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Floor Debate
March 11, 2010

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SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this the fortieth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Reverend Jimmy Shelbourn from First Presbyterian Church in Beatrice, Senator Wallman's district. Would you all please rise.

REVEREND SHELBOURN: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the fortieth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I do, Mr. President. On page 810, lines 5 and 6, strike the word "with amendment" and insert "Second." That's all that I have. (Legislative Journal page 817.)

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: I have neither messages, reports, nor announcements at this time, Mr. President.

SENATOR LANGEMEIER: Thank you. We will now proceed to the first item on the agenda. Mr. Clerk, Health and Human Services legislative confirmation report.

CLERK: Mr. President, if I may right before that, Appropriations will have an Exec Session in 2022 at 9:15; Appropriations, 9:15 in 2022. Confirmation report from Health and Human Services, Mr. President. (Legislative Journal page 785.)

SENATOR LANGEMEIER: Senator Gay, as Chairman of Health and Human Services

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Committee, you're recognized to open on your confirmation report.

SENATOR GAY: Thank you, Mr. President. Health and Human Services Committee reports favorably on the appointment of Bernard Kanger, Jr., to the Board of Emergency Medical Services. We held a public hearing on February 24, and Mr. Kanger appeared and answered questions from the committee, and he was approved unanimously by the committee. A little bit about Bernard Kanger: He's a new appointment for the replacement to the board, so this is his first time and, if confirmed, he will serve until December 1, 2011. He's employed as a battalion chief with the Omaha Fire Department, and Chief Kanger functions as the incident commander on mass casualty, fire, hazmat, and environmental emergencies. He serves in Nebraska's Urban Search and Rescue Team and is one of the four members in the state of Nebraska selected as an adjunct instructor for the U.S. Fire Administration's National Fire Academy. Chief Kanger served in the United States Air Force Reserves for 11 years and he has been awarded the recognition for his service during Operation Enduring Freedom and Operation Desert Storm. I'd ask for your confirmation on the appointment of Chief Bernard Kanger, Jr., to the Board of Emergency Medical Services. Thank you, Mr. President.

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

CLERK: (Record vote, Legislative Journal pages 817-818.) 30 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR LANGEMEIER: The confirmation report is adopted. Mr. Clerk, General File, LB948. [LB948]

CLERK: Mr. President, LB948 is a bill by Senator Avery, related to the Department of Administrative Services. It changes provisions of letting the agency requisitions of competitive bidding. The bill was discussed yesterday, Mr. President. At that time, an amendment...committee amendments were adopted to the bill. At this time, I have no amendments pending, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Avery, would you give us a two-minute reopening on LB948? [LB948]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. LB948 deals

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with competitive bidding. What it does is to emphasize and clarify language in existing law relating to life-cycle costing and the awarding of bids. Life-cycle costing, sometimes called whole-life cost, involves the total cost of ownership over the life of an asset involving the initial investment, cost to operate, maintenance and repairs, replacement costs, things of that sort. This bill would require all bidders to provide that information and it would call upon the DAS to consider that in their decisions as to who would receive the contract. The legislation was discussed adequately, I think, or at least extensively yesterday. I urge you to support this as we go forward today. Thank you. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the reopening on LB948. The floor is now open for discussion. Senator Stuthman, you're recognized. [LB948]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I just want to talk a little bit about this bill again as far as, you know, putting into regulation, into a statute, you know, that would require people that are bidding for this heavy equipment, you know, that they have to put this life-cost issue also in the bidding process. I don't know why we would ever want to put that into a statute. I think the individuals that put out to bid, that put out the ones that are going to purchase this equipment, you know, they should be the ones that, you know, have information, get information, you know, as to life-cycle cost and everything like that. I don't feel that it should be in the bidding specs that they provide that. In my opinion, it should be, you know, the one that is doing the purchasing should be the ones that look into that. And I feel that I personally think that the individuals that are responsible for making these purchases, that they, you know, are responsible people and they would know what they're purchasing and at what price. So I'm just a little bit concerned. And in reading a lot of the information, this to me seems like a bill that is really a bill that...one that is trying to encourage people to support the purchasing of certain brand-name equipment and that's one thing that really does concern me. I just feel that I don't know why we would need to have something in statute that would force them to have something in their bidding specs of life cost. I know they took out the resale value and I know, you know, that there is equipment that is manufactured well and does a wonderful job with their equipment, but I also think that life costs and everything like that depends a lot upon the operator. The operator can make a world of a lot of difference with how the equipment performs. Fuel usage: There can be as much as five miles an hour, five miles per gallon difference with some drivers in comparison to other drivers. I mean, there are people that are leadfoots and that does consume fuel. There are others that just "motate" down the road, saves a lot of fuel. So I just think this bill, that there is the possibility that I don't think we really need something like this. And the reason I think that is the fact that I think there's responsible people out there to make good business judgment calls in using money, possibly taxpayer money, in purchasing equipment. So with that, thank you, Mr. President. [LB948]

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SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Price, you're recognized. [LB948]

SENATOR PRICE: Thank you, Mr. President, members of the body. Good morning. Glad to see everybody made it in on a fairly treacherous morning and day. We're...obviously, I rise in support of this bill and just want to reiterate where the focus has been for good stewardship. And I appreciate what Senator Stuthman had to say about his concerns and some of the comments we heard yesterday, but I want everybody to be clear. This is a policy question that applies across the board. Some people would like to intimate that it's a single issue, and I found a little bit of a concern with that as I went home last night and thought about it. Is every bill or is everybody's ideas always supposed to come from a group think? Do you have to have an association or multiple associations before you'll carry a bill? I believe last year we had a bill that Senator McGill brought. It was a good policy bill to protect children, but it had application and was brought forth because of a single incident. I believe the issue at the BSDC could be seen as a single incident but it had a broader policy implication. And what we're talking about here by bringing life-cycle costs into the acquisitions phase and actions is a policy question. It is not an individual dealer. It is not...and we have started with a class that we will hopefully broaden out to have more because, again, it is more important that we do the proper accounting for spending our tax dollars. We've heard someone and we've heard commentary about the complexity that can be there, but I assure you with my years of experience that the elements of the acquisition can be narrowed. So we heard from DAS yesterday when I talked to them out in the lobby. And I want to make sure everybody remembers that when I talked to DAS in the lobby, if they let a contract or a bid out and a requirement in the bid is to provide life-cycle costs, then life-cycle costs are considered. If they let the bid out and then only one bidder comes with life-cycle costs and all the others don't, as is really important, if they don't come with life-cycle costs, DAS rescinds the acquisition. They pull it back, they remove the requirement, the one they thought was very important, the one that they use every time they can, and they put the very same acquisition back out to the field again to bid, removing life-cycle costs. So the question is, why was it...to me is why was it important in the first go-round and now they've removed that? I mean, that's changing the requirements up to meet...and I believe that these life-cycle costs are readily available. They're in your owner's manual. You will not spend--I hope, I hope no one would spend--\$8,500, \$1,000, \$150,000 on a piece of equipment they're only going to buy once every ten years maybe and not have a user's manual that tells you how often you have to change the oil, you know, how you drive it. And I've heard the argument about if I'm driving it in hilly country or flat country or we're digging rocks out in Missouri or we're digging out loam here in Nebraska. I would contend that all the bidders are bidding to do the work in the same location. [LB948]

SENATOR LANGEMEIER: One minute. [LB948]

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SENATOR PRICE: Thank you, Mr. President. They're bidding to do the work in the same location, so that's really a red herring that doesn't apply here. The bidders' data...and I talked to a lady last night. Did you all know that the Lancaster County jail which is being built right now, that jail, that acquisition used life-cycle costs? And what they do sometimes is they actually say, bidders, you provide these life-cycle costs or you provide the independently verified. Independently verified: Does independently verified mean that it has to come from another government-sanctioned agency? Couldn't independent verification be a phone call to another county? So, again, the policy issue here is about stewardship, it applies across the broad spectrum of what the state does, and it makes good sense... [LB948]

SENATOR LANGEMEIER: Time. [LB948]

SENATOR PRICE: ...to have good stewardship. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Price. Those wishing to speak, we have Senator Louden, Pankonin, Krist, and Dubas. Senator Louden, you're recognized. [LB948]

SENATOR LOUDEN: Good morning and thank you, Mr. President and members of the Chamber. When I look at this bill and as I look at it, I think it's the Department of Administrative Services is one this would be directed to, as near as I can tell, because I think it leaves out all counties and that sort of thing, and I will ask Senator Avery those questions shortly. But when you talk about life-cycle costs, I worked machinery all my life--I guess I shouldn't say all my life but probably since the time I was about ten years old--and I can tell you that I can do whatever you want as far as changing the life cycle on any piece of equipment out there. Depends on what quality of motor oil you want to put in it. Any of you today are familiar with that. If you have your motor oil changed at your local car dealership, you're probably getting a poorer grade of motor oil, and if you buy some of your better Synex, Gold Bond motor oil and you'll find that you can probably drive it an extra 2,000 miles on an oil change over what you do with the others. I mean, I've done this all my life and different motor oils. So when you talk about life-cycle costs, you can put any kind of numbers that you want to make look good in there. And as far as the owner's manuals and stuff, yeah, they set you what's recommended on how often you should service your cars, your equipment, how often the oil should be changed and that sort of thing. And the heavy equipment dealers or heavy equipment users have ways of bringing those machines in and going through them after a certain number of hours irregardless if they are still operating or not. So with that, I would like to ask Senator Avery a question if he would yield. [LB948]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB948]

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SENATOR AVERY: I will. [LB948]

SENATOR LOUDEN: Yeah. With these life-cycle costs as you have in the statute, this will be just for the Department of Administrative Services, is this what this would be directed to? [LB948]

SENATOR AVERY: It is directed at the department. However, if you look at the original law, that is the one that we are amending in your green copy on page 4, already in law it reads that, "All political subdivisions may follow the procurement principle set forth in this section." It does not require counties to do that and other subdivisions, but we do have in Section 23 of current law which deals with county governments, they lay out their bidding process and it's very similar to what we're trying to do here. [LB948]

SENATOR LOUDEN: Now, and they didn't have to have statutes then to do that in county government. They did it mostly with their own regulations, is that correct? [LB948]

SENATOR AVERY: No, it's in state law. [LB948]

SENATOR LOUDEN: That they have to have this cost cycle, this... [LB948]

SENATOR AVERY: Yes. [LB948]

SENATOR LOUDEN: It's in state law for counties? [LB948]

SENATOR AVERY: It is. [LB948]

SENATOR LOUDEN: And I guess I'd never... [LB948]

SENATOR AVERY: Section 23, sir. It's very similar to the language that we're using here except it doesn't specifically address heavy equipment as we are doing here. [LB948]

SENATOR LOUDEN: Okay. Then everything that they buy they got to have a life-cycle cost of whether they're buying pickups, trucks, or lawn mowers, or whatever? Is that what you're tell... [LB948]

SENATOR AVERY: Well, I'm not sure if the word "shall" is used, but there is a listing in Section 23 of the factors that counties must take into effect or should take into effect when they make...when they take bids and award contracts, and it does include life-cycle costing. [LB948]

SENATOR LOUDEN: But it...and okay then... [LB948]

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SENATOR LANGEMEIER: One minute. [LB948]

SENATOR LOUDEN: The language you're putting in here is, is this going to be...it's got a "shall" in it, doesn't it, doesn't have a "may" in here then? [LB948]

SENATOR AVERY: It does have "shall" in it. And the reason for that is that right now we are told that since the department may include life-cycle costing, yet in many cases they do not and bidders are not required to provide that information, if we pass this law, bidders would be required to provide it, the state would be required to consider it. They would not be required to base the contract solely on that, but they would have to take it into account. [LB948]

SENATOR LOUDEN: Okay. Now when you say they shall provide that, will you get any information that...I guess that you could take to the bank? How accurate will that information be? Because, as I've stated, you can put about any way you want to put that in there depending on the quality of product you use for your life cycle or the way the machine is built. What do you think you will... [LB948]

SENATOR AVERY: Well, I... [LB948]

SENATOR LANGEMEIER: Time. [LB948]

SENATOR LOUDEN: ...actually accomplish anything that's of any value? [LB948]

SENATOR LANGEMEIER: Time. [LB948]

SENATOR LOUDEN: Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Pankonin, you're recognized. [LB948]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I got involved in this a little bit right at the end of the day and I wanted to take a little more time to talk about it this morning. First of all, I want to start by saying that I value the Government Committee and Senator Avery and Senator Price and their work on this issue. And I did this morning talk to DAS and I, up to that point yesterday or this morning, I had not talked to them about this issue. Also had a nice visit off the mike with Senator Krist on some of the thinking of the committee that was very helpful to me. I still am going to be opposed to this bill and I'm going to tell you why and what I think we ought to do going forward. I mean, there's kind of two ways we could approach this. You know, you have a situation and we...this isn't the first time we've had a governmental agency that we have responsibility over, to a certain extent, DAS, that doesn't like something the Legislature

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might do. I mean, that comes up in government. We understand...I understand that, we all understand that. And sometimes we have to direct them to do what we think is the best policy and what our will is. But also...and I also understand that a company or a small group can bring a bill and approach anyone on this floor and take their idea and make a bill and bring it to us, bring it to a committee. But I'm still concerned that I would have felt much more comfortable in this arena if we would have had association of manufacturers that's a broad group that wants to see a broad policy based on, as Senator Krist has mentioned, maybe what the federal government does and other states are doing. I think this is an issue that needs more study. An interim study would be a good one in this one because it's an important topic and there's a lot of dollars involved, important policy. And I'm uncomfortable voting for it in its present form because I think it needs more work from the standpoint of, is this lining up with what's been successful, particularly in other states? Federal government is one thing, but that's a different entity and what might work in other states. And I still have the concern that, sure, a company might have felt that they weren't getting treated fairly, so let's come with this idea to...what do you call it, I use the word tilt yesterday, maybe level the playing fields is more appropriate. But even...whatever the word is, I think we need to be very careful here about what we're doing in directing our agency, DAS, to do. So my opinion is I'd like to see more study on this issue, have it come back down the road, and to find out more about it. I think we will be taking hasty action if we vote to advance this bill without knowing more as our debate has gone on. I've developed these concerns and I think that would be the appropriate action for this body to take is to not advance this bill, have an interim study, find out more about this process and what's the best policy for the state. Thank you. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. (Doctor of the day introduced.) Continuing on discussion on LB948, those wishing to speak, we have Senator Krist, Dubas, McCoy, and White. Senator Krist, you're recognized. [LB948]

SENATOR KRIST: Thank you, Mr. President, members of the body. Yesterday, I spoke on potentially having a mixed definition of the term "life-cycle costs." I'm going to stand up here today and tell you that from my personal experience, although I'm not a life-cycle "coster," I have seen life-cycle costs at the federal level work very well and save millions of dollars. I would still argue and tell you today that based upon my experience that a current industrial standard that exists today would be a better model for us to use and that potentially those life-cycle costs, which most of the senators have talked to that have been up at the mike opposing the bill have said this is intuitive, it's not something that we need technology to tell us I'm doing the right thing. I'd like to just read you, if I could, or paraphrase the expert in life-cycle costs who testified in front of the committee: Whoever releases a bid is determining what is considered. That's a direct quote. If you put it in the bid process that you want life-cycle costs, then you will get life-cycle cost data back. You, as the person who has submitted that bid, would give the information based upon your best knowledge, and the person who's buying that

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piece of equipment would then analyze that piece of equipment based upon what he or she thinks is the credible vantage point of that information. The problem comes when you have silos of interest, and you're always going to have that in major government and you're going to have that in corporations. That's a direct quote also. If you come from the vantage point of being an operator, you take that vantage point; a maintainer, you take that vantage point. The important part of this and the thing that I want to emphasize is that I think the state of Nebraska is a bit behind on their definition of life-cycle costs. By using a bidding process that has life-cycle cost analysis elements to it, as discussed in the bill, it would be the optimum way to make a choice. It is the best practices in the fleet industry. It's a core competency in the Certified Automotive Fleet Management Program. It was adopted as part of the Wharton School of business in the University of Pennsylvania starting in 1988. So, in fact, I will make the statement that if we are not doing this in the state of Nebraska, then we are basically 22 years behind the industry in applying this science. I agree with Senator Pankonin. Potentially if this bill does not succeed, our best course of action would be to do an interim study and to prove that we are 22 years behind and we are not being the best stewards of the taxpayer's money. My point is that we as a committee heard testimony from vendors inside the state of Nebraska, implement dealers inside the state of Nebraska, and people outside the state of Nebraska that were saying the same thing. Are we comfortable being 22 years behind a technology, a science, a process that saves millions of dollars? You need to ask yourself that question as you vote on this bill. Thank you. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Dubas, you're recognized. [LB948]

SENATOR DUBAS: Thank you, Mr. President. Good morning, members of the body. I rise in support of LB948 in its amended form. I've had conversations with people in my district who deal with these types of issues on a regular basis. One person in particular has been the highway superintendent of their county for over 27 years and she talked about low cost, the lowest bid not necessarily being...meaning less spending. She manages a fleet of 11 motor graders, 2 loaders, an excavator, a dozer, a backhoe, and a scraper. She deals with these types of issues on a very regular basis. She turns to some of her neighboring counties to compare, you know, the types of work that they're doing, the types of bids that they're letting, how long that their equipment has lasted. So she's doing comparisons around the area. I think the one comment that she made to me was that lowest bid does not necessarily mean lowest responsible bid, and I think that's what this bill is trying to address--responsibility in managing our taxpayers' dollars. She's been using this method for a lot of years when she lets her bids and she knows for a fact that it has saved her county many, many, many dollars. She's found it to be very effective. She has the data to back it up. You know, I can understand some of the concerns that have been raised, but as Senator Krist just said, you know, we're 22 years behind the curve here. This seems to have a track record that is proven. And I

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think it's a bill that deserves our very serious consideration and hope that we can move it forward. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator White, you're recognized. Senator White, you're recognized. Thank you. [LB948]

SENATOR WHITE: Thank you, Mr. President. I really only have one observation and I've listened to this pretty carefully. The most expensive things I've ever bought started out looking like bargains. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Stuthman, you're recognized. [LB948]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I've been thinking this over and I think what I hear in the discussion this morning, you know, in like Senator Dubas had stated, you know, that she visited with her local people, I think this is being done, you know, on the local level where they themselves utilize the information that they have gathered from equipment that they had purchased 5, 10, 15 years ago, you know, the life-cycle cost of that. The question that I have is with this bill, you know, are we just making it so that the DAS, in purchasing equipment of heavy equipment, are we just using the information from the one that's doing the bidding for the life cost and DAS is not responsible from getting information for the equipment that was purchased by whoever? You know, has that equipment lasted five years, ten years? I'm sure that there are records that follow every piece of equipment. The statement was made that, you know, when they sell at the state sale, sell their equipment, that does make a difference on resale. That makes a lot of difference on equipment that has lasted a long time. It's in good shape. It's probably been used for many years, but it still is in good shape and it will bring a good amount of money when it is sold on the state sale. Equipment that doesn't last very long is laying in the junk pile and hauled to the refuge, to the junkyard, doesn't bring very much. But I think we need to sit down and really think about this. Is the problem getting information from the one bidding or trying to force them to have that information or is the problem that DAS is not getting the information from the equipment that is purchased in years past as to the reliability, the life span of that equipment, the repair cost of that equipment, fuel usage, and everything like that? So, you know, I would be supportive of having some type of an interim study on this because I don't like to put something into statute, you know, that forces the one that is bidding to give that information. That's just information on that new piece of equipment. People purchasing something, I myself and county boards, are very responsible. They know how that equipment performed in the last five years. They know how much downtime it had. So I would be supportive of an interim study on this. The fact is, I think we're trying to force possibly the manufacturer that's bidding it to bring information that in my opinion, you know, is worthwhile, but the most worthwhile information is how that piece of equipment has performed years past under the ownership of the person that is

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attempting to purchase the new equipment. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator McCoy, you're recognized. [LB948]

SENATOR McCOY: Thank you, Mr. President. An observation that I'd have, and I mentioned this yesterday when I talked about this, is that on the last page of the green copy bill where we say that local political subdivisions may follow this principle, I guess my belief would be if this is a great policy--and it may be--why aren't we changing that so that they shall abide by these same principles? Would Senator Avery yield to a question? [LB948]

SENATOR LANGEMEIER: Senator Avery, would you yield? [LB948]

SENATOR AVERY: I will. [LB948]

SENATOR McCOY: Thank you, Senator Avery. Did you give any thought as you were going through this process about requiring all political subdivisions to follow this strategy? [LB948]

SENATOR AVERY: We did not discuss that specifically, but we are aware of Section 23 in current law dealing with county governments where they lay out most of the same kinds of factors that we're talking about here in this bill that must be a part of the bidding process for counties. [LB948]

SENATOR McCOY: Do you think, then, that would be problematic if we changed this on line 1 of page 4 of the green copy where it says all political subdivisions may follow this, the procurement principles? Do you think that would be problematic if we changed that to "shall"? [LB948]

SENATOR AVERY: I don't think so. I don't think so. In fact, we've heard testimony here today and yesterday that most counties do this if not all counties do it already. [LB948]

SENATOR McCOY: Okay. Then I would encourage someone then to file an amendment to change this because if I would think that if this is great strategy, and it may be, that we require all political subdivisions so this applies through all levels of our governments here in the state of Nebraska. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Seeing no other lights on, Senator Avery, you're recognized to close on LB948. [LB948]

SENATOR AVERY: Thank you, Mr. President. Let me stress that life-cycle costing is a way for the state to save money. It does not, however, necessarily save you money in

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the first year or the second year, but it will save you money over the long haul over many years. It is not a radical idea. It's a prudent thing for the state to do. We're simply saying that when the state is letting bids and considering purchase of major purchases of things like heavy equipment that whole-life cost should be considered and that the bidders, if they want to be a part of the competition, they must provide that information. DAS shall consider it. That doesn't mean that DAS is going to have to base their decision solely on that piece of information. It means that they will have to take it up. Companies that resist doing this I think would do so at their own cost because, with this language, they will most likely not be seriously considered in the bidding. It does not require the state to buy based upon this criteria only. The one thing it does that I think is important is it gives some companies in the state of Nebraska a fighting chance, a chance that they do not now feel they have. And I believe that's important for us to consider. It is a win-win for the state of Nebraska and I want to ask you to consider giving us a green vote on this. I also want to thank Senator Price once more for prioritizing this bill. Thank you, Mr. President. [LB948]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the closing on LB948. The question before the body is, shall LB948 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. There's been a request for a record vote. [LB948]

CLERK: (Record vote read, Legislative Journal page 818.) 27 ayes, 13 nays, Mr. President, on the advancement. [LB948]

SENATOR LANGEMEIER: LB948 does advance. Mr. Clerk, next item on the agenda, LR300CA. [LB948 LR300CA]

CLERK: Mr. President, may I read some items?

