing and lawful status. The committee amendment, like the original bill, creates the Nebraska Shooting Range Protection Act. With the amendment, any shooting range that is existing and lawful--remember those two words because they are important--any shooting range that is existing and lawful may continue to operate as a shooting range, notwithstanding any law, rule, regulation, ordinance, or resolution related to zoning or noise enacted thereafter by any political subdivision if operated in compliance with the shooting range performance standards. Senator Langemeier has a copy of those standards. They are about four inches thick. If you care to look at them, I'm sure he will share them with you. Similarly, no law, rule, regulation, ordinance, or

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resolution relating to the discharge of a firearm at an existing and lawful shooting range will be enforced by any political subdivision if operated in compliance with the shooting range performance standards, except such political subdivision may limit the hours between 10:00 p.m. and 7:00 a.m. that an outdoor shooting range may operate. The Game and Parks Commission in this amendment is charged with the responsibility for adopting and promulgating as rules and regulations the shooting range performance standards referred to, and they're defined in the National Rifle Association's Range Source Book. The commission will review the standards at least every five years and revise them as needed for the continued safe operation of shooting ranges. A shooting range that is existing and lawful will be permitted to conduct certain activities if done in compliance with the shooting range performance standards. These activities may include repair or remodeling of the facilities in the interests of public safety, reconstruction, or presuming the use of a facility, or to do anything authorized under generally recognized operation standards. Some of those are outlined in the amendment on page 3 under (1)...(3), starting with (3)(a) expanding or enhancing its membership or opportunities for public participation, expanding or increasing facilities or activities within the existing range, things of that nature. Anyone who is shooting in compliance with the shooting range performance standards at a shooting range between the hours of 7:00 a.m. and 10:00 p.m. is presumed not to be engaging in unlawful conduct merely because of the noise. Except as otherwise provided, this act does not prohibit a political subdivision from regulating the location and construction of a shooting range. No person or public entity will take title to property that has a shooting range by condemnation or eminent domain when the proposed use of the property would be for shooting-related activities or recreational activities or for private commercial development. This does not limit the use of eminent domain necessary for infrastructure additions or improvements. The amendment also eliminates language regarding the addition of sport shooting to the list of recreational activities protected under the Political Subdivisions Tort Claims Act. Many of you know that that defines when and how political subdivisions can be sued. Finally, the act limits municipalities from regulating shooting galleries as provided in this act. Let me tell you a little bit about the history of this. We went through...the committee, by the way, advanced the bill on an 8-0 vote. The committee amendment that I've just discussed came about through extensive negotiations involving the concerned parties. It does answer questions that were raised in the hearing which, by the way, was a hearing that lasted several hours and had more than a dozen people testify. We worked hard on this bill, as many other committees do on their bills. In the end, all the parties were able to agree and, believe me, that was not easy. But I believe that we have satisfied in this amendment all of the concerns that were raised. I urge your support for the committee amendment and the underlying bill. Senator Langemeier and I will be available for questions if you have any. Thank you. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening of Government, Military and Veteran Affairs' AM1080. Mr. Clerk, you have an amendment

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on your desk. [LB503]

CLERK: Mr. President, Senator Council would move to amend the committee amendments. (AM1260, Legislative Journal page 1346.) [LB503]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on your amendment to committee amendment, AM1260. [LB503]

SENATOR COUNCIL: Yes, thank you, Mr. President. AM1260 is a very simple amendment and all it does is remove cities of the metropolitan class, which is the city of Omaha, from the operation and effect of this legislation. Senator Avery, in his recitation of the discussion at the hearing and the negotiations that occurred, is accurate with the exception that the city of Omaha's representative did sign in as an opponent but was not able to stay to provide testimony because he was offering bills before other committees. So the city of Omaha was on record of being in opposition to the bill and I have no information that suggests that they were involved in any negotiations regarding the bill. I believe that it's appropriate to exempt the city of Omaha from this legislation for a variety of reasons. Number one, with regard to the city of Omaha, it's a highly populated area. It is constantly growing. We have a couple of shooting ranges within the city of Omaha or its extraterritorial jurisdiction, and there's a concern that Section 4 of the bill states that a shooting...a sport shooting range can exist without regard to any law, regulation, ordinance, or resolution related to noise. The city of Omaha also has a concern with the language with regard to Section 6 that states that even if a sport shooting range is not in compliance with any rule, regulation, ordinance, or resolution of a city or any other political subdivision, they shall be allowed to expand or increase their facilities or activities without any involvement of the city. And the concern there is that the city planning department imposes rules and regulations and requirements with regard to facility expansions. For example, just the height of a fence is something that is subject to regulation when facilities are being expanded, and under this legislation the city of Omaha would be unable to apply those regulations to any sport shooting range. But of greatest significance to the city of Omaha is the fact that Section 9(2) provides that no person, state, or any political subdivision shall be able to utilize eminent domain with respect to a sport shooting range when eminent domain is being used in connection with private commercial development, and this would have a tremendously adverse effect on the city of Omaha and it's economic development opportunities. And for those reasons, I would urge my colleagues to support AM1260, which again the intent only is to exempt the city of the metropolitan class from the operation of this act. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the opening to the amendment to committee amendment, AM1260. Members requesting to speak are Senator Wightman, followed by Senator Stuthman, Senator Langemeier, Senator Lautenbaugh, and others. Senator Wightman, you're recognized. Senator Wightman,

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you're recognized. [LB503]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would like to address Senator Langemeier, if he'd respond to a question or two. [LB503]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to questions? [LB503]

SENATOR LANGEMEIER: Yes. [LB503]

SENATOR WIGHTMAN: Senator, is this...is this comparable to...somewhat comparable, I should say, to a bill that you had either a bill that you had either a year or two years ago? [LB503]

SENATOR LANGEMEIER: Well, it is in subject matter, maybe not so much in the bill. The bill we brought two years ago...how does legislation start? You try and get everything you can in the first go, and then you figure out where your friends are and friends aren't, and then you go back to what you can actually get done, and that's where we are today. The first bill that we had last year would have actually gave a protection zone around the gun range to try and control the development that was coming into it, which I knew was a little too much, and consequently that's why we were in committee last year. This does not do that. This is a protection of this facility and we didn't want to infringe on property rights of those surrounding the facility. [LB503]

SENATOR WIGHTMAN: That was my recollection, Senator, that before it was some figure like 300 feet on any side or 200 feet on any side of the... [LB503]

SENATOR LANGEMEIER: I think it was 200. [LB503]

SENATOR WIGHTMAN: ...of the shooting range, and that gave me a lot of concern for the reason that it seemed to me that the Legislature was exercising some power of eminent domain over everybody's property. So I like the bill much better this time around and will intend to support it. But I think people that own property around it know that it's there, and so providing some protection from zoning, in my opinion, is not unreasonable. But when we reached out like we were trying to do maybe a year or two ago or last year, that gave me a lot of concern. Thank you, Senator Langemeier. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Stuthman, you're recognized. [LB503]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I remember the discussion on the bill the other year that was brought there and I did support it because I felt that, you know, years and years ago when these shooting

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ranges were installed and were put up, you know, they were out of town, you know, five, six, seven miles, but as time has developed, as far as housing in those areas, and we have some of them in my local community and there's development coming around them. And I think this bill is something that is needed because I think we need to protect those shooting ranges, you know. Yes, I know that any new ones will be built out another five or seven miles, but in time to come they will have development around them also, so...and I truly respect the people that utilize these shooting ranges. We've got one fairly close to my operation and, you know, we hear the shots going off all the time. So I do support the bill and the committee amendment. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Langemeier, you're recognized. [LB503]

SENATOR LANGEMEIER: Mr. President, members of the body, I, too...I want to rise first of all to thank Senator Avery and his staff and my staff for working on this. This has not been a...as you can understand, this is a sensitive issue. As you talk about zoning issues, you talk about gun safety, you talk about firearm ownership, you talk about limitations on firearms, as you know, you can stir up a hornets' nest. And that's what we did last year, was trying to make sure we knew everybody that would be a player on this issue, and so we tried to get them all at least acquainted to the subject matter. And so when we came back with this bill, the committee has done just a great job, their staff and with my staff and Senator Lathrop's staff and the league has sat down and worked on this to try and make it the best that it could be. And so with that, again, I would ask for your support of AM1080 and LB503. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Other members wishing to speak on AM1260 are Senator Lautenbaugh, followed by Senator Wallman and Senator Avery. Senator Lautenbaugh, you're recognized. [LB503]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of this bill and I thank Senator Langemeier for bringing it again, and in support of the Government and Military Affairs amendment. I wonder if Senator Council would yield to a question. [LB503]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Lautenbaugh? [LB503]

SENATOR COUNCIL: Certainly. [LB503]

SENATOR LAUTENBAUGH: Senator Council, thank you for yielding and I apologize if I missed this previously. I understand that your amendment, as proposed, would not exempt counties with a city of the metropolitan class but simply cities of a metropolitan

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class. [LB503]

SENATOR COUNCIL: Yes. [LB503]

SENATOR LAUTENBAUGH: How do the concerns of a city of the metropolitan class differ from, say, Lincoln or Grand Island? [LB503]

SENATOR COUNCIL: Well, you know, Senator Lautenbaugh, I don't know that there is any difference, but there were discussions and Lincoln didn't express the same level of concern that the city of Omaha did. And in fact, you know, would be open to adding the primary class if Lincoln shared the same level of concern, but in discussion with some of my Lincoln area colleagues, I didn't get the sense that they had the same level of concern that the city of Omaha has. And particularly with the number of existing shooting ranges and the fact that the bill, with the committee amendment, still speaks to without regard to any law relative to noise, and we're talking about some of these ranges currently being located in populated areas. And the extent to which Omaha is growing, we have very little land between...all I have to do is talk about Omaha and Elkhorn. So the concern was with regard to the limitations, the serious limitations that this act could have potentially on the city of Omaha and its economic development efforts, as well as its ability to regulate building and construction, period. [LB503]

SENATOR LAUTENBAUGH: Thank you. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Wallman, you're recognized. [LB503]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, want to thank Senator Langemeier. I know how much controversy that was last time and the parties that worked together. And I will support the amendments and the bill. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Avery, you're recognized. Senator Avery waives. Are there additional members requesting to speak on AM1260? Senator Fulton, followed by Senator Nelson. Senator Fulton, you're recognized. [LB503]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Council yield? [LB503]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Fulton? [LB503]

SENATOR COUNCIL: Yes. [LB503]

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SENATOR FULTON: Senator, I thought about just asking this off the mike but it's probably appropriate to get this into the record. The amendment, does this...will it affect a shooting range that exists presently in Omaha? [LB503]

SENATOR COUNCIL: Pardon? [LB503]

SENATOR FULTON: Is there a shooting range...you know, I guess I'm trying to discern your intention with AM1260. Is there a shooting range specifically in Omaha that this would affect, your amendment that is, AM1260? [LB503]

SENATOR COUNCIL: Well, according to data I have, we have three shooting ranges currently located within the city limits of the city of Omaha. Now I know one of them is indoor. Another one of them has outdoor capabilities. And under this bill, the city of Omaha would have no ability to regulate...to apply any of its noise regulations to this shooting range. [LB503]

SENATOR FULTON: So that the...so then the amendment is brought such that Omaha would be able to enforce noise regulations on an existing shooting range? [LB503]

SENATOR COUNCIL: Noise regulations, building code regulations, expansion regulations in terms of compliance with the planning departments, requirements with regard to expansion. I mean the bill is very broad in terms of what shooting ranges are allowed to do that other entities could not do within the city. I mean I can think of no other entity in the city that could be allowed to expand their operations, build whatever they want to build, without complying with city building codes and ordinances. Under this bill they would be free to do so. And I believe that the city of Omaha has a valid vested interest in being able to control those operations. [LB503]

SENATOR FULTON: Senator, is the noise provisions that exist, and I don't have it in front of me, I guess, but there are provisions regarding noise--I think it's Section 3 of the bill but I'm not positive--that exist in AM1080. So I guess my...I'll tell you my concern, then maybe you can respond to it. The bill itself provides protections for shooting ranges. If AM1260 is adopted, then those protections afforded other shooting ranges across Nebraska will not be afforded those three shooting ranges within Omaha. So that's where my concern is. Is that...I guess is that your intention? Your intention is to be able to allow Omaha to continue to have control over these shooting ranges, but my concern is that there is no...there's no safeguard provided. With a governmental entity's control, the safeguard of the very existence of those shooting ranges I believe is threatened. Is there...can you respond to that concern? [LB503]

SENATOR COUNCIL: Well, in fact, Senator Fulton, you're segueing into one of my greater concerns and that's the portion of this bill that would exempt shooting ranges from the exercise of eminent domain if the city has a valid, legitimate, private

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commercial development interest. Through this bill we're saying the rest...any other business, any other private enterprise that may be affected by that commercial development, we're not concerned about you; we're only concerned about the shooting range. And that could have a detrimental effect on the city of Omaha's ability to develop particular areas and market those areas for private economic development, and that is extremely problematic for me personally and the city of Omaha as it looks at its economic development opportunities. When you look to the northern part of the city of Omaha, where we're trying to encourage economic development, we have a lot of green spaces... [LB503]

PRESIDENT SHEEHY: One minute. [LB503]

SENATOR COUNCIL: ...in the northern portion of the city north of Ponca Hills. Somebody wants to put a shooting range up there and the city has already been discussing economic development, moving in that direction. This bill would prohibit the city from undertaking that type of development solely because they are a shooting range. I would ask someone to tell me why a shooting range has any greater priority than any other private business when it comes to the exercise of eminent domain. [LB503]

SENATOR FULTON: Thank you, Senator. Hopefully we can have a little bit more debate on this. I don't know if we should have that much more, but from what I hear, I don't know that I'm going to be in favor of AM1260. I'll...with that, thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Nelson, you're recognized. [LB503]

SENATOR NELSON: Thank you, Mr. President, members of the body. I would like to ask a couple questions of Senator Avery, if he will yield. [LB503]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Nelson? [LB503]

SENATOR AVERY: I will. [LB503]

SENATOR NELSON: Senator Avery, just to clear up some questions in your...my mind, rather, when we're talking about shooting ranges, are we, in the amendment here and in the bill itself, and let's take this to the city of Omaha, are we dealing with protecting existing shooting ranges? Is that what this bill is confined to or...? [LB503]

SENATOR AVERY: Yes. [LB503]

SENATOR NELSON: Counties are not prohibited then or municipalities or cities from

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enforcing rules and other ordinances against new construction or new proposed facilities. Is that correct? [LB503]

SENATOR AVERY: That is correct. The act does not prohibit a political subdivision from regulating the location and construction of new shooting ranges. [LB503]

SENATOR NELSON: All right. If you will look at the explanation of amendments and the third paragraph up from the bottom, starting with "no person or public entity will take title to property." Do you see where I am? [LB503]

SENATOR AVERY: Yes. [LB503]

SENATOR NELSON: Could you give me some examples of what we're trying to protect or do there or an instance of what this taking title concerns? [LB503]

SENATOR AVERY: Well, I think what we're trying to do here is protect existing and lawful, and I keep using those words because they're important, existing and lawful shooting ranges from being condemned or taken over by eminent domain for other kinds of shooting-related enterprises, other kinds of entertainment, perhaps entertainment activities, recreational activities, and private commercial development. Now as I understand it, that would not prevent eminent domain if you had a compelling public use for that land. [LB503]

SENATOR NELSON: All right. Thank you, Senator Avery. Senator...would Senator Council yield to a question or two? [LB503]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Nelson? [LB503]

SENATOR COUNCIL: Yes. [LB503]

SENATOR NELSON: Thank you, Senator Council. Can you tell me where and in what locations the three existing shooting ranges in Omaha, where they're located? [LB503]

SENATOR COUNCIL: Now this is the information I've been provided, Senator Nelson. There is a range that involves both archery and firearms at 3520 I Street, one at 4504 South 16th Street, and one at 11620 M Circle. [LB503]

SENATOR NELSON: 11620 M Circle. So that's far southwest in the Millard area. We have one in the north Omaha area, would that be correct, and then one about 40 blocks south, if I followed you there. Thank you, Senator Council. I have to say I stand in opposition to Senator Council's amendment here because over the last two years the existing shooting ranges that we have in Omaha have been subject...I won't use the word harassment, but for instance the perimeter of the...around the shooting range to

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protect nearby housing developments from noise, that I think can be enlarged or decreased just by will of our city council or the county board perhaps, and you can effectively almost put a shooting range out of business. And one way or another, if they can find a way to do that because of the needs of developers or complaints from the housing at a distance, that can happen. [LB503]

PRESIDENT SHEEHY: One minute. [LB503]

SENATOR NELSON: And I think that those existing shooting ranges really do deserve the protection. Those people have invested in their businesses, they're there for the public, and I really feel that they need this protection. As far as development of areas, I would disagree. We have plenty of area for development all over Douglas County and we don't have to use eminent domain or any other measures to try and put some of these shooting ranges out of business so that we can develop that particular property. I'd say let's leave them alone, let's direct our attention to any new shooting ranges that may want to go up and see if that's going to impinge on any other developments or efforts that the city made. So I stand in opposition of AM1260. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Avery, followed by Senator Pirsch and Senator Council. Senator Avery, you're recognized. [LB503]

SENATOR AVERY: Thank you, Mr. President, I just want to briefly address the issue that Senator Council raised about Omaha being opposed to this. We've looked through the files and the records and we do find that the Omaha lobbyist signed the log in opposition, but he did not testify. I believe he had another obligation and had to leave before the hearing got to him. It was a long day. We had a lot of people testify. We did not receive a letter of opposition either. And the city of Lincoln, who also opposed this, did, however, submit a letter. We would never, Senator Council, we would never deliberately eliminate or exclude any party, interested party, from the negotiations. If I had known that Omaha had a strong position on this, then we would have been with...they would have been with us at the table and we would have included them and all of their objections. I'm sorry that didn't happen and I suppose for me in the future the lesson is check those logs. If you find that there's someone who is opposed that did not testify and did not submit a letter, call them up at least. But I do appreciate your concern about that. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Pirsch, you're recognized. [LB503]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would yield Senator Avery my time, should he desire to have it. [LB503]

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PRESIDENT SHEEHY: Senator Avery, you're yielded 4 minutes 45 seconds. [LB503]

SENATOR AVERY: I would like to ask Senator Council one question, if she would yield. [LB503]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Avery? [LB503]

SENATOR COUNCIL: Yes. [LB503]

SENATOR AVERY: Senator Council, I don't know much about Omaha and shooting ranges there. Do you have shooting ranges in Omaha currently existing and lawful? [LB503]

SENATOR COUNCIL: Yes. And, in fact, Senator White brought to my attention that there's also a shooting range at the county club located in central Omaha. [LB503]

SENATOR AVERY: And this bill is designed to protect those lawful and existing facilities. It's not designed to do anything beyond that. We're not trying to shut them down. We're not trying to prevent them from operating. And there is language in this amendment that would allow the city of Omaha to regulate the location and construction of any new facilities. [LB503]

SENATOR COUNCIL: May I respond to you, Senator Avery? [LB503]

SENATOR AVERY: Sure, you may. [LB503]

SENATOR COUNCIL: First of all, please answer for me why it's necessary to have in the bill a sport shooting range that exists on the effective date of this act, even if not in compliance, because you keep talking about lawfully operating yet your bill anticipates even if they're not in compliance with any rule, regulation, ordinance, or resolution, then they shall be permitted to do a myriad number of things, including reconstruct, repair, or expand their facilities without any regulation of the city? Why is that necessary? [LB503]

SENATOR AVERY: That's necessary because if you don't have that language there then cities can put additional restrictions on the ranges that could effectively put them out of business. This is the effect of a grandfather clause. [LB503]

SENATOR COUNCIL: Yeah, but you haven't addressed "even if not in compliance." [LB503]

SENATOR AVERY: Well, because you could have new rules that they didn't comply with. [LB503]

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SENATOR COUNCIL: So then your statement that lawfully operating may not be true. [LB503]

SENATOR AVERY: No. Existing and lawful at the time of the act going into effect would protect them up to that point. What we're trying to do is say that the city can't come back and say, here's some new rules, you're not complying with these; therefore, you have to shut down. [LB503]

SENATOR COUNCIL: And, Senator Avery, I'm asking you just again, read your section, it says "that exists on the effective date of this act, even if not in compliance." How do you define that? [LB503]

SENATOR AVERY: I think you're reading from the green copy, Senator. The committee amendment I don't think has that language. If you go to page 2, Section 7, "A shooting range that is existing and lawful shall be permitted to do any of the following if done in compliance with the shooting range performance standards." And those are pretty stiff standards. [LB503]

SENATOR COUNCIL: In accordance with whose standards? [LB503]

SENATOR AVERY: The shooting range performance standards. And Senator Langemeier... [LB503]

SENATOR COUNCIL: And who promulgates shooting range performance standards? [LB503]

SENATOR AVERY: The National Rifle Association and Game and Parks. The Game and Parks Commission here in Nebraska will be responsible for taking those standards and putting them into practice, and rules and regs. [LB503]

