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Floor Debate  
March 29, 2011

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator John Nelson of Omaha. Please rise.

SENATOR NELSON: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Nelson. I call to order the fifty-fourth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

ASSISTANT CLERK: There are no messages, reports, or announcements.

SPEAKER FLOOD: We now proceed to the first item on the agenda, LB558. Mr. Clerk. [LB558]

ASSISTANT CLERK: Mr. President, LB558 was introduced by Senator Nordquist. (Read title.) The bill was read for the first time on January 19, referred to the Education Committee. That committee placed the bill on General File with committee amendments. The bill was considered yesterday along with the those amendments, Mr. President. [LB558]

SPEAKER FLOOD: Senator Nordquist, as the introducer of LB558, you're granted 2 minutes to advise the Legislature of the content of your bill. [LB558]

SENATOR NORDQUIST: Thank you, Mr. President. [LB558]

SPEAKER FLOOD: (Gavel) [LB558]

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SENATOR NORDQUIST: Thank you, Mr. President and members. LB558 was advanced unanimously from the Education Committee, and it makes essentially what is a pretty simple change. We're talking about the allowance, the focus school allowance, which is currently established in statute, was established at the time the Learning Community was created. Currently, to qualify for that allowance, the focus school must have a designated primary school district. This bill would simply allow there to be a collaboration of multiple districts in that focus school. Many of us believe this is the best model to go forward, that within the Learning Community we need to continue to foster collaboration. There are a lot of potentials out there for focus schools. But I do want to point out, there won't be a proliferation of focus schools. The Learning Community has received one application right now under the current statute, the current allowance statute, and they turned that down because they didn't think that the funding was adequate for the sustainability of that school. And I think that's why it's important to have some Learning Community oversight, so we're not just moving forward and having a proliferation of focus schools but we have a coordinated response that fits specifically within the mission of the Learning Community. This bill, again, simply takes the current allowance and changes the definition so that multiple-district focus schools can receive that allowance. And that will be all, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Adams, if you'd like a minute to update the Legislature on the content of AM728 from the Education Committee. [LB558]

SENATOR ADAMS: Yes, I would. Thank you, Mr. Speaker. What the committee amendment does is two things. If we are going to have multidistrict focus schools, then those focus schools will be created through interlocal agreements. And what the committee amendment does is in effect say that the language of those interlocal agreements have to definitively outline where financial liability will lie, student liability, so that that's more defined. And the last thing that it does, it says that if there is a student that comes and wants into the focus school, that comes from another district, and that district is not part of the interlocal agreement, then that student would come into the focus school and be assigned to become one of the students of one of the districts that's in the interlocal. So, in a sense, that student would give up their membership in the school that they came from. That's the amendment. Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Adams. Turning to discussion on LB558 and specifically AM728, we begin with Senator Sullivan, followed by Senators Fischer and Price. Senator Sullivan, you are recognized. [LB558]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I stand in support of AM728 and the underlying bill, and I voted for it as a member of the

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Education Committee. I've been trying to understand the learning community ever since I got down here and I don't, still, think I have a full understanding of it. And there were comments made that, yes, this Underwood Schools was put in place even before the learning community came into being. What we're trying to do with this legislation is incorporate and give flexibility to the learning community to incorporate what Underwood Hills is trying to do. And as I...I think it was mentioned by Senator Howard that some of the features of Underwood Hills School embody exactly what I think the learning community was wanting to do, to lessen and narrow that achievement gap by doing such things as engaging parents in the school system, hiring high-performing teachers, having a longer school day. A lot of good things were going on there, and it was precisely the kinds of things that the learning community said they were going to do. So I think this legislation continues to give the flexibility to the learning community to do that. I know there are some concerns about, okay, this is a simple little bill that potentially has big problems for the state aid formula. Will it shift more money to the learning community, away from rural schools? I support what Senator Adams said. I don't believe that it will do that. I do not...I agree with Senator Nordquist. I don't think there will be a proliferation of these kinds of arrangements being developed. Is it a leap of faith to pass this legislation? Perhaps. But it was a leap of faith, I would suggest to you, when some of you voted to put the learning community in place. And it is a...is a paradigm and it's a situation that, to a certain extent, we still have lots of questions on. It's still being fleshed out. We're still making changes to it. And, quite frankly, with some people here in this body, the jury is still out as to whether it's a good idea. But I would also suggest to you that it is a work in progress and the bill before us helps us continue on that journey. So for those reasons, I am in support of it. Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Sullivan. (Doctor of the day introduced.)  
Senator Fischer, as we continue with discussion on LB558, you are recognized. [LB558]

SENATOR FISCHER: Thank you, Mr. President and members. From what I've learned about this particular focus school, I think it sounds like it's a wonderful place. I think it sounds like it's providing absolutely wonderful educational opportunities to those students, and I congratulate them on that. I...when I rise with these questions, I am in no way questioning that school or the teachers. My concerns with this bill are what happens to the averaging adjustment. I think I heard Senator Adams answer a question differently than Senator Sullivan referred to in her remarks. So with that, Mr. President, would Senator Adams yield to a question? [LB558]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Fischer?  
[LB558]

SENATOR ADAMS: Yes, I will. [LB558]

SENATOR FISCHER: Yesterday...thank you, Mr. President and Senator Adams.

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Yesterday, I asked you after we had gone through the allowance part of this and the donation from the foundation headed by Susie Buffett of \$800,000, I asked you, what happens to the averaging adjustment if this bill is passed? And I thought I heard you say that there is the possibility that, because of what happens to the averaging adjustment, TEEOSA could be affected; there would be that possibility and there could be a shift in funding to any and every school district that's equalized in the state. I will let you answer. What happens to the averaging adjustment if this bill is passed? [LB558]

SENATOR ADAMS: Well, Senator, the way that you've couched the question is appropriate. There is the possibility that the averaging adjustment, that the average would bump up. You know, we're talking about 400 students here and a tenth of a student in the allowance. So I can't imagine it would be very much. But quite honestly, one of my concerns would be that the averaging adjustment could bump up. [LB558]

SENATOR FISCHER: Thank you, Senator. That's a concern of mine. I love school finance. I love it more than highway funding. I really like state aid to schools. I find it fascinating. I don't pretend to be an expert on it, though. But I do know that when you tweak, in any way, with this formula, there are consequences. And to say that, you know, this bill won't have those consequences, I don't believe...I don't believe that. I believe there will be consequences, no matter how small we have made a change. And we all need to recognize that. Senator Adams, yesterday when I asked you about the \$800,000 donation from Susie Buffett's foundation that was given for this focus program so it could, I believe, carry on for three years, what are we looking at in this bill, and are we providing enough in this bill to even make a difference in this program? Will it allow this school to carry on? [LB558]

SENATOR ADAMS: Senator, first of all, I want to apologize. I was listening to my staff on some other things as you were asking a question, so I'm going to take a big swing at what I think you asked for. This school, the cost has, over the years that it's been in operation, the cost per student has driven down. But the reality is that it's going to be tough, given the curriculum that they're offering, the calendar that they're running under, in my limited opinion... [LB558]

SPEAKER FLOOD: One minute. [LB558]

SENATOR ADAMS: ...it is going to be financially tough for them to keep going. [LB558]

SENATOR FISCHER: Thank you, Senator Adams. You know, I appreciate the intent of the legislation. I do, I appreciate the intent of it. But the reality is, we've seen one district, Elkhorn, that pulled out of this program. I took to heart Senator Pahls, a dedicated educator, his comments yesterday about, you know, we need to be looking at this for all students in the state for these programs. My huge concern is with the state aid to schools and what one little tweak may do. With those concerns, and seriously with

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regret, I do not believe I can support this bill. [LB558]

SPEAKER FLOOD: Time, Senator. [LB558]

SENATOR FISCHER: Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Price, you are recognized. [LB558]

SENATOR PRICE: Thank you, Mr. Speaker, members of the body. Good morning. Yesterday I asked some questions about how much are the costs per pupil, and I was trying to articulate a question. And I've got some numbers. I believe these numbers have been shared with Senator Nordquist and Senator Adams, but it just talks to the per pupil rate, where Underwood Hills was at \$11,701, and as Senator Adams, it has been driven down, costs to \$10,700 per student. What I wanted the body to listen to and understand is, in a focus school such as this, we're talking about approximately four grades, either, I guess, what, three through six or four through seven, we're talking about eighth grade. We're talking about 400 students, I believe Senator Adams just said. This cost per student when we start doing averages, we have to be aware of what happens when you start working with large arrays of numbers here. Are we looking at the K-12 costs, or are we looking at just these grades? And it turns out that we really don't have an ability to...or, no, I wouldn't say we don't have the ability, but the numbers aren't readily available to drill down and look at a grade cost, a cost for a grade in one school or a district, to another school or district; it's all lumped together and homogenized, if you would. So if you have a curriculum...or where you have a lot of students and you can amortize that cost over a great number of students, you drive down the per pupil cost. If you're in a smaller district, you'll see that the per pupil cost is higher. A matter of fact, I would submit that DC West, South Sarpy, and other districts outside the metro have a higher cost per pupil than you would in the larger metropolitan areas because you can drive the cost down, economies of scale, etcetera, etcetera. So, again, we have to be careful there. And then I have a question, if Senator Nordquist would yield, please. [LB558]

SPEAKER FLOOD: Senator Nordquist, will you yield to a question from Senator Price? [LB558]

SENATOR NORDQUIST: Yes. [LB558]

SENATOR PRICE: Thank you, Senator Nordquist. Good morning. The question I have for you is, approximately do you know what the annual costs are for that school right now? [LB558]

SENATOR NORDQUIST: Total operations? [LB558]

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SENATOR PRICE: Yes, sir. [LB558]

SENATOR NORDQUIST: I don't. We're talking...I'm thinking, for some reason, the number 160 kids sticks out at the...maybe my staff has it. I don't have the total, but if we could do some quick multiplication here on the average cost per pupil times the total number and get that to you, but... [LB558]

SENATOR PRICE: Well, more--more to the point is, when we talk about the \$800,000 gift that we're very fortunate to have, and I wouldn't want to ever seem ungrateful for Nebraskans caring and helping, but if we have a number, if we're going to spend \$400,000 to keep the school open for one year in total costs, that's what we're saying, I would think that if the per pupil was \$10,000 plus or minus, and we have 400 students, you know, that's a simple mathematical computation. But what if that number is \$800,000? I mean, I'm just trying to understand, because when we do a per pupil thing and we start talking about averages, we come up with one thing, but when we look at the actuals, sometimes it's a little different. And I was looking, you know, Underwood Hills being at \$11,701 in '09 and '10, and you get to somewhere like Elkhorn, that was \$8,711. [LB558]

SPEAKER FLOOD: One minute. [LB558]

SENATOR PRICE: Thank you, Mr. President. So we're looking at about a, I don't know, what, 15 to 18 percent delta there? So as we get a chance to talk on the mike throughout the day, however long we get a chance to talk about this, I would like to be able to hear those numbers. Thank you, Mr. President. Thank you, Senator Nordquist. [LB558]

SPEAKER FLOOD: Thank you, Senator Price. Senator Hansen, you are recognized. [LB558]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I had a couple of questions in whether these are designated school districts and how they form, and then the focus schools and maybe some background on focus schools, because I'm not familiar with that. If Senator Nordquist would yield, I'd have a question for him. [LB558]

SPEAKER FLOOD: Senator Nordquist, will you yield to a question from Senator Hansen? [LB558]

SENATOR NORDQUIST: I'd be happy to. [LB558]

SENATOR HANSEN: Senator Nordquist, could you just explain to the body what a

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focus school is and maybe the difference between a focus school and a magnet school and... [LB558]

SENATOR NORDQUIST: Yeah. [LB558]

SENATOR HANSEN: ...as compared to a regular school. I don't know what the term would be, but there's got to be a definition somewhere about what they are, what we're talking about. [LB558]

SENATOR NORDQUIST: Yeah, I can...a focus school...the difference between focus and magnet essentially is having a home attendance area. So a magnet school has a defined home attendance area; focus school or program does not. The difference between...a school is a stand-alone school, and a program is within some other school, you know. And the purpose of these, you know, I'm not the biggest fan of charter schools, but really it's to go along somewhat of those lines, to promote choice and competition. We provide great-quality programs with unique curriculum that really is based on best practices, in an effort to draw students from across socioeconomic boundaries, geographic boundaries in school districts to that school. So that... [LB558]

SENATOR HANSEN: Okay. What part of the school system is it, then? A focus school, is it elementary, middle school, high school, all of the above? [LB558]

SENATOR NORDQUIST: It can be any of the above, Senator. [LB558]

SENATOR HANSEN: Can it be all of the above? [LB558]

SENATOR NORDQUIST: Yeah, and what was envisioned with Underwood Hills is that it started in fifth and eventually would have turned into a high school focus program as well. So it really was envisioned as kind of a continuation. But it can be, for instance, there's some talk about doing a focus school at the Med Center, for health sciences, high school, to create a pipeline of people interested in health sciences. So freshmen in high school could start and really, you know, build that continuum right into higher ed as well. [LB558]

SENATOR HANSEN: Okay. The focus school, the whole concept of it is that they have to focus on something. So back to my second question. Is the Underwood Hills program, which part of the school district are they in now? Are they in elementary school, middle school, high school? [LB558]

SENATOR NORDQUIST: I believe it was fifth through eight or fifth through seven. I'm sorry, third through seven, third through seven. [LB558]

SENATOR HANSEN: Third through what...seventh? [LB558]

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SENATOR NORDQUIST: Sorry, third through six, is what I'm being told. (Laugh) Sorry. [LB558]

SENATOR HANSEN: Okay. (Laugh) So that's just part of a school system that focuses on excellence and whatever they decide to... [LB558]

SENATOR NORDQUIST: And it drew students, I believe, from...three districts participated in the program, but it drew students from, I believe, four or five different districts in the metro area. [LB558]

SENATOR HANSEN: Okay. Is there...I know yesterday you talked about a lottery system. Is there an application process that potential students follow? [LB558]

SENATOR NORDQUIST: You know, I don't...I'm not familiar with that. I know under the learning community there's open enrollment applications. But as far as this school, this was established before the learning community, and I'm not as familiar with their procedures for application. [LB558]

SENATOR HANSEN: Did we talk yesterday, though, about it being a lottery system to get...? [LB558]

SENATOR NORDQUIST: There is a lottery, yeah. I don't know about an application prior to that point, but there was a lottery. I believe there was 600-and-some kids whose families wanted that choice and that competition to achieve this for their kids, and I believe at that time there was 100-and-some slots. [LB558]

SENATOR HANSEN: It seems to be logical that... [LB558]

SPEAKER FLOOD: One minute. [LB558]

SENATOR HANSEN: ...you would have to have some type of application process... [LB558]

SENATOR NORDQUIST: Yeah. [LB558]

SENATOR HANSEN: ...to get in that lottery pool. And then the lottery pool goes on, is there an acceptance of those students then... [LB558]

SENATOR NORDQUIST: Um-hum. [LB558]

SENATOR HANSEN: ...an acceptance procedure of those students? [LB558]

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SENATOR NORDQUIST: Sure. [LB558]

SENATOR HANSEN: Would--I'm short on time, Senator, but would it...it almost looks to me like, you know, we talked about charter schools a couple of years ago and we turned that idea down. It looks like this is almost a private school that you're asking for state aid to. [LB558]

SENATOR NORDQUIST: But it's run by public districts. [LB558]

SENATOR HANSEN: But the application process looks like it's a private school. [LB558]

SENATOR NORDQUIST: It's really... [LB558]

SENATOR HANSEN: Thank you, Mr. President. [LB558]

SENATOR NORDQUIST: Okay. Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senators. Senator Nordquist, you are recognized. [LB558]

SENATOR NORDQUIST: Thank you. And, really, this...the ultimate purpose of this allowance was to incentivize districts to draw people in, to create hubs of socioeconomic diversity and excellence, to have an excellent curriculum, with excellent faculty, and to draw people in to create some competition in the districts, so if other districts saw that school succeeding, they would raise the bar and try to do better. I think that's what we need. But I want to get to Senator Fischer's point here. I think there's a lot of, you know, just muddying of the waters going on right now. Senator Fischer's point was that this would have an impact on the averaging adjustment. Well, the current allowance is in place. All right? Any single member school district can go ahead, with the approval of the learning community, and receive this allowance, and that would have an impact on the averaging adjustment. That's what was put in place when the learning community was created. That's a point we have to remember, folks. We're not creating some new allowance here. All we're saying is, if multiple districts want to partner, which is good policy, good practice, bring the learning community together as a community, that's what we're doing here. That's all. There's some muddying of the waters saying this is going to create, you know, this proliferation of focus schools and suck money away from everyone else. There's not. The market can only bear so much. All right, there's not going to be a proliferation, and if there's a real demand, single member districts are going to go ahead and do it. But I think, Senator Adams and the entire Education Committee thinks that it's good policy to let districts collaborate on this. That's all we're saying. So clear the waters. We're saying simply that multiple districts can collaborate. That's the bottom line. There isn't going to be a proliferation of focus schools. If there was, there would be under current statute. The one focus school that

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partnered, where there were three districts and two districts decided to get out, is now a single member district and they can get this allowance. They're starting a new...essentially continuing the program but it will be a new program at a new school with the same kids. They can apply and get this allowance. So we're not changing...we're not creating some new allowance. I think that's what we have to remember here. And if Senator Fischer says she thinks we need this for all students, I agree. I think we need choice and competition. I think that will improve our education system statewide, and I think this is a good step. Folks, according to test scores, we have the largest achievement gap based on race in the entire country. And we can sit on our hands and do nothing about it, or we can try to move forward and do something about it. Now this bill isn't the end-all, be-all, but I think it's a step to help us try to get something done on that. Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Pahls, you are recognized. [LB558]

SENATOR PAHLS: Thank you, Mr. President and members of the body. Could I ask a question or two of Senator Adams? [LB558]

SPEAKER FLOOD: Senator Adams, will you take a question from Senator Pahls? [LB558]

SENATOR ADAMS: I will. [LB558]

SENATOR PAHLS: I'm trying to come to grips with the financial impact that this would have. And I know that particular district that I was involved with in the past on the learning community, they actually came out ahead financially, where I don't know if OPS did. But the question I would like to know, in the past has the learning community taken more money out of the pot than if those schools were not in the learning community? [LB558]

SENATOR ADAMS: Based on our calculations, Senator Pahls, if those 11 schools that make up the learning community were not part of a learning community, with no common shared levy, they just simply got their state aid, that aggregate amount of state aid would be greater than it is now at the fact that they're sharing a common tax base. [LB558]

SENATOR PAHLS: Okay. So, actually, the learning community has helped with the state aid formula, if you take a look at the amount of monies that went to those districts. [LB558]

SENATOR ADAMS: In total, yes. [LB558]

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SENATOR PAHLS: In total. The only caveat that I...because I don't know where you are in the area of transportation. That appears to be the cloud hanging over this particular organization. Is that true or not? [LB558]

SENATOR ADAMS: You're right. [LB558]

SENATOR PAHLS: So transportation...aside from transportation, the learning community, which surprised me when I was told that, that's why I wanted to reaffirm with your knowledge, and I thank you for that. So currently right now the learning community, outside of the transportation, which I know is a big issue, is not costing the state more. So I would assume more communities beyond the metropolitan area would try to form learning communities, because I do think they have that option. A couple of points I want to talk about. One of them is, I really find it still interesting that we're talking about this school that was created before the learning community became the learning community, officially the learning community. That was when those three districts came together and decided, we want to do something different. We want to create this focus school. It is almost ironic that since that focus school has collapsed to some degree because the districts are pulling away from it, financially is my understanding, it's really interesting how the learning community now is saying, hey, we want that. I'm not saying that's wrong, but it goes to show you that when communities do decide to take action like these three different communities did at one time, it can be done without us getting involved, without the Legislature saying, you need to do this. However, we have the learning community and we are moving along with that. I do want to point out that we are very concerned about focus schools and how great they are. I'm going to challenge all of us to make sure that when we go back to our districts, we don't look at our schools and see, why are you not a focus school? And I don't mean they have to change their curriculum or they have to change their teaching styles or instruction, but just make it a good school. I can remember in the past we had an individual here from the Omaha area said, every school should have the assets that every other school has, not only financially but teachers and curriculum, etcetera. [LB558]

SPEAKER FLOOD: One minute. [LB558]

SENATOR PAHLS: Thank you. The one concern I do have and I...yesterday I heard from Senator Nordquist that the zoo is wanting to become involved in one of their schools. And I do think right now in Bancroft in Omaha, if I'm mistaken, they have a strong relationship with the zoo. I'm hoping now we're not going to use this strategy in a school district, is we will create these focus schools--or we have created them, now it's another way for us to get more of a piece of the pie. I hope that's not sitting out there in the background. I would feel disappointed if that were true. Another thing I would like to point out, I am supporting Senator Fischer on her highway bill. But keep in mind, that will in the future take a chunk of money away from education, is one of the things. So what we're talking about right now is minimal, minimal dollars. So what

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we're...discussion we're having today you will be having probably in the future. Although I do support her concept; we need, we need to do something with the roads. That's... [LB558]

SPEAKER FLOOD: Time, Senator. [LB558]

SENATOR PAHLS: Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Council, you are recognized. [LB558]

SENATOR COUNCIL: Thank you, Mr. President. And I hit my light after the exchange between Senators Adams and Fischer on the allowance and what was being accomplished by LB558. And Senator Nordquist did begin to address that, because as a member of the Education Committee and reviewing the statute...the section of the statute that's being impacted by LB558, first and foremost, it needs to be repeated. The statute currently provides for an allowance if a focus school is established in accordance with the diversity plan of the learning community council. LB558 does not create any new allowance. What LB558 does is say that that allowance is available if school districts collaborate on the development of a focus school, rather than the situation that exists under previous law and still exists, and that is, school districts can enter into interlocal agreements, but in no situations interlocal agreement places all responsibility, primary responsibility, on one school district for handling all of the legal aspects, all of the financial aspects, all of the student issues. LB558 is designed to build collaboration between these districts. And, yes... [LB558]

SPEAKER FLOOD: (Gavel) [LB558]

SENATOR COUNCIL: ...Underwood Hills focus school was created before the Learning Community Council statute was enacted. But if anyone in here believes that that would have occurred outside of the discussion that was occurring at the time with regard to what to do with the 11 school districts in the metropolitan Omaha area, you're not being candid with yourselves. The creation of that focus school was due in part to the conversation that was occurring about how to deal with the fact that there were 11 districts in the metropolitan area, separate and distinct--there were certainly disparities in terms of financing available--and the focus school was created. But I don't want anyone here to cast a vote on this on the basis of an inaccurate belief that this creates some new allowance. Certainly, if OPS continues to move forward and operate Underwood Hills as a focus school and the Learning Community Council approves that as a part of their diversity plan, that focus school is eligible for an allowance under the existing statute. And to confirm that, I would ask Senator Adams to yield to a question. [LB558]

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SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Council?  
[LB558]

SENATOR ADAMS: Yes, I will. [LB558]

SENATOR COUNCIL: Senator Adams, am I correct in my understanding that if OPS decided to continue to operate Underwood Hills as a focus school, and made application to the Learning Community Council for approval of that as part of the Learning Community Council's diversity plan, that that focus school would and could be eligible for an allowance under existing law? [LB558]

SENATOR ADAMS: You're right. [LB558]

SENATOR COUNCIL: And that is the issue. I mean, we should not be confusing the facts here. All this does is say, districts within the Learning Community Council, if you collaborate... [LB558]

SPEAKER FLOOD: One minute. [LB558]

SENATOR COUNCIL: ...you are eligible for the allowance. But my understanding is that the allowance will not be calculated in any different manner than it's...could be calculated today. Now Senator Pahls and Senator Hansen made some very meritorious points. And it's a concern that I had when I was a school board member, and that is, anytime you have a school that provides the kind of differences that Underwood Hills provides in terms of length of school year, length of school day, and the type of curriculum changes, you begin to question about why can't we do that for all the kids in all the schools? Well, we had that very same discussion 20 years ago when we were talking about magnet schools. And the hope was that if these magnet schools were successful, that we would see more magnet schools. And I... [LB558]

SPEAKER FLOOD: Time, Senator. [LB558]