SENATOR LANGEMEIER: Oh, excuse me, announcements.

CLERK: Thank you. Senator Stuthman would offer LR370. That will be laid over. Business and Labor Committee, chaired by Senator Lathrop, reports LB908 and LB1055 to General File, and LB833, LB846, LB963, LB1044 indefinitely postponed. Enrollment and Review reports LB571 as correctly engrossed. Announcements: both...well, the Revenue Committee will meet in an Exec Session at 10:00 in Room 2022, Revenue at 10:00 in 2022, and Judiciary at 10:00 in Room 2102. That's all that I have, Mr. President. (Legislative Journal pages 819-825.) [LR370 LB908 LB1055 LB833 LB846 LB963 LB1044 LB571]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to General File, LR300CA. [LR300CA]

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CLERK: LR300CA offered by Senator Nelson proposes an amendment to Article III, Section 2 of the Nebraska Constitution. Resolution was introduced on January 21 of this year, at that time referred to the Government, Military and Veterans Affairs Committee for public hearing. Resolution was advanced to General File. There are Government Committee amendments pending, Mr. President. (AM1971, Legislative Journal page 624.) [LR300CA]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Nelson, you're recognized to open on LR300CA. [LR300CA]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'm here today to introduce LR300CA. LR300CA lowers the number of signatures required to place a constitutional amendment on the ballot from 10 percent of registered voters to 5 percent of registered voters, and lowers the number to place a statutory change on the ballot from 7 percent of registered voters to 3 percent. LR300CA empowers the people of Nebraska and better allows the citizens of Nebraska to enact laws and amend their constitution. This issue is of such importance that Article III, Section 2 of our state constitution recognizes that the first power reserved to the people is the initiative whereby laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. We, as legislators, should appreciate the gravity of this right and aggressively act to protect the people's power. In 1994, the Nebraska State Supreme Court, in a case seeking to overturn term limits enacted by the people, nearly doubled the number of signatures required to place an issue on the ballot. The decision by our State Supreme Court in Duggan v. Beermann was so egregious and repugnant to the people of Nebraska that our fellow citizens at a subsequent election voted not to retain the justice who wrote the opinion. Yet despite the outrage expressed by the people of Nebraska, the signature threshold almost doubles the amount that our fellow citizens have determined is appropriate. Today, we can return the signature standards to the lower threshold desired by the people. In a state which utilizes a Unicameral Legislature, the people are the second house. This sentiment is directly expressed in our constitution. With this in mind, Nebraska should have the lowest signature threshold in the country. Ironically, we have one of the most burdensome signature thresholds. Only Montana places a more onerous burden on its people to effect their own laws. The vast majority of states have their signature thresholds on the number of people voting for governor in the previous elections. This was the standard which Nebraska used until the State Supreme Court effectively amended the constitution with the interpretation of Duggan v. Beermann. To keep the signature threshold at such a high level is wrong and should be fixed. Aside from the principle position that the people in Nebraska should determine how their constitution and statutes should be written, there are some practical reasons for placing LR300CA on the ballot. In recent years, Nebraska has seen an influx in out-of-state petition circulators and out-of-state so-called blockers sent to protest the circulators. As a result, millions of dollars have been spent, usually in a negative way, simply trying to place an issue on the ballot or keep an issue off the

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ballot. By keeping the signature thresholds where they are or even raising them as some would propose, we increase the demand for the out-of-state circulators. To keep or raise the present signature standards will result in more out-of-state money being spent in Nebraska, more attack ads, more aggressive circulators, more angry blockers, more complaints from our constituents, and less participation in the political process by the people who matter most--our everyday Nebraskans. This year, the Government Committee heard a number of bills regarding the petition process and the testimony was generally the same. The system is dysfunctional if not completely broken. Jack Gould of Common Cause Nebraska estimated that it would take \$1 million to place an initiative on the ballot. That number is outrageously high and eliminates everyday Nebraskans from utilizing the petition process. We need to address this issue and the most appropriate method of reducing all of the negatives which accompany the petition process in my mind is to reduce the signature threshold. Some have expressed a concern that the constitution should not be amended too easily. While I share that concern, the petition process does not directly deal with amending the constitution. Even if every single Nebraskan signed a petition, the constitution would remain unchanged. The constitution cannot be amended by the petition itself. The constitution can only be changed by a vote of the people. The purpose of the petition process is to weed out those proposals which have little popular support so that the ballot is not cluttered with amendments which have no chance of passage. The question before you is not how difficult should it be to amend the constitution. The question before you is, how best can we give people the opportunity to vote on amending their constitution? I submit that the people of Nebraska have already answered this question for themselves and their judgment should be upheld. By placing LR300CA on the ballot, we will allow the people of Nebraska to affirm that which they have already accepted. The people of Nebraska and this country are unhappy and they are becoming angry because they do not believe government listens to them. LR300CA is a step in the right direction toward putting government back in the hands of the people. Some special-interest groups are opposing this constitutional amendment. Special interests understand that, as a practical matter, they alone have access to the petition initiative process at this time. They know that they have the resources to spend millions gathering signatures and that average Nebraskans cannot mount such campaigns. The special interests fear empowering Nebraskans. So I urge you to reject the bogus arguments of those groups wishing to exclude working families in Nebraska from the legislative process. We are a government of the people, not of special interests. I appreciate that the Government, Military and Veterans Affairs Committee has advanced LR300CA to the floor. However, I was disappointed that the committee would not advance it to the floor without the committee amendment. The committee amendment maintains the status quo relative to the number of signatures required to place a constitutional amendment on the ballot. We should give the people an opportunity to return their constitution to the form that they intended and that worked well in Nebraska for over 90 years. However, if this Legislature adopts the committee amendment and places LR300CA as amended on the ballot in November, then I hope this body will hear the voices of our fellow citizens and

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act accordingly. If the people enact this constitutional amendment, we should interpret their support as a wake-up call. The people are demanding that government listen to them. If this body adopts the committee amendment and the people enact LR300CA as amended, we should return next year and properly place a new constitutional amendment on the ballot which lowers signature thresholds for constitutional amendments. We should not substitute the people's opinions with our own. That concludes my remarks. Senator Avery will be presenting the committee amendment. And thank you, Mr. President and members of the body. [LR300CA]

SENATOR LANGEMEIER: Thank you, Senator Nelson. As the Clerk has stated, there is a committee amendment offered by the Government, Military and Veterans Affairs Committee. As Chair, Senator Avery, you are recognized to open on the committee amendment. [LR300CA]

SENATOR AVERY: Thank you, Mr. President. AM1971 strikes the original sections of LR300CA and replaces them with the following language: For initiative petitions enacting a law, the petition will be signed by 4 percent of the registered voters of the state. Currently, the percentage is set at 7 percent of registered voters. So we propose lowering it 4 percent or 3 percent. Secondly, we do not change the current requirement of 10 percent of registered voters to alter the constitution. That will continue. And that will continue to keep the constitutional amendment requirements at a fairly high level. By decreasing the number of petition signatures from 7 to 4, it will allow citizens more easily to propose statutory changes and have them placed on the ballot. The committee advanced this resolution with the amendment on a 6 to 1 vote with 1 member being absent. Thank you, Mr. President. [LR300CA]

SENATOR LANGEMEIER: Thank you, Senator Avery. You have heard the opening on LR300CA and the committee amendment offered to it. Those wishing to speak, we have Senator Gloor. You're recognized. [LR300CA]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I wonder if Senator Nelson would yield to a question. [LR300CA]

SENATOR LANGEMEIER: Senator Nelson, would you yield? [LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR GLOOR: Senator Nelson, you made an argument that had some factual ring to me, and that was the amount of money that pours into the state as a result of higher signature levels, I think the inference being that's not well-used money in this particular instance. On the other hand, is there not a counterargument that with more items that might show up on the ballot that there will also be considerable amounts of money that go into fighting passage of those specific ballot issues that are brought forward as a

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result of signature? Your response to that, please. [LR300CA]

SENATOR NELSON: Well, thank you, Senator Gloor. I think that begs the question a little bit that we may have more things show up on the ballot. I would just cite you the years...about 35 years between 1960 and 1994 when the court changed it. During that period of time, over a period of 34 years, there were only 69 initiatives or amendments that were filed with the Secretary of State. Of those, only 19 received enough circulation signatures to place them on the ballot, and of that number I think only 8 were passed by the people. So I can't say that we're going to experience or that we are experiencing any more and that this will make a difference on the number that will be filed with the Secretary of State. I think you still have considerable odds in trying to get enough signatures to get something certified by the Secretary of State, and that's my point. Seven percent is simply too high, that's over 70,000 signatures necessary as against the 46,000 which I, you know, am supporting. Does that answer your question? [LR300CA]

SENATOR GLOOR: Yes. Thank you, Senator Nelson. Thank you, Mr. President. [LR300CA]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Gay, you're recognized. [LR300CA]

SENATOR GAY: Thank you, Mr. President. Would Senator Nelson yield to a question? [LR300CA]

SENATOR LANGEMEIER: Senator Nelson, would you yield? [LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR GAY: Thank you, Senator Nelson. Senator Nelson, I apologize if you went over this. I had things going on. But I guess the question is, so now in terms of registered voters now, the current numbers, what would going from 7 percent to 4 percent be under this if this were enacted with the current registered voters now? [LR300CA]

SENATOR NELSON: Well, do you have the sheet that's been circulated? Has that come to you? [LR300CA]

SENATOR GAY: I have about three or four. Did you just hand that out? [LR300CA]

SENATOR NELSON: You'll see the figures there on the various... [LR300CA]

SENATOR GAY: Well, this shows pre-1994, so is this correct, the one you just handed

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out? [LR300CA]

SENATOR NELSON: Right, and let me...I think if I can use a little bit of your time, let me review that. [LR300CA]

SENATOR GAY: Sure, you bet. Yup. [LR300CA]

SENATOR NELSON: We have 1,130,000 registered voters, over a million, 1,130,000. And so you can figure 1 percent is about 11,300. Where we were before 1994, you'll see that for 10 percent of votes cast, that required about 61,000 signatures, and for a statutory change, that required about 42,000. Then we had the Duggan decision and it got elevated for constitutional amendments to 113,000 which is where we are now, and at 7 percent, 79,000. So you'll see with the green copy what I proposed to the Government Committee, reducing the constitutional by 5 percent, that would put us at about 56,500, and for a statutory change at 3 percent, about 34,000. Now, the committee amendment raises...it doesn't affect the constitutional amendments, they're still at 10 percent. So we still are at what I consider a very high level there of signatures required. But at 4 percent, we would be needing to get about 45,000 signatures, which I think is still a large amount for any group to have to acquire by circulation and trying to get signatures. [LR300CA]

SENATOR GAY: Senator Nelson, then are you for the committee amendment? [LR300CA]

SENATOR NELSON: If the body chooses to accept that, yes, I will vote for that. I will say this, that the committee did act, there was a competing...well, there was Senator Avery's bill, there was Senator Price's bill, LR301CA, and there was mine, and they were not going to act on any of them. And then we talked and the committee was agreeable to bringing this out, not doing anything with the constitutional amendment percentage but coming in at 4 percent for enacting a law. And that's where we are today. [LR300CA LR301CA]

SENATOR GAY: Would...so I guess just to go on a little bit, changing the constitution, obviously, is important, so I could see. What was the thinking of you three when you were getting together then on why to leave the constitutional amendment threshold alone versus the...and then...well, what was the thinking on that, why to leave that alone? [LR300CA]

SENATOR NELSON: Well, I think Senator Avery would have to address that. As I said, someone raised it from 10 percent. The 10 percent is 113,000. I think that's a very high standard. You...let's see, that's about, I don't know, half the number of the people residing in Lincoln I would suppose, maybe not quite. But to go out and try to get 113,000 I think is almost insurmountable for any small group, any group of volunteers. It

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would have to be done with a lot of money, a lot of resources, a lot of circulators.
[LR300CA]

SENATOR GAY: But isn't that the reason why...and I'm just listening, trying to learn, but that's the reason why it is so high, so people don't just come in and buy their way into our laws. [LR300CA]

SENATOR NELSON: Well, that's the way it used to be, Senator. [LR300CA]

SENATOR LANGEMEIER: One minute. [LR300CA]

SENATOR NELSON: But here's where we are. You get a national group with lots of money behind it, they will reach that mark and they will get it on the ballot. What about the average Joe, the citizens of Nebraska here, the farmers groups, other groups that don't have that kind of money? They are never going to be able to get a constitutional amendment on the ballot. They can't afford it, they don't have the resources to do it. And so I'm in favor of lowering that somewhat to still an acceptable standard, but not make it absolutely out of reach of the everyday citizen in Nebraska. [LR300CA]

SENATOR GAY: So on the 4 percent or going down to 4 percent for an amendment, that could just be used for any law that somebody wanted to pass? [LR300CA]

SENATOR NELSON: Right. We've got the two things. There are the enactment of laws or statutory changes, or there are amendments to the constitution. And we're only talking here about enacting laws that... [LR300CA]

SENATOR LANGEMEIER: Time. [LR300CA]

SENATOR NELSON: ...that the Legislature has not acted on. Thank you. [LR300CA]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Hansen, you're recognized. [LR300CA]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I rise in opposition to the Government amendment. And I think the handout that Senator Nelson passed out makes it very clear that there's no way that we're going to change the threshold of petitioners for the constitutional amendment changes. So what does that leave us? That leaves us, this body, this body of 49 people that are the only ones that can afford because we come down here free of charge and pass constitutional amendments. We hear them. This one was heard in the Government and Military Affairs Committee, eight people. Takes five hands to get it out. Takes 25 votes to kill it. Twenty-five votes in this body will kill anything, too; will pass anything and will kill anything. But while it's in that committee waiting for those five hands to come up, it can

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be amended and as we found out yesterday that some of these amendments can disembowel the constitutional amendment. I think that we need to look toward the future. And Senator Nelson used the figures that, how many petitions had been signed, how many had reached the threshold, and only eight had passed in a certain amount of time. And I wish he could go over those figures again so it would be a little more clear. But I think with term limits, we're going to get involved down here, we're going to spend eight years, and then we're going to go back into the real world, and there's going to be people come to us and say, Senator, former Senator, we really need to change the constitution for a certain cause. I don't know what those causes are, but I know they're out there. And if we have to go around to three-fifths or two-fifths, I think it was changed in the amendment, and get 113,000 signatures, it's going to be extremely difficult and extremely expensive to do that. I think we should change...I'm in favor of Senator Nelson's bill and I do oppose the committee amendments. Thank you, Mr. President. [LR300CA]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Gay, you're recognized. [LR300CA]

SENATOR GAY: Thank you, Mr. President. Would Senator Nelson yield to a question? [LR300CA]

SENATOR LANGEMEIER: Senator Nelson, would you yield? [LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR GAY: Senator Nelson, I'm leaning towards what you're trying to do here. I'm just trying to get some facts, but... [LR300CA]

SENATOR NELSON: Thank you. [LR300CA]

SENATOR GAY: But when we looked at the...so we're talking roughly 44,000 vote or registered petition and they got to be qualified petition. Do they have to be in every county and all that still too? You couldn't just get them all...it has to be dispersed throughout the state? [LR300CA]

SENATOR NELSON: It has to be dispersed and there's no change in that. There has to be this...let's take the 4 percent. I think that at least 4 percent of the voters in two-fifths of the counties, which would be 38 counties in Nebraska, circulators would have to go out and it would have to be spread out so that either 3 or 4 or maybe 5 percent within each county, that there are signatures to that extent. So that remains the same, yes. You can't concentrate it in one area of population. [LR300CA]

SENATOR GAY: Okay. And then, you know, Senator Hansen was talking about with

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term limits and we always talk about the people...you know, the people keep us in check and the second house being a Unicameral system, it has to be accessible though, and I think this is kind of what we need to talk about this and discuss this because there is a certain number and I just don't know where it is. I don't know if 10 percent is too high or too low, quite honestly. And I don't know if there's any give and take that you guys...we could put any number we wanted on this right now and that could get 25 votes or 30 I guess we need, whatever, but it would kick it out there. But what's a reasonable number? Is it 8, 7, somewhere? In your green copy then is that 7 percent for the constitutional? [LR300CA]

SENATOR NELSON: Well, the green copy moves it from 10 percent down to 5 percent and I think... [LR300CA]

SENATOR GAY: To 5, okay. [LR300CA]

SENATOR NELSON: Yeah. That's the item, the third segment here where you see LR300CA, green copy. [LR300CA]

SENATOR GAY: Okay. [LR300CA]

SENATOR NELSON: That moves it down from 113,000 to a little over 56,000, which would be 5 percent of registered voters at the present time. And then the committee came out with 4 percent for a statutory change, whereas mine specified 3 percent. [LR300CA]

SENATOR GAY: And then as we get more voters, it's easier to register to vote, these numbers are only going to go up. [LR300CA]

SENATOR NELSON: Absolutely. [LR300CA]

SENATOR GAY: And so that's the thing that kind of concerns me. We're doing everything possible to get voters registered, and they may go vote one time and then on the registration rolls. How do we keep up with those registration rolls that if I registered...because I've been elections, too, and sometimes the data you get is misleading. But we're doing everything we can to raise that. So this threshold will continually be raised as the state grows, it'll be totally unattainable. [LR300CA]

SENATOR NELSON: I agree completely with that and I'd like to make the point that the measurement is made at the time of the actual filing of the petitions with sufficient spread for county, and that's the period of time when you determine the number of registered voters. Now, Senator Price, his bill would have established that at a date certain such as January 1, because otherwise you don't really have any idea what goal to reach. You don't know whether it's gone from where it's 113,000 or a million rather, 1,

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or maybe it's gone up 100,000, and that makes a difference in the number of the 10 percent or the 5 percent that you have to reach. [LR300CA]

SENATOR GAY: Yeah. It'd be important we don't have a moving target all the time or you could never get this done. Senator, give me some examples and maybe you did in your opening and I was on the phone doing some...give me some examples though where people you think could actually use the...I think the realistic threshold would be this 4 percent. [LR300CA]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LR300CA]

SENATOR GAY: You can use the rest of my time if you want to give any examples of why you think this is so important to do this. [LR300CA]

SENATOR NELSON: Well, I think it's important, as I stated, that we keep it at a lower level where it's within the reach of voluntary groups, and those don't have a lot of money to spend. If you really have a cause, if you're really concerned about something but you don't have a lot of money behind you, you have to go out and get volunteers and they have to volunteer their time and you're not able to pay them. Well, in my mind, especially for the statutory changes, it shouldn't be that hard to get 33,000 signatures. It's certainly better than trying to get 46,000 or 56,000. Constitutional amendment certainly has to be a little higher, but still at the present levels that were set by the Supreme Court back in 1994, which almost doubled what we did before, it's out of reach for the ordinary Nebraskan. [LR300CA]

PRESIDENT SHEEHY: Time, Senator. [LR300CA]

SENATOR NELSON: Thank you. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Wightman, you're recognized. [LR300CA]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. Perhaps if Senator Avery is available he could give me a little history lesson if he would yield. [LR300CA]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Wightman?
[LR300CA]

SENATOR AVERY: I will. [LR300CA]

SENATOR WIGHTMAN: Senator Avery, can you tell me when the Constitution of

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Nebraska was originally passed, in what manner it was enacted? Was it done by the people? [LR300CA]

SENATOR AVERY: It was passed in 1875 and it was...I cannot tell you if it was ratified by a popular referendum or if it was ratified by the Legislature. I'm sorry. [LR300CA]

SENATOR WIGHTMAN: Okay. I didn't know that either and thought that might be helpful as we consider what the threshold would be at the...on a constitutional question. And as I say, I'm not aware of whether it was passed by a Legislature at that point or by...enacted by the people. And I know Senator Nelson had discussed this. If Senator Nelson would yield, I'll ask him a question or two. [LR300CA]

PRESIDENT SHEEHY: Senator Nelson, would you yield? [LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR WIGHTMAN: Senator Nelson, with regard...I'll ask you the same question if you know, do you know the answer to that as to how the Constitution of Nebraska was originally enacted? [LR300CA]

SENATOR NELSON: Frankly, I don't. I can't assume. I guess I've always thought it was enacted by a ballot, by a vote of the people, but I don't know frankly. [LR300CA]

SENATOR WIGHTMAN: Thank you. Thank you, Senator Nelson. Well, as I consider this, that does seem to be somewhat of an issue in my mind as to how it was originally enacted, whether it was enacted by the Legislature. I guess I have always felt that the threshold levels should be probably substantially higher in amending the constitution, which is the framework of our entire government, than perhaps a statutory amendment. I have one other question I would ask with regard to initiative and referendum. And perhaps if Senator Avery would yield, he could answer that. [LR300CA]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Wightman? [LR300CA]

SENATOR AVERY: Yes, I will. [LR300CA]

SENATOR WIGHTMAN: Senator Avery, can you tell me, is there a different threshold in overturning a law that is enacted by initiative or in enacting a new law that would overturn a referendum, a statute that was eliminated by referendum than there is for any law passed by this body? [LR300CA]

SENATOR AVERY: No, I think it's the same. This body, however, has the authority to overrule initiatives that change laws or repeals laws, but it takes a supermajority to do it.