SENATOR COUNCIL: And my question...well, let me make a comment, first, because there was nothing in my opening remarks that suggested that the committee excluded the city of Omaha from the negotiations. The statement I was responding to was that everyone was included in the negotiations. The point... [LB503]

PRESIDENT SHEEHY: One minute. [LB503]

SENATOR COUNCIL: ...I was making was they weren't present. It was not any indictment on the committee for... [LB503]

SENATOR AVERY: Thank you. [LB503]

SENATOR COUNCIL: ...for not including them. [LB503]

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SENATOR AVERY: Thank you, Senator. [LB503]

SENATOR COUNCIL: But there's still an issue... [LB503]

SENATOR AVERY: You're on my time, Senator. (Laugh) [LB503]

SENATOR COUNCIL: Oh, I'm on your time. [LB503]

SENATOR AVERY: That's all right. But you're right, we did not deliberately exclude anybody from these negotiations and we certainly would not have excluded Omaha. But we simply didn't know that Omaha had a strong interest in this. If we had known that, they would have been at the table. We had, I would say, probably eight, maybe ten meetings among the various parties. We satisfied the trial lawyers. We satisfied the NRA. We satisfied the League of Municipalities, the Izaak League. But, believe me, it wasn't easy to bring all these various interests together. But the committee worked hard at it. Senator Langemeier's... [LB503]

PRESIDENT SHEEHY: Time, Senator. [LB503]

SENATOR AVERY: ...office was very cooperative. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Council, followed by Senator Langemeier and Senator Haar and Senator Hadley. Senator Council, you're recognized. [LB503]

SENATOR COUNCIL: Thank you. And I apologize and will state that I now have in my hand the hard copy of AM1080, and with regard to the former Section 6, that issue has been eliminated. But the issue still remains with regard to the question of the exercise of eminent domain and the noise ordinance issue. And it remains my belief that a city of the metropolitan class, and Omaha in particular, with regard to its economic development activities and, you know, Senator Nelson, I vividly recall the city of Omaha taking all of Jobber's Canyon to build a campus for ConAgra. It's been done in the past. It's projected to be done in the future, and I seriously question that this...that the Legislature should be presenting barriers to that kind of economic development in the event that there's a shooting range. Would Senator Langemeier yield to a question? [LB503]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to Senator Council? [LB503]

SENATOR LANGEMEIER: Yes. [LB503]

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SENATOR COUNCIL: Now the bill says that a city has the authority to regulate any new construction of a shooting range, location and construction of a shooting range. [LB503]

SENATOR LANGEMEIER: Correct, and that's currently law already. [LB503]

SENATOR COUNCIL: Okay. How does this bill apply after such a new shooting range is constructed? [LB503]

SENATOR LANGEMEIER: Once it was built to the standard, and you talked about that with Senator Avery, that Game and Parks would adopt and promulgate those rules, once it was built to those standards then it would fall under this protection. [LB503]

SENATOR COUNCIL: Okay. So once it was built to those standards, then the city, the limitations on noise, the limitations on exercise of eminent domain would come into play. [LB503]

SENATOR LANGEMEIER: Yes. This bill would give new restrictions that aren't currently in law. It would restrict the use of those facilities from 7:00 a.m. to 10:00 p.m., which we don't have restrictions now. [LB503]

SENATOR COUNCIL: But in terms...it regulates when they can operate. It still places a restriction on the city with regard to compliance with noise ordinances. So even if this statute says that they can operate from 7:00 a.m. to 10:00 p.m., if the city of Omaha has a noise ordinance that applies during those same hours then this legislation supersedes and prevents Omaha from enforcing that noise ordinance. [LB503]

SENATOR LANGEMEIER: Yes. [LB503]

SENATOR COUNCIL: As well as with regard to the question of any limitation...and I need to find the specific section on the amendment. And with regard to any zoning, there would be limitations on the city of Omaha's ability to make any zoning changes that would affect a shooting range. [LB503]

SENATOR LANGEMEIER: Yes. [LB503]

SENATOR COUNCIL: Thank you, Senator Langemeier. You know, again I believe that this legislation...and I recognize and everybody here, it's called... [LB503]

PRESIDENT SHEEHY: One minute. [LB503]

SENATOR COUNCIL: ...it's called the Nebraska Shooting Range Protection Act for a reason, and that's because the intent is to protect this defined group of operations, shooting ranges, from any compliance with duly enacted zoning ordinances, noise

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ordinances, and the exercise of eminent domain. And I firmly believe that when it comes to a city of the metropolitan class, and again I would think the same would hold true for a city of the primary class but Lincoln hasn't raised that concern, that this should be not applicable to those areas. And I understand and someone made reference to the history. We're talking about areas outside of basically first-class cities, villages, and towns where these shooting ranges have... [LB503]

PRESIDENT SHEEHY: Time, Senator. [LB503]

SENATOR COUNCIL: ...developed. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Langemeier, you're recognized. [LB503]

SENATOR LANGEMEIER: Mr. President, members of the body, I want to talk a little bit about Senator Council's amendment. She does have a very unique situation where she has some shooting ranges within the city of Omaha, where the majority of these ranges are on the edges and the communities are starting to grow out around them. But as far as the eminent domain, it's very similar to LB160 which we have on the agenda later today. There's so much concern that there was eminent domain power to go out and take ground and build dams and give them back to development. I think the body is almost ready for a bill just dealing with that exact issue alone to start and talk about the use of eminent domain and its proper use. And if...and I'll offer this to Senator Council, but if there's...on her amendment, just to exclude cities, if there's a way we could address that with eminent domain for some type of a bigger project, there's probably opportunities there. As far as noise, this bill is all developed around noise issues. It's a protection because of noise. As far as building codes, if a gun range wants to build a building on their facility, they still got to get a building permit. They still have to get...build it to standards, both electrical and building structures within a city. This is all about noise and so I think it's a responsible act to give them time limits from 7:00 in the morning to 7:00 at night. One thing I don't know is are there complaints being filed against those facilities in Omaha, that were mentioned earlier, now for noise? I haven't heard any complaints on that. Matter of fact, I haven't heard any complaints on most of these about a current noise issue. So we think it's an opportunity here to protect those facilities for continued use. I know Omaha Police Department is looking to build a new one or has started the process in Sarpy County because they've got surrounded by...in their current facility. So these are important use facilities. Our law enforcement uses them. Izaak Walton League in south Lincoln, the law enforcement uses that on a regular basis and I feel a little more comfortable knowing that the law enforcement are practicing using their weapons versus just carrying them around every day. And so with that, I ask for your adoption of AM1080 and LB503. And I would yield the balance of my time to Senator Council, if she would like more time. [LB503 LB160]

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PRESIDENT SHEEHY: Senator Council, you're yielded 2 minutes 25 seconds. [LB503]

SENATOR COUNCIL: Thank you, Senator Langemeier. I appreciate the opportunity to address a couple of other issues with regard to the legislation. I respectfully disagree with you with regard to the effect of this bill on construction, repair, improvement, expansion, because...and I'm reading from AM1080, the Game and Parks...excuse me, on page 2, "A shooting range that is existing and lawful shall be permitted to do any of the following if done in compliance with the shooting range performance standards." Not city building codes. The shooting range performance standards: repair, remodel, or reinforce any improvement or facilities, expand or increase facilities or activities within the existing range area. By the express language of AM1080, a shooting range would be exempt from complying with city building codes and ordinance because not that I'm familiar with the shooting range performance standard promulgated by the NRA, I doubt whether they contain the requirement of our city building code. So I respectfully disagree with you... [LB503]

PRESIDENT SHEEHY: One minute. [LB503]

SENATOR COUNCIL: ...that there's not an issue with regard to this bill not being in concurrence with the city's authority in the area of building codes. And with regard to law enforcement and military, I mean I think it's an interesting...I don't understand why the 7:00 a.m. to 10:00 p.m. restriction doesn't apply, and it may have been taken out of...in the amendment and I don't see it, but I know, in the original bill, after 10:00 p.m. law enforcement and military could continue to use the ranges and I trust that that's been removed from the amendment. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Council. Thank you, Senator Langemeier. Senator Haar, you're recognized. [LB503]

SENATOR HAAR: Mr. President, members of the body, I'd like to ask Senator Avery a question or two, if I could. [LB503]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Haar? [LB503]

SENATOR AVERY: Yes, I will. [LB503]

SENATOR HAAR: I actually never heard from the city of Lincoln on this issue, and you said they did have a letter of objection to it or...? [LB503]

SENATOR AVERY: That's correct. [LB503]

SENATOR HAAR: Were they at the table when you worked out these...the current amendment? [LB503]

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SENATOR AVERY: They were not specifically there but the objections they raised were taken care of in the negotiations. [LB503]

SENATOR HAAR: Okay. Thank you very much. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Haar. Seeing no additional requests to speak, Senator Council, you're recognized to close on your amendment to committee amendment, AM1260. [LB503]

SENATOR COUNCIL: Yes, thank you, Mr. President. Again, the concern that is reflected in AM1260 is the restriction that is placed on the city of Omaha to apply its building codes, its nuisance ordinances to an entity where, you know, clearly the opportunity for those kinds of issues to present themselves exist. And it's interesting, one of the...I understand there was mention that the trial attorneys removed their...their concern was addressed. Well, the trial attorneys were concerned about liability. Well, we should be concerned about liability, as well, and consideration should be given, if this amendment fails, to imposing liability requirements on these gun shooting ranges. I mean we have situations, populated areas, and certainly the shooting range can control what occurs on their property, but what happens in the case of bullets and ammunition that leave their property? And that happens on occasion. And we're talking about a very highly populated area, in some instances, where these facilities are located. And the fact that we as a body are singling out a single business enterprise and exempting that single business enterprise from a political subdivision's exercise of eminent domain for private commercial development...and the only reason private commercial development is allowed, is an allowable use of eminent domain is because it has been identified to be for the public good. And there certainly could be occasions where a gun shooting range could be developed in the northern part of Omaha, an area right now that is in desperate need of economic development. The chamber of commerce is working diligently to identify employers to come and locate. And under this bill, if a shooting range happens to get to that property before the development, then that development cannot go forward. For those reasons, I would urge the body to approve AM1260. It does not harm what I understand to be the original intent of this legislation when it was originally introduced in whatever form it was introduced years ago, and that was to deal with those communities...I mean, Omaha has an established record of growth. I mean, there was a discussion, the use of the term "urban sprawl." In fact, I hate that term because Omaha does have an established history of urban sprawl, and I understand that the history that this bill was originally introduced because of facilities that were built six, seven miles outside of towns that were beginning to move in that direction. We're not talking about heavily populated areas where the city has exercised its authority in the past with regard to these operations relative to noise, relative to zoning, relative to building codes. And I firmly believe that the city of Omaha should continue to have that authority and that they should be exempt from the operation of LB503 as amended by

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the committee. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the closing of the amendment to committee amendment, AM1260. The motion before the body is, shall AM1260 be adopted to committee amendment, AM1080. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB503]

CLERK: 3 ayes, 25 nays, Mr. President, on the amendment. [LB503]

PRESIDENT SHEEHY: AM1260 is not adopted. We will now return to floor discussion on the Government, Military, and Veterans Affairs Committee amendment, AM1080. Seeing no requests to speak, Senator Avery, you're recognized to close. [LB503]

SENATOR AVERY: Thank you, Mr. President. AM1080 is a reasonable compromise among various parties that were interested in this legislation. It satisfies virtually all of the objections that were raised. I am sorry that Omaha did not get in on this, but if we had known they would have been. I again looked at the letter from the city of Lincoln. The city of Lincoln has actually been working with some existing shooting ranges in some of the areas they wanted to annex and they have grandfathered them in. And their point to us was that, well, this is unnecessary. I believe that this is necessary because it does allow for protection of lawful and existing ranges. It does allow the cities the authority needed if they choose to use it to regulate the location and construction of new ranges. But it would not allow them to go in and pass punitive laws to shut down existing ranges that are lawful. I think these are reasonable proposals and I urge your adoption. Thank you. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question before the body is on the adoption of AM1080 to LB503. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB503]

CLERK: 39 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB503]

PRESIDENT SHEEHY: AM1080 is adopted. Mr. Clerk, do you have an item for the record? We will now move to floor discussion on LB503. Senator Council, you're recognized. [LB503]

SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Avery yield to some questions? [LB503]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Council? [LB503]

SENATOR AVERY: I will. [LB503]

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SENATOR COUNCIL: Can you provide for me any example of any shooting range in the state of Nebraska that has been regulated...zoned or regulated out of business? [LB503]

SENATOR AVERY: I do not have that information; Senator Langemeier might. So I cannot answer that question. [LB503]

SENATOR COUNCIL: All right. Would Senator Langemeier yield to a question? [LB503]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to Senator Council? [LB503]

SENATOR LANGEMEIER: Yes. [LB503]

SENATOR COUNCIL: Senator Langemeier, are you aware of any shooting range in the state of Nebraska that has been regulated out of operation? [LB503]

SENATOR LANGEMEIER: I do not know of any. [LB503]

SENATOR COUNCIL: Thank you. [LB503]

SENATOR LANGEMEIER: Do you want me to expand on that or...? [LB503]

SENATOR COUNCIL: No. That...I appreciate your response to the question. Again, I rise in opposition to LB503. As it's drafted, it's designed to protect a particular operation for which there hasn't been demonstrated any necessity to provide the level of protection that is being sought by this bill. I appreciate the fact that Senator Langemeier has expressed his willingness to address the legitimate concern that I raised with regard to the fact that LB503, as currently amended, exempts shooting ranges from city building codes and other city nuisance laws. Now you talk about noise. Well, there are other nuisance laws that this legislation would exempt just one single operation from the effective application of, and again without any real evidence of the necessity for this level of protection. For this level of limitation on the authority of cities, particularly with regard to economic development and the exercise of eminent domain, it has not been demonstrated. And again, when we look at the performance standards, when we're talking about the operation, credit to the committee for the amendment, talking about including the Game and Parks Commission because if we hadn't included the Game and Parks Commission all of the operations of a gun shooting range in the state of Nebraska would be governed by the NRA, because those were the only, quote, operating standards that were being utilized. I would urge the body again to carefully consider, you know, what class of private enterprise we're establishing here. You're establishing a special class of business enterprise that is exempt from the kinds of public safety rules, regulations, and ordinances that we should be working to maintain to

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strengthen rather than to dilute by exempting particular enterprises from the effectiveness of those rules, regulations, and ordinances. Again, I hope that the body would see the wisdom of not advancing this legislation at this time. There again is no demonstrated need for it. I'm sure it's satisfying someone's wishes, but in terms of the cost that is being paid, particularly by a city of the metropolitan class, I don't believe that this legislation is necessary. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Langemeier, you're recognized to close on LB503. [LB503]

SENATOR LANGEMEIER: Mr. President, members of the body, again I want to thank the Military and Veterans Affairs and Government Committee for their great work on this, and I want to extend that, what Senator Council just mentioned in her interpretation of Section 7, she has indicated it's different than mine and others. We will look at that. And the intent of this is not to exclude shooting ranges from building codes so if we need to reword that to keep them in compliance, I think building codes are...I always said if you don't have building codes you just need to buy more fire trucks, and that's always been a thought in my life. And if we need to reword that to make sure that the cities' building codes are still enforced, we will look at that before Select File, if you choose to advance it. With that, I would ask for your support for LB503. Thank you, Mr. President. [LB503]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the closing. The question before the body is on the advancement of LB503. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB503]

CLERK: 42 ayes, 2 nays, Mr. President, on the advancement of LB503. [LB503]

PRESIDENT SHEEHY: LB503 advances. Mr. Clerk, do you have items for the record? [LB503]

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review reports they've examined and engrossed LB27, LB27A, LB84, LB113, LB131, LB133, LB163, LB175, LB274, LB339, LB348, LB394, LB412, LB434, LB450, LB528, LB540; those items are reported engrossed. Senator Stuthman, a motion to LB476A to be printed; Senator Carlson, an amendment to LB224 to be printed. And notice of hearing, confirmation hearing, by the Business and Labor Committee. That's all that I had, Mr. President. (Legislative Journal pages 1379-1380.) [LB27 LB27A LB84 LB113 LB131 LB133 LB163 LB175 LB274 LB339 LB348 LB394 LB412 LB434 LB450 LB528 LB540 LB476A LB224]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Speaker Flood, you're recognized for an announcement. []

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SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. Obviously, we've made some progress this afternoon. For that reason, there will be no in-Capitol dinner this evening for members. It's my expectation that we'll go no later than 6:30 p.m., possibly before, this evening. Again, there will be no dinner. I am removing LB542 from today's agenda; again, LB542 will be removed from the agenda today. We will continue on our agenda on the General File portion and, as you note, there is nothing on the agenda that indicates we're going to go back up to Select File. We'll continue working through the General File that's listed with the exception of LB542. Tomorrow, the agenda will show LB542 up on General File. It will also contain some of the Select File bills that we have remaining at this time. So we plan to adjourn prior to 6:30 p.m. this evening. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with General File 2009 Speaker priority bills, we'll proceed to LB358. [LB358]

CLERK: LB358, Mr. President, a bill by Senator Pahls. (Read title.) Introduced on January 16 of this year, at that time referred to the Banking, Commerce and Insurance Committee, advanced to General File. There are committee amendments, Mr. President. (AM783, Legislative Journal page 1272.) [LB358]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open on LB358. [LB358]

SENATOR PAHLS: Thank you, Mr. President, members of the body. LB358 comes to us from our Director of Insurance. Its purpose is to stave off a growing threat to the stability of a very important mechanism in our law for issuance of individual health insurance policies to individuals who otherwise cannot obtain coverage in the private market because of serious preexisting health conditions and/or chronic illnesses. LB358 would change...would make changes to our statutes governing our Comprehensive Health Insurance Pool called CHIP. By way of introduction, we need to remember this is not SCHIP. This is an entirely different matter. Here's what is important. CHIP is in trouble. Unless serious changes are made by the Legislature, CHIP will become insolvent. At the end of April, the Director of Insurance provided me with the latest CHIP financial projections. These projections were alarming. They showed we were receiving less premium tax revenue than anticipated. Also the premium from CHIP policyholders was very much less than anticipated. What's the bottom line? The latest projections show that there will be insufficient funds to pay claims in 2012. We could experience cash flow shortfalls as early as March 2011, which would cause delays in claim payments. To me, that tells me we are in trouble. Just to give you a little bit of history about Nebraska's CHIP: Nebraska's Comprehensive Health Insurance Pool Act was enacted in 1985 and became operational in 1986. We were one of the first states to create a high-risk health insurance pool. The CHIP Act states that it is the intent of the Legislature that adequate levels of health insurance coverage be made available to

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residents of Nebraska who are otherwise considered uninsurable or underinsured due to medical conditions creating a high risk. Just to give you an idea of the number of people involved, CHIP has approximately 5,200 Nebraska residents and of that group we have around 400 children. CHIP is a nonprofit entity created by state law. CHIP is not an insurance company but has powers of an insurance company. CHIP is managed by a board of directors which is required to select an insurer through a competitive bidding process to administer the pool, subject to the approval of the Director of Insurance. Blue Cross and Blue Shield of Nebraska has always served as the Nebraska CHIP's administrative insurer. That bid comes up every three years. Most of the time they are the only ones who go for this program. The size of the CHIP board is seven members. All members of the board are appointed by the Director of Insurance. The composition of the board is as follows: four directors from the insurers; one representative of health agencies, which are involved in advocating for individuals with special health needs; one representative of individuals eligible for the pool; and one representative of the general public. CHIP is required to offer major medical expense coverage to every eligible individual. The pool coverage, its schedule of benefits and exclusions and other limitations are to be established by the Director of Insurance through rules and regulations. In establishing the pool, the director is required to take into consideration the level of individual health insurance coverages provided in the state reflective of individual health insurance coverages provided by the five insurers writing the largest amount of individual health insurance in the state. CHIP policy premiums are established annually by the CHIP Board of Directors and submitted to the director for approval. The CHIP board determines the standard risk by calculating the average individual health insurance coverage in the state actuarially adjusted to be comparable with the pool of coverage. Then the annual premium rate for pool coverage is established at 135 percent of the standard risk rate, except that the annual premium rate for the pool coverage for children under age 18 is established at 67.5 percent of the standard rate risk. As in the case in other states with high risk, the premiums paid by CHIP policyholders pay for only between 50 and 60 percent of the claims. The resulting net loss is made up with premium taxes. All premium taxes paid by the insurers writing health insurance in the state are deposited in a distributive fund. This fund is used to operate and pay claims against the pool. Any funds remaining in the distributive fund after operation costs and claims of the pool are funded are transmitted according to existing law. This is where that extra dollar goes. Forty cents of that dollar goes to the General Fund; 10 cents goes to Mutual Finance Assistance Fund which deals with rural and suburban fire companies; 5 cents to counties; 15 cents to municipalities; and 30 cents to school district. Thus, in order to fund its net loss, CHIP taps into the premium tax after they are paid. That means there is actually a reduction in the distributive fund. Just to let me give you an idea, the funds we need for the CHIP program are increasing. And all the extra money that we were giving to General Fund and to the Mutual Finance Assistance Fund, to the counties and municipalities, and school districts are decreasing. In fact, it looks like eventually it will overwhelm and take it all. The problem with that is when this was established they did not think that would ever happen. That's why we are