SENATOR COUNCIL: Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Council. Senator McGill, you are recognized.  
[LB558]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I had to leave early yesterday, so I've really just joined the debate today and started learning a little bit more about this bill. And a lot of what I was going to say when I hit the light has already been said, in that as I did start educating myself a little bit more this morning, I saw that it's already possible for these focus schools to form this way. So we're not talking about a drastic change in the formula. We're not doing anything new there. But what we are

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doing is allowing the schools to be collaborative in these efforts. And one thing that maybe hasn't been mentioned is that, you know, focus schools administered by a single school district have a much greater risk weathering an economic downturn than a program that shares a risk in costs. And so maybe this is a tool to help encourage the creation of these focus schools. I think Senator Nordquist and Senator Council and some others have made a great point about why focus schools are a good thing. I love this handout that Senator Haar just sent out, with the diversity of kids, and that's what, really, the folks up there in the learning community area are going for. And, really, I think it's something that all school districts with minority population should be able to strive for. Again, the funding mechanism is already there, and so this really is just that extra tool. And I hate using the word tool, because we use it a lot in here, but it is that extra tool to allow these focus schools to form, with a little less risk to an individual school. And, you know, this is a collaborative model that can really achieve something exciting for the Omaha area. And the bill only opens up the model to replication should the school districts come together and want to start focus programs in the future. So I'm a big supporter of this bill. I think if you really just look at the language here, there isn't much that we should be overly concerned about since it doesn't change TEEOSA, it doesn't change any of the funding mechanisms, and I think it makes total sense to allow schools in Omaha to do this. Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator McGill. Senator Hadley, you are recognized. [LB558]

SENATOR HADLEY: Mr. President and members of the body, I guess I'm at times not smart enough to figure these kinds of things out. I hear Senator Nordquist talking about allowances, and I hear Senator Adams and Senator Fischer talking about the averaging adjustments. So would Senator Adams yield to a question? [LB558]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Hadley? [LB558]

SENATOR ADAMS: Yes, I will. [LB558]

SENATOR HADLEY: I think you were talking...the question you dealt with, the averaging allowance--or the averaging adjustment and not allowances, so would you repeat what you said earlier about the averaging adjustment? [LB558]

SENATOR ADAMS: Let me try to distinguish. An allowance is not new money to the formula. It is merely a redistribution of money that's already there. An adjustment of any kind is an injection of additional money into the formula. The focus school allowance already exists in law. It is a redistribution of money that's already there. The averaging adjustment is new money that comes in. Now if you don't mind me taking just an extra second... [LB558]

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SENATOR HADLEY: Yeah. [LB558]

SENATOR ADAMS: ...I do believe that there is the possibility for the averaging adjustment to be affected if there are a lot of schools that go in this direction. But recognize that it...I think it would be very, very minimal, because you're spreading a cost of, let's say, 400 students out over the entire state, on a state average. And... [LB558]

SENATOR HADLEY: Okay. [LB558]

SENATOR ADAMS: ...it can't be very much. [LB558]

SENATOR HADLEY: Okay, thank you Senator Adams. Would Senator Nordquist yield to a question? [LB558]

SPEAKER FLOOD: Senator Nordquist, will you yield to a question from Senator Hadley? [LB558]

SENATOR NORDQUIST: I'd be happy to. [LB558]

SENATOR HADLEY: Senator Nordquist, I believe this started with three districts, correct? Elkhorn, Westside, and Omaha Public Schools. Is that correct? [LB558]

SENATOR NORDQUIST: Yeah, it was before the learning community. And I said it yesterday and I don't know that it was clear, I introduced this bill before any schools announced any pulling out of Underwood Hills, because we thought this was a good policy. But...sorry. [LB558]

SENATOR HADLEY: Okay. According to the information I had, Elkhorn pulled out because it was too expensive. That's a direct quote from their superintendent. They were spending \$315,000 for 21 students. I just wonder, we're probably going to hear later in the session about the financial problems of Omaha Public Schools because we're going to be talking about TEEOSA later on and such as that. How much is this school costing the Omaha Public Schools? [LB558]

SENATOR NORDQUIST: I didn't have the...I don't have the dollar amount with me, Senator, again. And we've talked a lot about Underwood Hills, and really that's outside of the...was established outside of this allowance, and this allowance is really focused on going forward, to move forward. But I guess my staff did hand me here, \$850,000 for OPS that they're spending in their budget for the current year, to answer your question. But again, Underwood Hills isn't the crux of this bill, by any means. [LB558]

SENATOR HADLEY: Okay. I guess...and I'm certainly not going to micromanage the

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Omaha Public Schools system, but it will be interesting to see when we get around to talking about TEEOSA whether there are concerns about the funding of the Omaha Public Schools. Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Ken Haar, you are recognized. [LB558]

SENATOR HAAR: Mr. President and members of the body, I would like to do a little bit of follow-up to what Senator Sullivan talked about. It was an awesome hearing, and I want to tell you a little bit about that hearing. I passed out a page. This was in color, by the way. These are the kids. And here's some of the facts about this school. I mean, we hear so much today about, you know, we really want kids to achieve, but a lot of times it's sort of the same old, same old, but here's a school where kids are achieving, and it's exciting for me, as a person whose number one priority is education. The school is achieving diversity goals set by the Learning Community in terms of levels of attendance. The school has a 98.6 attendance rate. Imagine that. Kids come to school 98.6 percent of the time. Forty-one percent of the students receive free and reduced lunch; 42 percent of the students are minorities. Now here's the academic success. Ninety-eight percent passed the state reading test; 73 percent scored "meet" or "exceed" on the statewide reading test; over 80 percent of the students are showing significant growth. That's what we're looking for, growth on standard achievement tests. And on and on. And I want to really quickly--this...they presented us with this notebook, again, and some awesome testimony, and I want to just read you a couple of things real quickly. Here's a letter from a parent. And this is handwritten, and this parent said: There is so much in the news, both local and nationwide, about the sorry state our educational system is in. Here in Omaha we have a school that works on all levels, academics, social and self-esteem issues. Here's...then there's a section from the teachers. And I want to read you just one quote from...from this one teacher said: Have you ever walked into a school building where everyone was working at their dream job? Imagine that. We're looking for schools that make a change, and this school is making a change. And then there's a section from the students, and here's a fourth grader who says: In Richmond it's very fun. I don't even mind staying at school until almost 5:00. I actually like to get up in the morning and go to school now. I have to get up earlier, but I don't mind, because I ride the bus with new friends. I even give up my summertime because this school is so fun and awesome. So what I would ask--I'm certainly in favor of LB558 and AM728--is that you support this, because here's a system that works. And it may be a model that can be expanded to other schools; we don't know that yet. But when everybody says they enjoy coming to school in the morning, that's something that seems to be working, we ought to support it, and it's the kind of change we're looking for in education. Thank you very much. [LB558]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Senator Greg Adams, you are recognized. [LB558]

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SENATOR ADAMS: Thank you, Mr. Speaker. Members, I wasn't going to put my light on and I don't know that what I have to say will make any difference, but I want to try to summarize and bring some, well, for lack of a better word, some focus on this thing. All right? First of all, a focus school is not a charter school. It is not. These are public schools with a publicly elected school board that levies a tax and decides how that money is going to go into these school districts, and that's a world away from charter schools. They have a focus curriculum. The Underwood Hills school has a focus curriculum. There are focus schools here in Lincoln that have a science focus or an art focus. That's a focus school, and that's not a charter school. That is not where we're going. Under current law, charter schools can form right now. They can be collaborative or they can be single. But under current law, if they are collaborative, they don't qualify for the existing allowance that already exists in law. Only a single, primary school that creates a focus school gets the allowance. What this bill would do is allow collaborative schools to also qualify for the allowance if they meet the diversity plan. And that allowance, that allowance only pays a small portion, on a per student basis. We calculated it at one-tenth of a student, one-tenth of a student. So it's far from offsetting the cost of a focus school. The district is still very, very much obligated. And in the Underwood Hills case, they are so much obligated, frankly, they may not be able to keep the thing afloat with or without this allowance. The allowance, as has been repeated over and over again, already exists in statute. Can it affect the averaging adjustment? Yes, it can. How will it affect it? I don't know. Will it affect it a lot? Well, let's take this school and spread one-tenth of 400 students out over a statewide average. I don't know that that has a huge impact. Could there be a proliferation of more? Yes. I don't know. I don't have a crystal ball to say there will be a lot more of them, that it will affect the averaging adjustment a lot more. This is a shift in policy. A shift in policy that says in current law right now we only allow focus schools to receive the allowance if one school district has control of it. This bill would say, we would allow it multidistrict through interlocal agreement. That's what it does. Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Adams. Senator Krist, you are recognized. [LB558]

SENATOR KRIST: Thank you, Mr. President and colleagues. I'll be extremely brief. To compare...I applaud Elkhorn for making a decision to draw a line in their budget and making the decisions that they feel they have to make. Unfortunately, that means a...one of the partners in the Underwood system will fall out. But I think it's important for you to understand, Senator Pahls said it yesterday, I think it's been said today as well, this is one school in the state that its attendance record is well, well above the average. People want to go to school. Parents want to take their children to this school. And make no mistake, the reason that this school is a little more expensive than most is that there's extended time. They go an extended period of time. This is like comparing apples and oranges, when you compare a school that is in session in a traditional sense

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and the length of the day and the time that they are in school in this focus school. This is a good thing. I support AM728 and the underlying LB558. And I would hope that we can take this to a vote soon, because it's a good thing, it's a good thing to let the individual districts make these decisions and come together in this collaborative effort that will increase the educational opportunities within the state. Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Krist. Senator Pahls, you're recognized. [LB558]

SENATOR PAHLS: Thank you, Mr. President and members of the body. You know, it is fun to hear everybody talk about education and on picking up the importance. Just a couple of things from my past experience--is anytime you start up a school, and I've started up several, the initial cost is quite high, because you're starting up. It's just like when you buy a new house, you do all the decorating, it costs more than you initially think. So that...and that should level out over time. But a couple key words I hear, I've heard, is parents want their kids to be going there. That is, I think, is a key to any success. They want their kids to go there. And that's what we ought to be striving for, as I'm saying, in all of our communities, other than just, quote, a name of "focus schools." And as has been pointed out, they have a longer day, etcetera, etcetera. Well, I think in Ralston, I think they have a year-round school. I think they have that, or they did in Fremont, and they did in the Kearney school district. So there are unique schools out there, but they will cost more if you have longer days and longer hours and longer school years. So that will--the cost will go up. But, you know, that's the penalty you pay for excellence, probably. Now another thing that I've heard some people stand up and say, well, this school is doing great. And I'm not questioning that at all. But we need to look at longitudinal studies for anything. You need to take a look at information over years--not just one, two, or three years--because they have what they call the halo or Hawthorne effect: it's a new idea and people always are on board. So you need to take a look at whatever is done in the evaluation of these "focus schools," you need to do it over a period of time. That way you can see what I call legitimate growth--although growth is occurring; but that way you can validate it over, like I say, doing a longitudinal study. The thing that I picked up from Senator Adams, there may be additional costs. He doesn't know that for sure. But I picked up the Learning Community has not cost the state more monies, so I see that as a positive thing. So that's, again, why we may need more of the learning community concept throughout the state. So if it's not going to cost...or the learning community has not cost more money, but this thing, by the tweaks, may...apparently hearing, not significant, so it does seem that this bill has some merits. Thank you. [LB558]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Louden, you are recognized. [LB558]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the Legislature. I wasn't

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going to weigh in on this thing, because to me this is an Omaha problem, but I think there's also the problem of what we have out in the western end of the state in our rural areas. We've been closing these elementary sites by the bunches. Every year we lose some of these districts. Now we have people that are having to haul their kids for 45, 50 miles. A lot of them have to be up at 5:30 in the morning in order to meet a bus someplace. And it's just a terrible way of doing education in Nebraska. And a lot of those districts don't have any...don't receive any TEEOSA aid. Now as I look at this bill, all of a sudden we have a school, a focus school I think it's called, here in Omaha that's probably costing more than they thought it should, which--that's amazing for Omaha to have a school that costs more than it should. And now we want to bring it into the Legislature on how it's going to be handled. Over the years, I think Senator Lathrop and Senator Adams and I worked on various community education centers, and we had various names for areas out in these rural areas where people could have a school probably up to the sixth grade to take care of some of the local kids that were close by. And, sure, there wouldn't be very many going to school there, but nonetheless it's...those kids are entitled to an education. And always as it came out of the Education Committee it was, well, the school district out there has control of that, they have the money, they have the control. If there needs to be one of those, why don't they do it? Why are we trying to dictate something from the state? And so, consequently, none of those bills ever got out of committee. And I think Senator Adams said, you can start a charter school now. Well, I question that. It won't be a charter school. You can start a private school, but there's nothing in it that has anything to do with these teachers being paid by any of the local districts or anything like that, or the local district doesn't have any control over the salary or who is hired in these schools. So it isn't exactly a charter school. It's where we have now, we have a lot of what we call them Christian schools, and it's usually some people get together and they start their own school of a kind, and as long as they work within the guidelines of the Department of Education, they can be classified and they can be accredited to have a school. And those kids can go on into the public school system. So I think with this, this is something that looks like to me we brought forward there. There was a problem there and they want to try and settle it in the Legislature, and I don't know if that's the right way to do it. There isn't anything in here that would do anything...do us of any value out in our rural areas. So I'm wondering why we're so worried about what's going on in, like, in the Omaha and the local school districts there, when they have schools all over the place. And yet we get out in the western end of the state and there's 70 miles between schools anymore; and as they close them out, there's going to be--a lot of that isn't good highway to get those children to and from those schools, and now we're concerned about what we're going to do to get some funding for these schools in the Omaha area. I think we can do better than this. There's many problems with your elementary schools in the state of Nebraska, and at the present time none of it is being addressed. And it's a problem to get anything out of the committees or get anything brought forward that would address education in our rural areas. With that, I don't think I will support the bill. I'll support the amendment, because without the amendment you got a real crisis, but I won't support the bill. Thank

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you, Mr. Speaker. [LB558]

SPEAKER FLOOD: Thank you, Senator Louden. There are no other lights on. Senator Adams, you're recognized to close on AM728. [LB558]

SENATOR ADAMS: Thank you, Mr. President. Before I close on the amendment, let me make something clear. I don't support charter schools. A focus school is not a charter school. It's not. And that's not what we're doing here. We are not authorizing the creation of charter schools. In law, the creation of charter schools...or excuse me. There, maybe I did make that mistake. The creation of focus schools is already in law. We're allowing for a different way to create a focus school, not a charter school. There's a big difference. Big difference. Now back to the committee amendment. The committee amendment says very simply that if we're going to have a focus school that is made up of more than one school district having it, then when those school districts get together, they need to create an interlocal agreement. And specifically within that interlocal agreement, it needs to be determined where the liability lies, where the financial responsibility lies. In addition, what the committee amendment also says is that if a student from a different school district that is not part of the interlocal agreement wants in, that student would become a student of one of the school districts that is in the interlocal agreement. Thank you, Mr. President. [LB558]

SPEAKER FLOOD: Thank you, Senator Adams. Briefly before we continue, the cookies being distributed today are in honor of Senator Krist's birthday. Happy birthday, Senator Krist. Members, you have heard the closing on AM728. The question for the body is, shall AM728 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB558]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB558]

SPEAKER FLOOD: AM728 is adopted. Members, we now turn to discussion on LB558. Seeing no members requesting to speak, Senator Nordquist, you are recognized to close on LB558. [LB558]

SENATOR NORDQUIST: Thank you, Mr. President and Mr. Speaker and members. First, I want to thank Senator Adams for his work on this legislation and for his leadership on the floor. Certainly he knows more about this issue than anyone in this body and I appreciate his support and the support of the entire Education Committee on this policy. And really, again, it's a simple policy. The allowance is in place. We're just adjusting who qualifies for it from single member districts to collaboration. The collaborative model has shown to be the best way to go forward to bring districts together, to bring students together from diverse backgrounds, and the results at Underwood Hills have been breathtaking. They have shown to move the numbers

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significantly. And I think ultimately that's what we want for all of our students in Nebraska. This policy is a policy that is...it doesn't move the numbers in TEEOSA very much, if at all, because the allowance, again, is there. And it will be utilized either by single member districts or maybe now collaborative models. So I appreciate your support of LB558 in advancing it to Select File. Thank you. [LB558]

SPEAKER FLOOD: Members, you've heard the closing to LB558. The question for the body is, shall LB558 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB558]

ASSISTANT CLERK: 33 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB558]

SPEAKER FLOOD: LB558 advances to E&R Initial. Members, a note regarding the agenda. Due to a planned absence by the introducer, LB156 will be passed over today. We will now proceed to LB512. Mr. Clerk. [LB558]

ASSISTANT CLERK: Mr. President, LB512 was introduced by Senator Christensen. (Read title.) The bill was read for the first time on January 18, referred to the Judiciary Committee. That committee places the bill on General File with committee amendments. (AM225, Legislative Journal page 781.) [LB512]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Christensen, you are...Senator Christensen, you are recognized to open on LB512. [LB512]

SENATOR CHRISTENSEN: Thank you, Mr. President. (Laugh) I got caught here. LB512, what it does is it sets up a situation. It was brought to me by the State Patrol, and it's a bill that allows the...if you had a mental...let me back up. In efforts to put the bill in perspective to how it relates in federal and state requirements, I share the following information regarding the National Instant Criminal Background Check System. The Brady Handgun Violence Protection Act of 1993 requires federal firearms licensees to contact a NICS system to determine whether a prospective firearm transfer to an individual would violate any of the ten federal prohibitors. One of those prohibitors is when in a proceeding a person has been formally determined to be a mental defective. Such determination includes those involuntarily committed to mental institutions or deemed incompetent to handle their own affairs. LB512 addresses those persons who have been subject to mental health commitment and their subsequent records to the state of Nebraska. This bill will assist Nebraska in addressing the submission of mental health board commitments and involuntary committals to the federal NICS system. Currently, Nebraska law requires when a mental health board commitment occurs, the record is sent to the Health and Human Services and shared with the State Patrol pursuant to Nebraska statute 69-2409.01. However, because the statute only allows the records to be retained for five years, we're prohibited from

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sharing the records with the NICS. LB512 would remove this impediment. We have consulted with the Department of Health and Human Services and they agree with this change. The bill also addresses a process which is part of the NICS Improvement Amendment Act of 2007, the NIAA. The NIAA encourages states to electronically submit information to the NICS system when an individual falls within a disqualifying category and requires states to have a program for relief from disabilities. We have been asked why states are required to create such a program under the NIAA. A person disqualification can effectively be a lifetime prohibition. The existence of a relief process utilizing mental health boards provides balance in that it affords an opportunity for persons to restore their Second Amendment rights if solely disqualified due to mental health reasons. All of these changes would allow Nebraska to participate in the national NICS system in a more effective and efficient manner while affording persons with a lifetime mental health prohibition due process for relief. It would allow information to be shared with the national NICS system. Currently in Nebraska when a NICS check is done to determine if a person is disqualified or qualified for a firearms transfer, our mental health records are accessible using the Nebraska State Patrol as a point of contact but are not retained as part of the national record system. I believe LB512 is an important piece of the information puzzle necessary for ensuring the essential and accurate mental health records as available for the prevention of firearms falling into the wrong hands. It also provides for a process for people who are no longer a threat to the community to get their Second Amendment rights back. Thank you for consideration of LB512, and I'd encourage its advancement. [LB512]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Christensen. As the Clerk stated, there are amendments from the Judiciary Committee. Senator McGill, you're recognized to open on the Judiciary Committee amendments. [LB512]

SENATOR MCGILL: Thank you, Mr. President and members of the body. I'm excited to bring my Vice Vice Chairmanship of Judiciary here to the floor, (laugh) as we refer to it in committee. I'm here with LB512 and AM225 attached. It advanced from the Judiciary Committee by a vote of 6-0 with two members present and not voting. The committee believes that this bill is necessary to ensure that we receive all relevant documents needed to identify persons who should be disqualified from obtaining a certificate to purchase a handgun or be allowed to otherwise own, possess, purchase, or have transferred to them a firearm because of a mental health issue. AM225 makes the following changes to LB512. Section 1 provides a definition of "firearm-related disability." Section 2 requires that when an order of commitment or order of discharge is issued, or after the removal of a firearm-related disability is issued by a mental health board, that such order be sent to both Health and Human Services and the Nebraska State Patrol as soon as practicable but within 30 days. It also requires the database utilized for purposes of determining firearm eligibility to be updated as soon as

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practicable to reflect changes to the record. The next major change is in Section 6, which outlines the petition process for a person to seek repeal of a firearm-related disability. The petition process is as follows: A petition may be filed and the subject of petition may request and if a request is made shall be entitled to a review hearing by the mental health board. The board shall grant a petition filed under the section if they determine that (a) the person who filed the petition will not be likely to act in a manner that is dangerous to public safety, and (b) that the removal of the previous disqualification for the purchase and that the granting of the relief being sought would not be contrary to the public interest. In arriving at a decision to remove the firearm-related disability, the mental health board shall receive and consider evidence of the following nature: the circumstances surrounding the subject's mental health commitment; the disqualified individual's record, which shall include a minimum, at minimum, the mental health and criminal history records of this person; the reputation of the disqualified individual as developed, at a minimum, through character witnesses' statements, testimony, or other character evidence; and changes in the subject's condition, treatment, treatment history, or other circumstances relevant to the relief sought. If the mental health board decides to remove the subject's firearm-related disabilities, the clerks of the various courts shall immediately send as soon as practicable, but within 30 days, an order to the Nebraska State Patrol and the Department of Health and Human Services, in a form and manner prescribed by the Patrol and HHS, stating the findings that the mental health board (a) believes the previously disqualified person is no longer likely to act in a manner that is dangerous to the public, and (b) that the removal of the firearm-related disabilities is not contrary to the public interest. This allows for an appeal to the district court for a review in cases of denials. And if relief is granted, the firearm-related disability shall not be considered when determining eligibility for a permit to purchase, concealed-carry permits, and federal disqualification. This also establishes an effective date of January 1, 2012. LB512 and AM225 go a long way to helping the state identify those individuals who are disqualified from firearm purchasing or possessing firearms, as well as to provide a mechanism for individuals who are previously denied the ability to purchase or possess firearms because of a mental health disqualification to have that disqualification rescinded and regain the ability to purchase or possess firearms through a thoughtful process. I urge your support for this amendment. Thank you, Mr. President. [LB512]

SENATOR GLOOR: Thank you, Senator McGill. Mr. Clerk. [LB512]

ASSISTANT CLERK: Mr. President, Senator Lautenbaugh would offer AM976 to the committee amendments. (Legislative Journal page 986.) [LB512]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment to the committee amendments. [LB512]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do

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rise, of course, both in support of this bill and the committee amendment. And as ably presented by Vice Vice Chair McGill, and as I'm Vice Vice Vice Chair of the Judiciary Committee, it's proper that I'm up next, I guess. My amendment is very simple. It represents a bill in committee that was heard without opposition. Basically what it states is, for states we have reciprocity with for concealed carry, if an individual moves to Nebraska with a valid concealed-carry permit from one of those states, the six-month waiting period before he can apply for his Nebraska permit does not apply. What we have now is a circumstance, and this specifically came up, which was the impetus for this amendment and the underlying bill, was a constituent of mine in District 18 was a Missouri resident, possessed a valid Missouri concealed-carry permit, moved to Nebraska; that accomplished two things. That immediately, as Nebraska became his new residence, invalidated his Missouri concealed-carry permit, and under existing law he had to wait for six months to ask for his permit here. This would correct that and just say, if you're coming from a state with reciprocity, where we already allow and recognize your concealed-carry permit before you become a resident, this would extend that courtesy to when you become a resident and make the person who moves to Nebraska not have to wait six months to simply reapply in Nebraska. It is very straightforward in that regard, and I would appreciate a green vote on it. Thank you. [LB512]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, you've heard the opening on LB512, the committee amendment and the amendment to the committee amendments. Are there Senators wishing to be recognized? Senator Louden, you are recognized. [LB512]

SENATOR LOUDEN: Thank you, Mr. Speaker. And as I was looking over the committee statement, I was wondering if Senator Christensen would yield for questions. [LB512]

SENATOR GLOOR: Senator Christensen, would you yield? [LB512]