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[LR300CA]

SENATOR WIGHTMAN: And that's what I was asking. What is the supermajority that's required? [LR300CA]

SENATOR AVERY: I am thinking it's 33, 33 votes. [LR300CA]

SENATOR WIGHTMAN: Thirty-three votes. [LR300CA]

SENATOR AVERY: Right. [LR300CA]

SENATOR WIGHTMAN: And no matter how long that law that has been enacted by initiative has been in effect, it still would require 33 votes either the next year or 20 years down the road to overturn that law? [LR300CA]

SENATOR AVERY: Not exactly. There is a certain amount of time has to elapse before we can actually take it up in this body to overrule an initiative. I think it's three or four years. I'd have to check. [LR300CA]

SENATOR WIGHTMAN: And then no matter how long that is, it remains at the two-thirds majority, that's your opinion, at least right now. [LR300CA]

SENATOR AVERY: Yes. [LR300CA]

SENATOR WIGHTMAN: Okay. Thank you. Well, I think this does justify a major difference in the threshold of petition signers that it would require with regard to the constitution and it seems to me that should be high. At the federal level, I don't know how many constitutional amendments we have at the present time but we don't have very many. It's very difficult to pass a...to get a constitutional amendment enacted because it requires I think the vote of three-fourths of the states'... [LR300CA]

PRESIDENT SHEEHY: One minute. [LR300CA]

SENATOR WIGHTMAN: ...state legislatures. And so I, right now, feel that I will support the committee amendment. I think that's about the proper level. It is a substantial drop from 7 to 4 percent with regard to the initiative and referendum. It maintains a very high level with regard to constitutional amendment and it's very difficult to remove a constitutional amendment even though the majority of the state maybe feels that it's no longer valid. And I refer to Initiative 300 which was one that was passed by the vote of the people and it stayed in effect until a federal court threw it out, even though it was suspect as far as the constitutionality of that. Thank you, Mr. President. [LR300CA]

PRESIDENT SHEEHY: Time. Thank you, Senator Wightman. (Visitors introduced.)

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Continuing with floor discussion of AM1971 to LR300CA, members requesting to speak are Senator Sullivan, followed by Senator Carlson, and Senator Nelson. Senator Sullivan, you're recognized. [LR300CA]

SENATOR SULLIVAN: Thank you, Lieutenant Governor, and good morning, members of the body. I rise in support of the Government amendment, AM1971. It was interesting in our Government Committee, of which I'm a member, Senator Nelson alluded to it, that we had several...three different bills that dealt with this topic. And it was also interesting that two of them took opposing different views using one argument that the changes and requirements of numbers of signatures will mean more involvement in out-of-state interest. And that's one of the points that I wanted to stress, that I think that we need to be cautious in changing those thresholds as we look at outside interest. There are some very well-organized national interests that are looking at particular states to further their causes, and I think they're probably looking at Nebraska. And quite frankly, to lower the number of signatures needed, one could say it makes it easier for our citizens to become involved, but it also makes it less expensive for some of these out-of-state interests to further their cause as well. So I think we need to be very cautious. In addition, unfortunately I think we're...this conversation overlooks what we are having current problems in Nebraska's petition initiative process, such things as the validity of petition signatures, the criminal background and residency of petition circulators, and the payment of circulators by deep-pocketed organizations. So as I said, I support the Government Committee amendment and I think we need to be cautious as we go forward in changing any thresholds. At the end of the day, yes, we are 49 people here, but our doors are open to the citizens of Nebraska and I'm reminded of the inscription on the side of this wonderful building, "The salvation of the state is the watchfulness of the citizens." And it takes all of us participating, whether it's an average citizen interacting with their elected official, to make this system work. Thank you. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Carlson, you're recognized. [LR300CA]

SENATOR CARLSON: Mr. President and members of the Legislature, I'm going to ask Senator Nelson if he would listen to some remarks that I have and then I would like to address a question to him a little bit later. Senator Nelson, you referred to...I think you referred to in your opening remarks the tea party movement, whether you called it by name or not. But in general, the people across the country are angry at the federal government and I would agree with you. A lot of this is centered on the healthcare reform debate, and nationally there have been many, many polls taken to determine people's attitude about healthcare reform. And as a result of that, for me the evidence is there that, in fact, the majority of people in the country are angry. Now, I think you insinuated in your opening that people in Nebraska are angry about not being heard in relationship to LR300CA. I have had individuals contact me that are opposed to

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LR300CA thus far, and it may change after...if anybody is listening this morning. Nobody has contacted me in support of it. And at the hearing, other than yourself, the other testifiers were in opposition. And having said all that, I do have a question for Senator Nelson if he would yield. [LR300CA]

PRESIDENT SHEEHY: Senator Nelson, would you yield to Senator Carlson?
[LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR CARLSON: Was I...did you say in your opening remarks that people are angry? And did you mean that they're angry at us concerning this process? [LR300CA]

SENATOR NELSON: I didn't mean to limit it just to us. There may be people angry with the Legislature, you know, in consonance with all the e-mails we get, we know that. I said...my recollection is that I said that people do not feel they're being heard, they're unhappy, they're getting angry about that, and I think it's across the United States and I think we see it here in Nebraska as well. [LR300CA]

SENATOR CARLSON: Okay. And I think you and I are probably on the same wavelength as far as our response to healthcare reform and the debate and the polls that are taken. And we probably both have similar interpretation of what those polls mean. Would you agree with that? [LR300CA]

SENATOR NELSON: Yes. [LR300CA]

SENATOR CARLSON: Okay. So I think this...and I'm not trying to put you in a spot, but you haven't been able to come up with any evidence of the people in Nebraska feeling in a similar fashion about LR300CA, have you? Then you maybe have had a lot more than I have. [LR300CA]

SENATOR NELSON: No, I have not. I'll be candid. I haven't received...I've received some e-mails in support of this but not overwhelming, but I haven't received...I don't, I think, know...I mean, even less who were in opposition to it. And if I can speak to this a little bit, I know the groups of which you speak that...and let's use an example. I had one group say we are worried about, just as Senator Sullivan said, someone coming in and if you have a lower threshold, they'll be able to get there more easily and we don't have the money to fight them. Well, you and I, I think, know a group of concern to some of those who were opposed to this LR300CA at the hearing, and they've got the money and the resources to get there anyway whether it's 50,000 or 113,000. They're going to get there because they can do it with...we can't do away with... [LR300CA]

PRESIDENT SHEEHY: One minute. [LR300CA]

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SENATOR NELSON: ...circulators. Constitutionally, they're protected. So it seems to me the impetus should be on education of the people. If it's going to get on the ballot, then why spend the money opposing these groups trying to keep it off the ballot? If you know it's going to get on the ballot, then let's use the resources to educate the people as to where they ought to be when they have to actually vote on that particular issue. [LR300CA]

SENATOR CARLSON: Okay. Thank you, Senator Nelson. And this is...it's an important issue and I'm listening to the debate and appreciate people's participation. Thank you. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LR300CA]

SENATOR NELSON: Thank you, Mr. President. I've already answered some questions here that covered what I was going to talk about. I do want to give the body a little idea of the Supreme Court case back in 1994, what happened there. That was Duggan v. Beermann, and there was a petition and there was a vote by the people. And at that time...but let me backup a little bit. Prior to 1994, the number of signatures that were required were measured by the vote for Governor at the last general election and that was where we were for 82 years. And so that number of signatures was considerably less than are required now. An issue came up before the Supreme Court, and this was on term limits, as to how the...our constitution with some amendments should be interpreted. And to keep this short, whereas, we used to use the term "electors," and that said, for instance, if you're going to go by electors then the threshold was around 60,000 voters. In a housekeeping measure in I think 1988, they changed electors to registered voters because they were concerned that it should only be registered voters who ought to circulate the petition. Well, then when the case came before the Supreme Court, they had to look at what was done at that time, and through the interpretation of the court, which many people felt was wrong, they said because you're using registered voters, you now have to go by the number of registered voters you were, and that elevated it, for instance, from 60,000 to almost double that amount both for statutory changes and for amending the constitution. In addition to that, rather than using the actual voters that turned out, you were making it more difficult because you were including in your measurement registered voters and a lot of them just didn't vote. So that's how it doubled, and that's where we are, and that's what we've had to face and contend with at this time, and that's why we brought this. Was that time, Mr. Chairman? [LR300CA]

PRESIDENT SHEEHY: No, you still have 2 minutes 20 seconds. [LR300CA]

SENATOR NELSON: Oh, all right. Thank you very much. With...I appreciated Senator

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Sullivan's remarks. And, yes, I would agree with that. We do have to be careful of the outside circulators. But again I make the same point. They're there. If you have an organization big enough that they want to get something on the ballot and they have the money to do it, why, then over time they have the time to do it and get it on the ballot. So, yes, we have to be cautious. But if that's going to happen anyway then I think we need to look at the other side. Are they the only ones that are going to get things on the ballot, petition either for constitutional amendments or statutory changes? I think there are smaller groups. Let's take the farmers themselves, cattlemen, you can name any number of associations, cooperatives, for instance, that would like to see perhaps a statutory change. They may or may not have the money to do that. It may have to be done on a volunteer basis. So we need to set the standard so it's in reach of the ordinary citizens so that they can do it at a less expensive manner and still be at a level where we protect ourselves from having frivolous things get on the ballot and having the ballot cluttered up. [LR300CA]

PRESIDENT SHEEHY: One minute. [LR300CA]

SENATOR NELSON: Nobody wants to see that. Thank you, Mr. President. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Avery, you're recognized to close on AM1971. [LR300CA]

SENATOR AVERY: Thank you, Mr. President. I'm going to use my time, closing time to address a couple of questions that came up during debate. One, the issue of Duggan v. Beermann, 1994, which doubled the number of signatures needed to change a law or propose a law, was mentioned. I don't remember, though, whether it was also mentioned that in 1966, this decision was affirmed by referendum, popular vote throughout the state. So there is some argument that one could make that the voters have, in fact, affirmed and wish to have the threshold where it is currently. Also, in an exchange with Senator Wightman, I indicated that this body could overturn an initiative that proposed a new law or rescinded a law by a supermajority of two-thirds. That is correct, I have checked. I also mentioned that there was a period of time when I thought we might have to wait two or three years or three or four years. That only applies to initiatives. Once an initiative has been on the ballot it cannot come back on the ballot for three years. So I was kind of mixed up a little bit there, Senator Wightman. So I wanted to correct that. Now back to the amendment. The amendment simply changes the number of signatures required to propose a new law or to rescind a law from 7 percent to 4 percent. That is the committee amendment. I know that Senator Nelson would have preferred that the green copy be reported out as proposed, but that is not what the committee wanted to do. So I would ask you to support AM1971. Thank you, Mr. President. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The

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question before the body is on the adoption of AM1971 to LR300CA. All those in favor vote yea; opposed, nay. Senator Avery, you're recognized. [LR300CA]

SENATOR AVERY: I request a call of the house, please. [LR300CA]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LR300CA]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LR300CA]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Dubas, the house is under call. Senator Avery, when all senators are present or accounted for, how would you like to proceed? [LR300CA]

SENATOR AVERY: A board vote, sir. [LR300CA]

PRESIDENT SHEEHY: Senator Avery, we started with a board vote, it will have to be call-ins or roll call. [LR300CA]

SENATOR AVERY: Call-ins are fine. [LR300CA]

PRESIDENT SHEEHY: Senator Avery, at this time all senators are present or absent. Senator Dubas is currently out of the building. Would you like to proceed? Members, the motion before the body is on the adoption of AM1971 to LR300CA. We'll proceed with a call-in. Mr. Clerk. [LR300CA]

CLERK: Senator Flood voting yes. Senator Pirsch voting yes. Senator Cornett voting yes. Senator Mello voting yes. Senator McGill voting yes. Senator Haar voting yes. No. Senator Haar, you had voted yes, Senator. (Laughter) It's hard enough. (Laughter) Senator Price voting yes. Senator Council voting no. Senator Hadley voting yes. Senator Krist voting yes. Senator Carlson voting yes. [LR300CA]

PRESIDENT SHEEHY: Have all voted who wish? [LR300CA]

CLERK: Senator Loudon voting yes. [LR300CA]

PRESIDENT SHEEHY: Have all voted who wish? Please record, Mr. Clerk. [LR300CA]

CLERK: 23 ayes, 3 nays, Mr. President, on adoption of committee amendments. [LR300CA]

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PRESIDENT SHEEHY: AM1971 is not adopted. [LR300CA]

CLERK: I have nothing further on the bill, Mr. President. [LR300CA]

PRESIDENT SHEEHY: Senator Nelson, you're recognized to close on...there are no requests to speak. Senator Nelson, you're recognized to close on LR300CA. [LR300CA]

SENATOR NELSON: Thank you, Mr. President, members of the body. We are at the point now, since the committee amendment did not pass, then we are onto the green copy, the original bill. And I...we have discussed that at length. I wish we could have had a little more discussion, a little more commentary. What the green, just to refresh your memory, we would be reducing the threshold of signatures for constitutional amendments from 10 percent down to 5 percent. That would bring the number of votes required from 113,000 down to 56,546. And for a statutory change we would be coming from 7 percent down to 3 percent, which would be about 34,000 votes. In my mind it's better to put issues on the ballot and give the people a vote. I want to remind you that we seem to have this hurdle we want to make it very hard for people to get their issues on the ballot. I don't see it that way. I think that we have voters in the state of Nebraska who reason things out, who are familiar and knowledgeable about what's going on and they need to express their opinion and they need to be able to vote on issues. And we shouldn't keep that availability and that process from them by having the threshold too high. The committee amendment put the statutory change at 4 percent, I had it at 3 percent. Either one of those is fine with me. And 3 percent is just as well because we get it down to about 33,000 there for statutory changes. And we are now, I think, at a good limit with 5 percent on the constitutional amendment, the statutory requirements. The point that I want to make is that we don't want to keep the average citizen from being able to vote on critical issues, things that are important to them that perhaps the Legislature has failed to address or has not voted in. If we're talking about fear of circulators and fraud and illegal process, we're always going to have to contend with that. But we can't contend with it here in this bill, in LR300CA. If there's fraud, overpayments, circulators are not observing the law, that has to be done with criminal statutes and fines and things of that sort. We have to attack that from another level. This is simply a constitutional amendment that would reduce the threshold so that we make the ability to vote more available to the citizens of the state of Nebraska. I don't know what we have to fear? I think the fear seems to be that somebody is going to come in and if we can put the threshold high then it's never going to get on the ballot. I simply don't buy that in this day and age with our electronics, with the money that's available, especially in light of the recent Supreme Court decision on unlimited free speech and the limited amounts of money that can be spent, people that really want to get at large organizations are going to come in and they're going to get it on the ballot regardless of what the threshold is. We need to let ordinary citizens get their issues, their critical issues... [LR300CA]

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PRESIDENT SHEEHY: One minute. [LR300CA]

SENATOR NELSON: ...on the ballot. And therefore, I urge you to vote in favor of LR300CA and reduce the thresholds to the level that we used to use in Nebraska for 82 years, prior to 1994. The thresholds that we're talking about now are very similar to what we were prior to 1994 and it worked very well. I will repeat, we had about 69 petitions to the Secretary of State, I think about 19 of them on the ballot, 19 or 18, and only 8 passed. So I think that speaks well for the citizens of Nebraska and the way that this bill, LR300CA, can work. And I certainly urge your vote of approval so that we pass this on to Select. Thank you very much, Mr. President. [LR300CA]

PRESIDENT SHEEHY: Thank you, Senator Nelson. You have heard the closing. The question before the body is on the advancement of LR300CA. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LR300CA]

CLERK: 7 ayes, 12 nays, Mr. President, on the advancement. [LR300CA]

PRESIDENT SHEEHY: LR300CA does not advance. The call is raised. Mr. Clerk, we will now...Mr. Clerk, do you have items for the record? [LR300CA]

CLERK: Mr. President, a Rules Committee report regarding proposed rules changes earlier submitted. And I have a new resolution, LR371 by Senator Cornett and others. That will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 826-827.) [LR371]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB1021. [LB1021]

CLERK: LB1021, a bill originally introduced by Senator Avery. (Read title.) The bill was introduced on January 20 of this year, at that time referred to the Education Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1969, Legislative Journal page 625.) [LB1021]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB1021. [LB1021]

SENATOR AVERY: Thank you, Mr. President. LB1021 will bring the Nebraska School Activities Association under the discipline of our state's open meetings and public records laws. Let me talk to you briefly about the evolution of this legislation. It began last year, actually it began probably earlier than that with some complaints brought to me from constituents in my district. And they were concerned about some decisions the NSAA had made and longstanding policies involving dual participation in certain sports.

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I was not so interested in the...after I got into looking at the NSAA and the issue, I wasn't so interested in the specific policies. But I did discover that there were some what I thought were problems in their governance structure and their procedures. So last year I sponsored an interim study resolution, LR121. This was cosponsored by Senators Kathy Campbell and Kent Rogert. And the findings of that study, I think, are important enough that I should discuss them briefly with you. The NSAA has been the governing, sole governing body for high school sports and activities in Nebraska since 1910. This is their centennial year. And they have undergone virtually no change in its governance structure and its practices for a full century. The result has been the creation of what I described in the committee hearing as an old boys club that has an iron grip on the governance of Nebraska school activities. Its top rule-making body, which they call the Board of Control, is made up of representatives of six districts that were established in 1926, 1926. They have not changed in all of that time. The district boundaries at the time in 1926 were adopted to reflect the same districts that existed for the Nebraska Teacher's Association. And those lines were designed to run along railroad lines so that people would have transportation to Lincoln for meetings. The NSAA has not changed those boundaries for nearly 85 years. These archaic districts are grossly disproportionate in representing schools and students. District 1, for example, which is the largest district, has over 38 students in 88 schools, while District 5, the smallest, has just under 2,500 students in 24 schools. Here's the point. Each district has one representative and one vote on the Board of Control. Now, that doesn't even come close to one person, one vote, which is the principle that we use in this country to decide fair representation. The interim study also revealed a shocking lack of gender and ethnic diversity in the governing structure. Of the 117 elected and paid staff positions at the NSAA, 100 are men. No woman, as far as we could determine, no woman has ever served on the Board of Control, although we have been told recently that one woman may have served some time around 1934, yet 40 percent of all the students who participate in school activities are women and they do not have representation on that board. We do not know how many minorities have ever served in the governance structure of the organization, we could not determine that, and we could not get any confirmation from the leaders of the NSAA that there had ever been an African-American or Hispanic in the governance structure. We could find no evidence at all. What's wrong? Does that matter? Well, of course it matters. A large number of our athletes are minorities and, as I said, 40 percent of them are women. They need representation. The NSAA has held a 501(c)(3) tax-exempt corporate status since 1964, and as such they have long claimed that they are not subject to state statutes of any kind, and particularly they're not subject to state statutes requiring transparency for public bodies. Let me summarize the findings of that interim study. The governance structure of the NSAA is outdated, it does not provide opportunities for fair and proportionate representation of schools and students, does not provide opportunities for women and minorities. They are completely absent from the governing bodies or they are grossly underrepresented. And the association has steadfastly insisted that it is not subject to transparency and accountability laws of the state. This, the original version,

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the green copy of LB1021 addressed all of these issues that were revealed by that interim study. Now that was...the green copy is actually a makeover, it's not a takeover, it's a makeover of the organization. The Education Committee was evenly split among its eight members when we discussed this in Executive Session. There was not a majority that felt that or agreed with me on the necessity for comprehensive reform as proposed in the bill. And we finally agreed to report out AM1969. This amendment, which becomes the bill, requires the NSAA to abide by Nebraska's open meetings and public records statutes. Now listen carefully, I do not plan to go beyond the committee's recommendation. I do not plan to go beyond the committee's recommendation. I know there has been some concern that I might try to hijack the amendment and bring the whole study and all the green copy for a vote. I am not going to do that. I respect my committee. I respect the majority vote of the committee and I will not seek to amend these other provisions of LB1021 into this amendment. So I will stop there and let Senator Adams explain the committee amendment, then I will speak again. Thank you, Mr. President. [LB1021 LR121]

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening to LB1021. As was noted, there is an Education Committee amendment, AM1969. Senator Adams, you're recognized to open. [LB1021]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I appreciate what Senator Avery has done. If you've listened carefully to his opening, he has really laid the foundation for where we are at on this. And he also took a bit of my thunder because I had planned in this introduction to describe a bit the agonizing effort that we went through in Exec Session in committee on this bill. We were torn in all different directions, including myself. And we arrived at what you see as a committee amendment which, beyond being a committee amendment, is a committee compromise. And Senator Avery has elaborated here for the record that he doesn't intend to go any further than to respect the committee amendment. And I respect him for doing that. And I hope that the committee would do the same. What we have done very simply in this amendment is to take Nebraska's open meetings laws and the Nebraska public records laws and put into them the association or any association that regulates interscholastic activities statewide in Nebraska. In effect, it becomes the NSAA. That's the amendment. So they would be treated no differently than a county board, a city council, an NRD when it comes to the Nebraska open meetings laws or providing transparency on public record. And that's...it's a big amendment in that sense but it reaches no further than that. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Adams. (Visitors introduced.) You have heard the opening of the Education Committee amendment, AM1969, to LB1021. Mr. Clerk, you have an amendment to committee amendment? [LB1021]

CLERK: Senator Avery would move to amend the committee amendments with

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AM2033, Mr. President. (Legislative Journal page 718.) [LB1021]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM2033. [LB1021]

SENATOR AVERY: Thank you, Mr. President. AM2033 is simply a technical amendment to make language consistent with existing statutes regarding open meetings and public records. The amendment makes no substantive changes to AM1969 nor does it imply any such changes. It is simply a technical amendment to make the language consistent with current law and it was drafted by the committee. This is an easy one. Thank you. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of AM2033 to AM1969. Members requesting to speak are Senator Gloor, followed by Senator Campbell, Senator Fulton, Senator Avery, Senator Adams, and Senator Stuthman. Senator Gloor, you're recognized. [LB1021]

SENATOR GLOOR: Thank you, Mr. President. Members of the body, last year during my first session I heard a term or read a term in one of my readings that said, too often legislatively we are asked to provide salvation through legislation. And I understood instantly what was meant by that term, that aggrieved parties, for any number of things, come to the Legislature saying help us, save us, the world is unjust and the only solution is we need a law made to reconcile that injustice. And I watch out for that and I watch for bills that come to us that I think may be an attempt at salvation through legislation. I, therefore, rise in opposition to the amendments and in opposition to LB1021. And I do so with trust in Senator Avery knowing that he thinks through things, that's issues that come to him, very carefully. And so I will be paying attention to the arguments. But as it currently stands, I am not convinced that this isn't one more attempt at salvation through legislation. NSAA is a membership organization. It is established for activities and not for education. And we have a responsibility for education, but I do not believe that we have a responsibility to oversee the activities that our children get involved in. As a membership organization, they have their own process, may not be a great process but they have their own process, and they have members, and they have members and a membership to deal with that process. And as any membership organization, sometimes they make good decisions, sometimes they make bad decisions. But it's a membership organization. Do we want this body to encourage any membership organization to run to us for salvation by way of passing legislation? And that's my level of discomfort. There are many membership organizations in the state. A lot may not be tied directly to education, for which we have a responsibility, or for other entities or responsibilities that we are tied to closely, constitutionally. I believe, in my experience working at least in the not-for-profit sector and volunteering in the for-profit sector in some ways, that organizations go through cycles. Sometimes they're cycles of calmness and prosperity and sometimes they are cycles of disruption and change and turbulence, but there are cycles. And I am