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becoming a program of major problems. Now this is the problem: CHIP requires a significant and growing subsidy by the state. CHIP is experiencing the same healthcare financial problems that other insurance plans across the country are experiencing. With the rising cost of healthcare and significantly chronically ill population, the state's subsidy for the CHIP is growing at a rate which we will soon be no longer to be able to cover. The Department of Insurance, which brings us this bill, has been concerned with this for a long time. The Director of Insurance is asking the CHIP board to review coverage under the program. They have made changes to the policy to bring it closer to the market and reduce costs. They are taking administrative actions to reduce cost, but the day is still coming when the program will outgrow its funding source. I believe the Legislature needs to take action. The proposal of LB358, they tried to keep the program within existing funding sources for the foreseeable future, with the cost containment measures included to stabilize the growth of the program in terms of its expenditures coupled with a revised state rate structure. In view of the state's financial situation, the proposals attempt to bring the state subsidy back to a more reasonable level. Although it varies from year to year, CHIP policyholders receive about 40 percent premium subsidies from tax dollars. Just to give you an idea, as of December 2008 the state subsidy was more than \$26 million. It started out being \$11 point (sic) million 2001 so you can see the increase is phenomenal. CHIP has available to it premium tax of between \$34 million and \$35 million, up from \$33 million in 2001. As you can see, we again are running into problems. Now here are some of the provisions of the bill. They are as follows: The bill would require the CHIP board to annually review the operation of the pool and report to the director its recommendations for cost savings. That is Section 2. In Section 3 of the bill, as introduced, would grant authority to the CHIP board to establish provider reimbursement pegged at 125 percent of Medicare. We have found problems with that so we will be substituting an amendment for Section 3. In Section 4, this deals with requiring group coverage purchase and COBRA participation. The bill would provide that an individual is not eligible for CHIP coverage if he or she is eligible for group coverage comparable to CHIP coverage. This would counteract dumping where an employer sheds a sick employee and sends him or her to the CHIP program for coverage instead. In addition, the bill would provide that an individual... [LB358]

PRESIDENT SHEEHY: One minute. [LB358]

SENATOR PAHLS: ...that an individual is not eligible for CHIP coverage if he or she has not exhausted available COBRA coverage. The bill would repeal provisions which allow individuals to be eligible for CHIP coverage if their COBRA premiums would be higher than their CHIP premiums. The changes are important because CHIP should be for individuals who cannot find any other coverage. Those with COBRA, pursuant to federal law, have coverage options and should pursue them first before they enter into a state-subsidized pool. The recently passed federal stimulus package includes provisions expanding COBRA health continuation coverage for those individuals who involuntarily lose their jobs. Under federal law, the federal government would subsidize

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65 percent of the premiums up to nine months. Allowing individuals to be eligible for CHIP even if they are eligible for group health coverage or COBRA is actually a luxury we simply can no longer afford. [LB358]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Pahls. As was...you have heard the opening to LB358. As was stated, there is a Banking, Commerce and Insurance Committee amendment, AM783. Senator Pahls, you're recognized to open. [LB358]

SENATOR PAHLS: Thank you. I will continue. Allowing individuals...the bill would provide that individuals ineligible for CHIP coverage if a premium is paid for by a third party not related to him or her. Most other out-of-state high-risk pools restrict to some degree those persons who can pay premiums for coverage. Of the 35 states with high-risk pools, only 8 lack such restrictions. Members of the CHIP board have indicated that some medical providers are paying for premiums for individuals who otherwise qualify for Medicaid to take advantage of the higher reimbursement from CHIP. The department does not have their hand on this, but they do feel this is happening. Section 6, the bill would make it unfair trade practice for an insurer, agent, broker, or TPA to refer an individual employee to CHIP or arrange for an individual to apply for CHIP coverage for the purpose of separating that individual from his or her employer's group coverage. This practice is called dumping and, as a result, an unfair burden is placed on our program. Section 7, the bill would require the Director of Insurance to establish CHIP coverage so as to be commensurate with individual health insurance coverage provided by ten of the largest insurance providers in the state of Nebraska other than five. This is a very important part of the bill. Currently our premiums are set at 135 percent. What this bill is going to do is to set that at a 5 percent hike for three years so that in the last of the three years would be 150 percent. Also the children under this program right now currently are 67.5. They would again be rated at the adult rate from 67.5 to 150 percent. And the reason why at this time this rate was set in statute in 1998, SCHIP did not exist. Now I would go to the amendment. The committee amendments should provide the last piece of this package to save CHIP from insolvency. The committee amendment would rewrite and restructure Section 3 of the bill which contains proposed changes in the CHIP reimbursement rate for healthcare providers. The committee proposes that we shift gears a bit. The committee would require the CHIP board every year to conduct a review of healthcare provider reimbursement rates payable to providers for services to CHIP policyholders. The required annual review would include a determination of whether reimbursement rates are in excess of reasonable amounts. In that determination, the board must consider the success of administering insurers in negotiating reduced CHIP reimbursement rates on a voluntary basis. The board would also consider the effect of CHIP reimbursement rates on the number and geographic distribution of healthcare providers providing services to CHIP policy. Then if the CHIP board determines that cost savings in the operation of the pool could be achieved, they would make those. Now I'm really going to translate that. What

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we're trying to do is kick the doctors and the providers, kick them in the pants and tell them to get in gear. Let's get together and start negotiating and see if we can't reduce some of those costs. And that's simply what we're doing. And people may say, well, why haven't you done that in the past? The reason...just like all of us, in the past money wasn't really an issue. A lot of times we let things slip, and that's how I interpret it. We have let things slip. Now it is time to put our house in order. Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the opening to the Banking, Commerce and Insurance Committee AM783 to LB358. Members requesting to speak are Senator Wightman, followed by Senator Carlson and Senator Lathrop. Senator Wightman, you're recognized. [LB358]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. If Senator Pahls would yield to some questions, I would like to... [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Wightman? [LB358]

SENATOR PAHLS: Yes, I would. [LB358]

SENATOR WIGHTMAN: Now I could partially hear what you were saying. I have kind of a raucous crowd over in my area, not so bad really, but I could hear part of it and I understood you to say, and I can't remember whether it was 2011 or 2012 that we would start to run into a deficit situation. Is that correct? [LB358]

SENATOR PAHLS: That is correct. And if I could direct you to the packet of information that was sent to you, if you take a look at the second column where you see where the rate is, that is in 2012, that is an indication when everything should break loose. [LB358]

SENATOR WIGHTMAN: Now we have insurance companies that underwrite the CHIP's program, is that correct, mostly Blue Cross Blue Shield? [LB358]

SENATOR PAHLS: What they do is of the five largest plans in the state they find out what the standard risk is and then that is the premium is taken off of the standard rate, increased to 135 percent. This is the Blue Cross Blue Shield, they actually administer the program. [LB358]

SENATOR WIGHTMAN: They administer the program and then they're limited to the 135 percent of the standard rate for that risk. Is that correct? [LB358]

SENATOR PAHLS: Right. And what I'm trying to do is increase that 5 percent for three years to increase it to 150 percent, which is not unusual. There are only three states that are below 150 percent and that's Nebraska being one of them. [LB358]

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SENATOR WIGHTMAN: And looking at the committee statement, and maybe these were taken care of, the objectors, the opponents in the committee amendment, but it shows that one individual and then two testifiers from Nebraska Medical Association. Did the committee amendment try to remedy the objections that the Nebraska Medical Association...I guess it was Nebraska Medical Association and the Nebraska Hospital Association. Is that correct? [LB358]

SENATOR PAHLS: That is correct because in the original bill we had set the rate of 125 of Medicaid, and after they had a discussion, they found out that there probably wouldn't anybody would carry the program because of the cost of changing all the rates to 125 Medicaid plus 125 percent it would probably chase people away from the program. It might even chase doctors and hospitals. [LB358]

SENATOR WIGHTMAN: So right now if that provider were reimbursed for their services, it would be at 125 percent of the rate paid by Medicare for that same service? [LB358]

SENATOR PAHLS: No, no. That was removed. What we're trying to do now is we're telling the individuals they must sit down with the board and let's do some negotiating and see if we can't, and I'm going to use the word cure, the problem. If we can't, they will come back to us in a few years, because it looks like the money is going to be gone and the only way the money is going to be there would be for us to appropriate, in my opinion, is to appropriate from General Funds. So what we're trying to do with that amendment is to say, hey, it's time to get your act together and let's start talking and let's do some negotiating and get those fees and the costs down. [LB358]

SENATOR WIGHTMAN: So basically the upshot is that if we don't pass this or very similar legislation, probably you will be back in, in a couple of years, and we will be looking at a General Fund appropriation. Is that a correct statement? [LB358]

SENATOR PAHLS: Yes. If we do not, because this program does have some luxuries that other states doesn't have. For example, people have had a choice of being on COBRA or on CHIP, and if CHIP is cheaper they would go with that. We're saying, no. Use your COBRA. Once you're off COBRA, then you can get on CHIP. We just need to start doing some of those things to make this program solid. [LB358]

PRESIDENT SHEEHY: One minute. [LB358]

SENATOR WIGHTMAN: Oh. So we're attempting to address the issue and hoping it will become self-sustaining by means of this legislation. Would that be a fair statement? [LB358]

SENATOR PAHLS: Yes. And just to give you another, because I know I was doing an

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awful lot of reading, but just doing other things, we have companies who want to dump their employees onto CHIP, which is unfair practice, and that's what we're trying to establish. That's an unfair practice. And then Director of Insurance would have the power to do some investigating. [LB358]

SENATOR WIGHTMAN: But as of right now, there would be no General Fund appropriation. [LB358]

SENATOR PAHLS: No, no. Right now...in fact, we've had the luxury in the past of giving money: 40 cents of every extra dollar to the General Fund, 30-some cents to the schools, and money to the counties and to the cities and also to the fire districts of the rural and suburban. That's going to be gone, and then we're going to have this thing come over and we are going to say, hey, we don't have any money. Well, right now we have money to give to those other organizations. [LB358]

PRESIDENT SHEEHY: Time, Senator. [LB358]

SENATOR WIGHTMAN: Thank you, Senator Pahls. Thank you, Mr. President. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Carlson, you are recognized. [LB358]

SENATOR CARLSON: Mr. President and members of the Legislature, this bill, LB358, is a very, very important bill, and I see a lot of people not paying much attention because it's like you don't have a dog in the fight. I'd like to address a question to Senator Pahls if I could. [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Carlson? [LB358]

SENATOR PAHLS: Yes, I would. [LB358]

SENATOR CARLSON: Senator Pahls, is it true that the sources of revenue that fund CHIP right now are premiums paid by the insureds and premium tax paid by insurance companies in Nebraska? [LB358]

SENATOR PAHLS: Right. The money that we get to put into the distributive fund is from premium tax, yeah. [LB358]

SENATOR CARLSON: Okay, thank you. And following up a little bit on what Senator Wightman said, CHIP is really just like an insurance plan. And so when you've got two sources of revenue, one is premium tax from existing companies and another premiums paid by the insureds. And now the insureds are paying a premium of 135 percent of the standard premium on an individual policy that they could buy someplace else. But they

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can't buy it because they're uninsurable. And they qualify for the CHIP plan because they try to get insurance elsewhere and they're turned down, and that's what makes them eligible for the CHIP plan. So now they have a plan but they're paying a premium, and their premium is 135 percent of a standard premium. Standard premium is high enough. Now this is 135 percent. It's going to 140 percent and then it's going to 145 percent. Now as if that's not difficult enough for the people that are paying these premiums, standard insurance rates are going up too. It's not just a 5 percent increase and then another 5 percent increase. It compounds. It's more than that. So CHIP is for people that are uninsurable, but the people that enroll in CHIP are those that are trying to be responsible. For the most part, they're proud people. They don't want a handout. They're trying to take care of themselves. They're trying to be responsible. We reach a point and we've got to be getting close, when people simply can't afford that premium, I don't care how proud they are. And if they make a decision we can't afford this any longer, then what do we have? We have a population of uninsureds adding to our population of uninsureds, and we have an additional population dependent on Medicaid. Now I don't have an answer to this. I don't know if you do, Senator Pahls, or not. I don't know if anybody does. What's more expensive for society? People that are on CHIP? People that are uninsured or people that are on Medicaid? I think the answer is people that are uninsured or people that are on Medicaid. They're more expensive for society. Right now you can argue that society isn't paying anything for CHIP, although the premium taxes put on companies that do business derive those premium taxes from their insureds. So we're all paying something of that. But this is a serious problem because if we get to 2012 and there's not money in CHIP, we're going to have a whole lot of people added to the uninsured and Medicaid. And look where we are right now on Medicaid. What's the answer? I don't know what the answer is. We need to brainstorm and figure out some additional sources of revenue to keep CHIP alive and healthy and to keep it in a form that we don't have to... [LB358]

PRESIDENT SHEEHY: One minute. [LB358]

SENATOR CARLSON: ...charge premiums to the sky for those people that are responsible, that are proud, that want to take care of themselves. This is a serious matter. I wish I had the answers. Appreciate what Senator Pahls and the Insurance Committee is trying to do, but I would say as a body we're open to suggestions. Thank you, Mr. President. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Members requesting to speak on AM783, we have Senator Lathrop, followed by Senator Gay and Senator Pahls. Senator Lathrop, you're recognized. [LB358]

SENATOR LATHROP: Thank you, Mr. President. And I stand in support of the bill and the amendment, and I really want to thank Senator Carlson for his remarks because this is a big deal. It's a big deal because if we get to a place where this program is no longer

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available to people in this state for the uninsurable, then they're just going to walk into our hospitals, get care, and walk out. And the cost shifting is going to show up, and it's going to make this spiral that we're on with our premiums exaggerated. I do have a few questions for Senator Pahls and maybe to help clarify what his amendments or his bill does if he'll yield to a few questions. [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield? [LB358]

SENATOR PAHLS: Yes, I would. [LB358]

SENATOR LATHROP: Thank you, Senator Pahls. If I understand it as Senator Carlson said, this is a program for the uninsurable to come to for some coverage which is close to or equivalent to a standard policy. Is that right? [LB358]

SENATOR PAHLS: Yes. [LB358]

SENATOR LATHROP: And what your bill does is try to put some cost-saving measures in it, the most noticeable of which is to stop plans from dumping the uninsurable into CHIPs instead of keeping them in a group policy. [LB358]

SENATOR PAHLS: Yes. Yes, that is one of the major factors. [LB358]

SENATOR LATHROP: And so essentially what we're doing is requiring that if you have somebody who is a very expensive person to insure, he's costing a lot because he or she is costing a lot because they have a very chronic and expensive condition. You can't just say my group plan will pay less if I can get this guy into the CHIPs program and send somebody off into CHIPs and have that group premium go down. [LB358]

SENATOR PAHLS: Yes. That's why we're trying to initiate unfair practices that would allow the director to make sure that we can capture those people. [LB358]

SENATOR LATHROP: Okay, good plan. Sounds like a great idea. There's some other aspects to it, and as I read your committee statement, I do have a question for you. And that is, at one point the coverage was going to be that which is available in the five best plans or the five most popular plans that are issued in the state, and now it's going to the ten? [LB358]

SENATOR PAHLS: Yes. And the reason why they're doing that is because when you only use five plans or five companies, you have more of a chance of rates and things going up and down. With looking at ten, that should help with a little more stability. [LB358]

SENATOR LATHROP: Is that going to change what's actually covered? [LB358]

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SENATOR PAHLS: No, no. [LB358]

SENATOR LATHROP: So after we pass this bill, we're not going to see somebody who could have 50 visits to the physical therapist in a year, have that whittled down to 10. [LB358]

SENATOR PAHLS: If they would do that, then the commission would have to get the permission from the director to do that, you know, and then I'm sure she would overrule that. [LB358]

SENATOR LATHROP: So what we're not doing here is whittling the coverage but trying to avoid the people that are taking advantage of the system. [LB358]

SENATOR PAHLS: Yes. [LB358]

SENATOR LATHROP: And that way we'll realize less money going out in payment of claims that should be paid through some group policy and hopefully stave off the problems that you predict are headed our way in a few years. [LB358]

SENATOR PAHLS: Yeah, yes. That's just one part of it, but that is a major part or could be. [LB358]

SENATOR LATHROP: But that's kind of an overview of what we're accomplishing today. [LB358]

SENATOR PAHLS: Yes. [LB358]

SENATOR LATHROP: Again, I support the bill and the amendment and would like to echo Senator Carlson's and Senator Pahls's admonition that this is a really important issue because this is a big deal. And if these people do...if we can't keep this affordable for the uninsurable, they're simply going to opt to not be insured and we'll all end up paying for it in higher premiums and in Medicaid expenses. So with that, thank you, Mr. President. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Gay, you're recognized. [LB358]

SENATOR GAY: Thank you, Mr. President. I'd just like to add, as well, I think Senator Carlson did a fine job. The one thing we do remember and these are responsible people and they're doing a great job, so that's the first thing I think we need to recognize. Secondly, I'd like to just commend Senator Pahls and his committee for taking this issue on before we have a problem. And that's to be commendable. I was on the Banking

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Committee my first two years here, and I knew somewhat about this. But the changes that were made aren't easy but they need to be done, and I think it's important that you get ahead of the curve here and take care of this situation. So I just wanted to rise in support of both the amendment and the bill, and I would yield the balance of my time to Senator Pahls. Thank you, Mr. President. [LB358]

PRESIDENT SHEEHY: Senator Pahls, you are yielded 4:10. [LB358]

SENATOR PAHLS: Thank you, Senator Gay. And I'll just give you a couple more pieces of information that piqued my curiosity a little bit. Just to give you an idea, 10 percent of the policyholders are there for four years; 20 percent are there for less than one year; 40 percent are there for four years. So it goes to show you, this is supposed to actually help what they call the middle-class section, middle-class group of individuals who are, like I say, who are being responsible. And the reason why individuals leave the program, because I think this is important to know, 50 percent do it because they become eligible for Medicare; 27 percent become eligible for other programs because they found different jobs; 10 percent say they leave because of the cost of the program; and sad to say 5 percent leave because they pass away. I do...I appreciate the comments that people have brought forth because I do...like I say, this is something we need to do. And I think all of the individuals who are involved with this are trying to make it work. So I would appreciate your support of the amendment and also of the bill. Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Additional members requesting to speak on AM783 are Senator Haar, followed by Senator Wallman, Senator Sullivan, and Senator Pirsch. Senator Haar, you're recognized. [LB358]

SENATOR HAAR: Mr. President, members of the body, I'd like to ask some questions of Senator Pahls, please. [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Haar? [LB358]

SENATOR PAHLS: Yes, I will. [LB358]

SENATOR HAAR: Okay. Well, I have been listening. I have a niece who is on the CHIP program. And what is the upper limit for coverage under this program? [LB358]

SENATOR PAHLS: \$1 million. [LB358]

SENATOR HAAR: And what happens to people after they get...and I'm just trying to gather information here. What happens to people after they reach that limit? [LB358]

SENATOR PAHLS: Well, they would no longer qualify for CHIP, so I'm assuming they

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would have to look for other sources. And I don't know if that would be Medicaid, probably Medicaid because they'd be getting into the spot where they would need additional help. [LB358]

SENATOR HAAR: Okay. And then I was very interested in Senator Carlson's comments. Is it part of your bill to keep raising the premiums, the percent? [LB358]

SENATOR PAHLS: For the individuals. Right now they're paying 135 percent. [LB358]

SENATOR HAAR: Right. [LB358]

SENATOR PAHLS: We need to raise it 5 percent for three years to 150 percent, which is not abnormal when you consider the other states. We are one of three states that have rates such as ours--150 is not...you cannot raise it more than 200 percent by federal law. [LB358]

SENATOR HAAR: Okay. Is this...do we get any federal money for this program? [LB358]

SENATOR PAHLS: As I've read, very little, very little. I don't know the exact amount, but not anything to speak of, I've been told. [LB358]

SENATOR HAAR: Okay. So even though we'd like it to be self-sufficient, at some point...I mean it's Nebraskans taking care of Nebraskans, right? And so...I mean I would hate...and it's kind of following up on Senator Carlson's comments, I think, that if we raise...if we make it impossible for people to participate, we're going to pay more in the long run and that would be a concern of mine. [LB358]

SENATOR PAHLS: Yes. Could I give you an example, just one example, of an individual who is--and I just have this--who is 64 years old. Now if you smoke, just like any policy, or you take lower deductions, your rates are high. For example, a 64-year-old individual, this is as high as they go, your rates would be around \$2,000 a month. However, if you decide not to smoke and you take a \$400 per year deductible, your rates would drop to \$713 a month. See, so it's like a lot...I mean sometimes...these individuals are in control of themselves to some degree if they would not smoke, of course, and things such as that. [LB358]

SENATOR HAAR: And then if people have concerns about these, who's the person to talk to? [LB358]