SENATOR CHRISTENSEN: Yes. [LB512]

SENATOR LOUDEN: On the first page of that thing, down there on your committee statement, and also the committee statement on the machine, it's the paragraph that starts, "that the State Patrol be provided with information," and then it goes on and there's a percentage and a U and a 201(c) disqualified. Now is that some type of noncitizen, or what does that mean in there, or is that a typo, or is that something that being run through there that we don't know anything about, or what is that? [LB512]

SENATOR CHRISTENSEN: I just assume that's a typo. [LB512]

SENATOR LOUDEN: Okay. Well, then we'll let it go on the record that it's a typo and go

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from there then. I don't see it in the bill anyplace or in the amendment, but it is on the committee statement, and that's what I'm wondering. With that, otherwise I intend to support the amendment and support the bill as we go forwards. And if Senator Christensen would like the rest of my time, I'll yield it to him. [LB512]

SENATOR GLOOR: Senator Christensen, 3 minutes 40 seconds. [LB512]

SENATOR CHRISTENSEN: Thank you. The...I was told that the computer doesn't recognize some of this and it's just a coding that is there. So that's what that extra language, not really a typo, but just a coding for it. But I stand in support of this amendment to the bill. It is...all the qualifications that Nebraska has to have a concealed-carry permit have to be met. And as this bill is written, they have to have met all these requirements to be as rigid or more rigid, the same as if you're going to carry from another state in the state of Nebraska we have reciprocity through. And that all works with...determined by the Attorney General's Office on how rigid the rules are in the other states. So with that qualifier here, everyone that's moving in, in this amendment, would meet them requirements. They already have a permit, and it's just waiving the six-month waiting period. Thank you. [LB512]

SENATOR GLOOR: Thank you, Senator Christensen. The Chair recognizes Senator McGill. [LB512]

SENATOR MCGILL: Thank you, Mr. President. I rise in support of AM976. Senator Christensen and Lautenbaugh both came up to several of us Judiciary members and made us aware that this amendment would be coming. It is a bill that we haven't advanced out of committee yet but is one that I feel confident would have been advanced. I know I spoke with Senator Ashford and Lathrop before they left, and they have no problem with this amendment either. It's a straightforward, common-sense amendment in legislation that was brought to us in the first place, so I'm glad we're able to get it on here and, hopefully, pass it on to Select File. Thank you, Mr. President. [LB512]

SENATOR GLOOR: Thank you, Senator McGill. Senator Dubas, you are recognized. [LB512]

SENATOR DUBAS: Thank you, Mr. President. I also rise in support of the bill and the amendments introduced, but I would have a question for Senator Lautenbaugh, if he could yield. [LB512]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB512]

SENATOR LAUTENBAUGH: Yes. [LB512]

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SENATOR DUBAS: Thank you, Senator Lautenbaugh. I made you rush back to the mike for probably a pretty simple, straightforward question but just something I'd like to have clarified in my mind. Are the applications for concealed-carry permits, are they pretty standard across the country? [LB512]

SENATOR LAUTENBAUGH: You know, Senator Dubas, I know we make inquiry into that for the states that we grant reciprocity to and some we don't. So I honestly don't know if I can answer that with a yes or no. It would really depend on what types of states we're talking about. I assume there's a certain level, and I believe there would be a certain level of standardization among the states that we would have reciprocity with. The others, that might be part of the reason we don't have reciprocity. [LB512]

SENATOR DUBAS: And again, just kind of for my own clarification or information, the types of information you have to provide for a concealed-carry permit are--or do you have to show, you know, how to use a gun, you know, gun safety, those types of things? [LB512]

SENATOR LAUTENBAUGH: Yes, criminal background, all of that kind of thing you would hope we would look into before allowing or granting this particular permit. [LB512]

SENATOR DUBAS: I assume what you just said is correct, because I would think you wouldn't just be passing out concealed-carry permits just randomly. But just as I said, for my own information, wanted to see if there was some sort of standardization, and I'm going to guess that they're fairly close, so I appreciate the information. [LB512]

SENATOR LAUTENBAUGH: Thank you. [LB512]

SENATOR GLOOR: Thank you, Senator Dubas. Thank you, Senator Lautenbaugh. Seeing no senators wishing to be recognized, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives. The question, members, is, shall the amendment to the Judiciary Committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB512]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of the amendment to the committee amendments, Mr. President. [LB512]

SENATOR GLOOR: The amendment is adopted. We continue discussion on the Judiciary Committee amendment, AM225. Seeing no senators wishing to speak, Senator McGill, you're recognized to close on the amendment. [LB512]

SENATOR MCGILL: Thank you, Mr. President. Again, this amendment largely outlines the process for someone to petition to repeal their firearm-related disability. It's a good thing. The bill overall and the amendment make sure that HHS and State Patrol are

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communicating with the proper documents to make sure that we know who and--who should and who should not have a permit and allows people to get their ability back to have a permit when they are no longer facing the mental health issues that they once were. So I urge your advancement, and thank you, Mr. President. [LB512]

SENATOR GLOOR: Thank you, Senator McGill. The question is, shall the committee amendments to LB512 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB512]

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments. [LB512]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB512. No senators are in the queue. Senator Christensen, you're recognized to close. Senator Christensen waives. The question is the advancement of LB512 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB512]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB512]

SENATOR GLOOR: The bill advances. We continue with General File. Mr. Clerk. [LB512]

ASSISTANT CLERK: Mr. President, LB337 was introduced by Senator Fulton. (Read title.) The bill was read for the first time on January 12 of this year; referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments. (AM275, Legislative Journal page 618.) [LB337]

SENATOR GLOOR: Senator Fulton, you're recognized to open on LB337. [LB337]

SENATOR FULTON: Thank you, Mr. President and members of the body. LB337 is the result of the Government Committee's LR542 process as it relates to the Auditor of Public Accounts, and I agreed to bring the bill forward, with thanks to the committee for coming up with the idea. The bill makes changes regarding the timing and frequency of certain audits in an effort to streamline the number of statutorily required audits. Specifically, LB337 allows the Auditor to conduct audits at a time he deems necessary rather than at a statutorily mandated time for audits. Those audits are for the following: Number one, state aid for law enforcement in counties containing an Indian reservation, which is Section 1 of the bill; number two, the State Highway Commission, which is Section 3 of the bill; the Nebraska Motor Vehicle Industry Licensing Fund, which is Section 4 of the bill; appropriations to the Motor Fuel Tax Enforcement and Collection Division within the Department of Revenue, which is Section 5 of the bill; investment

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transactions under the Nebraska State Funds Investment Act, which is Section 6 of the bill; and lastly, records received by the State Tax Commissioner regarding revenue generated from stamps on cigarettes, which is Section 7 of the bill. Sections 2 and 8 of LB337 also change the definition of "plan year" for state and county retirement plans so that beginning July 1 of this year, under the green copy, the plan year will consist of fiscal year 2011. However, the Government Committee's amendment, which will follow, avoids this change so as to prevent any undue burden on the Public Employees Retirement System. And if you look at the committee statement, NPERS came and testified in a neutral capacity expressing this concern, and we, myself and the Government Committee, assuaged that concern, as will be discussed in the upcoming amendment. So with that, I'd like to close, thank Senator Avery and the Government, Military and Veterans Affairs Committee for this idea, and I'll close there. Thank you, Mr. President. [LB337]

SENATOR GLOOR: Thank you, Senator Fulton. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair of the Committee, you're recognized to open on those amendments. [LB337]

SENATOR AVERY: Thank you, Mr. President. As Senator Fulton mentioned, this bill is part of the Government Committee's work on the LR542 process. The idea was brought to us by the Auditor of Public Accounts, and the provisions of the bill were among the options that the committee recommended in that LR542 process. The specific amendment, AM275, eliminates the provisions of the bill changing the plan years for the County Employees Retirement Act and the State Employees Retirement Act so that they coincide on the same fiscal year. At the public hearing, as Senator Fulton has mentioned, the Nebraska Public Employees Retirement Systems testified about their concerns on this provision. Also, the Nebraska Public Employees Retirement Systems estimated there would be a cost of over \$77,000 to the change in the plan year for the State and the County Employees Retirement Plans, and we thought...and we agreed with them that that was excessive. So to eliminate the fiscal note and reduce the concerns expressed by NPERS, the committee decided to take that provision out of the bill. That's what this amendment does. The committee hearing had significant support for this bill and there was no opposition. The bill was amended and advanced from the committee on a vote of 8 to 0. I urge you to vote "yes" on AM275 and "yes" on LB337. Thank you. [LB337]

SENATOR GLOOR: Thank you, Senator Hadley...Senator Avery. Pardon. We move to discussion. There are no senators wishing to speak. Senator Avery, you're recognized to close. Senator Avery waives. There are no senators remaining in the queue. Senator Fulton, you're recognized to close. Members, the question is, shall the committee amendment to LB337 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB337]

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ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendments.  
[LB337]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB337 continues. There are no senators in the speaking queue. Senator Fulton, you're recognized to close on LB337. [LB337]

SENATOR FULTON: Thank you, Mr. President. Just briefly, recognizing that I have not put in the record why this is a good idea. There are a number of audits that were identified by the Auditor of Public Accounts which occur on a calendar year. By allowing him to exercise some volition, perhaps he could free up his auditors to be able to conduct other audits and thus not incur so much personnel and money. So it's an opportunity to interject one's volition, an elected official's volition, as to how certain audits are conducted, and that's limited to those that I've discussed already and that are in the bill. So appreciate the committee amendments, and let's advance LB337. Thank you, Mr. President. [LB337]

SENATOR GLOOR: Thank you, Senator Fulton. Members, the question is the advancement of LB337 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB337]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President.  
[LB337]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB337]

ASSISTANT CLERK: Next bill, Mr. President, is LB628, introduced by Senator Cook. (Read title.) The bill was read for the first time on January 19, referred to the Government Committee. That committee placed the bill on General File with no committee amendments. [LB628]

SENATOR GLOOR: Senator Cook, you're recognized to open on LB628. [LB628]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. LB628 is enabling legislation that allows the elected boards of counties, cities, and public utilities to donate motor vehicles that have reached the end of their useful lives to Nebraska nonprofit organizations. I would like to thank Speaker Flood for designating LB628 as a Speaker priority bill. I appreciate the opportunity for this proposal to be heard. LB628 addresses one of the major barriers to the self-sufficiency of low-income Nebraskans--reliable transportation. Reliable transportation provides individuals the means to support themselves and their families by greatly expanding their career opportunities. This is a straightforward bill, but the passage of this bill can make a huge

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difference in the lives of everyday Nebraskans. Again, this bill is permissive. It's authorizing legislation for the elected boards of political subdivisions to donate surplus vehicles to Nebraska nonprofits. No political subdivision would be required to donate vehicles. The Douglas County Board of Commissioners pledged their support of this legislation. They support the proposal and want to take part in the vehicle donation that would be authorized by the legislation. The Nebraska Rural Electric Association pledges their support to this legislation. They support the proposal and would also like to take part. There is no fiscal impact for the enactment of LB628. What is not manifested in the fiscal note for the bill is the positive impact on the state's budget that reliable transportation will have on Nebraska families. It is my sincere belief that with the enactment of the vehicle donation program by a political subdivision, even on a small scale, the state will benefit because families will become more self-sufficient. I appreciate your consideration and support for the advancement of LB628. Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Cook. Mr. Clerk. [LB628]

ASSISTANT CLERK: Mr. President, Senator Lautenbaugh would offer AM977. (Legislative Journal pages 990-992.) [LB628]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment. [LB628]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I don't like to do this very often, but I've got a bill that seemed perfect to attach to this bill, so I thought I would give it a try for the first time. My bill, LB139, was heard by the Government Committee, and this amendment wraps up their amendment into my bill. So the amendment is my LB139 with the committee amendment from Government made part of it, if you will. I suppose I could have explained that more artfully but I did not. There was no opposition to my bill in committee. What it basically does is it makes two major changes to the County Purchasing Act which was brought to us at the suggestion of the Lancaster County Sheriff. It allows for counties to sell surplus vehicles, including fully loaded police vehicles which is currently prohibited by the act. This can be done under the amendment for vehicles below \$5,000. Any vehicle valued above \$5,000 would need specific county board authorization for the sale. The reason for this change, if you will, is because currently under law this can't be done. What we have is a circumstance where counties are holding onto vehicles to the point where they become virtually useless so they can be disposed of under the limit and completely stripped down of their police or sheriff's equipment. That seems like a tremendous waste that we've tolerated for many years. What this would allow instead would be for the counties, say Lancaster County, to dispose of vehicles that it considers superannuated to counties that maybe don't have as vigorous a need for a new police vehicle and want to save the money and purchase a used one that's fully outfitted

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already for police work. Current law doesn't allow that. This amendment would make that a reality. It also provides flexibility to counties in how they dispose of surplus property, especially police vehicles. It could be big-ticket items. Gives an opportunity for the counties to get a small stream of revenue from their used property and provide, arguably, some property tax relief. Sale of police vehicles would be strictly controlled and only allowed to other certified police entities. County boards would have the ultimate say through their policies and purviews as to what could be sold and when. We're simply giving them another tool in the toolbox, to use that phrase we're beating to death this session, another tool in the toolbox to manage their fiscal affairs and their property. Given the likely reduction in county aid from the state, which I think is more than likely, I think it happened, as well as current budget issues across the state, this bill would provide another means to counties to operate and control their budgets without affecting property taxes and without costing the state any money and assistance. I believe this to be one of those rare circumstances where we're doing something for the localities rather than to the localities, and I would urge your support of this amendment. Thank you. [LB628 LB139]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. We move to discussion. Senator Price, you are recognized. [LB628]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Lautenbaugh yield to a question? [LB628]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB628]

SENATOR LAUTENBAUGH: Yes, I will. [LB628]

SENATOR PRICE: Thank you, Senator Lautenbaugh. In the committee we did hear your bill; I do like the idea of what you're trying to do there. One of my questions is if we look at the bill before us from Senator Cook, it would limit that the donations and what she's doing to the state. But when we look at your amendment, we're looking at auctions that could go...the equipment could go anywhere...anybody who's buying the equipment. Let's just say for the sake of an argument it'd be within the United States. Is it your understanding from your amendment that we'd be opening up the sale of these vehicles that qualify to different states? [LB628]

SENATOR LAUTENBAUGH: Yes. [LB628]

SENATOR PRICE: Okay. Thank you very much, Senator Lautenbaugh. Ladies and gentlemen, my question is...and what I really liked about Senator Cook's bill and what I question about Senator Lautenbaugh's is that we should give the right of first refusal to Nebraska political subdivisions and entities, because I feel that there may be equipment...and if we set it anywhere between \$2,500, \$5,000, something that's not

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deemed valued within one locality could really be very valuable in another within Nebraska and we could save money and help Nebraskans out. I mean, the old adage of one person's junk is another man's treasure, you know, might apply here. And so, Senator Lautenbaugh, I hope that in discussion we can talk more about something along the lines of a right of first refusal, some type of process where you would advertise and let Nebraska entities do this. Now, my understanding is I believe there is something that goes on within counties already. They do put things on their list. I mean, when I roll out to Sarpy County's Web site and I look at the surplus, you can look at the Sarpy County surplus Web site and you can look at computers and odds and ends, things that the county is getting rid of that meets the current legislative thresholds. But we're raising these thresholds, so that would be a question. And then I would like to know, would Senator Cook yield to a question? [LB628]

SENATOR GLOOR: Senator Cook, would you yield? [LB628]

SENATOR COOK: Yes, Mr. President. [LB628]

SENATOR PRICE: Thank you very much, Senator Cook. As you noted from the committee statement, I didn't vote this bill out of the committee and I think you're pretty much aware. Let me ask, Senator Cook, is there a threshold on your bill, the underlying bill, for determining a value which is obsolete or you can get rid of? [LB628]

SENATOR COOK: You mean an actual numerical figure... [LB628]

SENATOR PRICE: Correct. [LB628]

SENATOR COOK: ...that is outlined in the statute? [LB628]

SENATOR PRICE: Yes. [LB628]

SENATOR COOK: The statute says "useful life," so it would be up to that political subdivision to define per their own rubrics what that means when they factor in...I'm imagining it would be somewhat similar but not necessarily identical among the political subdivisions across the state. [LB628]

SENATOR PRICE: Thank you very much, Senator Cook. Colleagues, therein lies...in that question, therein lies my challenge with accepting the way the statute or the way the bill is written today. We could have a political subdivision who says...who are saying I want new vehicles or new equipment, and they're letting it go and it may have a value. Because we haven't put it in, we can get as ridiculous as we want to here. But let's not get too crazy on this. But you could let something that's \$7,000 value. What if you want a new computer system? Because we're always talking about IT upgrades. So I want a new system right now. I have an... [LB628]

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SENATOR GLOOR: One minute. [LB628]

SENATOR PRICE: Thank you, Mr. President. I have an old mainframe system and I want to move to a newer client-server-type array and using new software, and so I'm just going to say that my system I've had for doing all my records is old and obsolete. We agree, and I'm going to sell it off and it could have the value of tens of thousands of dollars. I don't think that would happen all that often. I think more often what you'll see is...right now for some reason we have a threshold of \$500 or \$250, and that does have to change. But I don't believe we want to get into the situation where one political subdivision will say, well, our comfort level is \$500 and another says it's \$10,000. I think we begin to see that there would be too much difference between those subdivisions and problems would arise, and I don't think taxpayers... [LB628]

SENATOR GLOOR: Time, Senator. [LB628]

SENATOR PRICE: Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Price. Senator Harms, you are recognized. [LB628]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Cook, would you yield just for a question, please? [LB628]

SENATOR GLOOR: Senator Cook, would you yield to a question from Senator Harms? [LB628]

SENATOR COOK: Yes. [LB628]

SENATOR HARMS: Senator Cook, the question I have for you is that from my experience in a political subdivision, whenever we were through with an automobile, it pretty much was in poor shape. [LB628]

SENATOR COOK: Pardon me? [LB628]

SENATOR HARMS: It was in poor shape. It was...we were ready to... [LB628]

SENATOR COOK: Okay. [LB628]

SENATOR HARMS: We were ready to get rid of it. My question to you is, do you believe that if a political subdivision is going to give an automobile to a charitable organization, that we shouldn't...we should be identifying for that charitable organization this is the problem with this car: the brakes are bad, the transmission is bad? It actually

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creates a danger for whoever is going to take this car, and they have to know in advance that this potentially could be some type of liability. I'm not an attorney and I don't understand that part of it. But I would be very uncomfortable if I was a charitable organization taking an automobile without first a complete review being done by the organization that's going to give it that identifies for me, these are the issues and the problems about this car. [LB628]

SENATOR COOK: I don't understand what your question is. It sounds like you are making a statement that could be valid, but I do not know what you are asking. [LB628]

SENATOR HARMS: My question...I'm asking, do you think we should have an amendment to this bill that simply requires an identification that this automobile has the following problems: the brakes are bad, the transmission is bad, you have difficulties with the power steering? Because you're going to give this gift to a charitable organization, and my question is, by giving this gift, knowing that these problems are there, does it create a liability for us--or for the county or for the city who's giving it? [LB628]

SENATOR COOK: Well, I'd certainly be open to discussing an amendment. The amendment you're describing could have a potential fiscal impact, and I would be opposed to that. I'd also, again, referring back to some conversations I had on the mike on other bills, namely, the SNAP bill, I don't imagine that people who are elected officials such as ourselves in other bodies across the state are inclined to pass along a dangerous, life-threatening clunker to a nonprofit, whether they're legally responsible for anything as the car passes ownership or not. My sense is that they will ensure that the vehicle is within a reasonable operation. And also, as a member of a nonprofit board, as many of you are or have been, we...I would not accept a vehicle and intend to pass it along to a young mother with children if I did not have somebody lined up to ensure that that vehicle was safe to operate. [LB628]

SENATOR HARMS: Well, let's look... [LB628]

SENATOR COOK: I cannot say yes or no to an amendment until I actually see it and see what the fiscal impact would be to the proposed bill. [LB628]

SENATOR HARMS: Well, Senator, there's no fiscal impact to any of this. My point here is, let's back up and look at it a little bit different. Let me ask this question. Do you believe that we should have a safety check done on the automobile that's going to be given? Let's say that we don't have any idea whether there's a problem there. But what about a safety check that simply then identifies those issues? [LB628]

SENATOR COOK: Who does the safety check? [LB628]

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SENATOR HARMS: Maybe the county doesn't know or maybe the city doesn't know. [LB628]

SENATOR COOK: Okay. [LB628]

SENATOR HARMS: That's my point. I don't have any problem with your bill. I'm just trying to make sure that we have thought through this process very carefully. [LB628]

SENATOR COOK: Um-hum. [LB628]

SENATOR HARMS: It's a great gift. It will help people move forward. That's not my problem. The problem is, should we have a safety check done before that car is given? [LB628]

SENATOR COOK: My question to you would be, who performs the safety check and who would be responsible for compensating the individual or the entity that performs the safety check? [LB628]

SENATOR GLOOR: One minute. [LB628]

SENATOR COOK: My opposition is absolutely not a philosophical opposition to a safety check for a vehicle, but I need to know...I need to have a definition of what a safety check would mean in this context and who would be responsible for any financial burden that might be incurred in a safety check. I certainly do not want it to fall to the end user of the vehicle. [LB628]

SENATOR HARMS: Well, thank you, Senator Cook. I'm just posing this as a question to you, and my thoughts are that I don't think there's going to be any big cost to anyone. I just want to make sure that we have done everything we can to make sure that the people who are receiving this great gift, it is functional and it will be safe for the person that's getting it, because these people that are getting this automobile are most likely...would not have the money to fix it up or they would not have the opportunity to understand that this a dangerous... [LB628]

SENATOR GLOOR: Time, Senator. [LB628]

SENATOR HARMS: Oh, thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Harms. Senator Avery, you are recognized. [LB628]

SENATOR AVERY: Thank you, Mr. President. I'm going to speak on the amendment and the bill. Just very briefly, I think it's worth pointing out that the amendment, AM977,

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embodies the content of a bill that the Government Committee had on its list of potential consent calendar items, so I think that's worth keeping in mind in considering this amendment. Let me tell you a story about how LB628 came about. We had testimony in the hearing that was, I think, interesting and compelling. One of the testifiers talked about having completed a leadership class in Omaha that was sponsored by the Greater Omaha Chamber of Commerce. As part of the curriculum in that class, the participants were introduced to a world that was largely unknown to them, and that was the world of the unemployed and homeless in the city of Omaha. They were placed in a conference room and told to conduct an exercise, a simulation, of what it was like to be unemployed, have no vehicle for transportation. Some would have children, others would have disabilities, and some would have both. The mission was to try to navigate the public health and welfare system utilizing public transportation and to try to survive for one month with limited financial resources. The class was populated by doctors and engineers and people with advanced degrees, all with the ability and the confidence in the world that they could do this, but they failed. They failed miserably. They quickly learned that the biggest obstacle to finding and retaining a job and to navigate the host of services and support that might be available in the community was transportation. We take things like this for granted, popping into our vehicles every day to transport ourselves to work, to the doctor, to the grocery store, to school, wherever it is we need to be. Our current transportation system does not and probably cannot meet all of the needs of people in the community who don't own automobiles. What this testifier discovered is that trying to navigate the system and to gain access to these services that was so needed was almost impossible without private transportation. This person tried using public transportation to get to job interviews and found out that it was almost impossible to get from downtown Omaha to west Omaha for a job interview because of the length of time it would take to get there with public transportation. He also discovered, in doing some research on the issue of poverty in Omaha, that in the summer of 2010 the local Workforce Development office in Omaha had 146 people who were qualified for open jobs but they could not accept those jobs because they didn't have transportation to get there. And he also looked at... [LB628]

SENATOR GLOOR: One minute. [LB628]

SENATOR AVERY: ...the cost of the public support for these families and found that the average family of three cost the state almost \$9,000 in welfare, food stamps, and various programs like that if they're unemployed. So the state could save a lot of money if people have better access to transportation in order to get to job interviews or to get to a job perhaps that they've already been given. It seems to me that this is an idea worth trying. I think it's worth pointing out that the city council in Douglas County or in Omaha voted unanimously to support this bill. The Government Committee did not have any negative votes. We had 5 positive votes and 3 nonvoting. But I believe that... [LB628]