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uncomfortable setting some sort of precedent that when a membership organization, like NSAA, may be, I'm not prejudging here, but may be going through a period of change and some turbulence that individuals will run to us saying, calm the turbulence, interpose yourself legislatively on this process to make the changes that we think are important. I think this is an important decision for us and, again, I think it's because of the issue of membership through a private entity. I think it's an important issue for us because of the precedence associated with one more case of perhaps salvation through legislation. I have a few questions, but I think I'll listen to the rest of the debate which should help me form my questions a little better for those individuals I'd like to question. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Gloor. (Visitors introduced.) Continuing floor discussion on AM2033, Senator Campbell, you're recognized. [LB1021]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I do support the two amendments to the underlying bill and support the bill, LB1021. NSAA is an organization that, while made up of member organizations, greatly affects the student activities throughout our schools in Nebraska. I cosigned to Senator Avery's bill and actually did for the interim study because of concerns brought forward by parents seeking information. And I want to say that I come to this bill not because of, you know, this isn't just a current stirring. I have been a watcher of the NSAA for years in the sense that I had one of our children was involved in drama and then the very proud parent of a three-sport woman athlete. And it was through the athletics that we began as parents to watch what was happening and seeking information because, obviously, what decisions are made by this organization does affect how students participate in athletics in schools. The amendment does address, I think, a fundamental aid to citizens seeking information about the actions affecting their children and the students in their school district, which is open meetings and open records. Well, the NSAA, and I'm sure you're going to hear this, has recently passed a policy that put into effect open records and open meetings. I still think it's very important that this fundamental aid to citizens be put in statute. I think it is a fundamental step for this organization. And I would hope that NSAA continues to examine how to include women, minorities on the board and certainly to equalize the composition of the board for larger population districts. Mr. President, I have a question of Senator Avery, if he would yield. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Campbell? [LB1021]

SENATOR AVERY: Yes, I will. [LB1021]

SENATOR CAMPBELL: Senator Avery, this morning on the radio as I was coming in you very succinctly explained why this organization is different than any other 501(c)(3) because of a court case. And I think our colleagues need to hear that explanation. [LB1021]

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SENATOR AVERY: Thank you for the opportunity to do this. I had my light on with the express purpose of addressing that. The...this technically is a private organization and some would say that means it's beyond the scope of legislative action. I would argue, however, that this is a different kind of private agency. Its very existence depends upon its relationship to public institutions, our public schools. So it wouldn't exist if there wasn't a public purpose, that's number one. A sizeable amount of its financial resources come from state aid money, public tax dollars. Also, it uses facilities that are owned by the public. It wouldn't have a venue for its activities without that. The courts have ruled that private associations that meet certain conditions are, in fact, state actors. In fact, the U.S. Sixth Circuit Court of Appeals, in 1968, ruled in a Louisiana case that these private organizations that meet certain conditions are, in fact, public state actors. These are the conditions: Its membership consists primarily of public schools. Its leadership was composed of public school employees who are paid... [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR AVERY: ...who were paid by the state and supervised by the state and play a substantial role in determining and enforcing the regulations of the organization. Its funds come largely from public athletic events and the majority of which are held in state-owned facilities. Its employees are covered by the State Retirement System. Its rules and regulations bind all public schools. This is the same thing that we have in the NSAA. It is a state actor, it is legitimate to come under some authority of the state. Thank you. [LB1021]

SENATOR CAMPBELL: Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Fulton, you're recognized. [LB1021]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Avery yield to a question, please? [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Fulton? [LB1021]

SENATOR AVERY: Yes, I will. [LB1021]

SENATOR FULTON: Senator, the amendment and the committee amendment, if I were to encapsulate it all by saying that the main provision is to require open meetings, abiding by open meetings statute, would that be a correct assessment? [LB1021]

SENATOR AVERY: Partly correct. It also includes public records. [LB1021]

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SENATOR FULTON: Okay. Is that occurring now? [LB1021]

SENATOR AVERY: It has not been occurring. I am told that the NSAA recently adopted an internal policy, Senator Campbell referred to that. The internal policy, however, is voluntary. They can decide whether they're going to follow their own policy or not. And in one case in particular with respect to public records the executive director is given the sole authority to decide what is a public record and what is not. I think it's unenforceable. But if we pass this amendment it will be enforceable. [LB1021]

SENATOR FULTON: Okay, thank you, Senator. This is...this was not something that was on my radar screen until it started to receive attention in the media, after it started to move forward in committee. And I want to share with the body some of what I have heard on this. Now, I am a Lincoln senator, but what I have learned in my tenure representing District 29 is that a lot of the people in my legislative district come from small towns. I come from a small town of 3,400. I took part in all of the sports. I met a lot of people playing sports from different cities, different towns, different villages across Nebraska. And a lot of them end up settling down in Lincoln after they attend college. So I have heard from some people in my legislative district. Interestingly one of the arguments that has been put forward as to why we should even open up the statute to touch the NSAA is because an inordinate representation of citizens and schools around the state. It would seem that as a Lincoln senator my constituents would have some concern that they are underrepresented on this board. The opposite has been true. I've not received much correspondence from my legislative district, but that which I've received has been adamantly opposed to this bill. Further, I have spent some time across the state, different towns in the entirety of our state, different districts that are represented by NSAA, and I've not come across one person who likes this bill. Now, granted, I have a little bit different insight because of what I'm doing right now with respect to my campaign. But I'm also looking at my responsibilities in Legislative District 29, and this is not on people's minds. If it is, maybe I'll have e-mails telling me that I need to support this bill. But the e-mails I receive from my legislative district have been something to the effect of, why are you tinkering with this, we don't think that it's broken, we don't see a compelling need. So in a sense I'm echoing a little bit of what Senator Gloor has said. I don't know that there is a problem to address here. Don't fix what ain't broken. If we amend this, I understand that there's been some compromise to come up with these amendments. But as I read through the amendment, it seems to me that pragmatically what we're doing is to enshrine statutorily that which is being conducted without need of statute. Perhaps it could be argued that we brought...by Senator Avery bringing this bill forward there has been some action on the part of NSAA. And I'd grant you that. In that respect, I think Senator Avery has performed a service. But we enact statutes, we change laws to address compelling problems. It seems to me that enacting these amendments and the statute only make redundancy with respect to that which is occurring in reality. On top of that, this does not seem to be... [LB1021]

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PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR FULTON: ...very popular with the public. It seems to me that when the Legislature breaks open this can of worms the Legislature will always be involved with the NSAA. If we've been able to accomplish something without passing statute, let it rest there. Don't have the government coming in, the state government coming in to an organization that we don't need to come involved in because we'll always be involved with it. So I put this forward to you, colleagues. I know that Senator Avery and I have been on the opposite side of two of the past three bills and that's just coincidence. I bring this to you and say that if we don't need to pass statute that sets a precedent, that puts the Legislature in the business of the NSAA, don't because some day we will be gone and senators after us will continue to be in the business of the NSAA. So I'm going to be opposed to this bill underlying, probably will oppose the amendments, just to make that statement. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Avery, you're recognized. [LB1021]

SENATOR AVERY: Thank you, Mr. President. I had planned to speak directly to the Open Meetings Act. But let me respond to Senator Fulton. Change is not easy, I know that. And this organization has not changed much in 100 years. So you can imagine that they are pushing back on this. I have been, though, in communication with the NSAA leadership and they have assured me that they do not have any problem with this amendment. They had serious problems with the green copy, but this amendment they support. And Senator Campbell was right, we must not let their commitment to openness and transparency be voluntary. I think that it's important that we put it in statute. Now with respect to whether or not people have been getting mail on this, my e-mail has been clogged up with responses from the public. Just a sampling, here's from Brad in Omaha: As a former high school basketball coach, I've become appalled at the manner in which the NSAA governs high school athletics. Bob in Omaha: NSAA claims they don't need to comply with Nebraska open meetings laws because they represent member schools, not the taxpayers. It appears to me that NSAA operates as an extension of schools in Nebraska, yet is unregulated. Here's another from Greg in Omaha: It's true, they are now speaking and making some changes, but it's obvious that this was done only due to the pressure and adverse publicity they've been receiving recently. Terry in Bennington: I see this bill as a way of making needed reform to an organization that relies on archaic rules that do not recognize the obligation to operate using the concepts of diversity, openness, accountability, and fairness. On and on and on, we got a favorable editorial from The Grand Island Independent, we got a favorable editorial from the Lincoln Journal Star, we got a favorable mention from the Omaha World-Herald, the York News-Times also favorably commented on this, the McCook Gazette favorably commented on this, The Grand Island Independent favorably commented on this. It seems to me that if you have not been hearing from anybody on

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this, then I can't explain that. I have no idea how it is that we can be inundated with public response and you can have all of these newspapers editorializing on this and you say, oh, but I didn't...I don't think my constituents care about it. Believe me, they do care. I can tell you that what we are proposing here is not radical. There is something to be said, folks, for transparency in our public institutions. Transparency is the bedrock of accountability. If we don't have transparency in our public institutions then this country is in trouble. You must not do in private what the public would not tolerate if you were doing it in public. And that's what happens when you hide behind secrecy. We must have transparency. It builds public confidence. And when people have confidence in their institutions, they're more inclined to support those institutions. That, folks, is what I call the basis of legitimacy in government. People will look at what we do and how we do it and decide on whether they believe it's been done in a right and proper manner. If they believe it's been done in a right and proper manner, they're likely to support what we do. If the NSAA wants to end the controversy, then open up, become accountable to your members, become accountable to the parents,... [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR AVERY: ...to the public and you will find that when you do that, confidence will be built in how you do what you do and why you do what you do because people feel they have access to it, to the process. And when that happens you build legitimacy, people say, this is the right and proper way to go about this and I support it. And I think that that is the main purpose behind this bill. Put some transparency in that institution and then you'll have accountability and accountability is directly linked to what the public thinks about how we go about our business. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Adams, you're recognized. [LB1021]

SENATOR ADAMS: Thank you, Mr. President, members of the body. If I can, for a moment, step out of my chairmanship role and speak to you simply as a fellow senator and give you my position on this as I see it now, as I have watched it for two years, it has been my opinion, and I've expressed it to my committee members, that I don't want the committee to get involved and the body to have to get involved in regulating school activities. That's been my position all along. The way I look at NSAA, and maybe it's an incorrect way of looking at it, is this, you have 311 schools, public and private, who decide to have activities, everything from drama, band to football. And when they decide to have activities they also voluntarily decide to belong to NSAA so that there are uniform eligibility requirements, so that there is some structure in tournament scheduling, whether it's the speech contest or the state basketball tournament. My point is it is schools that have made the decision to have activities, it is schools that have made the decision to belong to NSAA so that they have some structure and uniformity in their activities. Now, following that same logic then I have to say to myself if there's

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something wrong with NSAA, who should I be hearing from? Well, the way I see it, I ought to be hearing from the schools that have decided to be members of NSAA and have...and are the NSAA. But I haven't heard that much from schools over the course of three years now of dealing with this. I can't say absolutely no school district, even my own in York, has said we have some concerns. But I suppose if you looked at it as, NSAA, as a business, who are its customers, it's 311 school districts. And how much complaining are the customers doing? Not a lot, not a lot. Things do pop up. Can NSAA change? Yes. Should they change? Yes. Has Senator Avery's efforts in the last two years been a catalyst for change? Absolutely. Will there be more change? I'd like to think so. Do I want it to come from us here in the Legislature? No, I do not. Do I want it to come from the school districts that make up the NSAA? That's where the change ought to come from. So I oppose the green copy of this bill. It was too far-reaching, it was taking the Legislature into a domain we didn't belong in. The committee amendment I accept because it's a reasonable compromise. It is simply saying to NSAA, look, open your meetings up, your public records, you are using public dollars, so that everybody can see what's going on, whether it's mom and dad, whether it's a superintendent, school district, us. That's all we're asking here. And Senator Avery has correctly pointed out within the last few weeks NSAA has adopted in policy open meetings and public records which tells me, as well as hearing directly from them, they can live with this. But for me, I will tell you and I'll say it right here on the record, this is as far as I... [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR ADAMS: ...go with this. This is as far as I go. But I think this is a palatable amendment, it is a reasonable one. And then I'd like to think that we're done with NSAA and the rest of their changes come internally from the schools that make them up. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Adams. Members requesting to speak on AM2033 to AM1969, we have Senator Stuthman, followed by Senator Sullivan, Senator Gloor, Senator Hansen, Senator Lautenbaugh, Senator Schilz and Senator...Senator Stuthman, you're recognized. [LB1021]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to ask a question of Senator Avery. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Stuthman? [LB1021]

SENATOR AVERY: Yes, I will. [LB1021]

SENATOR STUTHMAN: Senator Avery, in your opening statement you said that serving on these boards there was no women or no minorities. Is that in the regulations

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where they are barred from being on the board? [LB1021]

SENATOR AVERY: Oh, I would hope not. But, Senator, the way in which they structured the selection of people to serve in the governance structure or the governance organization is such that it makes it very difficult for women and minorities to be selected because in order to be a candidate for any of these positions you have to have an administrative certificate. But that's in the green copy. What we are talking about now is the amendment. The amendment replaces the green copy. It does not deal with the issue of diversity, does not deal with the issue of the district lines, it only deals with transparency. Do we want to have transparency in that organization, public meetings and public records? [LB1021]

SENATOR STUTHMAN: Thank you, Senator Avery. And that is what I wanted to hear from you was the fact that this issue is a fact of transparency. And I will agree with that. Initially, when the bill was first introduced, you know, I got a lot of e-mails from schools in my district in opposition of this bill. They wanted to keep it as it was. But with the amendment now and in visiting with some of the schools, they have said that they really like the open meetings law, you know, what they have adopted right now at the present time and what we're trying to accomplish here. So I think that is very good. And in my opinion, as Senator Adams has stated, I don't think the legislative body should be dealing with issues of micromanaging that organization. I think that organization should do what the people that belong to that organization demand of it. But I also believe that it should abide by the open meetings law. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Sullivan, you're recognized. [LB1021]

SENATOR SULLIVAN: Thank you very much, Lieutenant Governor and members of the body. I rise in support of the two amendments but in opposition to the underlying bill, LB1021. If you will notice on the committee statement that I did not vote to bring the amended bill out of committee so...but here I am. Because of the efforts of the committee and Senator Avery to reach a compromise, I enthusiastically support these two amendments and, quite frankly, I enthusiastically support the NSAA. This organization has been accused of not changing for 100 years. Well, perhaps there are a lot of institutions, including the Unicameral, that haven't changed in many, many years. Does that mean we're doing a bad job? I don't think so. And all this discussion, one thing also has occurred to me. What are we really focusing on? And I would suggest to you that we need to be focused on the school activities that our Nebraska students participate in. And that to me is precisely what the NSAA has attempted to do, to maintain order, discipline and fairness in school activities. I would guess all of us who have been...who are parents and have been involved in school activities can see where parents get perhaps at times overly actively involved in some of their children's activities. I think the NSAA has done a good job of balancing input from perhaps in

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some cases overzealous parents and always keeping in mind maintaining that fairness of participation for students in school activities. So I don't think that we should divert our attention too much from why the NSAA exists. I think they are making efforts already to address precisely what these amendments attempt to ask NSAA to do. I have heard from parents in rural Nebraska and particularly in my district that are happy with how NSAA operates. They want them to continue to provide that fair and disciplined platform for their students and their young people to participate in school activities. So I get the sense that also they don't want the Legislature micromanaging an organization that they think to date has been successful. So again, I rise in support of the amendments. I appreciate the compromise that has taken place within the committee and with Senator Avery. But still I am in opposition to the underlying bill. Thank you. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Gloor, you're recognized. [LB1021]

SENATOR GLOOR: Thank you, Mr. President. I enjoyed listening to Senator Avery list the number of newspapers that had editorials. I think he unknowingly mentioned my local newspaper, The Grand Island Independent, twice. And he should, it's that good a newspaper. But let's not confuse public purpose with gathering information to sell the news. Of course the newspapers are running editorials encouraging a degree of openness and acceptance of public meeting laws. They would love to be in the executive board meetings or the governing board meetings of any number of membership organizations in this state to find out what's going on--Right to Life, the NRA, Farm Bureau, Pheasants Forever. I mean, give them the opportunity to sit in any of those board meetings for any of these organizations, what worthy news organization wouldn't say, you bet, love to be there, want to know what's going on? That's a decision that has to do with gathering the news and selling the news, has nothing to do with public purpose. They'd love to be at NSAA board meetings, along with any other number of membership organizations. I'm emphasizing that point. I know I'm repeating myself. I want to emphasize that point. The fact that we have editorials in a number of newspapers across the state that encourage this is an issue of the business of news, not public purpose. I wonder if Senator Avery would yield for some questions. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Gloor? [LB1021]

SENATOR AVERY: I will. [LB1021]

SENATOR GLOOR: Senator Avery, I am pleased to hear that NSAA has volunteered some components of this. And I am not an apologist for NSAA, by the way. Might I ask you, Senator Adams did talk a little bit about member organizations and not hearing from them. Have you, in all of those e-mails and letters that you've gotten, have you been hearing from a number of membership organizations in NSAA of an endorsement of LB1021? [LB1021]

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SENATOR AVERY: I have received some communication saying we can't take a public position on this but we support what you are doing. Now I don't know why they feel they can't take a public position. But the important thing here is that the NSAA itself is not opposed to this amendment. And that's the key point. They agree that this is something they are willing to go along with. I've received just almost an endless number of communications from parents. And I have to say that even though the organization is an organization of member schools, those schools are comprised of students, students involved in activities. And when you are talking about thousands of parents that have tried to attend meetings and been literally removed and said, you may not be here, or have requested information from public records and said, no, you may not have access to that, that's what we're trying to do here, Senator. We're not going beyond that. [LB1021]

SENATOR GLOOR: Senator Avery, were you initially approached for this by member organizations or by individual aggrieved parents of students? [LB1021]

SENATOR AVERY: Parents in my district. And it started out really as an issue involving swimmers that wanted to be able to compete with their clubs and also compete in the high schools. They were denied that. But eventually that policy was changed. And one of my constituents wound up winning state in an event just the other day. But she was a club participant in an event that they didn't even have in the high schools. That's where it came from, parents that were denied access to records, denied access... [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR AVERY: ...to the meetings, no input. [LB1021]

SENATOR GLOOR: In the original, I believe, in the original bill there was a 30-day notice of meetings that was required. Is that still...does that still remain after the amendments? [LB1021]

SENATOR AVERY: What is in the amendment now is exactly what is in current state law with respect to open meetings and public records. We simply took the language from the current law and applied it to NSAA. We don't do anymore than that, Senator. [LB1021]

SENATOR GLOOR: Thank you, Senator Avery. Again, well-intentioned but I repeat the salvation through legislation concern that I have about this particular bill and at this point in time still cannot be supportive of the amendments or LB1021. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Hansen, you're recognized.