SENATOR PAHLS: Well, the Director of Insurance would be a logical person, but there is the commission of seven individuals who they could go...but I would start with the Director of Insurance, and then she could move you in the right direction. [LB358]

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SENATOR HAAR: Okay. Well, again, this is a learning for a new senator, so I appreciate your comments and I appreciate Senator Carlson's, as well. Thank you. [LB358]

SENATOR PAHLS: Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Wallman, you're recognized. [LB358]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I, too, thank Senator Pahls and Senator Carlson. But I'd like to ask why was the Nebraska--what was it?--Hospital Association against this? [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Wallman? [LB358]

SENATOR PAHLS: Because if you look in the bill in Section 3, we establish a certain rate. And then after everybody took a look at that, that would be almost impossible for them to work with because they would have to reformulate their programs, and it could also cause doctors and hospitals to start taking a second look at some, you know, some individuals. [LB358]

SENATOR WALLMAN: Okay. Thank you, and I will support this bill and the amendment also. Thank you, Mr. President. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Members requesting to speak on AM783 are Senator Pirsch, followed by Senator Campbell and Senator Sullivan. Senator Pirsch, you're recognized. [LB358]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I won't belabor the point. I think the culprit here is that costs have been escalating to an unsustainable level, a level that really threatens the very existence of this CHIPs program as we go out into the future. And it's...it's a...not an issue that is just confined to this program, but just insurance in general. And so these embedded in this bill are some common-sense types of approaches to fairly, as fairly as possible, you know, address those escalating costs and see if you can put a halt to some of the costs. And so as was mentioned, requiring...you know, one of the ways that this bill addresses that is looking at employers who have, on traditional regular insurance, group insurance, identifying those employees who are high-cost generators and trying to essentially find ways to get them off of their insurance responsibility through. And so some of the elements of this bill has been mentioned, would require COBRA...well, with respect to dumping, I'll address that first; that it would be declared an unfair trade practice insofar as it's a practice that is being practiced by a third-party administrator, an agent, a broker, it would...and so in

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that sense, because it's declaring it an unfair trade practice, hopefully that will bring a halt to that attempt to cream the crop, so to speak, and externalize costs that have previously been part of the group health experience on to the CHIPs program. And I think that's appropriate. Again, as mentioned, the COBRA facet that you would be required to exhaust your COBRA coverage before you would be allowed to enter the CHIPs program. And the other measures, the money-saving measures--I said at the beginning I wasn't going to belabor the point--and the other measures that are embedded here I think are common sense, as well, and are necessary if we are not...if we are going to see COBRA succeed and exist in...I'm sorry, not COBRA, but the CHIPs program succeed and exist in future years and not that far out into the future. So I also would lend my support to the amendment and to the underlying bill. Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Campbell, you're recognized. [LB358]

SENATOR CAMPBELL: Thank you, Mr. President. I, too, would like to thank Senator Pahls and Senator Carlson for their comments this afternoon. And I don't know, Senator Carlson, after having worked on Medicaid, maybe I would choose that the uninsured may be our most expensive. Would Senator Pahls entertain a question? [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Campbell? [LB358]

SENATOR PAHLS: Yes, I would. [LB358]

SENATOR CAMPBELL: Senator Pahls, is this insurance used, at times, for a bridge until an individual can become eligible for SSI disability? [LB358]

SENATOR PAHLS: You know, I can't answer that but by the information I have in front of me tells me when certain groups of people are leaving the program. And as I said, some of them when they become Medicare, you know, eligible for that, that's 50 percent; 27 percent when they go to another employer; and 10 percent because they say the premium is too high; and, of course, 5 percent because they pass away. But I can't tell you if that's a gap. [LB358]

SENATOR CAMPBELL: I'm just making that assumption because of the long period of time that it often takes for an individual to become eligible for SSI. So I appreciate that there is a program in place to maybe bridge that time period. Thank you, Senator. [LB358]

SENATOR PAHLS: Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Sullivan, you're

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recognized. [LB358]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. And I wonder if Senator Pahls would yield for a few questions. [LB358]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Sullivan? [LB358]

SENATOR PAHLS: Yes, I would. [LB358]

SENATOR SULLIVAN: Thank you. First of all, there are probably most of us in this body that maybe don't even realize that we have constituents that are benefiting from this program. And I don't know, personally, one individual, but I know of one who has been on this program for a number of years, having sustained a head injury, and has not been able to find insurance anywhere else. So my first question is, just exactly what impact will these changes in your proposed legislation have on the premiums for these individuals who have been in the program for a long time? [LB358]

SENATOR PAHLS: They will increase 5 percent for three years. It will go from 135 to 150 in three years. And again, we're doing that to help keep the premiums...I mean, to keep the program in balance. I'm looking for some numbers I had here. Ask another question and I'll see if I can't find that. [LB358]

SENATOR SULLIVAN: Well, and in the process of computing those premiums, I noticed that you're using the...let's see, you're going from the ten...not using the five largest sellers but the ten largest sellers? And I'm wondering what the reasoning was for that. [LB358]

SENATOR PAHLS: Again, that is for stability, because it has a tendency, I've been told, to spike much easier with just five plans to look at. If you look at ten, it should be more stable. [LB358]

SENATOR SULLIVAN: Okay. And then, again, like Senator Haar said, we're new senators trying to learn some of the ins and outs of this. Tell me again also what this legislation proposes to do with respect to reimbursement rates for providers. [LB358]

SENATOR PAHLS: That is the...which deals with the amendment. Basically we're telling the individuals involved, let's get together and let's see if you cannot make something happen. Because if you don't, they will be coming back and then we will be the ones making it happen. [LB358]

SENATOR SULLIVAN: So your amendment, in effect, has already brought them to the table, or are you expecting that this is then going to force them to the table to have further discussion? [LB358]

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SENATOR PAHLS: Right. That is our goal is to say...they have been talking but they know that what we came up with was unworkable, so that they're going to have to get together and make those decisions. Because like I say, in the past, you know, when there was money, it probably wasn't that significant. But since the money...since we're, you know, starting to roll downhill, now is the time. We can't wait any longer. And that's what we're trying to tell them. [LB358]

SENATOR SULLIVAN: Well, I certainly appreciate your work on this. And if you're still searching for that answer to my initial question, I will...I can defer to you later and we can take this up again. [LB358]

SENATOR PAHLS: Yeah. [LB358]

SENATOR SULLIVAN: So thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Seeing no additional requests to speak, Senator Pahls, you are recognized to close on the Banking, Commerce and Insurance AM783. [LB358]

SENATOR PAHLS: Okay. If I'm not mistaken, I'll just give you an example of how the...it would increase. This is a person who is 18 years old, does not use tobacco, and has \$10,000 deductible. Their rates would increase, year one, \$81; year...the next time would be \$85; then \$89. That's at the child's rate. And I'm trying to look here...it has somewhere with the adults. What I did use was the...for the...I just don't have it. Can I give that to you off...? I've got so many papers here. I don't have that right now. Oh, here, I'll just...I'm sorry. This would be like for the oldest person who could be in the program, and as I said earlier, \$4,000 deductible. Their rate would go from \$713 to \$739, to \$766 to \$792. They started at \$713 and in three years it would be \$792. And that's as old as, you know, the old...a person my age, okay? I think we've had a good discussion. I think the people in the body understand that this is something that we need to take a look at and to keep the program afloat. It's that simple. Thank you. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the closing from the Banking, Commerce and Insurance Committee AM783. The question before the body is on the adoption of AM783 to LB358. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB358]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB358]

PRESIDENT SHEEHY: AM783 is adopted. We will now return to floor discussion on LB358. Seeing no requests to speak, Senator Pahls, you are recognized to close.

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[LB358]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Again, if there are questions, please, you can ask me off the floor. The director of the Department of Insurance is outside the glass, so if we do have some questions that were not answered to your need, please let me know. And thank you for your support. [LB358]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the closing. The question before the body is on the advancement of LB358. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB358]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB358. [LB358]

PRESIDENT SHEEHY: LB358 advances. Senator Adams, you are requesting a point of personal privilege. [LB358]

SENATOR ADAMS: Thank you, Mr. President, members of the body. If you'll indulge me for just a moment, the long-awaited numbers have arrived and they are about to be handed out to you. I hope you don't mind, but I tried to spare you some of the details. And what you're going to be getting is a summary sheet. And what that summary sheet will show on it are several different columns. And you certainly can read them, but if you'll indulge me for just a moment, I'll highlight what they are. The first column that you will see is the '08-09 calculated state aid. That's the aid that school districts have already received. That was the last check that they just got. The next column is Model A calculated state aid. Now Model A, if you remember back several months, that was the February 1, what would have been certified had we fully funded aid and we not been in the revenue picture that we're in. The next column that you will see is what's called a Model B column. Now Model B is LB545 that's using the \$234 million in stimulus money; that is amending the averaging adjustment; it's slowing down growth. Model C is what we moved last week with less there for your school districts for retirement and more there in the averaging adjustment. Now there will be other columns there that will indicate to you the differences between one and the other. There's also a column showing you the current levy rate in all of the districts as you see them down the line. And let me say this at the outset. As you look, as you look, recognize that every school district is different, your demographics are different. There may be things affecting the aid that have nothing to do with what happened with the averaging adjustment. There are aid stabilizations; there are need stabilizations involved; there's a lot of different things. My legal counsel in the office and I will be glad to try as best we can to look at each one of your individual schools if you have questions. That's 254 different school districts if you all barrage us at once. We'll do our best. And also take note that, literally as I am speaking, the Department of Ed is also putting these same numbers on the Department of Ed Web site with more specific spreadsheets that show each one of the columns for all of the allowances and adjustments. And those will be available to you

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and to your superintendents, if you want them, in just a few minutes. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Adams. We will now move to items under General File, 2009 Speaker priority bills, LB155. Mr. Clerk. [LB155]

CLERK: Mr. President, LB155 is a bill introduced by Senator Rogert. (Read title.) Introduced on January 9 of this year, referred to the Judiciary Committee, the bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM1271, Legislative Journal page 1298.) [LB155]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB155. [LB155]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Good afternoon, members of the body. LB155 is a bill that Senator Rogert is bringing on behalf of the Attorney General's Office. It seeks to protect the public from three criminal threats: organized crime, widespread theft schemes, and identify theft. First, Senator Rogert's interest in this legislation started with an idea on the aggregation of charges. As you may recall, in August of 2008, the Attorney General's Office launched an investigation into gas blends after the Nebraska Department of Agriculture's Division of Weights and Measures informed them that stations were selling ethanol-blend gasoline at unleaded prices. Their investigation found a gas station owner in Senator Rogert's district selling ethanol-blend gasoline to customers at the higher unleaded price. People pumped and purchased what they thought to be unleaded gas but what they really got was the lower priced ethanol. At least ten citizens were lured by an advertisement that read \$2.89 per gallon, which was the price for E-10 gasoline with 10 percent ethanol. They ended up paying \$3.39 per gallon but for a perceived cheaper unleaded gasoline. These sales were made in November of 2007, and the investigations were conducted based upon violations of the Nebraska Deceptive Trade Practices Act. Right now, state law won't allow us to add these losses to multiple victims, together, so that the perpetrators can't be charged with felonies. The practice of taking a little money from a lot of Senator Rogert's constituents was inexcusable in his mind. He believes we need penalties to fit the crime. With this legislation, that hammer will exist. For that reason, the bill specifically amends the theft grading statutes to allow for the aggregation of multiple victims' losses from one scheme, and raises the applicable level of punishment. Secondly, LB155 amends the current offense, refines the definition of criminal impersonation, and creates the crimes of identity theft and identity fraud to better address the nature of modern criminal tactics. The change in the criminal impersonation law will allow for the opportunity to charge for providing false information to a court or law enforcement officer or to an employer. The persons who commit these crimes are not always looking for a financial gain. These crimes can be committed by undocumented workers for the purpose of gaining employment or for criminals who are

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evading arrest or committing more crimes. Under this provision, the suspect can now be prosecuted at the state level. The bill also outlines the criminal penalties. Criminal impersonation and identity theft follow the same grading scheme as other theft cases. The offenses are enhanceable, one classification level for second and subsequent offenses. For example, identify fraud is a Class I misdemeanor with each subsequent offense being a Class IV felony. The prosecution must commence within five years after the offense occurred. The prosecution may occur in any county in which an element of the offense has occurred, including the county where a victim resides. Identity theft victims often have trouble obtaining a police report because of the nature of the crime and the potential for it to happen in multiple locations. This allows the victim to actually file the necessary paperwork or complaint immediately following the discovery of the incidence in town where a victim resides. As such, it provides the victim with an immediate and accessible avenue to begin the process of proving their innocence as well as taking back their identity and taking back their life. Identity fraud has been called a high-yield, low-risk crime because, if they are caught, the penalties for the criminals are relatively minor. Adding a subsequent conviction of a criminal impersonation, identity theft, or identity fraud will hold offenders more accountable. It's important to modernize our laws and create a specific identity theft statute. According to the Federal Trade Commission, nearly 800 Nebraskans were victims of identity theft in 2007, and the Attorney General's Office has had over 200 identity theft complaints over the last two years. Currently, identity theft crimes are prosecuted under the Criminal Impersonation Law, so the creation of an identity theft statute will make it easier for the public and law enforcement to distinguish between the two. It will also enable law enforcement and prosecutors to charge and prosecute more offenders and to hold them accountable in a court of law. Thirdly, LB155 is the inevitable result of federal government in a majority of states who have some form of Racketeer Influenced and Corrupt Organizations--RICO--statutes, to address to organized criminal enterprises. The state of Nebraska, like all other states, continues to encounter organized crime, both large and small. While the largest of these enterprises are patrolled by federal authorities, the rest function with mere immunity due to the lack of prosecutorial power to address them. The result is the victimization of a significant number of Nebraskans each year. That is why we need the Nebraska Public Protection Act. The act sets forth prohibited activities which mirror the federal provisions and makes it illegal to use funds obtained from racketeering activities in the operation of any legal or illegal enterprise. Essentially, this addresses the money laundering of illegally obtained proceeds. In addition to that, the Public Protection Act also addresses loansharking, strong-arm protection, and other traditional organized crime activities. The punishment aspect of the act makes it a Class III felony: 1 to 20 years and/or a \$25,000 fine for a violation, unless the underlying racketeering activity is a Class I, Class IA or Class IB felony, when the penalty is increased to a Class IB felony: 20 years to life. There's also an additional court option to increase the fine to an amount equal to three times either the value gained by the violating enterprise or the gross loss caused to the victims. Again, the majority of other states have adopted some form of RICO to address these criminal

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activities. The passage of such legislation would place us on an equal footing with other states and prevent Nebraska from becoming the last of the safe harbors for organizations who choose to commit such acts. And with that, LB155, in its entirety, is a comprehensive package that protects the citizens of Nebraska from organized crime, widespread theft schemes, and identity theft. As policymakers, protecting our constituents and our Nebraska citizens should always be at the forefront of our minds. For this reason, Senator Rogert asked the members of the body to consider LB155 and vote favorably. Thank you. [LB155]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the opening to LB155. As was stated, there is a Judiciary Committee amendment, AM1271. Senator Lathrop, you're recognized to open. [LB155]

SENATOR LATHROP: Thank you, Mr. President. I need to point out that that was Senator Lautenbaugh and I'm Senator Lathrop. There's a difference. (Laughter) I think everybody gets it. Good afternoon, Mr. President and colleagues. LB155 is a bill that was advanced from the Judiciary Committee, with AM1271 attached, by an 8-0 vote. AM1271 is an amendment that the committee felt provided the proper balance and fairness to the implementation and prosecution under the Nebraska RICO statutes by making the following changes to the bill. First, the original Section 3 is deleted. In the original Section 3, there was legislative intent language borrowed from the federal statute which we thought was unnecessary. Number two, new Section 4(2) adds a requirement that at least \$1,500 in a loss or a gain was added to the definition of a pattern of racketeering activity to specify when a RICO violation occurs. Third, new Section 4(5)(a) declares...pardon me, deletes the offenses of first-, second-, and third-degree sexual assault of a child; second- and third-degree sexual assault; and abuse of a vulnerable adult, from the definition of racketeering activity. The committee advanced LB97 which already provides for an increase in penalties for sexual assault crimes such as these. Number four, new Section 4(5)(f) deletes the offense of second- and third-degree promotion of gambling from the definition of racketeering activity to ensure that we are prosecuting legitimate organized gambling enterprises instead of small-scale March madness basketball pools which can already be prosecuted under current statutes. Number five, the new Section 4(5)(j) removes the descriptive language with regard to Section 28-1005 in the definition of racketeering activity. Number six, the new Section 4(7) adds the element of a minimum of \$1,500 to the definition of an unlawful debt, meaning that \$1,500 threshold must be reached before this penalty can be utilized. Also, the conjunction between (a) and (b) has been changed from "and" to "or." Number seven, new Section 5(1) adds the element of intent of the person charged must be proved by the prosecutor in order for a conviction to be obtained. The prosecution must prove that the person charged must have known that the proceeds were derived either directly or indirectly from racketeering activity. Number eight, the original Section 7(3)(a) through 7(9) was deleted. This removed all forfeiture provisions from the statute...or from the bill. Number nine, new Sections 13 and 14 split the

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offenses of insufficient fund checks and no account associated with check into two separate offenses with the offense of no account associated with a check being punished more severely than an insufficient funds check. It also brings the grading of such offenses into conformity with Nebraska's theft offenses. And finally, number ten, the original 14(13) is deleted. This removes the provisions relating to the retroactive application of the statutory changes made by LB155 and its amendments, as that was likely unconstitutional. Those are the amendments from Judiciary Committee and we encourage you to support both AM1271 and LB155 as amended. Thank you. [LB155 LB97]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You have heard the opening to the Judiciary Committee amendment, AM1271. Mr. Clerk, you have an amendment to committee amendment on your desk. [LB155]

ASSISTANT CLERK: Mr. President, Senator Pirsch would offer AM1350. (Legislative Journal pages 1381-1382.) [LB155]

PRESIDENT SHEEHY: Senator Pirsch, you're recognized to open on amendment to committee amendment, AM1350. [LB155]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Essentially in this amendment, AM1350, I am seeking to incorporate a bill that I introduced this past session, LB76. And so in large sum and substance, that's what's going on here in this amendment. In a nutshell, this amendment seeks to address problems Nebraska businesses face, including many small merchants, insofar as crime is concerned. Currently, Nebraska criminal law provides for a felony penalty for one who makes or possesses a forged check with a face value of \$300 or above with intent to deceive. Nebraska criminal law provides for only a misdemeanor penalty for one who issues or possesses a forged check with a face value below \$300. Offenders can defeat the spirit of the statutes, the criminal statutes, by writing multiple forged checks where each individual forged check is written for an amount just below that felony threshold of \$300. Offenders can, therefore, issue and possess thousands and thousands of dollars of forged checks and still face only misdemeanor charges. This amendment would see to incorporate the provisions of LB76 and would allow prosecutors to aggregate the amounts on all forged checks issued or possessed by the same individual during the same scheme or course of conduct. Now this has been tweaked in a compromise provision that was added by the Judiciary Committee that requires that course of conduct to have taken place within a 60-day period and within one county. So it must meet those parameters for it to be...for the dollar amounts to be aggregated for the purpose of charging crimes...forgery. In allowing prosecutors to aggregate these multiple forged checks issued or possessed during the same scheme or course of conduct, the forged check statutes would become more uniform with existing...a different statute, the bad check statute, which currently does allow for multiple check

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aggregation. And when you think about it, if you're allowing prosecutors to aggregate bad checks, which are, I think, pretty commonsensically less morally culpable of an act for you to write a check on an account, your own account which has insufficient funds, intentionally. We're talking about, in this bill, individuals who are writing checks on accounts that are not their accounts, on other people's accounts that they clearly know that are not theirs. So forged checks as opposed to bad checks. So in that sense, it brings about a greater uniformity. During the committee hearing, it was a...there was no opposition to the LB76, an 8-0 vote by committee, no neutral testimony, and so I think that really the...I think one other point is we don't have misdemeanor...an ability to extradite misdemeanor offenders to the state. So if in, say for example, Council Bluffs a lot of these...there's a lot of organized type of crime rings, and as long as you're able to, you know, commit your crimes and then get back over the river, you really cannot extradite these individuals. So you might have many, many, many, many misdemeanors for...I mean, forged check misdemeanors, and yet you are frustrated because there's nothing you can do because they live two miles away but that two miles is over the river. So I think in that sense this is...it gives an extra tool in the arsenal of prosecutors when they're looking to do the right thing, and so to that extent it is a good thing. And when you talk to the merchants, to the small businesses out there in Nebraska, they are telling me that this is something that is having an effect on their bottom line, that's making the small businessman struggle. And when it comes to these people who are intentionally...this is just out and out theft, stealing through forgery, we ought to have at least an ability to eradicate that in the law, and so that's what this bill would help bring about. So I would urge you to support it. Thank you. [LB155 LB76]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the opening of the amendment to committee amendment, AM1350. Members requesting to speak are Senator Lathrop. Senator Lathrop, you're recognized. [LB155]