SENATOR GLOOR: Time, Senator. [LB628]

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SENATOR AVERY: ...it is worth...I'm sorry, sir? [LB628]

SENATOR GLOOR: Time. [LB628]

SENATOR AVERY: Time? Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Avery. Senator Lautenbaugh. Excuse me, announcements, Mr. Clerk. [LB628]

ASSISTANT CLERK: Thank you, Mr. President. Revenue Committee will meet in Executive Session at 11:00 a.m. in Room 2022. [LB628]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Lautenbaugh, you are recognized. [LB628]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I rise in support of my amendment, obviously, and I would like to address some of the concerns that have been expressed both on my amendment and otherwise. It's my understanding...there was a concern whether or not we give counties and other localities within Nebraska first bite at the apple, if you will, or some kind of preference in bidding on these vehicles once we do dispose of them. The answer is already yes. Under the eBid process used by a majority of the Nebraska counties and municipalities, including Lincoln and Omaha, preference is given to in-state entities before looking further out. So to address Senator Price's concern, yes, that is already done. We do try to take care of each other within the state first before we try to dispose of the vehicles elsewhere. Regarding the concerns expressed by Senator Harms regarding liability for these vehicles, I'm just looking around and seeing who's here and who isn't, and if you want me to try to get an immunity clause on this today I'd be happy to do it. This could be our day. But I don't think that's necessary, and here's why. I don't think that there would be any liability to the county, and I know there will be additional discussion on this. I don't believe there would be liability on the part of the county for transferring these vehicles to a charity. And I believe it would be upon the recipient to check out the vehicle to make sure it's proper before they transferred it to anyone else. I think the county can safely dispose of vehicles "as is", if you will, and be insulated from liability. So I believe that both of these...well, I call it both bills, the underlying bill and my amendment are both worth pursuing and accomplish different but worthwhile goals regarding county property and other locality property that may have outlived its usefulness for the particular entity that holds it but might be very useful to someone else. Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Carlson, you are recognized. [LB628]

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SENATOR CARLSON: Mr. President and members of the Legislature, I want to comment just a little bit further on Senator Harms's questions to Senator Cook. And I would think that if a charity accepts a vehicle, there's probably two important decisions that they ought to make. First decision is whether to accept the vehicle or not. Second one would be if they do accept the vehicle, whether or not it's a good idea to have a safety check before it's given to somebody else. With that in mind, I'd like to address Senator Council, if she would yield. [LB628]

SENATOR GLOOR: Senator Council, would you yield to a question? [LB628]

SENATOR COUNCIL: Yes. [LB628]

SENATOR CARLSON: Senator Council, I hope I'm not completely out of order by bringing you to the microphone. [LB628]

SENATOR COUNCIL: No problem. [LB628]

SENATOR CARLSON: But you are an attorney. [LB628]

SENATOR COUNCIL: Or play one on TV. (Laughter) [LB628]

SENATOR CARLSON: Okay. And I don't know if you heard what I just said. [LB628]

SENATOR COUNCIL: Yes. [LB628]

SENATOR CARLSON: But if a charity accepted a vehicle and then gave it to somebody and it was a faulty vehicle and it was not safe, and an accident occurred either to the person driving or the passengers in the car or somebody in another vehicle, is there any way that the charity could be liable? [LB628]

SENATOR COUNCIL: Yes, Senator Carlson, and it would be under the standard of knew or should have known about the condition of the vehicle. And in bringing into the discussion the points that Senator Harms was making, if you know that a vehicle is defective, you have a duty to disclose that defect. Now, if you just got a bad-running vehicle, that's not necessarily defective. But if you actually know of a particular defect and you sell...transfer that vehicle without disclosing that defect, and injury occurs, the person could, who transferred the vehicle, could be found liable. So, quite frankly, if the charitable organization intends to transfer said vehicle to someone else, it would be in their best interest to conduct a full inspection of the vehicle to determine whether it has any defects. And if the charitable organization conducts such an inspection and it fails to disclose anything and then something should occur, then they are protected against liability, because they've exercised due diligence and it's not a situation where they're

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transferring property that they knew or should have known was defective in some way. [LB628]

SENATOR CARLSON: Okay. Thank you, Senator Council. So I think that...I don't think this rises to the level of a law and a mandate, but I think prudent judgment would, hopefully, tell a charity that they need to check these things out. And certainly I think that somebody can give a vehicle away and not really know whether it's got any serious problems or not. They've driven it a long time. It's been good transportation, and they just don't have a use for it anymore. So I don't think they ought to be responsible. But certainly the group that gives that vehicle away, it would be good judgment to make sure that it's a safe vehicle. Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Carlson. (Visitors introduced.) Senator Council, you are recognized. [LB628]

SENATOR COUNCIL: Yes, Mr. President, and in response to Senators Carlson and Harms a little further, I mean, the law of Nebraska with regard to personal vehicles. Most certainly, if someone transfers a vehicle and indicates on the transferring document that the vehicle is being transferred "as is," then the person who is accepting that transfer cannot seek to impose any liability on the person who transferred it, if it is transferred in an "as is" condition. So in that instance, there's no duty to disclose, and I needed to correct that, because a lot of older vehicles are transferred with the notation "as is." And so what that does is it imposes a duty on the receiver of that vehicle, if they intend to transfer it in some form other than "as is," to take the appropriate action to ensure that the vehicle is safe. But I wanted to correct that, because after I sat down I'm like, whoa, whoa, wait a minute. As is. That's the way we (laugh) avoid liability for anything associated with vehicles. So if the conveyance is "as is," the person who conveyed it has no liability for any condition of the vehicle, because that puts the person receiving the transfer on notice that they need to determine whether there's anything the matter with the vehicle. So unless it's transferred "as is," if you transfer it and you don't place that notation "as is" and you are aware of a defect and don't disclose it, that's when issues of liability could arise. So I needed to correct that on the record to add the fact that you can avoid that kind of liability by placing a notation that the property is being transferred "as is." Thank you. [LB628]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes Senator Bloomfield. [LB628]

SENATOR BLOOMFIELD: Thank you, Mr. President. While I appreciate Senator Cook's desire to help the less fortunate people by offering them transportation, I question the actual cost of this. In my district I have observed several times these vehicles being sold by sealed bid in order to get rid of them. In fact, I thought there was a law in the state that said we had to sell them by sealed bid and the money goes back into the coffer at

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that point. I see a cost to the state here, and I guess I have to oppose the bill on that grounds more than anything. I don't want to be the big meany that keeps the money from going to the poor folks, but at some point the taxpayer has to be protected a little bit too. And I think what we're doing here is opening up a whole new can of worms we maybe shouldn't be looking at. Thank you. [LB628]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Carlson, you're recognized. [LB628]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I want to address another question to Senator Council, if she would yield. [LB628]

SENATOR GLOOR: Senator Council, would you yield? [LB628]

SENATOR COUNCIL: Yes. [LB628]

SENATOR CARLSON: I appreciate you bringing up the point that you did. And I wasn't going to speak again, but I'm thinking that by what you said, if I give away a vehicle to someone, it would be a good idea on my part to have some kind of a form and have somebody sign that I, in fact, gave this vehicle as is, somebody from that organization to sign as evidence that that's, in fact, what I did. Would that sound reasonable? [LB628]

SENATOR COUNCIL: Yeah. I mean, even if you give something, you're going to have to have a transfer document. You're going to have to transfer the title to the vehicle. [LB628]

SENATOR CARLSON: Yeah. [LB628]

SENATOR COUNCIL: Even if you're giving it away, there's going to be a title transfer, and you can state "as is" on the title. [LB628]

SENATOR CARLSON: Okay. [LB628]

SENATOR COUNCIL: And that's how you address those issues to protect yourself from any liability associated with the condition of the vehicle. You'd note on the title that it's being transferred "as is." [LB628]

SENATOR CARLSON: Okay. Thank you, Senator Council. And here we've had some discussion that brings up a couple of good points. It doesn't require legislation, but at least it's helpful to me and maybe it's helpful to some others that are listening. I'd like to address Senator Bloomfield, if he would yield. [LB628]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB628]

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SENATOR BLOOMFIELD: Yes, I will. [LB628]

SENATOR CARLSON: Senator Bloomfield, you've brought up a point that I don't understand, so help me see how this could result in an expense to the citizens, to the taxpayers. [LB628]

SENATOR BLOOMFIELD: The expense, Senator, would be in that the city, the municipality, would not receive the money back that they would normally get when they sold the vehicle by sealed bid. I have bid on several of these vehicles and actually purchased a few of them, ranging anywhere from a few hundred dollars to a couple thousand dollars that goes back, then, into the funds for that city or town or whatever. And that money would be gone under this bill if we donated the vehicle. [LB628]

SENATOR CARLSON: Okay. Thank you, Senator Bloomfield. That clears up what I see as your concern for this. Thank you, Mr. President. [LB628]

SENATOR GLOOR: Thank you, Senator Carlson. There are no further senators in the queue. Senator Lautenbaugh, you're recognized to close on your amendment. [LB628]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Again, I think we've had a good discussion on this today, and I hope we've allayed the couple of concerns that were expressed. I thank Senator Cook and Senator Flood for allowing me to add my bill to this bill. And, again, I meant what I said before. I think this amendment is an opportunity for us to actually do something for the localities rather than to them. It gives them flexibility they currently don't have. It gives them the ability to dispose of property. And not only does it benefit the county that's disposing of it or the locality that's disposing of it, it also benefits the other entity that is purchasing it at a reduced price compared to what they'd have to pay for something new. This is, I think, good government on the cheap for us. It doesn't cost us anything. It doesn't remove any protections, really, for the state or create any additional liabilities for the state. It just provides flexibility at the local level. And I've said here before, we all favor local control until we don't. But this is one of those occasions where you can strike a blow for local control and local flexibility and actually allow those units of government to dispose of their property they no longer need and, hopefully, provide some property tax relief. I thank Chairman Avery and the Government Committee for advancing this bill that became this amendment, and it proceeded in the committee without opposition. And I would ask for your green vote on the amendment. Thank you. [LB628]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. The question is, shall the amendment to LB628 be adopted? All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB628]

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ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB628]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB628 to E&R Initial. There are no senators in the queue. Senator Cook, you're recognized to close on LB628. [LB628]

SENATOR COOK: Thank you, Mr. President, and thank you, colleagues. I think we have had a good discussion this morning in identifying the importance of making certain that the nonprofit and the end user are aware of the general condition of a vehicle and are kind of amenable to what they're getting. We have identified a couple of points that will speak to that, and I have pledged to work with Senator Harms on a potential amendment to spell that out. But I was...my staff did some research and said that the political subdivisions keep very detailed maintenance records for their vehicles. And in thinking back to some of the records that I might have had on vehicles that I've owned, I think that that might be a plus for a donated vehicle, because we as personal owners of property don't always keep those kinds of records. The cars in general are very well maintained. With that, I appreciate all of your input, and I would urge advancement of LB628. And, Mr. President, I would like a call of the house as well. [LB628]

SENATOR GLOOR: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB628]

ASSISTANT CLERK: 28 ayes, 0 nays to go under call, Mr. President. [LB628]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Loudon, Senator Pankonin, please return to the Chamber. Senator Cook, can we proceed? [LB628]

SENATOR COOK: Yes, please. [LB628]

SENATOR GLOOR: And how would you like to proceed? [LB628]

SENATOR COOK: A record vote with the machine. [LB628]

SENATOR GLOOR: Proceed with a machine vote? We will proceed with a machine vote. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB628]

ASSISTANT CLERK: 36 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB628]

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SENATOR GLOOR: The bill is advanced. The call is lifted. Mr. Clerk. [LB628]

ASSISTANT CLERK: Mr. President, LB95 was introduced by Senator Howard. (Read title.) The bill was read for the first time on January 6. It was referred to the Health and Human Services Committee. That committee reported the bill to General File with committee amendments. The bill was considered by the body on March 23. Senator Janssen offered an amendment to the committee amendments, AM753. That amendment is now pending, Mr. President. (AM704, Legislative Journal page 813.) [LB95]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Howard, you're recognized to open on LB95. [LB95]

SENATOR HOWARD: Thank you, Mr. President and members of the body. LB95 would require child welfare lead agencies to be accredited. As we discussed on...well, last week, both lead agencies are in the process of being accredited and should be easily capable of complying with LB95 by the deadline set in the amendment. I'd like to take just a minute to discuss some of the concerns that were raised during the discussion of the amendment on the 23rd of March. It was suggested that somehow we...maybe trying to interfere in the department's business. I think it should be very clear that this is about a policy decision. This is not a minor staffing issue with the department but the future of child welfare in our state of Nebraska. In other states that embarked on privatization of the child welfare reform, these reforms were instigated and carried out by legislative bodies, not solely inside an administrative department. As I've said from the beginning, this privatization is a major policy change, and a massive amount of money is being shifted to private entities without the opportunity for the oversight of the Appropriations Committee, the Health and Human Services Committee, or any member of this body. Moreover, it's been very clear in the hearings that we've had on issues related to child welfare reform that the public does believe we have a place in this discussion and indeed expects us to take an active role in ensuring that child welfare reform works for Nebraska. There were also some questions as to whether it is likely that the department would find another lead contractor during the time that this moratorium would be in place. I have to tell you, colleagues, a few months ago, a consultant from TFI Inc., a child welfare agency from Kansas, came to my office to discuss the feasibility of becoming a lead agency in child welfare reform here in our state. If you've been paying any attention to this reform, particularly at the beginning, you know the advantages to this...you know that the changes to this system have occurred with alarming rapidity and entirely outside of the process of this legislative body. AM704 allows us to take the time to work and to allow the LR37 review to be completed. Again, this is very important. We've started this LR review process and we need to find out what is working and what needs to be improved to fulfill the role that the public has assigned to us, ensuring the policy decisions are made that are the right

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decisions and that child welfare reform has the best chance to succeed in our state. Thank you. [LB95 LR37]

SENATOR GLOOR: Thank you, Senator Howard. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Campbell, as Chair of the committee, you're recognized to open on the committee amendment. [LB95]

SENATOR CAMPBELL: Thank you, Mr. President. Last week when this bill first came to the floor, I explained that the committee amendment amends LB95 to provide an 18-month time frame for lead agencies contracting with the department for out-of-home care for children to be accredited. But additionally the committee amendment requires that until June 1, 2012, the department will not contract with a private entity in the geographic areas previously served by the lead agency, Boys and Girls Home. It would prohibit case management or case supervision of children nor any new lead agency in that geographic area. And, colleagues, I would hope that you would give me your attention at this point, because there has been a new item introduced into LB95. At 10:15 today, I received a letter from the Governor, and a copy went to Senator Coash. And the Governor was willing to propose conditions with regard to this moratorium and to direct the agency to follow that. Because the committee has not had an opportunity to see the letter nor discuss it, and this is a committee amendment, this is how I would like to proceed. I would like you to continue to discuss the amendments and LB95, because they are critical policy decisions that we as a state need to look at in child welfare reform. And I would pledge that between General File and Select that not only will the Health and Human Services Committee receive a copy of the Governor's letter but will seriously, very seriously, consider this offer from the Governor and then report back to you when we get ready for Select File or prior to that. I very much appreciate the recognition by the executive branch that what we are proposing in the amendment, AM704, is a very serious policy discussion. And so I would hope today that we would continue to have our discussion on this bill and its amendments and would urge its passage, and then allow the committee to work on the letter from the Governor. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Campbell. Mr. Clerk. [LB95]

ASSISTANT CLERK: Mr. President, Senator Janssen would offer AM753. (Legislative Journal page 879.) [LB95]

SENATOR GLOOR: Senator Janssen, you are recognized to open on your amendment. [LB95]

SENATOR JANSSEN: Thank you, Mr. President and members. And I'd like to thank Senator Howard for her support in allowing me to add this technical amendment.

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AM753 would amend the committee amendment, AM704. AM753 would permit a child-caring agency to be organized as a corporation or a limited liability company. Presently, a child-caring agency's only option for organization is as a corporation. I've been made aware that some child-caring agencies would like the option to be organized as a limited liability company. Original statute defining child-caring agency was established before Nebraska created and defined an LLC, limited liability companies. LLCs are now a common form of organization. If a child-caring agency would like to be an LLC, I think it's appropriate to permit them to do so. I do believe this LB95 and AM704 are critical policy and certainly hope that our discussion is toward those aspects, as this is merely a technical amendment should LB95 pass. And I'd like to thank Senator Campbell and her staff for assisting me with the amendment. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Janssen. Members, you've heard the opening on LB95, the committee amendment, and the amendment to the committee amendment. Are there senators who wish to be recognized? Senator Campbell, you are recognized. [LB95]

SENATOR CAMPBELL: I just wanted to rise in support of what Senator Janssen has proposed and AM753 and very much appreciate his cooperation on this bill and bringing the amendment forward, but it does correct some language that would be helpful as we move forward. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Campbell. There are no additional members wishing to be heard. Senator Janssen, you're recognized to close on your amendment to the committee amendment. Senator Janssen waives. Members, the question is, shall the amendment to the committee amendment be advanced? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB95]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of the Janssen amendment to the committee amendments. [LB95]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB95]

ASSISTANT CLERK: Mr. President, the next amendment to the committee amendments is AM922 from Senator Coash. (Legislative Journal page 932.) [LB95]

SENATOR GLOOR: Senator Coash, you're recognized to open on your amendment. [LB95]

SENATOR COASH: Thank you, Mr. President. Thank you, members of the body. Let me explain very briefly what AM922 does. It strikes Section 2 of the committee amendment, which eliminates the moratorium on the Department of Health and Human

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Services in contracting with another lead agency. There's several reasons that I filed this amendment, and I filed this amendment last week. And as Senator Campbell illustrated in her comments on the committee amendment, I am in receipt of the same letter that she got from the Governor stating that it is not his intent to enter into any more lead contracts for the foreseeable future. I felt that this amendment was important to bring because this is a part, this is a part of the committee amendment that was not a bill and it was not part of LB95. This is a big policy decision that I believe requires a public hearing. The decision by the HHS Committee to end, even for a short time, the use of lead contractors without a public hearing I believe was inappropriate. I sit on the LR37 committee and we have talked about lead contractors at length. We've talked about how it's going, how it's went, and what we'd like to see in the future. I have no argument with the committee's assertion that the lead contracting process has not worked the way that the department intended it nor the way the Legislature would like to have seen it go. However, because there was no hearing on this moratorium, the committee nor the body got the opportunity to hear from the department, they didn't get the opportunity to hear from providers, they didn't get the opportunity to hear from families. I think those are three very valuable pieces of input that needed to occur. And I appreciate Senator Campbell's comments about how she'd like to take this back to the HHS Committee and consider it. I'm taking that under advisement. But I would like to also talk about what could happen if there's a moratorium. Is there a possibility that should there be a moratorium put in place and then we need a lead contractor? All of a sudden we have tied our own hands and are no longer able to find the providers the services that Nebraska families need. I want to give you a picture of a worst-case scenario, colleagues. This moratorium goes into place and a year from now the providers who are currently contracting directly with HHS decide that it's no longer something that they want to do. They can't make it work. And our state has a need to find somebody who will step up and provide lead agency services. All of a sudden we find ourselves in a place where we can't, because we made a decision through AM704 that no matter what happens in the western part of the state we won't have that ability to go out and find a provider, who would have to go through all the due process and screening that other providers would to provide those services for kids. In talking with Senator Campbell, she's illustrated to me that it was important that the HHS Committee send a message to HHS and the Child Welfare that they need to slow down. They need to slow down and they need to stabilize this system. I agree with that. Stability has got to occur if we're to move forward with any meaningful reform. But I'm afraid that we may be pulling the rug out from under our own feet in the effort. To find stability, we may be losing out on this. Senator Campbell and, I believe, the body want stability in the system and they want to send a message. I think we've sent that message. So now we're down to an issue of policy. Do we want to tie our hands behind our back, or can we trust that HHS will listen? The Governor has listened. He sent me a letter. Can we listen to the Governor? Can we listen to our HHS leaders and trust them to do the right thing? That's a policy decision for us. So with that, I will close on my amendment to the committee amendment. [LB95 LR37]

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SENATOR GLOOR: Thank you, Senator Coash. (Visitors introduced.) Members, you have heard the amendment to the committee amendment. Senator Lautenbaugh, you are recognized. [LB95]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body, and I do rise in support of Senator Coash's amendment. And just to be clear, this is not an occasion where I feel like I've tried to play hide the ball on this, by any measure. I spoke in opposition to the moratorium last week when we started on this bill and I still oppose it, especially now that the administration has agreed just to do it anyway. There's a principle at work here that I think we need to be mindful of, and it works at several levels. I mean, there's...I'm not on the Health and Human Services Committee, and they've worked very hard on these issues and they've gotten a lot of input and it is a staggeringly complex area, and I salute Senator Campbell for being even willing to chair this committee. And that's not a shout at the committee, that's just an acknowledgement of how incredibly difficult the subject matter is and how unwieldy HHS as a department can be as a huge portion of our state government and etcetera. So just as surely as we are second guessing the committee's wisdom in imposing this moratorium, and I'm mindful of Senator Coash's complaint that there's not...was not a public hearing specifically on that proposal, I think the moratorium is another way of second guessing HHS's leadership and their needed flexibility to meet the challenges as they come up. I think it is encouraging that the committee expressed a desire to take sort of an operational pause, if you will, in contracting with other entities to let the state more fully digest this transition and privatization. And I also applaud the administration's willingness to say, all right, fine, we won't do any until next June anyway. So I think the mission is accomplished, regarding the floor amendment in that regard or, I'm sorry, the committee amendment in that regard, so I have to support Senator Coash's amendment on principle. And lest there be no misunderstanding--or so there's no misunderstanding, I don't know that I support the underlying bill. So it's not a case where I'm going to say, okay, if the Coash amendment passes, everything is fine. I think the committee amendment is attached to an underlying bill that I find disturbing for other reasons and possibly ill advised. So I do rise in support of this amendment, which I think improves the committee amendment vastly and vindicates the principle that we should let these departments to run themselves and innovate and do what they need to do. So I'd urge you to support Senator Coash's amendment. [LB95]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Campbell. [LB95]

SENATOR CAMPBELL: Thank you, Mr. President. I want to speak a little bit about why we would have considered bringing forth the amendment. And I have to say that, yes, specifically, was there a hearing on the amendment? And the answer would be no, as I explained last week. But in the course of the last year almost, the Health and Human

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Services Committee held four major hearings on child welfare reform and introduced--one, two, three, four, almost nine bills were introduced and referred to this committee with regard to child welfare reform. In almost every hearing we heard concerns about: could we slow down? Could we evaluate? Could we take a look at this? When Boys and Girls left the contract in November of 2010, the department stepped in and they are today handling the child welfare system in the 3rd District. And one of the questions I was asked was, under the moratorium would they continue to do that and provide the case management? And the answer is yes. And I give the department real credit for stepping in within a 30-day notice and taking care of that. But we have a lot of providers who have not been paid from the Boys and Girls contract. We haven't finished that issue. One provider stepped forward and said, I was owed \$500,000 and I haven't been paid any of it. We have issues left over from the previous contract that we haven't settled. Lead agency contracts are, if we can judge from the first set, were for five years. That's a major step and commitment to what would happen in the 3rd District again. If I didn't feel strongly about the moratorium, it was very clear to me the importance of it when three senators and several aides spent part of our morning listening to eight judges across the 3rd District. And those eight judges, in summary, were saying: Give us stability. Give us time. Do not bring new when we are just trying to grapple with the old. Each branch of government, in my opinion, has a role and responsibility for the protection of children; their safety and how we take care of them is the responsibility of all three branches of government. As the Legislature, we have a financial responsibility. It is a policy issue. We've spent \$131 million over the last year in child welfare. What evaluation, what oversight, what is needed is a part of the study that we authorized earlier. Colleagues, we need to give assurance to the folks who live in the 3rd District that we hear them and we are working diligently... [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR CAMPBELL: ...on their behalf. And for that, I again ask that you defeat AM922, advance the bill and its amendment, and allow the committee to work through the proposal from the Governor. Thank you, colleagues. [LB95]

SENATOR GLOOR: Thank you, Senator Campbell. Senators wishing to be heard are Howard, Coash, Dubas, Krist, Wallman, and Christensen. Senator Howard, you are recognized. [LB95]

SENATOR HOWARD: Thank you, Mr. President and members of the body. The issue that Senator Coash is addressing actually is the issue that we all faced when this reform was put in place and we had absolutely no input. This was done outside of our process. Many of us found this concerning, and I appreciate all the work that Senator Campbell has done over the summer, the interim period, when many people would prefer to be doing things in their own life. She's been in here, she's been working on this, and she's been hearing countless constituents of all of us come in and tell us their concerns.