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[LB1021]

SENATOR HANSEN: Excuse, Mr. President, I have to raise the mike. Mr. President, members of the Legislature, I think it's quite ironic that today is the boys state basketball tournament begins and we start talking about LB1021. Last week we all enjoyed a great round of girls basketball tournament too. So it's certainly an appropriate time to talk about this. I know this has been on the agenda for weeks but I thought it was great that we talk about it today. I do have question for Senator Avery, if he would yield. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Hansen? [LB1021]

SENATOR AVERY: Yes, I will. [LB1021]

SENATOR HANSEN: Senator Avery, I assume that you studied this bill quite thoroughly. Is that probably a true statement? [LB1021]

SENATOR AVERY: Yes. [LB1021]

SENATOR HANSEN: Okay. What about parochial schools? Parochial schools, the parents, whether they be landowners, homeowners, whatever, pay their full share of property taxes and then choose on their own choosing to send their children to a, you know, a private school. It's a private school and they run it however they want to run it with certain state guidelines for sure. They get absolutely no taxes. How do you balance that with a parochial school and a member of NSAA being told that they have to comply with state laws? [LB1021]

SENATOR AVERY: Well, this doesn't do anything to private schools that it doesn't do to public schools. It simply says that the organization of which you are a member is going to be required, under this law, to open their meetings to you, to your board members and open it up to your parents and to the students. And they're going to have to open their records. It doesn't do anything more than that. It doesn't have any direct impact on school...on the schools. It has an impact on the organization and those people who wish to participate in the organization's meetings and to view their records. [LB1021]

SENATOR HANSEN: Thank you, Senator Avery. The point being those parochial school folks get no taxes, they receive no tax benefit from the state. And I think one of your earlier remarks was saying that NSAA runs on tax money. Well, there's some of those dollars that don't. And another thing I have...hold in my hand is a resolution from a parochial school in my district, the one and only parochial school. And they express opposition to LB1021 in its entirety. So I didn't know anything about NSAA until I became a state senator. It was just one of those acronyms that I wasn't sure what it was. But I found out quite a bit about NSAA. They're the people... I've known them for a long, long time and they seem to be good and reputable people, at least the ones out in

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the country. And they all support their state organization. I made a promise to Senator Avery and the people back home that I would support both amendments and the bill. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator. [LB1021]

SENATOR HANSEN: And I will do that. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Schilz, you're recognized. [LB1021]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning, everyone. Yeah, it's still morning. I stand, in listening to Senator Avery, and I, too, received quite a bit of correspondence on LB1021. And, wow, what a difference a few hundred miles makes maybe. I got no correspondence in favor of LB1021. In fact, you know, it's one of those things where the folks in my district looked at it and literally thought that this was a bill to basically kill athletic competition in western Nebraska because, as you look at the green copy, you can see that it moves representation to population. And for us out west that makes it like a death sentence. So you know, if that wouldn't have been in the bill in the first place, this would have been a lot easier and probably we could have said, hey, we may be able to support something that does what the amendment does. But with that in the first place being there and with folks from my district seeing that done, I am in complete opposition to the bill. And with that, I thank you. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Lautenbaugh, you're recognized. [LB1021]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in opposition to the underlying bill. And I hope this is sort of a philosophically consistent position. It doesn't matter, I'm still in opposition to the bill. But I don't know that we need to get into this. I just don't see the need for us to interfere in this entity. As it was explained to me weeks back when we first started discussing this, the consumers of this are the school districts. And I've heard from two of my school districts and they've said, please kill this bill, don't vote for this bill, there's no reason for this bill. And I'm not going to search and try to find a reason for this bill because I don't think I'm going to find one. So regardless of my feelings on the amendment and the amendment to the amendment, the underlying bill is not something I can support. And I understand that in a session where there's not a lot of...certainly there's no funds for ambitious initiatives, and sometimes we get stuck talking about what seems like very, very, very minor initiatives, and this would certainly qualify in my mind as a very, very, very minor initiative, if you will. But we are stepping into something that historically we've not stepped into and I don't think it's our business. There was another branch of

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government a while back, last year I think it was, and they were talking to us about, well, would you just mandate that we use this to do that. I won't be terribly specific because there's no point in it. But it was another board coming to us saying, will you mandate that we do this in this way? And my response was, at what point do we not need you anymore? At what point do we insinuate ourselves into everything? I mean, part of my problems two bills back was that we were telling somebody how to accept bids. Maybe we should just start accepting the bids ourselves and deciding who gets the contracts and just cut out the middleman. I don't think we have the wisdom to be involved in everything. And I don't think we should be involved in everything. And if we had to pick something to step back from being involved in, the high school athletic association would seem like a natural good place to start. And yet we're insinuating ourselves into it. And sometimes we do bring bills to call attention to certain problems. We'll have a discussion this afternoon about a bill that called attention to a problem in a dramatic way. And then we amended it to step back a bit from the kind of extreme language that was in the original bill. And maybe this bill was brought to call attention to a problem perceived by some at least. And there were some reforms made perhaps in response to this bill. And perhaps that's a good thing. I haven't heard that it was a bad thing that some changes were made. But that comes back to my original point which was I haven't really heard anything from the people who are actually involved in this saying the changes were good, the changes were bad. The only thing I've heard is this bill isn't good, keep your nose out of this. And I'm content to do that because we do have enough on our plate. And I will not be supporting this bill and I don't want to see it passed even in its amended form. And I will work to make sure that doesn't happen. I will yield the rest of my time to Senator Schilz. [LB1021]

PRESIDENT SHEEHY: Senator Schilz waives the yield. Members requesting to speak on AM2033 to AM1969, we have Senator Stuthman, followed by Senator Council and Senator Fischer. Senator Stuthman, you're recognized. [LB1021]

SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I would like to ask a question of Senator Avery. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Stuthman? [LB1021]

SENATOR AVERY: Yes, I will. [LB1021]

SENATOR STUTHMAN: Senator Avery, in this amendment this only deals with the NSAA? [LB1021]

SENATOR AVERY: That is correct. [LB1021]

SENATOR STUTHMAN: Okay, in the amendment on page 2, line 6, first of all it defines association and then in subsection (3), well, it's...yeah, association governing body

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means any board, commission, committee, or any such administrative body established within the association to carry out specific functions and duties of an association on a regional or statewide basis. Does this only deal with the NSAA or... [LB1021]

SENATOR AVERY: Yes, it does. [LB1021]

SENATOR STUTHMAN: ...does this open up a can of worms for every board? [LB1021]

SENATOR AVERY: No, it does only the NSAA. And we had to...and the reason why the amendment is so long is that we essentially wrote the amendment so that it would apply only to the NSAA. We did not want to just stick something into the current law without specifying exactly how it would apply to the NSAA only. [LB1021]

SENATOR STUTHMAN: Okay, thank you, Senator Avery. That was a question that I have. And I was talking to several individuals a little while ago and they were concerned about the fact that, you know, we're opening up the big can of worms so that every association has to comply with what we're doing right here in this. But, in my opinion, it still deals with the definition of the association of the NSAA. So with that, thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Council, you're recognized. [LB1021]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of the amendment to the legislation. And I know that there is conflicting opinions on whether or not the state should be involved in this. But the concern that I have is that a lot of people across this state, when they see Nebraska School Activities Association, they assume that the state has some involvement in it because it regulates public and private school activities. It sets the rules by which our children across the state can participate in activities. And the activities that are sanctioned by NSAA for our children to participate if they are enrolled in public schools are paid from...paid for from public dollars. This is an issue about the public and the public's right to have access and the public's right to know. As I read the amendment, quite frankly, there are some who have contacted me who don't believe the amendment goes far enough. I am encouraged by the fact that I have read and heard that NSAA itself sees the necessity of dealing with internally the diversity issues and the representation issues. But in terms of what my understanding of the amendment is, is just to deal with the meetings of the body and access to records, because this body makes some decisions that have dramatic and sometimes irrevocable impact on youngsters with regard to school activities. So I believe that what this bill does doesn't impose any substantial burden on NSAA. It just provides members of the public who have an interest in the decisions that are made by this body, that have an impact on whether or how their children participate in school activities, they should have the opportunity to be heard on those matters. And if decisions are made and rules

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are issued by this body that impact how their children participate in an activity, I think it is appropriate for them to have access to the records that were considered during the decision making on that particular issue. Again, I don't think this is overly burdensome. I don't think that this is an inappropriate intrusion. Admittedly, NSAA is a private association. But everything that it does impacts how children in public and private schools in this state participate in activities. And again I have to say, I don't think the amendment goes far enough in addressing some of the issues with regard to that. But if...it's my understanding and, Senator Avery, you can...if you would yield to a question. [LB1021]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Council? [LB1021]

SENATOR AVERY: I will. [LB1021]

SENATOR COUNCIL: With regard to the committee amendment, I apologize, I was out of the room during part of the discussion on this at Executive Session on another committee, but I think you indicated that this amendment had been discussed with the NSAA governing body? [LB1021]

SENATOR AVERY: Yes, it has been. [LB1021]

SENATOR COUNCIL: And could you just repeat, and I apologize I was not... [LB1021]

SENATOR AVERY: The NSAA was very definitely opposed to the green copy, which is a fairly extensive makeover of the organization. But they are not in opposition to the amendment, AM1969, and AM2033 is just technical. No, they support what we're trying to do. [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR COUNCIL: And thank you, Senator Avery. And I think that's important because that, to me, is an indication that the governing body of NSAA recognizes the significance and importance of providing an opportunity for the public to have input in decisions that again in many instances has substantial and significant impact on their children. And so with that, I will be supporting AM2033 and the amendment by the Education Committee as well as the underlying bill. Thank you. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Heidemann, you're recognized. [LB1021]

SENATOR HEIDEMANN: Thank you, Lieutenant Governor and fellow members of the body. Just very briefly, the budget bills have been just dropped, so we got that to do. Also, just to let you know, the Appropriations Committee Budget Recommendations

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booklet has just been handed out. Really, anything that you really want to know about the budget is in here, all of our budget actions. If you have any questions whatsoever, the Appropriations Committee, myself, the Fiscal Office are more than willing to try to answer them. The majority of the questions that you could probably come up with though are actually inside of this book. I encourage you to take a look at it, take it home over the weekend. And as the budget comes up, hopefully next week, this would help you out. Also to let you know on Tuesday, March 16 at 8:00 a.m. in Room 1524 there will be a budget briefing. Any questions, just let me know. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Members requesting to speak on AM2033, we have Senator Fischer, followed by Senator Wallman. Senator Fischer, you're recognized. [LB1021]

SENATOR FISCHER: Thank you, Mr. President and members. I always appreciate the work that committees do. And I know it's not an easy process. It's one that I also know that we all enjoy. It's my understanding that this bill was a tough bill for the Education Committee to work on. And I'm...as I said, I am appreciative of the work that they went through. We have two amendments up before us or we have an amendment and an amendment to the amendment, and I'm sure that many people in here agree that this makes this bill easier to vote for. It makes this bill easier to swallow. My first year down here I learned a hard lesson and that is, you don't make a bad bill better, you kill it. I can't support the amendments because they would make this bad bill better. They could make it so good that it might pass. And for many of the reasons that I've heard other senators say on the floor, this bill shouldn't pass, even with the amendments. NSAA is a 501(c)(3). Yes, there was a court case; yes, there's some other information out there that we can deal with them, we can single them out, we can do this to them. First of all, what's to stop us from doing this to the school board association? Those are tax dollars that pay the dues. What about the school administrators? I know in the past there were districts that helped administrators pay those dues. What about the Greater Nebraska Schools Association that all the larger districts in the state belong to? Lincoln, Omaha metro, they all belong to that. Those dues are paid by tax dollars. How much input do the patrons in those districts have at those meetings? How much input do the patrons of those districts have when it's decided how those associations will lobby us in this body on different issues dealing with education? None. They have no input. They have input through their elected representatives on the school board; same with NSAA. It's the school board that decides who their representative will be on NSAA. And if they can't give any input, if those elected officials cannot give any input to their representative on NSAA, then we've got a bigger problem than having them post an open meetings law. Where does it stop? So we're just going to figure out legislation to deal with this one group because there are some of us in here and some of our constituents that may be upset about this group. And that's how we do legislation: We hear from our constituents and we answer their concerns. But we're singling out one group, we're singling them out and I think that raises questions about a closed class, about other associations that

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receive dues money... [LB1021]

PRESIDENT SHEEHY: One minute. [LB1021]

SENATOR FISCHER: ...from tax dollars. For what? So they can post the open meetings laws. This is a bad bill. And I do appreciate the work of the Education Committee. I thank them for trying to compromise on this. And I know it was not an easy compromise for many of them. But I would urge you not to vote for these amendments because if you do you're trying to make a bad bill better. Thank you, Mr. President. [LB1021]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Mr. Clerk, do you have items for the record? [LB1021]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Appropriations reports LB317 and LB935 to General File with amendments. Natural Resources reports LB1048 to General File. A motion on LB1021 and an amendment on LB1021, both from Senator Lautenbaugh to be printed. A request to add name from Senator Cook to LB1014. (Legislative Journal pages 828-832.) [LB317 LB935 LB1048 LB1021 LB1014]

And a priority motion: Speaker Flood would move to recess until 1:30 p.m. []

PRESIDENT SHEEHY: (Visitors introduced.) You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand in recess. []

RECESS []

PRESIDENT SHEEHY PRESIDING []

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

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

PRESIDENT SHEEHY: Are there items for the record? []

CLERK: Just one, explanation of vote from Senator Dierks (re LB948). That's all that I have. (Legislative Journal page 833.) [LB948]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now move to Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, the first bill is LB258. [LB258]

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CLERK: (Read LB258 on Final Reading.) [LB258]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB258 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB258]

CLERK: (Record vote read, Legislative Journal page 833.) 40 ayes, 3 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB258]

PRESIDENT SHEEHY: LB258 passes. We will now proceed to LB579. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB258 LB579]

CLERK: 41 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB579]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB579]

CLERK: (Read title of LB579.) [LB579]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB579 pass? All those in favor vote yea; opposed, nay. (Visitors introduced.) Please record, Mr. Clerk. [LB579]

CLERK: (Record vote read, Legislative Journal page 834.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB579]

PRESIDENT SHEEHY: LB579 passes. We will now proceed to LB689. [LB579 LB689]

CLERK: (Read LB689 on Final Reading.) [LB689]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB689 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB689]

CLERK: (Record vote read, Legislative Journal page 835.) 41 ayes, 1 nay, 4 present and not voting, 3 excused and not voting, Mr. President. [LB689]

PRESIDENT SHEEHY: LB689 passes. We will now proceed to LB735. [LB689 LB735]

CLERK: (Read LB735 on Final Reading.) [LB735]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied

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with, the question is, shall LB735 pass? All those in favor vote yea; opposed, nay.
Please record, Mr. Clerk. [LB735]

CLERK: (Record vote read, Legislative Journal page 836.) 46 ayes, 0 nays, 3 excused
and not voting, Mr. President. [LB735]

PRESIDENT SHEEHY: LB735 passes. We will now proceed to LB764. [LB735 LB764]

CLERK: (Read LB764 on Final Reading.) [LB764]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB764 pass? All those in favor vote yea; opposed, nay.
Please record, Mr. Clerk. [LB764]

CLERK: (Record vote read, Legislative Journal pages 836-837.) 46 ayes, 0 nays, 3
excused and not voting, Mr. President. [LB764]

PRESIDENT SHEEHY: LB764 passes. We will now proceed to LB768. [LB764 LB768]

CLERK: (Read LB768 on Final Reading.) [LB768]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB768 pass? All those in favor vote yea; opposed, nay.
Please record, Mr. Clerk. [LB768]

CLERK: (Record vote read, Legislative Journal page 837.) 46 ayes, 0 nays, 3 excused
and not voting, Mr. President. [LB768]

PRESIDENT SHEEHY: LB768 passes. We will now proceed to LB770. [LB768 LB770]

ASSISTANT CLERK: (Read LB770 on Final Reading.) [LB770]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied
with, the question is, shall LB770 pass with the emergency clause attached? All those in
favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB770]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 838.) The vote is 45
ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.
[LB770]

PRESIDENT SHEEHY: LB770 passes with the emergency clause attached. We will
now proceed to LB799. [LB770 LB799]

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ASSISTANT CLERK: (Read LB799 on Final Reading.) [LB799]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB799 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB799]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 838-839.) The vote is 46 ayes, 0 nays, 3 excused and not voting. [LB799]

PRESIDENT SHEEHY: LB799 passes. We will now proceed to LB805. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB799 LB805]

ASSISTANT CLERK: 39 ayes, 4 nays to dispense with the at-large reading, Mr. President. [LB805]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB805]

ASSISTANT CLERK: (Read title of LB805.) [LB805]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB805 pass? All those in favor vote yea; opposed, nay. (Visitors introduced.) Please record, Mr. Clerk. [LB805]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 839-840.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB805]

PRESIDENT SHEEHY: LB805 passes. We will now proceed to LB821. [LB805 LB821]

ASSISTANT CLERK: (Read LB821 on Final Reading.) [LB821]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB821 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB821]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 840.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB821]

PRESIDENT SHEEHY: LB821 passes. We will now proceed to LB865. [LB821 LB865]

ASSISTANT CLERK: (Read LB865 on Final Reading.) [LB865]

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PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB865 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB865]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 841.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB865]

PRESIDENT SHEEHY: LB865 passes. We will now proceed to LB910. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB865 LB910]

ASSISTANT CLERK: 39 ayes, 2 nays to dispense with the at-large reading, Mr. President. [LB910]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB910]

ASSISTANT CLERK: (Read title of LB910.) [LB910]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB910 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB910]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 842.) The vote is 43 ayes, 2 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB910]

PRESIDENT SHEEHY: LB910 passes. We will now proceed to LB910A. [LB910 LB910A]

ASSISTANT CLERK: (Read LB910A on Final Reading.) [LB910A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB910A pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB910A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 843.) The vote is 43 ayes, 0 nays, 4 present and not voting, 2 excused and not voting, Mr. President. [LB910A]

PRESIDENT SHEEHY: LB910A passes. We will now proceed to LB926. [LB910A LB926]

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ASSISTANT CLERK: (Read LB926 on Final Reading.) [LB926]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB926 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB926]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 843-844.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB926]

PRESIDENT SHEEHY: LB926 passes. We will now proceed to LB1006. [LB926 LB1006]

ASSISTANT CLERK: (Read LB1006 on Final Reading.) [LB1006]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1006 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1006]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 844.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB1006]

PRESIDENT SHEEHY: LB1006 passes. We will now proceed to LB1063. [LB1006 LB1063]

ASSISTANT CLERK: (Read LB1063 on Final Reading.) [LB1063]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB1063 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB1063]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 845.) The vote is 47 ayes, 0 nays, 2 excused and not voting. [LB1063]

PRESIDENT SHEEHY: LB1063 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB258, LB579, LB689, LB735, LB764, LB768, LB770, LB799, LB805, LB821, LB865, LB910, LB910A, LB926, LB1006 and LB1063. Mr. Clerk, we will move to the first item under General File, 2010 Speaker priority bills, Lautenbaugh division, LB836. [LB1063 LB258 LB579 LB689 LB735 LB764 LB768 LB770 LB799 LB805 LB821 LB865 LB910 LB910A LB926 LB1006 LB836]

CLERK: Mr. President, LB836 is a bill originally introduced by Senator Lautenbaugh. (Read title.) Introduced on January 8 of this year, at that time referred to the Natural

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Resources Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM1864, Legislative Journal page 584.) [LB836]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB836. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I feel like this discussion has been a long time coming and I've even alluded to it a time or two already this session. When I first came to the Legislature, I think I had been in office about five minutes before I was contacted by some gentlemen who live around Fort Calhoun who were telling me about the problem they were having with the deer. And this was in 2007 and the problem has only increased, the herd has only gotten bigger. And we...I threw in a few bills the first year, one of which passed, two of which did not, but they were designed to address the problem or at least call attention to the problem and start addressing the problem. The only one that failed...the only one that passed, I should say, took out the floor from what Game and Parks could charge for permits. There used to be a floor in our law. That hasn't done it. We have more permits than we can use and the population continues to grow. There are a lot of factors at work here, but that doesn't change the fact that we still need to deal with the problem. It's costing our agricultural producers millions. It's a hazard to our motorists. It's a hazard to all of us. So I brought LB836. In its original form, LB836 was admittedly extreme. It basically allowed landowners to get rid of deer on their property. Provided for spotlighting, provided a tax credit for smaller landowners who allow access for deer to be taken on their property, and it was fairly controversial. I think all of you have received lots of e-mails on LB836. And as late as today, I know someone in the body was telling me that they had received an e-mail on LB836 specifically complaining about provisions in the original bill. Please understand, none of those provisions are in the final bill. I've spent the last few weeks dealing with people who are concerned about this. The Natural Resources Committee has done a great job working on this. Game and Parks has been providing great information, they're very cooperative on this. And understand, Game and Parks was working to address this problem as well. They had a series of measures that they could pursue under existing law and they were looking to pursue those this year. This bill has become a vehicle to provide them with even greater tools to more effectively reduce, not manage, not control, reduce the size of the deer herd. What is it as amended? I told Senator Langemeier I would just go ahead and start talking about the amendment because that's really what's relevant. It gives Game and Parks the ability to extend deer seasons, specifies species, bag limits, dates for depredation, and hunting seasons, beginning and ending dates for depredation and hunting seasons. It allows the use of any weapon that would otherwise be allowed during a deer season to be used during these special depredation seasons, and it provides for the income from depredation permits to go towards damage abatement to help reduce the damage that our farmers are seeing from the deer. It also provides the property owners unlimited antlerless permits for farmers or ranchers with more than 20 acres. This would only

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work when Game and Parks declares there to be a special depredation permit season within a specified area. Game and Parks has identified areas now where they are seeking a reduction in the herd of up to 25 percent--no, I misspoke--a reduction of 25 percent, not up to 25 percent, and it's warranted. The bill, as written, also...excuse me, the bill as it will be amended also provides for hunting within 100 yards rather than 200 yards of an occupied dwelling. But I know that some of you have issue with that and I've heard feedback on that as well, and I've pledged--in case there are any other issues--to address that on Select, possibly with limiting it so that bowhunting would be 100 yards, everything else would be 200, but some measure to provide comfort for those of you who have heard concerns on that. I've also agreed to accept an amendment by Senator Louden to add his cougar bill on here that he'll be discussing as well. And I believe together these are two needed pieces of legislation that will help us...(laugh) one of our members just provided a clarification on the particular species we're talking about and I'll let her address that if she'd like. But in any event, I think this bill is important, both of them together should go forward. I ask for your support and I'll be happy to take any questions you might have. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening to LB836. As was noted, we do have a Natural Resources Committee amendment, AM1864. Senator Langemeier, you're recognized to open. [LB836]

SENATOR LANGEMEIER: Mr. President and members of the body, Senator Lautenbaugh has done a good job about talking about the amendment. And, again, the bill is stripped out, all the things that were in the bill that got you a lot of phone calls and a lot of correspondence, and one of my colleagues said that this is the most responded to by e-mail bill they've had this year. And I got to say, as being Chair of Natural Resources, we got the mother lode of them too. We worked with Game and Parks in the discussion to come up with some tools. In most of the responses we got from people out in our constituency, as we saw them on the streets, they said, hey, we've got too many deer, let's do something with them. The e-mails you all got were from the hunters, the other side of the story. And they were pretty concerned that Game and Parks should be the monitor. And so with this amendment, as Senator Lautenbaugh described it, it deals with depredation permits. It allows Game and Parks some freedom to put in a depredation season where needed, where there's high populations of deer. Nebraska has a lot of deer in Washington County, Douglas County, and along the Platte River versus a lack of white-tailed to the western end of the state as well as the loss of mule deer at the western end of the state. So this allows them to go within their regions as they deem areas overpopulated and to deal with those and gives them a little more freedom. And I'm going to move on now to Senator Louden's mountain lion bill that came out of committee unanimous. They've taken the opportunity to offer it as an amendment to LB836. Senator Louden will do the introduction on that, but I just wanted to state that there were concerns offered by individuals at the hearing. I think we've addressed those in his amendment. And so I would ask for your adoption of AM1864 as

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well as Senator Louden's amendment to follow. Thank you. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of the Natural Resources Committee amendment, AM1864. Mr. Clerk, do you have an amendment to committee amendment? [LB836]

CLERK: Senator Louden would move to amend the committee amendments with AM2115. (Legislative Journal page 761.) [LB836]

PRESIDENT SHEEHY: Senator Louden, you're recognized to open on AM2115. [LB836]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. AM2115 is the amended version of LB747 as it was amended by the Natural Resources Committee. LB747, in the amended version, directs the Nebraska Game and Parks Commission to allow for a 30-day hunting season on mountain lions that are depredating livestock and poultry. The commission may issue a permit for the killing of one or more mountain lions which are preying on livestock or poultry. The permit shall be valid for up to 30 days and shall require the commission to be notified immediately by the permitholder after the killing of a mountain lion and shall require that the carcass be transferred to the commission. The reason for that, as some of you saw in the paper where there was articles about that "shoot, shovel, and shut up," and that's what's been going on up to this point with some of these mountain lions. In fact, where I live, within the vicinity where I live, I know there's been somewheres around six of them shot here in the last two years. And, of course, that doesn't allow the Game and Parks Commission to have any kind of research done on these animals to see how many we have and to get a handle on what we have going on. And to be eligible for a permit under this section, a farmer or rancher owning or operating a farm or ranch shall contact the commission to confirm that livestock or poultry on his or her property under his or her control has been subject to depredation by a mountain lion. The commission shall confirm that the damage was caused by a mountain lion prior to issuing the permit. The farmer or rancher shall be allowed up to 30 days, as designated by the commission, to kill the mountain lion on such property and shall notify the commission immediately after the killing of a mountain lion and arrange with the commission to transfer the mountain lion to the commission. LB747 and as amended by AM2115 clarifies how a person can defend themselves and their property without being subjected to a penalty. Up to now, there has never been any clarification on how you can defend yourselves other than the...more or less, the regulations that the Game and Parks has put out that stated that you could defend yourself if you were being stalked or attacked by a mountain lion, but it has never been clarified what you can do about a mountain lion on your property that was stalking or attempting to depredate livestock or your poultry. And so this is something we worked with, with the Game and Parks Commission to get this...bring this about because of the issue of the number of mountain lions that are showing up,