SENATOR LATHROP: Thank you, Mr. President, colleagues. I think that Senator Pirsch's amendment is entirely appropriate and goes to a very important problem retailers have in the state, and that is the person that runs around and drops a check, a bad check or a forged check, on a retailer just below the threshold for a felony. They're pretty smart about this. Every time we raise that threshold, they start writing checks a little bit...for a little bit more and they stay below the threshold. So what happens is they end up writing a whole bunch of checks around town and staying below the threshold, and what Senator Pirsch's amendment will do is to aggregate those so that you stack them up, add them up, and decide whether it's a felony or a misdemeanor. It is not only appropriate and responsive to a problem that's going on with retailers in the state, but it's also appropriate that it be attached to LB155. What Senator Rogert's bill does, as well as the committee amendment, is to take those people who commit crimes, little bits at a time, either by one person writing a lot of little checks or doing a lot of little things and having several victims, or...well, that's basically it, or having several people do a number of small things together. So all of the bill and the amendments thereto address

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those situations where people, other than the ID theft stuff, address those situations where people are committing a series of small crimes, and this is a way to get to them because the gain to the perpetrator is in the felony range, and we have, to this point in time, classified all of our crimes relative to how much the victim has been...how much loss the victim has suffered as a result of the criminal activity. So I fully support Senator Pirsch's amendment to the Judiciary Committee amendments and again encourage you to support LB155. [LB155]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Lautenbaugh, you're recognized. [LB155]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And speaking for myself now rather than reading, I also of course rise in support of Senator Pirsch's amendment. I applaud him for bringing this bill. It does address a hole in our current criminal law. I also applaud Senator Rogert and the AG's Office for bringing the underlying bill. And without belaboring the point, I would be happy to answer questions, but I'd urge your approval otherwise. Thank you. [LB155]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Pirsch, you're recognized to close on AM1350. [LB155]

SENATOR PIRSCH: Thank you, Mr. President. I will be brief. Again, this, just to clarify, this deals with...not with bad checks, people who are writing checks on their own account that just had insufficient funds. These are forged checks. Essentially, in most cases, stolen checks; not my account; perhaps I've created this on my computer. And so this isn't...I just want to clarify, we're not talking about people who are writing checks that they just don't have funds in. I am using someone else's account, someone where I know...I probably don't know them at all. I've taken...a lot of these times they've taken the checks out of people's cars, any time there's a break-in in their house, and maybe created them on a computer. But these are forged checks. And it is a game. You know, criminals are, in many instances with regard to these forged checks, very intelligent about the way they go about their crime. They know, through experience, where that threshold level is between misdemeanor and felony, and they know that they have a lot more safeguards if they write many, many misdemeanor type of forged checks, just below that threshold. So you may have one forged check that is \$1 over and, you know, 12, a dozen, a couple dozen misdemeanor checks that are several multiples more, in terms of dollars, than the felony, and yet it doesn't matter. Our hands are tied in trying to stop that type of crime. So it is a game. And again, with the misdemeanors, no matter how many there are, you can in many instances just cross over the river and stay there till the statute of limitations expires and essentially defeat any criminal law in the state. So I do view it as a loophole. And the problem is that our merchants, many of these small businesses, it just makes a huge impact on their bottom line and in many cases has been a great determinant in having these small businesses go out of business. So

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this will make sure that the state has tools in its possession to close these loopholes. I'd urge you to vote yes. Thank you. [LB155]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the closing to the amendment to committee amendment, AM1350. The question before the body is on the adoption of AM1350 to AM1271. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB155]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of Senator Pirsch's amendment to the committee amendments, Mr. President. [LB155]

PRESIDENT SHEEHY: AM1350 is adopted. We'll now return to floor discussion on the Judiciary Committee amendment, AM1271. Seeing no requests to speak, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is on the adoption of AM1271 to LB155. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB155]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments. [LB155]

PRESIDENT SHEEHY: AM1271 is adopted. We will now return to floor discussion on LB155. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives closing. The question before the body is on the advancement of LB155. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB155]

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of the bill, Mr. President. [LB155]

PRESIDENT SHEEHY: LB155 advances. We will now proceed to LB218. [LB155 LB218]

ASSISTANT CLERK: Mr. President, LB218 was introduced by Senator Cornett. (Read title.) The bill was read for the first time on January 13, referred to the Committee on Revenue. That committee placed the bill on General File with committee amendments attached. (AM712, Legislative Journal page 745.) [LB218]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on LB218. [LB218]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. The Revenue Committee advanced LB218 in a large part as an effort to address an issue, if you will, that we as a body have discussed for the past several years: county aid.

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Specifically, the failure of this body to fund county aid promises, fully. Rather than debate what "fully" may mean or what restrictions we may have on our meeting our promises because of budgetary constraints, LB218 represents a fresh approach, an approach based on key principles of not only local governance, but of our playing a supportive rather than micromanagement-type role. It is my intent in advancing this bill for your consideration that we move forward with a reliable and stable funding stream for counties. We provide a formula that represents a funding amount based on each county's share of statewide taxable valuation rather than the specific programs or needs. LB218, in essence, repeals three current county aid programs: county jail cost reimbursement, aid to counties, and county property tax relief. A new aid program is created in their place. You may be asking yourselves, is the Revenue Committee playing some sort of shell game? We are not. Rather, we are recognizing in LB218 that these three aid programs are not as congruent as one would want in shaping public policy. Two of the programs are based on a formula aid and one is based on reimbursement. The county property tax program wasn't even funded in fiscal years '03-04, '04-05, '05-06, and '06-07. Just recently, in '07-08 and '08-09, we added \$1.5 million to fund each year. Many of you may remember from previous years that jail reimbursement assistance program has not been fully funded either. There have been controversies regarding how these monies have been distributed because some counties have been blocked from receiving reimbursement because the funds were already depleted before the requests were made. You may want to conclude that if the state is not going to fully fund their commitments, then we must build flexibility for counties to use these funds for purposes and programs that best fit their needs. How would LB218 work? The redesigned single aid program uses each county's percentage share of a statewide taxable valuation as the main criteria for distribution of aid. A minimum distribution of a fixed dollar amount will also be given to each county. That fixed dollar amount is \$30,000. If a county's share of statewide taxable valuation is 1 percent of the state aid taxable value, it will receive 1 percent of the money in the aid program, plus the fixed dollar amount provided for in the formula. I do have a handout for showing you the county-by-county impact of this funding formula. However, before handing this out, I would like to visit with you about the state's obligation under this role. Currently, these three programs cost the state, according to our Fiscal Office, \$10.375 million in aid to counties. LB218 builds in flexibility in the formula by specifying a range that the amount of aid equals a percentage of the total real and personal property valuation of all counties, but a percentage between .0075 to .0125. In dollars, that means that our minimum appropriation would be \$10,493,255, and the maximum appropriation would be \$17,488,758. Mr. President, members, I would like to stop here because the committee adopted an amendment that would delay the implementation of a single county aid program into July 1. And I would like to open on that committee amendment. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening to LB218. As was stated, there is a Revenue Committee amendment, AM712. Senator

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Cornett, you're recognized to open. [LB218]

SENATOR CORNETT: The committee amendment delays the effective date of the act for two years. At that point, additional funds may be available to increase county aid. One source is of the state funds saved by the passage of LB121 which shifted assessment functions back to counties. The state's fiscal picture may improve by that point, and increasing county aid will be more feasible at that time. The committee still desired to end jail cost reimbursement and other aid programs and create one aid program, which was simple to administer and reliable funding stream for the counties. With the committee amendment, this will occur in two years. In the intervening two years, jail cost reimbursement and the other two programs will continue to be currently administered with no additional funds added. With that, I would like to give my remaining time to Senator Heidemann who cosponsored this bill and has been working very hard on it with me. [LB218 LB121]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator Heidemann, you're yielded 9 minutes. [LB218]

SENATOR HEIDEMANN: Thank you, Senator Cornett, Mr. President, and fellow members of the body. I want to talk just briefly on this. This is something that probably has in my five years has popped up quite a bit. I've dealt with it probably three of my last five years in bills that somewhat have come to the Appropriations Committee when it comes to jail reimbursement. And I determined probably a couple of years ago that there had to be a better way. And we've dealt with this on the floor, and this is somewhat of a spin-off of something that happened late last session on a bill that I believe Senator Cornett was actually carrying. And there was a commitment made at that time to go in and try to find a better way or to find something that we could do to improve this situation, and I believe that LB218 is the answer. As we looked at this over the summer, how best we could do this...and it takes from what we've got right now, which to me is a very confusing and convoluted way to get money to counties to help with some property tax relief, and that's what these three programs to me actually do. You have jail reimbursements which is administered by the Department of Corrections. You have county aid which is administered by the State Treasurer. And you have county property tax relief which is administered by the Department of Revenue. That, in itself, to me is a little bit more complicated and confusing than it needs to be. Also, when you look at jail reimbursement and how it gets money out to the counties and how it runs out half way through, and you got to get your stuff in to get reimbursed, and some counties don't get it in on time. Some counties actually don't get any money because of that. They don't get their data in on time. That in itself to me is very confusing. I think when you look at LB218 and you look at the concept behind it, you look at the concept that was behind these three programs when they first were initiated, and that was property tax relief, where do we get property taxes from? And it's based on valuations. So if we want property tax relief, how best not to give it back to the counties (inaudible)

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based it on valuation. And that's exactly what LB218 does. I think it takes three somewhat complicated and confusing aid programs, rolls them into one, beginning with...in two years' time, that will cost a little bit more money, not much, and then has a growth factor in there that I think everybody can grab ahold of and appreciate. And I think overall, I think everybody seems to be satisfied. There are a few winners and a few losers, but I believe in the bottom line that it is fair. And when we started this process, that's what we wanted to do, is to be fair. And I believe that's what LB218 does. I've been working with NACO a lot on LB218. I thank them for their support and their help in drafting up something that hopefully will be acceptable to all in the end run. I also want to state at this time, and I'll put it in the record, that we would have liked to have started this right away. And everyone realizes what kind of revenue downturns we are facing right now as a state, and at that time it was decided to put the amendment, to push it back a little bit. But I'm stating right now, on record, that if I am still here in two years, and hopefully I will be, that it's my hope that the revenue picture will turn around. We will look for more funding for this program. There are some winners and losers, like I was told. It is my hope that we can maybe put a little bit more money into this program. And that was our intent this fall, earlier on, that we were going to start something, find a little bit more money, hold everybody a little bit harmless, and we could start a new program and we could move forward at that point. As the revenues turned down, we realized we probably wasn't going to be able to do that. It is our hope that we're going to be able to do that in two years. I think that LB218 is a good compromise. There was a lot of hard work on LB218. I want to thank Senator Cornett and her staff for all that she's put into it. And I urge that you would support AM712 to LB218, and I ask for your support. Thank you. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Thank you, Senator Cornett. You have heard the opening to the Revenue Committee AM712 to LB218. Members requesting to speak are Senator White, followed by Senator Dubas, Senator Campbell, and Senator Carlson. Senator White, you're recognized. [LB218]

SENATOR WHITE: Thank you, Mr. President. And it has been such a pleasant quiet day, and now I find I have to hit a light. This is a bad bill. This is a very bad bill. And it is a bill that came about because the counties don't think they're going to get enough money anyway and this is the best they can cut. It is a bad bill for a number of reasons, but it's particularly bad because we're even looking at it, because this body, for years, has failed to honor its promise to properly reimburse our counties for the money they spend housing state prisoners. Not county prisoners. State prisoners. State prisoners are defined after they are sentenced, convicted and sentenced to a term of years that would warrant going to the penitentiary. And jail reimbursement was designed to help the counties take care of that burden, and we have not funded it and we have not funded it forever. It is a sore toe to all the county commissioners. And the truth is, this bill is here to shut them up. Get rid of jail reimbursement. Get rid of the political embarrassment. Get rid of the problems. And let me tell you why it's a bad bill. If you

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have a small county...and you might go years without a major crime, and that's great because you don't have the property tax base and you don't have the population to support a lot of people in jails. And that's fine. That's great. And if that happens, you'll do okay under this. You get a little additional aid. But if you have the bad luck of having someone locate a meth lab in your county, and then they're busted, you could end up with 8, 10, 12 people that your county has to support for a year or more, and you won't get reimbursed for it. The jail reimbursement system was designed for the rural areas, that if you had that catastrophic criminal enterprise, you had a mass murder, you had a big drug bust, you had something that you were going to have to put a lot of people in jail for a long time, to keep you from getting your bank broken. And that all goes away, folks. That all goes away. So that county that now not only has to house those prisoners, also has to bear the expense of prosecuting them. Which by the way, DNA evidence, all the other stuff we like and want: very expensive. And you also have to pay their defense costs. And now we'll even make you keep them on the county property tax rolls after they properly should be paid for by the state. Why are we in this place? Why does NACO apparently support this? Why does even Douglas County reluctantly support it? Because they think they can get some short-term money. It's the best they can do in a tight budget year, and they'll want to come back and do it again with a better program another day. Guess what? Good luck with that. If the jail reimbursement goes away, it won't come back. What will go away is the dishonor that this state has of not paying its bills. We have a very simple system. If it's a state prisoner, present a bill and we should pay it. Now we haven't funded it properly, and that has been incredibly unfair. Although, I will tell you, my county, Douglas County, does reasonably well under it. Why is it unfair? Because Douglas County unfortunately often has a full jail, and so our costs are going to be pretty much the same in January, when there's money in the fund, as December, when there's no money in the fund at all. So we'll get our fair share of reimbursements. But what happens to the small county that generally has a low or no jail population? [LB218]

PRESIDENT SHEEHY: One minute. [LB218]

SENATOR WHITE: And then there's a major crime in October or November. They have to house those inmates and they don't get reimbursed at all. The jail reimbursement system has been unfair to counties. It is an unfair shift of a state obligation. We've been presented with bills year after year. We've dishonored them. We haven't paid them. We've caused major budget crises in counties. And it's a scandal, and this bill is an effort to sweep it under the rug and make it go away. Because, after all, it's kind of embarrassing to look at a lot of leading citizens on a county board and say: Hey, your problem; we're the state; we just don't pay our bills. [LB218]

PRESIDENT SHEEHY: Thank you, Senator White. (Visitors introduced.) Continuing with floor discussion on AM712, Senator Dubas, you're recognized. [LB218]

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SENATOR DUBAS: Thank you, Mr. Lieutenant Governor, members of the body. I think Senator Cornett alluded to in her opening that this has been a long, ongoing battle for many, many years. I think at least ten. And since I've been in the Legislature, I've been a part of this discussion. This was Senator Aguilar's priority bill, I believe, last year that we weren't able to move forward. And I did introduce an interim study resolution last year, which the Revenue Committee did look at. And we looked at, you know, do we fully fund jail reimbursement? Do we go to this aid formula? And as Senator White just pointed out, counties have been fighting this for so long that they're just kind of at the point where, okay, if we can get something, something is better than nothing. But I guess I would have some questions for Senator Cornett if she would yield to some questions. [LB218]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Dubas? [LB218]

SENATOR CORNETT: Yes, Senator Dubas. I'd be happy to. [LB218]

SENATOR DUBAS: Thank you, Senator Cornett. I know, you know, from the hearings that we had last year trying to come up with this formula that would more equitably or at least more reliably provide some money for counties, what assurances do we have that even with this new aid formula it's going to be funded? [LB218]

SENATOR CORNETT: That is why we...and when...Senator White was under the misconception, I think, that Senator Heidemann drafted this. It was myself and my staff that drafted this, and then took it to Senator Heidemann. We put in a floor in the bill in regards to the minimum amount that can be funded every year. I have the assurances of the Chair of Appropriations that they will fund to that minimum amount. And even under that minimum amount, the small counties do far better than the larger counties if you actually look at the breakdown that will be handed out. It is not aimed at helping the larger counties, but rather the smaller counties who so frequently, under jail reimbursement, aren't ever reimbursed a dollar of their expenses. As Senator White said in his opening, Douglas County, Sarpy County, Lancaster, they always have prisoners, they always have prisoners that first half of the year and they always get some money. And it's the smaller counties that frequently get left out of the picture completely. And that is why we based this formula the way that we did is to help out the smaller counties that were not receiving anything. [LB218]

SENATOR DUBAS: Thank you. You know, we're moving this out two years. There will be an election in between, so there might not be some of the same senators here. But what happens if two years from now...I mean, God forbid that our revenue picture hasn't improved a whole lot, and will we be able to...I guess I'll back up. If in two years we aren't able to fund this new formula, will we revert back to the existing three separate formulas? [LB218]

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SENATOR CORNETT: From what I understand, no. It is our intention to fund this formula to the floor, and it eliminates the other three programs, if you look at the bill, and combines them into the one program. And why counties in NACO like it...even the counties that are losing money under this are supporting this bill is because it is a dependable funding stream which is something they do not have now. It is set up to where they receive nine equal payments throughout the year so they can budget better than on the hope that they might get a windfall from a prisoner or might not. [LB218]

SENATOR DUBAS: Senator Cornett, I know you have a long history with jail reimbursement and have introduced several bills. Why have we never been able to fully fund jail reimbursement? [LB218]

SENATOR MCGILL PRESIDING []

SENATOR MCGILL: One minute. [LB218]

SENATOR CORNETT: That is a question that I have had myself. I've carried this bill before. I've carried it...and I prioritized...I believe I...I either carried it twice or carried it once and prioritized it once. We just...I cannot not answer why we did not. [LB218]

SENATOR DUBAS: Thank you. I know only one county in my district is especially hard hit by this jail reimbursement, and that's Hall County. And they have for years just asked the state to pay them what they're due. And they're one of those counties that aren't up front, so they usually get into the mix at the point in time where the state is out of money. And so I don't remember the exact amount of money, but I know they had it figured up at one time exactly how much money the state owed them for taking care of state prisoners. And it is a real issue, and we're always talking property tax relief. And the state has sorely ignored its responsibility in this particular issue, and it does need resolution and I hope that we can find resolution for those counties. Thank you. [LB218]

SENATOR MCGILL: Time. Thank you, Senator Dubas and Senator Cornett. Senator Campbell, you are recognized. [LB218]

SENATOR CAMPBELL: Thank you, Madam President. I rise in support of LB218. I've talked about being a county commissioner before. I was the person that was on the other side of the table, going: I would like our money; I would like our money. And I understand Senator White's concern about the jail reimbursement. Even though Douglas and Lancaster had a lot of the prisoners, we'd almost have more prisoners than there was money. I mean, it wasn't that we had a lack of prisoners, but the fund would run out. But for my colleagues, I have to tell you that part of the, what shall I say, the discussion between the state and the counties on jail reimbursement, also had to do with the contention of when really is a prisoner a state prisoner and when are they not. And in all reality, I do not think that we ever, the counties nor the state, ever really came

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to an agreement upon that. So the state would say, well, we don't really have to pay you for those prisoners. So, in fairness, there was a contention there. The reason that I would rise to support LB218 is the fact that I do believe it is a consistent method, and counties need consistency more than anything else. The other thing that I want to mention just before I sit down...and, you know, this is the problem when you live long enough, you find yourself saying, let me share a little bit of history with you. Before I came onto the Lancaster County Board--and I realize some people think that may be a very long time ago--the state coaxed, and I'm going to use the word "coaxed," the counties into giving up any taxing of personal property, like your jewelry, and said to the counties: We will reimburse you dollar for dollar when you give that up. And I have to say, for the 16 years I sat on the county board, never once were we reimbursed dollar for dollar. And I want to reiterate again, I appreciate the efforts that have gone into this and I'm sure there will be a number of voices in this body that will not forget that we need to put more money into aid to counties as a property tax relief. But the process and the plan that is put forward through this bill is a good one. Thank you, Madam President. [LB218]

SENATOR MCGILL: Thank you, Senator Campbell. Senator Carlson, you are recognized. [LB218]

SENATOR CARLSON: Madam President and members of the Legislature, I represent seven counties, and in addressing this bill I'm not real sure how this affects each one of those counties. I do know that one of them was not paid \$30,000 in the last couple of years on jail reimbursement and they simply had to eat that loss. I would like to address Senator Cornett with some questions if she would yield. [LB218]

SENATOR MCGILL: Senator Cornett, would you yield? [LB218]

SENATOR CORNETT: Yes. [LB218]

SENATOR CARLSON: Senator Cornett, this bill, LB218, is addressing three areas: jail cost reimbursement, state aid to counties, and county property tax relief. Is there any order in terms of priority of these three entities? [LB218]

SENATOR CORNETT: Not really. What we did was we took the three areas that were being funded. The aid to counties program was originally created in the 1970s to replace taxes lost when counties and other governments could no longer tax personal property. This aid was distributed based on each county's percentage share of statewide county property tax levied. The other type was county property tax relief aid program which became a law in 1998 as part of LB695, the same bill which created the jail bill reimbursement program. It was intended to provide tax relief for counties impacted by lower statutory levy limits. It was funded at \$6 million originally, and then that distribution formula was used...used valuation per road mile as a capacity measure.