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When Senator Campbell says that she will diligently work on this in the interim, she will diligently work on this between the General File and Select and she will get a resolution to this. Senator Campbell has impressed me with her ability to work with every constituent that comes in and every individual who's come forth with a concern about this process. I think we all have a responsibility here. This process has been undertaken. We've seen some failures. We've seen some successes. But we all have a responsibility. There's a lot of money at stake here. There's a lot of lives at stake here. If we let this process be taken out of our hands, not only will we not have any input into how this advances, but we're not going to have any control over the money that's spent on it. And I don't know if you remember, but I certainly do, the times the department has come in here and asked for additional money from this body due to something that has occurred outside of our process but they now have the expense for. I think we need to have more control over that. I think we need to all be more responsible for what's going on in this. This is no minor undertaking. This is a massive shift, a massive change, and a massive expense. I respect Senator Campbell in the work she's done, and I say, let the committee return to this issue between General and Select File and come back to you at that time with a resolution of this matter. Thank you. [LB95]

SENATOR GLOOR: Thank you, Senator Howard. Senator Coash, you are recognized. [LB95]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I want to talk briefly about this amendment and then I want to talk about the underlying bill. With regard to this amendment, colleagues, I want us to consider as a body how best we can be a partner in reforming the child welfare system. And we have a couple of options available to us. We can be prescriptive, we can be flexible. We could put boundaries around how we want to see things done, and those boundaries have choices. We could put really tough boundaries in statute, or we can put just as good boundaries within our contracts, within our rules and regs. Colleagues, what I believe HHS needs is flexibility. They don't need micromanagement. They need boundaries, but they don't need dictates. I would ask you once again to consider, "What if?" What if there's a moratorium and then we need somebody to come out and provide services? What will we do then? Colleagues, in deference to Senator Campbell--and I do believe her when she says she'll take this back to the committee and talk about the moratorium and communicate with me and with the body--at the end of my time here I will withdraw and refile this amendment on Select File. So it's still going to be out there, colleagues, because I think it requires discussion. And when Senator Campbell says she'll look at this and take it to the committee, I believe her. So since this amendment is going to be refiled, I want to spend some time talking about LB95. And I wonder if Senator Howard will yield to a question. [LB95]

SENATOR GLOOR: Senator Howard, would you yield? [LB95]

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SENATOR HOWARD: Yes. [LB95]

SENATOR COASH: Thank you, Senator Howard. When you were talking about LB95 and the accreditation piece, that's the part I want to ask some questions about, you mentioned that the lead agencies are currently...the two lead agencies we have are currently working on certification. Is that correct? [LB95]

SENATOR HOWARD: Yes. [LB95]

SENATOR COASH: And why is it that...what is your understanding as to why they are currently going through accreditation process? [LB95]

SENATOR HOWARD: What is my understanding why they are? [LB95]

SENATOR COASH: Why are they going through accreditation? [LB95]

SENATOR HOWARD: Well, they haven't consulted me about their motives for going through accreditation, so I'll have to explain it in terms of what I would understand if I were in their position. [LB95]

SENATOR COASH: Okay. I think I can answer it for you, because I've got a copy of it. And the answer is, they're required to go through accreditation because that was part of the contract that they signed with HHS. Is that your understanding as well? [LB95]

SENATOR HOWARD: My understanding would be, because they respect the process and they understand the value of accreditation. If I may say, prior to this, every agency that the department has contracted with has been required to be accredited prior to signing a contract. [LB95]

SENATOR COASH: Okay. So then my question, Senator Howard, is, if every contract up to this point has required accreditation, why do we need LB95 to require future providers to be accredited as well? [LB95]

SENATOR HOWARD: Well, you know, Senator Coash, I appreciate that question, and I would say, following that line of reasoning, we really wouldn't need to put any restrictions on the department or any requirements. I would say we need to put some parameters on this, some expectations, and some requirements. It only makes sense. [LB95]

SENATOR COASH: Senator Howard, were you given any reason to believe HHS would not continue to practice as you just said they have done to require agencies, lead agencies, to be accredited? [LB95]

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SENATOR HOWARD: You know, I would say I have, because prior to this time agencies have been required before a contract... [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR HOWARD: ...was signed. And in this situation, that hasn't been the case. [LB95]

SENATOR COASH: Okay. Senator Howard, thank you. Colleagues, the department is requiring accreditation. They have been requiring it. They did require it before LB95 came about. I would ask you why we need a bill to require something the department is already doing through their contract process. Colleagues, we don't need this bill. Most importantly, colleagues, this bill is not reform in the sense of the type of reform that we need. There is significant reform needed in child welfare, and LB95 doesn't do it. I just don't want you, colleagues, to think that by advancing LB95 that we can brush off our hands and say that we've done what we needed to do to reform child welfare. LB95 requires accreditation for... [LB95]

SENATOR GLOOR: Time, Senator. [LB95]

SENATOR COASH: Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Coash. Senator Dubas, you are recognized. [LB95]

SENATOR DUBAS: Thank you, Mr. President. And I would like to thank Senator Coash for his willingness to withdraw his amendment and refile it on Select, because I do think, you know, it still needs to be out there and we still need to talk about it. But I really would like to give Senator Campbell and her committee the opportunity to work with the executive branch and others in seeing how we can best address this concern, because while it is not the Legislature's duty to micromanage, it is our obligation to be able to be accountable to our constituents for the way things are carried out with these types of programs. And I think that's what this comes down to, is accountability and an assurance to those people whose lives were very much disrupted through this process that we don't continue to just hope for the best and then sit back and watch what happens. Would Senator Howard yield to a question for me, please? [LB95]

SENATOR GLOOR: Senator Howard, would you yield? [LB95]

SENATOR HOWARD: Yes, I will. [LB95]

SENATOR DUBAS: Thank you, Senator Howard. And I do support your bill, but I have some questions about, maybe, are there some things that we need to look at further

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through your bill. And it's my understanding that Boys and Girls were...are an accredited agency and we still ran into problems with that. Is there some type of an oversight that we need to have in place, even with accreditation, that we're sure we're...we have an agency that's going to do the things that they need to do and to prevent these types of disruptions in the future? [LB95]

SENATOR HOWARD: Well, Senator Dubas, thank you for bringing that up. The accreditation is one measure of the viability, the "credibility" of the agency that we're contracting with. But absolutely, absolutely it's a responsibility, I would say, of everyone in this body but moreover the responsibility of Health and Human Services, the department that we are trusting to do this, to provide the oversight to us for these agencies. And I would say that includes getting reports to us in a timely basis, answering our questions when we ask them, and being a true partner to this body in this process of privatization as it moves forward. [LB95]

SENATOR DUBAS: I couldn't agree with you more. And, again, I think this bill allows us to put those mechanisms in place. And then, again, just making sure that...you know, accreditation leads to, hopefully, a certain level of confidence in who's going to provide the services and how they're going to be done. But, again, there has to be that accountability in there at the state level, because ultimately, whatever happens, I believe the buck stops with us. And so we need to be able to make sure that we're going to deliver on what we're requiring these lead agencies to do. And I would yield the remainder of my time to Senator Howard, should she choose to use it. [LB95]

SENATOR GLOOR: Senator Howard, 2 minutes. [LB95]

SENATOR HOWARD: Thank you, Senator Dubas. That's very generous of you. Yes, the accreditation is one measure. It's a national measure. There are different sources of accreditation, and each of our two lead agencies are choosing to do...to follow a different path with that. The KVC group is obtaining...working to obtain accreditation through the joint commission, and the collaboration which is through the Boys Town group is working with what's known as COA, a nationally accredited agency. And these agencies set very strict standards. The one that comes to mind for me is the caseload-size standard, which many of you have heard about in the past. Many of you have dealt with issues regarding the caseload-size standard. And this is such a critical issue for delivery of services. I think... [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR HOWARD: Thank you. I think many of you remember that when I was a case manager prior to my election to come down to this esteemed body, I had a caseload of 60 children on my adoption caseload. The recommended caseload size is 15. So you can see that that was way out of the norm of what would be accredited. And

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the department has always resisted having their own agency be accredited, and yet they've always insisted that agencies that they contracted with be accredited. One of my concerns with the accreditation issue here and one of the reasons this bill is so important is while this was required in the original contract, as Senator Coash pointed out, the deadline for this has been extended, extended, and extended. So there isn't any real enforcement in getting this accreditation accomplished. As long as this can be pushed out further and further and further, agencies are given more time rather than actually accomplishing the accreditation. Thank you. [LB95]

SENATOR GLOOR: Time, Senator. Thank you. Senator Krist, you are recognized. [LB95]

SENATOR KRIST: Thank you, Mr. President, colleagues. Before we go to lunch today--we probably...we will not talk about this bill again this afternoon. We're moving on to other things. But in the time that we'll have probably between now and the next time it comes to the floor, I would invite you, please, to talk to the members of our committee, Health and Human Services, privately. And I'll express just a few concerns on the mike today. I'm new to the committee, and I had to do a lot of catch-up. My first impression with HHS in general is very much an impression that I have had since I've been here, and I've said it many times on the mike. When a senator asks a question, a senator needs an answer. And I think one of the most unresponsive groups of people I have ever been associated with, initially, was HHS. How much money is the child welfare foster care program costing us today? I got: I don't know. They couldn't tell me. Where are we going with the process itself? What's the fix? Because we have issues. I don't know. Or there was a lack of responsiveness to my question. Because I'm a new guy? I don't know. I think it's wonderful that the Governor of the state of Nebraska signed a letter and says that he's going to follow through with it. I think it's wonderful that Todd Reckling is now saying that's what we need to do, we need to take our time. I think it's great that's all going to happen. Why did we have to get to this point to get that kind of attention? Maybe the purpose of LB95 was to wake people up. Maybe the purpose of LB95 is simply to say we have an issue. I think we all today are a product of where we have been in our lives. And to answer Senator Coash's question, a friend, my colleague, I will tell you I have never, ever experienced achieving or hiring a government contractor on the federal level or being hired as a contractor on the federal level without being accredited first. Having the wherewithal to go out and buy the vehicles that I needed to administer the contract and billing the government, that stability is part of that accreditation process. We're going to have a long debate on LB95, I think, and rightfully so. But I think to question where the committee has come to this point or where HHS has finally come to a point as we speak today and the assurance that the Governor has given us that this is the right thing to do, I think rather than replacing Section 2 we should insert the Governor's letter in Section 2 and say that's not going to happen until June of 2012 because it's the right thing to do. It's the right thing to do. Why do we have to put it in legislation or in law that a company needs to be accredited before they get

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the responsibility and the millions of dollars that it takes to run a program, particularly when you're talking about our youth? I'm not sure. But I leave you with that as we go to lunch today, and potentially we'll come back to this. Talk to us. Help us in terms of making this happen. This is not something that needs to be recommitted. This needs to be discussed in this session. [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR KRIST: It needs to be decided and we need to move forward positively for our kids. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Krist. (Visitors introduced.) Mr. Clerk. [LB95]

ASSISTANT CLERK: Mr. President, your Committee on Revenue reports LB162 to General File. Amendments to be printed: Senator Fischer to LB84 and Senator Pirsch to LR40CA. I have a potential conflict of interest statement from Senator Smith. An announcement that Business and Labor will hold an Executive Session today at 2:00 in Room 2102. Name adds: Senator Pahls withdraw from LB315, Senator Coash added to LB600. (Legislative Journal pages 993-995.) [LB162 LB84 LR40CA LB315 LB600]

And a priority motion. Senator Schumacher would move to recess until 1:30 p.m.

SENATOR GLOOR: Members, you have heard the motion to recess until 1:30 today. All in favor say aye. All opposed say nay. We are recessed.

RECESS

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: 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. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: One item, Senator Harms would like to print an amendment to LB95. And a second announcement. Business and Labor Exec Session at 2:00 today in Room 2102. That's all that I have, Mr. President. (Legislative Journal page 996.) [LB95]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the 1:30 item on today's agenda, Select File 2011 senator priority bills, the Hadley division. We begin with

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LB544, Mr. Clerk. [LB544]

CLERK: LB544, I have no amendments to the bill, Senator Larson. [LB544]

SPEAKER FLOOD: Senator Larson, for a motion. [LB544]

SENATOR LARSON: Mr. President, I move that LB544 be advanced to E&R for engrossing. [LB544]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. Those opposed say nay. Mr. Clerk, before we record that vote, I do see that a member wants to debate. It is the Chair's ruling that the ayes have it. LB544 advances to E&R for engrossing. Mr. Clerk, LB100. [LB544 LB100]

CLERK: LB100, Senator Larson, I have no amendments to the bill. [LB100]

SPEAKER FLOOD: Senator Larson, for a motion. [LB100]

SENATOR LARSON: Mr. President, I move that LB100 be advanced to E&R for engrossing. [LB100]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB100 advances to E&R for engrossing. Mr. Clerk, LB230. [LB100 LB230]

CLERK: LB230, Senator, I have no amendments to the bill. [LB230]

SPEAKER FLOOD: Senator Larson, for a motion. [LB230]

SENATOR LARSON: Mr. President, I move that LB230 be advanced to E&R for engrossing. [LB230]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB230 advances to E&R for engrossing. Mr. Clerk, LB387. [LB230 LB387]

CLERK: LB387, first of all, Senator, I have Enrollment and Review amendments. (ER57, Legislative Journal page 912.) [LB387]

SPEAKER FLOOD: Senator Larson, for a motion. [LB387]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB387 be adopted. [LB387]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB387 are adopted. Mr. Clerk. [LB387]

CLERK: Senator Hadley would move to amend with AM897. (Legislative Journal page 987.) [LB387]

SPEAKER FLOOD: Senator Hadley, you're recognized to open on AM897. [LB387]

SENATOR HADLEY: Mr. President, members of the body, I kind of felt like Senator Schilz for a moment there, trying to figure out what bill I was on here. (Laughter) Okay. I'm sorry for that comment, Senator Schilz. Actually, AM897 to LB387 were technical amendments that E&R brought down to us to the bill. So I would consider those technical changes to the bill. Thank you, Mr. President. [LB387]

SPEAKER FLOOD: Thank you, Senator Hadley. You've heard the opening on AM897. There are no other members wishing to speak. Senator Hadley, you're recognized to close. Senator Hadley waives his opportunity. The question before the body is, shall AM897 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB387]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Hadley's amendment. [LB387]

SPEAKER FLOOD: AM897 is adopted. Mr. Clerk. [LB387]

CLERK: Nothing further, Mr. President. [LB387]

SPEAKER FLOOD: Senator Larson, for a motion. [LB387]

SENATOR LARSON: Mr. President, I move that LB387 be advanced to E&R for engrossing. [LB387]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB387 is advanced to E&R for engrossing. Mr. Clerk, we now proceed to LB387A. [LB387 LB387A]

CLERK: LB387A, Senator, I have no amendments to the bill. [LB387A]

SPEAKER FLOOD: Senator Larson, for a motion. [LB387A]

SENATOR LARSON: Mr. President, I move that LB387A be advanced to E&R for

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engrossing. [LB387A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB387A is advanced to E&R for engrossing. We now proceed to Select File, 2011 committee priority bills, Nordquist division. We begin with LB329. [LB387A LB329]

CLERK: LB329, Senator, I have Enrollment and Review amendments. (ER55, Legislative Journal page 913.) [LB329]

SPEAKER FLOOD: Senator Larson, for a motion. [LB329]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB329 be adopted. [LB329]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB329 are adopted. Mr. Clerk. [LB329]

CLERK: I have nothing further, Mr. President. [LB329]

SPEAKER FLOOD: Senator Larson, for a motion. [LB329]

SENATOR LARSON: Mr. President, I move that LB329 be advanced to E&R for engrossing. [LB329]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB329 advances to E&R for engrossing. Mr. Clerk, LB90. [LB329 LB90]

CLERK: LB90, Senator, I have no amendments to the bill. [LB90]

SPEAKER FLOOD: Senator Larson, for a motion. [LB90]

SENATOR LARSON: Mr. President, I move that LB90 be advanced to E&R for engrossing. [LB90]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB90 advances to E&R for engrossing. Mr. Clerk, LB90A. [LB90 LB90A]

CLERK: LB90A, Senator, I have no amendments to the bill. [LB90A]

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SPEAKER FLOOD: Senator Larson, for a motion. [LB90A]

SENATOR LARSON: Mr. President, I move that LB90A be advanced to E&R for engrossing. [LB90A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB90A advances to E&R for engrossing. Mr. Clerk, LB509. [LB90A LB509]

CLERK: LB509, Senator, first of all, I have Enrollment and Review amendments. (ER60, Legislative Journal page 956.) [LB509]

SPEAKER FLOOD: Senator Larson, for a motion. [LB509]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB509 be adopted. [LB509]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB509 are adopted. Mr. Clerk. [LB509]

CLERK: Senator Nordquist would move to amend with AM1013, Mr. President. (Legislative Journal page 984.) [LB509]

SPEAKER FLOOD: Senator Nordquist, you're recognized to open on AM1013. [LB509]

SENATOR NORDQUIST: Thank you, Mr. President and members. This amendment contains some technical changes that the Revisor's Office felt shouldn't be done through E&R amendments, so we have an amendment to the E&R amendments to incorporate. And I'll read these briefly. It reinstated the 2009 date reference in the provision adding the Class V Retirement Act to LB403 language. It added standard boilerplate investment language to the newly created fund saying how those dollars in that fund should be invested. Struck the reference to eligible retirees, which is no longer defined. And referred to the section that provides the description of who qualifies as an eligible retiree and inserted the proper section reference to the new language added regarding the salary caps for school plan members. Changed the date to the LB403 language added to the Class V Retirement Act, corrects that date from 2011 to 2009. And it reinserts the date the terms begin for appointed board members of the Public Employees Retirement Board. Again, these were technical changes that the legal counsel for the committee worked on with the Bill Drafting Office. And I would appreciate your support of AM1013. [LB509 LB403]

SPEAKER FLOOD: Members, you've heard the opening on AM1013. There are no

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other lights on. Senator Nordquist, you're recognized to close. Senator Nordquist waives his opportunity. The question before the body is, shall AM1013 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB509]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB509]

SPEAKER FLOOD: AM1013 is adopted. Mr. Clerk. [LB509]

CLERK: Nothing further, Mr. President. [LB509]

SPEAKER FLOOD: Senator Larson, for a motion. [LB509]

SENATOR LARSON: Mr. President, I move that LB509 be advanced to E&R for engrossing. [LB509]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB509 advances to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2011 senator priority bill LB389. [LB509 LB389]

CLERK: I have E&R amendments first of all, Senator. (ER43, Legislative Journal page 817.) [LB389]

SPEAKER FLOOD: Senator Larson, for a motion. [LB389]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB389 be adopted. [LB389]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments to LB389 are adopted. Mr. Clerk. [LB389]

CLERK: Senator Cornett would move to amend with AM762, Mr. President. (Legislative Journal page 857.) [LB389]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM762. [LB389]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM762 makes technical and clarifying changes to the E&R amendment, ER43, to LB389 that were suggested by Bill Drafters. These changes are not substantive changes. For the purpose of clarification, the changes include defining the term "family member" rather than the term "family," substituting "taxable year" for "calendar year" in a number of places throughout ER43, and substituting the term "pass-through entity" for the term

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"fund," because the applicant for the certification as a qualified fund is a pass-through entity such as a partnership or limited liability company rather than any type of fund. With that, I urge the body to adopt AM762 and the technical corrections in it. Thank you. [LB389]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on AM762. There are no other lights on. Senator Cornett, you're recognized to close. Senator Cornett waives her opportunity. The question before the body is, shall AM762 be adopted? All those in favor vote aye; all those opposed vote nay. Record, please, Mr. Clerk. [LB389]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of Senator Cornett's amendment. [LB389]

SPEAKER FLOOD: AM762 is adopted. [LB389]

CLERK: Senator Cornett would move to amend with AM766. (Legislative Journal page 888.) [LB389]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM766. [LB389]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM766 is the amendment that we talked about on General File that I would be offering on Select File that defines the term "distressed area" for cities, counties with population less than 100,000 inhabitants, incorporated (sic) areas within a county, and census tract in Nebraska that has (a) an unemployment rate that exceeds the statewide average unemployment rate and per capita income below the statewide average per capita income and experienced a population decrease between the two most recent federal decennial censuses. It provides that the refundable income tax credit is 35 percent of the qualified investment, unless the qualified investment is in a qualified small business located in a distressed area, in which case the refundable income tax credit is 40 percent of the qualified investment. It conditions approval of the application for being a qualified investor, qualified fund, or qualified small business on meeting requirements for being a qualified investor, qualified fund, or qualified small business. It eliminates the application fees for qualified investors, the \$250, and pass-through entities of \$500. This was the compromise that addressed the concerns of Senator Carlson and Senator Schilz. I want to thank them very much for their input on this bill and urge the body to pass AM766. Thank you. [LB389]

SPEAKER FLOOD: Thank you, Senator Cornett. There are no members wishing to speak. Senator Cornett, you're recognized to close on AM766. Senator Cornett waives her opportunity. The question before the body is, shall AM766 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB389]

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CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Cornett's amendment. [LB389]

SPEAKER FLOOD: AM766 is adopted. Mr. Clerk. [LB389]

CLERK: Nothing further, Mr. President. [LB389]

SPEAKER FLOOD: Senator Larson, for a motion. [LB389]

SENATOR LARSON: Mr. President, I move that LB389 be advanced to E&R for engrossing. [LB389]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB389 is advanced to E&R for engrossing. Mr. Clerk, we now proceed to LB389A. [LB389 LB389A]

CLERK: LB389A, Senator, I have no amendments to the bill. [LB389A]

SPEAKER FLOOD: Senator Larson, for a motion. [LB389A]

SENATOR LARSON: Mr. President, I move that LB389A be advanced to E&R for engrossing. [LB389A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB389A is advanced to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2011 senator priority bill LB546. [LB389A LB546]

CLERK: Mr. President, if I may, right before that, Transportation Committee will have an Exec Session at 2:00 in Room 2022. With respect to LB546, Senator, I do have Enrollment and Review amendments. (ER44, Legislative Journal page 817.) [LB546]

SPEAKER FLOOD: Senator Larson, for a motion. [LB546]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB546 be adopted. [LB546]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB546]

CLERK: Senator Krist would move to amend with AM748, Mr. President. (Legislative Journal page 866.) [LB546]

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SPEAKER FLOOD: Senator Krist, you're recognized to open on AM748. [LB546]

SENATOR KRIST: Thank you, Mr. President and colleagues. We spoke to this at some length when it was on General. It would appear on the surface that when we deal with codes, that we are able to select the portion that we might omit. And if you'll recall, if you'll just take a look at LB546, you will see that we are shaving out, carving out, selecting, surgically removing sprinklers from the actual code and then approving that code, which is the 2009 building code. Let me review again, we have an Attorney General's Opinion that...the way the current statute reads, that is, that we have the 2000 code in place and that each code that comes out subsequently is automatically adopted. That is...it's not...we cannot do that. It is an unlawful delegation. Therefore, we must specifically adopt the code as they come out. Since the 2000 code, which is what we are currently...which currently is in force, of this building code, there have been the 2003, the 2006, the 2009, and there's already on the street and being adopted by the larger cities a 2012 code. With each additional code comes additional requirements. The sprinklers in the 2009 code, which we are about to adopt in LB546, requires that sprinklers be installed in new construction and single-family dwellings. If we take out the sprinkler systems by themselves, there are other items in the code that will be affected. I went on the mike last time on General and I said the same thing that I'll say today, we are not capable, I think, statewide, we are not capable, let me say it a third time, we are not capable of implementing mandatory sprinklers across the board in the state of Nebraska. There are a number of issues that are out there. However, to adopt a 2009 code that requires sprinklers to be part of the building process means that there are other things inside the code, inside of that one provision in that one area, that may be affected. There was a letter sent on November 12 that specifically highlights two items that would be changed that are not specifically addressed by this bill, that is, builders would be required to separate townhomes with two separate walls to achieve two fire...a two-hour fire-resistance rating between the homes; in the 2009 code it's only a single wall. So if we adopt the sprinklers...no sprinklers, as it is in LB546, there might be other items that are health and safety related that we're not dealing with in this legislation. Secondly, developers would not be allowed to increase the density of homes, which can make homes more affordable. Those, to me, are two examples of issues that are unintended consequences of carving out one section. So this is not about opt in, opt out anymore, this is not about whether or not we should put sprinklers in or not. Again, and for the fourth time, I don't believe the state of Nebraska is capable of installing or should be required to install sprinkler systems across the board. So this amendment simply says that we will adopt a code intact. And we will adopt the 2006 building code, which does not include mandatory sprinklers, and allow the subdivisions to add as they wish--so opting in to further codes or on the addition of further codes. Again, I believe, as I said before--and I have written a letter to Senator Wightman and to the Referencing Committee that codes are a serious issue--that those codes should probably go to a committee that has the continuity and the capability of dealing with those codes intact or, in terms of amending them, allowing political subdivisions, as currently is in statute,