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especially in western Nebraska, and there have been some down here, farther eastern Nebraska, from time to time. So this is something that we're working with the Game and Parks. It gives them another avenue or a tool to take care of what was considered a big game animal. And that was a problem several years ago. When the laws were passed with mountain lions, they were declared a big game animal but they didn't give the Game and Parks any authority on how to handle them or what to do with them, so this is another step forwards. And I also want to point out that I certainly support Senator Lautenbaugh's LB836. I have people in my district that have asked about that, hoping that something like that would go through. One of the neighbors I talked to here, oh, about six weeks ago mentioned to me that any morning that he wakes up, he looks out the window there and he can count at least 65-head of deer just out there just beyond his house out there in some of the alfalfa and the hay that he has growing there. And he said it's actually too many deer. We have deer hunters out there, but they don't begin to have any control on them. So I support LB836 as amended and I also would ask for your support of AM2115. Thank you, Mr. President. [LB836 LB747]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening of AM2115 to AM1864. Members requesting to speak are Senator White, followed by Senator Campbell, Senator Christensen, Senator Stuthman, Senator Dierks, and others. Senator White, you're recognized. [LB836]

SENATOR WHITE: Thank you, Mr. President. I listened with interest to Senator Lautenbaugh's opening about how he wrote this bill five minutes after being appointed, and I think that explains the original content. (Laughter) This bill became known in my district as "bounties for Bambis," and the horrifying thing about it, despite what I think are some things that Senator Lautenbaugh wisely has cooperated in correcting, it's a real problem. Every year I ride a horse. I ride a horse in the Ponca Hills in a big preserve. And in the spring, especially this spring after a winter like we had, I will see dozens of starving deer, deer that are suffering from bluetongue and other predatory illnesses caused by overpopulation and lack of suitable food and habitat. I know that many people are concerned that this bill is cruel, that shooting or hunting isn't what we should do. But, honestly, if you are, as Senator Cornett is, familiar with Fontanelle Forest, you will recognize the extreme damage overpopulation of deer are doing to some of our really treasured natural areas. They are also hurting themselves. You will see...if you spend time in the woods, you will see a lot of animals needlessly suffering. You will also see what Senator Louden just alluded to, that nature will find its own balance. The population of white-tailed deer is a lot higher now than it was, they think, when the pilgrims first landed on Plymouth Rock, at Plymouth Rock, because the rise of agriculture, because of the rise of corn farming and other grain crops that do produce deer or allow deer to reproduce themselves in an overabundance. That certainly, I'm sure, causes heartache for farmers. But for those of you who are really concerned about the well-being of animals and the well-being of whether or not hunting and this kind of activity is really an appropriate response, all I can honestly tell you is spend some time

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in the woods in the spring. Watch the conditions of these animals. It's devastating. So as hard as hunting may seem, it is far kinder, far, far kinder and more compassionate than not doing...than the consequences of not doing anything. And that has an impact on our public spaces, on our parks, on our farmers, and it also brings to level the rise of the cougar coming back, which I'm sure is a deep concern to the farmers and ranchers in the community, but that is nature reasserting a balance. Cougars prey on the weak and the ailing and certainly our woods will be full of them this spring. Thank you, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Campbell, you're recognized. [LB836]

SENATOR CAMPBELL: Thank you, Mr. President. I come forward to support both the amendments and the underlying bill, and perhaps for a different reason and want to make my colleagues conscious of what that might be. I took an interest in this bill initially when a news story came out in January when it was first introduced. And my husband said, you ought to vote for that bill. And, you know, like most spouses that all of us deal with, they make comments on the bills that come before us, but not with as much adamant nature to this. And so quickly I learned why, because over this winter deer were killing 60 trees a night at our nursery. Now, I realize that a lot of you are going to hear about cash crops today and corn and wheat and I'm very sympathetic to those traditional crops. But for a nursery owner, some of those trees are a seven-year crop; we need to grow them that long before we put them in our customers' yards. So this was a very serious problem for our industry and I thank Senator Lautenbaugh for bringing it forward. I certainly do understand the amendments that have been made to the bill. Every year we get calls from our customers in urban areas who receive damage from deer. So this is a problem for not only traditional agriculture but what we might think of as urban, horticulture. Thank you very much, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Christensen, you're recognized. [LB836]

SENATOR CHRISTENSEN: Thank you, Mr. President. I stand in agreement with both amendments to this bill. And, you know, this is an issue that has got problems from east to west. I don't care where I'm travelling, I run into...see a number of deer problems. You know, I hit a deer a week ago coming down here and messed up the front end of my car. I would have...I'd hate to guess how many that has been in my lifetime. I know my family with seven drivers hit 32 in one calendar year. That's how thick they are on the Republican. I have fields I can take you down and you can count 600 to 1,000 in one field. So I'm telling you this is a severe problem. This is something that Game and Parks has not been able to get their hands on, have not been able to control, and there's not a lot of options for us to take care of this situation. And I don't know how high a fence it would take, but it's gotten so bad that it's going to get cost-effective after a

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while. We got some pivots that we'll plant 32 rows around the outside of the pivot and we'll be lucky to get 100 bushel off of that, and we ought to take semiloading off of them 32 rows. That's how much damage we're having out there. So I do encourage you to vote green for this bill, move it forward. I read the original bill and I think they need a wake-up call. I think this is a compromise for the present time with Game and Parks to see if they can get things moving the right direction. I sat on Natural Resources my first two years down here and I think it was a joke to them. We told them they had to do something or get a depredation permit. It didn't seem to work very well. They've always had a depredation permit that we've utilized and I'll tell you, anybody that wants to...a deer to process, let us know. We'll get it killed for you. We'll get the permit. We can get all kinds of permits on landowners, but they have to be processed, so that limits the number we can do. They do have the permits for that, but where we don't have the ability to get rid of the meat and I don't want to have to process all the meat and pay for it myself, it gets to be very difficult. This should be an improvement. There is additional measures maybe we can get them to look at in the future, but there is a severe problem out there and I encourage your green vote on this to move forward. Thank you. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Stuthman, you're recognized. [LB836]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I do realize that there is a major problem with too many deer in the area. In my area, in the section of ground where we have our dwellings and our feedyard and stuff like that, we've counted over 200 deer in an evening there. It used to be 100, but now it's around that 200 head of deer. The biggest issue that I have with this is the fact of that it was changed from 200 yards down to 100 yards, and I would like to ask a couple of questions of Senator Lautenbaugh. [LB836]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Stuthman? [LB836]

SENATOR LAUTENBAUGH: Yes. [LB836]

SENATOR STUTHMAN: Senator Lautenbaugh, explain to me the rules and regulations as far as the 100 yards from a residence. What does that really mean? [LB836]

SENATOR LAUTENBAUGH: Well, it was a limit taking some of the lands off...and I'm answering your question probably in a different way. Right now, the limit is 200 yards. This bill would take it down to 100 yards. As I indicated in my opening, there have been some concerns, especially regarding rifles, that 100 yards would be too close. It was my desire to make sure that we had a clear airing of what everyone's concerns were and then try to address that with an amendment on Select possibly limiting it so that it just applies...the 100 yards would just apply to bowhunting, not rifles or shotguns. [LB836]

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SENATOR STUTHMAN: Okay, but this 100 yards or the existing 200 yards that was in the...was with the Game and Parks originally, tell me what that really means. Can I be within 200 yards of a feedyard and still shoot? Can I shoot something out of that 200 yards and be in the 200 yards when I shoot? [LB836]

SENATOR LAUTENBAUGH: If you want to know if you can shoot outside the 200 yards and be inside the 200 yards, I'm going to say no because that would be an impossibility. [LB836]

SENATOR STUTHMAN: And the way I understand it is that you can't be within that 200 yards, standing in that 200 yards, and shoot. You can be at 201 yards or you have made it now to 100 yards, 101 yards you can stand there and you can shoot a deer that's 102 yards away from there too. You can't shoot in that 100 yards or in that 200 yards as it was originally and you can't even be in that as a person to shoot the deer. [LB836]

SENATOR LAUTENBAUGH: To make this as simple as possible, as written currently, whatever your current understanding is for 200 yards, substitute the number 100 and all of the rules would still apply. [LB836]

SENATOR STUTHMAN: Yes, yes, I realize that. And the reason I want to go back to the 200 yards is because 100 yards is fairly close to a residence, to a feedlot, to an operation. I think that's very close. I've kind of stepped it off. I haven't measured it exactly yet, but from my office door just down the steps to the north wall is over 100 yards. That's fairly close, you know, that's 300 feet. I just feel that if everyone shot, you know, away from that it probably wouldn't bother as much. But what's going to happen, you know, when they shoot in line with it or happen to turn and shoot within that 100 yards? I still...and I'm going to be putting in an amendment, if it isn't addressed sooner, you know, to get it back to that 200 yards. I do realize there's a lot of damage done by the deer. You know, we personally have that experience. There's 12 to 14 rows around the outside of the cornfields, there's nothing there. I just feel that we need to do something but I also feel the fact that the Game and Parks is the one that should be doing the regulations on it. And in the... [LB836]

PRESIDENT SHEEHY: One minute. [LB836]

SENATOR STUTHMAN: ...in the hearing, at the hearing process that time, you know, the opponents, you know, the majority of the opponents were like organizations. The Council of Sportsmen's Club, Game and Parks, the division of Izaak Walton League, Bowhunters, Game and Parks, Rocky Mountain Elk Foundation, those are the ones that were in opposition to this bill. And I think that's probably because of the original bill, but since we have the amendment, maybe there wouldn't be that much of an opposition.

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But I really think something needs to be done. I know there's neighbors of mine that have got those depredation permits and they have, you know, harvested quite a number of deer already. But I just want to make sure that we don't get into a situation where we're shooting, you know, into residences, having too many people out there shooting. And if there's anything that really upsets me is the fact that we've got a very big wooded area if you have... [LB836]

PRESIDENT SHEEHY: Time, Senator. [LB836]

SENATOR STUTHMAN: Thank you, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Members requesting to speak on AM2115, we have Senator Dierks, followed by Senator Sullivan, Senator Wightman, Senator Lautenbaugh, Senator Hadley, and Senator Pankonin. Senator Dierks, you're recognized. [LB836]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I am supporting both the amendment and the bill. I think that Senator White struck a note with me when he talked about the problem of the deer overpopulation and how it affects their own health with...he mentioned bluetongue, for instance, which is a viral condition that deer, cattle get it, sheep can get it. When we send cows into some states, they have to be tested for bluetongue before they can move in there and deer are the natural carrier. They're also natural carriers of leptospirosis and if they have...if a deer has...I saw a leptospirosis problem sweep through one of my river valleys when I first started veterinary practice that the deer caused, and so there's many other things in this thing that we deal with here. And I think that when I think about the problems that deer have with overpopulation on their own health, it reminds me of the same problem we have with horses today and the fact that we have nothing to do...no way to take care of these horses. The United States Humane Society has seen to it that we cannot slaughter horses anymore, and that is probably more cruel than any slaughter plant that takes place. We have horses that are starving to death. The sheriffs are telling us now they're picking up three and four times as many horses for being abandoned in this state than were last year and the year before. It's become a tremendous problem. We need to find some way to get around that. We need to find some way to get some humane horse slaughter plants established. I just thought this was an opportunity for me to talk about that. I know it's a problem. We hear it all over the country. We're hearing it from other states. Wyoming is trying to provide something, Montana is, Illinois has passed some legislation trying to do this. I think what we're looking at now is a matter of state's rights, the sovereignty that we're supposed to have in our own existence. Along the same line with the legislation and the amendment that Senator Loudon has, the mountain lion has become a problem. There are more of them in my district. We see them very often. One of them crawled out of a ditch there at the ranch one day when we were baling hay and just sat up on his haunches there and watched the boys bale hay. I had seen a couple

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of mountain lions going across the ranch about six months before that and I got my binoculars out and I saw for sure that's what it was, and so I went into the yard and I told my son, I said, well, I just saw two mountain lions out there, and he said, oh, those are coyotes, Dad. I said, well, I don't think so because I had the binoculars on them and I think I know when I see a coyote or a mountain lion, and so they still thought that I saw coyotes. Well, then that was the next spring...the next summer that this mountain lion came out in a hay meadow and watched them bale hay, so it kind of changed their mind a little bit. But we know they're there. They run across the road in front of us in some of the hill country up around Niobrara and so I think that Senator Louden has a point. I'm willing to support that. I wonder, I guess with all of this, how much influence Game and Parks is going to have with conducting the policing action on that. [LB836]

PRESIDENT SHEEHY: One minute. [LB836]

SENATOR DIERKS: Thank you, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Sullivan, you're recognized. [LB836]

SENATOR SULLIVAN: Thank you, Lieutenant Governor. I rise in support of AM2115, but I also wonder if Senator Louden would yield for a few questions. [LB836]

PRESIDENT SHEEHY: Senator Louden, would you yield to Senator Sullivan? [LB836]

SENATOR LOUDEN: Yes, I would. [LB836]

SENATOR SULLIVAN: Thank you, Senator. Just a few clarifications about your amendment. First of all, I noticed that...as far as the definition of predator, wolf wasn't mentioned. I know I've had at least one constituent tell me that he's sure that he has seen one on his property, in fact carries a gun with him now to check his cattle. But also, as I understand it, that is...a wolf is on the endangered species list in our state. Is that correct? [LB836]

SENATOR LOUDEN: Yes, that's correct. And that part in this bill, this AM2115 that describes what a predator is, is when we were drawing this up, the Game and Parks, my understanding was there wasn't any place in statute that really described what a predator was so they wanted to put that in there. And the reason they left wolf out, if you notice on the second page there of this amendment, they talk about this section shall not be construed to allow anyone to shoot a nongame or endangered species from the Conservation Act and then the federal Endangered Species Act of 1973 and all those different acts there that are listed, and that is where the wolves are still a federal endangered species in some places. They are, I'm sure, in Nebraska. Right now Wyoming, Montana, and Idaho are trying to work out plans to take them off the

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endangered list and at the present time they...Idaho and Montana have been somewhat successful with the plan they have to control the population, but Wyoming hasn't been successful so they're still an endangered species in Wyoming. [LB836]

SENATOR SULLIVAN: Thank you. Another clarification with respect to the actual killing of a mountain lion, as I understand the way that your amendment is written, if there has actually been damage or they're in the process of causing damage as in killing livestock, that the landowner can actually shoot the lion without having had a prior permit. Is that correct? [LB836]

SENATOR LOUDEN: That's correct and that's new language. At the present time a mountain lion in Nebraska is declared a game animal, but when they were declared a game animal they didn't give the Game and Parks any authority on how to control them or what to do with them, where they could give...set up a hunting season or anything like that. So that's what that's set up in there for, that if they are depredating livestock or poultry, you can shoot them. But it also goes in there where you have to notify the Game Commission, bring them in, and transfer that animal to the Game and Parks Commission, and the reason for that is to get away from this shoot, shovel, and shut up proposition that's been going on for the last few years out there. Because actually it's against the law to shoot a mountain lion but usually the tolerance is zero in some of the ranch country so they were just shot and then the Game Commission has no idea how many there are or what relation they are to each other and that sort of thing. [LB836]

SENATOR SULLIVAN: But then if the landowner actually wants to ask or get a permit, do they have to establish that they have actually then have been having damage and, if so, who determines that damage? [LB836]

SENATOR LOUDEN: Well, and that's the way it's written in the bill here, that if they have an animal killed and they suspicion it's a mountain lion kill, then the Game and Parks people come in and decide whether or not it is. And I notice in there they...let's see, I think it's in the first part there, that they have to...the Game and Parks has to decide... [LB836]

PRESIDENT SHEEHY: One minute. [LB836]

SENATOR LOUDEN: ...whether or not...confirm that it is a kill, I should say, and then they will issue the permit. They can't issue the permit until they have a confirmed kill. [LB836]

SENATOR SULLIVAN: Okay. Thank you very much for those clarifications, Senator. Thank you. [LB836]

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

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recognized. [LB836]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. I rise in support of both LB836 and the committee amendment and Senator Louden's amendment, AM2115, as well. There's no question that we have a tremendous overpopulation of deer within the state of Nebraska. I read some figures, and maybe those were mentioned earlier, but the figures I remember were that in 1996 there was an estimated population of deer in the state of Nebraska of about 250,000. Today's population I have seen more recently was 380,000. So that's a 50 to 60 percent increase in the last 14 years. Obviously, this comes at a great cost to the state of Nebraska. I suspect everyone in here has part of that cost in paying additional automobile insurance premiums just as a result of the number of accidents that occur on our highways. And of course, if you drive along Interstate 80, you see the results of that with the number of deer that we see every time as we travel from Lexington to Lincoln. And I'm sure that as you get near rivers and creek beds, the country roads see maybe an even larger number of deer. So obviously the insurance cost is a major factor. Crop damage, I have a number of constituents that have contacted me with regard to this bill. One of them has a monitor that reproduces an image with regard to the crops that he raises and you can see along the edges of those fields where sometimes there's almost no crops at all. I don't know that I've seen the numbers that Senator Christensen talks about when he talks about 800 to 1,000 in a field. I guess I know I haven't seen that number, but we certainly do see them as we travel along the interstate. So I agree that in some instances it probably causes disease and lack of sufficient food supply which causes death as well, so I think it could be said that in many instances it will be helpful to the deer population. With regard to the mountain lion, of course we're talking about predators here and we seem to have them. I quite often walk in the dark. A lot of people think I travel in the dark most of the time. But at any rate, I walk along a canal bank and I think it would be tremendous habitat for mountain lions. And then more recently I have heard that within a mile of there some of the neighbors have seen mountain lion cubs. So since I may be the prey, I may have a particular interest in this. Maybe some of my constituents would think that was not a bad idea. But at any rate, I do think we have to be careful. I think the population of mountain lion is much greater than we ever read. I had a...wasn't a constituent but a friend that lives near Oconto, Nebraska, has a little radio show on KRBN and he was telling about how he had seen a mountain lion within about 50 yards and he immediately called the Game Commission and the game officer came out and he said, usually when we get a call like this we conduct a sobriety test but, he said, in this instance we can see the tracks and so we won't conduct the sobriety test. But at any rate, I have a guest here today that lived in St. Paul, Nebraska. There was a mountain lion there that was actually shot because it was within... [LB836]

PRESIDENT SHEEHY: One minute. [LB836]

SENATOR WIGHTMAN: ...a very short distance of the St. Paul school. And so I think

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they can pose a danger but they certainly are a danger to livestock, and so I think there has to be a method to at least eliminate them occasionally. And I think Senator Loudon's amendment, AM2115, is a good amendment. So I would urge your support of both the bill and the amendments. Thank you, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Lautenbaugh, you're recognized. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do appreciate the words of support we're hearing on this. I think it's important or, obviously, I wouldn't have brought the bill in the first place. I do want to focus on something for a moment that I left out of my opening that is really the untold story here, and most of the opposition on this, especially as originally written, did come from the hunting community. And if there is one thing that I have heard a million times throughout this discussion is people complaining of the problem of access. Now understand this bill does very little to promote actual access to new hunting lands, unless we're talking about the 100-yard, 200-yard thing, which hopefully will end up being limited to bows, as I indicated on Select File, but that's really it. And I don't believe we can mandate access for hunting on private property. But I have pledged, and I'm not sure quite how to do this but maybe this is a start by just saying it right here, I've pledged, I know that some of the supporters of the original bill, the Farm Bureau and the Cattlemen have all pledged to promote access, and what that means is if you have land that's good for hunting and you can allow access, please allow hunters to hunt your land. If we had more hunters and they had more access, we wouldn't be having this conversation. And I wish we did have more hunters. But I think some get discouraged when they can't find a place to hunt. We may be able to do something with public lands that the state controls, too, to allow more access, but that is the key. We have agricultural producers who want fewer deer. They need fewer deer. We have motorists who need fewer deer. We have hunters who want to help with that and hunt the deer. So I plead with anyone who's listening or anyone who reads about this, if you take anything away from the debate today and you have lands that you can open to hunting, please do so. Please open your lands to hunting. Please allow hunters access. Because with that, that will help Game and Parks address this problem. And that does bring me to another point. The bill, as amended, provides additional tools for Game and Parks, using its discretion, to address this problem and that is key. As many people who were opposed to the original bill, before the amendments, said, well, wait a minute, you're taking this away from Game and Parks, voting for the amendment makes it very clear that we are vesting Game and Parks with additional tools to do what they say they want to do and do what I believe needs to be done, which is to decrease the size of the deer herd. Those are two points I felt were kind of skipped over in the opening and I did want to come back to them. I again would urge you to support Senator Loudon's amendment regarding the cougars, the committee amendment, and the underlying bill. Thank you. [LB836]

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PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB836]

SENATOR HADLEY: I'm sorry, Mr. President and members of the body, I just wanted a couple quick things. One, I had a call from one of the business people in my district regarding deer. He has a wholesale food distributor business that has a lot of trucks on the road and he told me last year alone they had 48 accidents with deer at \$5,000 an accident. So he says it cost his company a quarter of a million dollars to fix the trucks. The second one is an anecdote, a personal experience. After the Nebraska-Oklahoma game, I lost two of my dearest friends at the Hampton exit on the way home that night. The car in front of them hit a deer, spun out, they hit that car, a semitruck hit them and killed both of them. It was an accident caused by hitting a deer. Anybody who's driven from Kearney to Grand Island along the Platte River, especially in the morning or at dusk, it literally is almost like a Dodgem type of thing. The number of deer along there is just remarkable. So I stand in support of AM2115, AM1864, and LB836. Thank you, Mr. President. [LB836]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Pankonin, you're recognized. [LB836]