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And it was complicated. And obviously we also created jail reimbursement. So we have three separate programs now. What we are doing is we're combining the three programs into one program, based on valuation, and it is to provide a stabilized funding mechanisms for counties which they have not had up until this time, because some counties received one type of aid, some counties received jail reimbursement, some didn't have prisoners and didn't receive it. What we're trying to do is provide a fair, dependable means to provide aid to counties that will help in property tax relief in those counties. [LB218]

SENATOR CARLSON: Okay. Thank you, Senator Cornett. The reimbursement here...or reimbursement...but the money that's paid back to counties, state aid to counties and county property tax relief based on property value, I can understand that. I don't see the relationship in jail reimbursement. There's nothing in this formula that addresses the average number of prisoners a county might have, the crime rates in the county, the number of jail cells that a county might have or the quality of those jails cells. It's simply based on property value of the county. And I don't see a relationship there, and I don't really see, long-term, how this is addressing the problem. Now, AM712 is to delay this implementation for two years. So right now I would say we're on a first come, first served basis until the money is gone, and that would then continue for the next two years. Is that correct? [LB218]

SENATOR CORNETT: Correct. In regards to the delayed implementation, yes. [LB218]

SENATOR CARLSON: So delayed implementation means there's really no change in the next two years. And we haven't found any additional money for the next two years for jail reimbursement, have we? [LB218]

SENATOR CORNETT: Senator Carlson, the bill eliminates jail reimbursement and sends the money directly to the counties so they can use it... [LB218]

SENATOR MCGILL: One minute. [LB218]

SENATOR CORNETT: ...in the means that they...where they need it. If they need it for jails, they can distribute it to jails. We are also looking at the money that is going to be going back to the state in regards to phasing in the county assessors to be worked into the formula as additional money. [LB218]

SENATOR CARLSON: Okay. But it's delayed two years. So the next two years we're operating as we've done in the past. [LB218]

SENATOR CORNETT: Correct. [LB218]

SENATOR CARLSON: Correct. And we don't have enough money for the next two

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years for jail reimbursement. It'll be first come, first served, and the rest of you are out of luck. Thank you, Senator Cornett. I'll listen to this debate and I am not sure where I am on it. Thank you. [LB218]

SENATOR MCGILL: Thank you, Senator Carlson and Senator Cornett. Continuing debate on AM712, senators wishing to speak: Senator Stuthman, Cornett, White, Giese, Fischer, Gloor, and others. Senator Stuthman, you are recognized. [LB218]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I've been involved with the jail reimbursement ever since I've been down here for seven years. And the fact that before that time there was a bill put into place of county jail reimbursement. And I'll give you some of the figures that was intended to be used for county jail reimbursement. I think if they would have fully funded the county jail reimbursement, it would have come to \$850,000 or so. But in the process there was never enough money to fully fund the county jail reimbursement. I think it was funded to the tune of about \$390,000. But there was a direct issue that was a concern to a majority of the counties at that time, and that was the fact that it was first come, first served, and those that had prisoners, those smaller counties that had prisoners in the first half of the year, they got reimbursed a percentage of that. If they had only some in the last half of the year, they didn't get any reimbursement and that wasn't fair. I think several years ago we changed the formula that it was paid out quarterly so that those counties, you know, would have an opportunity to get some of the jail reimbursement. It was an issue that it was the fact that you put in for the jail reimbursement. You did get some money but you never knew exactly how many dollars you'd get per your jail inmate, as long as you were housing those inmates. We've had a system that has worked, but it didn't work like it was intended to. I do support what...LB218 at the present time. I think this is a workable situation. The issue was never fully funded anyway. And I think the fact is that in these next two years it may not be...and maybe I could address a question to Senator Heidemann about, you know, how many dollars are they going to put into the county jail reimbursement. To the tune of 380 or 250 or whatever it's going to be, I do not know at the present time. Maybe I would like to address a question to Senator Heidemann. [LB218]

SENATOR MCGILL: Senator Heidemann, would you yield to a question? [LB218]

SENATOR HEIDEMANN: Yes. [LB218]

SENATOR STUTHMAN: Senator Heidemann, what have you got figured in, in this year's...and that would be the next two years as far as county jail reimbursement? Is that that \$380,000 or what figure have you got? [LB218]

SENATOR HEIDEMANN: Jail reimbursement, I believe in our budget for each of the years is at \$3.9 million, I'm pretty sure. [LB218]

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SENATOR STUTHMAN: Three point nine million? [LB218]

SENATOR HEIDEMANN: Yes. [LB218]

SENATOR STUTHMAN: Maybe I was mistaken as far as millions and hundreds of thousands. And that could be...that, what was figured the last years, is what we've been funding it for \$3.9 million? [LB218]

SENATOR HEIDEMANN: It carries on from the last biennium. That was in the...it's like we call it a base. We continued on the funding as it was at \$3.9 million for jail reimbursement. [LB218]

SENATOR STUTHMAN: Then in other words, in order to fully fund jail reimbursement it was like \$8.5 million? [LB218]

SENATOR HEIDEMANN: Probably, or around in there, yes. That's was the figure at one time. [LB218]

SENATOR STUTHMAN: Okay. Okay. I had my figures right, but I didn't have the thousand and millions correct. I think the way we're going right now is a very workable solution, although it's going to take two years to go into effect, and hopefully the counties will get reimbursed yet. Counties have never been fully funded for their inmates that they've had. You know, we've tried to get that, but the people have been getting along. But I think the most important thing is, is the fact that counties are getting some when we changed into the formula... [LB218]

SENATOR MCGILL: One minute. [LB218]

SENATOR STUTHMAN: ...formula portion of the fact that it was quarterly. That gave counties an opportunity that they would get reimbursed some, you know. It didn't make much difference at what time of the year they had it. I know, you know, there is a real expense to the county and to the taxpayers, you know, to house these state inmates. But it's a situation, you know, do we do that, or what do we do? But I think I truly support LB218 and I'll listen to the discussion. Thank you, Lieutenant Governor. [LB218]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Cornett, you're recognized. [LB218]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. Senator White started out saying this was a bad bill and that we needed to fully fund jail

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reimbursement. As Senator Stuthman so aptly pointed out, jail reimbursement has never worked. It has never been funded correctly. I has never been something counties could depend on. I have supported funding jail reimbursement since I got here. I have found that it is not a workable...we cannot come to a workable solution on jail reimbursement. Therefore, jail reimbursement is the bad bill. That's why we are eliminating it in this and looking at a way for counties to receive dependable funding, where they can budget. That is the main complaint that we had from the counties. They come in and they go, you know, we don't know at the beginning of the year if we're going to have a prisoner. We don't know if we're going to receive money or not. We can't budget. We found a way for the counties to know how much they're going to receive and when they're going to receive it. NACO supports this bill. It is something that I have worked with Lavon on, Senator Heidemann, for a year now. He has agreed to work as...over the course of the next two years to make sure this program is funded. And if we do have enough money in two years with the reassessment or the reabsorption of the county assessors, to look at putting that money into this to increase funding. When you look at the former bill or the jail reimbursement, there was a cap on how much could be funded. I deliberately put a floor in this bill so we could not drop below a certain amount to the counties, so they could depend on that certain amount. If we're in good economic times, they may get more, but they'll never get less. That's what the floor is there for. Thank you very much. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator White, you're recognized. [LB218]

SENATOR WHITE: Thank you, Mr. President. Unfortunately I must disagree with Senator Cornett on a number of points. First of all, we can no more bind future legislators to honor the floor that she's put in this bill than we were bound by the promise of those legislators to fully fund jail reimbursement. What this is, is we're trading a different promise for one we have repeatedly broken. And now we're asking the counties: Oh, but believe us this time; we'll really fund this at a responsible manner. The only thing that really changes here is when we choose to fund or not fund property tax relief to counties, other kinds of replacement for a personal property tax. The difference is, they can't present a real concrete claim. The great political embarrassment that the jail reimbursement bill created was not so much that it was unexpected. That was the whole point of it. See, the lack of predictability about jail reimbursement is the point of it. You don't know. It's a form of insurance. You don't know when your house is going to burn down. But if it burns down and you get the insurance money, that's not a windfall. That's an indemnification. You've been protected from an adverse event. Now, we have done such a bad job at honoring our word on jail reimbursement, the counties have despaired. I was at the interim hearing on this. To persons of the county commissioners, when I asked them, would you rather have this plan or us really honor our word and pay our bills, every one of them overwhelmingly and vehemently wanted us just to pay our bills. They do accept now, at least, that once they see the budget, they will get a

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predictable amount of money if we choose to budget it. But we well may choose to put nothing in this next time if the economic times are tough. And what did the counties get back out of it? They traded one empty promise or a series of broken promises for a potentially empty promise. It's true, it's predictable. It's predictable you're not going to get anything because we choose not to fund it, so don't count on it. Here's the overwhelming problem: Crime today can occur anywhere in this state. And if you have a small county and they have the misfortune to be the venue of a really bad crime, it will bankrupt them--the experts for the defendants on DNA alone, the cost of prosecution. Now, we do have a program, believe it or not, where the Attorney General helps bear some of the cost, often, of the small counties whose county attorneys are overwhelmed. And they don't always go do all their cases and they don't tell them you don't have to have a county attorney, but when it's really bad, the state steps up and takes care of it. Here's the problem: We're throwing that out. We're telling each county, look, if you've got what happened in Norfolk but you happen to be a very small county with a small bank, you're on your own. You're on your own there. We're not going to house your prisoners if that happens and you've got to house them. In a conversation with Senator Carlson, I want to raise an interesting point. I'm a judge; I work in a lot of different counties. I've got a county that's dang near bankrupt or is bankrupt. They have a bad crime there, a crime that normally you would not allow that person out of jail, but the county flat cannot pay for the jail. What kind of pressure is going to be put on counties to release prisoners on their own recognizance, to go back into the community, because there is no jail reimbursement fund? Now, Senator Cornett was quite accurate. The way the fund actually worked was shameful--shameful and unfair. That is no excuse for us to say, oh, I'll get away with it, and to expect that if we wouldn't honor actual bills presented where we owed the money, nobody argued... [LB218]

PRESIDENT SHEEHY: One minute. [LB218]

SENATOR WHITE: ...we owed the money and we won't fund those, who on earth is naive enough to believe we're going to fund some generalized overall aid to the counties? It's just easier not to fund it. It's politically very convenient. It's also short-term wise and long-term foolish. And I want to tell you something. I was here two years ago when the community college funding came up. I was prepared to filibuster that bill, and I was called off by Metro. And I told Metro at that time: You will rue the day you did this; you will rue the day because this formula is not going to work. I was not happy with them. They said, we're okay with it now; it'll be fine. Mark my words, the counties: You will rue the day you cut this deal. [LB218]

PRESIDENT SHEEHY: Thank you, Senator White. Members requesting to speak on AM712 to LB218, we have Senator Giese, followed by Senator Fischer, Senator Gloor, Senator Gay, Senator Dubas, Senator Nelson, and others. Senator Giese, you're recognized. [LB218]

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SENATOR GIESE: Thank you, Mr. President and members of the body. I was wondering if Senator Cornett would yield to a question. [LB218]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Giese? [LB218]

SENATOR CORNETT: Yes, Senator Giese. [LB218]

SENATOR GIESE: Thank you. Senator Cornett, was there ever any talk in the committee about taking the money and dividing it into...and doling it quarterly, the jail reimbursement fund, instead of eliminating it as what we're doing now? [LB218]

SENATOR CORNETT: Senator Giese, there was discussion for the last five years on jail reimbursement. This was an amendment...or a bill that we worked out over the course of the interim based on an agreement on my bill that Senator Aguilar had prioritized last year. I withdrew my bill with the agreement that Revenue and Appropriations would work together with NACO and with the counties to find a stabilized funding stream for the counties. And that is what we worked on over the course of the interim was a different way of approaching aid to counties, because as someone likened it--and I was just about to tell Senator Gay this--jail reimbursement was a dead horse and they were tired of trying to beat it across the finish line. [LB218]

SENATOR GIESE: Well, thank you, Senator Cornett, for the answers on that. One of the things that we've talked about so far today, Senator Campbell mentioned consistency. And we all, I think when we get here, we set out to be consistent in the things that we do in the Legislature and as we go forward. But the jail reimbursement fund to me is going down the same road, and is a frightening reminder to another bill that we talked about earlier this year, and that was the county assessor bill, if you all remember that. We started out, years ago, and the state was going to take over the county assessor bill. And we got into it a year, I think, and then we decided that we didn't have enough money to fund the county assessor bill, and we're going to get those back. And at times I feel that the Revenue Committee has it out for Dakota County, but I'm hoping that that's not the case and as we go forward I hope we'll get that resolved. But I just think that...Senator Campbell, you mentioned consistency and that's something that we need to do as we go forward. And I think I see this as another sign of things that we start out to do, and then we can't fund. Dakota County obviously is being hit to the tune of \$100,000 in the jail reimbursement fund. And our costs are not going down and I would just like to stress that point. Would...is Senator Heidemann available for a question? [LB218]

PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Giese? [LB218]

SENATOR HEIDEMANN: Yes. [LB218]

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SENATOR GIESE: Senator Heidemann, a question and maybe you can answer. Are we using stimulus money to balance our budget this year? [LB218]

SENATOR HEIDEMANN: It has sure helped, yes. [LB218]

SENATOR GIESE: Yeah, I would agree that it did help, but...so can you tell me and justify how, that we can balance our budget with stimulus money and then, in turn, do away with potentially to things like the jail reimbursement fund? [LB218]

SENATOR HEIDEMANN: I don't tie those two together. This discussion has been going on for two to three years, even during the good times. [LB218]

PRESIDENT SHEEHY: One minute. [LB218]

SENATOR HEIDEMANN: I think LB218 is a result of a lot of hard work of how we could move forward getting some aid to counties to help with property tax relief, and it really doesn't have anything to do with kind of where we're at. The amendment AM712 has to do with that we're in a little bit of a downfall, so we're delaying it by a couple of years before it kicks back in. And even with the thought then that we might be able to put more money into it, that it will actually be good for all. [LB218]

SENATOR GIESE: Thank you, Senator Heidemann. I do appreciate that. And I realize that there has been a lot of hard work going into that. But just let me tell you, from a Nebraska citizen and a representative of District 17, I think you know as well as I do that when money goes away from a particular fund, chances are it's not coming back. And so I appreciate the concern and effort by... [LB218]

PRESIDENT SHEEHY: Time, Senator. [LB218]

SENATOR GIESE: Thank you. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Giese. Senator Fischer, you're recognized. [LB218]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I'd like to thank Senator Cornett and the Revenue Committee for...Senator Cornett for introducing the bill and the Revenue Committee for putting this on the floor. As Senator Cornett said, this discussion has been going on as long as we've been here, and that's five years. I became interested in the jail reimbursement and the County Property Tax Relief Program my first year here, in 2005, during the budget discussions. So I got the transcripts of the debates on the floor of this Legislature when those two programs were started. Jail reimbursement and the County Property Tax Relief Program came into

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being as aid to counties. The jail reimbursement had nothing to do with jails. The jail reimbursement was set up for the more populated counties in this state because that was the way to get them county aid under their lid limits that they were put under. Senator Wickersham came out and said, well, most of that money, 70 percent of it was going to Lancaster and Douglas County, and the rest of it was going to ten other of the most populated counties in the state. And Senator Wickersham felt that something needed to happen for the rural areas of the state and the more sparsely populated counties, so he came up with a unique idea. I call it a very convoluted program called the County Property Tax Relief Program where a lot of that funding was based on mileage. So my first budget discussion down here as I'm listening to it, jail reimbursement is in the budget. The County Property Tax Relief Program was no longer in the budget. It had been out two years. My first two years then, that first budget cycle we went through, it was out. Being from a rural area, after reading the transcript I thought, well, gee, that's not really fair, since those programs were put in there for county aid, and the 12 most populated counties in the state are still getting theirs but the more sparsely populated ones aren't. So, in 2007, I introduced a bill that went to Appropriations Committee, and that was to reinstate the County Property Tax Relief Program that had not...or to fund it because it had not been funded for four years. That was put in the budget in 2007. So we had that equal aid to counties across the state, that was envisioned when these programs were put in, and given different names for various reasons, because I interpreted it and, in visiting with members of the body at the time, they felt that it wouldn't really look real good if you put a lid on a county and then you give them aid--state aid--so they came up with other names for these programs. They've never been fully funded because we don't have the money. But we've come up, we've been presented now with a bill that I think is reasonable, it's something we can understand, and it's being forthright. It's being forthright. This is aid to counties. We don't need to call it jail reimbursement anymore. We don't need to call it the County Property Tax Relief Program anymore. It is aid to counties. We are being up-front with people in that it's aid to counties. Senator Campbell made a comment earlier that I think bears repeating. She was a county commissioner here in Lancaster County for a number of years. And she made the comment that...and I...Senator Campbell...Mr. President, would Senator Campbell yield? [LB218]

PRESIDENT SHEEHY: One minute. Senator Campbell, would you yield to Senator Fischer? [LB218]

SENATOR CAMPBELL: Yes, absolutely. [LB218]

SENATOR FISCHER: I don't want to misquote you here. When you were speaking about state prisoners and jail reimbursement, Senator Campbell, could you make that comment again, please? [LB218]

SENATOR CAMPBELL: Under the jail reimbursement program...and I think Senator

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Heidemann and I were talking in the back that there was a definition about what was a state prisoner under that jail reimbursement, and there was often contention between the counties. I know there was between Lancaster and the state as to when a prisoner became classified as a state prisoner. So this program all along has had issues in which people have called into question what's the definition, how should we reimburse you. Does that answer your question, Senator? [LB218]

SENATOR FISCHER: And where did...was the term "state prisoners" then brought into statute with the jail reimbursement? [LB218]

PRESIDENT SHEEHY: Time, Senator. [LB218]

SENATOR CAMPBELL: You know... [LB218]

PRESIDENT SHEEHY: Time, Senator. [LB218]

SENATOR FISCHER: Thank you, Mr. President. [LB218]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Thank you, Senator Campbell. Senator Gloor, you're recognized. [LB218]

SENATOR GLOOR: Thank you, Mr. President. I pick up the banner that my predecessor Senator Ray Aguilar carried forward. He's been referenced before. I have a lot of respect for the effort that Senator Cornett, the committee, Senator Heidemann put into trying to resolve this. I have this mental picture of an old B-movie where the two of them are on a lifeboat with all the rest of the counties, trying to parcel out small amounts of water, small amounts of food so that everybody gets their fair share, yet everybody knows slowly but surely they're starving to death and dying of thirst. There just isn't the resources there I think to make this work, and everybody seems to still be throwing their hat in. I also have a problem with all three of these things being rolled together as if they are the same. One more metaphor: It's like my wife not getting a Mother's Day gift, a birthday gift, but I give her a Christmas gift and say, this covers all three. I have been married for 34 years by not succumbing to that sort of logic. I have also done some review of the history because of the records my predecessor had, and I understand that issues around property tax relief having to do with the lid should have told us back then, and I think people did tell us back then, this would not last forever. It's not reasonable to think that the relief that was there for property tax lids would stay forever because it was an effort to drive the counties to more efficient government. So I understand that piece. What I don't understand is the piece that rolls jail reimbursement into it. That yet...the logic of it doesn't come to me because we have ongoing responsibilities for state prisoners, and that expense can be sizeable. Back in 2007, in Hall County, Hall County Corrections was left with an unpaid expense for state prisoners for \$243,000 for about half a fiscal year--for about half of fiscal year. And it continues that way, without

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reimbursement. Whereas I may understand that aid to counties, the other two components, may not be something that we should be able to count on. The ongoing and unpredictability of the expense for jail reimbursement continues to be baffling to me. I know my county, along with others, has thrown up its hands and said, this is about as good as we can get. But it is sad that it has come to that when there are real ongoing expenses for which the state should be providing some assistance and for which we should be providing the funds. And apparently that's not to be. I wish there were a better answer. I don't know what it is. Maybe during this discussion someone will come up with it. Again, I'm appreciative of the effort, but it still doesn't fit. It doesn't look right. It doesn't smell right. Thank you. [LB218]

SENATOR KARPISEK PRESIDING []

SENATOR KARPISEK: Thank you, Senator Gloor. Senator Gay, you are next and recognized. [LB218]

SENATOR GAY: Thank you, Mr. President. As I listen to the discussion, I just want to give a little background or perspective. For 12 years, prior to coming here, I was a Sarpy County Commissioner, and we ran a 148-bed jail and we were always filled up. And I hate to say, Senator White is...I don't hate to say. He is right. You know, you don't get paid. They just flat out...we wrote hundreds of thousands of dollars, year after year after year, and you just wrote it off pretty much. And that was unfortunate. However, as I look at the decision today that we have to make, for five years, and now three that I've been here, we've been dealing with this issue. And it's a tough issue. There's probably a lot of truth on both sides here. And Senator Fischer did a good job of explaining probably how we got to this point. But I believe it's nearly impossible to create some kind of formula that everyone is going to be happy with. The thing I like about this at this point is...I haven't seen anything better. I think we're misleading these counties by saying, well, we're going to give you this and we're going to give you...and we don't. It's straight and it's forward. I think we're a little naive to think that this will fluctuate much. I think it has a floor and it has ceiling. And I know we...our good intention is to fund that, the higher end is there, but I think reality at some point will set in and we will probably settle in at some spot. So I'm a little nervous about that. But I do think, as Senator Gloor says, until we've got a better solution, this is it. This is it. This has come a long ways. You got to stride the...however NACO or however they reached their agreement, that probably somewhat that is, is, you know, this is better than being said we're going to get these dollars and not getting them. So however we got at this point. I do have a little concern myself putting three into one, but if that's the...I respect Senator Cornett and her work on this issue because I know she's been an advocate and working very hard on this, as well as Senator Heidemann. I just kind of trust them. Senator Fischer is right. I think it's a little bit misleading if we just continue to go down this road and say, well, here's what you may get. But this would be straighter, easily understood. The counties can move on. The one thing on aid though, on state aid, this reminds me of the school