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to allow that to happen. This is the safe thing to do, this is the right thing to do, adopt the code intact, 2006 code. So I would hope that you would vote green on AM748, which simply adopts the 2006 code, and we avoid mandating sprinkler systems across the state without adopting a follow-on code and potentially cutting out a piece that would cause health and safety concerns. With that, I rest. Thank you, Mr. President. [LB546]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Krist. You have heard the opening to AM748. Those wishing speak: Senators Gloor and McCoy. Senator Gloor, you are recognized. [LB546]

SENATOR GLOOR: Thank you, Mr. President. And good afternoon, members. I rise in opposition to AM748. I began shopping for Senator Krist's birthday gift. And knowing that he's a pilot, I looked for pilot sunglasses, but they were too expensive. I looked at ties, since he's such a nice dresser, and at my salary of \$12,000 a year, which matches a lot of salaries here, I guess, that, too, was too expensive. So I'm kind of at a stalemate here. I know one thing I don't want to give him and that is a green light on AM748. I am asking you to vote against AM748. Senator Krist and I are in agreement on almost everything about this bill and we've had great discussions about it. But his concern about the fact that taking something, something very significant, the sprinkler mandate, out of this bill will open some sort of Pandora's box of unintended consequence has not, in fact, been the case in other states that have done this. And you, once again, have a chart in front of you. I would point out that both Montana as well as Mississippi, who are green states, are soon to be blue states. We called, because of his concern, we called and checked with a number of these states: Iowa, Alabama, Florida, Georgia, Idaho, New Hampshire, North Dakota, Pennsylvania, South Carolina, South Dakota, Tennessee, and Texas. And none, when they slapped...they didn't just provide an option to go in and opt in, they just flat mandated that no one could require a sprinkler mandate, no cities, counties, municipalities, nobody could have a mandate. And in doing so, as they reviewed these statutes, felt that they were not undermining any fire safety concerns. Iowa, as an example, since we often look at Iowa as a neighbor next door, Iowa has both a building code advisory committee, made up of members of the building industry as well as regulators at the state level, and they also have a building code commissioner, who is a state employee. They deemed additional code changes were not necessary as a result of the sprinkler mandate being pulled out, did not see it necessary. These people analyzed these codes front and back and did not see this as a slippery slope in any way, shape, or form. I would ask you not advance this amendment, because, among other things, we'll be talking about this same thing next year. If there's not a concern that we're backsliding on other safety concerns, all we're doing now is going back to '06, we're not adopting the '09. We've talked here recently, as recently as today, about energy codes, and there are a number of things that happened from '06 to '09 that are a positive. We're saying the standard for building in this state is going to be

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'06, all because of the sprinklers. And although Senator Krist is concerned that piecemealing this will have unintended consequences, I will tell you, my research, and I think we have been thorough in this and we have worked through a number of these issues, says that's not going to be the case. We'll have to talk about this again next year. Sooner or later we'll have to adopt the '09 building code. And by the way, the '012 is right around the corner. Omaha has been working toward adopting the amendment, the '09 codes, with the sprinkler mandate not in, and they've already begun work on the preliminary 2012 that they think will be done around the bend. Our state would be at '06 if... [LB546]

SENATOR COASH: One minute. [LB546]

SENATOR GLOOR: ...AM748 went through. Thank you, Mr. President. Senator Krist's concern about this are admirable, but I can't allay his fears. I guess, I would end by way of saying there's an old saying, never put off till tomorrow what you can do today. And going back to '06, knowing that we'll have to be back looking at '09 again next year or the year after that, soon, at some point in time. Now is the time to act on this, now is the time to update our building codes. Please vote no on AM748. Thank you. [LB546]

SENATOR COASH: Thank you, Senator Gloor. Senator McCoy, you are recognized. [LB546]

SENATOR McCOY: Thank you, Mr. President and members. I rise this afternoon in opposition to AM748 but in full, complete support on the underlying LB546. We had a lot of discussion on this bill on General File. And as one who has more than a passing familiarity with this industry, as it is what I have done in my private life since high school, I felt it important that maybe I stand up and speak to this a little bit, of just why I am opposed to this amendment. I understand Senator Krist's concerns. And Senator Gloor did an admirable job outlining what we did, just coincidentally enough, earlier today, and that is talk about energy codes. And one of the things is I get trade journals and magazines and talk to my fellow contractors in not only the Omaha area but across the state; home construction, construction in general, whether it be framing, roofing, windows, whatever it is, is changing at the fastest pace that it has in decades, maybe ever. Literally on a monthly or quarterly, at minimum yearly, basis, there are major changes and advances in energy efficiency, just improvements in general in the quality of life for new construction and home renovation. And by going back to an older code, even though we may be operating under the 2000 code now, what I fear is that we've taken a step back in our state in how we are building homes. You know, a lot of people don't realize, in the home construction industry across the country, the state of Nebraska is looked to as having the most severe conditions for homebuilding of any state in the United States because we deal with so many weather extremes. So, in my mind, it behooves us to be looking at everything we can codewise to be building homes as safely and as efficiently as possible while still holding out on the sprinkler section of

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the code that we've talked about greatly. So with that, I, again, stand in opposition to AM748 but in support of the bill. Thank you, Mr. President. [LB546]

SENATOR COASH: Thank you, Senator McCoy. Senator Krist, you are recognized. [LB546]

SENATOR KRIST: I have two codes in front of me, international credential code of building codes: one is 2006, one is 2009. And it took me 15 minutes of looking through exceptions to find two issues that have to do with health and safety. I read them to you. If I had time or if you had the time to look through the codes the way we have the last two years, you might realize that there might be other things in here. I completely disagree with Senator McCoy, although I understand his credentials in the area. We're not going backwards. The city of Omaha is already adopting the 2012 code with exception. The city of Lincoln has already adopted and is using the 2009 code with exception. What you're hearing is that we're back at 2000. The truth of the matter is we have the 2000 code, is the only one legally in statute that we have adopted. Since that code and since the AG's Opinion, we could formally adopt '03, we could formally adopt '06, we today could formally adopt '09. And when the 2012 code comes out we could adopt '12. But '09 and '12 are not going to be in the best interests of the state of Nebraska, because we don't want to put sprinklers in our residential homes. What Senator Gloor is not telling you is there's 22 states out there, 22 states, that have either adopted the 2006 code formally, or less, rather than adopting the '09 code and putting them out. And that piece of literature was handed out by him in our general discussion, when it was on General File. I will again remind you that it's the same group of lobby that has said years ago we shouldn't put GFIs in because they're too expensive. And then we came back and we had to undo the code and put the GFIs back in. I won't withdraw the amendment, I do want it to go to a vote, I do want it to be a record vote because I do want every person in this room to understand that if you electively decide technically that you are a better expert than the people who are writing these codes and you will take them out one by one, I think it's a dangerous precedent, and that is the bottom line. You don't have to appease me, you don't have to talk me into it. I just think it's important for health and safety concerns that we adopt a code and we stay with it. There is no requirement that we adopt the 2009 code. There is no requirement that we adopt the '12 code. There is only the requirement that we adopt a code. And the statute that I handed out to you last time, on General File, it says simply, when the state of Nebraska adopts a code, the local subdivision can adopt any code after they adopt ours. They are already opting in to more safe concerns in subsequent codes. I don't want to make this a fight, and it's not going to be. This is the last time I'll speak on it. I'm asking you to consider to maintain the quality of the code intact and let's continue to have the debate about whether Nebraska can put sprinklers in or not or needs to put hovercraft barns next to the barn next time. But let's keep the code intact. Thank you, Mr. President. [LB546]

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SENATOR COASH: Thank you, Senator Krist. Those still wishing to speak: Senators McGill and Gloor. Senator McGill, you are recognized. [LB546]

SENATOR MCGILL: Thank you, Mr. President, members of the body. As a committee, we put a lot of thought into building codes. And it's why, on General File, I talked about how we are going to do an interim study, because I'm concerned about the lack of uniformity in code across the state. You know, really, whatever we pass, local governments are going to do whatever they want. I actually think Bob's amendment actually...honestly, right now, I do plan on voting for it, because it does keep the code whole. Major cities are already using a code that's more advanced, 2009 and 2012. As Senator Gloor mentioned, that in Iowa, where they've taken the sprinklers out, that the state building code commissioner didn't find anything else that needed to be changed in the code. But the mere existence of a state building code commissioner makes Iowa very different than Nebraska. We don't have any sort of board or individual at the state level who really looks into these codes. And so right now the best level of government to determine what's in or out really is at the local level. I voted to advance Senator Gloor's bill because I don't want sprinklers in the code that does become our state official code. But 2006, I think, is actually a good way for us to go about this while we look into, you know, the next session and how we can best adopt building codes in general. Maybe we need to create some sort of layer at the state level. I would...that doesn't necessarily sound appealing to me, but we can't necessarily compare Nebraska to other states and what we have the capability of doing at the state level as opposed to the local level without looking at that detail when it comes to the other states as well. AM748 keeps the sprinklers out, it keeps a unified code, so we can perhaps look forward and see in the future, you know, take a closer look at how we should deal with building codes in general instead of just this particular code that we're looking at right now. I have real concerns about this building code issue in general and how we're passing it and who follows it and what people can take in and what they can take out. I mean, if safety is the number one thing pushing us and we want a newer code, then we should be requiring all elements of the code. That means I wouldn't, if it was all elements, I wouldn't support '09 and '12 without people being able to take pieces out. But we need a better analysis of what local governments exist out there that have the ability to really look at a code and determine what's good or bad in that code or, if we're going to do this at the state level all the time, that we have a commissioner here in Nebraska that can look at that and inform us, who are not the experts on all elements of a building code. So right now I am inclined to vote for Senator Krist's amendment to keep a uniform code going forward. I think it accomplishes our ultimate goal. It does accomplish our ultimate goal with keeping sprinklers out of the system while allowing local municipalities to still work on a more advanced code, to still work on the 2009 code, to still work on the 2012 code, if they so wish. Thank you, Mr. President. [LB546]

SENATOR COASH: Thank you, Senator McGill. Senator Gloor, you are recognized.  
[LB546]

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SENATOR GLOOR: Well, we're kind of going back...thank you, Mr. President, members. We're kind of going back to where we started in some of this discussion about sprinklers, which is it's all well and good for some of the larger metropolitan areas, who have building departments, to say we're just going to go ahead and update to '09, eventually to '12. But I would remind the body that a majority of this state does not have building departments or building inspectors, for that matter, that are capable of doing anything more than working under what parameters we give them. And we're giving them the '06 parameters. I would say again, I have researched, as best I am able, any slippery slope we're dealing with here. Senator Krist gave some examples, but I would tell you that under the same codes that he is referencing, the International Residential Code that brought all this about, there is an exception, for fire-resistant ratings, of half-hour fire walls in two-family homes. They looked at this. These are professionals. They didn't just pass it and say it's an option when we put in these sprinklers. They took a hard look at this and knew that there were ramifications. We have pulled portions out of building codes ever since I've been here. Senator Giese had a bill that had to do with arc protectors that we felt comfortable taking a look at. Senator Hadley had a bill that related to the plumbing components of building codes. We've talked about energy codes. We will always talk about codes and components of the codes and things that we want to change within them and not do so with fear that making one decision results in some catastrophic tumbling event. With all due respect to Senator McGill, she can feel comfortable that her community has a building department that can work its way through some of these. The same is true with Senator Krist in his district. But again, a large number of communities in this state will not have that benefit. Two thousand six or '09, never put off to tomorrow what you can do today. I assure you, members, this is not a sticky wicket. And I would appreciate a no vote on AM748. Thank you. [LB546]

SENATOR COASH: Thank you, Senator Gloor. Senator Hadley, you are recognized. [LB546]

SENATOR HADLEY: Mr. President, members of the body, from personal experience, I can tell you that when you start working with codes, it is very confusing and very difficult. I had a plumbing bill that had to do with a national, United States code and then we had the international code and trying to figure out which one and where it was going to be and such as that. So just so the body will know, I am going to ask that there be a summer study on codes and how we handle them, not only in the body but in the state, and ask that probably Urban Affairs look at that this summer to see what we need to do to strengthen the way we look at codes and to get some uniformity across the state when we're dealing with this. So I applaud Senator McGill talking about the problems with codes. And I'm sure that she would, if we could get that study going this summer, I'm sure it will be done well by that committee. Thank you, Mr. President. [LB546]

SENATOR COASH: Thank you, Senator Hadley. Senator McGill, you are recognized.

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[LB546]

SENATOR MCGILL: I'll just be very brief. I'm going to support LB546 whether this amendment is adopted or not. I just want to make that clear, because I do believe sprinklers need to be out of the code. I'm going to advance the amendment or vote to advance the amendment. Again, just to reiterate, we don't have the expertise at our level right now to really be making many of these...okay, maybe on this particular amendment maybe we feel confident about taking sprinklers out. And I think many of us do feel like that should happen. But there are many other pieces of the code that could inevitably end up getting questioned. And that's where my concern lies, with our true expertise at our level of government as well as in the rural areas, because I agree with Senator Gloor that if you're outside of one of the cities of the first class or the metropolitan cities, the primary city, then, yeah. Who, at that level, is equipped to make the decisions about what goes in and out of a code? I don't know the answer to that, which is why I don't want sprinklers in there, so I want to make sure we're adopting something without sprinklers. But there is a problem if we don't have someone at our level of government really advising us on what should be in and out of a code. And there's no one at those local levels advising what should be in and out of a code. It's the dilemma that we face here today. It's something I feel really uncomfortable with. I hope that we've made our case, I think we have, that there's an issue here when it comes to our building codes. And it's caused us to be more thoughtful about what we're putting into our codes and what we're not and what precedents we're setting. But again, I plan on advancing the bill either way. I just hope that we've generated some good discussion and some thought processes here about what we're really doing. Thank you, Mr. President. [LB546]

SENATOR COASH: Thank you, Senator McGill. Seeing no other lights, Senator Krist, you are recognized to close on your amendment, AM748. [LB546]

SENATOR KRIST: In a respectful manner, I want you to think that...and I have, in a very respectful way, talked many times to Senator Gloor; we do have an agreement to disagree on whether we should surgically remove with an axe or with a scalpel any part of a building code. And I believe that the choice that you have before you is to adopt the 2006 building code, without fire sprinklers in it, this year; we do an interim study and a lot of study on how codes should be dealt with; we come back to you in 2012, because we will be back here in 2012 talking about the 2012, and we deal with the issue again. And if you vote green on this amendment you will indeed be able to say, we did an upgrade to the building code and we are going to deal with it in the future, and sprinklers will not be mandated across the state. And with that, I would ask for a call of the house. [LB546]

SENATOR COASH: There has been a request for a call of the house. All those in favor of putting the house under call vote aye; those opposed vote nay. Record, Mr. Clerk.

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[LB546]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB546]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Cornett, Lathrop, Smith, Wallman, Ashford, Carlson, Burke Harr, please return to the Chamber. The house is under call. Senator Cornett, please return to the Chamber. The house is under call. Senator Krist, all members are present or otherwise accounted for. How would you like to proceed? [LB546]

SENATOR KRIST: A machine record vote, please. [LB546]

SENATOR COASH: The question is the adoption of AM748. All those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB546]

CLERK: (Record vote, Legislative Journal pages 997-998.) 14 ayes, 25 nays on the amendment, Mr. President. [LB546]

SENATOR COASH: The amendment is not adopted. Raise the call. [LB546]

CLERK: I have nothing further pending to LB546, Mr. President. [LB546]

SENATOR COASH: Senator Larson, for a motion. [LB546]

SENATOR LARSON: Mr. President, I move that LB546 be advanced to E&R for engrossing. [LB546]

SENATOR COASH: Members, you have heard the motion to advance LB546 to E&R for engrossing. All those in favor say aye. Those opposed, nay. LB546 is advanced. Mr. Clerk, we will proceed to 2011 senator priority bills, Pankonin division. [LB546]

CLERK: Mr. President, with respect to LB421, Senator Larson, I have Enrollment and Review amendments. (ER45, Legislative Journal page 845.) [LB421]

SENATOR COASH: Mr. Larson, for a motion. [LB421]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB421 be adopted. [LB421]

SENATOR COASH: The question is the adoption of the E&R amendments to LB421. All those in favor say aye. All those opposed say nay. The amendments are adopted.

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[LB421]

CLERK: I have nothing further on LB421, Mr. President. [LB421]

SENATOR COASH: Senator Larson, for a motion. [LB421]

SENATOR LARSON: Mr. President, I move that LB421 be advanced to E&R for engrossing. [LB421]

SENATOR COASH: You've heard the motion. All those in favor say aye. Those opposed say nay. LB421 is advanced. We will now proceed to 2011 Speaker priority bills, Campbell division, LB541. [LB421 LB541]

CLERK: LB541, no Enrollment and Review. Senator Campbell would move to amend with AM988. (Legislative Journal page 984.) [LB541]

SENATOR COASH: Senator Campbell, you're recognized to open on your amendment, AM988. [LB541]

SENATOR CAMPBELL: Thank you, Mr. President. And good afternoon, colleagues. I have to tell you that it's not very often in the Health and Human Services Committee that almost all the medical people line up and the director of Medicaid is on the same side. This amendment does exactly that. As you will remember the discussion on LB541, it's a series of contracts that the department would put out in order to ascertain if we can bring in some additional money to the state. AM988 is a simple amendment that removes from the bill the language that requires initial contracts to be entered into on or before July 1 of 2011 and substitutes language that "initial contract shall be entered into as soon as practicable under such federal law and regulation." The purpose of the amendment is to provide the appropriate time frame for entering into the Recovery Act, which drew the most attention and is one of the components in the bill. The Recovery Act contracts must be in compliance with Medicaid federal regulations. Currently, the federal CMS is working on the final rules for Medicaid contracts. According to communications from CMS, the rules will be completed by the end of this year and subsequently state Medicaid programs will be required to institute the programs. This amendment changes the date in recognition of the delay in the federal regulations. This is important, colleagues, because I think the medical community as well as the director did not want to be in a situation in which we would put forth a contract and then find out what the federal regulations would be. And so both sides came and said, could you introduce an amendment that would clarify that. And that is AM988. Thank you, Mr. President. [LB541]

SENATOR COASH: Thank you, Senator Campbell. You've heard the opening to AM988. There are no members wishing to speak. Senator Campbell, you're recognized

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to close on your amendment. Senator Campbell waives closing. The question is, shall AM988 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Mr. Clerk. [LB541]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Campbell's amendment to LB541. [LB541]

SENATOR COASH: AM988 is adopted. [LB541]

CLERK: I have nothing further on the bill, Mr. President. [LB541]

SENATOR COASH: Senator Larson, for a motion. [LB541]

SENATOR LARSON: Mr. President, I move that LB541 be advanced to E&R for engrossing. [LB541]

SENATOR COASH: Members, you have heard the motion to advance LB541 to E&R for engrossing. All those in favor say aye. Those opposed say nay. LB541 is advanced. Mr. Clerk, next bill. [LB541]

CLERK: Mr. President, LB465, Senator, I have no amendments to the bill. [LB465]

SENATOR LARSON: Mr. President, I move that LB465 be advanced to E&R for engrossing. [LB465]

SENATOR COASH: Senator Council. [LB465]

SENATOR COUNCIL: Thank you, Mr. President. And with all due respect to my colleagues, I was unable to be present during the debate on LB465 on General File. And I would respectfully request a machine vote. [LB465]

SENATOR COASH: There has been a request for a machine vote on the advancement of LB465. All those in favor vote aye; those opposed vote nay. Have all voted who wish to? Mr. Clerk. [LB465]

CLERK: 28 ayes, 5 nays, Mr. President, on the advancement of LB465. [LB465]

SENATOR COASH: The bill is advanced. Senator Larson. [LB465]

CLERK: Well, Mr. President, with respect to the next bill, LB468, Senator, I do have E&R amendments pending. (ER56, Legislative Journal page 912.) [LB468]

SENATOR COASH: Senator Larson. [LB468]

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SENATOR LARSON: Mr. President, I move that the E&R amendments to LB468 be adopted. [LB468]

SENATOR COASH: Members, you've heard the motion to adopt the E&R amendments. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB468]

CLERK: I have nothing further on the bill, Mr. President. [LB468]

SENATOR COASH: Senator Larson. [LB468]

SENATOR LARSON: Mr. President, I move that LB468 be advanced to E&R for engrossing. [LB468]

SENATOR COASH: Members, you've heard the motion to advance the E&R amendments to E&R for engrossing. All those in favor say aye. Those opposed say nay. LB468 is advanced. Mr. Clerk. [LB468]

CLERK: LB20, Senator, first of all I have Enrollment and Review amendments. (ER11, Legislative Journal page 461.) [LB20]

SENATOR COASH: Senator Larson. [LB20]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB20 be adopted. [LB20]

SENATOR COASH: You've heard the motion to advance the E&R amendments. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB20]

CLERK: Senator Flood would move to amend with AM657. (Legislative Journal page 786.) [LB20]

SENATOR COASH: Senator Flood, you are recognized to open on AM657. [LB20]

SPEAKER FLOOD: Thank you, Mr. President and members. This amendment clarifies some of the language that we previously dealt with when we passed the initial pseudoephedrine-behind-the-counter act from Senator Pat Bourne back in 2006. It clarifies the language so that we have...we harmonize the language with what we've done in a previous session. More specifically, it's straightforward, it provides for increased penalties, a Class IV misdemeanor for the first offense and a Class III misdemeanor for each subsequent offense, for the acquisition of meth precursors,

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pseudoephedrine or phenylpropanolamine, in excess of the 24-hour limit in Section 28-456. It also provides a penalty for the acquisition of these meth precursors in excess of the 30-day limit in 28-456. The main reason law enforcement in my district brought this idea to me is that when Sections 28-456 and 28-456.01 were changed in 2009 to mirror the federal pseudoephedrine limitations for daily and 30-day purchases, a 30-day penalty provision was not included. In other words, this Section 28-456 contains a 30-day prohibition but not a penalty for its violation. This amendment essentially models exactly LB668, which the Judiciary Committee heard; and at the time we had the hearing I advised them I was going to amend this onto LB20. It makes sure there is a penalty attached to the 30-day violation or the 30-day provision. Thank you, Mr. President. [LB20 LB668]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Flood. Are there senators wishing to be heard? Senator McCoy, you are recognized. [LB20]

SENATOR McCOY: Thank you, Mr. President, members. I'll be very brief. I stand in support of AM657, Senator Flood's amendment, and, of course, to the underlying bill, LB20. Thank you, Mr. President. [LB20]

SENATOR GLOOR: Thank you, Senator McCoy. There are no additional senators wishing to be heard. Members, the question is the amendment to LB20, shall they be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB20]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Flood's amendment. [LB20]

SENATOR GLOOR: The amendment is adopted. [LB20]

CLERK: Senator Lautenbaugh would move to amend with AM1027. (Legislative Journal page 999.) [LB20]