SENATOR PANKONIN: Thank you, Mr. President. I don't have much to add, similar type stories. My district, District 2, is similar to Senator Lautenbaugh's along the Missouri River and the Platte River, the confluence of, particularly heavy with wooded area and a lot of habitat that deer like. We have the same type of problems with agricultural losses, losses to homeowners, as been said, for trees and shrubs and those sort of things. And personally, we've had the accidents and even like this morning, coming down here for an early event, it was 6:30 in the morning, I always have to make a decision whether to take Highway 66 or Church Road. Highway 66, if it's dark, has deer you have to be very cautious of. On the other hand, it's a state highway and I thought maybe it would be more clear this morning in the slush, three inches of it we were driving in...or I was driving in. But instead, I went on down to Church Road, took it because I was afraid it was so gloomy and whatever that I couldn't see deer. And it's just an everyday thing for me making that decision on which route to take, so it has changed things. On the other hand, we did find out, when Senator Lautenbaugh introduced his original bill, that there were a lot of people interested in that as well. And I'm glad that we've come up with...there again, the Natural Resources Committee has done a fine job of coming up with a compromise. And so I'm going to support both amendments that make this bill I think a reasonable solution for the time being, and I think it's also gotten the attention of not only our Game and Parks division but, as Senator Lautenbaugh said, hopefully landowners will realize that to help control this problem they need to be part of the solution with access and promoting hunting during the seasons and the times when it is allowed. So with that, I appreciate all the comments and, Senator Lautenbaugh, the way you started with this bill and now to have

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this discussion today shows that you did a good job of forming this. Thank you. [LB836]

SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: Thank you, Senator Pankonin. Senator Wallman, you are recognized. [LB836]

SENATOR WALLMAN: Thank you, Mr. President. Fellow members, preaching with the choir here, this is also what was said by Senator Lautenbaugh about landowners. We have a deer stand on our place. We don't use it. Doctors use it, everybody else. It's free because we are passionate about the deer population being too high. So I would encourage all landowners to let other people hunt. And also I will support these amendments plus the bill. Thank you, Mr. President. [LB836]

SENATOR STUTHMAN: Thank you, Senator Wallman. Senator Heidemann, you are recognized. Senator Heidemann waives his opportunity to speak. Seeing no other lights on, Senator Louden, you are recognized to close on AM2115. [LB836]

SENATOR LOUDEN: Thank you, Mr. President. And I appreciate the discussion we've had this afternoon on these amendments and on the underlying bill. I think it's very important that we have this discussion and point out what we are working for and working with. Also, I certainly want to thank the Game and Parks Commission people for the help they've done with...at least on crafting my legislation and also the Natural Resources Committee for advancing it forward and the amendment that they put on with it. With that, I would ask that you would advance AM2115. [LB836]

SENATOR STUTHMAN: Thank you, Senator Louden. You have heard the closing on AM2115 to AM1864. The question before the body is, shall this amendment be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Louden's amendment to the committee amendments. [LB836]

SENATOR STUTHMAN: AM2115 is adopted. Seeing no other senators wishing to speak on AM1864, Senator Langemeier, you're recognized to close on the Natural Resources Committee amendment. [LB836]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you again for the discussion. And AM1864 does become the bill and we'd ask for your adoption of AM1864. Thank you. [LB836]

SENATOR STUTHMAN: Thank you, Senator Langemeier. You have heard the closing

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on AM1864 from the Natural Resources Committee. All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB836]

SENATOR STUTHMAN: Committee amendments have been adopted. Seeing no other lights, Senator Lautenbaugh, you are recognized to close on LB836. [LB836]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. We need to vote green one more time and I'll urge you to do so. I want to thank Senator Langemeier and his committee for their hard work on this. I want to thank Game and Parks for the cooperation and the information. I'd be remiss without thanking Speaker Flood for prioritizing this. And I think this is an important piece of legislation that does give additional tools to Game and Parks to utilize to address a problem that we all recognize. And I won't belabor the point, I'll just ask you to vote green one more time. Thank you. [LB836]

SENATOR STUTHMAN: Thank you, Senator Lautenbaugh. You have heard the closing on LB836. The question before the body is, shall LB836 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB836]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB836. [LB836]

SENATOR STUTHMAN: LB836 does advance. Mr. Clerk, for information to be read into the record. [LB836]

CLERK: Bills read on Final Reading were presented to the Governor, Mr. President. (Re: LB258, LB579, LB689, LB735, LB764, LB768, LB770, LB799, LB805, LB821, LB865, LB910, LB910A, LB926, LB1006, and LB1063.) Senator Karpisek has an amendment to LB869 to be printed. Senator Gloor offers LR372; Senator Flood, LR373; both of which will be laid over. That's all that I have. (Legislative Journal pages 846-848.) [LB258 LB579 LB689 LB735 LB764 LB768 LB770 LB799 LB805 LB821 LB865 LB910 LB910A LB926 LB1006 LB1063 LB869 LR372 LR373]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Mr. Clerk, next item on the agenda. []

CLERK: LB965 by Senator Sullivan relates to education. (Read title.) Introduced on January 19 of this year, at that time referred to the Education Committee, advanced to General File. There are committee amendments, Mr. President. (AM1999, Legislative Journal page 694.) [LB965]

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SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Sullivan, you are recognized to open on LB965. [LB965]

SENATOR SULLIVAN: Thank you, Mr. President and members. LB965 does two things. One, it clarifies time lines for school boards when filling a vacancy on the school board and, two, it adds board member absence requirements to the statutes to allow ESU boards to determine board vacancies. The board member absence requirements would mirror those used by school boards. The school board vacancy provision in LB965 is not a major change. It simply adds clarity. I encourage you to adopt the committee amendment and advance LB965 to Select File. It will make the process for filling school board vacancies clearer and provides much needed definition to ESU boards in determining whether a board vacancy exists. Thank you. [LB965]

SENATOR STUTHMAN: Thank you, Senator Sullivan. As the Clerk has stated, there are committee amendments from the Education Committee. Senator Adams, you're recognized to open on AM1999. [LB965]

SENATOR ADAMS: Thank you, Mr. President, members of the body. What the committee amendment basically does is to catch something of an anomaly, and that is the Westside public schools. They don't use a primary election process. They use a caucus process for filling positions on their school board. And so what this would do would be to basically say that if there is a vacancy and it's prior to the nonincumbent filing deadline for the caucus, then one would go through...the registered voter would go through the caucus process and then the general election process to fill the vacancy. So basically that's in essence what we're doing. Thank you, Mr. President. [LB965]

SENATOR STUTHMAN: Thank you, Senator Adams. The floor is now open for debate on AM1999 from the Education Committee. Seeing no members wishing to speak and be recognized, Senator Adams, you are recognized to close. Senator Adams waives closing. The question before the body is, shall AM1999 of the Education Committee be adopted to LB965? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB965]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB965]

SENATOR STUTHMAN: The committee amendment, AM1999, does advance. Any senators wishing to speak and be recognized on LB965? Seeing none, Senator Sullivan, you are recognized to close. Senator Sullivan waives closing. The question before the body is, shall LB965 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB965]

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CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of the motion to advance LB965. [LB965]

SENATOR STUTHMAN: LB965 does advance. Mr. Speaker for an announcement. [LB965]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. As I stated last week, we are prepared to work until maybe 5:00 tonight. My goal today would be that if the Legislature resolves LB975, we'd quit either after the resolution, one way or the other, if LB975 or 5:00, whichever comes sooner. So we're in that part of the session now where we'll be working until 5:00 unless we can make progress on a couple bills. Again, if we resolve LB975 from Senator Nordquist, we'll go ahead and quit. If we don't, we'll work till 5:00. Thank you, Mr. President.

SENATOR STUTHMAN: Thank you, Speaker Flood, for the announcement. Mr. Clerk. []

CLERK: Mr. President, LB918 is a bill by Senator Hadley. (Read title.) Bill was introduced on January 12 of this year, at that time referred to the Revenue Committee for public hearing, advanced to General File. There are Revenue Committee amendments, Mr. President. (AM1905, Legislative Journal page 603.) [LB918]

SENATOR STUTHMAN: Thank you, Mr. Clerk. As the Clerk had stated, LB918, introduced by Senator Hadley, you're recognized to open. [LB918]

SENATOR HADLEY: Thank you, Mr. President, members of the body. LB918 updates the Nebraska Advantage Act. I think it's something that we need to do. I think that it will be beneficial to the state, the citizens, and the companies in Nebraska. Part of the reason we want to update it is the success of the Nebraska Advantage Act. In 2005, the Nebraska Legislature passed the Nebraska Advantage Act and the Nebraska Rural Advantage. Their success has been extraordinary. Through January of 2010, there have been 206 applications filed, resulting in approximately \$5.35 billion in investment and over 16,000 jobs across the state, 30 projects in the Lincoln MSA, 101 projects in the Omaha MSA, and 70 projects in greater Nebraska. In addition, the Nebraska Rural Advantage has received 93 applications resulting in approximately \$140.8 million in investment and 278 jobs. The economic impact of these programs to the state has been invaluable. What LB918 does, it makes the Internet-based software applications eligible for the Nebraska Advantage. This refers to what sometimes people call cloud computing. Currently, eligibility for Nebraska Advantage remains tied to: one, the delivery of software to users rather than providing access to software by electronic means; two, the requirement that software be delivered in a tangible form, such as a computer disk, rather than electronic means; and three, the requirement that the physical location of the servers on which software is hosted be within Nebraska. These requirements are made despite the fact the projects, Nebraska employment, and

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tangible property investment meet Nebraska Advantage incentive thresholds. Two, LB918, it builds on legislation approved in 2008 that added Web portholes to the Nebraska Advantage Act by adding the definition of data centers to the list of qualified activities and allowing tier 2 and tier 5 data centers qualifying for some tier 4 incentives. While the Web porthole provisions has worked for Yahoo, it is not applicable to the vast majority of data centers that do not provide general Internet search and navigation capabilities. Moreover, while most data centers involve substantial investment, they do not come close to meeting the hundred jobs criteria unless they could be coupled in a project with more employment intensive functions, such as customer service. Example of categories of data centers that do not qualify under the existing Internet porthole are dedicated corporate data centers, such as Amazon, Facebook, and IBM; and, two, managed service and collocation data centers, such as Digital Realty Trust, I/O, and Rackspace. Third, LB918 changes certain provisions of the Nebraska Advantage Act to define the term "wages" to include employees' contribution to employers' offered pretax benefit packages, such as healthcare and retirement. The use of that taxable income rather than gross income or hourly rate earned for the attainment of Nebraska Super Advantage thresholds have been unintended consequences of allowing an employee's pretax benefits to impact the calculation and thereby penalize companies for offering such benefits as 401(k), pretax medical and dental, etcetera. Why is it important? When this body approved the Nebraska Advantage Act in 2005, it was cutting edge, state-of-the-art revolutionary, but the world changes quickly and Nebraska's incentive package needs to keep pace. The battle among states to lure data centers, software companies, and high-paying jobs is fierce. Software development and data centers are rapidly growing, high-wage industries that represent significant investment in a community. Currently, Nebraska communities are at a competitive disadvantage for attracting high-paying, high-tech jobs due to the technology marching beyond what the state's incentive package recognizes. LB918 puts Nebraska in a better position to attract investment and jobs that will grow the local and state economies--the message that LB918 sends to companies across the country. Many states are experiencing revenue shortfalls and most are considering various tax increases as a means to address these financial challenges. The Nebraska Legislature's willingness to instead seriously discuss, consider, and support legislation that grows our economy communicates to site selectors and businesses around the world that Nebraska welcomes their jobs and investment. In the current environment, we truly could be one of the shining stars across the nation when it comes to promoting economic development. We are in a serious economic condition and we have three choices. We can raise taxes. That's not acceptable. We can cut services. We're doing that consistently. Or we can try and grow ourselves out of the economic crisis. I think this bill will help us grow our way out of the economic crisis. I would ask your support of LB918. Thank you, Mr. President. [LB918]

SENATOR STUTHMAN: Thank you, Senator Hadley. As the Clerk has stated, there are Revenue Committee amendments, AM1905. Senator Cornett, as Chairman of the

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Revenue Committee, you're recognized to open on AM1905. [LB918]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I can't tell the body how much I support this bill. It falls in line with something that I introduced a couple of years ago with the Super Advantage, which had to do with Web portholes. Senator Hadley has taken that a step further with this bill. The committee amendment, basically, under the Super Advantage we had different guidelines or higher guidelines set for wage requirements. We have left those guidelines in place with the amendment that have redefined compensation to mean wages and other payments subject to the federal Medicare tax, so that is pretax wages. So if you're putting money into a 401(k), your salary before that deferred money would be counted as part of your wages or towards a...and we have excluded any medical benefits. I think that this is a very good bill and the committee amendment resolves a lot of technical issues and defines what compensation is. I would urge the body to support AM1905 and the underlying bill. Thank you. [LB918]

SENATOR STUTHMAN: Thank you, Senator Cornett. Senator Mello, you are recognized. [LB918]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'd like to stand in support of LB918, as well as thank Senator Hadley for introducing this bill. I talked with Senator Hadley early on in the session and just think that this bill is really needed, similar to what Senator Cornett just said in regards to expanding the opportunities for high-wage jobs, particularly when it involves data centers. Right now, the city of Omaha is looking at an opportunity to try to bring in Google fiber to the city of Omaha and Council Bluffs in a joint project, and LB918 would just help emphasize or enhance the opportunities to bring more of that high-tech, high-wage jobs that our state so desperately needs in these tough economic times. With that, I'd like to yield the remainder of my time to Senator Hadley. [LB918]

SENATOR STUTHMAN: Thank you, Senator Mello. Senator Hadley, you are yielded 4 minutes and 1 second, Senator Hadley. [LB918]

SENATOR HADLEY: Thank you, Senator Mello. And thank you, Senator Cornett. I want to take a minute and talk about the fiscal note. The fiscal note had a \$29,600 amount this year and a \$49,600 next year, and then \$50,800. The reason for that is the original bill had a rather complicated way of trying to determine the total wages that we were going to use for the determination of companies that met this, and the Department of Revenue said the departmental cost to implement LB918 includes the cost of hiring one FTE auditor to audit the additional projects and for additional time needed due to complexity added by the change of the definition of compensation. Thank you to the work of the Revenue Committee and Senator Cornett, I think we have solved that problem. Those of you...we're at that time of the year where you get a W-2, and if you

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look at W-2 on line number 5, it's called Medicare wages and tips, and Medicare wages and tips are basically your gross wages and basically they add back certain things that are deductible from your gross wages but then become a part of the Medicare wages. Also, it is different...a little different from Social Security wages because Medicare wages do not have the cap on it that Social Security wages. But the important thing is, from a fiscal note standpoint, this will be exceedingly easy for the Department of Revenue to audit, because all they have to do is look at the tape that these companies send in that has all the W-2 information, go to box number 5 and it will tell them exactly what the amount is that will be used for determination of whether they meet the requirements of the Advantage Act. So I think we've taken care of the problem involved in the fiscal note. And I realize the actual fiscal note will not come until the amendment is approved today, which I hope you will do, along with the original bill, but I would be very surprised to get any fiscal note on this when it gets to Select File. Thank you, Mr. President. [LB918]

SENATOR STUTHMAN: Thank you, Senator Mello and Senator Hadley. Senator Hadley, your light is next. Senator Heidemann, you are recognized. [LB918]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I just have a few questions on this. I looked at the fiscal note, but I got a feeling it might change a little bit after the amendment. I'm not 100 percent for sure how much it's going to change it. I was wondering if Senator Hadley would answer a few questions. [LB918]

SENATOR HADLEY: I would... [LB918]

SENATOR STUTHMAN: Senator Hadley, would you answer a few questions from Senator Heidemann? [LB918]

SENATOR HADLEY: I would be happy to. [LB918]

SENATOR HEIDEMANN: The fiscal note, which the amount of money being spent for administration doesn't concern me as much as when you look at the out-years. It appears there's going to be a revenue loss of \$20 million and I think that would be probably the fiscal year of 2019-2020 and also another loss of \$5 million to the local areas. Will the amendment change that amount? You're looking at a...between the locals and the state loss, you're looking at \$25 million. Will the amendment change that? [LB918]

SENATOR HADLEY: Senator Heidemann, I do not believe it will. I believe the reason for that would be the same reasons that I, obviously, was not around when we did LB775 and then did the 2008. I think those are the kinds of notes that come about because of the Advantage Act. I don't believe that the amendment will change that. [LB918]

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SENATOR HEIDEMANN: So in reality, there will be a loss to the state. By the year 2019-2020 and thereafter, we will lose \$20 million a year in revenue, and also at the local level, they will lose \$5 million. Is that the way you understand it? [LB918]

SENATOR HADLEY: I would...I would say that is technically correct. The other side of the equation is, is the only reason that we would have these payouts is that the companies would make use of that, which we would bring the companies in, they would be making the...have the employees, the same as it is in the normal Advantage Act and Super Advantage Act now, which would offset this with future revenue for the new employees, the new facilities and such as that. [LB918]

SENATOR HEIDEMANN: So in your mind that we will grow the economy so much that we will be able to actually make more money than the \$25 million being lost? [LB918]

SENATOR HADLEY: Yes, that is my feeling. [LB918]

SENATOR HEIDEMANN: That is your...what did you say? [LB918]

SENATOR HADLEY: My feeling. [LB918]

SENATOR HEIDEMANN: Feeling. I thought you said your fear. (Laughter) I do have some questions, concerns. I just want the body to realize that I was part of LB312, Nebraska Advantage, Nebraska Super Advantage I voted for. But there are tax revenue losses when we do this. And I just want the body, number one, to realize what this will do down the road. I will be long gone by then, hopefully still alive but just not in this body anymore. But this does have revenue implications. You would have to hope then that this does grow the economy enough and this does grow then the revenues coming into the state to make up for this, because this is a significant revenue loss for the state and the local areas. Would you agree, Senator Hadley? [LB918]

SENATOR HADLEY: Yes, that is a very significant amount and I think, Senator Heidemann, I would agree with you entirely that we are taking a little bit of a gamble, but I think we took that gamble with LB775 and I think that's paid off and I think with LB312, as you said, and such as that. But it is a gamble. There is no certainty in life, but I hope that by making this change, Senator Mello talked about a potential company for Omaha already, I know there's a potential company that is looking at Kearney right now to come in, so I think we can make enough to offset these revenue losses. [LB918]

SENATOR HEIDEMANN: Thank you, Senator Hadley. That's all I have for right now. Thank you. [LB918]

SENATOR STUTHMAN: Thank you, Senator Heidemann and Senator Hadley. Seeing

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no other light, Senator Cornett, you are recognized to close on the Revenue Committee amendments, AM1905. [LB918]

SENATOR CORNETT: Thank you, Mr. President, members of the body. AM1905, just to clarify for the body, defines compensation for the bill and addresses technical issues that needed to be corrected. I do want the body to understand that I support LB918, that we have seen an incredible growth with LB312 and particularly the language for Web portholes under the Super Advantage Act, and this is an extension of that. We've brought a number of businesses to the state of Nebraska and I believe Senator Hadley's bill will bring even more. I know of at least two companies that are already looking at Nebraska with this language. Thank you very much. [LB918]

SENATOR STUTHMAN: Thank you, Senator Cornett. You have heard the closing on the committee amendments. The question before the body is, shall the committee amendment, AM1905, be adopted to LB918? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB918]

CLERK: 35 ayes, 0 nays, Mr. President. [LB918]

SENATOR STUTHMAN: AM1905 of the Revenue Committee does advance. Any other senators wishing to be recognized on LB918? Seeing none, Senator Hadley, you are recognized to close. [LB918]

SENATOR HADLEY: Thank you, Mr. President. I'll make this short and sweet. I think this is a good bill. I think it sends a message to the country. I think it sends a message to Nebraska businesses that we're trying to grow our way out of the problems that we have. This is a way of doing it. As Senator Heidemann said, there is a little gamble always in these but I think it's a gamble well worth taking. I hope that you will vote green on this and pass it on to Select File. Thank you, Mr. President. [LB918]

SENATOR STUTHMAN: Thank you, Senator Hadley. You have heard the closing on LB918. The question before the body is, shall LB918 be advanced? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB918]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB918]

SENATOR STUTHMAN: LB918 does advance. Mr. Clerk. [LB918]

CLERK: LB975 is a bill by Senator Nordquist. (Read title.) Introduced on January 19, referred to Revenue, advanced to General File. I have no amendments at this time, Mr. President. [LB975]

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SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Nordquist, you are recognized to open on LB975. Senator Nordquist. [LB975]

SENATOR NORDQUIST: Thank you, Mr. President and members. I bring LB975 before the body. I'd like to thank Senator Cook for prioritizing this legislation and thank the Revenue Committee for advancing it unanimously. LB975 seeks to expand the eligible area for the 10 percent share of state assistance to...that goes...that comes back with the turnback funds to north and south Omaha to include areas with high...to include areas close to the area of high concentration of poverty that is in close geographic proximity to. Currently, these funds have to go to designated areas with a high concentration of poverty and I believe that was a good policy that this Legislature set forth. But unfortunately, this restriction ignores the positive impacts of projects that could fall just outside the boundaries but still have a positive impact on those areas...high areas of poverty that could use some economic boost. Members of the community and members of these committees talked to me and expressed concern to me that the current law, with tight geographic boundaries, is a little too restrictive. LB975 seeks to recognize the positive impacts of nearby projects that could be grant eligible under these funds. The committees that distribute these funds are responsive to the people. They are...it's made up of a city council member, a county board member, and then those two elect a third member to distribute the funds. In south Omaha, it's a city council member, a county board member, and a neighborhood leader. In north Omaha, it's a city council member, the county board member, and Senator Council serves as the third member on that area. Essentially, after hearing their stories and the grant applications that have come through, we want to find the most economic impact for these dollars that are coming back. Last year it was about \$150,000 each to north Omaha and to south Omaha. We want to make sure that whether the project is inside or outside, that that money is spent in the most effective way possible to improve the lives and the outcomes and help the businesses in those small areas. I'd be happy to answer any questions. The bill does not have a fiscal impact. This is just giving more discretion to those elected committees in north and south Omaha and was advanced unanimously from the Revenue Committee. Thank you, Mr. President. [LB975]

SENATOR STUTHMAN: Thank you, Senator Nordquist. Senator Cook, you're recognized. [LB975]

SENATOR COOK: Thank you, Mr. President and members of the body. I would like to thank Senator Nordquist for allowing me to prioritize it. It's a great honor to be a part of this opportunity to expand redevelopment in my district and Senator Council's district and ultimately across the state. This is an important piece of legislation because it uses existing funding streams to achieve an important end--the redevelopment of areas across the state in greatest needs of additional resources. LB975 helps ensure that development resulting from turnback revenues are used in expanded areas but remain targeted to parts of our districts that will benefit the most. I urge the body to advance