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aid formula that we're struggling with every year. And the more complex you make these things and you think you're doing a good deed here to the counties or cities or whatever, be very careful of that because when you're on the other end it, of course they want to receive those funds, but then, you know, it really doesn't do that much good when they don't get them year after year. But I think this is a much more stable way to fund jail costs, I do believe. But I'm coming from a county--I think you've got to make up your own mind here--I come from a county where we're full all the time. Now if smaller counties are or aren't full, I don't know how that works, but I think they have a much more steady stream to work in. So I am going to support the amendment and the bill at this point, and I do think we're having a good discussion on it. But at this point I think it's a very good model to start with, and maybe if there's better ideas, as Senator Gloor says, I'll all in favor of those. I would yield the balance of my time to Senator Cornett, if she'd like it. [LB218]

SENATOR KARPISEK: Senator Cornett, 1 minute 24 seconds. [LB218]

SENATOR CORNETT: Thank you very much. Thank you, Senator Gay. One of the things that we were very concerned about and that Senator White had brought up is the fact that we did not want a complicated formula. If you turn to page 9 of the bill, it is based on statewide valuation compared to valuation. With the way this works... [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR CORNETT: ...growth is automatically figured into the formula. As counties grow and valuation increases, that increase or that growth factor is automatically figured in. That was something that the counties sat down at the table and really wanted because there is no growth factor in any of the three formulas basically, now, that they have. And with this bill, we have the automatic growth factor figured in and it's based on valuation. Thank you again, Senator Gay. [LB218]

SENATOR KARPISEK: Thank you, Senator Gay and Senator Cornett. Senator Dubas, you are recognized. [LB218]

SENATOR DUBAS: Thank you, Mr. President and members of the body. I, too, appreciate the work that Senator Cornett and the Revenue Committee and Senator Heidemann and the Appropriations Committee have done on this. It's been an extremely difficult situation for counties for a long time. And I guess I'm just going to go back and put some history into the record. The original legislation that created jail reimbursement was LB695 introduced by Senator Cudaback in 1998. That bill called for \$5.5 million, but by the time it was implemented that first year in 2001-2002, the appropriation was \$6.8 million. And the Governor vetoed that bill. But during the discussion on the motion to override the Governor's veto of LB695, Senator Wickersham, Chair of the Revenue Committee, stated and I quote, "So let me describe

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to you what I think it is. And first and foremost I think it is property tax relief. It is absolutely, conclusively, and firmly unequivocally property tax relief." And that's what the counties grew to depend on. And that's where the frustration has come in because it's just been on a downhill slide since then to the point where we capped it at \$3.9 million. It was on a first come, first served basis, and many counties such as Hall County usually were on the wrong end of that equation. I pulled up the transcript of the hearing on LB218, and there was...NACO testified in support of the bill. But some of the comments that were made...Senator White asked NACO a question, commenting that there were a number of county officials who strongly stated, actually the vast majority strongly stated that they would just prefer to have their bills for jail to be paid, to any kind of new formula that can have different vagaries. Isn't that correct? And the response was, yes, the counties just wanted to be paid. Senator White went on to ask questions about, then why don't we just pay our bills? And then that goes into the history. It's been a long and frustrating process for the counties. They've reached the point that they're just tired of beating their heads against the wall for the last ten years to try to get jail reimbursement fully funded. There have been many bill introduced, numerous senators have introduced those bills. We've tried to remove the cap. We've had absolutely no success. There just hasn't been a lot of support or willingness, political will to fund this program. So I think the counties have just kind of reached that point where, well, we aren't getting anything anyway, this appears to maybe be a more equitable fashion, and they've just resigned themselves to this new formula. And I hope that this new formula works out. But just as we have not been able to or held accountable to promises of past Legislatures, it's going to be hard for us to make promises and hold future Legislatures accountable to those promises. I think we put this idea out there. We hope that it works. But I don't think any...I think our promises should have qualifiers. We don't know what the future brings We don't know what the income and revenue picture looks like. It is our intention and our best hope to be able to fund this formula and for it to be more equitable for all counties. But we can't make that an absolute and certain promise, other than those who are very committed to this will certainly try to follow through and make it happen. But I think Senator Fischer's comments were on target about this at least being a very forthright bill. Counties are going to know where things... [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR DUBAS: ...are at, and hopefully they'll be able to count on what this bill is putting forward. Thank you. [LB218]

SENATOR KARPISEK: Thank you, Senator Dubas. Members wishing to speak are Senators Nelson, Wightman, White, Friend, and Heidemann. Senator Nelson, you're recognized. [LB218]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator

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Gloor entertain a question or two? Is he on the floor? [LB218]

SENATOR KARPISEK: Senator Gloor, would you yield to Senator Nelson? [LB218]

SENATOR NELSON: All right. We'll pass on...my apologies, yes. Well, that's all right. If I had my other glasses on, I could have seen where you are, and I'm sorry to run you around, Senator Gloor. But I share some of your concern here about combining all of these three things into one and calling it aid to counties. I'm looking at the chart that was distributed, and I see that Hall County under the proposal of LB218 would take a hit of about \$242,000. Have you looked at that? [LB218]

SENATOR GLOOR: I have looked at that and I'm sorry I don't have it in front of me. I seem to be working at about three different locations on this particular bill, so. [LB218]

SENATOR NELSON: Well, my question is this. Senator Aguilar, from Hall County, has championed some sort of reform for a long time. Do you think he would be satisfied with that result for Hall County? [LB218]

SENATOR GLOOR: I do not think he would be. [LB218]

SENATOR NELSON: All right. [LB218]

SENATOR GLOOR: I mean, it's difficult for me to speak on behalf of Senator Aguilar, but I know that he was still frustrated when he left here because he and I had conversations about what he had hoped for and hoped to accomplish as it relates to this issue. [LB218]

SENATOR NELSON: And I do see, from these figures, for instance, Hall County had expenses of \$263,000, and I don't know how much they were reimbursed there, but that's a substantial amount. But nevertheless, under the new plan you certainly aren't going to come off as well as you did under the combined total. Thank you, Senator. Would Senator Cornett entertain some questions, please? [LB218]

SENATOR KARPISEK: Senator Cornett, will you yield? [LB218]

SENATOR CORNETT: Yes. [LB218]

SENATOR NELSON: Do you have the chart in front of you there, Senator Cornett? Thank you. [LB218]

SENATOR CORNETT: Which chart? I have a number of them. [LB218]

SENATOR NELSON: Well, it's current state aid versus funding under LB218. Maybe it's

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Senator Giese that distributed this. I thought everyone had a copy. [LB218]

SENATOR CORNETT: I have a copy of about three different formulas, so. [LB218]

SENATOR NELSON: All right. Senator Giese will give you a copy. I apologize for surprising you with this. But if you look at the chart there, you'll see Cheyenne County about halfway down on the first page. This is alphabetical. [LB218]

SENATOR CORNETT: Yes. [LB218]

SENATOR NELSON: Yeah. You go over to county jail reimbursement, they had no reimbursement whatsoever, and yet under the new plan, under LB218 they also are losing \$46,000. And I think...my point is that there seems to be quite a bit of inconsistency here as to the counties that are coming out ahead under LB218 and those that aren't. For instance, I'm from Douglas County. If you look at that on I think it's third up the bottom page, we're going to be losing over \$1 million out of the \$3 million that we would ordinarily have been reimbursed. And maybe the plan is here, under this new proposal, is that the larger counties are better able to absorb this, and that may be all right. But my question is this, and let me ask you this: What is the...is the reimbursement on jail, is that a daily... [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR NELSON: ...amount, a certain amount for the number of prisoners? Could you tell me that? Like \$75 a day or something of that sort? Do you know? That's my question to you. [LB218]

SENATOR CORNETT: Okay. What was your question? [LB218]

SENATOR NELSON: The question is, what is the rate that the counties get? Do they get a certain percentage, a flat rate? [LB218]

SENATOR CORNETT: Thirty-five dollars a day. And Senator Nelson, you're on Appropriations and didn't vote for jail reimbursement for two... [LB218]

SENATOR NELSON: Well, that's...and...but for the record, you think it's about \$35 a day. [LB218]

SENATOR CORNETT: I believe it's \$35 a day. I've got how much was originally intended, and it's \$3.9 million. Corrections for the prisoners held in county correction facilities at a rate of \$35 a day. This amount is less than half the amount that it actually costs to house a prisoner. According to a study completed by the Nebraska jails, the cost is actually \$78 per day. [LB218]

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SENATOR NELSON: That's basically correct, and thank you for that. [LB218]

SENATOR KARPISEK: Time. [LB218]

SENATOR NELSON: Thank you, Senator. [LB218]

SENATOR KARPISEK: Thank you, Senator Nelson and Senator Cornett. Senator Wightman, you are recognized. [LB218]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Heidemann, if he would yield. [LB218]

SENATOR KARPISEK: Senator Heidemann, will you yield to questions? [LB218]

SENATOR HEIDEMANN: I will try. [LB218]

SENATOR WIGHTMAN: Thank you. Senator Heidemann, I know you and I have had some discussion off the microphone with regard to this, and I have seen a sheet that I don't think has been widely distributed to all of the members. But at any rate, it shows Dawson County I think as losing some based upon what the current level of funding would be or the proposed level of funding under LB218, and I think it was about \$12,000. But I think you've indicated in some previous discussion here on the floor that the hope is that that would be increased. Is that correct? [LB218]

SENATOR HEIDEMANN: That is the hope. I mean, I think probably what you're talking about is the very worst that could happen. If we would fully fund it or fund it at a higher level, the majority of the counties would be held whole if not gain. [LB218]

SENATOR WIGHTMAN: Would it be correct, Senator, that probably the counties that may gain the most are the counties that have no jail and probably receive no reimbursement or those that have very small facilities and probably can't even have all of their own prisoners? [LB218]

SENATOR HEIDEMANN: Actually that's probably...I wouldn't consider it a true statement. If more money is put into the pot, it just is doled out on how much valuation you have. It has nothing to do with anything else. That's what I would consider the beauty of LB218. [LB218]

SENATOR WIGHTMAN: I know that Dawson County built a new jail in about 1993 in anticipation of a lot of new residents within the county. And I think in visiting with you off the mike, you indicated and maybe that's been stated here on the floor that jail reimbursement really didn't start until, what, 1997? [LB218]

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SENATOR HEIDEMANN: It was '97 or '98, yes. [LB218]

SENATOR WIGHTMAN: So I think you were suggesting that we probably didn't build the jail based upon our anticipated revenues from the state. Would that be correct? [LB218]

SENATOR HEIDEMANN: Unless you have a better crystal ball out that way than we do, that would be probably a correct statement. [LB218]

SENATOR WIGHTMAN: Well, we've got some pretty good ones, but I don't know if we have that good of ones. In many ways I think this will be a fairer method of reimbursing counties. I think...and then I have talked to our county sheriff. I think they see that as not coming in to support the sheriff's office or their portion of the budget where it will come into the county as a whole. I'm not overly concerned with that because I think if the county benefits we don't need to have a turf war between the various offices within the county. What reassurance can you give us that this will ever be funded any more than the lowest level? I think you said that the Governor is behind this particular bill and thinks this would be a fairer method of compensation or aid to the counties? Is that a correct statement? I guess he left. (Laugh) Well, I was still formulating some more questions, Senator Heidemann. [LB218]

SENATOR HEIDEMANN: I thought you was going off on your own little topic there. [LB218]

SENATOR WIGHTMAN: No, I need all the support I can get. I guess that you indicated that the Governor generally is supportive if LB218. Is that correct? [LB218]

SENATOR HEIDEMANN: From conversations that we had last fall, I think he would... [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR HEIDEMANN: ...I think he would be okay with rolling these three programs together and moving forward with the scenario underneath LB218. I would have to even think before the revenue shortfall that we had he might have been even inclined to put some more money into it. But knowing the situation we're in now, probably...you know, understandable it's probably not. [LB218]

SENATOR WIGHTMAN: Well, I would ask you, Senator, as Chair of the Revenue Committee, would you be likely to want to make larger contributions to this? [LB218]

SENATOR HEIDEMANN: Chair of the Revenue Committee? Or Chair... [LB218]

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SENATOR WIGHTMAN: Or Chair of the--I got the wrong committee--the Appropriations Committee. [LB218]

SENATOR HEIDEMANN: I have stated on the mike before, in two years if we see our revenues pick up, back up to the state, that it would be an intent of mine to try to find some more money for this. [LB218]

SENATOR WIGHTMAN: Okay. I probably will tell my county that this is next to money in the bank. (Laughter) Thank you, Senator Heidemann. Thank you, Mr. President. [LB218]

SENATOR KARPISEK: Thank you, Senator Wightman and Senator Heidemann. Senator White, you are recognized and this is your third time speaking. [LB218]

SENATOR WHITE: Thank you. Thank you, Mr. President. A couple of points, especially to my conservative colleagues. Unfunded mandates. Remember that? That was one of the great, evil conservative bugaboos. The federal government is pushing down unfunded mandates. Well, this is the mother of all state unfunded mandates. We now get to tell the counties, we know they're our prisoners but you have to pay for them. We know they should be in the state penitentiary but we're not going to accept them. Unfunded mandates. Our prisoners, our obligation, but we're going to push it down. And do you know what? That's the cruelest hoax of all. The public here wants to know why our property taxes are out-of-control high. Because we push all kinds of state obligations down on the county. An unfunded mandate. Prisoners, state prisoners. Rawest example, but not the only one. We recently got spanked by the Supreme Court over the Republican River matter. What did they say? State obligation that you were looking to fund with property taxes, a local funding mechanism. And they told us it was unconstitutional. An unfunded mandate. Folks, understand something. Do you really want to deliver lower property taxes? The way you start is for the state to pay its own obligations as they come due, not push them down on the county and then tell everybody what great conservatives we are with the public money. What we are seeing is the end game of a really, really callous and hypocritical play. And that was we're going to pretend that we're going to really worry about property taxes, and we're going to pretend to give you aid but we never really fund it, and then we get to lecture the counties about how they're not doing their job to control local spending. It's hypocritical. It's immoral. It's wrong and it dang well may be unconstitutional. Unfunded state mandates. And do you know what? I would like to ask the senators that are leaning towards this, and you-all know who you are: If you have rural, small counties, when they bust a meth lab in your county, and they will, and you have a huge prosecution of a conspiracy--maybe 10, 12 participants--you've got a toxic dump you've got to clean up because meth labs are toxic dumps, you've got to find the talent to prosecute them. And then the state will make you pay to keep them in jail for months and your county is flat

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bankrupt. Are you going to come back to this body and ask for money because, gee, this isn't what we thought would happen? I think...you know, remember that old thing, "Better get Geico"? Better call NACO. Okay. Call NACO. Don't call me. Don't call the body here. Better get NACO. They brought you this fiasco by biting off and going there. And it will happen, folks. It's happening now to small counties. And crime is coming out to the rural areas. The meth labs, the pot growers, they like rural areas because law enforcement isn't as intense. So ask yourself this: What are we really doing here? Are we watching property tax? No. We're balancing our budget, claiming we're fiscally conservative in tough times and dumping down the cost to the counties. And the counties, God love them, are foolish enough to go with it. Good luck. Remember, "Better call NACO." [LB218]

SENATOR KARPISEK: One minute. Thank you, Senator White. Senator Friend, you are recognized. [LB218]

SENATOR FRIEND: Thank you, Mr. President and members of the body. Perfect timing. Perfect timing. There are times just like in any other job where you say, boy, you know, it's a job, I don't like this job. Right now I love this job. Let me tell you why. I'm going to give you a novel thought. Let's actually talk about the bill, huh? Let's dig into what the bill actually does. Senator White opened up this whole thing today by saying this is a bad bill. You know what's kind of intriguing? He didn't even tell...he hasn't even told you why it's bad bill. He hasn't even dug into the...I'm not sure he even knows what's in Section 7. Let me explain to you what's in Section 7. It creates a new county aid program which provides a means for determining the minimum and maximum amount of state aid budgeted and a method for distribution of these funds. We had a former county commissioner over there say one of the biggest problems we have is we have no idea what we're going to get and we're getting stiffed; we feel like we're getting stiffed. So this section is actually trying to address that in Senator Cornett's bill. The means for determining the amount of aid budgeted will be to multiply the statewide valuation of all counties three times the minimum or maximum percentage figure found in the law. The method of distributing aid will be to divide this total calculated amount among the counties based on their share of statewide valuation after a minimum required distribution amount of \$30,000 is first made to each county. Now there are other sections of this bill. They do various things. We have to start asking ourselves a really, really important question here. Unfunded mandates. Really? Well, let's talk about law enforcement for a second. Is that an unfunded mandate? Ask yourselves that question, members of the Legislature. Why does Sarpy County have a sheriff's office? Why does Douglas County have a sheriff? Why do they have deputies? Does the state mandate them to do so? The answer to that question is: We in those counties don't like criminals running around the streets; we at least want somebody out there to try to monitor that situation. And ask yourself this question further: Do we fully reimburse a county for that law enforcement? My guess would be that the county officials would say, no, you do not. How about schools? Fourteen and a half hours the other day, we were

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fighting over that. We have a constitutional obligation to educate K-12. Do we fully fund that as a state? The answer to that question is, no, we do not. I'm not making his case for him. He's smiling like an altar boy that was just crowned with something really cool. (Laughter) Senator White may be right according to Senator Gay. But the problem is he hasn't even given you a solution. We've been talking about this for two hours. Senator Cornett has the solution up here that he hasn't even really spoken to. So here's the problem. We have all these unfunded mandates. The counties can either make a decision about whether they want to actually fund this stuff, because in reality they aren't necessarily mandates. We are not forcing a county to have law enforcement. We're not forcing a county to have a jail. There are counties out there that don't have jails. You know what they do? They ship their prisoners somewhere else. Do you think somebody is going to commit a rape and murder in a certain county that doesn't have a jail and not go to jail? What did we do before we had state aid to counties under the auspices, I guess, of jail reimbursement? Did they just let their prisoners run around the county and have some dude monitor them like the sheriff? Oh, he's a prisoner, let's just keep an eye on him. [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR FRIEND: Members of the Legislature, this argument is silly. Simply put, it's quite silly. Now, you have to ask yourself this question because this is the most pertinent one in front of us right now, LB218 with the committee amendments AM712. Will they solve a percentage of the problem or all of the problem that's perceived? Because I'm not saying Senator White is wrong about a perceived problem out there. What I'm saying is he's wrong. It's not that the state is not paying its bills. The state doesn't pay hardly any of its bills. I just gave you examples of that. Schools, K-12, are we paying our full bill there? I see people shaking their head no. The argument is silly. What you have to ask yourself is, is this bill silly? He said it was a bad bill but he hasn't given you a reason that it is. [LB218]

SENATOR KARPISEK: Time. (Laughter) Thank you, Senator Friend. Senator Heidemann, you are recognized. [LB218]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I just want to talk briefly. I think we've had good discussions. I understand why people have some concerns with LB218, but I think in the long run this is the answer. I think this is the fair way. If we're going to give money to counties, I think this is the fairest way to do it. And as we looked at this and we looked at this and we looked at this, how do we get property tax? And it's off of valuation. How are we basing the aid off of LB218? It's valuation. And I don't know how you can get any more fairer than that. And I believe in LB218 so much because I think it's fair, I'll let you know that I represent about six counties, the majority of them probably will lose money. But I'm all right with that. I think of myself as a state senator, and when I look at a policy, every once in while you got to

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say, well, it might not be the best for my district but it's the right thing to do. So I believe that LB218 is the right thing to do. And I know it's maybe not an easy decision. There are some counties...Senator Gloor, I'm sure has concerns, and some others, Senator Giese. I did want to make a comment. Senator Giese said, once you don't fund a program you never fund it again. One of the programs that we are talking about here, County Property Tax Relief, for four years wasn't funded. We didn't give it any money and just three years ago we started to put money back into it. So you can put more money. Just because it's even flat or has been taken way, you can put money back into a program that has either been held flat or cut to zero. So that is always a possibility. I will state once again and it's been asked to me that when LB218 becomes law and in a couple of years it is implemented, it is still my hope to try to find more money to hold everybody as whole as we possibly can. And it's a hope that I have. Hopefully the economy in this country turns around and the revenues to the state of Nebraska pick back up and we can do that. I urge you to support AM712 to LB218. Thank you. [LB218]