SENATOR GLOOR: Senator Lautenbaugh, you are recognized to open on your amendment. [LB20]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Careful observers of the Legislature may recall we had a protracted and vigorous discussion on General File about the immunity clause in this bill and an amendment I carried. This amendment would simply restore the language that was in the underlying bill, the green copy that was introduced, regarding immunity. It would provide immunity for pharmacies that participate in this program. It was designed originally to mirror the existing law

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regarding the paper registry. It is a good amendment; it is a clear amendment. It is an amendment that people know how to work with, I should say, currently, because it is existing law for the paper registry. And I would urge your approval of the amendment. [LB20]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator McCoy, you are recognized. [LB20]

SENATOR McCOY: Thank you, Mr. President, members. I stand in support of AM1027. I certainly don't want to speak for a couple of our colleagues who aren't currently in the Chamber, but it's my understanding Senator Ashford and Senator Lathrop are both supportive of this concept, as we've worked together between General File and Select File today on this issue. And I stand in support of AM1027. Thank you. [LB20]

SENATOR GLOOR: Thank you, Senator McCoy. There are no additional senators wishing to be recognized. Senator Lautenbaugh waives. Members, the question is, shall the amendment to LB20 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB20]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. [LB20]

SENATOR GLOOR: The amendment is adopted. [LB20]

CLERK: I have nothing further on the bill, Mr. President. [LB20]

SENATOR GLOOR: Senator Larson. [LB20]

SENATOR LARSON: Mr. President, I move that LB20 be advanced to E&R for engrossing. [LB20]

SENATOR GLOOR: You have heard the motion. All in favor say aye. All opposed, nay. LB20 is advanced. Mr. Clerk. [LB20]

CLERK: LB41, Senator Larson, I have E&R amendments first of all. (ER46, Legislative Journal page 845.) [LB41]

SENATOR GLOOR: Senator Larson. [LB41]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB41 be adopted. [LB41]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those

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opposed say nay. The amendments are adopted. [LB41]

CLERK: Senator Coash would move to amend with AM737. (Legislative Journal page 871.) [LB41]

SENATOR GLOOR: Senator Coash, you are recognized to open on your amendment. [LB41]

SENATOR COASH: Thank you, Mr. President. Good afternoon, members. Colleagues, I bring you AM737, which was...is originally LB697, which was advanced from the Natural Resources Committee on a vote of 8-0. This bill was not prioritized, and so I have worked with Senator Hadley to amend this onto his bill. AM737 is a straightforward bill (sic) that provides for the possible permit eligibility for those with revoked hunting and fishing permits outside of Nebraska. It allows Nebraska Game and Parks to create a process to determine whether the offense for one's permit to hunt, fish or harvest has been revoked in a jurisdiction outside of Nebraska...to find out if it is also an offense under Nebraska's Game and Parks law. It also allows the Game and Parks Commission to determine whether such person is eligible for a permit in Nebraska by way of a hearing, if necessary, to confirm the revocation or reinstatement--to reinstate the eligibility to purchase a Nebraska permit. This bill came to me as I learned that there are offenses in other states that revoke your right to hunt and fish which are not offenses in our state. States across the country are currently writing hunting and fishing laws that are more and more restrictive in order to revoke the hunting licenses and put the rights of hunters behind other rights. Senator Pirsch has a constitutional amendment to go the other direction, and I'll be supportive of that. It is good that we have reciprocity with other states; however, we do need to give our department tools to determine whether or not we will revoke a hunting or fishing permit when someone has lost it in another state. I would like to highlight a couple elements of this bill, this amendment. AM737 allows for local control and discretion at the Nebraska Game and Parks. As I stated, some states suspend hunting permits for minor violations which should not necessarily forbid them from hunting in our state. This bill allows Nebraska authorities to dictate who may hunt within its borders. Colleagues, we may be at the mercy of other states' laws. And I believe this amendment puts our destiny in our own hands. This amendment also provides Nebraska with transparency and oversight of hunters who would otherwise operate clandestinely due to their revoked permits in other states. Finally, this bill provides accountability, as Game and Parks can obtain information, which they cannot do, about the petitioner through a hearing process and can make the judgment as to whether or not he or she is fit to hunt or fish in our state. This gives people who might otherwise break the law an opportunity to rectify it. Again, colleagues, this bill had no opposition in the hearing. It was supported by the Sportsmen's Caucus, the NRA. And I would urge the advancement of AM737. Thank you, Mr. President. [LB41 LB697]

SENATOR GLOOR: Thank you, Senator Coash. Mr. Speaker, you are recognized.

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[LB41]

SPEAKER FLOOD: Thank you, Mr. President and members. A couple of notes here. As you'll note on our agenda, we're getting very close to the end of Select File. And the agenda does state that if time permits, and I assume it will, we're going to return to the agenda at the location left at noon recess. I'm going to modify that a bit. We didn't have the chance to take up Senator Utter's LB156 this morning. He's obviously here this afternoon. So upon our return, after the end of Select File, we're going to go back up and finish up LB156. And then we will immediately proceed to Senator Howard's bill, where we left ourselves prior to recess at noon. So after Select File, we'll go to Senator Utter's LB156, and then we'll go forward with the agenda beginning with Senator Howard's bill. And I am expecting a 4:00 p.m. adjournment today, a 4:00 p.m. adjournment. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Flood. Members, you've heard the opening on AM737. Are there members wishing to speak? Seeing none, Senator Coash, you're recognized. Senator Coash waives. The question is, shall the amendment to LB41 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB41]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Coash's amendment. [LB41]

SENATOR GLOOR: The amendment is adopted. [LB41]

CLERK: I have nothing further on the bill, Mr. President. [LB41]

SENATOR GLOOR: Senator Larson. [LB41]

SENATOR LARSON: Mr. President, I move that LB41 be advanced to E&R for engrossing. [LB41]

SENATOR GLOOR: You've heard the motion, members. All those in favor say aye. All those opposed say nay. LB41 is advanced. Mr. Clerk. [LB41]

CLERK: LB45, Mr. President, I do have Enrollment and Review amendments, Senator. (ER52, Legislative Journal page 855.) [LB45]

SENATOR GLOOR: Senator Larson. [LB45]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB45 be adopted. [LB45]

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SENATOR GLOOR: You've heard the motion. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB45]

CLERK: Senator Fulton would move to amend with AM795. (Legislative Journal page 902.) [LB45]

SENATOR GLOOR: Senator Fulton, you are recognized to open on your amendment. [LB45]

SENATOR FULTON: Thank you, Mr. President, members of the body. AM795 is the...the Revisor's Office came back and said that there are some things that they couldn't get in the E&R amendments, similar to some other amendments we heard today out here on the floor. So that's what AM795 is. And I'll point out the things that it does. Number one, it adds a new section to update a reference to project cost threshold for the engineer supervision requirement in Nebraska Revised Statute 2-3256 to correspond with the reference to projects in excess of \$100,000 in LB45. This change also occurs in similar reference within Section 81-3445 regarding public works. Number two, LB45 makes several references to the "National Architectural Accreditation Board." The name of the board is actually the "National Architectural Accrediting Board." References are changed accordingly throughout the bill. And lastly, in 81-3451 and 81-3453, there are references to the "Accrediting Board for Engineering and Technology." The name of that board is actually now ABET and references throughout the bill are changed accordingly in AM795. So I ask for your green vote on AM795. Thank you, Mr. President. [LB45]

SENATOR GLOOR: Thank you, Senator Fulton. There are no senators wishing to be recognized. Senator Fulton, you're recognized to close. Senator Fulton waives. The question is, shall the amendment to LB45 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB45]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB45]

SENATOR GLOOR: The amendment is adopted. [LB45]

CLERK: I have nothing further on the bill, Mr. President. [LB45]

SENATOR GLOOR: Senator Larson. [LB45]

SENATOR LARSON: Mr. President, I move that LB45 be advanced to E&R for engrossing. [LB45]

SENATOR GLOOR: You have heard the motion, members. All in favor say aye. All

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those opposed say nay. LB45 is advanced. Items for the record, Mr. Clerk. [LB45]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB204, LB204A, and LB431 to Select File, some of which have Enrollment and Review amendments attached. Health Committee, chaired by Senator Campbell, reports LB494 to General File and LB456 to General File with amendments. And I have a motion to be printed with respect to LB544 by Senator Coash. That's all that I have, Mr. President. (Legislative Journal pages 999-1000.) [LB204 LB204A LB431 LB494 LB456 LB544]

SENATOR GLOOR: Thank you, Mr. Clerk. Members, as pointed out by the Speaker, we now return to General File, LB156. [LB156]

CLERK: Mr. President, LB156 was a bill originally introduced by Senator Utter. (Read title.) Introduced on January 7 of this year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. I have no amendments at this time, Mr. President. [LB156]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Utter, you are recognized to open on LB156. [LB156]

SENATOR UTTER: Thank you, Mr. President. Good afternoon, colleagues. First of all, I want to extend my appreciation to the Speaker for accommodating the necessity of me being gone for a while this morning and appreciate him putting me back on the agenda. Today I'm introducing LB156, which is in regard to the emission fees that electric generating facilities pay under the Clean Air Act. The purpose is to allow mid-sized electric generating facilities to be considered a separate source of emissions for the purposes of the Clean Air Act emission fees, even if the facility is subsequently permitted with another, larger general unit under a separate ownership. Under the Nebraska Clean Air Act, facilities that produce certain emissions are required to pay a per ton fee to the Department of Environmental Quality to fund the administration of the Clean Air Act program. There are two caps on the emission fees paid. One cap is for 4,000 tons on large facilities, which means it can generate over 115 megawatts. The other cap is for 400 tons on mid-sized generating facilities. A mid-sized electric facility can generate between 70 and 115 megawatts. The city of Hastings electric facility is one of the mid-sized electric generating facilities. It has the ability to generate 77 megawatts. It services Hastings along with surrounding communities. It has paid emission fees under the smaller cap for several years, but now it is faced with having to comply with a higher cap because of another, larger electric generating facility that has been built next to the Hastings plant. This larger facility is owned through a partnership with the cities of Hastings, Grand Island, Nebraska City, along with MEAN, which stands for the Municipal Energy Agency of Nebraska, and Heartland Power, which is a public power utility located in South Dakota. All of these entities are public, not-for-profit organizations that came together for a joint project. While this facility is under separate

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ownership, it is being operated jointly with the city of Hastings electric facility. This new facility will have the capacity to generate around 220 megawatts. Under the law, the Hastings facility is being considered to be a part of the new facility and therefore has to pay emission fees under the higher cap. This means that customers of the Hastings electric utility will pay emission fees higher than the fees paid by the customers of other electric utilities. LB156 amends Section 81-1505.04 to provide that a mid-sized electric generating facility would be considered a separate emission source for the purposes of the emission fee, even if the facility is subsequently permitted with another, larger unit, larger than the 115 megawatts under separate ownership. This will allow the mid-sized electric facility to retain the smaller cap even if paired with a larger electric facility, as long as the facilities have separate ownership. Under LB156, the Hastings facility will continue to pay emission fees under the smaller cap. The new facility will pay emission fees under the larger cap. LB156 is not only important to the city of Hastings and the citizens who rely on this facility but the public power consumers throughout the state of Nebraska. The construction and operation of the new 220-megawatt plant has a positive fiscal impact on all facilities with chargeable pollutants in the state, as the fees for the new plant will reduce the fees paid by all other facilities. There will be no net cash fund impact to the Department of Environmental Quality, because the emission fee assessed in the future years would be adjusted to reflect the lower revenues received from a facility meeting the LB156 criteria. With that, I urge you to move LB156 on to Select File and stand ready to answer any questions you may have. Thank you, Mr.... [LB156]

SENATOR GLOOR: Thank you, Senator Utter. Are there members wishing to speak? Seeing none, Senator Utter, you are recognized to close on LB156. [LB156]

SENATOR UTTER: Thank you very much, Mr. President. And I appreciate, colleagues, the fact that there was no questions. And I urge you to vote green. Thank you. [LB156]

SENATOR GLOOR: Members, the question is the advancement of LB156 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB156]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB156. [LB156]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB156]

CLERK: Mr. President, LB95, by Senator Howard, is the bill relating to infants. It requires accreditation for lead agencies contracting with the department. The bill has been discussed, Mr. President, on March 23 and again this morning for a short time. This morning during consideration Senator Janssen had offered an amendment to the committee amendments, which was adopted. The Health and Human Services Committee amendments are now pending, Mr. President. That's all I have left to the bill at this point. (AM704, Legislative Journal page 813.) [LB95]

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SENATOR GLOOR: We'll continue discussion on the adoption of the committee amendments. When we last left, members in the speaking queue were: Wallman, Coash, and Lautenbaugh. Senator Wallman, you are recognized. [LB95]

SENATOR WALLMAN: Thank you, Mr. President. I appreciate Senator Howard bringing this forth. I'm not exactly prepared to talk anything on this right now. But I hate to micromanage agencies myself, but as we seen what happened over the past summer, I think we are in charge of taxpayers' money. And they're very upset when things go bad, and they blame us. So we are responsible for what happens in here. So I thank you, Senator Howard, for bringing this forward. [LB95]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Coash, you are recognized. [LB95]

SENATOR COASH: Thank you, good afternoon, members. So we are back talking about LB95 and the underlying committee amendment. I want to speak to the main tenets of LB95, which is the mandate of accreditation for lead agencies. And before we adjourned for lunch today, we were talking about where lead agencies that we currently have are with this process and what this bill would do for future lead agencies. Let me review, Nebraska right now has two lead agencies, who prior to this bill being introduced were working toward accreditation. They were doing that not because they thought LB95 was coming, they were doing that because the department authorized and mandated that they do that through the contract that they signed with the state of Nebraska. So the two agencies that we have are already working through it. And without regard to the moratorium that's being placed...being advanced through AM704, we won't have any more lead agencies to be accredited. Therefore, I ask, why do we need LB95? If the lead agencies need to be accredited, the department will continue to do what they have done, which is mandate that through the contract. So I don't know why we need a bill to require something that the department is already doing. Most importantly, colleagues, I don't want you to vote for LB95 and think that you have done your part to steer the ship of child welfare in the right direction. Accreditation by lead agencies does not do that. Let me tell you what accreditation does do, it costs money. And again, this is money that the current lead agencies are already spending because of the contract. But it costs money and it costs resources, and those resources have to go from somewhere. And while we're talking about resources, colleagues, we're looking at a situation where those agencies will have to meet those needs with 4 percent less money in the coming budget than they had in the previous budget. So here we are saying to future lead agencies, do more with less. The resources that it's going to take for any future lead agencies to become accredited will come at the expense of service for the people that they are charged with providing services to. Accreditation is bureaucratic. It will put extra resources into agencies' accounting departments. It will put more resources into the quality assurance departments, but it will pull those resources

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from the very place where we need them most, which is at the point of service for children and their families. Providers and HHS continue to ask this body for flexibility to do what we asked them to do, because they know that they can't ask for more money. LB95 is pretty inflexible. We have three options available in our state to make changes to the way that HHS does its business. The first and the most restrictive option is by putting something in statute. If we decide that that's a good idea and LB95 is adopted and then we come back and we decide that's not a good idea, that doesn't happen until somebody introduces a bill to make a change. [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR COASH: The second way we have to do that is through our rules and regulations process. That process doesn't take legislative change, but it does have an open hearing, much like a bill. And the third way, which is the way the department is currently doing it, is through mandating it through the contracts. I would put to you, colleagues, that that is the appropriate way to go. LB95 is kidding ourselves if we think this reforms child welfare. It does not. It does not address the real issue. What it does is micromanage. And we had a discussion on LB218 that got 35 votes because this body decided that micromanaging the department is not where we wanted to go. LB95 adds future costs, which we can't afford to do. [LB95 LB218]

SENATOR GLOOR: Time. [LB95]

SENATOR COASH: Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Coash. (Visitors introduced.) Senator Lautenbaugh, you are recognized. Senator Coash, you are recognized. Senator Coash waives. Senator Campbell, you are recognized. [LB95]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I wanted to clarify some comments this morning so that it was very clear what we were trying to do on the amendment. And I was asked if, in light of the Governor's letter that has come to me, and I will convene the committee and discuss, I had said upon...that I would like you all to pass the bill. I meant to advance the bill, if I misspoke, from General File to Select, so that between General File and Select we could look at the letter and have an opportunity to discuss that letter. So I wanted to clarify that I had asked to advance the bill. Another question had been that I had talked this morning about the Third District. And I meant as a general geographic area, but it does include portions, obviously, of the First District. There are three service areas that we are talking about: the western, central, and northern. So, for the record, wanted to make that very clear. And I want to restate again that I'm very appreciative of the members of the Health and Human Services Committee and their willingness to sit down and very seriously consider the letter that has come to us from the Governor. I want to make a comment about

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accreditation. You know, accreditation among child welfare agencies is a matter of setting a standard by which other agencies can look and the public can look at an agency and say they have met that standard. In the two lead agencies that we have, one of them is a collaboration. And my understanding is all the agencies within the collaboration are accredited. But what they are trying to do as a lead agency is to make sure that as that collaboration is recognized, that it too has that standard, that recognition of excellence, that it has been vetted, that it is best policy, that it brings forward the best that a child-serving agency can do. I know that KVC has been accredited in other states, and they are choosing to go through that process so that they are sure that that same standard sits in place. It is important, I think, to look at what Senator Howard was trying to achieve by saying that there is a certain standard. And many of you in this body deal with organizations that seek accreditation in their own professional field, and we look to that accreditation as an important standard. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Howard, you are recognized. [LB95]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'd like to address some of the things that Senator Coash threw out here...no, accreditation isn't the total answer; of course, it's not. This is a part of the entire picture. As Senator Campbell so eloquently said, this gives you a standard. This is a measurement. This is a quality of delivery of service. Agencies respect this. This isn't just an offhanded gesture that would be nice to do. This really goes to the delivery of service. I'll just give you something that comes to my mind. You wouldn't want to send your child to a school that's not an accredited...or you wouldn't consider taking your baby to a doctor that's not licensed but maybe he's working on his license. I think you would prefer to see a physician that actually is licensed in the state of Nebraska. Now, I realize it's not the same kettle of fish, but it's very similar. I think I'm safe in saying that I am the only person here on the floor that's gone to Kansas to actually see the facility that KVC has operated in Kansas. And the facility itself is very impressive. They've obviously put a lot of money and a lot of care into their building and their operations. But when I'd ask the administrators from the Health and Human Services Child Welfare Division if they had gone down there and seen this prior to their making a contract agreement with KVC, none of them had. And I was shocked by that. I sort of felt that was like buying something that you would want to view first and have the complete picture on before you engaged in that sort of contractual arrangement. But no one had gone down there. I will point out to you that this bill passed out of committee 7-0, which I appreciate. And I especially remember when I started down here that one of the important things to remember was to let the committees do their work. We had a lot of discussion about this; we had a lot of testimony on this. And I say to you that accreditation is one piece of the picture. Do I have the answer on this? No one, none of us out on the floor, no one over in Health and Human Services has the total answer. This is a very complex

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arrangement we're entering into. This is a huge change in delivery of service. But for this change to have meaningful impact, accreditation has to be a part of the total picture. These agencies are working on this, and I want to think that they're working on this not only because they feel that it's required, that this is something they should do, but also because they have respect for this process and they realize the importance of delivering quality services to children in the state of Nebraska. I ask you to support this bill and to vote green both on the amendment from the committee and on LB95. Thank you. [LB95]

SENATOR GLOOR: Thank you, Senator Howard. Senator Krist, you are recognized. [LB95]

SENATOR KRIST: Thank you, Mr. President and colleagues. I once again come to the mike in support of the intent of LB95 and also the amendment AM704. I realize and I understand that my committee Chair will work between now and Select to work some issues that have been brought up. I again would remind you that the Governor's letter simply says what Section 2 of the bill says, in terms of a concurrence that we do need to slow down. We do need to make sure that the folks are accredited. And again I will remind you, and I'll be brief on this matter, but if the agency was doing...if Health and Human Services...if the Department of Health and Human Services was doing as we would have expected them to do, each one of those contractors would have been financially able to move forward and execute the contract. They would have been accredited to do that process. And it is my conviction that those two things should probably be verified...not probably; they should be verified prior to engaging in a contract with the state of Nebraska, because it would be the best thing for the families and the children that we are trying to protect within the system. I'm sure there will be more...I'm sure my committee will have more work to do--Senator Campbell's committee. And I'm sure that our committee members are up to the task, and I would invite you to talk to each one of us if you have concerns on how to make this work. But I would also suggest, as I've said to colleagues during the lunch hour, this is not something we can kick to the next session or down the road. This is a decision that needs to be made. We need to deal with this in this session. Thanks for your time. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Krist. Senator Coash, you are recognized. [LB95]

SENATOR COASH: Thank you, Mr. President. Once again, colleagues, LB95 addresses accreditation for agencies who are already going through accreditation. So I guess what we're saying if we pass LB95 is: We really mean it; we really want you to be accredited, and you putting your signature at the bottom of a contract isn't good enough for us to believe that you'll go through accreditation; what we need is we need to put it in statute to say that you will. I have not heard the case presented that says that we need

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this in statute. This body has already sent the message to HHS: start fixing what's broke. We have lots of ideas. Senator Campbell this morning said they have seven bills to put parameters around child welfare. But this is the bill that does the least out of those bills. This bill puts into statute something that is already occurring. Accreditation, at the end of the day, is a plaque that an agency gets to hang on their wall because they were able to prove to the accrediting agency that they can jump through some hoops. And it costs resources to do that, and those resources come from somewhere, colleagues, and it comes from the point of service, where we need those resources the most. As I've talked to many of my colleagues about why accreditation should or should not be mandated in statute, I hear colleagues say things like: I don't know, Senator Coash, if we can trust the department to continue to do this without us putting it in statute. Well, the department, with regard to accreditation, without anything that we said, put this into their contracts. And they haven't said to the HHS Committee, to the LR37 committee, where I sit, they haven't said: Look, we're going to continue...we're not going to continue to require accreditation for these agencies. Colleagues, I understand if you're distrustful of HHS. I do understand that. And if you believe that the only way to get outcomes from HHS is by hard-wiring mandates in statute that they're already doing, then you should vote for LB95. But I will ask you: What does it...at the end of the day, what does this accomplish? We can wring our hands and say: Oh, goody, Nebraskans, we just put into statute what they do in contracts already; we feel good about that, and we hope that HHS shapes up because of that. It's not the kind of reform that is needed to turn this ship. There are plenty ideas of reform on this. Senator Campbell has introduced many of them. The HHS Committee is considering many of them. I hope to see meaningful reform coming out of this committee. We need it. We need the HHS Committee and this body to give direction in a meaningful way. LB95 doesn't do that, colleagues, and for that reason I would urge your...I would urge you to vote against this bill. [LB95 LR37]

SENATOR GLOOR: One minute. [LB95]

SENATOR COASH: Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Coash. Senator Lautenbaugh, you are recognized. [LB95]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'm not going to belabor Senator Coash's points, but I will to a certain extent reiterate them. We're talking about requiring accreditation for entities that, by contract, are already required to be accredited and are going through it in advance of this bill. And the requirement in the contract I don't believe arose because of this bill. And so we've tacked onto the accreditation requirement, once again, when people are already getting accredited anyway, a requirement that we have a moratorium that I think everyone now has agreed...the Governor said today, but I believe I was told last week, that nothing

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before June of next year anyway. And we're told we must take action; we must...we can't kick the can down the road. I would submit to you that nothing we are discussing here constitutes action. Nothing we're discussing here would do anything to change our current reality. And we are spending a ton of time on this, and we're being told, you know, gosh, we have to do something; we have to do something. That's the kind of thing that infuriates me. We have to do something that actually makes sense, that's helpful, to do things that actually accomplish something, not just do something so we can say, well, we didn't kick the can down the road--by gosh, we acted. There's an old Peter Cook and Dudley Moore routine where--"The Frog and Peach"--where Peter Cook is saying he was opposed to World War II, and Dudley Moore said: Well, yeah, a lot of us were. And the other guy said: Well, I wrote a letter. So there you go--he took action. He wrote a letter saying World War II was dreadful business. Well, that's kind of what we're doing here. We're going to require people that are already seeking accreditation to, I guess, extra-super seek accreditation, and then we're going to put a moratorium on something that isn't happening. Next to messing with daylight savings time, this might be the most ridiculous venture that we could have gone on this year. And here we are. And I don't see this bill passing with my cooperation--let me be clear on that. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Conrad, you are recognized. [LB95]