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LB975 here on General File and ultimately to the Governor's desk for his signature. With that, I would yield my time back to Senator Nordquist, should he desire. Thank you, Mr. President. [LB975]

SENATOR STUTHMAN: Thank you, Senator Cook. Senator Nordquist, you are yielded 3 minutes and 57 seconds. Senator Nordquist waives his opportunity. Senator Fischer, you are recognized. [LB975]

SENATOR FISCHER: Thank you, Mr. President and members. Would Senator Nordquist yield to some questions, please? [LB975]

SENATOR STUTHMAN: Senator Nordquist, would you yield to a couple questions from Senator Fischer? [LB975]

SENATOR NORDQUIST: A couple. Thank you. (Laugh) No. Yes. [LB975]

SENATOR FISCHER: Thank you, Senator Nordquist. As I was looking at the fiscal note, the 10 percent that we're talking about, that 10 percent comes out of the 70 percent that goes to the metropolitan areas. Is that correct? [LB975]

SENATOR NORDQUIST: That's correct. It would be 10 percent of that amount that's turned back. And this only applies to those area...a city of the metropolitan class that gets that money, so it's 10 percent of the money that goes to them. [LB975]

SENATOR FISCHER: And for clarification, it's just expanding the definition of poverty areas? [LB975]

SENATOR NORDQUIST: Yeah, it would...the...a project could qualify for one of these grants as long as it's within close proximity or nearby and the project has a significant or demonstrable impact on the area...high area of poverty. [LB975]

SENATOR FISCHER: I know when the original bill was first passed for the Qwest Center, the breakdown of that was 70 percent for the...a city of the metropolitan class and 30 percent for rural areas, and it was maybe two or three years ago that that 10 percent was put in... [LB975]

SENATOR NORDQUIST: Uh-huh. [LB975]

SENATOR FISCHER: ...out of the 70 then for the poverty areas. Is that correct? [LB975]

SENATOR NORDQUIST: That's correct. I think that Senator Chambers, Senator Ashford were key members in brokering that deal and essentially the idea was we're

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building these convention centers, we want to make sure that we don't leave high areas of poverty behind. [LB975]

SENATOR FISCHER: And I understand that completely, so thank you for clarifying that and I do support the bill. Thank you. [LB975]

SENATOR STUTHMAN: Thank you, Senator Fischer and Senator Nordquist. Senator Council, you're recognized. [LB975]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of LB975. I want to thank Senator Nordquist for introducing this measure and Senator Cook for seeing the value of prioritizing it. As Senator Nordquist stated in his opening, I do have the honor and the privilege of serving on the turnback tax committee for north Omaha and during the process of reviewing grant applications for grants awarded this past year, one of the items that we were presented with often were grant applications from entities that had programs or cultural historical programs identified but they were located right outside of the boundary. As well, the Legislature, during the last session, expanded the programs that were eligible for these grants. Originally, the grants were limited to those that would have an impact on the cultural or historical aspects of these north and south Omaha areas. It was expanded to include, as eligible for grants, any program that was designed to address the reduction in crime and violence in those same north and south Omaha areas. Now I know that there are several programs that are right outside the boundaries of the north Omaha area in particular who have indicated their interest in applying for grants, but if we were confined to just providing grants to the programs that operate solely within the boundaries they would be excluded, although we can identify those programs that have measurable impact on the residents within the boundary areas. With this amendment, this would enable the committee to consider for grant eligibility programs that truly have an impact, for example, on reducing youth violence but the program they offer is offered at a facility that may be right outside the boundary but it serves youngsters and their families within the zone. With this bill, it would allow the committees, and I want to stress this, it would allow the committees to consider those applicants for grants and it will still be within the discretion of the committee as to whether we believe that those programs have a significant and demonstrable impact within the specified boundary. So with that, it provides us a little more flexibility. It allows us the opportunity to ensure that we are addressing the objectives of this legislation as it was originally enacted, and that is to enhance and highlight the cultural and historical aspects of these two areas and, with the amendment last year that was passed, to also provide these areas with the appropriate tools and resources to address the reduction of crime and violence. And I would urge each of you to support advancing LB975. Thank you. [LB975]

SENATOR STUTHMAN: Thank you, Senator Council. Senator Rogert, you're recognized. [LB975]

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SENATOR ROBERT: Thank you, Mr. President. I wonder if Senator Nordquist would yield to a question, please. [LB975]

SENATOR STUTHMAN: Senator Nordquist, would you yield to a question from Senator Rogert? [LB975]

SENATOR NORDQUIST: Yes. [LB975]

SENATOR ROBERT: Senator Nordquist, I'm just trying to get some clarification. Without the amendment today, what are the proximate boundaries or areas that the money would be distributed to in, well, for, say, Omaha? [LB975]

SENATOR NORDQUIST: Without? As it is right now? [LB975]

SENATOR ROBERT: As it is today. [LB975]

SENATOR NORDQUIST: So for north, north Omaha is a little bit bigger. South Omaha, if you look at the map, it runs from I-80 down to Harrison, from the river to 42nd Street. It kind of juts in and out a few spots. One area in particular that will be going through some significant redevelopment in the coming years is right off the 13th Street exit at the Rosenblatt site and there will not be...that does not...that falls outside the area so that's a... [LB975]

SENATOR ROBERT: Okay. [LB975]

SENATOR NORDQUIST: ...pretty important...it's the first exit into Nebraska on I-80 and it's a pretty important area to draw people off the interstate, so that's... [LB975]

SENATOR ROBERT: How about the area west of 480 and north of I-80? Would that area fit in there? [LB975]

SENATOR NORDQUIST: West of...there is a little bit there, kind of...I have a... [LB975]

SENATOR ROBERT: I think there's a country club there. Is that area part in there? [LB975]

SENATOR NORDQUIST: Major streets. With this map I can't tell in particular. [LB975]

SENATOR ROBERT: Okay. Thank you, Senator Nordquist. [LB975]

SENATOR NORDQUIST: Yeah. [LB975]

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SENATOR ROBERT: Mr. President, would Senator Mello yield to a question, please? [LB975]

SENATOR STUTHMAN: Senator Mello, would you yield to a question from Senator Rogert? [LB975]

SENATOR MELLO: Absolutely. [LB975]

SENATOR ROBERT: Senator Mello, I believe your district is pretty close in there and probably will benefit greatly from this bill. Is that correct? [LB975]

SENATOR MELLO: Actually, my district, under LB975, my district would see some expansion on the western edge of the boundaries that Senator Nordquist mentioned. [LB975]

SENATOR ROBERT: Does...do you...would you foresee that maybe the Field Club area could fit into this area, into this genre now with the amendment that's here? [LB975]

SENATOR MELLO: Oh, I think the Field Club area in Omaha, which is located I believe in Senator Howard's district, I think it might be too far north from where my district is and where Senator Nordquist's district is to qualify. [LB975]

SENATOR ROBERT: Well, I noticed, I was just kind of looking through the cosponsors of the bills and I remember that for the past four or five years there's been some sort of an action in Omaha to try and close Woolworth Street and I wondered if you were trying to do that in a backdoor way here, Senator Mello? [LB975]

SENATOR MELLO: (Laughter) Senator Rogert, no way in my cosponsoring LB975 or supporting Senator Nordquist or Senator Cook, in her prioritizing the bill, am I intending to close down Woolworth Street in the city of Omaha. [LB975]

SENATOR ROBERT: Although you would agree that might make that golf course a lot more easily accessible (laughter) and safer for the drivers? [LB975]

SENATOR MELLO: I think actually it would make it more safe for the drivers if that street was closed, correct. [LB975]

SENATOR ROBERT: Thank you, Senator Mello. Thank you, Mr. President. [LB975]

SENATOR STUTHMAN: Thank you, Senator Rogert, Senator Mello, and Senator Nordquist. Senator Carlson, you are recognized. [LB975]

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SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to address a question to Senator Nordquist, if he would yield. [LB975]

SENATOR NORDQUIST: Yes. [LB975]

SENATOR STUTHMAN: Senator Nordquist, would you yield to Senator Carlson? [LB975]

SENATOR NORDQUIST: Yes. [LB975]

SENATOR CARLSON: Senator Nordquist, this is just a little bit different type of question for my own information. Of the 70 percent that Omaha withholds, what happens to that 90 percent? I understand where the other 10 percent is going. Give me an idea of what happens to that other 90 percent. [LB975]

SENATOR NORDQUIST: Yeah. That's...that all...I believe that all goes back to pay on the bonds of the Qwest Center. [LB975]

SENATOR CARLSON: Okay. [LB975]

SENATOR NORDQUIST: Yep. [LB975]

SENATOR CARLSON: Okay. Thank you, Senator Nordquist. Then Senator Council, if she would yield, I'd like to ask her a question. [LB975]

SENATOR STUTHMAN: Senator Council, would you yield to a question from Senator Carlson? [LB975]

SENATOR COUNCIL: Yes, sir. [LB975]

SENATOR CARLSON: Senator Council, in listening to this, and I'm not objecting, but these dollars are not really economic development dollars. You mentioned highlighting historical and cultural. Explain that a little bit, would you? [LB975]

SENATOR COUNCIL: Okay, yes, and that's in the original bill, the original law, Senator Carlson. And how it has an economic development outcome is that the dollars are directed to projects that focus upon the cultural and historical aspects of that area. For example, one of the projects that received a grant from the north Omaha fund are funds to develop the Malcolm X memorial birth site into an international tourist location, so the expectation in terms of economic development is that that project, you know, first of all, will provide employment opportunities through the construction and development of the site, then will provide economic opportunity through employment at the location, and then will contribute to the economy of the area from the tourists that come into the area

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to visit that site. So those are the kinds of elements of these projects that at least I can say from...as a member of the north Omaha committee that we look to because that's certainly highlighting a historical aspect of north Omaha, Malcolm's birth site, and it has the economic development components associated with tourism. [LB975]

SENATOR CARLSON: Okay. Thank you. And then you talked a little bit about...I think you talked about preventing or cutting down violence. [LB975]

SENATOR COUNCIL: Yes. [LB975]

SENATOR CARLSON: Give me an example of how money would be used to do that. [LB975]

SENATOR COUNCIL: Well, the law was amended last year and it was principally at the request of members of the south Omaha committee because they saw these dollars as an opportunity to provide tools and resources to organizations that work within the boundary areas on intervention and crime prevention programs, and I can tell you from the north Omaha committee's standpoint, during our last round of grants, we focused on the cultural and historical aspects in our decisions to award grants. This year we'll probably open it up more to cover grant requests that add...who are seeking dollars for their crime prevention and intervention programs, but it would be for...to assist organizations within those boundaries who have programs that they are offering to families and youth as a means of preventing crime and violence in those areas. [LB975]

SENATOR CARLSON: Okay. I appreciate the answers to that. Thank you, Senator Council. Thank you, Mr. President. [LB975]

SENATOR STUTHMAN: Thank you, Senator Carlson and Senator Council. Senator Heidemann, you are recognized. [LB975]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Just trying to understand a little bit more maybe what we've done in the past and what this bill right now will do to us, I was wondering if Senator Nordquist would answer a few questions, yield to a few questions. [LB975]

SENATOR STUTHMAN: Senator Nordquist, would you answer a few questions from Senator Heidemann? [LB975]

SENATOR NORDQUIST: I'd be happy to. [LB975]

SENATOR HEIDEMANN: When this bill was originally passed, the Convention Center Facility Financing Assisting (sic) Act, what was the purpose? [LB975]

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SENATOR NORDQUIST: The initial bill I believe was to help the state recognize the benefit of having a significant arena and convention center in the state, so they decided to step forward and help address and pay some of the bonds, send money...turn back some of the sales tax to go towards the bonds on the facility. [LB975]

SENATOR HEIDEMANN: So it was originally meant that...it was 70, was it 70 percent of all the sales tax in that area went back for that purpose? [LB975]

SENATOR NORDQUIST: I believe that's what the initial bill was, yep. [LB975]

SENATOR HEIDEMANN: And the purpose then was to pay off the bonds, thus alleviating the people from the city of Omaha from having to pick up and maybe having to pay property taxes. [LB975]

SENATOR NORDQUIST: Well, there was...there is...there is property taxes that also go to pay off the bonds, but this would help that, yeah, because the state saw a vested interest in having that kind of facility in the state. [LB975]

SENATOR HEIDEMANN: There is property tax that goes to pay off the bonds? [LB975]

SENATOR NORDQUIST: They...I know this year that there was an increase to go towards debt service in Omaha. I don't know how much prior was going towards that but... [LB975]

SENATOR HEIDEMANN: So in reality, the original intent of the bill was to take 70 percent of that turnback money and help pay off the bonds, but then when we passed this bill a few years prior to this we actually hurt that process? [LB975]

SENATOR NORDQUIST: In 2007, when the largest...the big problem, the reason it had to come back before the Legislature was that the convention center, which really the initial formula for bringing that money back, it was 70 percent I believe more on the convention side, which has always...has been struggling since 2001 after 9/11 and travel costs, so they rewrote it to focus to include arena sales to get it back up more to projected amounts. When...and then this body, of which I was not a member at that time, decided to go forward and include the 10 percent because they understood the impact of keeping the low...the high poverty areas, keeping them strong, too, for the city. [LB975]

SENATOR HEIDEMANN: So in reality, there wasn't the revenue that they first anticipated with the arena and they had to come back, the Legislature had to come back and enhance it so there would be more revenue? [LB975]

SENATOR NORDQUIST: Yeah, because the convention center side did not meet

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expectations so...and the arena had exceeded them, so this body, in 2007, chose to readdress that formula for what sales tax is captured and can be turned back to the city. [LB975]

SENATOR HEIDEMANN: When are these bonds set to be paid off? [LB975]

SENATOR NORDQUIST: That I don't know. The state's commitment is a 20-year commitment on that turnback. I don't know if that's... [LB975]

SENATOR HEIDEMANN: And will those bonds be paid off within those 20 years? [LB975]

SENATOR NORDQUIST: The city, up until this point unfortunately, has been paying interest only on the bonds of the Qwest Center. They haven't been addressing the principal as much. And I don't know what the current time frame is for those bonds. [LB975]

SENATOR HEIDEMANN: Isn't that kind of risky? [LB975]

SENATOR NORDQUIST: Yeah. If I were the mayor of Omaha, I probably wouldn't set it up that way. [LB975]

SENATOR HEIDEMANN: So when we use 10 percent of the 70 percent, which was to pay the bonds off, to do something else, isn't that going to hurt in the long run to get these... [LB975]

SENATOR STUTHMAN: One minute. [LB975]

SENATOR HEIDEMANN: ...bonds paid off? [LB975]

SENATOR NORDQUIST: Yeah. I mean it would reduce that amount that would go back towards the bonds, but that's a decision this body made in 2007, to include that in the rewrite of the turnback for the Qwest Center. [LB975]

SENATOR HEIDEMANN: You know, just a second, I'm going to put my light back on. There's a lot of questions just popping in my head. This original bill...maybe I won't even talk again but this original bill was to turn back sales back...turn back sales so that...sales tax so that we could pay off the bonds. Is that correct? [LB975]

SENATOR NORDQUIST: That was the original bill, yes, in 2000 or 2001. [LB975]

SENATOR HEIDEMANN: Did you not just state that they're not paying off the bonds, they're just paying the interest off? [LB975]

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SENATOR NORDQUIST: I believe that the...that this...I believe that this amount coming back is going towards the bonds. I believe the city's portion is only paying the interest only on the bonds. [LB975]

SENATOR HEIDEMANN: So then... [LB975]

SENATOR STUTHMAN: Time. Senator Heidemann, you may continue. [LB975]

SENATOR HEIDEMANN: So then you are saying there is some bonds being paid off. [LB975]

SENATOR NORDQUIST: I believe that this, yeah, the turnback money from the state I believe is going towards to pay the bonds. The city is...their financing package from city revenues is only addressing the interest at this point in time or had been. I believe that now that we saw an increase in property taxes to go towards debt service that there will be...address the principal, the Qwest Center being addressed. [LB975]

SENATOR HEIDEMANN: If you could do me a favor, in case there's discussion on this in Select File, if you could find out when these bonds are set to be paid off and how much money is actually being paid off right now, not only from the state side, from the turnback side, but actually from the city of Omaha, I would appreciate that. I really don't have a problem with this bill whatsoever, but it just brings up a whole lot of other questions that came up in my mind. So thank you. [LB975]

SENATOR NORDQUIST: I'd be happy to get you that information. [LB975]

SENATOR STUTHMAN: Thank you, Senator Heidemann. Senator Cornett, you are recognized. [LB975]

SENATOR CORNETT: Senator Heidemann, I yield you my time if you have questions that I may be able to answer. [LB975]

SENATOR STUTHMAN: Senator Heidemann, you are yielded 4 minutes and 50 seconds from Senator Cornett. [LB975]

SENATOR HEIDEMANN: Thank you, Senator Cornett. How might you be able to help me out? [LB975]

SENATOR CORNETT: The Qwest Center was originally established, the funding for the life of the bonds. The changes that we went back and made in 2007 did not change that. It is a payment...they were currently only paying on the interest, but the state's turnback on that is for the life of the bond. That is an issue that we are looking at

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currently in the Revenue Committee. [LB975]

SENATOR HEIDEMANN: So you're saying that...Senator Nordquist had said this was a 20-year commitment. Are you saying then that this is not a 20-year commitment? [LB975]

SENATOR CORNETT: I'm saying it's for the life of the bond, depending on how long that bond lasts. The issue that we are looking into currently is what happens if the state designates a turnback for one of these facilities and they refinance the bond out for another 20 years or 10 years, so what was originally thought to be a 20-year commitment turns into a longer time period. And that is something we are looking at addressing. [LB975]

SENATOR HEIDEMANN: This, this concerns me a little bit here. It appears then at the present time the only people, the only thing that is paying off on the principal of the bond then is the state of Nebraska and not the city of Omaha. [LB975]

SENATOR CORNETT: The city of Omaha had to raise their property tax because I believe they were unable to certify their payment and so the property tax is now going towards paying off the bond. The issue will be is if they look at refinancing that bond, and that is why we are looking at changes and have been investigating that over the course of this session in regards to payment and the extension of bonds. [LB975]

SENATOR HEIDEMANN: Would it be the Revenue's intent then to actually put some kind of a sunset on this because wouldn't it...couldn't it be up to the city of Omaha just to continue to stretch these bond payments out and then actually we would...the state of Nebraska would be then more obligated to pay off the principal? [LB975]

SENATOR CORNETT: I would say it is definitely the intent of the Revenue Committee to look at that. It is an issue that Senator Utter and I have discussed, either putting a 20-year sunset on that or adding language for the life of the bond or the original bond. [LB975]

SENATOR HEIDEMANN: Twenty years from the original bond or twenty years from... [LB975]

SENATOR CORNETT: Understand, some bonds are 20 years, some bonds are 30 years. We're looking at different language to accommodate the municipalities, depending on the size of the project, whether it is a 20-year bond, a 30-year bond. And we do not want to limit their ability to refinance to a lower interest rate if that becomes available if their rating improves in the bond market. [LB975]

SENATOR HEIDEMANN: Do you think that is there right now, that they wouldn't be able

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to refinance because something the state of Nebraska has right now in this act? [LB975]

SENATOR CORNETT: Currently, it is our understanding that if a municipality is receiving this, whether it be Omaha or the city of Lincoln, that they could refinance that bond under the statute. [LB975]

SENATOR HEIDEMANN: Okay, thank you. I appreciate the time and I'll give you the rest of the time that, you know, that you yielded to me back to you, if you so desire. Just questions that I have and maybe a little better refresher course of this act that we've done before the majority of this body was here. So thank you, Senator Cornett. [LB975]

SENATOR STUTHMAN: Thank you, Senator Heidemann. Senator Cornett, you're yielded 1 minute and 16 seconds back. [LB975]

SENATOR CORNETT: Thank you very much, Mr. President. And, Senator Heidemann, I just wanted to clarify that that is an issue that has come to our attention and we are looking at including that in a bill that will be...language like that for a bill that will be coming up for cities of the first class and then looking at what we can do to the existing language for existing facilities. [LB975]

SENATOR STUTHMAN: Thank you, Senator Cornett. Seeing no other lights, Senator Nordquist, you're recognized to close on LB975. [LB975]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to thank Senator Cornett and Senator Heidemann for her comments. I must have heard the committee counsel wrong on the 20-year piece, but just to turn it back to the issue before us here, when the Legislature reworked the Convention Center Financing Act in '07, they thought...the state thought they had an interest in ensuring economic activity and tourism in areas...high areas of poverty in our metropolitan city. They designated this 10 percent to certain geographic parameters. This bill simply says that that area can be expanded beyond those boundaries as long as the projects funded have a significant impact on the area. It just gives more discretion to those local elected leaders that make the decision on how to distribute those funds so, hopefully, they can be used in the most effective way possible. I'd appreciate your support in advancing LB975. Thank you. [LB975]

SENATOR STUTHMAN: Thank you, Senator Nordquist. You have heard the closing on LB975. The question before the body is, shall LB975 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB975]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB975. [LB975]

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SENATOR STUTHMAN: LB975 does advance. Mr. Clerk for items to be read into the record. [LB975]

CLERK: Mr. President, amendments to be printed: Senator Adams to LB1071, Senator Heidemann to LB935. Committee reports: Chairman of Judiciary, Senator Ashford, reports LB757, LB758, LB809, LB842, LB847, LB907, LB1045, LB1085 to General File, and LB894, LB988, and LB990 to General File with amendments. Senator Karpisek, as Chair of General Affairs: LB861, LB1012 to General File with amendments. And Senator Heidemann, as Chair of Appropriations: LB636 to General File with amendments. (Legislative Journal pages 848-856.) [LB1071 LB935 LB757 LB758 LB809 LB842 LB847 LB907 LB1045 LB1085 LB894 LB988 LB990 LB861 LB1012 LB636]

Mr. President, I have a priority motion. Senator Utter would move to adjourn the body until Friday morning, March 12, at 9:00 a.m. []

SENATOR STUTHMAN: Thank you, Mr. Clerk. The question before the body is, shall the body adjourn until 9:00 a.m. tomorrow morning, Friday morning? All those in favor say yea. All those opposed vote nay. We are adjourned. Thank you. Have a nice evening. []