SENATOR KARPISEK: Thank you, Senator Heidemann. Senator Gloor, you are next. [LB218]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Cornett would yield for a question? [LB218]

SENATOR KARPISEK: Senator Cornett, will you yield? [LB218]

SENATOR CORNETT: Yes. [LB218]

SENATOR GLOOR: Senator Cornett, I know you've touched on this. Would you, again, review for me the growth factor component? [LB218]

SENATOR CORNETT: I'd be happy to. That was, like I explained earlier, what one of the things that the counties really wanted in this bill and that we worked on incorporating. We put in the floor of .0075 with a maximum of .015, and that is to be based on the valuation of the county based against the valuation of the state as a whole. So if you have a growth in your county, then you will grow in the amount of money that you receive based out of the pot of money from state valuation. [LB218]

SENATOR GLOOR: Which is...so we're talking about trying to add even more predictability when it comes to budgeting. [LB218]

SENATOR CORNETT: Yes. And particularly it adds in the factor that we recognize that as counties grow, their needs grow. [LB218]

SENATOR GLOOR: Thank you, Senator Cornett. And thank you also. I know you've been grinding your teeth and sacrificing tooth enamel on this issue for a number of

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years of yourself personally, and that's recognized and appreciated. The common theme seems to be we're trading off what we would like to have for a degree of certainty. And my staff tell me that the first that we can find records on, the first discussion in this body of significant jail reimbursement goes back to the 1960s when we agreed to \$2.50 a day per prisoner, state prisoner, depending upon appropriations availability, and it was never funded. So we have talked about it. We have not been able to fund it in the past. So it's been about 40 years, and we're finally getting around, it appears, to some degree of predictability, and in fact setting up funding. That, at least, is some degree of progress. I hope we don't have to go another 40 years before we're able to improve upon what we're being presented with today. Thank you, Mr. President. [LB218]

SENATOR KARPISEK: Thank you, Senator Gloor. Senator Giese, you are next and you are recognized. [LB218]

SENATOR GIESE: Thank you, Mr. President and members. Senator Heidemann, I stand corrected. You said that this fund was stopped and then started again, and I won't ask you to name another one. But I stand corrected. Thank you for that information. Senator Cornett mentioned earlier that under our jail reimbursement program it's \$35 a day. And I would just like to point out to the body that we don't even fund that to the fullest, yet either. We only pay for about half the year now, under the \$35, regardless of what the cost is for each county, and those vary from county to county, so. But the state only reimburses \$35 a day. I wonder if Senator White would yield to a question. [LB218]

SENATOR KARPISEK: Senator... [LB218]

SENATOR GIESE: From a legal standpoint, can you tell me when a prisoner would become the property of the state in the... [LB218]

SENATOR WHITE: My opinion is as soon as they're convicted of a crime that would justify the imposition of a sentence that would put them in a penitentiary, which is basically a year or more. So it would be a felony punishable or a misdemeanor punishable by more than one year. [LB218]

SENATOR GIESE: Thank you, Senator. And the county then is reimbursed from the day that the prisoner is arrested until the time of conviction, Senator, is that right? [LB218]

SENATOR WHITE: No. The county has to bear the cost of...as I understand it, of the time pending trial. Once they're convicted, then they spend a lot of time in jail waiting to go to diagnostic and evaluation or there's appeals or they are awaiting sentencing. We're talking a lot of time. And the county then, only then can really claim for reimbursement of those. [LB218]

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SENATOR GIESE: Thank you, Senator. I'd just like to reiterate that the cost to the counties is not going down. And to eliminate the jail reimbursement program that we initially started out as a great program in 1998, I believe, we had about \$8 million in that fund. We then cut it in 2001 and said at that time that if and when times got better we would fund that back to where it was before. And I can assure you we're not there and we will not get there by the looks of the discussion today. Mr. President, I'll yield the rest of my time to Senator White. [LB218]

SENATOR KARPISEK: Senator White, you're yield 2 minutes 20 seconds. [LB218]

SENATOR WHITE: Thank you, Mr. President. A couple of points to my good friend who I actually do enjoy, Senator Friend. He made some statements that weren't completely accurate. And let me explain. First of all, sheriffs are constitutional officers. The counties have to have a sheriff under the constitution. So it's a mandate by the state constitution, though not by the Legislature. Second, jails are absolutely unfunded state mandates. Senator Friend wondered what would happen when we didn't...in the old days when everybody didn't have one big jail or they had to maintain their own. The state passed a jail standard act. We have a Jail Standards Board that explicitly indicates what you must provide in the way of a jail: safety, food, medical care, housing, recreation. There's minimum standards and that's to keep the state from getting sued for federal constitutional violations. But we, the state, set those standards, and we tell the counties you have to meet them in your jails; you have to. Now here's the ironic thing. Senator Friend is right. Some counties don't have jails. They send them down the road to another county. [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR WHITE: I asked county commissioner after county commissioner, do you ever have problems with maybe Furnace County sending some prisoners to Hall County and then not paying the bill, stiffing them on the bill? Never. Counties pay each other. We don't pay counties. So these are unfunded mandates. And now I have to make a correction that's in my own misstatements. First of all, it wasn't Geico. It's Maaco. Maaco. You wrecked your car. Uh-oh, better call Maaco. Just letting the counties know if your budget gets wrecked because you have a bad crime, uh-oh, better call NACO. I'm sure they've got the money to help you out. Now I also want to correct, there is some funding after the Rulo incident for prosecution and defense and some funding for experts, but it's not enough and it still devastates counties. And that is, Senator Friend, one of the problems I have with the underlying structure of this bill. The bill gives money to counties that may not have the need because they don't in that year... [LB218]

SENATOR KARPISEK: Time, Senator. Thank you, Senator White. Senator Wallman, you are next and you are recognized. [LB218]

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SENATOR WALLMAN: Thank you, Mr. President, members of the body. Unfunded mandates. We've heard that all the time. We've heard about government giving us money. It's our money, give it back to us. The state supposedly runs on sales and income tax. Right? Property taxes are to fund local issues. If you look here, it just gives you the value of your property and your county which you can get back. So that will vary from county to county, but yet we decide in here what we get back. Depends on our budget issues. This is unfunded mandates, folks. We have a new jail should be built in our county. It will have to be built by certain standards. We can't just put up a thing like they do in Arizona and get by with it. We have to pay attention in this Nebraska. We pay attention to federal mandates. State of Arizona decides not to, they're okay. Maybe we ought to follow Arizona's lead. We could save a lot of money. So I'd give the rest of my time to Senator White. [LB218]

SENATOR KARPISEK: Senator White, you're yield 3 minutes and 40 seconds. [LB218]

SENATOR WHITE: Boy, I got a lot of answering to do. I just found out that Lincoln County historically stiffed Hall County for medical bills when a prisoner had a heart attack in Hall County. Now they have interlocal agreements and everybody honors them. Though I'm told generally that doesn't happen very often, that counties actually pay each other's bills, because if you stiff one county the other counties with jails just won't take your prisoners anymore. But, see, we're the state. We don't have that kind of consequence to our behavior. And that's what I wanted to talk to the body about of what's wrong, in my opinion, with this bill and how I would do it differently. What's wrong with this bill is that big criminal cases can be devastating to the finances, especially of small counties. Devastating. And the jail reimbursement fund acted or should have acted like an insurance policy does. Now, it's nice for the counties to be able to predict their income. I get that and I respect that in Senator Cornett's bill, and I understand Senator Heidemann. And if Senator Heidemann and the Appropriations Committee and this group subsequently says we're not funding this, they can write a nice zero in there on what they can expect. And that, believe me, has happened and it will happen again, or there will be a small number because there's always more fun things to pay for than we get to take the credit for rather than shipping money to counties. But what this bill does is it says, okay, we'll let you write down a number that you can predict will come in, but by the way, that complete and unknown risk of a major crime occurring in your county leaving you with a lot of costs that we won't pick up, we're not even going to pretend to pick those up anymore. And I think that's a terrible mistake. I think especially with regard to state prisoners we should pay for them. And my solution is very simple: pay our bills. Senator Friend, simple, simple, simple. Shouldn't even need a law. Just pay our bills. If we pay our bills, NACO is happy, the counties are happy. We're doing the same thing the counties are doing for each other: paying their bills when presented. And guess what? We're really doing more property tax relief in the counties that need it when they need it the most, when they're faced with an overwhelming fiscal crisis. I

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don't think that you can fairly argue that it is not an unfunded mandate when we tell counties you've got to house them, you've got to house them in... [LB218]

SENATOR KARPISEK: One minute. [LB218]

SENATOR WHITE: ...this kind of conditions, and you have to have a jail that will do it. Now, some counties have passed the bonds and built jails and they expect to house prisoners from other counties. Makes sense. It's a lot more efficient, lots more cost effective. It's a lot safer, both for prisoners and the public. No problem with that. But when the counties have to pay each other to house their prisoners, why doesn't the state pay our bills? Just pay our bills. And one of the problems is we're giving an incentive to the state not to accelerate the intake of dangerous prisoners into the penal system. You know, diagnostic and evaluations bottlenecked because you've got a lot of strange people that have got to go through a lot of psychological evaluation before you can assign them to a general population. Just don't send for the prisoners sitting in county. [LB218]

SENATOR KARPISEK: Time, Senator. Thank you, Senator White. Members requesting to speak are Senators Nordquist, Pirsch, Wightman, Friend, Price, and Giese. Senator Nordquist, you are next and you are recognized. [LB218]

SENATOR NORDQUIST: Mr. President, I give my time to Senator White. [LB218]

SENATOR KARPISEK: Senator White, you are yielded 4 minutes and 50 seconds. [LB218]

SENATOR WHITE: Thank you so much. Senator Cornett just called me and it's very kind, and one of the things is that sometimes counties charge too much for cities. Cities also have to pay this, and there's been a long argument as to whether the city of Omaha is being overcharged for the cost of prisoners. And of course Douglas County is charging them at least what it actually costs to house a prisoner and it seems like an overcharge because we only pay actually less, about 45 percent, when we pay it, of the cost of housing a prisoner. Here's the thing. I mean, if the body really wants to do this, they're going to and I'm not going to stop it any further than to talk about what I've talked about. But let's at least be frank with the citizens of Nebraska. Housing state prisoners without getting paid back under standards set by the state is an unfunded mandate. It is an unfunded mandate. And, yes, the part about schools and us not fulling funding it, you want to know why your property tax bills are outrageous and they seem so high compared to other states? Because we rank 48th in the country in terms of General Funds to discharge the obligation to educate children. Same thing. Folks, we claim we're so fiscally conservative, and part of that is we go out to eat but we just stiff the waitress on the bill sometimes, and certainly the tip. And then we talk about how we really keep our food costs down. We push costs down and away from state government.

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We don't honor our obligations, and we tell folks, well, we've really done a good job being good stewards. Other states that are in horrible financial problems bear a lot greater burden of things like state obligation to educate children, paying for their own prisoners, even paying the results of water claims by bordering states, with state funds. You know, I guess I can accept however we want to dice it. Let's just not pretend we're so good with the money and the counties are so bad, when in fact we've rigged this game. [LB218]

SENATOR KARPISEK: Thank you, Senator White. Senator Pirsch, you are next and recognized. [LB218]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would at this point in time yield my time to Senator Wightman should he desire to use it. [LB218]

SENATOR KARPISEK: Senator Wightman, you're yielded 4 minutes and 50 seconds. [LB218]

SENATOR WIGHTMAN: I won't need near that long, Mr. President. Thank you, Mr. President. Thank you, Senator Pirsch. I wanted to talk a little bit in that I've had some discussion with Senator Heidemann off the phone and would correct, I think, a statement that Senator White made on the date for reimbursement of prisoners. It is my understanding that once a prisoner or a person is convicted of a crime, that they, the county, would then be entitled to jail reimbursement from the time that he was originally jailed, including the date up to the time of trial, and so that would be included in what they would request reimbursement for. At least that's what I am informed. And I think Senator White said that they would only be entitled to reimbursement from the date of the conviction. If Senator Heidemann is here I might ask him that, but I see he's long since gone. So I think there is a real question as to when that date of reimbursement. It doesn't make probably a lot of difference. It could be where there's a delayed date of a trial by some six months, which frequently happens, that might well be that that entire six months would be included in the request for reimbursement, which does make a big difference sometimes in how many days you'd be reimbursed for. One of the problems I have with Senator White saying that we're low in education, whatever it might be, and in jail reimbursement and unfunded mandates, is that all of that money has to come from some source. And that source is from our sales and income taxes, and quite frankly I don't know where that money would come from. I think that's right now why we are able to meet our expenses and pass on some increases in the state budget, where a lot of states are cutting budgets across the board. So I do think that we do have to be very careful of our budget. And, you know, sometimes that unfunded mandate, there may be a question as to whether that's a mandate or not, and certainly Senator Friend has addressed that issue that maybe some of these things aren't mandates. There certainly are some that are and there's certainly a lot at the federal level and there are a considerable number at the state level that we do pass on mandates and they aren't

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funded. But I think a lot of time the county has an interest in protecting its citizens and jailing people, and as a result these may be mandates, they may not be mandates, but the county is serving its own interest in many of these situations. With that, I do have my light on and will be back later. [LB218]

SENATOR KARPISEK: Thank you, Senator Wightman. Senator Wightman, your light is next. [LB218]

SENATOR WIGHTMAN: Question. [LB218]

SENATOR KARPISEK: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Senator Wightman, for what purpose to you rise? [LB218]

SENATOR WIGHTMAN: To request a call of the house. [LB218]

SENATOR KARPISEK: The question before the body is, shall the house go under call? All in favor signify by voting aye; those opposed vote nay. Mr. Clerk, please record. [LB218]

CLERK: 33 ayes, 1 nay to place the house under call. [LB218]

SENATOR KARPISEK: Members, the house is under call. Senators absent from the Chamber, please return to your seats. Senators Nantkes, Schilz, and Lautenbaugh, please return to the Chamber. The house is under call. Senator Wightman, would you like to proceed? [LB218]

SENATOR WIGHTMAN: Yes, we'll proceed, and I'd ask for a roll call vote in regular order. [LB218]

SENATOR KARPISEK: Mr. Clerk, a roll call vote has been requested. Would you please call the roll? The motion is to cease debate. [LB218]

CLERK: (Roll call vote taken, Legislative Journal page 1383.) 27 ayes, 4 nays, Mr. President, to cease debate. [LB218]

SENATOR KARPISEK: Thank you, Mr. Clerk. Debate does cease. Senator Cornett, as Chair of the Revenue Committee, you are recognized to close on AM712. [LB218]

SENATOR CORNETT: Thank you very much. I wanted to remind the body that this is an amendment to delay implementation of LB218 for two years, for two reasons: (1) because of the financial situation we are in now as a state, and (2) to allow the counties that have to reassess the cost of assessors back into their budgets and will give them

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time to do that. I want to encourage the body to vote for the amendment and I urge their support on this. Thank you. [LB218]

SENATOR KARPISEK: Thank you, Senator Cornett. Members, you have heard the closing on AM712. [LB218]

SENATOR CORNETT: Roll call vote in regular order. [LB218]

SENATOR KARPISEK: Thank you, Senator Cornett. The question is, shall AM712 be adopted? All those...we need a roll call vote. I'm sorry, Mr. President. Would you please call a roll call vote in regular order. [LB218]

CLERK: (Roll call vote taken, Legislative Journal pages 1383-1384.) 34 ayes, 2 nays, Mr. President. [LB218]

SENATOR KARPISEK: The amendment is adopted. We raise the call of the house. [LB218]

CLERK: Mr. President, next amendment I have. If I may...there is another amendment. I have some items for the record. Motion from Senator Pahls with respect to LB9; Senator Lautenbaugh, an amendment to LB160; Senator Adams to LB545; Senator Loudon, LB545; Senator Dubas, LB568. And a new resolution, Senator Janssen, LR111. (Legislative Journal pages 1384-1386.) [LB9 LB160 LB545 LB568 LR111]

Mr. President, Senator Giese would move to amend, AM802. (Legislative Journal page 872.) [LB218]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Senator Giese, you are recognized to open on AM802. [LB218]

SENATOR GIESE: Thank you, Mr. President, members of the body. LB218 proposes to take three existing programs, the aid to counties program, the county property tax relief program, and the County Jail Reimbursement Program, and merge them into one new, glorious program. Efficiency in government is certainly something that we should all strive for, and at all times there are programs that become redundant and need to be combined. Over the years, this Legislature has created numerous programs that send funds to county and local governments. In theory, all these are property tax relief programs, but in reality many of these programs have an additional purpose. AM802 would remove the jail reimbursement program from LB218 because the goal of the program is not just to provide property tax relief, but to help reimburse counties for housing state prisoners in their county jails. Quite frankly, this is another case of the Legislature creating a program and not fully funding it, and now it is trying to get out of

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the obligation by eliminating the program. While I recognize there won't be additional funding for jail reimbursement any time soon, eliminating the program altogether is not the solution to the problems that counties have regarding jail reimbursement. Eliminating the jail reimbursement program would discourage counties from housing state prisoners, shift the burden to state-owned correctional facilities, and punish the counties that are currently housing a large percentage of state prisoners. As drafted, LB218 would hit counties that rely on the jail reimbursement program the hardest. In 2008, six counties, Dakota, Douglas, Hall, Lancaster, Madison, and Sarpy, received almost two-thirds of the jail reimbursement funds. Had the provisions of LB218 been in statute in 2008, these counties all would have received significantly lower aid amounts. Dakota County would have received more than \$100,000 less; Douglas County would have received \$1 million less; Hall County would have received \$240,000 less; Lancaster County would have received \$470,000 less; Madison County would have received \$100,000 less; and Sarpy County would have received \$40,000 less. In fact, the only two other Nebraska counties, Cheyenne and Cherry County, would see losses of more than \$40,000 under LB218. Again, I appreciate the goal of LB218 to consolidate similar programs that provide aid to counties, but I strongly disagree with the characterization that the jail reimbursement program is just a property tax relief program. The state aid formula for K-12 education could technically be considered property tax relief to local government, but I don't think many members of this body would support doing away with the state aid formula and merging it with other property tax relief programs. I would urge you to support AM802 and keep the jail reimbursement program intact. [LB218]

SPEAKER FLOOD: Thank you, Senator Giese. Members, you've heard the opening to AM802. Senator Friend, you're recognized. [LB218]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Here's why...Senator White is good at...he's got three shells and he moves them around. That's what really good lawyers do. Let's give people as much worthless information as we can possibly give them, and then hope that a little bit of it they buy. Well, I'm not buying hardly any of it. I'll buy this. Some of the things that we do are unfunded mandates. Senator Wightman was absolutely correct. Here's the problem: I gave you two examples of things that weren't unfunded mandates. Law enforcement is one of them. We have a lot of difficulty in this state trying to pay for the law enforcement that the people in this state need. It's not an unfunded mandate. Here's what we do say though: We have a criminal code that says, you've got to go out and you've got to enforce these laws. So it's tough to grab it and turn around and say...you can actually step back and say, that's an unfunded mandate because we have a criminal code. I wouldn't call it that. It boils down to the question when I last spoke of one thing. First of all, this amendment, reading it I'm not sure that it solves anything. This is part of the shell game. Let's make sure that this particular county or this particular area gets the optimum amount of money because there's other counties that we know are going to jerk us around and they're

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going to take the majority of it. In Section 7 of this bill, we're doing something to try to solve the perceived problem that there's a jail reimbursement difficulty here, that the state is not paying its bill. That's the whole point for this whole bill. If you think that this bill was misguided or isn't going to work, then kill the bill, send it back to committee, throw a bracket...see, all of these people out here think that this is a game right now; that this bill is going to pass and we're just talking about it. This bill doesn't have to pass. Somebody do something legitimate. Throw a bracket...if this is a really bad idea, throw a bracket motion up on it, kill it. Are we all getting tired? Do we want to go home and eat? I don't care. I can sit here forever, stand her forever, talk about this for an awful long time, bore you to tears, do whatever. But the fact of the matter is, if there's a problem--I think it's perceived--if there's a problem, you have to ask yourselves the question, does LB218 solve it? You know what Section 7 does. Go through the other sections and ask yourself that question. It's not as simple as somebody saying we just need to pay our bills. No, it's not that simple because I gave you three instances where the state doesn't pay its bill. But we don't seem to think that that's a problem. We just seem to think it's a problem under these circumstances? That's why this argument is silly. We can have this argument on every bill that's got an A bill attached to it. How much time do I have left, Mr. President? [LB218]

SPEAKER FLOOD: One minute, eighteen seconds. [LB218]

SENATOR FRIEND: I'll stop there. Thank you. [LB218]

SPEAKER FLOOD: Thank you, Senator Friend. Mr. Clerk, items for the record. [LB218]

CLERK: Mr. President, at this time I have no items. []

I do have a priority motion. Senator Campbell would move to recess the body or, excuse me, adjourn the body until Friday, May 8, at 9:00 a.m. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, you have heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel) []