SENATOR CONRAD: Thank you, Mr. President, and thank you, colleagues. I've been listening carefully to the debate and I think it's been good. I think it's without question that we have serious issues to deal with in the arena of our child welfare agencies and programs. There is no question that we each bring with us a different set of perspectives and ideas about how to address those important issues, but I think it's very disrespectful to the gravity of the issue to say that this is a ridiculous option. Senator Howard has devoted her life to serving troubled children, and the Department of Health...and the committee, the Health and Human Services Committee has looked hard and deep at these issues. So we can definitely have a difference of opinion about how we move forward on this issue, but it's clear that we have issues in the child welfare arena that we must deal with. And I think any attempt to try and address those in an appropriate manner should not be belittled or called ridiculous. So thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Council, you are recognized. [LB95]

SENATOR COUNCIL: Thank you, Mr. President. I, too, have just been sitting and listening to the debate on the subject. I agree with my colleague, Senator Coash, that serious and comprehensive reform needs to occur with regard to our child welfare system, but I respectfully disagree that LB95 as originally drafted, as originally

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introduced, is meaningless legislation. I think it's great that the committee and now the remainder of the body has been alerted to the fact that the department has been inserting accreditation requirements in the contracts that it has executed. But the requirement for accreditation, as I understood it, was to ensure that future contracts would contain accreditation requirements. And LB95 was introduced without the amendment that calls for a moratorium. So to bootstrap an argument that you don't need accreditation if we're not going to be entering into contracts because of the moratorium, well, that's a little disingenuous, because the moratorium came after the original bill and, as Senator Coash has taken issue with, was not the subject of any hearing. So apparently that's what we're engaging in to some degree currently. I wish I had the faith and trust that my colleague has. I don't. I don't think a requirement that would apply from this point forward, regardless of who is administering the Department of Health and Human Services, I think it makes a clear statement that this body believes that any such contracts must have an accreditation requirement in them. I don't think that's silly. I don't think it's redundant. I don't think it's unnecessary. I think we can go throughout our statutes and find places where this body has imposed particular provisions to be inserted in contracts between this state government and private parties. I don't have a problem with that. And in terms of the cost, Senator Coash, if these contractors knew when they signed the contract that they were going to have to meet certain accreditation requirements, any good businessperson builds into their contract price the cost of fees and licenses and anything else they would be subjected to. And if I'm to believe that services to families and children are going to be affected adversely because the two current contractors have to satisfy accreditation requirements, then I have even more serious concerns about these contractors, because that means they built their bids on the backs of children and families rather than on the backs of their profit margin. So with that said, I rise in support of AM704 and LB95. I don't see a problem with either one of them. If the Governor says, "Well, there aren't going to be any contracts, then, for a year," then next year you will be right where we are, as I read the moratorium provision under AM704. [LB95]

SENATOR GLOOR: One minute. [LB95]

SENATOR COUNCIL: For those reasons...and like I said, I've listened intently. I don't intend to micromanage, but I think parameters need to be set, that clear legislative mandates in particular situations are appropriate. And accreditation, when it comes to dealing with children and families, most of these accreditation requirements set standards for how they deliver services, and I think that our children and families benefit from those types of standards. Thank you. [LB95]

SENATOR GLOOR: Thank you, Senator Council. Seeing no senators wishing to be recognized, Senator Campbell, you are recognized to close on the committee amendment. [LB95]

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SENATOR CAMPBELL: Thank you, Mr. President. And colleagues, I appreciate the discussion today and the questions that have been forwarded. I would urge your support of AM704. I think that what it is trying to do is, clearly, to stabilize an area that has gone through a lot of trauma with the loss of the lead agency and is seeking some stability. As providers have said to me: I don't even know whether to start up business, because I don't know who I might be doing business with; give me that stability. The Legislature is clearly doing its part through AM704 and how we set our policy and look forward to what needs to be done in child welfare. And we need to be cognizant of and, hopefully, identify in the coming months what needs should be required of a lead agency serving our rural population of the state of Nebraska. I would urge your vote green on AM704. Thank you, Mr. President. [LB95]

SENATOR GLOOR: Thank you, Senator Campbell. Members, the question is, shall the committee amendment to LB95 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB95]

CLERK: 34 ayes, 3 nays on adoption of committee amendments. [LB95]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB95. Senator Krist, you are recognized. [LB95]

SENATOR KRIST: Thank you, Mr. President and colleagues. I just--very, very, very briefly. Senator Council made some fine points when she was up just a few minutes ago. I want you to know, as a committee member and as someone who has heard most of this debate, I'll call it, over the last year, neither of the providers right now, neither KVC or NFC, neither have any opposition to the accreditation process. In fact, they're both accredited now. KVC is going through its recertification in November. So the existing folks who are executing on these contracts are not in opposition. They've never registered any opposition. They wholeheartedly think that the caring for families and kids, it is important that they are accredited. The difference here, I think, is that they were, and they will continue to be. And there's also that financial base that I think we need to consider as we go forward: Are you capable of executing the contract? And once again I will say, in support of LB95, if we...we wouldn't be here if the agency would have done what the agency needed to do, I believe. And with that, thank you. [LB95]

SENATOR GLOOR: Thank you, Senator Krist. There are no senators remaining in the queue. Senator Howard, you're recognized to close on LB95. [LB95]

SENATOR HOWARD: Thank you, Mr. President and members of the body. LB95 would require that lead agencies contracted by the department to provide child welfare services are accredited by a nationally accrediting entity with respect to the services being provided by such lead agency. The benefits of accreditation are many. Accreditation is a peer-review process that establishes that services provided meet

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standards of quality. Requiring accreditation assures the public that the agency meets rigorous standards that are not swayed by passion or politics but by scientific study of what works best. An accredited agency proves that they have the effective management and the programs that are designed to meet the needs and achieve the desired outcomes. In short, requiring that agencies be accredited is one more way of ensuring best practice and oversight. LB95 allows agencies to be accredited by any nationally accrediting body. This is intentionally broad so that agencies can seek the best accreditation with respect to the services they provide. NFC is currently seeking accreditation with the Council on Accreditation. KVC is working to become accredited by the Joint Commission. Both are highly regarded accrediting organizations. LB95 is a way for this body to hold child welfare lead agencies accountable for the services they provide to Nebraska's most vulnerable children. Accreditation is a mechanism to ensure quality and effectiveness of services, and I urge you to vote yes on LB95. And I would request a call of the house. [LB95]

SENATOR GLOOR: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB95]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB95]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Burke Harr, Dubas, and Christensen, please return to the Chamber. The house is under call. Senator Burke Harr, please return to the Chamber. Senator Howard, all members are present and accounted for. How do you wish to proceed? [LB95]

SENATOR HOWARD: I would like a record vote in regular order, please. [LB95]

SENATOR GLOOR: Mr. Clerk. [LB95]

SENATOR HOWARD: (Recorder malfunction)...call vote. Thank you. [LB95]

SENATOR GLOOR: Roll call vote. Correct? [LB95]

SENATOR HOWARD: Yes. [LB95]

SENATOR GLOOR: Please call the roll. [LB95]

CLERK: (Roll call vote taken, Legislative Journal page 1001.) 35 ayes, 7 nays, Mr. President. [LB95]

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SENATOR GLOOR: The bill advances. The call is raised. Mr. Clerk. [LB95]

CLERK: Mr. President, LB112 is a bill by Senator Coash. (Read title.) Bill was introduced on January 6, referred to the Transportation Committee; the bill was advanced to General File. I do have committee amendments, Mr. President. (AM361, Legislative Journal page 574.) [LB112]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Coash, you're recognized to open on LB112. [LB112]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. While we're talking about HHS and lead contractors, I bring you LB112. First of all, would like to thank the Transportation Committee for prioritizing this bill. You will note that AM361 replaces the bill. While the language, via AM361, has been changed since LB112 was originally drafted, the intent remains the same, which is to allow DHHS contracted providers to continue the necessary and safe transportation of the children and families as part of their overall care. Many of you have asked me why we need LB112, and I'm going to take my time on the introduction of the green copy to explain why we need that, and when we get to the committee amendment I will expand a little bit more. LB112 is required because it is necessary to make a technical clarification to the list of statutory exemptions from the Public Service Commission regulation found in Section 75-303 of the motor carrier act. Shortly after the child welfare reform initiative was launched and the comprehensive services contract with lead providers were signed in November of '09, the issue of whether lead contractors, such as KVC and NFC, should be required to obtain PSC carrier certification was raised as a matter of first impression at the Public Service Commission. In response, in January of 2010 the PSC opened a public inquiry on the issue. The PSC held a fact-gathering workshop on the issue in February of 2010, and then in April of 2010 they decided to refer the issue to the Attorney General's Office for consideration. The AG's Office issued its Opinion in August of 2010 and I know some of you have been curious about the Opinion. The Opinion stated, and I quote, that the transportation activities of the lead contractors did not fall within the motor carriers act-established exemptions from the PSC regulation. But the Attorney General concluded by recognizing, and I quote, that the coordination-of-services approach underlying the service contract is based on a desire by HHS to establish a cohesive system of care to serve families by utilizing lead contractors to provide a full array of core services rather than contracting with many providers to perform separate services. The Attorney General went on to say that, absent a legislative change, we do not believe that the manner in which transportation is provided under the service contracts comports with the requirements established by the Legislature. The PSC then held a second fact-gathering workshop in September of 2010 to receive further input in light of the AG's Opinion. The PSC has taken no further action on the issue. Following the issuance of the Opinion and the September workshop, the lead providers and I sought

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guidance from the AG's Office. That guidance ultimately led to LB112, now AM361, which is the required legislative change suggested by the Attorney General's Office. So I hope this sheds some light onto why I am introducing the bill. And I know Senator Fischer will introduce the committee amendment, but I am going to move forward, as the committee amendment does become the bill. I will call your attention to the statutory changes, and I've outlined these changes in a one-pager that should be...is being submitted as we speak, to you. Here are the following changes: we rename the term "escort services" to "attended services," and we defined "residential care," "residential care transportation services," and "supported transportation services." The exempting of motor carriers engaged in those services is also found in this amendment. In practical terms, this bill does two things, colleagues. First of all, it renames "escort services" to a more appropriate term, which is "attended services," and it brings in statute...the statute in line which is the current practice of providers who serve children, families and adults with disabilities by exempting residential care, transportation, and supported transportation services from PSC regulation. This bill does nothing to change the way in which services are currently delivered, and that is a point I want to make. This bill is a bill that we need so that we can continue to do what we have always done. The Attorney General's Opinion stated we need to make a statutory change to be able to do what we've always done, and that is where LB112 came from. So I'm pleased to share with you these statutory changes that are a part of a product of a very concerted, time-consuming collaboration between HHS, contractors, subcontractors, and the transportation industry. The forthcoming amendment, colleagues, is the product of some very hard work done between the transportation industry and the department. And I think that all parties came to the table, including the department, KVC, Nebraska Families Collaborative, Children and Family Coalition of Nebraska, Developmental Services, Voices for Children, and Boys Town--all came to the table to come to a solution, and that's what we have in front of you today. The Public Service Commission has also been very helpful to us as we have moved through this process. Finally, colleagues, I would ask you to take a look at the fiscal note. It's a little bit scary. Fiscal note states that the total estimated costs should LB112 not be enacted is almost \$11 million in federal funds and \$23 million in general funds. It is my concern and that of the department that providers and people served, if AM361 is not passed, that the financial burdens placed on HHS and its contractors will be onerous at best and catastrophic at worst, and, furthermore, the best interests of vulnerable children and people who really need services remains in jeopardy. And so I would urge your advancement of LB112 and the underlying committee amendment. Thank you, Mr. President. [LB112]

SENATOR GLOOR: Thank you, Senator Coash. As the Clerk stated, there are amendments from the Transportation and Telecommunications Committee. Senator Fischer, as Chair of the committee, you're recognized to open on the committee amendment. [LB112]

SENATOR FISCHER: Thank you, Mr. President and members. The committee

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amendment, AM361, strikes the original sections and becomes the bill. This amendment went through intensive negotiations by the common transportation carriers, Health and Human Services, and Senator Coash. It was then adopted by the committee. The language is very specific, and I would ask that you please pay attention as I go through this amendment. It's important that this all is included in the debate and in the record. First, the amendment inserts a definition of "attended services." This definition replaces the current definition of "escort services." Formerly, escorted services were exempt from Public Service Commission regulation, but there was some question about the scope of that exemption, which was addressed in an AG's Opinion last fall. The question the AG wrestled with is what is the difference between escorted services and ordinary transportation services, and the Opinion's basic conclusion was escort services cannot be construed so broadly as to include mere driving alone. The committee amendment adds a new definition of attended services to the exemption list. There are two significant parts to the definition: first, attended services requires an attendant or caregiver who accompanies the passenger; second, the passenger has to be unable to travel or wait without assistance or supervision. The amendment creates two new exemptions from Public Service Commission regulation, for residential care transportation services and supported transportation services, with new definitions limiting who falls within the scope of the exemptions. The definition of "residential care" is fairly straightforward and means a minor or disabled person in a residential home or facility regulated by DHHS. The definition spells out some of the residential facilities included, such as foster homes, treatment facilities, group homes, and shelters. Definition of "residential care transportation services" builds upon the definition of residential care. The definition sets up a new exemption that is especially important so that foster parents don't have to hire out for transportation of their foster children. This change is not in response to the AG Opinion but to a dilemma that DHHS recognized. It has been drafted very narrowly to allow foster parents, group homes, and similar residential treatment facilities to transport their own residents. The carrier has to provide both the residential care and the transportation. They cannot only provide the transportation. As an example, one of the lead contractors for DHHS is KVC. KVC will subcontract out with other providers. Let's say KVC subcontracts out with group home A. Under the amendment, group home A could provide transportation to any of its residents to any place. It could be to treatment, to the parents' home, or to a soccer game. There's no restriction on where they can go, just on who is providing the services. It must be a subcontractor providing both residential care and transportation. This is intended to normalize residential care as much as possible. What is not intended under the definition of residential care transportation services is if KVC subcontracts with group home A for residential care, it cannot subcontract with motor carrier B to provide transportation service for group home A residents unless motor carrier B is certified with the commission. The definition and subsequent exemption do not exempt motor carrier B from PSC authority, because it is not a subcontractor providing both residential care and transportation. The goal of the amendment is not to relieve motor carriers from the duty of complying with PSC regulation. That regulation is important for

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many reasons, including the safety of the passenger and to ensure significant...sufficient insurance coverage. The intent is to create narrow exemptions when certain other policy factors come into the picture, like normalization of care. A definition and exemption for supported transportation services is also created in AM361. This is in direct response to the AG Opinion. If the driver also stays with the passenger at the destination, then the attended services definition applies. DHHS pointed out that some of their drivers, while they may not stay with the passenger for treatment, do have responsibilities under HHS requirements for those passengers that an ordinary driver does not have. DHHS and the transportation industry looked at current and proposed DHHS regulations and they pulled a list of requirements together that help distinguish supported transportation services from ordinary transportation services. The list of requirements include training, working with minors or disabled individuals, training with regard to specific needs, reporting to DHHS, and age. These requirements go beyond what a motor carrier, such as a taxi driver, would ordinarily provide. A cab driver would not have the training required and would not have a duty to report back to DHHS. For the supported transportation services exemption to apply, the driver must comply with all of those requirements which DHHS will provide further guidance through their rule and regulation process or through the contract between DHHS and the driver or the driver's employer. With regard to the specific exemptions of residential care transportation services and supported transportation services being inserted into Section 75-303, DHHS is specifically required to put in place further requirements to protect the safety and well-being of the passengers. This is important because the transportation will no longer be subject to Public Service Commission regulation, which is intended to protect passenger safety and the traveling public. Safety remains paramount. While the requirements adopted by DHHS may not be the same as the requirements of the PSC, safety is still of the utmost importance. Again, DHHS requirements could take the form of regulations or could be done through contractual provisions. That will be up to DHHS to decide, but they must include the minimum statutory requirements of training and age standards as well as insurance requirements. One of the concerns the Transportation and Telecommunications Committee had was the contractors and subcontractors dealing with DHHS must be ultimately responsible for losses and injuries. If a DHHS client is injured, it should not be a 19-year-old driver who is an employee of a subcontractor who is responsible for covering a loss. Adequate insurance policies must be in place regardless if the carrier is regulated by the Public Service Commission or DHHS. That is the only way to adequately provide and protect for minors and disabled persons who are clients of DHHS. Again, I thank the industry, I thank Department of Health and Human Services, and I especially thank Senator Coash for working and bringing the committee this amendment. He has great understanding of this subject and I have a bare minimum understanding of this subject, even after going through many discussions and many meetings on it. So, Senator Coash, I thank you for all your work on this. With that, I would ask you to please support the committee amendment. Thank you, Mr. President. [LB112]

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SENATOR GLOOR: Thank you, Senator Fischer. Mr. Clerk. [LB112]

CLERK: Senator Lautenbaugh would move to amend the committee amendment with AM908. (Legislative Journal page 932.) [LB112]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment to the committee amendment. [LB112]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And thank you, Senator Coash, for bringing this important bill that does actually address a problem that we are facing, and that is, with the new interpretation from the Attorney General's Office, a lot of providers here, if you will, are going to be covered by Public Service regulations, when previously they were not. I rise briefly, and I thank the Transportation Committee also--I guess I'm a member, so that sounds self-serving, but that's not my intent--for their hard work on the amendment, because we needed to get this right. And my amendment will not be taken to a vote today. This is more of an informational thing, and I'll be very brief on it. While we struggled to clarify in the amendment which groups would not be--or which entities would not be covered by the Attorney General's Opinion and the Public Service Commission regulations, we did, I believe, omit some entities that are probably worth discussing and probably worth covering as far as this exception goes. The amendment to the bill talks about entities that contract with the Department of Health and Human Services or pursuant to a subcontract. There are entities out there that do not specifically contract in this way but still provide services. My amendment would very simply add language that says, "by an entity licensed by the Department of Health and Human Services as a child-caring agency, child care agency, or child-placing agency" or as part of a services contract. As you can see, those entities are probably not covered if they don't have a contract with HHS, under the amendment as it's written. These entities would still be subject to other regulations if they're added to this exception, just not the Public Service Commission regulations. So, as I indicated, it is not my intent today to bring this exception to a vote on General File, because there was a lot of negotiation that went into the amendment that came out of the Transportation Committee and it is not my intent to derail this very important piece of legislation. My amendment will be back on Select File, and in the interim I know the parties involved in the prior negotiations are trying to come up with a solution that would cover these other entities as well and keep them from being covered by the Public Service Commission regulations. So as to not unduly burden this bill today, I will withdraw this amendment at this time. [LB112]

SENATOR GLOOR: So noted. Thank you, Senator Lautenbaugh. We turn now to discussion on the committee amendment and LB112. Senator Council, you are recognized. [LB112]

SENATOR COUNCIL: Yes, thank you very much, Mr. President. And I thank Senator

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Coash and the Transportation Committee for addressing an issue. I guess in the last bill we talked about things we've been doing without any statutory coverage, and here's another one and we're trying to put in place the statutory coverage. But I do have some questions. During Senator Fischer's opening on the amendment, she indicated that there had been some discussion of the insurance requirements associated with an entity who is subject to the Public Service Commission rules and regulations. I don't know about the rest of you, but I did receive...I think all of us received correspondence from an individual who expressed concerns about insurance. And under, and I don't know if this is something that can be addressed by the committee and Senator Coash between now and Select File, but kind of implicit in Senator Fischer's opening was that by exempting these providers and the subcontractors, that the contract between DHHS and the prime contractors would cover or provide insurance coverage for the individual employees. Now the correspondence I'm referring to included a job description for a program support worker for KVC Health Systems, and it provides that the duties include providing direct transportation to children who are involved with the foster care or juvenile offender system; and then it says, in terms of the essential functions, 75 percent of that position's duties is transportation and that the candidate must maintain valid car insurance, proper licensure, and a dependable vehicle because their personal vehicle is required to be used. And the question posed by the author of this communication is, what...whose insurance applies in a situation where, in this case, a program support worker for KVC is transporting foster children, is engaged in an accident, whether caused by their negligence or otherwise, and their insurance coverage is not at a coverage rate sufficient to cover the damages incurred by the other vehicle operator? What, if any, obligation does KVC have to step up and fill the gap in terms of the coverage here? Senator Coash, have you...was there any discussion of these insurance issues? [LB112]

SENATOR GLOOR: Senator Coash, would you yield to that question? [LB112]

SENATOR COASH: Yes. And if I could respond, I appreciate the opportunity, Senator Council. We looked into the insurance requirements that the Public Service Commission requires and those that HHS requires, and what I will tell you is the requirements that the department requires via their contract and licensure are much more stringent than those that the Public Service Commission requires. And so by narrowing this legislation to having to have a contract with the department... [LB112]

SENATOR GLOOR: One minute, Senators. [LB112]

SENATOR COASH: ...you are in effect giving HHS rules governance over these providers, which are much more stringent. And I have...we did a nice matrix of the requirements that the PSC requires versus HHS, and I will tell you that HHS has plenty of rules already in place with regard to insurance requirements that this bill doesn't seek to touch because it's not within the purview of LB112. [LB112]

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SENATOR COUNCIL: Okay. Well, I guess I would need to see that to be comfortable. Because if...there's no question, if the contractor here--the prime contractors are considered to be subject to the Public Service Commission, they and all of the people operating under them would have to be subject to PSC insurance requirements. What I read was that under the DHHS contract, lead contract agencies are required to carry... [LB112]

SENATOR GLOOR: Time, Senator. [LB112]

SENATOR COUNCIL: Thank you. [LB112]

SENATOR GLOOR: Thank you, Senator Council. Senator Howard, you are recognized. [LB112]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Coash would yield to a question... [LB112]

SENATOR GLOOR: Senator Coash, would you yield? [LB112]

SENATOR COASH: Yes, I will. [LB112]

SENATOR HOWARD: Thank you. And I apologize if you've already addressed this, but just a quick question that I'd like to know--you mentioned foster parents in this bill, foster parents could provide the transportation, provided they have the training, etcetera, which should go along with foster parenting. Will these foster parents be reimbursed? [LB112]

SENATOR COASH: Senator Howard, the reimbursement for transportation services, as I understand it, will be within whatever contract that the foster parents signs with their agency. This bill does not address reimbursement for foster parents. If I could tell you what could happen without LB112, to foster parents--as the AG's Opinion goes, if you follow it as he's interpreted it, what would happen is you'd have foster parents who could not take their foster children to school themselves. They'd have to get a certificated carrier to do that, and that would be fairly burdensome for foster parents. [LB112]

SENATOR HOWARD: Well, I can appreciate that, and that certainly shouldn't be the case, but what I'm concerned about with the way that this has been put forth is that there may be an expectation on foster parents to be driving children a long distance for, say, visitation with parents that live in another area, another community. And I would feel that's really not what should...the way that transportation should be handled. If they drive in-excess miles to provide this service for the foster children, it should not be

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included in their foster care payment, like any other transportation service should be paid. [LB112]

SENATOR COASH: Senator Howard, I would agree, and I appreciate you putting that on the record so that we can make the record that it is not my intent. [LB112]

SENATOR HOWARD: Thank you. [LB112]

SENATOR GLOOR: Thank you, Senator Howard. There are no further senators wishing to speak. Senator Fischer, you're recognized to close. Senator Fischer waives. Members, the question is, shall the committee amendments to LB112 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB112]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB112]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB112. There are no senators in the queue. Senator Coash, you're recognized to close on the advancement of LB112. [LB112]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. Please vote green on LB112. [LB112]

SENATOR GLOOR: Members, the question is the advancement of LB112 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB112]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB112. [LB112]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB112]

CLERK: Mr. President, Senator Larson has an amendment to LB305 to be printed; Senator Howard, new resolution, LR143, it will be laid over; Senator Utter would like to add his name to LB397 as coinstructor. (Legislative Journal pages 1002-1003.) [LB305 LR143 LB397]

And a priority motion: Senator Flood would move to adjourn the body until Wednesday morning, March 30, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until tomorrow morning at 9:00 a.m. All those in favor say aye. All those opposed say nay. We stand adjourned.